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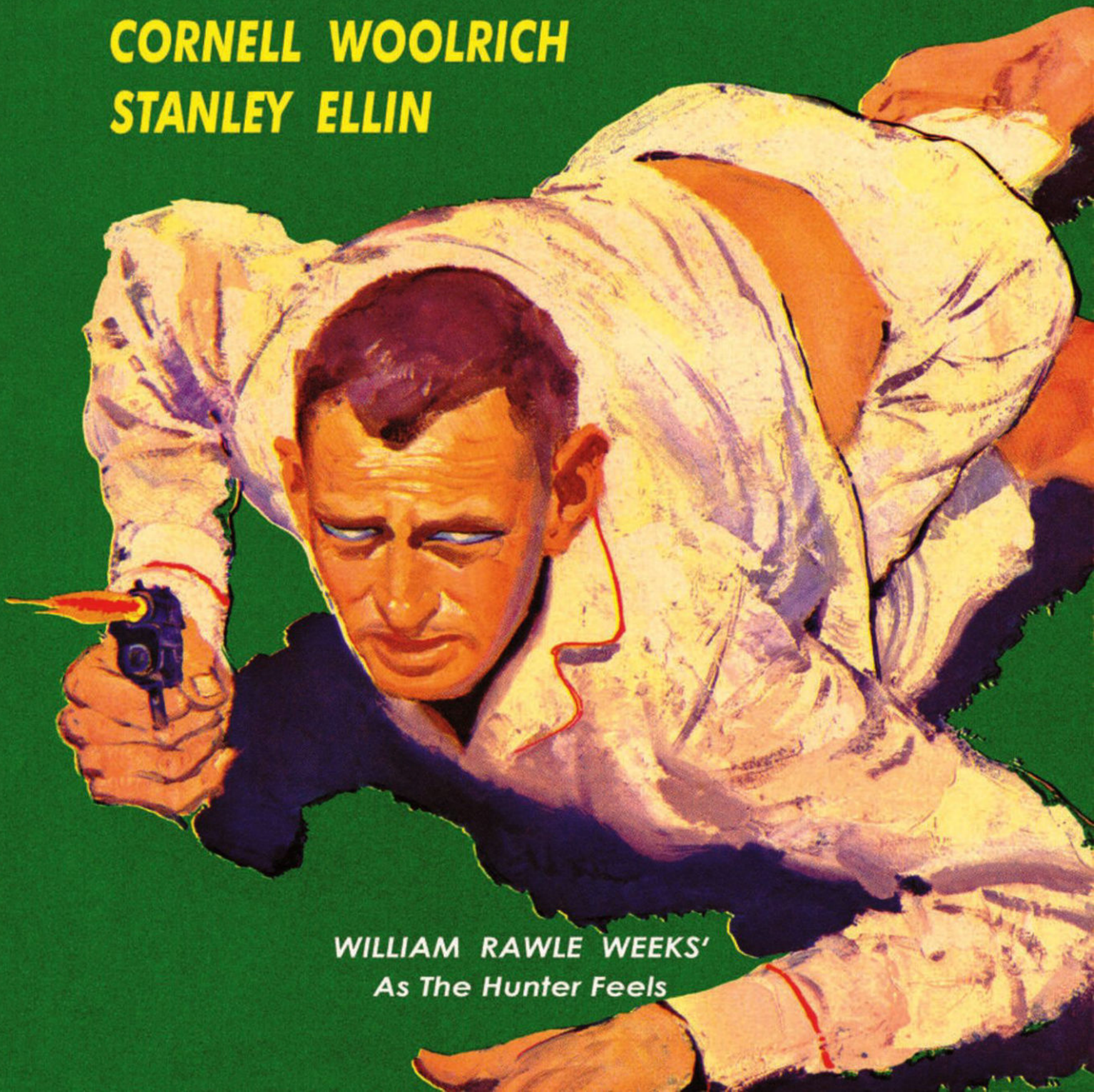
ELLERY QUEEN'S

Mystery Magazine

New Stories by

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WILLIAM RAWLE WEEKS'
As The Hunter Feels

The World's Leading Mystery Magazine

ELLERY QUEEN'S Mystery Magazine

Including **BLACK MASK MAGAZINE**

EQMM SPECIAL

THE PENNY-A-WORDER *Cornell Woolrich* 5

FEATURE STORY

UNREASONABLE DOUBT *Stanley Ellin* 123

CRIME AND DETECTION

THE SECOND SKIN *Michael Gilbert* 23

THE SHOOTING AT FORTY-SEVEN *St. Clair McKelway* 36

TEN PER CENT OF MURDER *Henry Slesar* 56

WHAT TO DO NEXT? *Arnold Bennett* 76

AS THE HUNTER FEELS *William Raule Weeks* 84

GHOST TOWN *Jack Schaefer* 96

THE LAST HAND *Anthony Boucher* 101

THE RETURN OF IMRAY *Rudyard Kipling* 107

THE FIFTH ELEMENT *Alvin Pevehouse* 116

DETECTIVE SERIAL

THE MOTIVE: Second of Two Parts *Ellery Queen* 42

EQMM "FIRST"

