

*Burton Abbott was convicted of kidnapping and murder in one of the most sensational and controversial trials in California history. He is now in Death Row in San Quentin — still protesting his innocence. Conflicting stories by witnesses and Abbott's own physical frailty lend credence to his story. Yet overwhelming circumstantial evidence stands against him. Miriam Allen deFord discusses the pros and cons and she feels that there will always be . . .*

## THE LINGERING DOUBT

*by Miriam Allen deFord*

WHEN SEVEN MEN AND FIVE WOMEN of at least average intelligence and far more than average sense of duty bring in a verdict of guilty after six full days of deliberation, the overwhelming presumption is that the convicted man committed the crime of which he was accused.

And yet, to one who studies carefully the case of Burton Abbott, now awaiting execution in San Quentin for the kidnapping and murder of Stephanie Bryan, there remains still a faint, lingering doubt.

Not because the evidence was entirely circumstantial; it is a common fallacy that circumstantial evidence is less cogent than that of eye-witnesses — who all too often are confused, forgetful, or honestly mistaken. But the two important figures in a murder are the murderer and his victim. And in this case, the two just don't fit.

This story could be written in

two parallel columns, each describing Burton Abbott, with evidence to support each description. And they would be entirely contradictory.

Here is one Burton Abbott: He is a rather ordinary young man, a bit spoiled and babied, perhaps, by an adoring mother and wife. He is a war veteran who while he was stationed at a camp in Kentucky suffered double pneumonia which awoke a latent tuberculosis. All of one lung and five of his ribs have been removed, and he has a scar on his back as big as a man's hand. Later an abscess developed on his chest, which became infected. His brother Mark said, "He is still in constant pain, and is so weak that he can't lift his four-year-old son." His wife added that he has trouble in breathing. He is slight and skinny, weighing 130 pounds. He spent two years in a hospital, and has a big disability

pension. He became a student in accounting at the University of California, under the GI bill. With his mother, his wife and baby he lived in a one-story stucco house in a conventional suburb. All the glimpses of him are commonplace — he is driving his Chevvy, he is attending classes, he is having his bi-weekly check-up at the hospital, he is dropping in at a popular student hangout to munch doughnuts, he is visiting the beauty parlor where his wife is employed. The only recreation he is physically able to take is an occasional fishing trip in the mountains of northern California, where the family owns a cabin. "Bud is gentle and kind and good," says his wife, and his brother echoes, "Bud was always a gentle kid. He never was rugged and never got real mad. He was easy-going and never tempery. Everybody likes Bud."

Then there is another Burton Abbott, the one the prosecution called a constitutional psychopath, with "an infantile personality compatible with this sort of crime." This Burton Abbott is a "forceful, active, dynamic" person, feeling and showing no emotion except for himself; he talks too loud and makes too many gestures; his usually calm demeanor is due not to modesty or to stoicism but to frigid cynicism. Moreover, his physical condition is far better than he would like to have people think. He tried to be readmitted to the veterans' hospital "to bolster up his contention that

he could not have committed the murder." The doctors gave him a complete examination, and they were amazed to find his condition "almost that of a normal non-tuberculous male." And the same brother who told of the draining infection and the pain that kept him from sleeping also pictured him as an ardent hiker in rough country who was "able to participate in all normal outdoor pursuits" — though he couldn't lift a four-year-old child.

Unless one posits a homicidal maniac, which nobody has suggested, there is only one possible motive for the kidnapping and murder of a 14-year-old girl and the secret burial of her body, and that is a sexual one. "If ever there was a crime that fitted the punishment of death," said Assistant District Attorney Folger Emerson of Alameda County, "this is it. Stephanie Bryan's body was too decomposed to tell whether or not she was violated, but the evidence shows that the original intent of the defendant when he kidnapped her was to commit a sex crime. In all probability he raped her." Obviously, if he did, she was killed to keep her from talking.

But people do not suddenly develop overpowering aggressive sexual impulses. Though Georgia Abbott declared that "no woman could ask any more in a husband," she said frankly that "since his lung operation he has not been highly sexed." To put it crudely, she im-

plied he wasn't much good in bed any more. (There seems to be some foundation for the popular legend that tuberculosis victims are often easily aroused sexually; perhaps the constant low fever stimulates the gonads as well as the other endocrine glands. But this is not necessarily universal.) And Abbott is no sex-starved wolf; he has an extremely personable red-haired wife, attractive enough to arouse the envy of less fortunate husbands, and one who insists that there was "no incompatibility between us of any kind."

