

Wardlow Steele couldn't believe his eyes and ears—why, here was Axe-Face Demeree on the side of the prosecution, since regular prosecutor Claybrook was indisposed. Now maybe the wily lawyer tricks would be pulled on the side of justice, for a change!

CONFIDENTIAL COMMUNICATION



Judge Steele surveyed this defense attorney with more than ordinary disapproval.

Judge Steele Story
by Lon Williams

JUDGE WARDLOW STEELE entered Flat Creek's crowded courtroom with an uneasy feeling. Being a criminal judge had never come handy for him. Now that ominous quietness prevailed, he knew he was in for trouble. He sat down heavily; his blue eyes roved. He met mental hostility with moral savagery, but also

with understanding. Men who believed vigilante justice was more effective than this clumsy court were in his opinion not far wrong. Procedure according to law, however, differed chiefly in its method. When it came to hanging a two-legged polecat, getting around to it by court proceedings merely involved more time

and aggravation; but by either route, by thunder, murderers in Flat Creek got their necks stretched.

Steele gave his straw-colored mustache a couple of jerks and nodded to Sheriff Jerd Buckalew. "Sheriff, call court."

Buckalew, tall, rawboned and pokerfaced, rose and pounded with his forty-five. "Court's now in session. Anybody that ain't convinced had best go on livin' in doubt."

Heavily armed deputies here and there nodded agreement. Grim-faced Vigies along walls and aisles looked on without change of expression. A fact apparent to all was that justice in Flat Creek had so far refrained from divesting itself of armed force. While its face was toward civilization, at its back stood cold and resolute barbarism.

Steele jerked his head at Clerk James Skiffington. "Skiffy, call fust case."

Skiffington, thin, gloomy and tall, got up. "People *versus* Bush, alias Six-percent, Puryear. Charge, first-degree murder."

Judge Steele glowered down upon a puncheon-bench occupant with curly blond hair, gray-green eyes, dimpled chin and granite-like hardness. "Murder, eh? Be-consarned if hangin' murderers ain't like killin' flies; every dead one draws two live ones. You got a lawyer?"

A man of whom Judge Steele had taken only unofficial notice arose ponderously. He was over six feet tall, weighed easily two hundred pounds, wore striped black trousers, black cutaway coat, white shirt, wing collar, and black bow-tie. His heavy iron-gray hair flared into long, picturesque burnsides. Burnsides and self-confidence gave him a pompous bearing.

"Ahem. I am his lawyer, sir."

Judge Steele surveyed him with more than ordinary disapproval. "Just whar did you come from?"

"Sir, I am from Philadelphia, and my name is J. Ruelstone Dodsworth."

Steele sniffed inhospitably. "You sure come a long way for nothin'."

Dodsworth arched his shaggy eyebrows. "If you please, sir, I happened to be sojourning here in connection with Eastern mining interests, when a valued employee of our company—namely, this worthy gentleman on my right—was unjustly accused of murder. I took it upon myself as a matter of honor to exonerate him, sir."

"You seem mighty confident," Steele growled. "But good men before you have bit off more'n they could chaw." He swung left. "Whar's our man?"

He blinked as a slim, thin-faced, black-haired character in black suit, white vest and four-in-hand necktie rose quietly.

"French Demeree, your honor."

Steele was uncertain whether to be pleased or angry. "Yeah, Demeree from Tennessee; what in tarnation are you doin' on our side?"

"Your honor," said Demeree, "a lawyer is a knight in shining armor, lending his services wherever there is a call of distress."

"It's news, by thunder, when anything nice is said about lawyers. Whar's Claybrook?"

Demeree assumed an air of grief. "Mr. Claybrook, our esteemed prosecuting attorney, was thrown by a horse last evening, your honor, and sustained a broken wrist."

"Ah," Steele said brightly. But then his mood darkened. "I see; for a moment thar I thought you said it was his neck. Demeree, do you think you can stand up to this stuffed shirt from Philadelphia?"

"I don't know, your honor," said Demeree solemnly, "but it should be interesting for once to watch somebody else fight for a lost cause."

