

One-Half Tompkins sure looked and acted loco, and French Demeree contended that a crazy man is not legally responsible if he kills someone. But Judge Steele figured that "crazy" could sometimes mean "crazy like a fox".

# A MIND FOR KILLING

*A Judge Steele Story*  
BY LON WILLIAMS



"One-Half Tompkins was always stealing things from the store."

WARDLOW STEELE, Flat Creek's relentless judge, sat down once more to administer justice. In his opinion, Justice was a term for certain and unfeeling retaliation; in other words, life for life. As usual, lawyers

were present; as usual, he was in a bad mood. Why dispensation of justice required a battle with consarned lawyers, he couldn't figure. Why Flat Creek citizens had elected an ignoramus like him to be their judge, he could figure less.

Vigies had done a good job, and done it efficiently. According to his lights, this court was doing a bad job, and doing it most inefficiently.

His mood worsened when a grinning ape on a puncheon bench reserved for doomsday pilgrims lifted a hand, jiggled skinny fingers and screeched, "Howdy, Judge."

That was an illustration of what he meant. Vigies would've had this job done and over long since. His breath spewed; he gave his straw-colored mustache a couple of vicious jerks. "Sheriff, call court."

Sheriff Jerd Buckalew rose, tall, raw-boned and poker-faced, and pounded with his forty-five. "Court's now in session. Don't let your doubts give you a sore neck."

Heavily armed deputies hitched up their gunbelts and nodded. Armed Vigies looked on placidly, ready to lend moral support, if needed. Spectators settled to stillness.

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

Clerk James Skiffington, thin and tall, rose with tomblake solemnity. "People *versus* Hull, alias One-half, Tompkins. Charge, first-degree murder."

Defendant Tompkins put his head down low and blinked apishly up at Steele. "That's me, Judge." He put his hands over his face and snickered, then removed them and blew on his fingers.

Steele's nostrils dilated; his blue eyes glared savagely. "Murder, eh? Be-consarned, when monkeys start murdering citizens, we'd better hide out."

"Why, Judge!" One-half Tompkins chided. "You ought not say things like that; ain't no monkey murdered nobody."

"We'll mighty soon find out," Steele retorted coldly. "You got a lawyer?"

A slender, dark-haired, thin-faced character in black suit, white vest and

four-in-hand necktie got up quietly. "I am his lawyer, your honor. French Demeree."

Steele's jaw muscles tightened. "Yeah, Demeree from Tennessee. By thunder, Demeree, ain't you wasting your talents, defending filthy-minded scum like that?"

"Your honor," replied Demeree smoothly, "neither a client's state of mind, nor his wealth or poverty, is any measure of a lawyer's sense of duty."

"Mighty eloquent," Steele returned sourly. "Justice is a blind goddess who puts her trust in lawyers. Well, if you ask me, she'd better take off her blindfold and take a look now and then at what she's trustin'. Whar's our man?"

A stocky redhead with noble brow and unperturbed countenance arose on Steele's left. "Wade Claybrook, your honor. Prosecuting attorney."

Steele regarded his man Claybrook with mixed sentiments. "Well, Wade, ain't you ashamed to be jumpin' on a poor brainless baboon like One-half Tompkins?"

"He has a brain, your honor, though I should hardly regard him as a second Aristotle."

"In other words," Steele returned, "he's got too much sense to be an idiot, but not enough to be a halfwit."

CLAYBROOK retained his stiff dignity. "That could be another way of putting it, your honor, though it is hardly proper to prejudge a defendant."

"Now see hyar, Claybrook," Steele stormed angrily, "you get off your mountain-top of purity and righteousness, and see that this murderin' chimpanzee is hung."

"Every defendant is a human being, sir," Claybrook flared. "As such, he is entitled to be tried before he is condemned to be executed."

One-half Tompkins lowered his head

and snickered toward Claybrook. "He's my friend, Judge; you let him alone."

