



It was obvious that the woman seated in the front row of Flat Creek's crowded courtroom could be the determining factor in this case. Guilty or not, the prisoner would be acquitted if she continued to play upon the jurors' sentiments. Judge Steele, however, was immune . . .

THE WALKING JURY

by Lon Williams

JUDGE WARDLOW STEELE, arms folded across his rugged chest, scowled at a mongrel crowd with customary displeasure. Flat Creek's jammed courtroom had settled to expectant silence, when a strange new sound intruded upon its stillness. It was a feminine sob, one that tightened to a hurt and tender moan. This touch of aching heart posed a problem not before encountered in Steele's brief, but stormy, judicial experience. A middle-aged woman, once no doubt exceptionally beautiful, though now considerably faded by

countless washings of adversity and time, occupied a front-row puncheon and bravely dabbed her eyes with a handkerchief.

Those eyes met Judge Steele's, assailed their savagery with an unspoken plea in behalf of a cause easily surmised, though not yet disclosed. Judge Steele shifted uncomfortably and glared at a young, hard-faced monkey who sat on a puncheon reserved for criminals about to be tried for their lives. His jaws tightened then; deliberately, almost resentfully, he rejected that quality of mercy which reputedly fell

like gentle rain. He hardened his heart instead.

“Sheriff, call court.”

Sheriff Jerd Buckalew, raw-boned, tall and poker-faced, stood up and pounded an inverted barrel with his forty-five. “Court’s now in session; anybody with different ideas had better save ‘em up.”

Judge Steele, shaken in spite of himself by those tender eyes that constantly sought his own, gave his straw-colored mustache a couple of slow pulls. His glance at Clerk James Skiffington was nevertheless cold and determined. “Skiffy, call fust case.”

Skiffington rose, stood for a moment, thin and pale, a paper quivering in his long fingers. He steadied himself and read, “People versus Jefferson, alias Forty-rod Furlong. Charge: first count, conspiracy to commit first-degree murder; second count, first-degree murder.”

Judge Steele glared at Forty-rod Furlong. A dark, callously-indifferent, smooth-shaved bozo of about twenty-five glared back at him.

“Murder, eh?” growled Steele. “Tired of livin’, I suppose? Well, by thunder, you’ll find this court mighty accommodatin’ in that respect. You got a lawyer?”

A lean, black-haired hungry-looking human in black suit, white vest and four-in-hand necktie got up, poised and confident. “I am his lawyer, Your Honor, French Demeree.”

To Judge Steele, appearance of this Demeree from Tennessee was like being confronted by a dose of nasty medicine. “Demeree, you seem confident enough. Has Flat Creek run out of hangropes?”

“Your Honor, I am in hopes there is at least a temporary shortage.”

Steele’s blood-pressure inched up, as it always did in prospect of battle with this clever, axe-faced Demeree. “Don’t let your hopes get out of bounds.” Steele swung left. “Whar’s our man?”

A stocky redhead rose at an adjacent table, a placid, benign expression on his ruddy face. “Wade Claybrook, Your Honor. Prosecuting attorney.”

Steele surveyed his man with a hope hardly sustained by experience. “I trust, Claybrook, you are no less confident than your adversary?”

Claybrook was not one for levity, whether it came disguised as humor or as sarcasm. “I am confident, Your Honor, that justice will prevail.”

Steele grunted, shifted and glowered at Forty-rod Furlong. “All right, what’s your plea?”

Demeree responded in Furlong’s behalf. “Your Honor, I move to strike so much of this indictment as charges conspiracy to commit murder.”

“Object,” said Claybrook boldly. “Defendant is charged with having committed first-degree murder. An element of that crime is deliberateness; premeditation could no better be shown than by proof of a conspiracy.”

“But,” said Demeree, “it takes two to make a conspiracy.”

Claybrook fired back, “There were two, Your Honor.”

“This indictment,” said Demeree, “mentions no co-conspirator.”

“I mean to use him as a witness, Your Honor.”

“But Mr. Claybrook can’t prove a conspiracy without proving a co-conspirator.”