“See hyar, Demeree, you ain’t insinuat’in’, are you?”

“No, your honor. I merely happened to be thinking that this is called Flat Creek’s law court. To any over-confident defense lawyer, however, it might well be called Waterloo Junction.”

Steele’s temper began to warm. “Consarn it, Demeree, that’s enough out of you.” He glared down at Puryear. “All right you wolverine, what’s your plea?”

Astounded at what was going on, yet quite undaunted, J. Ruelstone Dodsworth arose. “Defendant pleads not guilty, sir.”

Steele grunted. “Mr. Dodsworth, they all do that—though I don’t know what in tarnation for. Bucky, panel a jury.”

Dodsworth sat down. Sheriff Buckalew jerked his head at Clerk Skiffington. “Call names, Skiffy.”

SKIFFINGTON called twelve, and twelve nondescript characters shoved their way up and seated themselves as jurors.

Steele glanced at Demeree. “Any objections?”

Demeree rose said, “No, your honor,” and sat down.

Dodsworth arose without invitation. “Defendant challenges all of those jurors, sir.

Steele’s face muscles knotted. “By thunder, you don’t do things by halves, do you? Shovel ‘em out in a body, eh?”

“Indeed, sir, and with good reason. They have been prejudiced *en masse*. Your honor has been guilty of injudicious and highly prejudicial remarks concerning this defendant—remarks which every man present has heard. You have called him a murderer before one iota of evidence has been introduced; you have in effect pronounced him guilty before his trial has even begun. I demand that this case be continued until an unprejudiced jury can

be assembled, an eventuality which, I dare say, is now quite beyond possibility.”

Steele’s blood pressure rose dangerously. “Dodsworth, lawyers don’t make demands in this court.”

“There’s a first time for everything, sir,” Dodsworth retorted warmly. “I’ve heard of this court’s monstrosities, so ineptly called justice; for once I intend to see that rules are observed and law correctly administered.”

Demeree rose cautiously. “If your honor please, may I say a word?”

Steele held his temper. “Demeree, if you think you can save this Philadelphia bulldog from being soused in a horse trough, you’re welcome to try it.”

Demeree nodded slightly. “I can at least understand his situation, your honor. In some degree I share his sentiments, having been in his place so often. But I should say that Mr. Dodsworth waived any objection he might otherwise have had to this array of jurors by his having been a participant in remarks concerning defendant. While your honor was speaking of defendant as a murderer, Mr. Dodsworth was calling him a wronged and innocent gentleman. Every time your honor smeared him, Mr. Dodsworth wiped him clean; as Mr. Dodsworth was last to speak on that matter of characterization, defendant Puryear at this stage is as clean as a lily.”

Steele almost liked Demeree for that. He swung right. “Dodsworth, you’re overruled.”

“Why, sir, that is an outrage.”

“Dodsie, I said overruled!”

Several deputies alerted themselves; their eyes were filled with chained menace.

Dodsworth sat down.

Steele tugged at his mustache. “Witnesses come and be sworn.”

Afterwards Demeree addressed a

deputy-sheriff. "As first witness, you may call Judd Kneebone."

A blond young man was brought in and seated. He glanced about with a curious and pleasant air, prepared to enjoy his impending experience.

"Your name is Judd Kneebone, I believe?" said Demeree.

"Yes, sir, that is quite correct."

"But you are sometimes called Shank Kneebone?"

"I am, sir."

"Why?"

Kneebone blinked. "Well, now, I'd never thought of that."

J. Ruelstone Dodsworth got up. "Ahem. I suggest, gentlemen, that examination of this witness be confined to materialities."

Demeree arched his eyebrows. "Mr. Dodsworth is right, your honor."

STEELE'S cheeks hardened. Demeree had known better than ask that irrelevant question; consarn him, he could always be counted on to have some monkey-business up his sleeve. "All right, Demeree. Proceed."

Demeree glanced at Kneebone. "Are you acquainted with defendant Puryear?"

"I am."

"Know anything good about him?"

Dodsworth roared up. "That's an outrage. What kind of lawyers have you in Flat Creek anyhow? Even a most crude and elementary one should know better than ask that question; I most strenuously object."

