

Judge Steele was distressed, rather than furious as usual. Below his bench, where murdering catamounts customarily sat, stood a girl, about fourteen years of age. And something told Steele that this was to be the strangest and most difficult case he'd ever presided over.



Judge Steele's orders had been, "Have that woman put in the horse trough outside, until she's cooled off!"

TO HAVE AND TO HOLD

Judge Steele Story
by LON WILLIAMS

JUDGE WARDLOW STEELE walked into Flat Creek's crowded courtroom with a feeling of gloom. When savagery was pitted against savagery, he

had always felt capable of holding his own; but the delicacies and imponderables of life baffled him, in court or out, and left him conscious that matters of spirit and

mysteries of human minds were not for him. Forewarned of what awaited him, he entered with a sense of inadequacy, mounted his judicial rostrum and sat down to take his punishment.

Courtroom murmurs ceased; he nodded to his right. "Sheriff, call court."

Sheriff Jerd Buckalew, tall, rawboned and poker-faced, pounded an inverted cracker barrel with his forty-five. "Court's now in session; don't be foolish and ask us to prove it."

Armed deputies nodded; sympathetic Vigies looked on impassively.

Steele nodded again. "Skiffy, call fust case."

Clerk James Skiffington rose, thin, tall and ghostlike. His voice was harsh and, for once, strangely incongruous. "People versus Jennie Heflin. Charge, first-degree murder."

Instead of jerking his straw-colored mustache as he usually did in contemplation of accused murderers, Steele rubbed his neck; distress furrows gathered in his forehead. Below, where murdering catamounts customarily sat on a puncheon bench, stood a girl, about fourteen years of age, tattered, dirty and motionless. Her small wrists were fastened together by a rope. A longer rope tethered her to a table-leg.

More angry at circumstances that had made him a judge than at this tatterdemalion young female, Steele snarled, "Murder, eh? Be-consarned if you ain't mighty young to be taking up murder."

She did not move or speak. Her eyes, set wide apart under a fair, but dirty forehead, were almost closed; their lids did not blink. Her thick brown hair, curly on top, hung untidily, tumbled over her shoulders and down her back.

A young man of about eighteen stood at her side, a sorrowful look upon his

handsome face. He did not undertake to answer for her.

Steele, furious at fate for determining that he should try a girl like this one for murder, growled at her companion, "Who are you?"

"Bradford Gaines, sir."

"Why are you thar?"

"I am her friend."

"You a lawyer?"

"No, sir."

"Then why are you standing thar?"

"I am her friend."

"You said that. Why don't you explain yourself?"

"That *is* my explanation, sir."

"Do you mean to stand thar by a murderer and, say being her friend is explanation enough?"

"It is all I know, sir. By whom or from where I do not know, but it is said to me, *Jennie is in trouble; if you are her friend, you will stand by her.* Though standing by her is not much, it is a command I must obey."

Steele held onto himself. He was furious, but not at this girl or boy. In his own youth he had heard windbags orate about destiny and great occasions that tried men's souls. Here was something destiny had flung at him. It was something beyond his touch; and if he could not touch it, how could he expect himself to tear it apart?

He said fiercely to Jennie Heflin, "You got a lawyer?"

She gave no answer, but stood motionless, as before.

Bradford Gaines said quietly, "She has no lawyer, sir."

Steele's eyes roved searchingly. Flat Creek's courtroom was crowded to its utmost capacity. Women were present in unusual number, and those with tenderness in their countenances were fewer than those who were skeptical and vengeful.

STEELE found what he sought. “French Demeree, come up hyar.”

A tall, black-haired, thin-faced man in black suit, white vest and four-in-hand necktie shouldered his way forward and stood erect within Judge Steele’s inner sanctum. “At your service, sir.”

Steele stared at him, his usual hostility mixed with vague hope that this Demeree from Tennessee might ease his present burden. “Demeree, by thunder, why ain’t you up hyar defendin’ this bunch of rags and dirt that calls itself human?”

Demeree’s dark eyebrows lifted. “May it please your honor, if I undertook her defense, she would be a ragamuffin no longer, but would become to me an angel in disguise.”

