

Consarn it all, here was a stickler of a problem. The coroner's report on Scary Buddicum was suicide; he'd jumped off a cliff. Yet, Judge Steele and Wade Claybrook knew that the man had been murdered—as surely as if he'd been violently attacked.



Two deputies picked up the struggling Leppingwell and sat him down heavily. "Next time, it'll be in the horsetrough", Judge Steele assured the surly defense lawyer.

THE DEVIL'S RELAY

A Judge Steele Story

by LON WILLIAMS

JUDGE WARDLOW STEELE, advised that another murder had been committed in Flat Creek's wild and restless gold-digging neighborhood, strode grimly into his crowded courtroom. After one savage, encompassing glance, he gave

his straw-colored mustache a couple of jerks and nodded to his right.

"Sheriff, call court."

Spectators stilled at this trumpet-call of avenging justice. Experience had taught them that in less than an hour that same

merciless voice would be snarling, *Hang 'em, Bucky.*

Sheriff Jerd Buckalew, tall, rawboned and poker-faced, pounded with his forty-five. "Court's now in session; any monkey as doubts it will get his tail cropped."

Heavily-armed deputies nodded accord. Present, also, were Vigies, ready to lend such moral support as might be needed.

Steele nodded again. "Skiffy, call fust case." Clerk James Skiffington rose, tall and thin, and gravely adjusted his iron-rimmed spectacles. "People *versus* Early Quitner, Cowselwed Herbert, Jess Lingerer, and Poke Maley, all known by various and sundry aliases. Charge, first-degree murder."

Judge Steele glared down at a puncheon reserved for doomsday pilgrims. Beconsarned if there wasn't four of 'em this time. His nostrils dilated in scorn. "Murder, eh? If that seat don't look like a mourner's bench at camp-meetin', I've never seen one that did. You baboons got a lawyer?"

Up popped a crooked-faced character of thirty-odd years, green-eyed, clean-shaved, with thick lips, wide mouth, and as self-confident as a beaver. "Yes, sir," he barked loudly. "I say they've got a lawyer. I'm their lawyer, sir. Name's Rudgard Leppingwell. I'm Flat Creek's foremost attorney, if I may say so, sir."

"By thunder, you can say so," Steele commented sourly, "but proving it's another proposition." He swung left. "Whar's our man?"

A stocky redhead with dignified and noble bearing got up. "Wade Claybrook, your honor. Prosecuting attorney."

"Now, there you go," declared Leppingwell, shoulders back, chin up. "Mr. Claybrook is not your honor's man, any more than I'm your honor's man. If I may say so, sir, your honor's on neither side, but is an umpire, so to speak. It is Mr. Claybrook and I who will fight out this

battle, with our own factual weapons and legal jousting. For my clients I demand a fair and impartial trial, and that I mean to have. Yes, sir."

Steele's face tightened. "Whar's that defense lawyer called Axe-face French Demeree? Bothersome as he is, I could stand him better than this pestilence. Sheriff—"

"If I may speak, your honor," said Claybrook, "though this gentleman is new and unschooled in Flat Creek jurisprudence, he has been chosen by these defendants, and that in exercise of their constitutional privilege. Moreover, our famous and able Mr. Demeree is out of town."

Angrily Steele glared at Claybrook. "Consarn you, Wade, do you mean to stand thar and say we've got to put up with this windbag just because this pack of scoundrels can't do no better?"

"Yes, your honor, if we would proceed according to law."

"Now, wait a minute," said Rudgard Leppingwell. "I object to being called a windbag. I object, also, to your calling my clients a pack of scoundrels. They have in their favor every presumption of innocence and propriety, and that presumption prevails until overthrown by proof otherwise beyond every reasonable doubt. I think that this should be declared a mistrial. I move those indictments be quashed. I move for a fair and unbiased judge."

Steele eyed defense counsel with rising impatience. "Set down, Leppy."

"But, sir—"

"Set down!" Two deputies moved threateningly, and Leppingwell sat down. "Beats anything I ever heard of," he puffed. "Lawyer can't even talk."

Steele scowled at Sheriff Buckalew. "Next time, Bucky, I don't want to have to tell him twice."