Steele crimped his lips and stared at Tompkins. According to his lights, here was about to be an awful waste of time. When Flat Creek citizens decided to abandon Vigie methods in favor of a law court, they should've reserved authority in themselves for exceptional cases like this.

He growled fiercely, "All right, you snickering jackal, what's your plea?"

Demeree had remained standing. "Defendant has a dual plea, your honor. First, he denies having committed homicide. Second, if it should appear that he did kill somebody, he pleads insanity. As an obvious *non compos mentis*, he could have had no *mens rea*—no guilty mind. *Actus non facit reum, nisi mens sit rea*."

"Consarn you, Demeree, maybe you know what you're talking about, but in this court's language it means a rope for every murderin' neck; if he can quote Blackstone in six languages or in none. Panel a jury, Bucky."

"Call names, Skiffy."

Skiffington called names and twelve gold-diggers and Vigies arranged themselves as jurors and swore truth to find and justice to administer without fear or favor. Witnesses were called, sworn and segregated.

"Claybrook, call your fust witness."

Claybrook nodded at a deputy sheriff. "Call Boaz Welfare."

Demeree, who had sat down, got up with confident expression. "Now, if your honor please, Mr. Claybrook is undertaking to establish a *corpus delicti*. As he is about to try a crazy man, I move that he be first required to prove that this defendant is competent to stand trial."

Claybrook waited until Boaz Welfare had been seated. "Now, your honor, Mr. Demeree should have known better than

make that motion. He should know that an accused person is presumed sane until insanity is proved by *him*, not by somebody else."

"Your honor," responded Demeree, "it must have been apparent to every person who has known him that this defendant is crazy. A fact of continuing nature is presumed to continue unchanged."

"But, your honor," said Claybrook, "it is presumed that ordinary faculties are possessed by every individual."

Demeree lifted his chin. "If your honor please, every accused person is presumed to be of good character, also."

Steele exhaled like a fire-spewing dragon. "Be-consarned, lawyers are an obstacle and a hindrance to justice; if it ain't one thing, it's another. Now you're engaged in a war of presumptions. What it'll be next, nobody could predict. Claybrook, question your witness."

Claybrook gave his mouth a twist and glared at Welfare. "Your name is Boaz Welfare?"

Welfare's round face assumed haughtiness. He looked down his nose at Claybrook. "I am Boaz Welfare, sir. I am also coroner of Flat Creek. Last Thursday a week ago I received notice that a dead body had been found in a dry well in Upper Sarlay Gulch, where there used to be considerable diggings, but not anymore. It being my duty as coroner to conduct an investigation, I repaired to this place without delay—"

Demeree was up. "If your honor please, this witness was not asked to make a speech. He was merely asked to verify his name."

"That is correct," Claybrook said quickly. He glared at Welfare, whose skin had pinked with displeasure. "You *are* Boaz Welfare, aren't you?"

"I am, sir."

"Sometimes called General Welfare?"

Inside heat caused Welfare to spew. "If that's got anything to do with anything, I'd like to know what it is."

STEELE'S blood pressure went up. "Now, see hyar, General, you answer questions, and answer 'em as they're put. If you don't, by thunder, I'll fine you for contempt of court."

Welfare stuck out his lower lip and stared sulkily at Claybrook. "Yes," he said.

"Yes, what?"

"Yes, I am sometimes called General Welfare."

"All right," said Claybrook. "On last Thursday-week you say you went to Upper Sarlay Gulch to investigate a dead body?"

"I did."

"Did you find there a dead body?"

"Yes."

"Did you examine it?"

"I did."

"Did you recognize it?"

"No."

"Did you have it identified?"

"I summoned a coroner's jury, not only for purposes of identification and inquiry into circumstances which might or might not indicate that deceased had come to his death by means of foul play, but also—"

"If your honor please," said Demeree, "he's about to make another speech. Defendant objects."

Claybrook cut in ahead of Steele's hot anger. "Now, General, if you please, answer my questions."