“Then undertake it, by thunder, and see if you can fool anybody else.”

Demeree nodded and stood beside Jennie Heflin. “Ready, sir.”

Steele swung left. “Whar’s our man?”

A stocky redhead with noble brow and dignified expression arose. “Wade Claybrook, your honor. Prosecuting attorney.”

Steele stared at him, confused and rebellious. “Wade, what in tarnation is going on hyar?”

Claybrook crimped his lips as one who did not relish what official duty had put upon him. “Your honor, this girl is charged with having murdered her own father, a disreputable gold-digger named Hosey Heflin. In prosecuting her, I feel that we are dealing with something beyond our reach; but law—in theory at least—knows no favors. I, therefore, suggest she be required to plead.”

Steele stared at Jennie and felt like a pup barking at a toad, curious and frightened at its strangeness. “All right, young lady, what’s your plea?”

She gave no answer, nor was there any sign to indicate she had heard him.

Steele looked at Demeree. “Consarn you, Demeree, you’re always quick enough to pipe up with something. What’s wrong with you now?”

“I shall try to converse with her, your honor.”

“Do so, by thunder.”

Demeree whispered in her ear, waited for response, but received none. “She stands mute, your honor.”

“Now, what in tarnation does that mean?”

“It means, your honor, that she does not plead, and she gives me no authority to plead for her.”

Steele scowled at Claybrook, “Mr. Prosecutor, you got any idears?”

“Yes, your honor. In this situation, a jury should be empaneled to determine whether she stands mute from malice, or from visitation.”

“Do you mean by visitation that maybe she’s crazy?”

Some distance back a wild-eyed woman rose and squalled, “That girl’s a-faking; she ain’t no more crazy than I am.”

Here was something that challenged Steele’s savage blood. “Bucky, thar’s a horse trough outside, full of water. Have that woman put in and held down till she’s cooled off.”

Buckalew nodded, and two deputies responded. There were squalls of protest, but outside they were drowned.

WHEN THERE was quiet again, Claybrook said, “Your honor, visitation does not mean insanity in its usual sense. It means that one in this girl’s apparent state has fallen under a spell, put upon her as a punishment. If it is truly a visitation, she is helpless, therefore cannot plead. In this connection, malice would mean that her behavior is of her own free will. Hence, we cannot proceed against her until a jury has determined whether she

stands mute from malice, or from visitation.”

Steele swung around. “Bucky, panel a jury.”

While jurors were brought up and witnesses sworn and segregated to a witness room, Steele’s mind wandered darkly, groped for even one vague ray of understanding. He stared at Jennie Heflin, who had not moved so much as one eyelash; at her friend Bradford Gaines, who stood quietly by, sympathy in his face. In his bafflement Steele could think of nothing to do, except stare and at last growl, “You two set down thar.”

Gaines looked at Jennie, placed his hands on her shoulders and pressed downward. She yielded to that pressure and sat down, but her facial expression did not change.

Claybrook arose when preliminaries had been disposed of. “Your honor, I am ready to proceed.”

“Huh?” Steele grunted. Then, caught in his groping, and angered, he snapped, “Then proceed, by thunder.”

Claybrook nodded at a deputy-sheriff. “Call Manus Goforth.”

An elderly man with a mustache, tangled gray hair and dispassionate blue eyes was brought in and seated.

Claybrook studied, for here was something new to him, too. “Mr. Goforth, where do you live?”

“I live in Upper Sarlay Gulch,” Goforth answered unemotionally.

Judge Steele took over for a moment. “Manus, what is wanted is what you know about Jennie Heflin. You see her thar, acting as if a spell was on her. We want to know if that’s real, or is she faking? Now, go ahead and tell what you know about her.”

