

(3099 words)

EMINENT DOMAIN, TRAGEDY & the FAVOR of the UNIVERSE

Cows grazed along well-worn paths, which led up to the grey, tin-roofed barn. Nearby, a large granite rock sat above the small cave-like opening where the spring flowed forth and gurgled through mossy rocks. A twig fell off the willow tree, causing tiny ripples to the banks and water spiders to skip across the surface of the clear water.

The windows of the white farmhouse reflected the sun's weakening light as it began to sink into the ragged tree line. The Ebberts were sitting down at the kitchen table for their final supper there.

Chuck, a large muscular blonde, gentle and kind said the blessing.

"Dear Lord, bless this food and our family. Even though we have to leave our wonderful homeplace, we are thankful we're together." The chorus of "Amen's" was some comfort but looking up, they faced one another with unease.

"It won't be so bad after we get settled", Chuck said with a false cheerfulness. "I'm sure I can find work somewhere. After all, I did, just graduate and have my diploma."

"I sure hope so son", Jim said wearily. Jim was showing his years. His slight body was supported by slender arms resting against the table. The little hair he had left on his head circled around the back from ear to ear. His face was worn and furrowed.

"I'm proud you did that." I never thought I would need school'en, since we had this place here and could grow our own food. It's been in the Ebbert family for five generations and we always got along just fine, farming the land, providing for ourselves. I'm too old now to look for work – nobody wants a tired, worn-out, ole farmer."

“It’ll be OK, I’d like to be closer to Whitesburg anyway,” Rose said trying to be optimistic. Rose was a large woman. She had cheeks that matched her name and soft black hair streaked with grey. Her brown eyes projected determination.

“When my brother gets here in the morning with his truck, we’ll all have to pitch in and get it loaded so we can make it to town and unload before dark.”

Amy and June looked at one another. Both sets of brown eyes moistened.

“Now, we don’t need any more of that, Jim said. Eat your pork and potatoes. Mamma fixed them special and made that delicious salad. She also has some pie for us, don’t you mamma?”

“Sure do, I made some chess pie, just for tonight.”

Amy and June stared at her. Through misty eyes, June said “Momma, I know you want us to accept what’s happened, but it just ain’t fair.” June’s sixteen-year-old face was rather plain. She wore her black hair short. Her dark eyes flashed with intelligence. “We love it here. You remember I wrote about this place for my English class and got an A on it?”

“I didn’t know about that, June. Do you still have it?” Chuck was curious.

“Of course. I saved it, silly. It means too much to me to throw it away.”

“Get it and read it to us. I want to hear it. I never got an A on anything. Is that OK Papa?”

“Well . . .” Jim hesitated, thinking it might be too much for them to bear, but then said, “I suppose it could be a farewell address.”

June hurried to her room and found the piece out in the folder where she kept her poetry and English papers. She read with sadness and authority:

It was mid-May. The tomatoes were climbing up the narrow poles

planted in the soft, black earth. The squash was popping up through the mounds – two at a time. The potatoes were already blooming – dainty white caps, wavering.

And the beans had just begun to climb up the triangular poles.

A large pileated woodpecker with its red-topped cap and black and white wings broke the silence with a drill-like hammering. A huge oak tree pressed its enormous mouth against the earth. A large hole was exposed at the bottom. The blue sky peaked through its branches as they reached outward with enormous arm-like limbs.

Squirrels frolicked through the branches and made shrieking noises at the buck deer, who suddenly looked up, then posed and stared, frozen by something in the distance. The rhododendron rustled. A turkey peered out with its colorful waddle wiggling.

June broke a long silence:

“Just because the government wants our land to build a road, we shouldn’t have to give up generations of livelihood and land that we love!” she pushed the words with force. Amy, two years younger put her arms around June and gave her a long hug. Amy was pretty - hazel eyes, reddish brown hair and a ready, generous smile.

Jim and Rose fought the tears. Chuck got up and went to the kitchen.

Rose dabbed her eyes with the napkin and composed herself. “Of course you’re right – it ain’t fair, but sometimes life ain’t fair and you just got’ta accept it,” she said straightening herself stiff in the chair.

“Your mamma’s right Juney, it’s an important lesson to learn.” Jim said with authority.

It might be an important lesson to learn, but that don't make it any easier!" June said with a fierce scowl.

Chuck broke in, coming back from the kitchen, "We're all hurt'n and sad about it, but it don't do no good to go on and on about it. We've been fight'n this for over a year now and there's noth'n more we can do. We've settled. We've lost this place and that's that. Now lets try to move on and look toward new horizons."

"Well said, son," Jim affirmed. They finished their dinner in silence. The pie was good and helped ease the pain a bit.

Living in a rental apartment in downtown Whitesburg was a nightmare. They were very cramped into tiny rooms – five of them in a five-room apartment. There were always strange noises in the night that kept them awake – sirens, people yelling and almost every night Johnny Cash singing about hardships. Their grief was almost unbearable. They longed for the gurgling of the creek, the frogs croaking in the night, and the haunting sound of the whippoorwills.