"You won't hafter, Judge!"

Steele shifted his hostile attention to

defendants Quitner, Herbert, Lingerer, and Maley. "All right, you mangy polecats, what's your plea?"

LEPPINGWELL got up cautiously, nodded at his clients. They rose, long-faced and uncertain.

"Call their names, Skiffy," snapped Steele.

Clerk Skiffington called, "Early Quitner, what do you plead?"

Quitner looked scared. "Not guilty," he mumbled.

"Jess Lingerer," rasped Skiffington, "what's your plea?"

Lingerer remained silent.

"You heard him," growled Steele.

Defense counsel Leppingwell announced with confidence, "Your honor, sir, defendant Lingerer stands mute. According to common law, you cannot try him until he pleads not guilty. It is your obligation, sir, to make him plead; otherwise he goes free."

"Claybrook?" said Steele, stumped and angry.

Claybrook got up calmly. "If your honor please, I fear Mr. Leppingwell is right in theory. We are not here governed by statute, but by ancient law, such as our English forefathers used. In old times, when a defendant refused to plead, he was subjected to torture, even unto death, unless he pleaded 'guilty' or 'not guilty'."

"What form of torture do you suggest we use, Claybrook?"

"Not any kind, your honor; back in our own states, it would be customary in like situation to enter for him a plea of 'not guilty'."

Steele softened toward his prosecuting attorney. "Wade, sometimes I'm right proud of you. Skiffy, enter plea of 'not guilty'. You there, polecat number three?"

"Cowselwed Herbert," Skiffington prompted.

"Not guilty," Herbert responded sullenly.

"Poke, alias Slowpoke, Maley," screeched Skiffington.

Maley inched away from his co-defendants. "I ain't guilty, Judge. If you'll give me a chance, I'll explain how it was."

"You shut up," shouted defense counsel. "You're as guilty as anybody; try being a turncoat and see what happens to you."

"Yeah," defendant Lingerer snarled. "Back-knife us, and we'll slit your throat."

Steele leaned forward. "Claybrook, do you happen to need a fust-class witness?"

"I could use one, your honor," Claybrook replied promptly.

This was getting somewhere, thought Steele. "Slowpoke, you set over thar with Prosecutor Claybrook. Those stinkers thar, by thunder, won't be in no condition to slit anybody's throat when we get through with 'em."

Maley had trouble getting past Leppingwell. "Move, shyster."

"You'll get yours, buddy," sneered Leppy.

Steele held his temper. He figured it wouldn't be long before Leppy hung himself. All he needed was enough rope.

WHEN JURORS had been called and witnesses herded to a back room, Steele nodded to Claybrook. "Call your fust witness."

"Call Boaz Welfare," Claybrook directed a deputy.

A chubby, medium-sized character with sandy hair, round face and haughty manner came in and seated himself. He looked along his nose at Claybrook. "Proceed, sir."

Claybrook returned his haughty look in kind. "Sir, you're here to answer questions, not give orders."

Steele was delighted. "Wade, I'm glad you said that. If you want to stomp his liver out, that will be all right, too."

"If your honor please;" responded Claybrook, "answering questions, I think, will tax his liver sufficiently." He faced his witness. "Your name is Boaz Welfare?"

"It is, sir. And there's no reason why I should wait for questions. I am coroner of Flat Creek, and last Saturday morning I was advised by one of Sheriff Buckalew's deputies that a dead body had been found under Bad-hand Jump-off. This being that of some man who had died without known eyewitnesses and otherwise under mysterious circumstances, I went as my duty as coroner required to examine this body to determine, if possible, what had caused death. It was my well-calculated, opinion that no crime had been committed. This Bad-hand Jump-off is a place of not infrequent suicide. Yet I proceeded regularly to summon a coroner's jury and conduct an orderly inquest and find whether or not a crime had—"

Leppingwell rose and shouted, "I object. That blowhard was only asked to state his name, not to render a Patrick Henry oration. Next thing you know, he'll be screaming. *Give me liberty, or give me death.* If ever a man was, puffed up with his own importance, that windbag is. I suggest he wait until he's asked before he starts cluttering up this record with his irrelevant bombast and self-important wind-jamming. I object."