Goforth recognized in Steele a kindred spirit. “Well, Judge, I’ve knowed Jennie from birth. Hosey Heflin and me was

neighbors back in Missouri, come West together in a wagon train. Hosey and me was neighbors before that, back in French Broad Valley. We was Virginians by birth. Jennie is Hosey’s oldest by his fourth wife. His first wife died a natural death; second hung herself; third disappeared, thought stole by Injuns; fourth died two years back. Jennie there was always smart. Could read books before she was five. Reckon she come by it fair. Her grandpap, Josiah Heflin, was a Colonel in George Washington’s army. Josiah’s sons become lawyers, preachers and plantation owners. Had a big family. Hosey, Jennie’s pa, was a black sheep among ‘em. Gambler. Drinker. Owned as good a claim as there is in Upper Sarlay.”

“Now,” said Claybrook, interrupting, “perhaps you had best answer a few questions. What was Jennie’s disposition before her father’s death?”

“Jennie was always a pleasant sort, and talked as free and natural as anybody.”

“Was her father mean to her?”

“Right mean when he was drunk; I’ve seed him whup her unmerciful.”

Demeree got up. “Your honor, this girl is not now on trial for any crime. Mr. Claybrook should refrain from inquiry into motive.”

“Mr. Demeree is right,” Claybrook responded quickly. “Mr. Goforth, when did Jennie enter this state of silence she is now in?”

“I wouldn’t know exactly. I wasn’t at Hosey’s house when she was took off. First time I saw her like this, she was in jail. I come to see her there one day. When she was pulled off her pallet and made to stand up, she was like that. Paid no attention to me, nor to anything I said.”

“That’s all,” said Claybrook.

“Demeree?” asked Steele.

“No questions, your honor.”

“Call Will Eslick,” said Claybrook.

ESLICK was a stooped, foxy looking character with squinty eyes and a knowing manner. "If you want to know anything about that Jennie girl I can sure tell you plenty, Mr. Claybrook. Ain't nothin' wrong with that one, no, sir."

Claybrook glared at Eslick. "You might wait until you're asked."

"And while he waits," said Demeree, rising leisurely, "he might rub that 'E' off his name. 'Slick' obviously would suit him better."

Steele clamped his jaws and kept silent.

Claybrook faced Eslick distastefully. "Were you a neighbor to Hosey Heflin?"

"Sure I was," said Eslick. "Been in his cabin plenty. Et there no end. That Jennie girl can cook, best you ever et. Mothered them younger children, too. She's never been to school, but she can read and write like anybody. Picked it up at home. That fit she's thrown herself into ain't real. I seed her in jail several times, and I can tell what won't do her no good, when I'm asked at a proper time. Last Saturday I saw her; pretended she didn't know me, she did. Heap of people there to see her, as if she was a caged animal. She paid no attention to nobody. Foxy girl, eh?"

Demeree got up. "Your honor, it ill becomes a skunk to speak of another creature as being foxy. On behalf of this young lady, I object to further statements from him."

"Demeree, by thunder, you're sustained; get that stinker out of hyar."

A stout woman was brought in as next witness. She had a round face with a scar extending from her left eye down below her left ear.

"Are you Lucretia Gaddington?" asked Claybrook.

"I am, sir, and my job is jailer for women prisoners. If you want to know anything about Jennie Heflin, I'll tell you."

"What in tarnation do you think you was brought in hyar for?" growled Steele. "We want to know whether Jennie Heflin is a person under a spell, or is putting on. Tell what you know about it."

Lucretia Gaddington turned and gave Steele eye for eye. "Who am I to know? She's been like you see her now, ever since she was brought to jail. She's done what I told her to do only when I whaled her with a stick. She took food and drink and she made her bed with me standing over her, knowing I'd whale her if she didn't."

Demeree got up, and said sadly, "Your honor, I think this woman should not testify further. Even a dead person would squirm in her presence."

"Next witness," snapped Steele.

Gaddington snarled at Steele and went out.

Onzo Whitford was called next. He was about forty, a black-bearded gold-digger.

"Were you acquainted with Hosey Heflin?" Claybrook asked.

"Knowed him well."

"And Jennie?"

"Knowed her since we first come here in early gold-rush days. Me and Hosey staked out good claims, and when he worked at all, we was within hailing distance of each other. Jennie used to bring us coffee and cookies. Mighty sweet, sensible child she always was, until this trouble."

"Did she love her father, or did she hate him?"