In a case like this, which has aroused wide local interest, there is always a crop of unverified rumors, passed around by word of mouth. Some of them are grotesque, some silly. One that has come up frequently in the Abbott case is that he had been caught before, following women on the street and "luring children into his car," and even that he had been picked up by the police — four times is the usual statement — for molesting women, and then let go and the matter hushed.

To begin with that rumor is highly dubious. The police of Berkeley are famous as the "college cops," trained by the late great August Vollmer; they are not corrupt and they do not hush up matters of that kind. Even if they did, the Abbotts don't have that sort of influence. The prosecution was savage and brutal in its attacks on the defendant; had there been the slightest

truth in such an accusation, District Attorney J. Frank Coakley, who prosecuted, would have ferreted it out and hammered away at it.

One Berkeley housewife earned a headline by "identifying" Abbott as a man who had followed her and tried to flirt with her three years before. Abbott was then 24 and she was 38; it sounds unlikely. And he retorted indignantly: "She is absolutely false. I can't explain how she could have said such a thing. I'm not in the habit of following women. I'm married and have a son." Asked if he had ever followed any woman, he snapped: "Yes — my wife."

The congenital psychopath — what used to be called the moral imbecile — is a recognizable psychological type; Leopold and Loeb are good examples. Such a man may be — often is — of high mentality, but he is arrested emotionally at the infantile level, and like an infant acknowledges no interest but self-interest and no law but his own will. Nothing in Abbott's behavior has suggested that he is so constituted. He did, during most of his trial, display the poker face, the unmoved calm, which resembles the deadpan arrogant mask of the psychopath. "There is no reason to be immature and jump up and down and yell," he told a reporter. "After all, I've spent several years in the hospital and have learned to keep myself under control while looking death in the eye." That calm has been broken many times. When for

the first time in seven years he was apart from his wife on her birthday, he begged his lawyer to "please tell her I'm thinking about her." He worries about his mother and his brother. The baby-sitter described at the trial how he kissed his little son goodbye as he left home on the morning of the murder: "He put his arms around him and told him to be a good boy."

He has never ceased to maintain his innocence, from the moment of his arrest when he told his attorney, with tears in his eyes, "All I want to say is that I didn't do this." While he still hoped for acquittal, and for a chance to return to a free life, he added that even so, "If they don't catch the guilty person, there will always be some doubt about me in the minds of some people." In another interview he told a reporter: "Each night as I lie on my jail cell bunk, I pray that the person that did this thing gets caught. I've never been an overly religious person. But a situation like this makes you definitely more thoughtful." And when the verdict was brought in, all he said was: "I guess the jurors feel they're correct, but they're wrong, that's all there is to it. They're wrong, wrong, wrong."

Only a skilled actor could keep up such a pose for seven months, and Burton Abbott is no actor. And that is not the picture of a typical constitutional psychopath.

So here are the two Burton Abbotts, and you can take your choice.

But in a murder there are always two persons concerned. And so we come to the completely unlikely portrait of Stephanie Bryan in the role of murderess.

There is only one Stephanie. She was 14 years old, just beginning to reach puberty. She was nice-looking, but not markedly pretty; she had had eczema and her skin was bad. She was abnormally shy and timid, so self-conscious her teachers hesitated to make her recite in class, though she was an honor student, so reserved it was six months before she let her piano teacher drive her home after her lessons. Willard Junior High School in Berkeley is full of bobby-soxers and precocious coquettes, but Stephanie was not of their number. She had been carefully reared in a quiet, upper middle class home, and she was docile and retiring. She and her three younger sisters and her little brother were rather over-protected by anxious parents; her physician father, a radiologist in an Oakland hospital, drove them all to school in the morning, and their mother laid out the exact path by which they were to return and watched for them or met them and walked part way with them. Stephanie was the last girl in the world to enter a stranger's car voluntarily, or even to speak to a man who had accosted her.

Still, she *was* kidnapped and she *was* murdered. Unless she was dragged bodily into a car, in broad daylight, in an unpropitious and

frequented place, it is hard to see how the crime was accomplished. And even if fear and desperation lent Burton Abbott the strength later on to dispose of her body, it is hard to see him, under such circumstances, overpowering a struggling girl who weighed only 25 pounds less than he did.