“See hyar, consarn you lawyers, quiet down. Motion granted; we don’t have to prove no conspiracy to prove murder. Now, Demeree, what’s your plea?”

“Not guilty, Your Honor.”

A POUT APPEARED on Claybrook’s lips. He sat down and slumped low. Demeree sat down and assumed a passive demeanor, that being his equivalent of

satisfaction.

Steele nodded at Sheriff Buckalew. "Panel a jury, Bucky."

Buckalew jerked his head at Clerk Skiffington. "Call names, Skiffy."

Neither side challenged those called, and presently a jury of twelve gold-diggers had been sworn. A moment after they had seated themselves; a muffled feminine moan rose plaintively, "Oh, my son! My poor, poor son!"

Judge Steele glanced at his jurors. Already, he perceived, their stony hearts had turned to butter. Consarn these sentimental gold-diggers! To please a pretty woman, they'd turn a barrel of rattlesnakes loose.

"Witnesses come and be sworn," he called, anger in his voice.

Seven men came forward, all gold-diggers except one. That one had a shifty eye, an unkempt sandy head and a lean, downcast face; he also wore handcuffs, which necessitated a two-handed oath.

When all were herded to a back room, Judge Steele gave his mustache a hard jerk. "Call fust witness."

Claybrook got up. "Call Utah Mullet."

A deputy sheriff brought Mullet in and seated him as a witness. Mullet's big, round head was as bald as a gourd. He had a long nose, and his large ears stuck straight out; but he was of friendly, smiling disposition, and honesty glowed within him like a lighted candle.

"Your name?" said Claybrook.

"My name air Utah Mullet."

"Your name is Utah Mullet," Claybrook repeated. "Now, Mr. Mullet, where do you live?"

"I live in Patch-britches Gulch, yes, sir."

"You live in Patch-britches Gulch," Claybrook repeated. "Are you acquainted with defendant Jefferson Furlong?"

"I am acquainted with Forty-rod Furlong, yes, sir."

"You are acquainted with Forty-rod Furlong. Now, Mr. Mullet—"

Demeree arose, his face serious. "May it please Your Honor, I don't think Mr. Claybrook should repeat after witness Mullet everything that Mullet says. It sounds like some sort of fraternal initiation. Besides, it has a tendency to make two witnesses out of one, namely, Mullet plus Claybrook. Defendant objects."

Before Judge Steele could respond, Claybrook cut in. "If Your Honor please, Mr. Demeree is right. I had not noticed that I was being repetitious, and I stand corrected."

There arose again a sobbing, feminine moan. "My son—my son."

Steele snapped indignantly, "Proceed, Claybrook."

"Now, Mr. Mullet," said Claybrook, "where were you last Saturday night between nine o'clock and midnight?"

"I were at Cooksy Blair's saloon."

"What were you doing there?"

"I were having a nip of whiskey."

"Did you see there a man named Buck Saddler?"

"You mean him that was robbed and killed?"

"I do."

"Yes."

"What was he doing?"

"He were having a good time."

Demeree popped up. "If Your Honor please, witness may not draw conclusions. It is a matter of opinion as to whether old Saddler was having a good time, or a bad time."

Steele tugged at his mustache. "Demeree, I sort of figured you meant to act decent for once; I see I was mistaken."

Demeree eased down.

CLAYBROOK proceeded. "Mr. Mullet, relate in detail what Buck Saddler did in Cooksy Blair's saloon."

"Well, sir, he war-whooped a right smart."

"Go ahead."

"He staggered and stumbled around, bumpin' tables and chairs."

"Yes?"

"He had a bottle in his left hand and a leather pouch of gold money in his right hand."

"Go right on."

"And he bangs down his leather pouch of gold on a table so hard he nearly busts it, yes, sir."

"Proceed."

"And when he whams down that gold, he whoops and says, says he—"

"Object," said Demeree, rising. "He can't tell what somebody said."

"Your Honor," said Claybrook, "what this witness is asked to testify to is not to prove a fact, not to prove that what Buck Saddler said was true, but merely to prove that he made a particular statement."