Steele leaned forward angrily. "Now, see hyar, Claybrook. You know better than ask questions like that."

"Sorry, your honor," said Claybrook; "now, Mr. Whitford, when did Jennie go into this silence?"

"It was that day they tied her up and hauled her off to jail. Since then I've seed her a few times in jail, but she never knowed me."

"You mean," said Claybrook, "she did not seem to know you."

"Your honor," said Demeree, "Mr. Claybrook heard what this witness said."

"Exactly," said Steele. "You can go back, Onz, until you're called again." When Whitford had retired, Steele addressed his jurors. "Gentlemen, I hope you know more about such experiences as this than I know. What is wanted hyar is an answer to whether this young lady is holding herself in this silent state by her own will, or whether she is under a visitation. Now, get out of hyar and try communin' with spirits awhile."



THEY RETIRED and returned within a minute. A solemn-faced gold-digger announced their verdict. "She stands mute, your honor, because of visitation, and not from malice."

Steele tugged slowly at his mustache. "Claybrook, what do we do now?"

Claybrook arose, self-confident. "Your honor, a plea of not guilty should be entered by court order."

Steele nodded at Skiffington. "Put it down thar, Skiffy; plea of not guilty."

Demeree was up. "Now, your honor, I move for dismissal on grounds of insanity; by visitation, this defendant has been placed beyond reach of law and punishment."

"Now, see hyar, Demeree," said Steele,

sensing fight at last, "you set down thar. You've tried that trick in this court before. You ought to know by, now that after-acquired insanity is no defense. If a murderer is sane when murder is committed, that's all that's required hyar for a hangin'." He swung toward Claybrook. "Mr. Prosecutor, call your fust witness."

Claybrook rose. "Your honor, as these jurors have heard testimony that may have biased their minds, they should be treated as inquisitors by writ *de lunatico inquirendo*, dismissed, and a new jury empaneled."

Steele glared at Demeree. "Agree with that?"

"Yes, your honor."

"Panel a new jury, Bucky."

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

So much time had been consumed that it became necessary to recess for lunch. Steele sat in his place and watched Lucretia Gaddington take charge of her prisoner. She untied Jennie's hitch-rope and led her out, like somebody leading a dog. Jennie followed unprotestingly. A woman Judge Steele could just see tripped Jennie, caused her to fall. Men promptly lifted her up. In leaving, she walked into a door-facing and bumped her head. Outside, women began to speak their minds, and Steele's breath spouted angrily at things they said. They called Jennie a murderer and faker. A woman screamed in pain, and Steele guessed a deputy, or Gaddington, had whip-stung her knuckles.

He wished he'd never heard of being a judge. Be-consarned if he knew what to do. But he had lunch and when Jennie had been led back in and court had re-convened he growled at Claybrook, "Call your witness, Wade."

Manus Goforth was recalled.

"Do you know Jennie Heflin's age?"

asked Claybrook.

Goforth sat at ease. "Jennie will soon be fourteen, Mr. Claybrook. I know, because she's three days younger than my oldest granddaughter, whose birthday is writ down in a book."

"Did you make inquiry as to Hosey Heflin's whereabouts shortly before his body was discovered?"

"Yes, sir, I did. He was not at his claim one day, and I stopped by to ask about him. Jennie said he wasn't home and hadn't been all day. Next day I told some old neighbors and we made a search, thinking maybe he'd got drunk, laid out and died of chill, seeing as nights are pretty cold now. Not finding him, we went to his house again, stood outside and talked to Jennie, who stood outside. Hosey's cabin was set up on rocks. While we was asking questions of Jennie, I happened to bend over and look. Seed something under there that looked like rags. Couldn't see good, because it was getting dusk. I said to Jennie, I said, 'Do you know what's under that floor?' And she said—"

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

"Demeree, by thunder, you know better than that. What a murderer said in connection with a murder is admissible."

"Your honor, what is said *before* may be admissible as showing motive. What is said *after* a body is discovered has nothing to do with motive."

Claybrook responded impatiently, "Now, your honor, statements that qualify as elements of *res gestae* are admissible."

"No event has occurred of which her statement can be declared a part. Discovery of a body had not taken place."