"I've been answering your questions, sir."

Steele boiled over. "Consarn you, General, you don't talk back to Mr. Claybrook like that. I fine you five dollars for contempt of court. Bucky, see it's paid, else put him on bread and water."

Claybrook assumed an air of satisfaction. "Now, Mr. Welfare, did you have that dead body identified?"

Welfare, beat but furious, remained silent for several seconds. Then he said sulkily, "I did."

"Whose was it?"

"Alec Spitstone."

"More commonly known as Tobacco Spitstone?"

"I don't know."

"Ever heard him called Tobacco Spitstone?"

Demeree got up. "Your honor, this is being unfair to Mr. Welfare. Whether deceased was one kind of Spitstone or another is immaterial, so long as Mr. Welfare is positive that he was dead."

"I am positive," said Welfare.

"Did you ascertain how Spitstone came by his death?"

"He was murdered."

"Object," Demeree shouted. "Answer should be responsive to questions."

"All right, all right," said Welfare. "He'd been struck with a miner's pickaxe, and it had made a square hole in his head. He'd been struck from behind. If that ain't proof positive—"

"You say you are coroner of Flat Creek?" Claybrook interposed quickly, for Judge Steele was about to bear down again.

"I am."

"And you summoned a coroner's jury?"

"I did."

"And it was this jury's verdict that Spitstone had been murdered?"

"It was."

Claybrook sat down. "That is all."

DEMEREER came round to cross-examine. "You mentioned a well, I believe?"

"I did, sir."

"You also mentioned that old Spittoon's body had been found in a well, did you not?"

"I did."

Demeree rubbed his chin reflectively. "And you went down in that well and examined his body?"

"I did not."

"No?"

"Certainly not."

"Do you mean to say this dead body had been moved before you went to examine it?"

"It had. When I arrived, it was lying on a plank in broad daylight."

"Ah!" exclaimed Demeree. "Then somebody could have made that square hole in its skull after it was brought up?"

"I suppose so."

"Did you call that fact to your jury's attention?"

"No."

"Just what did you and your jury do in determining that Spittoon had been murdered?"

"Well, we all took a look and walked off. I hope you don't think we'd get chummy with a body that had been dead several days, and—"

"Quite right," said Demeree. "Thank you, General."

Demeree returned to his seat and Welfare was excused.

Claybrook nodded at a deputy. "Call Watson Overend."

Defendant One-half Tompkins got Steele's eyes and snickered. "Fun, ain't it, Judge?"

Steele caught his breath. "Demeree!"

Demeree got up. "Yes, your honor."

"Do you insist that your client's crazy?"

"No, your honor," replied Demeree, "there's no need of insisting on what is obvious."

"Do you think he knows what is going on hyar?"

"He has no conception whatever of its significance."

"Then I suggest you give his head a whack and put him to sleep. If you don't keep him quiet, by thunder, we'll hang him without a trial."

"Yes, your honor."

Demeree sat down and whispered something to One-half that might have caused a lip-reader to blush. One-half lowered his head and blew on his fingers. But he kept quiet.

Claybrook's second witness had been brought in and seated. He had black whiskers and stubby, work-hardened hands. Judge Steele remembered him as an old Vigie comrade, quiet, but efficient and fearless.

Claybrook eyed him briefly. "You are Watson Overend?"

"I am."

"Gold-digger?"

"Yes."

"Were you acquainted with deceased, Alec Spitstone?"

"We owned adjoining claims in Lower Sarlay Gulch."

"Will you just answer my questions, please?"

Steele leaned forward. "Mr. Claybrook," he said with dangerous quietness, "when we've got a good witness like Overend, it's not a bad idear to just set down and let him tell what he knows." He nodded significantly, and Claybrook sat down. "Now, Mr. Witness, tell what you know about this murder."

OVEREND angled himself toward Steele. "Well, Judge, it's sort of a long story; but this is it. In Lower Sarlay, Von Dale and myself come to our diggin's one morning."