"Your honor," Claybrook interposed tactfully, "I'd like to express my full agreement with Mr. Leppingwell. This witness should wait until he is *asked*."

This was a pretty pass, when his own man Claybrook began seeing eye to eye with a lawyer who defended murderers. "Claybrook, get on with your questions. You've already had my permission to stomp this witness; but don't go finding yourself in full agreement with that loud-mouthed defense lawyer. Fust off, I'll have you both throwed out. Why we allow lawyers in this

courtroom is more'n I can figure anyhow."

Claybrook lowered his head and glared through his eyebrows at Welfare. "Did you recognize that dead body?"

"Certainly."

"Whose was it?"

"It was Barry Buddicum, commonly known as Scary Buddicum. This Buddicum lived alone in a small log cabin on Drybone Hill. Had a gold claim up there, which was beginning to look good. Not a bad fellow, this Buddicum, though superstitious, hence not noted for bravery. If ever a man was afraid of spooks—"

"Will you confine your remarks to answering my questions," Claybrook demanded sharply.

Welfare puffed out his chest. "If you want to know something, I see no reason why there should be so much come and go."

"See hyar," Steele raged. "Welfare, you answer what's asked or, be-consarned, I'll fine you for contempt of court."

Welfare fixed malicious eyes on Claybrook. "What do you want to know?"

Claybrook looked along his nose at Welfare. "Did you, sir, see any circumstances which indicated this death was not suicide?"

"Can't say I did."

"Can you say you didn't?"

"No."

"What did you see?"

"A dead body."

"You've said that."

"I say it again."

"Where was it?"

"I've said that already."

Steele was growing furious, but he still hoped Claybrook could handle this overstuffed coroner.

CLAYBROOK appreciated his opportunity. He squared his broad shoulders and eyed Welfare disdainfully. "You are frequently called General Welfare,

aren't you?"

Welfare flushed. "Now, see here, sir. That's got nothing to do with this case, or any other. If you want to know something, ask your questions."

Leppingwell popped up. "Your honor, this bloated toad doesn't know anything. Why should Mr. Claybrook go on trying to dig up nuggets where there are not any? I object."

"You set down thar, Leppy. Welfare is Claybrook's witness." He scowled at his prosecuting attorney. "Gouge it out of him, Wade."

Claybrook arched his eyebrows with contempt toward his witness. "General Welfare, where was that dead body?"

"I told you it was under Bad-hand Jump-off."

"How far from its base?"

"Thirty feet."

"By actual measure?"

"How else would I know?"

"I'm asking; you're answering."

"I measured to find out."

"That indicated what to your jury?"

Leppingwell popped up. "That's a leading question; I object. Besides, it's asking for a conclusion. I object to that, too."

"If your honor please," Claybrook said quietly, "these proceedings would be greatly embarrassed if Mr. Leppingwell should have a stroke of apoplexy."

"I resent that," shouted Leppingwell. "His trying to get evidence out of that roly-poly is like trying to get blood from a turnip. Moreover, his attempt to smear a fellow-attorney is an admission that he has no case and is trying to make me one out of straw."

"Now," said Claybrook, "if our comedian has finished his act, we shall proceed."

"I'm not a comedian, sir," yelled Leppingwell.

"Clown, then," said Claybrook.

Leppingwell left his table and started toward Claybrook. "I've taken all of these insults I aim to take."

STEELE nodded at Sheriff Buckalew, who nodded at two deputies. Those deputies picked Leppingwell up, carried him to his seat and dropped him hard.

"Next time," said Steele, "they'll drop you in a horse trough."

"Yes, sir," said Leppy.

Steele turned toward Boaz Welfare. "Now, General, let that be a lesson to you, too."

Claybrook eyed Welfare again. "You said this dead body was thirty feet from Bad-hand Jump-off's base. What did that indicate to your jury?"

Welfare cast a wary glance at Steele and answered grudgingly, "It indicated Buddicum had committed suicide by taking a running-jump from Bad-hand."

"What verdict was rendered?"

"Death from suicide, sir." Welfare looked along his nose and added spitefully, "And if you care to know, sir, that verdict coincided exactly with my own expert opinion."