Right away, Jim and Rose, began looking for a place to buy outside of town. They looked at what Jim called "plastic" houses; they looked at mobile homes; they looked at "dumps"; they looked at property with no houses; they looked at farm houses they couldn't afford; they looked at places with no room for a garden. Places they liked were way above the amount the State of Kentucky had given them for compensation. They looked all summer but with no luck.

Chuck found a job at the community hospital as a security guard. He enjoyed meeting the people who came and left the hospital, lending a hand to folks who needed help getting in and out of their cars. This is where he met Mary Sue Witt. He told her about their miserable, cramped apartment.

“We got’ta find sump’ten soon or we’re gonna get so down we wont like living,” he said when he learned she was a real estate agent.

“Here’s my card. Tell’em to call me. I’ll find ‘em what they want.”

As the popular trees were turning brilliant yellow and the sugar-maples began to have red and orange tips on their leaves, Mary Sue knocked on the Ebberts’ apartment door. She was a large woman with red frizzy hair. She wore deep purple lipstick and a pink Mumu dotted with large red hibiscus blossoms. When Rose opened the door, Mary Sue was excited, “I’ve found the perfect place for y’all!” She talked so fast her accent blurred the words.

Rose looked at her trying to understand what she said. When it registered her brown eyes brightened. She motioned Mary Sue inside. Jim was in the kitchen fixing some tea, “Come here Jim, Mary Sue says she found us sump’ten.”

“Morn’en Mary Sue. You want some tea?”

“No thanks Jim. I just came to tell you there is a really nice piece a’ farm property about five miles outta town. Just came on the market. Old Mrs. Godfrey has been living there alone for the last five years since her husband died. She had’ta go to a nursing home ‘bout a month ago, after she fell and broke her hip, poor thing. Her son, Allen, lives in New York, has just put the house up for sale and he’s asking a fair price. It’s more than you can afford but I’m purty sure we can negotiate. I’d like to take you to see it.”

“Of course we’ll go. Maybe this is what we’ve been look’in for”, Jim said with an excited shine in his dark brown eyes.

As they drove up the winding dirt road, a small, white farmhouse, peeked through the woods. Rounding the curve, they saw two huge oak trees standing like sentinels on either side of the house.

Their leaves tinged with a deep rust matched the tin roof of the house. Cecile Brunner roses covered the trellises on either side of the steps leading up to the front porch. To the right along the road there was a small stream, winding its way down the hill toward a spring-house covered with pale blue wisteria. Several cows dotted a pasture in the distance. A large lot to the left of the house had been cleared of timber and was covered with weeds and vines. Hanging on a pole was the outline of a human figure.

“Look it’s an old scarecrow . . . used to be a vegetable garden!” Jim said excitedly.

“This is perfect!” exclaimed Rose, eyes watering.

“We’ll take it!” Jim laughed at his eager humor.

The door creaked a little as they slowly walked inside. The place needed work. The kitchen was outdated; the cabinets old and peeling paint, the sink chipped and the Fawcett leaking. The bathroom was tiny and had only a small tub with no shower, and the three bedrooms were small. All the rooms would have to be painted. But the Ebberts were used to hard work. and They knew they could have this place in shape in no time. They could hardly contain their excitement. They wanted to meet with Allen right away.

That night they told Chuck and the girls about the place. They all got so excited they drove out the next day to take another look. “It feels like home. I’ll bet there are crawdads in that creek.” said Amy. June was disappointed that she and Amy would have to share a room. She had been hoping she could have friends come for overnights. Amy said, “I don’t mind sharing if this will make us happy again.”

Chuck said, “I’ll be glad to help fix’in it up, but I plan to move into my own place soon. I been save’n up. Then you girls can have your own rooms.”

The next day, Mary Sue called Allen. “I think I got a buyer for your place, Mr. Godfrey. Can you come down here to negotiate the details?”

“Sure, I was planning to come and check on the place anyway. I’ll catch the next plane out to Lexington, then rent a car and drive on out to Whitesburg.”

It was a beautiful sunny day as the Ebberts and Mary Sue waited on the front porch for Mr. Godfrey. June and Amy were enjoying a ride in the swing.

“Here he comes,” Amy anxiously observed. Their eyes followed a red Maserati convertible coming up the dirt road, leaving a trail of brown dust.

Allen Godfrey spoke with a strong New York accent. He was a large man, balding and wore owl-like sunglasses. His clothes looked expensive; a red sport shirt, white pants and black and white shoes with tassels. He moved deliberately toward the anxious greeters.

Mary Sue offered her hand, “Hope you had a relax’n trip, Mr. Godfrey.”

“Yes. It was fine. I’m glad to get away from the hectic pace.” He acknowledged them all with a nod and cordial smile and shook Jim’s and Rose’s hand.

“We’re pleased to meet ya’ Mr. Godfrey,” Jim said, then added, “I was wondering if you ever spent much time here.”