Steele's anger was rising. "Now; see hyar, you lawyers, we're not going to haggle over your consarned technicalities. What did she say, Manus?"

Goforth twisted round and smiled at Steele. "She said to me, 'Manus Goforth, why are you being so nosy?'"

Demeree had remained standing. "Your honor, my objection is withdrawn; that statement is quite admissible."

CLAYBROOK pinked with chagrin. He crimped his lips, then asked, "What did you do after you had seen something?"

"Why," said Goforth, "we went inside and raised a floor puncheon. And sure enough, there was Hosey Heflin, dead under his own house."

"What did you do then?"

"Why, nothing, sir, except send for Coroner Welfare."

"Where was Jennie meanwhile?"

"Just standing around, with her brothers and sisters, no more consarned than if it'd been a dead cat under there."

"Your honor," Demeree objected indignantly, "this witness is no mindreader; hence, he doesn't know whether she was concerned or not. I wonder if it has ever occurred to him that he may be killing this child by his thoughtless and unsolicited words? He seems no more concerned about her innocence than if she were a cat under his own floor."

"That's enough, Demeree," stormed Steele.

Claybrook had stood unperturbed.

"Mr. Goforth, describe conditions as you observed them in that room of Hosey Heflin's house."

Goforth shot a cautious glance at Demeree. "Well, there was blood around. Floor. Bed. Wall. There was signs somebody had tried to scrub it away, but stains was still there. Also, a bloody axe, and outside a wheelbarrow with blood on it."

Young Bradford Gaines, who was sitting next to Jennie, whispered something

to Demeree. Demeree nodded, but remained silent.

Claybrook asked, "Did you question Jennie after Hosey's body was found?"

"No. But once I give her a hard look and said, 'Jennie Heflin, you've been a-knowin' all this time that dead body was under there, haven't you?' And she said—"

Demeree got up, but his anger abated. He smiled, "Go ahead, Mr. Goforth; what did Jennie say?"

"Why, she said, 'Bud Goforth, you're a nosy old liar.'"

Demeree sat down. "No objection."



Claybrook sat down suddenly. "No more questions."

Demeree came round for cross-examination. "Is it not true that Hosey Heflin had butchered a hog a few days before discovery of his dead body?"

"That's right," said Goforth.

"Gave you some of it, didn't he?"

"Yes, sir; he did."

"Is it not also true that Hosey was as apt to butcher a hog indoors as out?"

"If he was drunk, yes."

"That's all," said Demeree.

"Next witness," said Steele.

"Boaz Welfare," called Claybrook.

WELFARE came in, sat down and looked along his nose at Claybrook. He was stout, round-faced, sandy-haired, and haughty.

"What is your name, sir?" asked Claybrook coldly.

"I am Boaz Welfare, and I am coroner of Flat Creek. About two weeks ago I was called to Upper Sarlay Gulch to view a dead body, same being that of Hosey Heflin, an old man who owned a claim up that way and lived there as a widower with five children, his oldest being called Jennie. Hosey Heflin's body had been found under mysterious circumstances. Accordingly, I conducted an inquest, my jury returning a verdict of death by murder.

"I asked this Jennie why she wasn't weeping, and she said to me, 'Sir,' she said, 'why should I take on about him? It's good riddance, if you ask me. He's never done anything but beat us and waste his gold in drunk debauches. For one, I'm glad he's dead.' And I said to her, 'That's enough, young lady. It's plain enough who murdered him; it was nobody but you, his own daughter.'

"When I said that, she shut her mouth tight, which, to me, was as good as a confession of guilt. I tied her wrists and ankles with tow strings then and had her hauled to jail in a wagon."

"That's all," said Claybrook.

Demeree came round and eyed Welfare with icy contempt. "You are sometimes called General Welfare, I believe?"

"What if I am?"

"Did not Jennie call you a nosy, pig-faced busy-body?"

"She did not, sir, and if you think you can call me that—"

"Nothing was farther from my thought, General. But I was thinking this: It must have required tremendous courage on your

part to accuse a child of murder and then tie her up because she was too scared to answer.”