"That opinion," retorted Claybrook, "is about as inexpert as your inflated opinion of yourself."

Claybrook sat down.

Steele looked at Leppingwell, "Want to cross-examine?"

Leppy popped up. "I certainly do, sir."

"Your privilege."

"What I want," said Leppy, "is not so much to cross-examine as to commend this witness for his courage and rare intelligence. In all my varied and colorful experience as an attorney, I've never seen a public official with a finer sense of duty, or one more honorable. He deserves far higher praise than is within my poor capacity for words to express. Yes, indeed. Moreover—"

"That's enough," growled Steele. "Minutes ago you was calling this witness a blowhard and windbag, a turnip, a roly-poly and a bloated toad; you was right fust time. Set down."

Leppy sat down. "Yes, your honor."

"Next witness, Claybrook."

Claybrook nodded. "Call Dan Trehwitt."

Welfare stalked out and a dark-haired deputy, almost seven feet tall and weighing two hundred-fifty pounds, came in and took his seat.

Claybrook faced him. "You are Deputy Dan Trehwitt?"

"Yes, sir, shore am, Mr. Claybrook."

Claybrook glanced down at Slowpoke Maley. "Do you recognize this man, Officer Trehwitt?"

"Yes, sir, shore do. It was him as told me about Scary Buddicum's murder."

Leppy popped up. "I object. It's a jury prerogative as to whether or not it was murder. Besides, that big hunk of horseflesh should answer questions, not make speeches."

Steele's blood pressure was rising. Consarned lawyers! "You're overruled, Leppy."

Leppingwell eased down. "Yes, your honor."

"Proceed, Dan," said Steele.

"As I was saying," Trehwitt responded, "it was Slowpoke told me about Buddicum's murder. I reckon Slowpoke got scared and decided he'd better tell what he knowed. Good thing he done it, too, for it shore was some mystery what'd happened."

Claybrook interrupted him. "Did Slowpoke admit having participated in Buddicum's murder?"

"Yes, sir, he shore did."

"What did he tell you?"

LEPPINGWELL leaped up. "I object. That dirty turncoat is sitting right beside Mr. Claybrook. If he's got some

crazy story in his pumpkin, let him tell it himself—if he's got nerve enough. As it has been so often and so rightly said, *Confessio facta in judicio omni probatione major est.*"

Claybrook smiled broadly. "Your honor, I don't believe we should take any exception to that. Defense counsel may cross-examine."

"That I will," said Leppy. He came blustering round and faced Trehwitt. "You say he made a confession to you?"

"Yes, sir, he shore did."

"Don't you know that a confession obtained by force, or threats of force, is not admissible in evidence?"

"Shore didn't, no, sir."

"And don't you know that a confession obtained by hope, or assurance of leniency, is not admissible in evidence?"

"No, sir, I shore didn't know that either."

"Well, you know it now. No more questions."

Defense counsel strutted to his seat and sat down.

In Steele's opinion, this trial had developed into a lot of monkey business. He'd put up with about as much of it as he could stand. His old Nemesis, French Demeree, had been galling enough; this clown Leppingwell was insufferable.

"Claybrook, call your next witness," he commanded fiercely.

Trehwitt was replaced by Maley, a thick-haired dumb-cluck of about twenty-three. He had one attribute in his favor; he looked honest.

Claybrook arched an eyebrow at him. "Your name is Poke Maley?"

"Yes, sir."

"Commonly called Slowpoke Maley?"

"Yes, sir."

"Are you acquainted with those defendants over there?"

Maley eyed them fearfully. "I am."

"Were you acquainted with Barry

Buddicum?"

"Yes."

"Did you enter into a conspiracy with defendants to scare him?"

"Yes, sir. Only, they told me they meant to play a prank on Buddicum. Asked me to lend a hand, which I did."

Leppingwell bounced. "That's enough," he shouted. "There can be no murder without intent to commit murder. This contemptible turncoat has just admitted he was asked to engage in some prank. I move this prosecution be dismissed. I move for a directed verdict. Besides—"

When Leppingwell hesitated and swallowed suddenly, Steele said coldly, "Besides what, Leppy?"

"Nothing, sir."