The little that is known of what happened to her is soon told. Stephanie started home from school about 3:30 on the afternoon of April 28, 1955. She was accompanied by a classmate, with whom she stopped at a pet shop to buy a book on parakeets, at the public library for two teen-age novels, and at the doughnut shop for refreshments. They parted near the Claremont Hotel tennis courts, where her regular short cut led directly to the street on which she lived. She was never seen alive again.

The Claremont, though it is a luxury hotel, and is a center of social life in Berkeley, belongs architecturally to a bygone age; it is almost the last of the huge, ornate, turreted and jigsawed white wooden resort hotels which once dotted the California scene. It stands high on a hill, surrounded by many acres of beautifully landscaped grounds and gardens. The tennis courts are at the bottom of the hill, near the tracks of the electric trains which cross the Bay Bridge to San Francisco. Nearby residents, including schoolchildren, are accustomed to using the paths and byways of the Claremont

grounds as short cuts to their homes.

When Stephanie had not appeared by 4:15, her mother began to worry. She retraced the route her daughter should have taken, all the way to the deserted school, and returned home to find Stephanie still not there. When Dr. Bryan came home around 5:30, they began phoning the girl's friends. (They missed the one she had been with.) At 6:15 her father reported her to the police as missing. She was unfailingly punctual and reliable, and would never have remained away voluntarily without letting them know.

Eight days went by without a clue. Dr. Bryan posted a \$2500 reward. The Berkeley police and the sheriffs of neighboring counties searched the hills without the slightest result. The first break came on May 6, when a man turned over to the police a French textbook he had found in a field in Contra Costa County, east and north of Berkeley. He had given it to his son, a high school student, after throwing away the soiled paper cover; then he read about the search for Stephanie Bryan and turned it in. There were no fingerprints, but it was the text she had used.

Then, on the evening of July 15, the case exploded.

Georgia Abbott sometimes took part in amateur theatricals. In the unfinished basement adjoining the garage in their house in Alameda, the Abbotts stored boxes of old clothes and all the outworn junk

people used to keep in their attics when there were attics; and she went down there to hunt up some things for a theatrical costume. In a carton she ran across a red leather handbag she did not recognize. She opened it, and in a wallet inside she found identification papers, photographs, and an unfinished letter, all belonging to Stephanie Bryan. She dashed upstairs with it.

Visiting them that evening was Otto Dezman, the husband of Georgia's employer, Leona Dezman. Until the middle of the trial, when Mrs. Dezman's testimony damaged Burton Abbott's alibi, the four had been intimate friends. Then they quarreled bitterly, and Leona fired Georgia.

"Isn't this the girl who disappeared?" Mrs. Abbott asked excitedly.

It was Dezman who called the police, but they all acquiesced willingly. Everyone agrees that Abbott was bewildered, not frightened; after an officer had come and gone, he and Dezman played chess quietly for hours.

One point that has never been cleared up satisfactorily is that Elsie Abbott, Burton's mother, had already found that purse — or a purse — in May, and had thrown it back in another box without thinking to inspect or mention it. But she insists it was not the same one — that the one she found was larger. If so, no one has discovered the other one.

So far, the police had arrested nobody. But they did immediately dig up the garden and fine-comb the basement. In the former they found nothing, in the latter — plenty. Loosely concealed in the dirt wall were schoolbooks, notebooks, the two library books, the book on parakeets, Stephanie's eyeglasses, and a brassiere identified as hers — her very first to fit a developing bust.

The Abbotts professed themselves completely stymied. All they could offer by way of an explanation was that their garage had been used in May as a polling place in an election, and that anyone coming in to vote would have had easy access to the basement. The police took a dim view of the idea of a voter, his pockets stuffed with a dead girl's belongings, casting his ballot and then nonchalantly hiding the evidence of a murder.

But — omitting the possibility of any such far-fetched performance — it is one of the major puzzles in this baffling case why, if Abbott is guilty, he, or anyone in his senses, would bury a murder victim some 300 miles away and then bring her property back to his own house and leave it where the slightest search would uncover it. One theory is that Abbott intended to scatter the objects in various spots around the Bay Area, so as to confuse the authorities, and that the French book was the first of these projected hare-and-hounds hunts. But if that were his plan, he had plenty of time and

opportunity to go on with it, and nothing else ever was found.