Steele eyed Dodsworth sarcastically. "Dodsie, you don't have to object *strenuously*; just object and be overruled quietly."

Demeree said to Kneebone, "When did you last see Puryear outside of jail?"

Kneebone's enjoyment quickened. "That was last Saturday night, oh, let us

say, eleven o'clock. It was down at that vacant square beside Cooksy Blair's saloon."

"Now, sir," said Dodsworth, rising pompously, "answers should respond to questions. This witness was not asked *where*, but *when* he last saw defendant."

Steele's blood pressure rose slowly. "See hyar, Dodsworth, you ought to know that he'll be asked where he last saw defendant."

"Then let him wait until he is asked; witnesses are not permitted to anticipate questions."

A dangerous quietness came upon Steele. After seconds, he said calmly, "Dodsworth, you may set down."

"But, sir, I demand to be heard whenever I have a legitimate objection."

"Well, by thunder, your objection this time ain't legitimate. Set down!"

Several deputies moved slowly in Dodsworth's direction. Dodsworth, puzzled, sat down.

Demeree, solemn but satisfied, faced his witness. "Mr. Kneebone, what was going on down at Blair's saloon where you last saw Puryear roaming at large?"

Dodsworth was up again. "Object to that so-called lawyer's language, sir. *Roaming at large* implies that this honorable gentleman is a sinister character who should have been in confinement."

"Your honor," said Demeree, "as temporary prosecuting attorney, I did not intend to imply that Puryear's roaming at large made him a sinister character. So far as this record discloses up to now, he may be regarded s as being as pure and white as newly-fallen Grand Teton snow. If Mr. Dodsworth is determined to drop hints that Six-percent *is* sinister, of course from our viewpoint there is no objection."

Consarn this clever Demeree! Just what he was up to, Steele had not yet figured—but maybe he was just helping

Dodsworth make a monkey of himself. "Proceed, Demeree," he snapped.

Demeree faced his witness. "Kneebone, were you acquainted with deceased, Copley Pozlo—otherwise known as Dr. Pozlo, magician and hypnotist?"

"Object," roared Dodsworth, towering in anger. "That is a leading question. This should be declared a mistrial at once. No man in jeopardy of his life should be subjected to such monstrous proceedings."

Steele turned to Sheriff Buckalew. "Bucky, have you got any spare room in your jail?"

Buckalew swung round in surprise. "Why, no, Judge; full up."

"You may have to provide accommodations for Mr. Dodsworth when this trial is over, or before," Steele announced with suppressed fury.

"Well," said Buckalew, "we could make room somehow; might bed him down with Dan Trewhitt's bloodhound."

Demeree interposed graciously. "Your honor, Mr. Dodsworth is right in his objection; I withdraw my question."

Steele's nostrils spread. "No you don't, by thunder. But you can set down. Why in tarnation we allow lawyers in this courtroom, I don't figure. Kneebone, tell what you know about this murder."

KNEEBONE looked scared, but this had suddenly become his occasion again. He straightened his young, narrow shoulders. "Well, Judge, your honor, last Saturday night there was a Punch-and-Judy show down by Cooksy Blair's. This Dr. Pozlo's part in it was that of Punch. After he'd strangled his baby, beat his wife's brains out, killed divers and sundry jailers and officers, and twisted Old Horny's tail till he hollered, he curtained off his stage and invited several of us suckers back for a throw or two of dice.

Six-percent was among us. After he'd lost about two hundred dollars, he got mad and accused Dr. Pozlo of using loaded dice. Six-percent said—"

"Object," shouted Dodsworth. "He is not permitted to tell what somebody said. That's hearsay, and not admissible."

"Overruled," said Steele, imposing forbearance upon his emotions.

"Then I except. If there should be a verdict of guilty, I shall appeal this case."

Steele's eyebrows lifted. "Appeal? Whar would you appeal, Mr. Dodsworth?"