"You started to say something; what was it?"

"Your honor," said Leppy, "it has been well said, *Cogitationis poenam nemo patitur*."

"And just what in tarnation does that mean?"

"It means, *No one suffers punishment for his thoughts*. I merely thought of something to say, but decided not to say it."

"If your honor please," said Claybrook, "he probably intended to say that his clients are a pack of ex-convicts, and to accuse this witness of having himself been convicted of crime."

"That's a perfidious falsehood," screamed Leppingwell.

Claybrook ignored Leppy's remark and turned to Maley. "Sir, have you ever served time in prison?"

"I have."

"While in prison, did you know those defendants?"

"I did. We were all sent up for horse-stealing in Ohio."

LEPPINGWELL rose on his toes and jolted down on his heels. "That does it.

This lowdown witness is, by his own admission, tainted by felony. It is fundamental, vital, unalterable and irrevocable that no felon may testify in any court on any matter. I object. Get him out of here."

"Hold on thar," said Steele. He turned toward Maley. "Answer me this, consarn you. Whar did you first become acquainted with that loud-mouthed lawyer?"

"I object," screamed Leppy. "I'm not on trial here; nor am I a witness. A lawyer in court is supposed to be protected, not smeared with scandal."

Claybrook interposed magnanimously. "If your honor please, it is my humble entreaty that Mr. Leppingwell's past be left inviolate until this trial is over. Sheriff Buckalew may then wish to make some inquiry."

"Wade," declared Steele, "I'm getting right proud of you." He nodded toward Buckalew. "Bucky, when this trial's over, take a new look at your collection of posters. Look especially for a fugitive ape with a mouth as big as a balloon."

Leppingwell eased down and tossed an uneasy look toward Flat Creek's great outdoors.

"Proceed, Claybrook," Steele commanded curtly.

Claybrook faced Maley. "Do you own a gold-mining claim?"

"No, sir; Jake Hilliard has a claim. I worked for him."

"Do those other defendants own claims?"

"No, sir."

"What did they work at?"

"Gambling and stealing. Mostly stealing."

Leppingwell rose, puffed out his cheeks, but sat down without speaking.

Cowselwed Herbert got up, medium-sized shaggy-headed. "If my lawyer's too scared to call that sneak a liar, I'll call him

one myself.”

Steele saw another chance to dig at Leppy’s past. “Why in tarnation is your lawyer so scared?”

But Claybrook again interposed. “If your honor please, defendants may speak only through their lawyer, unless they wish to become witnesses; then they are permitted to testify, but only under oath.”

With Claybrook showing up so well, Steele foresaw better days for Flat Creek’s criminal court. Right now he wanted nothing more than a prosecutor who could handle the shifty gentry who defended murderers.

“Go ahead, Wade,” he directed stoutly.

“Maley,” Claybrook resumed, “were those defendants interested in Barry Buddicum’s gold-mining claim?”

“Yes. They wanted Buddicum to take them in as partners.”

“Did they offer to buy an interest from Buddicum?”

“Not that I ever heard of. They told him to take them in, or else.”

“Else what?”

“They didn’t say.”

“What do you think they meant?”

“I don’t know. But Jess Lingerer had a sharp knife in his hand. When he said *else*, he drew that knife along his throat.”

“His own throat?”

“Yes.”

“Did you see him?”

“Yes.”

“Were you trying to get in as a partner too?”

“No.”

“Why were you with them?”

“Lingerer and Herbert threatened me; said they’d expose me as an ex-convict and get me fired—maybe hung—if I didn’t go along.”

Leppingwell eased up. “Your honor—”

“Set down, Leppy.”

“Yes, sir.”

Claybrook continued, “You mentioned prank. What was this prank?”

“Cowsled Herbert—mostly called Cowsled—thought that up.”

“That’s a lie,” shouted Herbert.

STEELE crimped his lips and glared. Then he leaned forward, his eyes savage with menace. “One more squawk from you, by thunder, and you’ll be turned over to Bill Hacker’s Vigies. We’re giving you a trial, according to law; but if you don’t want no trial, we’ll put an end to it hyar and now.”

Cowsled paled and looked scared.

Steele growled angrily, “Proceed, Claybrook.”