Abbott was still not held, but the police wanted to know in detail where he was and what he was doing on April 28.

He offered a complete alibi. He said he had driven up from Alameda to the cabin in Trinity County that morning, for the opening of the fishing season the next day, and that it was therefore physically impossible for him to have been in Berkeley at the hour when Stephanie was last seen. That alibi was his sole defense in the trial, and witnesses both upheld and upset it.

Naturally the next move was to search the vicinity of the cabin. On the night of July 20 the two dogs of a local "bear and bobcat hunter" located a shallow grave on a very steep hillside 335 feet above the cabin. In it lay what was left of the pitiful corpse, the arms thrown defensively over the head. Bears and other wild animals had been at it, it had been snowed and rained on, it was dreadfully decomposed and quite unrecognizable. But it wore Stephanie's clothes which she had worn on April 28.

Her panties were tied loosely around her neck, and she had been either gagged or garotted with them; but what killed her was a series of savage blows on the skull with some heavy instrument.

If Burton Abbott is the frail person his appearance and his medical history make him seem to be, it

can be doubted if he could possibly have climbed that snow-covered hill, in the thin mountain air, carrying the dead weight of a 105-pound body, and then dug a grave there, filled it up, and climbed down the mountainside again. A husky man who has hunted in that territory told me he himself did not think he could have accomplished it.

The logical rejoinder was that he didn't; that Stephanie was still alive and had climbed up there with her captor, to be killed and buried where she fell. That seems to me inherently absurd; I cannot imagine anything that could have induced or forced her, if she were conscious, to make that journey—and if she were unconscious it would have been just as hard to drag her there as if she were dead. And it would have taken an imbecile, not an intelligent man like Burton Abbott, to devise such a stupid plan of murder.

After the discovery and identification of the body, Abbott was at once arrested. He had already taken a lie test at his own request, and been examined by psychiatrists. The psychiatrists pronounced him sane; the lie test was called "inconclusive."

He was indicted by the grand jury, and held in the Alameda County jail in Oakland until his trial began on November 7.

The trial lasted until January 19, 1956, when the case went to the jury. They announced their verdict on January 25, after intensive study



of the evidence, with no ballots taken till the end. Judge Charles Wade Snook was eminently fair. District Attorney Coakley was ferocious in cross-examination, especially of Abbott himself, and violent in his speeches, but he took no unjust advantages and engaged in no snide tricks. Abbott had two extremely competent attorneys, Stanley Whitney and Harold Hove, who defended him ably and aggressively. Whitney is a former city attorney of Alameda, and Hove is an Alameda city councilman and an ex-FBI agent. The jury was remarkably conscientious. Abbott had, and still has, every protection of the law.

Every minute of his alibi was considered. There were witnesses who testified that they had seen him in Berkeley on the afternoon of April 28, and other witnesses who testified that they had seen him 200 miles away at the same time, and all were apparently honest, though one set must have been wrong. He claimed to have stopped enroute at restaurants in Corning and in Wildwood, near the cabin; the owner of the first place disproved it, that of the second, who knew him well, could not remember: but the owner of a third restaurant he said he visited, in Redding, produced records to back him up. He spent nine hours on April 29 in the Wildwood bar, drinking and talking with a casual acquaintance; the implication was that he, who was usually a very light drinker, had been getting drunk to

forget what had happened the day before. But the man who spent those hours with him — an unexpected graduate in philosophy of the University of Chicago marooned in lumberjack country — testified that Abbott did *not* become drunk, that they discussed books and music, that “he expressed nothing that was neurotic, anti-social, or vicious.”

There was one other kind of testimony, both before the grand jury and at the trial. That came from three different sources, people who testified that while driving along a road near Berkeley on the afternoon of April 28 they had seen a terrified girl in a car with a man who struck her down when she tried to scream for help. They had various excuses for having done nothing about it. None of them could swear the man was Abbott.

Abbott testified at length in his own behalf, and Coakley could not break down his protestation of innocence. He did confess to various minor mistruths, some in his statements to the police, some dating back to his army enlistment, but they were the lies of a defensive man trying to evade argument, not those of a shrewd criminal covering his tracks.