Dodsworth looked hot. "Sir, I recognize there exists nothing but hopelessness in that respect, but when I am in Washington again I shall have Congress establish a court system in this territory. Certainly *in futuro*, if not *in praesenti*, such outrages as this can be forestalled, or corrected after their perpetration."

Steele glared at Demeree. "Demeree, why in tarnation don't you put Old Burnside in his place?"

Demeree arose trimly: "If your honor please, Old Burnside, as you so aptly characterize him, is not at all an observant person. So I shall remind him that we *have* a court in this territory. Our court, also, has a *system*. Accordingly, my fraternal friend Dodsworth will not find it necessary to establish either."

Steele swiped a hand across his mustache. "Kneebone, go on with your story. What did Six-percent say to Dr. Pozlo?"

Kneebone, enjoying immunities denied to Dodsworth and Demeree, tilted his face upward. "Well, your honor, Mr. Puryear's language clearly was not designed for polite society—but in substance he said that Dr. Pozlo was, in various and high-colored terms, a crook. He said, also, that Pozlo would probably wake up some morning with his body diced like chopped

cabbage. Six-percent thereupon exhibited a razor which he said he had that evening picked up at Soapy Hogan's barber shop where he'd left it to be honed. To show how sharp it was, as well as how adept he was in its manipulation, Six-percent drew a hair from his head and split it evenly from end to end. That, he said, was how he would operate on Dr. Pozlo."

"Any more questions, Demeree?" asked Steele.

"No more, your honor."

Steele glared at Dodsworth. "You?"

Dodsworth got up, glared at Kneebone, then sat down. "No questions, sir."

Demeree nodded at a deputy sheriff. "Call Mr. Crabtree."

AN OLD man of short stature and bushy white whiskers was brought in. Demeree contemplated him a pleasurable moment. "Your name is Evergreen Crabtree, I believe?"

"That's what I'm called but, I grab, it ain't my name. I'm from Georgia, I grab, and my name is Elias Crabtree."

"You are also called Evergreen Tree, I believe?"

"Yep, and also Christmas Tree. But it's like that with everybody in this heathenish country; nobody goes by his right name. Why, they even call you Axe-face Demeree." Crabtree pointed with his thumb. "And him over there with Six-percent Puryear, if he stays in these parts permanent, he'll likely have a handle his pa and ma didn't give him."

"For instance?" said Demeree.

"Why, I'd say Two-bush Dodsworth, judgin' from all that scrubbery on his face."

Dodsworth rose indignantly. "This is outrageous; something will have to be done about this monstrosity that calls itself a court."

Steele replied quietly, "That's what do you suggest be done about it?"

"I suggest it learn something about law, and proper legal procedure, as a starter."

A Flat Creek citizen had crowded in and made his way up to Sheriff Buckalew, where he whispered a message. Buckalew looked up at Steele.

"Your honor, I'm just now informed that Mr. Dodsworth's fine horse has been stole."

Dodsworth's eyes glared in outrage. "What! My thousand-dollar hoss? Stolen?"

Steele replied quietly, "That's what he said, Dodsie."

"A hossthief!" stormed Dodsworth. "After him, Sheriff; nothing's more lowdown than a hossthief."

Steele made his face look sympathetic. "Mr. Dodsworth, if this horse thief is caught, as he most likely will be, what do you recommend we do with him?"

"String him up, of course."

Steele nodded understandingly. "All right, Mr. Dodsworth; you set down and keep calm. We'll get around to your horse thief in due time. Demeree, proceed with your witness."

"Evergreen," said Demeree, "don't let this digression interfere with your memory. You were down at Blair's last Saturday night, were you not?"

"You bet I was. So was Six-percent Puryear. He was drinking and showing-off his fresh-honed razor. He said he'd been swindled out of a lot of money by this here Dr. Pozlo Punch-and-Judy showman and trickster. Puryear says, 'You know what I aim to do to this dice-throwing Pozlo? Well, I'll tell you. I aim to take his hide off and make boot-strings out of it. I'll tan 'em and sell 'em to you for a nickel a pair.'"

J. Ruelstone Dodsworth looked disturbed. Something was amiss, but his mind was temporarily so confused and rattled by reported theft of his horse that he could hit upon nothing definite.