“I grew up here. I’m feeling a bit sad about giving up this place. It has been in my family for several generations. They were all farmers and eked out a living growing their own vegetables and breeding their own pigs and cows. We had horses too. I used to ride over the fields, jump the creeks and herd the cows back to the barn for milking. It was a grand life, growing up in the country like this. Where I live now, there aren’t many people who appreciate this kind of life.”

He gave June an inquisitive look, paused as if he were remembering something then said, “Come around to the back I want to show you something.” They all followed him out to the barn. He pointed to the large cut out space in the front of the barn, over the sliding doors. “That’s where we forked the hay

into the top of the barn to feed the cattle. My sister, Erin and I loved to play in this barn. We would climb up to the top rafters and sit and enjoy the view.

One day when we were out here climbing the rafters I said to Erin. 'I double dare you to jump from the very top rafter.' She looked at me with that look she always got when she was determined to do something. She didn't hesitate, stood up and disappeared over the edge.

I yelled down to her. 'Erin, you did it!' There was no response. I crawled over to the edge and looked down on a scene so horrible I still tremble when I think about it." Tears began to roll down his face. "Erin landed on a pitchfork someone forgot to put away. . . went right through her heart . . . killed her instantly. She was about your age June." He looked away and blew his nose.

The Ebberts waited in stunned silence.

As he turned back, Mary Sue said, "We're really sorry about your sister, Mr. Godfrey." She put her arm around his large shoulders. "We can tell you loved this place. You know, the Ebberts had a place much like this; they had to sell to the State for a new road come'n right through the middle of it. It'll take the house, barn and everything. They've had a rough time losing that farm."

Allen's face became even darker.

"You know it ain't fair," June chimed in. My civics teacher, Ms. Tobias, told us about eminent domain. I don't think there should be such a thing!"

"Now, now Juney. Don't get all worked up again," said Jim.

Mary Sue commanded, "Lets get over to my office to discuss some details." They all followed her car back into Whitesburg. Her office was on Main St. in an old two story brick building painted a bright yellow. Only Rose, Jim, Sue and Allen could squeeze around the small conference table. Chuck, June and Amy hovered around them.

“Now Mr. Godfrey, you had the property listed for \$125,000. The Ebberts are prepared to offer you \$85,000. That’s what they got from the State for their property. So, what we are proposing is that they pay you up front, the \$85,000 and then, pay you a monthly fee, plus interest, ‘til they pay a total of \$105,000. They have to keep their savings to live on and to fix the house up. Chuck is willing to help out as much as he can. It will be doable; they’re honest, hard working folks and you can count on them to keep their word on this.

Allen looked hard into Jim’s and Rose’s eyes, then got up and walked over to the window. As if talking to the big Oak tree outside, “I have a confession to make,” he said with grave conviction. I own Colburn Construction. We build roads.”

There was a long pregnant silence.

“Colburn Construction has contracted with the State to build that road that will go through your property.” He turned back, his eyes searching around the room, looking for understanding.

“I feel terrible about this. I don’t know what to say. I’m so sorry.”

“Sorry is not good enough, Mr. Godfrey,” June blurted at him. “You people are awful! You destroy livelihoods, and make life miserable for people, while you sit in your comfortable offices, eat in fine restaurants and live off the misery of others.”

“Now, Juneey,” Jim said, trying to console her. “It’s not Mr. Godfrey’s fault. He’s not the one decid’n to take people’s land. He’s just mak’n a living build’n roads.”

Allen moved close to June. June backed away. He reached out to her and took her hands in his. She jerked them away and looked at the floor.

“Honey you’re right,” His voice became soft. “It’s not fair for the State to take people’s land. I have made a pretty nice living. I tell you what I’m going to do.” He turned toward Jim and Rose, looked them

squarely in the eyes and said, "I'll sell you my family's property for the \$85, 000 you got from the State and that'll be it. No more will be required."

"Are you serious, Mr. Godfrey?" Jim's eyes bulged with disbelief. Allen's broad and sincere smile told Jim he was serious. "Well, I'll be! That's right gen'rus of you Mr. Godfrey!" he exclaimed. Rose dabbed tears. June stood wide-eyed. Chuck walked over to him and started pumping his hand, "Thank 'ye, Mr. Godfrey. You're a good and kind man."

"Lord bless your sole!" blurted Mary Sue. "For that, Allen Godfrey, I'm invit'n you to diner at my house tonight. "Do you like collard's 'n ham?"

"I most surely do, Mary Sue. I most surely do."

As they all sat around Mary Sue's dinner table, there was appreciation in June's eyes. She spoke softly. "I'm am sorry for the things I said to you, Mr. Godfrey." She allowed Allen Godfrey to take her hand in his. He spoke as softly as she.

"This can be a cruel world June. Horrible and unfair things can happen, like tragic accidents and eminent domain, but sometimes the stars line up and we are in the favor of the universe."