The prosecution itself acknowledged that there was no direct evidence against him. But there was one kind of indirect and damning evidence, which in the end undoubtedly convicted him. That was the testimony of Dr. Paul L. Kirk, head



of the criminological department of the University of California.

Dealing with microscopic fibers and hairs, taken from Abbott's car, Kirk compared them with fibers from Stephanie's sweater and hairs from her head. He compared tiny bits of earth and gravel and clay from Abbott's boots with the soil at the grave-site. In all cases they matched. There were pinpoints of stain in Abbott's Chevrolet, too, sunk deep in and hard to find, that were found to be blood — though they could not be proved to be Stephanie's blood.

The defense brought in another expert, Lowell Bradford, who disputed Kirk's findings, and endeavored to show that fibers and hair and earth could all have come from other, non-incriminating sources. But the jury believed Kirk.

Abbott was found guilty on both counts, without recommendation to mercy, and was sentenced to the lethal gas chamber. According to California law, appeal is automatic in capital sentences, and at this writing Abbott is in the death row in San Quentin, awaiting the outcome of that appeal.

The Bryans have not yet been able to hold their little girl's funeral. Her mutilated remains are still held in a mortuary in Redding. In the Bryan home "we never speak of Stephanie to the other children." But her father, when he got the news of Abbott's conviction, cried, "The gas chamber isn't enough pun-

ishment for him!" They are trying to give their children a normal existence, to face life again themselves. But there is a gap that will never be filled, and a bitterness that will never be sated.

Elsie and Georgia Abbott are deeply estranged, each subconsciously blaming the other for not protecting enough the man they both so love. Little Chris Abbott, who thinks his father is back in the hospital, was the object of an anonymous death-threat, and had to be guarded by the same FBI that helped to bring evidence against his father. Mark Abbott and his mother, who work in the same large office, must face daily the pity or the avoidance of their fellow-workers.

So there the case stands now. One of two things must be true. Either Burton Abbott is guilty, or he is the victim of the most complicated, boldest, and luckiest frameup on record. Coincidence is out of the question — coincidences like finding a murdered girl's belongings in a man's house and the body of the girl near the same man's mountain cabin simply don't occur. Abbott himself says that since he knows he is innocent he must have been framed, but why or by whom he cannot, or will not, say.

The vast probability is that Abbott is guilty as charged.

But in this confused, puzzling, and contradictory case there will always be that last lingering, wondering doubt.

*Lovely Brenda Delmar was a brassiere model and she had all she wanted; money, a plush apartment, plenty of boy friends. . . . But when they found her in bed, clad in a slip and smelling of cyanide, it looked like suicide. Then Dr. Standish noticed a clue that proved otherwise. Mr. Coxé here spins one of his most exciting yarns, where . . .*

## MURDER MAKES A DIFFERENCE

*by George Harmon Coxé*

THE THURSDAY NIGHT CROWD WHICH had turned out to see *Bright Harvest* in its final week, filled the lobby of the Lyceum quickly after the second act curtain and Doctor Standish smiled proudly about him as he brought out cigarettes.

There was a fine glow of expansiveness inside him, standing there with Louise Allison, knowing she was his girl. He liked the way people looked at her, the way their glances approved of her upswept blonde hair and radiant skin and cool fragile beauty.

The dress may have helped this approval, with its sleek black simplicity, and the mink jacket may have influenced the overall impression, but Paul Standish was interested mostly in the way her eyes smiled and the music in her voice as she chatted on about the play. For perhaps thirty seconds the glow he felt was warm and bright; then he saw Barry Corwin. So did Louise.

"There's Barry," she said. "Barry . . . you're not just getting here?"

"Hello," Barry Corwin said, and grinned. "Had to work on a thing."

He shrugged out of a covert-cloth topcoat, and that left him smoothly handsome in a double-breasted suit of dark gray, faultlessly tailored. He took the girl's hand and held it, and Standish, missing nothing, decided sourly that M-G-M could have cast him just as he stood as a successful young advertising man. Which he was. The Corwin Studios — Say It With Photographs.

"What a shame," Louise said.

"How's the show?" Corwin said.

"Any point in seeing the third act when you don't know what the first two are about?"

Paul Standish didn't hear Louise's reply, for just then he glanced towards the sidewalk and saw a solid-looking man in a blue coat start through the crowd, his glance sweeping the lobby.

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