Steele recognized an old familiar name. "By Von Dale do you mean him that was called Hill-and-dale?"

"That's right, Judge. Same old Hill-and-dale you used to know."

"Go ahead," said Steele.

"Well, Judge, that morning when Tobacco Spitstone failed to show up, we got uneasy. I reckon you recollect, Judge, how Tobacco had that foolish habit of counting his money in public. Well, we figured somebody had murdered him for his money. That evening, we inquired at his boarding place, but he hadn't showed up there either. Next day we started looking and inquiring around. Somebody remembered seeing him headed toward Upper Sarlay, by hisself. We spent hours looking for him up there, but with no luck. Next day we went again. We had just set down to rest in a shady spot when Hill-and-dale spied somebody slipping up Sarlay. We hid and watched. There was an old well up there, dug by a miner named Hopstettler couple years ago. While we watched, that feller we'd seen slipping up Sarlay Gulch dodged about from rock to gully and gully rock until he'd reached that well. There he bent over and looked in. It took him some time to get his eyes used to looking down into darkness, but he finally got satisfied. Before we could get near him, howsomever, he'd slipped away again."

Demeree started to rise. "If I may interrupt, your honor—"

"Demeree, you're overruled."

"But I had not stated my objection, your honor."

"You're overruled anyhow. Overend, proceed."

"Well, Judge," said Overend, "Dale and me went to that well and looked in. Dale had a piece of looking-glass in his pocket. We used that to throw down some sunlight, and we knew our search was

over. Alec Spitstone was lying down there dead." Overend paused for study.

"Are you through?" asked Steele.

"No, Judge," said Overend. "I was just trying to think how this idea come up. Well, anyhow, Dale and me discussed whether to report what we'd found. Then Dale remembered a case something like this that happened back in Missouri when he was a boy. There's Scripture, too, which says a dog will return to its vomit, or something to that effect. Anyhow, we figured whoever that was who'd come to look in Hopstettler's well would come back again. So we hid close by and kept an eye out for him. Sure enough, just before sundown we saw him coming. Same feller. But this time, when he come and peeped in, we crope up behind and jumped him."

"Who was he?" asked Steele.

"One-half Tompkins, Judge."

"What did he do when you grabbed him?"

"He jumped like a caught rabbit, but we held onto him. When he saw he couldn't get away—"

"Object," shouted Demeree. "He can't draw conclusions like that. How does he know what went on in what is optimistically called this defendant's mind?"

STEELE took one look at Demeree, but said nothing. Demeree sat down. "Overend, go ahead with your story."

"Well, Judge, after Tompkins quieted down, he put his face behind his hands and snickered. Then he took his hands away from his face and blew on his fingers. We fetched him down to Flat Creek and turned him over to Sheriff Buckalew. We questioned him right sharply, too, but all he'd do was snicker and blow on his fingers. That's about it, Judge."

"I'd like to cross-examine," said Demeree.

"Much as I regret it, Demeree," said Steele, "it's your privilege."

Demeree came round. "Your name is Watson Overend?"

"It is."

"Sometimes called End Overend?"

"Yes, Mr. Demeree."

"Do you regard yourself as sane or insane?"

"Well, Mr. Demeree, I sometimes figure I'm crazy, especially when I think of that good piece of land I left back in Tennessee."

Demeree's eyebrows went up. "Do you mean to say you're from Tennessee?"

"That's correct, Mr. Demeree."

Demeree backed away. "Thank you, Mr. Overend; no more questions."

Overend went out and Steele glared at Demeree. "Consarn you, Demeree, is that some backhanded way you thought up to discredit Watson Overend's testimony?"

"No, your honor," Demeree replied haughtily. "I regard Mr. Overend as a man of unimpeachable integrity. If your honor would care to know my reason, it is this. I have never known a Tennessean who was afraid of anything or anybody, or who'd swear to a lie. Mr. Overend does not impress me as being an exception."