“Now, see here, Demeree—”

“And you hauled her to jail in a wagon, as if she were a sack of produce. Tied hand and foot, too. No doubt you rode back in triumph on a prancing steed?”

Welfare sprang up. “Demeree—”

Steele shouted furiously, “Set down thar, Welfare. You don’t like it, but you’re going to take it, by thunder; proceed, Demeree.”

Welfare eased down, his face hot and tight.

Demeree indicated Jennie Heflin, with a toss of his thumb. “This child has been found by a jury to be under a spell, or visitation. From what you have said about your conduct in her home, should it not have been your conclusion that she stood face to face with a beast and lost her mind through terror?”

Welfare’s lips remained tight. His fists clinched.

Demeree berated him further. “And your jury returned a verdict of death by murder. How much inquiry did you make as to Hosey Heflin’s drunken forays into dens of evil? How did you know but what he had got into a quarrel with some other sot and got his head bashed? How did you know but what in his dying condition he made his way home and crawled under his own floor and died? You didn’t know; you didn’t ask. It was more in keeping with your nature to accuse an innocent child.”

“Your honor,” said Claybrook, interrupting, “I realize that Mr. Welfare’s behavior was somewhat reprehensible, but I think Mr. Demeree has gone far enough.”

“Set down, Demeree,” said Steele. “Welfare, get out of hyar.”

Claybrook nodded at a deputy. “Call Will Eslick.”

ESLICK came in and sat down. He looked foxier than ever. “Yes, sir,” he said.

“Yes, sir, what?” said Claybrook.

“Yes, sir. Just yes, sir.”

“Well, what do you mean by yes, sir?”

“I mean I’m ready to tell you anything you want to know.”

“Quite eager about it, aren’t you?”

“Yes, sir, and what I know is plenty.”

Demeree got up. “Your honor, I suggest Mr. Claybrook quit holding him back.”

Steele glared at Claybrook. “Wade, you’ve got a jackass thar that’s rarin’ to go; quit scissoring him.”

Claybrook scowled at Eslick. “All right, Mr. Eslick, let yourself go.”

Eslick nodded. “Now you’re talking. I was there when that inquest was held; saw that bloody axe and that dent in Hosey’s head, square-cornered like an axe-blow; saw Jennie close her mouth and look guilty when she was accused of murder; rode in that wagon with her when she was hauled to town; pretended I was on her side coming in, hoping she’d pipe up and tell me something; afterwards come to jail and brought her sweetmeats; waited until we was alone and persuaded her she ort to tell me all about it. She cried then, and this is what she said—”

Demeree was already up, waiting. “Your honor, my first thought is, that this betrayer of a child’s trust ought to be hanged; but for now I must be content merely to object to what he is about to relate. Apparently he intended to narrate something Jennie told him by way of confession. But no confession obtained by hope or fear is admissible in evidence.”

Claybrook nodded. “That is generally true, your honor. But that rule is inapplicable here. This witness did not hold out any hope; he merely told her she *ought*

to tell him her story. That is neither inspiring hope nor instilling fear.”

“Your honor,” said Demeree, “a serpent is reputed to be subtle. Here we have an outstanding example of viperous subtlety. He pretended he was on her side. He *persuaded* her that she *ought* to open her heart to him. If she said anything at all to him, which I doubt, it was because this serpent beguiled her into believing he could thereby help her.”

Steele said with ominous quietness, “Mr. Claybrook, have you any further questions?”

Claybrook shook his head. “No, your honor.”

“I’d like to cross-examine,” said Demeree.

“Demeree,” said Steele, leaning back and folding his arms, “your wish is granted with pleasure.”

Demeree came round. “How old are you, Mr. Slick?”

“My name is Eslick, sir.”

“How old are you?”

“I’m thirty years old.”

“Have you visited often at Hosey Heflin’s house?”

“Right frequent, yes.”

“Are you married?”

“No.”

“You have at times regarded Jennie Heflin as good-looking, have you not?”

Eslick twisted uncomfortably. “How does that concern this case?”