Claybrook nodded at Maley. “Go ahead, Slowpoke.”

“You asked about this prank,” said Maley. “Well, Cowsled and Lingerer made me think it was just a prank, to have some fun. Buddicum was uncommon scared of ghosts, especially when he’d had a few drinks. But he was a hard worker. He had that cabin up there on his claim; never went to town except in daytime; never went in his cabin without at once barring his door. Kept his rifle handy wherever he went. Laid it across his bunk while he cooked meals and done housework.”

“How did you know all that?”

“We went to his place right often.”

“Discussing that partnership?”

“Yes.”

“Describe that prank.”

“Well, it was a scheme to scare Buddicum. Jess Lingerer was good at picking locks. He and Cowsled got into Wild Rose McGuldy’s Golden Palace Theater, broke open a costume chest, and stole some bear heads, wolf heads, fur suits and claws. Then Lingerer picked Buddicum’s padlock and had Quitner hide under Buddicum’s bunk. There Quitner stayed until dark. He managed to snitch Buddicum’s rifle when Buddicum came and

laid it down as usual."

"How do you know?"

"Quitner said so."

"Object," shouted Leppingwell. "That's hearsay evidence. He can't tell what somebody said. I'm getting good and tired of all this farce; my clients are entitled to a fair trial."

"If your honor please," said Claybrook, "Mr. Leppingwell is not so ignorant as he is new in Flat Creek. This court has ruled many times that hearsay evidence is admissible in situations like this. If a criminal doesn't want to be quoted, he should keep his mouth shut."

"I save exception," shouted Leppy. "I'll appeal. Anybody knows that's not good law."

"Good or bad, it's law anyhow," Claybrook reminded him coolly.

Leppingwell eased down, frightened suddenly at his own boldness. "Sorry, sir."

"Go ahead, Slowpoke," said Claybrook.

MALEY continued, "About nine o'clock, with full moon up, Cowsled slipped up to Buddicum's door and knocked. 'Who's there?' Buddicum yelled nervously. 'It's me,' answered Cowsled. 'Open up; I want to make you an offer. I've come into money.' Buddicum walked over to get his rifle, but it wasn't there. When he turned to look around for it, he heard a growl and looked down. There was a grizzly bear coming from under his bunk. Buddicum screamed, leaped to his door, threw latch and bar and lunged screaming out. And there, just outside his door, was another bear, which growled and leaped at him. Buddicum was already running. He didn't stop, but took off across Drybone Hill."

Claybrook interrupted, "You don't mean those actually were bears, do you?"

"No," said Maley. "They were Quitner and Cowsled, wearing those grizzly-bear

disguises."

"Go ahead."

"Well," said Maley, "I said I was in on that prank, and I was. Where Buddicum's path split, one prong going up to other claims and one toward town, I was hiding, dressed like a monstrous black wolf. When Buddicum reached that fork, I leaped out at him and headed him toward Flat Creek. He'd run almost a mile already, with those two bears roaring along behind him, but when I jumped at him he screamed and put on fresh speed. I reckon he was scared out of his wits, just about."

"Was there another split in that path?" asked Claybrook.

"Yes, there was. Not so much a split as a sharp turn between big rocks. Straight ahead was Bad-hand Jump-off. Quitner and Cowsled had run themselves out of wind, but when Buddicum passed me I took after him, running on my two feet, but growling like a wolf. He never once looked back. If he'd looked, I reckon he'd have caught on, but he was too scared to do anything but run."

"And when he came to that turn near Bad-hand?" Claybrook prompted.

Maley lowered his eyes briefly, then looked regretfully at Claybrook. "Buddicum had to slow down a little to make that turn, but he didn't slow much, because there was that wolf still growling at his heels. Then, right when he was about to make his turn, out of it rushed another wolf, roaring and leaping at Buddicum's throat. That was too much for Scary. He screamed like he'd gone stark crazy and ran straight for Bad-hand Jump-off. Never slacked an inch, but went right on over, screaming until he hit bottom, which was about two hundred feet down."

Claybrook puckered his lips, then arched his eyebrows. "Who was that second wolf?"

"It was Jess Lingerer."