Steele's contempt came out in a puff. "By thunder, Demeree, you've just about bragged your client's neck into a hangrope." He swung left. "Call next witness, Claybrook."

Claybrook nodded at a deputy. "Call Pulliam Oemig."

Oemig was a well-dressed, gray-haired gentleman of about fifty, with big ears and rectangular spectacles. He glanced at One-half Tompkins, who snickered and blew on his fingers.

Claybrook rose and faced Oemig. "What is your business, Mr. Oemig?"

"General merchandise, sir."

"In other words, you own a store in

Flat Creek?"

"I do."

"Were you acquainted with deceased, Alec Spitstone?"

"I was."

"When did you see him last?"

"About two weeks ago. He came into my store and bought a plug of tobacco."

"With what kind of money did he pay you?"

"Paper money."

"Did you observe anything peculiar about that money?"

"Yes, Mr. Claybrook. It was red along one edge. Spitstone had it in a pouch as part of a rather large roll. He also had in his pouch a piece of cinnabar, which he said he had found in a ledge on his claim. This cinnabar had stained one end of his roll of bills."

Demeree got up. "Your honor, this line of testimony is wholly irrelevant. I move it be stricken, and that Mr. Claybrook directed to confine his questions to matters that are pertinent."

"My questions are pertinent, your honor."

"Go ahead, Claybrook," snapped Steele.

"Mr. Oemig, are you acquainted with defendant, One-half Tompkins?"

"Too well acquainted, if I may say so."

"Now, your honor," said Demeree, "this witness was not asked to testify as to degree of acquaintanceship. Instead of answering yes or no, he goes out of his way to make unfavorable insinuations."

"Oemig," said Steele, "quit going out of your way to make insinuations. Make 'em straight."

Demeree frowned and sat down.

CLAYBROOK hesitated; apparently he was inclined to agree with Demeree. He glanced at Steele, then at Oemig. "Mr. Oemig, had defendant Tompkins been a

customer at your store?"

"Defendant Tompkins has procured many things at my store."

"How do you mean that?"

"I mean that he is a confirmed and incorrigible thief."

"Object!" stormed Demeree. "This old fossil was not asked to testify as a character witness. Besides, when one is indicted for murder, it is not competent for witnesses to make him out a thief, or to give testimony as to other crimes. I object."

"Mr. Demeree is right," said Claybrook. "I—"

"Now see hyar, Claybrook," raged Steele, "maybe Demeree *is* right but, you don't have to admit he is."

Claybrook lowered his head and glared at Oemig through his eyebrows. "Regardless of defendant's propensity to steal, has he ever bought anything from you and paid money for it?"

"Yes, he has," replied Oemig, "and if you will permit me, I shall relate in some detail."

"Proceed."

"Well, sir, I mentioned that Spitstone was in my store on a Monday and bought tobacco. Also, that his money was stained with cinnabar. One or two days after Spitstone was in my store, this thieving One-Half Tompkins came in to buy a shirt. He was wearing one that had stains on it that looked like blood. I found a shirt his size, and he took out a pouch to pay me. If that pouch wasn't Spitstone's, it was one exactly like it. Inside it was a roll of bills, and when Tompkins paid me I discovered that same red stain that had been on Spitstone's bills."

"Did you know then that Spitstone had disappeared?"

"No. I didn't hear about that until several days later, when word got around that his dead body had been found."

"Did you ask One-half Tompkins any questions?"

"Yes. I asked him where he got his money. He snickered and said he traded for it."

Claybrook sat down. "No more questions."

Demeree got up, received a grudging nod from Steele and came round. "Your name, I believe, is Pulliam Oemig?"

"It is, sir," Oemig answered hostilely.

"Sometime called Push-'em Oemig?"

Oemig replied dryly, "Sometimes."

"You push your customers pretty hard, don't you?"

"I'm not in business for my health, sir."