“What else did Puryear say?” asked Demeree.

Crabtree’s eyes glittered within their thicket of whiskers. “Why, Puryear says, says he, ‘I been cheated before, but no man as swindled me ever slept well afterwards. But, of course, after I’ve operated on him, he’ll sleep sound enough. My main objection is,’ says he, ‘it’ll be sort of hard on my razor.’ ”

Dodsworth had regained his equilibrium. He got up, but somewhat less vehemently. “If this court will permit my speaking, I move that this man’s testimony be stricken. It is all hearsay, and hearsay evidence is not admissible in any court in this country—in any *respectable* court, I’d say.”

Steele’s blood-vessels distended themselves alarmingly. “Dodsworth, are you insinuatin’ that this court ain’t respectable?”

Dodsworth glanced at Sheriff Buckalew, at his scowling deputies. Tenseness was universal and ominous. “Ahem, no, your honor.”

Steele faced Demeree. “Any more questions?”

“No, your honor.”

“Dodsie?”

“No, your honor.”

Demeree nodded at a deputy. “Bring in Coroner Welfare.”

WELFARE was brought in and seated. He was stout, round faced, sandy-haired and haughty.

Demeree eyed him studiously. “Your name is Welfare?”

“My name is Boaz Welfare, and I am Flat Creek’s coroner. Last Sunday

morning I was called to a show tent down by Cooksy Blair’s saloon, where a dead body had been found under mysterious circumstances. Being coroner of Flat Creek, it was my duty to conduct an inquisition in order to determine whether death was from natural causes or had come about through external violence. I summoned a jury and after very careful and expert examination into all conditions and circumstances—as well as incriminating indications—I and my jury determined that death had been caused by external violence and under such circumstances as to suggest in unmistakable terms that a murder had been committed.”

Demeree stared at Welfare. “What did you say?”

Steele eyed Demeree fiercely. “Demeree,” you connivin’ stinker, you know what he said.”

Dodsworth got up. “Your honor, this witness was merely asked to state his name, not to orate a declaration of his official importance and achievements.”

Steele growled, “Demeree, question your witness.”

“Yes, your honor,” said Demeree. He glanced indifferently at Welfare. “Your name, I believe, is Boaz Welfare?”

“It is, sir.”

“More commonly known, however, as General Welfare?”

“As to that I am quite unconcerned.”

Demeree’s eyebrows lifted quizzically. “Quite so, Mr. Welfare. Now then, would you mind backing up and working in a few details concerning this coroner’s inquest?”

“Just what do you mean?”

“This dead body you found—whose was it?”

“That Punch-and-Judy fellow, Dr. Pozlo.”

“In what condition did you find it?”

“Cut to pieces, sir. Its head had been

dissevered and placed upon a chair post, its eyes wide open.”

“Had there been any disarrangement of furnishings?”

“Object to that,” shouted Dodsworth. “Object to those gruesome details, too, which are certainly calculated to cause jury prejudice. Especially object to that question about disarrangements. There is no way of comparing Sunday morning’s conditions with those preexisting. Any evidence of struggle could be misleading, for disarrangements could have been of slow development, through a week’s neglect, for example.”

“Answer that question.” Steele directed Boaz Welfare.

“There were no disarrangements of furnishings; whoever murdered Pozlo obviously caught him asleep.”

“Now, see here,” objected Dodsworth, “if there were no indications of struggle, how do you know but what Pozlo had been dead for hours before his body was ever touched by this supposed razor-wielder?”

Demeree smiled. “Razor-wielder? Now, sir, I’m glad you said that.”

Steele scowled at Demeree. “Consarn you, Demeree, why do you say that?”

Demeree was innocence incarnate. “Oh, I was just wondering what Pozlo was sliced with; now I know.”

Dodsworth’s face was flushed. He sat sullen and silent.

Demeree nodded at Welfare. ““General, you may answer Two-bush’s question, if you please.”

“You mean as to how I know Pozlo had not already been dead before he was carved?”

“Yes.”