"Did you know he was to be stationed at

that spot?"

"Yes," Maley admitted. "But he was supposed to be opposite from where he was, so he'd scare Buddicum toward town. That's what was told to me."

"By whom?"

"By Jess and Cowsled."

"Do you know whose idea it was to chase Buddicum over that cliff?"

"All I know is, Quitner called Jess and Cowsled a couple of lousy murderers. So it must've been their idea, and nobody else's."

"Did they admit they planned it that way, from start to finish?"

"Cowsled did; not only that, he said he'd knife me and Quitner if either of us talked."

"Do you know why Quitner failed to talk?"

"I reckon he was afraid to. Jess and Cowsled made him think they'd never be convicted, even if they were indicted and caught. How could they be convicted of murder, they said, when they hadn't even touched Buddicum?"

LEPPIGWELL got up, his lawyer instincts momentarily all-powerful.

"I object to that. This back-stabbing scoundrel doesn't know what anybody was made to think. But they were right, if they thought there could be no conviction. They never laid a hand on Buddicum; that scared rabbit killed himself."

"You set down thar," roared Steele. He turned to Claybrook. "Wade, what is your definition of fust-degree murder?"

Claybrook replied promptly, "Murder is an unlawful killing of a human being, deliberately and with malice aforethought, your honor. It is not necessary that force be applied directly. It is murder, though death be caused by fright."

Steele tugged slowly at his mustache. "By that definition, Mr. Prosecutor, how could Slowpoke and Quitner rightfully be

convicted of murder?"

"Your honor," Claybrook replied, "when two or more persons undertake execution of an unlawful design, though it contemplate something less than murder, each is an agent of all of his confederates. By anyone's act, all are bound. Hence, where one converts their unlawful project into murder, and are equally guilty, though murder was not intended except by him who perpetrated it."

Steele continued to tug. "Is it unlawful to play pranks?"

"Pranks such as this, yes," replied Claybrook. "It was an invasion of Buddicum's home—a burglary—in which all were willing participants. That their ensuing prank resulted in murder was regretted by Quitner and Maley; yet regret or lack of foresight is no excuse."

Steele glanced at Leppingwell. "Anything to say, Leppy?"

Leppingwell glanced over his shoulder at crowded court room, crowded aisles, well-guarded front door. He gulped and got up. "They were all in it, sir. Slowpoke Maley got scared and turned yellow; if anybody's to be hung, it ought to be him."

Steele was moved to scorn. He'd never before seen a lawyer turn coward and blame one of his clients for his own inadequacy. Yet here was something new and disturbing. It was no fault of defendants that Rudgard Leppingwell had started out as a blowhard and had blown himself out. Flat Creek had a defense lawyer named French Demeree—Demeree from Tennessee—who'd have kept fighting. It wouldn't have been easy for Claybrook, if Demeree had been defending those monkeys. This situation put responsibility upon Judge Steele himself. Every man, he figured, was entitled to a fighting chance. These baboons hadn't had it.

As he thought of his problem, words of that same Demeree echoed through his

perplexity. Once in some murder trial Demeree, using Shakespeare, had said, *Reason is an attribute of law, and earthly laws do then show most divine when mercy tempers justice*. But, consarn Demeree, why should he intrude like a ghost in this trial?

In fury and exasperation, Steele swung left. "You jurors will return verdicts of not guilty as to Quitner and Slowpoke Maley. As to Cowsled Herbert and Jess Lingerer, fetch in whatever verdict is proper."

They filed out and came back shortly. A bearded gold-digger remained standing. "Guilty, Judge. Both of 'em. First-degree murder."

Steele jerked his head at Sheriff Buckalew, nodded. "Hang 'em, Bucky."

When noises of exit had ended and he was alone, Steele slid down from his lofty chair. For once since he'd become judge, he felt something stir in him that was not vengeance. Once more something from Demeree's Shakespearean eloquence came hauntingly back. *'Tis said that mercy falleth as gentle rain from heaven, blessing him that gives and him that takes*.

Well, by thunder, maybe that was so. But that didn't mean that Flat Creek was going to be healthy for criminals. Be-consarned, if they committed murder, they'd get their stinking necks stretched, just as always.