A slight disturbance caused big Deputy Dan Trewhitt to walk slowly past defendant Tompkins and restore order. Meanwhile Steele had glimpsed something that caused his breath to catch. He motioned to Trewhitt, who came round and leaned in toward Steele. Steele whispered at length in his ear and he nodded and went out a back way.

Steele returned his attention to Demeree and Oemig.

Demeree asked, "You say defendant Tompkins has stolen things in your store?"

"Repeatedly," said Oemig with emphasis. "He'd steal, knowing you were looking at him."

Demeree mumbled loudly enough to be heard by jurors, "sounds crazy." He returned to his seat and sat down. "That is all."

Claybrook shook his head. "No more witnesses, your honor."

**S**TEELE TURNED to Demeree. "You got any witnesses in behalf of this stupid monkey?"

Demeree shook his head slowly. "For this poor lunatic, I neither have nor need any witnesses, your honor."



"You don't need to call him a lunatic, Demeree," Steele said bitingly. "Just call him what he is—a stinking, fleabitten, stupid monkey."

Tompkins grinned. "You got fleas, Judge?" He snickered behind his hands, then blew on his fingers.

"Your plea of insanity looks kind of sick, Demeree," said Steele. "According to Mr. Claybrook, your snickering ape is presumed sane until you prove him otherwise. You had better get busy."

"He has been proven otherwise, your honor," said Demeree. "An act does not make a man guilty, unless he be so in intention. *Actus non facit reum, nisi mens sit rea*. It is fundamental that a guilty mind must attend a guilty act, or it is no crime. One has not a guilty mind, unless he knows right from wrong. According to Mr. Oemig's testimony, this poor demented creature does not know right from wrong, for Oemig testified that Tompkins would steal even though he was being watched and knew it. He is what is known as a kleptomaniac, and kleptomania is a well-known form of insanity. Being able to distinguish right from wrong is an essential element of guilt. That element is lacking in this demented person's case. Accordingly, he should be set free."

Steele tensed and leaned forward.

"By thunder, Demeree, I was just waiting to see if you had enough gall to suggest we turn that murderin' hyena loose."

Claybrook had got up. Here was his opportunity to engage in legalistic jousting with a worthy opponent. "If I may speak, your honor, I think I can answer Mr. Demeree's argument."

"Stomp on him, if you want to, Claybrook."

"Figuratively speaking, that is what I intend to do," said Claybrook. "I am sure Mr. Demeree is thinking about a famous

English case of several years ago, known as M'Naghten's case. Truly, English judges laid down as a test of criminal responsibility defendant's capacity to distinguish right from wrong. But that is putting it loosely. They would distinguish *animus furandi* from *animus homicidi* by pointing out mental variants in individuals."

"If I may interrupt?" said Demeree.

For a very special reason, Steele was not only willing, but anxious, for these talkative lawyers to kill some time. "Go right ahead, Demeree."

"Thank you, your honor," said Demeree. "What Mr. Claybrook intends to say is that a jaybird who does not know it is wrong to steal might still know it is wrong to commit murder. But that is saying that a man is insane, yet not insane. Back in my native state, your honor, a man is guilty if he knows he is violating a law by his act. In other words, he must know that what he does is a *legal* wrong."

Claybrook retorted with temper, "I should like to remind Mr. Demeree that back in his native state, every man is presumed to know what is law and what isn't. Furthermore, I shall thank Mr. Demeree not to undertake to state what my intentions were. I am quite capable of speaking for myself."

"My apology," said Demeree. "I was misinformed."

"Now, see hyar," said Steele, a bite in his speech. "Nothing would please me more than to see you lawyers swaller each other, but don't do it hyar. What we want is to get this stinkin' monkey strung up."

"Sorry, your honor," said Claybrook. "But Mr. Demeree would confuse this court as to insanity as a defense. M'Naghten's rule, which is followed in Mr. Demeree's State of Tennessee, requires only that defendant knew he was doing wrong when he stuck a pickaxe in

Tobacco Spits tone's skull. That has nothing to do with his knowing, or not knowing, it is wrong to steal."