THE SPENT HEART *Irene Holt Albert* 64

BEST MYSTERIES OF THE MONTH

Anthony Boucher 63

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a new story by

AUTHOR:

STANLEY ELLIN

TITLE:

Unreasonable Doubt

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Crime Puzzler

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United States

TIME:

The Present

COMMENTS:

Mr. Willoughby was just starting a much-needed vacation. It was imperative that his mind be free of worry, tension — of any problems whatsoever. Relax, the doctor had ordered — and that's good advice to the reader too — IF YOU CAN!

MR. WILLOUGHBY FOUND A SEAT in the club car and gingerly settled into it. So far, he reflected with overwhelming gratitude, the vacation was a complete success. Not a hint of the headaches he had lived with the past year. Not a suggestion of the iron band drawing tight around the skull, the gimlet boring into it, the hammers tapping away at it.

"Tension," the doctor had said. "Physically you're sound as a nut, but you sit over your desk all day worrying over one problem after another until your mind is as tight

as a mainspring. Then you take the problems home and worry them to death there. Don't get much sleep, do you?"

Mr. Willoughby admitted that he did not.

"I thought so," said the doctor. "Well, there's only one answer. A vacation. And I do mean a real vacation where you get away from it all. Seal your mind up. Don't let anything get into it but idle talk. Don't think about any problems at all. Don't even try a crossword puzzle. Just close your eyes and listen to the world go round.

That'll do it," he assured him.

And it *had* done it, as Mr. Willoughby realized even after only one day of the treatment. And there were weeks of blissful relaxation ahead. Of course, it wasn't always easy to push aside every problem that came to mind. For example, there was a newspaper on the smoking-table next to his chair right now, its headline partly revealing the words *NEW CRISIS IN*—Mr. Willoughby hastily averted his head and thrust the paper into the rack beneath the table. A small triumph, but a pleasant one.

He was watching the rise and fall of the landscape outside the window, dreamily counting mile posts as they flashed by, when he first became aware of the voice at his elbow. The corner of his chair was backed up near that of his neighbor, a stout, white-haired man who was deep in talk with a companion. The stout man's voice was not loud, but it was penetrating. The voice, one might say, of a trained actor whose every whisper can be distinctly heard by the gallery. Even if one did not choose to be an eavesdropper it was impossible not to follow every word spoken. Mr. Willoughby, however, deliberately chose to eavesdrop. The talk was largely an erudite discourse on legal matters; the stout man was apparently a lawyer of vast experience and uncanny recollective powers; and, all in all,

the combination had the effect on Mr. Willoughby of chamber music being played softly by skilled hands.

Then suddenly his ears pricked like a terrier's. "The most interesting case I ever worked on?" the stout man was saying in answer to his companion's query. "Well, sir, there's one I regard not only as the most interesting I ever handled, but which would have staggered any lawyer in history, right up to Solomon himself. It was the strangest, most fantastic, damndest thing that ever came my way. And the way it wound up—the real surprise after it was supposedly over and done with—is enough to knock a man out of his chair when he thinks of it. But let me tell it to you just as it took place."

Mr. Willoughby slid down in his chair, pressed his heels into the floor, and surreptitiously closed the gap between his chair and his neighbor's. With his legs extended, his eyes closed, and his arms folded peaceably on his chest he was a fair representation of a man sound asleep. Actually, he had never been more wide-awake in his life.

Naturally [the stout man said], I won't use the right names of any of these people, even though all this took place a long time ago. That's understandable when you realize it involves a murder. A cold-blooded murder for profit, beautifully planned, flawlessly executed,

and aimed at making a travesty of everything written in the law books.

The victim—let's call him Hosea Snow—was the richest man in our town. An old-fashioned sort of man—I remember him wearing a black derby and a stiff collar on the hottest days in summer—he owned the bank, the mill, and a couple of other local interests. There wasn't any secret among folks as to how much he was worth. On the day of his death it came to about two million dollars. Considering how low taxes were in those days, and how much a dollar could buy, you can see why he was held in such high esteem.

His only family consisted of two nephews, his brother's sons, Ben and Orville. They represented the poor side of the family, you might say. When their father and mother died all that was left to them was a rundown old house which they lived in together.

Ben and Orville were nice-looking boys in their middle twenties about that time. Smooth-faced, regular features, much of a size and shape, they could have been a lot more popular than they were, but they deliberately kept apart from people. It wasn't that they were unfriendly—any time they passed you on the street they'd smile and give you the time of day—but they were sufficient unto themselves. Nowadays you hear a lot of talk about sibling rivalries and fraternal complexes, but it

would never fit those two boys.