"No, Your Honor," Demeree insisted, "he can't do that. If a witness swears that so-and-so said that so-and-so rode a black horse, somebody is going to believe that so-and-so *did* ride a black horse—not merely that so-and-so *said* that so-and-so rode a black horse. I object."

"Now, Your Honor," said Claybrook with patient forbearance, "what is sought here is not proof of an ultimate fact, but merely proof that Saddler made such and such a statement. Hearsay evidence is inadmissible only when it is offered—"

Judge Steele banged with his gavel. "Be-consarned if a couple of lawyers can't kill more time than a cat-fight; Mullet, what did Saddler say when he banged down his bag of gold?"

Mullet swung round toward Judge Steele. "Well, Jedge, Saddler says, says he, 'I've got fifty double-eagles in this here pouch. And what is more', says he—"

"Now, Your Honor," said Claybrook, "it

was that statement about his having fifty double-eagles which I wanted brought out by this witness, nothing more."

"By thunder, Claybrook," growled Steele, "we're going to bring out more'n that, if Mullet knows any more."

Demeree was up. "If Your Honor please, I'd like to cross-examine this witness."

"Demeree," retorted Steele, "this witness ain't ready to be cross-examined." He turned to Mullet. "Utah, what else do you know about this murder?"

"Well, now, Jedge, I knows them three coyotes was there and heard every word Saddler said at Cooksy Blair's."

"What three coyotes?"

"Mullet jerked a thumb toward Forty-rod Furlong. "Him there, for one."

Judge Steele's female spectator sobbed, "Oh, no, no; it is not true."

Steele pulled angrily at his mustache. "Lady, are you a witness in this case?"

She looked up through startled tears. "No. No, Judge, but please—"

"I don't please, ma'am; you will have to keep quiet, or a deputy sheriff will escort you out," Steele growled.

She dabbed her eyes. "I'm sorry, Judge; I shall try to be brave."

OUTWARDLY silent, Judge Steele inwardly stewed. Be-consarned if he knew what to do. Here was a murderer who ought to be hung, but unless events took an unexpected turn, Furlong was going to be acquitted. He could read that in every juror's eye.

"Claybrook, got any more questions?"

Claybrook was pouting. "No more questions."

Steele scowled at Demeree. "I suppose you will cross-examine, or bust?"

Demeree nodded calmly. "It is defendant's right and privilege, if Your Honor please." He came round and confronted Utah Mullet. "You say you were

at Cooksy Blair's, having a nip of whiskey?"

"I were, yes, sir."

"How much is a nip?"

"About a pint."

"How much of that pint had you already swallowed when old Saddler went whooping around, making his brags?"

"About all of it."

"How much was left?"

"A drap or two, maybe."

"How much whiskey does it take to make you drunk?"

"A pint."

"Is it not true, Mullet, that when old Saddler was kicking chairs around and being a general nuisance, you were already dog-drunk and didn't know anything about what was going on?"

"I were beginning to feel a little tipsy, yes, sir."

"What do you mean by tipsy?"

This was too much. Judge Steele's fractious temper rebelled. "Now, look hyar, Demeree, you're diggin' outside your claim; git over thar and set down."

Demeree obeyed reluctantly. Mullet was excused.

Claybrook nodded at a deputy. "Call Windell Grocer."

Grocer was brought in and seated. He was short, booted, and in need of a haircut. His dark, middle-aged face was pitted with smallpox scars.

"Your name?" asked Claybrook.

"Windell Grocer."

"Sometimes called Potatoes Grocer?"

"Sometimes."

"Gold-digger?"

"Yes."

"Know defendant?"

"Yes."

"Where were you last Saturday night between nine o'clock and midnight?"

"In Cooksy Blair's saloon."

"Did you see defendant there?"

"Yes."

"Did you see him in conversation with anybody?"

Demeree got up. "Now, Your Honor, he is getting ready to ask what somebody said, and he knows before he does that he can't do it. I object to this line of questioning."

"Your Honor, I intend to prove by this witness that Forty-rod Furlong and two others, namely, one Shug Sartin and one Sharm Litus, otherwise known as Litus Hitchus, agreed to act in concert—"

"Object," Demeree shouted. "Mr. Claybrook should remember that his conspiracy count has been stricken."