“That was easy, sir. Too much blood was around for Pozlo to have been a corpse when he was whittled. Separate

pools of it indicated, too, that he had kicked around some.”

“Did you discover any indications that Pozlo’s body had been sliced with a razor?”

“None at all, sir. It could as well have been done with a sharp knife.”

“Thank you, General,” said Demeree. “No more questions.”

DODSWORTH got up. “I’d like to question this witness.”

“Ask him,” said Steele.

Dodsworth squared himself. “Did you, sir, discover evidence that my honorable client here was implicated in that which you determined was murder?”

“I did not,” said Welfare.

“That is all, sir.”

Welfare stepped down and retired. Another witness took his place.

This one was plainly dressed but otherwise distinguished looking, with expressionless face and calm brown eyes.

“Your name and occupation?” said Demeree.

“Samuel Bird is my name, Mr. Demeree. I am a special investigator attached temporarily to Sheriff Buckalew’s office. I came here three months ago in search of a vicious and mysterious character who seemed especially gifted in committing murders with sharp, cutting instruments, such as knives or razors.”

“What other crimes in particular do you have in mind?”

Dodsworth rose with determined demeanor. “Defendant will not submit to such atrocity as is about to be perpetrated here. People’s counsel—Demeree, I believe he’s called—knows, if he knows anything at all, it is not permissible to show that an accused person has committed other crimes than that one of

whose commission he is presently charged.”

“Your honor,” said Demeree, “there are exceptions to all rules. Where crimes have followed a peculiar pattern; and what is under consideration is of that pattern; and our present defendant is inexorably drawn into that pattern by circumstances of this and former crimes, it is permissible that other crimes of like character be shown.”

Steele leaned back with a satisfied feeling. “Demeree, by thunder, you ought to be on our side, permanent; go ahead thar, Mr. Bird.”

Witness Bird turned slightly toward Steele. “Well, your honor, there have been other crimes like this. Up at Cloud’s Fork a woman was cut up and beheaded, and her head was stuck on a chair post. A man named Wormser was in like manner murdered and decapitated at Granville Junction. Five months ago, over at Silverloaf Ford, a deputy marshal named Moppington was found in like condition. This defendant, indicted here as Puryear, was known to have been at each of those places and to have departed soon after. Also, at least one eyewitness saw a man wearing a black hood either entering or leaving each murder scene.”

Demeree sat down. “No more questions.”

Dodsworth was up. “Sir, did you see a hooded man leaving this latest murder scene?”

Bird shook his head. “No.”

“Then,” said Dodsworth “I move that all of this testimony be stricken; this case does not accord with that bloody pattern of which Mr. Demeree spoke.”

Demeree arose wearily. “About to forget something there, your honor. Mr. Bird, did anyone see a hooded man leaving Pozlo’s tent?”

“Yes, Mr. Demeree. A woman named

Myrtle Joynton saw a hooded man.”

“Where is this Myrtle Joynton?”

“Dead; she, too, was murdered.”

“Have you her dying declaration?”

“Yes.”

“Relate it.”

“I was there with Deputy-sheriff Brierton. This woman, known to have been a nocturnal friend to Pozlo, was on her way to his tent when she saw a man wearing a black hood emerge. He took off his hood, then apparently realized that he had been recognized.”

“No conclusions,” shouted Dodsworth. “He can’t draw conclusions.”

“Go ahead, Bird,” said Steele; “draw as many conclusions as you want to draw.”

“Well, Judge,” said Bird, “that was not exactly a conclusion. This woman, Myrtle Joynton, was dying when I questioned her.”

“How do you know she was?” shouted Dodsworth.

BIRD stared at Dodsworth a moment, then continued. “Mr. Dodsworth, I shall make that clear enough: She told us she was dying. She didn’t want to be disturbed, she said, because she was praying. ‘Before I die,’ she said, ‘I want to pray.’ But after she had prayed, she talked freely, as far as she was able. ‘A man with a hood,’ she said. ‘He’d come out of Pozlo’s tent. He took off his hood and wiped his face. He saw me then, and I saw him; I saw his face. He *stabbed*—’ That’s all she said, Judge. Died seconds later.”