They worked in their uncle's bank, but their hearts were never in it. Even though they knew that when Hosea died his money would be divided between them it didn't seem to cheer the boys any. Fact is, Hosea was one of those dried-out, leathery specimens who are likely to go on forever. Looking forward to an inheritance from somebody like that can be a trying experience, and there's no question that the boys had been looking forward to that inheritance from the time they first knew what a dollar was worth.

But what they seemed to be concerned with, meanwhile, was something altogether different from banking and money—something Hosea himself could never understand or sympathize with, as he told me on more than one occasion. They wanted to be song writers, and, for all I know, they had some talent for it. Whenever there was any affair in town that called for entertainment, Ben and Orville would show up with some songs they had written all by themselves. Nobody ever knew which of them did the words and which did the music, and that in itself was one of the small mysteries about them that used to amuse the town. You can pretty well judge the size and disposition of the place if something like that was a conversation piece.

But the situation was all shaken

up the day Hosea Snow was found dead in his big house, a bullet hole right square in the middle of his forehead. The first I heard of it was when a phone call got me out of bed early in the morning. It was the County Prosecutor telling me that Ben Snow had murdered his uncle during the night, had just been arrested, and was asking me to come to the jail right quick.

I ran over to the jail half dressed, and was pulled up short by the sight of Ben locked in a cell, reading a newspaper, and seemingly indifferent to the fact that he was on his way to a trapdoor with a rope around his neck.

"Ben," I said, "you didn't do it, did you?"

"They tell me I did," he said in a matter-of-fact voice.

I don't know which bewildered me more—what he said or the unconcerned way he said it.

"What do you mean?" I asked him. "And you'd better have a good story to tell me, boy, because you're in serious trouble."

"Well," he said, "in the middle of the night the police and the County Prosecutor walked in on Orville and me, because Uncle Hosea was killed, and after some talking they said I did it. When I got tired of them nagging me about it I said, all right, I did do it."

"You mean," I said, "they've got evidence against you?"

He smiled. "That'll come out in court," he said. "All you've got to

do is call Orville as my witness at the trial, and you won't have any trouble. I'm not going to testify for myself, so they can't cross-examine me. But don't you worry any. Orville'll take care of everything."

I felt a terrible suspicion creeping into my mind, but I didn't let myself consider it. "Ben," I said, "have you and Orville been reading law books?"

"We've been looking into them," he admitted. "They're mighty interesting"—and that was all I could get out of him. I got even less from Orville when I went over to the bank and tried to talk to him about his testimony.

Considering that, you can imagine my state of mind when we finally came to trial. The case was the biggest sensation the town had ever known, the courthouse was packed, and here I was in the middle of things with no idea of what I could do for Ben, and Ben himself totally indifferent. I felt sick every time I got a look at the prosecutor's smug and smiling face. Not that I could blame him for looking like the cat that ate the canary. The crime was a brutal one, he and the police had solved it in jig time, and here he was with an airtight case.

In his opening address to the jury he threw the works at them. The motive was obvious: Ben Snow stood to inherit a million dollars from his uncle's death. The method was right there on the clerk's desk where everyone could see it: an old

pistol that Ben Snow's father had left among his effects years before, and which was found—one bullet freshly discharged from it—right in the kitchen where Ben and Orville were drinking coffee when the police broke in on them. And the confession signed by Ben before witnesses settled things beyond the shadow of a doubt.

The only thing I could do in the face of this was put blind faith in Ben and do what he wanted me to. I had Orville Snow called as my first witness—and my only witness, too, as far as I could see—and then, without any idea of what he was going to say, I put him on the stand. He took the oath, sat down, straightened the crease in his trousers, and looked at me with the calm unconcern his brother had shown throughout the whole terrible business.

You see, I knew so little about the affair that it was hard to think of even a good opening question for him. Finally, I took the bull by the horns and said, "Would you please tell the jury where you were the night of the crime?"

"Glad to," said Orville. "I was in Uncle Hosea's house with a gun in my hand. If the police had only gotten to me before they started pestering Ben about this, I could have told them so right off. Fact is, I was the one who killed uncle."

Talk about sensations in court! And in the middle of the uproar I saw Ben eagerly signaling me over

to him. "Now, whatever you do," he whispered to me, "don't you ask that this trial be stopped. It's got to go to the jury, do you understand?"

I understood, all right. I had had my suspicions all along, but for the sake of my own conscience I just didn't want to heed them. Now I knew for sure, and for all I hated Ben and Orville right then I had to admire them just a little bit. And it was that little bit of admiration which led me to play it Ben's way. With the prosecutor waiting hang-dog for me to ask that the trial be stopped I went back to Orville on the witness stand and had him go ahead with his story as if nothing spectacular had happened.