"Nothing has been said about a conspiracy," Claybrook fired back.

"If there is any better definition of conspiracy than an agreement to act in concert, I don't know what it is," returned Demeree.

"I disclaim responsibility for Mr. Demeree's lack of knowledge," said Claybrook. "What is intended here is proof of premeditation and a killing with malice aforethought."

"Yes," Demeree insisted hotly, "he may prove premeditation, if he can; but an agreement to act in concert is a horse of another color. I object to his attempt to prove conspiracy."

"Both of you lawyers set down," Steele ordered angrily. "If thar's any excuse for lawyers, I don't know what it is." When Demeree and Claybrook had eased down, he turned to Grocer. "Potatoes, what do you know about this murder?"

"I know it was planned in Cooksy Blair's saloon, Judge."

DEMEREE started to get up, but changed his mind.

"Proceed," snapped Steele.

"Well, Judge, I was settin' at a table, with them schemers off to my left."

"Now, Your Honor," Demeree said contritely, "there's no difference between

schemers and conspirators. He can't—"

"Sheriff," Steele said coldly, "if Axe-face Demeree interrupts again before he has permission, throw him out. We've got a murderer hyar to be tried and hung, and thar's been enough nonsense." He returned his attention to witness Grocer. "All right, Potatoes, tell what you know."

"As I was saying, Judge, I was settin' at a table, with them schemers off to my left. That one called Litus Hitchus says to Shug Sartin, he says—"

Demeree half-rose, but quickly got down again.

"This Litus Hitchus says," resumed witness Grocer, "he says to Shug Sartin, 'Shug,' says he, 'how would you like to have them fifty double-eagles?' And Sartin says, 'Just what I was askin' myself.' And this here Forty-rod, him there with Demeree, he says, 'I got a scheme, fellers. Want to hear it?' And they both say, 'Shoot.' 'Well,' says' Forty-rod—"

A feminine sigh shuddered softly. Eyes turned away from witness Grocer, and those within range beheld a dazed and placid face, filled with sweet sadness.

Judge Steele's nostrils distended themselves. "Proceed, Potatoes."

Windell Grocer took up his story. "Like I says, Judge, this Forty-rod Furlong had a plan. And this is what he says. 'You fellers,' he says, 'sneak out and hide in Goochy Alley. Meantime I'll get next to Saddler and whisper a sweet tune in his ear. Maybe, first thing you know, we'll be dividin' fifty double-eagles between us three.' Pretty soon after that, Shug Sartin and Litus Hitchus sneaked out. It wasn't long after that till Forty-rod was whispering something in Saddler's ear, like he said. Saddler's eyes popped wide, and a smile turned his lips up, and out they went; Forty-rod Furlong and Buck Saddler. That's all I know, Judge."

"You're excused," clipped Steele. "Next witness."

Claybrook responded sulkily, "Call Combs Delay."

Delay was a short gold-digger with brown whiskers and a restless right eyebrow. His heavy hair had a crooked left-side part.

"Your name?" said Claybrook.

Judge Steele leaned forward. "Hold on thar, Claybrook. Ask him what he knows about this murder."

Claybrook nodded at Delay.

"Tell you how it was," said Delay. "Last Saturday night, when I'd had a dram or two and was going home, right at a street lamp I sees this here Furlong and Saddler turn aside and go down Goochy Alley. I reckon a good many gold-diggers knows what's down that way. It's where Goldielocks Hanno keeps a house of cuties and a man with money can meet a lady. Well, it's no affair of mine, so I ambles along, turns right at next corner; and when I'm a hundred yards or so down my street I hears what sounds like a grunting, slugging fight over in Goochy, with Saddler calling for help. Saddler is no particular friend of mine. Still, I figures somebody is doing him dirt, so I heads in to lend a hand. But when I gets there, nobody is around except two dead men. Somebody comes out of Hanno's with a lamp, and there's Saddler with his head busted, and Sharm Litus with a knife in his side."

"Next witness!" snapped Judge Steele.

DELAY STEPPED down, and Claybrook got up.