Steele nodded at Sheriff Buckalew. “Bucky, have a rope fetched. We got a witness hyar as thinks he don’t have to answer questions.”

Buckalew reached down. “Got a rope right here, Judge.”

Demeree said to Eslick, “There was a time when Jennie Heflin looked good to you, wasn’t there?”

“Yes.”

“And you thought you’d like to marry her, didn’t you?”

“Yes.”

“You asked her to marry you, didn’t, you?”

“Yes, I did.”

“And what was her answer?”

“She said she’d prefer marrying a monkey.”

“And what did she do?”

“She spit on me.”

“And very deservedly,” Demeree murmured and returned to his seat.

Claybrook arose. “Your honor, with defendant’s confession excluded, I have nothing more to offer.”

“Demeree?”

“Nothing further, your honor.”

“Any speech, Claybrook?”

CLAYBROOK got up slowly, somewhat ashamed. “I’d like to say this, your honor. A citizen of Flat Creek has been murdered; at least a coroner’s jury so found. We have here an accused defendant. For some reason beyond my comprehension, prosecution has dealt with her tenderly. I think all of us have been restrained by fear—fear of what, I do not know. What testimony there is, points to her guilt, but somehow it rebounds and we are ourselves stricken with a feeling of having allowed ourselves to become allied with evil. Possibly my action is a negation of duty, but I cannot ask this jury to return a verdict of guilty.”

Claybrook sat down and Demeree rose. “Your honor, that was as noble a speech as I’ve ever heard. This day’s experience is new to me, too, and beyond my understanding. I have a strange feeling that infinity has drawn itself close about us, made our human actions seem puny and shabby. Perhaps sometime we shall be forgiven.”

Steele nodded at his jury. They retired and soon returned. A large, solemn-faced gold-digger remained standing. "Not guilty, Judge."

Bradford Gaines rose and half-lifted Jennie to her feet. Her tether-rope hung at a curve from her wrists to its hitch round a table-leg.

Judge Steele looked at them for a long moment, then said, "Jennie Heflin, a jury of twelve good men have found you not guilty. This court so finds you, too, and declares you free." He turned to Buckalew. "Sheriff, have that aisle cleared for them."

Deputies crowded down and made a passage.

Bradford Gaines unfastened Jennie's hitch-rope and led her away slowly.

Judge Steele pressed his fists against his throbbing temples and looked down at his desk. He could hear that youthful voice, like a tormenting echo that would never die. *I am her friend. . . . That is my explanation, sir. . . . It is said to me, Jennie is in trouble; if you are her friend, you will stand by her. . . .*

THOUGH a hard-hearted savage, and thoroughly disillusioned in his young-man ideals, Judge Steele nevertheless recognized that events which seemed finished and complete occasionally had their happy sequels. For those sequels he was always unprepared, for they could never be clearly envisaged.

For this one that materialized a few days later, he was worse than unprepared; he was shocked and flustered, at a loss whether to be glad or outrageously angry.

He had just concluded a short session of horsethief court when three individuals appeared in front of his judicial rostrum.

"Your honor," said French Demeree, dressed exquisitely and finely groomed, "I have here a young man and a young woman who would like to be married by your honor."

Steele had recognized Demeree at once. Upon second look, he had recognized Bradford Gaines. Beside Gaines stood a girl of about fourteen years, in white dress and ruffles and lace. Her brown, curly hair was clean and drawn to a ribbon-tied wisp behind her head. Set wide in as fair and beautiful a face as he had ever seen were eyes of sky-depth and soft blueness.

It came from his throat as a gasp. "Jennie Heflin!"

"Yes, your honor," said Demeree.

Steele glared at Bradford Gaines. "You knowed she was faking, didn't you?"

"Sir," said Bradford, "she was not faking."

"I think your jury of inquiry answered correctly, your honor," said Demeree. "A visitation was upon this child. It was not in punishment, however. Call it hand of her guardian angel, or what you will, it protected her against a fearful peril." Demeree held a book in his hand. He passed it up to Judge Steele.

Steele left his place, came down and stood before them. He read as if he were in a trance himself, and all he remembered was having heard himself say, *To have and to hold until death. . .*

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