"If your honor please," said Demeree, "has Mr. Claybrook proved that defendant knew it was wrong to stick a pickaxe in Tobacco's skull?"

"I do not have to prove it," retorted Claybrook. "He is presumed sane; he is presumed to have known his act was wrong."

STEELE WAS getting ready to urge them on, when Dan Trehwitt came back in. He caught Trehwitt's attention and lifted an eyebrow.

Trehwitt stepped out and walked past defendant Tompkins, ostensibly to restore order again.

Steele continued, "In Flat Creek we've got a few presumptions of our own. When a snickerin' jackass who hides behind his hands and blows on his fingers decides to rob and murder a law-biding citizen, it's presumed he knows what he's doing. When he sinks a pickaxe into said citizen's brain and hides his body in a well, it's presumed he knowed he'd done something wrong. And that's a further presumption—a conclusive one, by thunder—namely, that when a foul-brained, snickerin', thievin' specimen of human scum commits murder hyarabouts he'll be strung up with a rope, and he'll hang thar till he's a dead corpse."

Events exploded then. Dan Trehwitt had loitered near One-half Tompkins, his sixgun dangling against One-half's shoulder. Tompkins moved with unanticipated and unbelievable swiftness. He snatched Trehwitt's gun from its holster and sprang erect.

"Now," he said with restrained fury, "we'll see who is human scum hereabouts."

Steele had risen. "Let nobody move,"

he roared. "Keep your hands away from your guns."

Deputies who were standing lifted their hands. Sheriff Jerd Buckalew's forty-five lay before him. But Bucky kept his hands down.

"I'm shore sorry, Judge," said Dan Trehwitt, who had raised his own hands.

"It's all right, Dan," said Steele; "just don't try to do anything."

"No," said One-half Tompkins. "Don't try to do anything. If you do, I'll put a slug in your smart judge's jumping heart. It's good to see him scared. He figured he could call me a monkey because he was a judge and had a pack of gunnies around him. Well, Judge, why don't you call me a monkey now? Come on, let me hear you say it. No? Maybe I will end up with a rope around my neck, but you won't be there to see it. Maybe I won't have a chance to throw your dead body in a well, but you'll be put under ground anyhow, and it won't be long."

"Let nobody move," said Steele. "Keep away from your guns; this lowborn ape's dangerous."

"Ah!" said One-half. "So you called me an ape again. I warned you, didn't I?"

"Let nobody move," said Steele. One-half thumbed his sixgun hammer. Its click-click sounded ominous and imminent. "No," said One-half. "Let nobody move." In one swift move he aimed and triggered at Steele's heart. But there was no smoke, nor was there any thunder. One-half's gun hammer snapped dully, nothing more.

"All right, Dan," said Steele, "you can take him now."

Trehwitt grabbed his gun and shoved One-half onto his seat. "Shore was a good trick, judge. But how you read this monkey's mind beats me."

Judge Steele sat down. Out-going breath of relieved spectators was like a gust of wind.

Steele spoke to Trew hitt. "Fust time you ambled past that baboon, Dan, I saw him eyeing your gun. He didn't do it like a crazy man either, by thunder." He swung his savage blue eyes in French Demeree's direction. "M'Naghten's rule, eh?" He extended his contempt toward Claybrook. "Instead of arguing all around Robin Hood's barn about whether One-half Tompkins knowed right from wrong he proved it."

He nodded his head at his jury. "You jurors go out and fetch in a verdict."

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

Steele looked down at Sheriff Buckalew. "All right, Bucky. String him."

Within two minutes Flat Creek's court room had rumbled itself empty. Judge Steele sat alone and caught a moment's relaxation. But that moment was not entirely free of worry. Be-consarned if he could see why there had to be so much fuss and waste of time in hanging a murderer.