"Your Honor," said Claybrook cautiously, "people's counsel has an objection. Orderly justice—which, I believe you will agree, was our original aim in setting up a court of law—requires that witnesses be examined and cross-examined by counsel. In such a court, its judge is expected to maintain a status of strict neutrality. It is not that I am accusing Your Honor of unfairness; yet, as people's counsel, I find it my duty to say that in

orderly procedure—”

“Claybrook,” Steele interrupted with a contemptuous snarl, “you’ve said enough, by thunder. You lawyers would make every case a bone for a couple of yowling dogs to fight over. Call your next witness.”

Demeree eased up halfway. “Your Honor, may I say a word?”

“All right, Demeree.”

“By way of showing how right Mr. Claybrook is, I wish to call attention to this witness Combs Delay, variously known as Wattles Delay, Don’t Delay, and Why Delay. It is common knowledge that he never stops his liquor with a dram or two, but always gets whooping drunk; that when he’s intoxicated, he not only sees double, but as often sees treble; and that, drunk or sober, there’s no bigger liar in Flat Creek than he is. Defendant feels deeply aggrieved at not being permitted to cross-examine witnesses, which, as Mr. Claybrook has so learnedly and honorably conceded, is a part of fair and orderly justice.”

Judge Steele settled back in his chair, outwardly calm but inwardly raging. “Claybrook, call your next witness.”

“Call Shug Sartin,” said Claybrook, a hint of elation in voice and attitude.

Sartin, wearing handcuffs, was brought in and seated. He was slim, freckled, and about twenty-one years old.

“Your name?” asked Claybrook.

“Wilbur Sartin.”

“Sometimes called Shug Sartin?”

“Yes.”

“Acquainted with defendant?”

“Yes.”

A sound of gentle weeping spread its disturbing influence to witness, jurors and spectators. Men heard an agonized whisper, “Oh, my son. They are going to betray my poor, innocent son.”

Judge Steele contained his wrath. There had crept upon him a beguiling resolution to become a mere spectator himself and leave

everything to Claybrook and Demeree. He kept silent.

DEMEREEREE arose cautiously. “Your Honor, may I say a word?”

“Go right ahead, Demeree.”

“Defendant objects to this witness, Your Honor.”

“On what ground?”

“On ground of infamy. He is a convicted felon who has served time in a Missouri prison for horse-stealing. An infamous person is disqualified by his infamy to testify in court.”

Claybrook was up, facing Judge Steele. “If Your Honor please, what Mr. Demeree says would be sound law, if true.”

Demeree’s long face stiffened. “Are you insinuating, Mr. Claybrook?”

“I,” said Claybrook, “am charging defense counsel with fabricating out of whole cloth.”

“Your Honor,” said Demeree, “if you will question witness Sartin, I am confident his testimony will make Claybrook out as an unconscionable liar.” Demeree paused, then looked intently at Steele. “Would Your Honor like to question witness Sartin?”

“If I wanted to question him, I would not require your permission,” Steele replied frigidly. “This court is committed to fair and orderly justice; hence my position is that of impartial and passive neutrality.”

“Then I suggest that Claybrook qualify his witness,” said Demeree.

Claybrook hesitated, confused and embarrassed. He stared through his eyebrows at Sartin. “Have you ever been convicted of horse-stealing?”

Sartin colored, replied shiftily, “Yes.”

“Then step down,” said Claybrook.

“Hold on thar,” ordered Steele, unable longer to restrain his fury. “You lawyers set down.” He waited until they were seated, then glared at Sartin. “Tell what you know about this murder.”

Sartin, dry-mouthed, began huskily, "Well, it didn't start out to be a murder. We—that is, me and Litus and Furlong, was going to entice old Saddler into Goochy Alley and rob him. We got him down that way, when Furlong told him a lady wanted to see him in Hanno's place. First thing I knowed, Sharm Litus whams him with a slug sock and knocks him down. That sort of addles Saddler, but he gets up and puts a knife between Sharm's ribs. About then, Furlong lays a bone-crusher across Saddler's head with a wagon coupling-pin. When I saw it was turning into a murder, I lit out, and what happened afterwards I don't know."