Dodsworth got up. “Sir, did she mention this defendant’s name?”

Bird shook his head. “She identified nobody.”

Dodsworth nodded, looked pleased, and sat down.

Bird was excused.

“Call Deputy-sheriff Daniel Trehwitt,”

said Demeree.

A man almost seven feet tall and weighing easily two hundred-fifty pounds came in and seated himself.

"Is your name Dan Trehwitt?" asked Demeree.

"Yes, sir, it shore is. Been called that all my life." Trehwitt drew a huge hand down his face and waited to be questioned further.

"Do you know a so-called lawyer named J. Ruelstone Dodsworth?" Demeree asked loftily.

Trehwitt puckered his mouth. "You mean old Burnsides over there?"

"Yes," said Demeree.

"Shore, I know 'im. He come down to Flat Creek jail one evening to see Six-percent Puryear; them two had a nice long visit with each other."

"Is there anything wrong with your auditory faculties, Mr. Trehwitt?"

"Huh?"

"Are you hard of hearing?"

"No, sir, shore ain't."

"Do you or not hear unusually well?"

"Purty good, yes, sir."

Dodsworth got up. "Defendant objects; all of this is wholly irrelevant and immaterial."

Demeree waited, and Judge Steele glared at Dodsworth. "Must be something coming up hyar you don't want to be knowed. What is it?"

"If you please, sir, I am not a witness in this case," replied Dodsworth.

"What case are you a witness in?"

"Not any, sir."

"Then what are you objecting to?"

"Nothing, sir. Nothing."

"That's what I thought. Go ahead, Demeree."

"At this visit between Burnsides and Six-percent, was there any conversation?"

"Yes, sir, shore was, Mr. Demeree."

"Did you hear it?"

Dodsworth was easing up. Demeree glanced at him cornerways, and said, "Mr. Trehwitt, what did you hear?"

"*Just* as I expected," shouted Dodsworth. "Let me say this right here and now. I went to Flat Creek's jail as attorney for this gentleman here by me. I conferred with him as his attorney. What was said between us was something between attorney and client. This reprehensible Demeree knows that anything said between attorney and client is confidential, and may not be divulged.

"A similar confidence exists between doctor and patient, also between husband and wife. In this court I have been subjected to one outrage after another, but this attempted scheme is intolerable. I object, sir, do you hear? What I said to my client and what my client said to me comes under that sacred privilege of non-disclosure which has been recognized and respected as long as we've had any law. This Demeree knows that up to now he has made out no case against this honorable defendant. This attempt to destroy him by perfidious means belongs among such infamous methods as torture and betrayal. This case should be closed and a verdict of 'not guilty' directed forthwith. I so move."

JUDGE STEELE leaned forward. "Say, now, Dodsie, you got us all excited hyar. That murderin' catamount must've told you something; is that whar you got your notion Pozlo was cut up with a razor?"

"Another thing," stormed Dodsworth. "I object to this court's attitude. A judge is under sacred obligation to be impartial, a mere umpire between litigants. Throughout this trial you, sir, have treated my client as if he had been convicted and determined guilty before trial. No court of appeals would allow a verdict rendered

under such circumstances to stand. I shall denounce you, sir, from one end of this country to another and hold up to public disdain this monstrosity that calls itself a court of law.”

Steele leaned back and folded his arms across his chest. “Dodsie, by thunder, I’ll help you. Vigies would’ve had this hangin’ done and over with long ago.” He swung round. “Dan Trehwitt, did you promise not to tell nobody what you heard said between that razor-wieldin’ catamount and old Two-bush Dodsworth?”

“No sir, Judge, shore didn’t.”

“And did you hear it in confidence?”

“No, sir, Judge. I wasn’t invited in on that confab at all. What I heard, I heard of my own free will, without fear or favor, and without promisin’ nobody nothin’.”

“So, if you tell what you heard, you won’t be violatin’ no confidence, Trehwitt. Go ahead and tell it, by thunder.”

Trehwitt gave his big head a nod. “Shore will do that, Judge.”

“I object,” Dodsworth shouted.

