

tion, I argue that in this territory it is a principle of mountain common law, that no man can seduce the wife of another *without endangering his own life*. I may be asked for books. Common law is, in reality, unwritten law; and all the common law that has been written is the decision of courts; and every time some new decision comes up, it is written, which you may find stacked up in the Attorney General's office, in Great Britain. This is continuing: fresh decisions are still being made, and new written authorities added, and precedent upon precedent established in the courts of the United States and Great Britain; and must we be judged by these ten thousand books?

What is natural justice with this people? Does a civil suit for damages answer the purpose, not with an isolated individual, but with this whole community? No! It does not! The principle, the only one that beats and throbs through the heart of the entire inhabitants of this Territory, is simply this: *The man who seduces his neighbor's wife must die, and her nearest relative must kill him!*

Call up the testimony of the witness, Mr. Horner, and what does he say? After Mr. Egan had killed Monroe, he was the first one to meet him. Egan said, "Do you know the cause?" Mr. Horner had been made acquainted with it; he said he advised Monroe, and told him for God's sake to leave the train, for he did not wish to see him killed in his train. Mr. Horner knew the common law of this Territory: he was acquainted with the genius and spirit of this people: he knew that Monroe's life was forfeited, and the executor was after him, or he (the executor) was damned in the eyes of this people forever. "*Do leave the train,*" says Horner; "I would not have you travel in it for a thousand dollars." Was Monroe a *reasonable creature*? A *dog* that steals a bone

will hide away; but will a man be called a *reasonable creature*, when he knows the executioner is on his track, and at the same time walk right over the law, crawl between the sheets of a fellow citizen, and there lay his crocodile eggs, and then think to stow away gunpowder in a glowing furnace? If we are called upon here to say whether a *reasonable creature* has been killed, a negative reply is certain.

Not Mr. Horner only, who has testified that he knew the cause of the deed, but a number of others. When the news reached Iron County, that Egan's wife had been seduced by Monroe, the universal conclusion was, "there has to be another execution;" and if Howard Egan had not killed that man, he would have been damned by the community forever, and could not have lived peaceably, without the frown of every man. Now we see that the laws of England only require a civil suit for damages, in a case of seduction; but are these laws to be applied to us who inhabit these mountain heights? The idea is preposterous. You might as well think of applying to us the law of England which pertains to the sovereign lady, the Queen, alone. I will apply it, and with much better sense: "To seduce the sovereign lady, the Queen, is death by the law." I will say, here, in our own Territory, we are the sovereign people, and to seduce the wife of a citizen is death by the common law.

There is no doubt but this case may be questioned, but there is an American common law, as well as an English common law. Had I the books before me, which are at hand in the public library, I might show you parallel instances in the United States, where persons standing in a like position to this defendant have been cleared. I will refer to the case of "*New Jersey v. Mercer,*" for killing Hibberton, the seducer of his sister. The circumstance took place upon a