There was a shuddering feminine sigh again, but when jurors and Steele and others looked, they saw not a face drawn with agony, but one of beauty that had resigned itself to an embrace of saintly martyrdom.

Demeree was up, waiting.

"All right, Demeree?"

"I'd like to cross-examine."

"Your privilege, Demeree."

Demeree did not venture to come around. He said quietly, "Mr. Sartin, in return for betrayal of your former friend and companion, did Mr. Claybrook promise that he would not have you indicted?"

After a shifty hesitation, Sartin nodded. "Yes."

Claybrook rose indignantly. "Now, Your Honor, I did not make any such promise."

"I suggest," said Demeree "that if Mr. Claybrook is determined to be a witness, he have himself sworn by Mr. Skiffington."

"Counsel's word in court is admissible as a matter of honor," Claybrook retorted angrily. "I did not promise this witness he would not be indicted; I merely promised that if he were indicted and prosecuted to conviction, there would be a recommendation of leniency."

"In other words," said Demeree, "Mr. Claybrook supplied this witness with a

motive for lying; it looks more and more like a frameup."

Claybrook flushed. "If Mr. Demeree is determined to be a witness—"

"Call next witness," said Steele sharply. "Be-consarned if this ain't as sorry a trial as I ever saw."

Following examination of two other witnesses, Claybrook looked at his watch. "It is twelve o'clock, Your Honor."

Steele nodded at Sheriff Buckalew. "Recess court till after dinner."

Bucky pounded with his forty-five. "Court's in recess till one-thirty."

AT ONE-THIRTY he pounded again. "Court's now in session." Judge Steele sat for a while, his savage eyes roving in search of a familiar figure. At last those eyes spotted what they sought. Steele beckoned with his thumb, and a broad-shouldered six-footer with black, close-cut mustache, dark, fierce eyes and twin sixguns strode leisurely forward and eased up beside Steele.

"What's wrong, Wardlow?"

"Bill Hacker, this case will soon be ready for a verdict, and unless something is done pronto, thar's going to be an acquittal. Do you see that lady down thar?"

Hacker nodded. "What about her?"

"Bill, our jury won't convict her boy; that sorrowing, saintly look of hers has already melted them jurors down, and I'm beginning to feel like a brute myself."

Hacker sank his voice to a whisper, and Steele's nostrils began to expand and his face to flush with heat.

When Hacker had concluded, Steele faced his beautiful, saintly auditor. "Lady, kindly stand up."

Her mouth opened in surprise. Indignation spread over her once lovely face. "Why, Judge! And before all these—these ruffians!"

Every grizzled face within hearing produced a smile. There were silent

chuckles.

“Lady,” said Steele, “if you are suffering a disability, a couple of nice deputies will gladly assist you.”

Buckalew nodded, and a couple of deputies moved to either side of her.

She stood up without assistance. “This is an outrage.”

“Lady,” said Steele, “you have been making it appear that you are that varmint’s mother. You are not his mother, are you?”

She looked for an avenue of escape. None appeared. “No,” she said angrily.

“You used to travel with a show, didn’t you?”

“Yes.”

“And your show-girl name is Jobina Lynn.”

She nodded.

“And somebody hired you to come here and pretend to be that Furlong skunk’s mother. Right?”

She looked frightened, but nodded.

Bill Hacker tugged at Steele’s sleeve. “Don’t ask who hired her, Wardlow; if it turned out to be Demeree, we might have to hang him.”

“Lady,” said Steele, “unless you’d like to stick around and see how a monkey looks when he’s hung, you may now be excused.”

She turned and swished down a narrow aisle that closed behind her as she passed. Before leaving entirely, she faced about and gave Judge Steele an angry glare. Her expression toward her recently-captive jurors was a contemptuous leer.

“Next witness, Claybrook,” said Steele.

TWO MORE witnesses were called, one an undertaker who testified that Saddler’s death was caused by a skull-crushing blow.

Demeree cross-examined, but did so half-heartedly. After a verdict of guilty, however, he rose with a show of outraged sensibilities.