Steele eyed Demeree. “Consarn you, Demeree, why don’t you git up from thar and say something? Any other time, you’d have to be set on.”

Demeree rose soberly. “What you have said, is what I would have said—though not so forcefully as your honor has said it. It is true, as you have so accurately held, that what a client tells his attorney may not be divulged by that attorney; such a communication is said to be privileged.

“But Mr. Trehwitt is not and has not been defendant Puryear’s attorney, hence received no communication in confidence.”

Steele growled at Dodsworth, who was about to blow up. “Set down thar, Dodsworth. You’ve had your say, and you’re overruled.” He swung round. “Trehwitt, proceed.”

TREWHITT nodded again. “All right, Judge. This is what I heard. Old Burnside says, ‘Look here, Puryear, did you kill that phony Dr. Pozlo, or didn’t you?’ And Six-percent says, ‘Yeah, I killed him, and I’d do it again. Nobody swindles me and gits away with it. Longer I thought about it, madder I got. Finally I couldn’t stand it no longer. So I went down there and crawled in on him. Before he knowed what was happenin’, he had his throat cut from ear to ear. It was a pleasure to watch him kick and die.’”

“That’s enough,” said Steele.

Dodsworth rose in desperation. “Your honor, this defendant has been denied due process of law at every turn so far. I make one final request. My request is that you charge your jury that if they find this defendant acted in a whirlwind of passion—or while because of anger and such a fury for revenge his reason was dethroned—they cannot find defendant guilty of first-degree murder; that a killing, in order to constitute murder, must have been conceived by a rational mind through deliberation and understanding thought and comprehension of consequences of contemplated acts; that a killing which is done in response to overwhelming rage, urge, obliterating passion, or overmastering frenzy, is not a rational act and cannot be murder.”

Steele had listened with tight lips. “What else?”

Dodsworth continued, “Defendant further requests you to charge this jury that, in considering their verdict they shall disregard all testimony regarding prior criminal acts, all testimony that purports to recount what somebody else said, and all testimony relating to conversation between this defendant and his attorney.”

“What else?”

“That is all, sir,”

Steele looked sourly at Demeree. "Mr. Prosecutor, have you an answer to that rigmarole?"

Demeree arose with quiet dignity and Steele, watching, had an instinctive feeling that there was something great and commendable in this man who had come West for health and fortune. "Your honor," he said with patent sincerity, "it is not proper for a judge to charge on matters not in evidence or to contradict himself as to admissibility of evidence. This defendant built himself up to murder by deliberate and malicious consideration of his course; it is immaterial that he may have reached a whirlwind of passion and overmastering frenzy and gloated insanely over his bloody handiwork. That answers Mr. Dodsworth's request, your honor." Demeree sat down and began to gather what few papers lay on his table.

Steele swung toward his twelve jurors and gave his left thumb a back-handed jerk. They rose promptly and filed out.

Dodsworth had remained standing. He took one last thrust at Flat Creek's court. "Now," he said, "I've seen everything, including a judge who charges his jury with his thumb." He sat down sullenly.

Jurors filed back in. A bearded golddigger remained standing.

"Guilty, Judge. First-degree."

Steele turned and made a circling motion round his head. Sheriff Buckalew nodded understanding and thumbed directions at his deputies. An efficient, hurried exit evolved into thunderous tumult.

Demeree went his way, but J. Ruelstone Dodsworth remained. He looked stunned, tugged at one of his burnsides in what seemed an effort at recalling something important to mind.

Judge Steele felt a touch of remorse because this stranger from a great city had received such rough usage. "Dodsworth," he said sympathetically, "have you forgot about your stolen horse?"

Dodsworth bounded up. "That's it! My hoss! My hoss!"

He stuffed papers into his pockets, rushed out and lost himself in Flat Creek's roaring crowd.

Steele sat alone and tugged thoughtfully at his mustache. He wondered what it was like in civilized courts, where judges, as well as lawyers, knew all there was to be known about law and its technicalities. He wondered, too, if criminals tried in such courts ever got what was coming to them. By thunder, he had his doubts.

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