“Your Honor, a matter of utmost gravity has come to my attention. While out to lunch, that jury went on a sight-seeing expedition, and they were not accompanied either by me or by defendant. Their verdict is void; therefore, and I move that it be so declared and that defendant be discharged.”

Judge Steele’s blood pressure shot up. “Demeree, what in tarnation are you talking about?”

“I am saying they took a walk,” replied Demeree.

“And what’s wrong with that?”

“Nothing, had they confined their perambulations to a mere stroll. But they went to Goochy Alley, took a look around and asked questions of every Dick, Tom and Harry who happened to stroll along with them.”

“Who had this jury in charge?” Steele demanded.

A huge deputy, almost seven feet tall and weighing around two hundred fifty pounds, stepped out. “I had ‘em in charge, Judge.”

“Dan Trewhitt, what did they do?”

“Like Mr. Demeree said, Judge, they took a walk. One of them said he’d like to see where that murder took place, and I said, ‘Shore, I can take you right to it’. And what they saw was plenty, I can tell you that. Ground tore up where they fought, and where they died it looked like somebody might’ve poured out a couple of buckets of ox blood. They talked to some of them cuties at Goldielocks Hanno’s, too—asked ‘em questions about what they saw and heard. One of ‘em said she was lookin’ out of an upstairs window and saw Forty-rod wham old Saddler with something heavy and hard. Hit him from behind, she said, which dropped him like a shot steer. They also measured how far it was to that corner street light and asked this person and that how far its light would shine. They figured it would shine as far down as Hanna’s, so a witness upstairs could see who was who and what

was what, down below. But I shore didn't know there was anything wrong with a jury takin' a little stroll. I'm sorry, Judge. I could crawl under a log, if there was one handy."

"Now, Your Honor," Demeree continued, "in view of what Trehwitt has reported, defendant is entitled to be discharged. Any other course would be a travesty upon justice."

Steele started to get up. Hacker pulled his sleeve. "Claybrook wants to say something, Wardlow."

Claybrook rose with dignity and in magnanimous spirit. "Your Honor, this is a most unfortunate turn of events. Of course, Mr. Demeree is right. I can't say that defendant should be discharged, but he certainly should have a new trial, and I so move."

Judge Steele eased up. "Claybrook, do you mean to stand thar and say this murderin' skunk should be tried again, just because these jurors got curious and wanted to see some blood?"

"Yes, Your Honor. They not only saw blood; they questioned unsworn witnesses, in great prejudice of defendant's rights."

Demeree was still up. "Your Honor, defendant should be discharged. Mr. Claybrook has moved for a new trial, but a second trial at his instance would be double jeopardy. No recourse is left, but to discharge defendant. Rightfully, he is now a free man and should be so declared."

"Hold it, Wardlow," chided Hacker, "you're a fine judge; just what we need in Flat Creek. Suppose you ask Demeree *when* he learned about that jury-excursion. If he knew about it prior to verdict, and played

shut-mouth, he must be deemed to have waived his objection."

Judge Steele saw a gleam of light. He faced Demeree with rising exultation. "Demeree, just when did you learn about this jury picnic to Goochy Alley?"

"At lunch-time, Your Honor."

"Why didn't you say something about it as soon as court took up again?"

"I did not then consider it advisable to do so, Your Honor. A verdict of 'not guilty' seemed to me clearly indicated, and I did not wish to alienate any juror's feelings. Accordingly—"

"Accordingly, you gambled, and your luck turned sour. By taking a chance, you tossed away what might have been a valid objection; too bad, Demeree." Steele furrowed his brow at Sheriff Buckalew. "Forty-rod is your meat, Bucky; swing him."

A roaring exit set in, and after a few minutes Steele and Bill Hacker were alone. Hacker filled his pipe with tobacco crumbs and fired up.

"Let's go, Wardlow."

Steele remained seated. "Bill, what are we going to do about this man Demeree? Be-consarned if I don't think he ought to be hung."

Hacker firmed his burning tobacco and took a long draw. "No, Wardlow. Lawyers don't ordinarily get hung. Possibly from excellent reason; a man never knows when one might come in handy."

Steele slid down. "I reckon you're right, Bill. But they sure ain't handy around this place."

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