He told it like a master. He started 'way back when the desire for his uncle's money had seeped into his veins like a drug, and went along in detail right up to the killing itself. He had the jury hypnotized, and just to make sure the job was complete I wound up my closing speech by reminding them that all they needed in finding a man innocent was a reasonable doubt of his guilt.

"That is the law of this state," I told them. "Reasonable doubt. It is exactly what you are feeling now in the light of Orville Snow's confession that he alone committed the crime his brother was charged with!"

The police grabbed Orville right after the verdict of "Not Guilty" was brought in. I saw him that eve-

ning in the small cell Ben had been kept in, and I already knew what he was going to tell me.

"Ben's my witness," he said. "Just keep me off the witness stand and let him do the talking."

I said to him, "One of you two killed your uncle, Orville. Don't you think that as your lawyer I ought to know which of you it was?"

"No, I don't," said Orville, pleasantly enough.

"You're putting a lot of faith in your brother," I told him. "Ben's free and clear now. If he doesn't want to testify for you the way you did for him, he gets two million dollars and you get the gallows. Doesn't that worry you any?"

"No," said Orville. "If it worried us any we wouldn't have done it in the first place."

"All right," I said, "if that's the way you want it. But tell me one thing, Orville, just for curiosity's sake. How did you decide which one of you should kill Hosea?"

"We cut cards," said Orville, and that was the end of it, as far as he was concerned.

If Ben's trial had stirred up the town, Orville's had people coming in from all over the county. It was the prosecutor's turn to look sick now when he faced that crowd. He knew in his bones what was coming, and he couldn't do a blessed thing about it. More than that, he was honestly outraged at what looked to be an obscene mockery of

the law. Ben and Orville Snow had found a loophole in justice, so to speak, and were on their way to sneaking through it. A jury couldn't convict a man if it had a reasonable doubt of his guilt; a man couldn't be retried for a crime when a jury has acquitted him of it; it wasn't even possible to indict the two boys together for conspiracy to commit murder, because that was a lesser charge in the murder indictment and covered by it. It was enough to make any prosecutor wild with frustration.

But this one held himself in check until Ben had finished telling his story to the jury. Ben told that story every bit as well as Orville had told his at the previous trial. He made it so graphic you could almost see him there in the room with his uncle, the gun flashing out death, the old man crumpling to the floor. The jurymen sat there spellbound, and the prosecutor chewed his nails to the quick while he watched them. Then when he faced Ben on the stand he really cut loose.

"Isn't all this a monstrous lie?" he shouted. "How can you be innocent of this crime one day, and guilty of it the next?"

Ben raised his eyebrows. "I never told anybody I was innocent," he said indignantly. "I've been saying right along I was guilty."

There was no denying that. There was nothing in the record to dispute it. And I never felt so

sure of myself, and so unhappy, as when I summed up the case for the jury. It took me just one minute, the quickest summing-up in my record.

"If I were sitting among you good people in that jury box," I said, "I know just what I'd be thinking. A heinous crime has been committed, and one of two men in this very courtroom has committed it. But I can take my oath that I don't know which of them it was, any more than you do, and like it or not I'd know I had to bring in a verdict of 'Not Guilty.'"

That was all they needed, too. They brought in their verdict even quicker than the jury had in Ben's case. And I had the dubious pleasure of seeing two young men, one of them guilty of murder, smilingly walk out of that room. As I said, I hated them, but I felt a sort of infuriated admiration for them too. They had gambled everything on their loyalty to each other, and the loyalty had stood the test of fire . . .

The stout man was silent. From his direction came the sound of a match striking, and then an eddy of expensive cigar smoke drifted under Mr. Willoughby's nostrils. It was the pungent scene of the present dissolving the fascinating web of the past.

"Yes, sir," the stout man said, and there was a depth of nostalgia in his voice, "you'd have to go a long way to find a case to match that."

"You mean," said his companion, "that they actually got away with it? That they found a way of committing the perfect murder?"

The stout man snorted. "Perfect murder, bosh! That's where the final, fantastic surprise comes in. They *didn't* get away with it!"

"They didn't?"

"Of course not. You see, when they—good heavens, isn't this our station?" the stout man suddenly cried, and the next instant he went flying past Mr. Willoughby's outstretched feet, briefcase in hand, overcoat flapping over his arm, companion in tow.

Mr. Willoughby sat there dazed for a moment, his eyes wide-open, his mouth dry, his heart hammering. Then he leaped to his feet—but it was too late: the men had disappeared from the car. He took a few frantic steps in the direction they had gone, realized it was pointless, then ran to a window of the car overlooking the station.

The stout man stood on the platform almost below him, buttoning his coat, and saying something to his companion. Mr. Willoughby made a mighty effort to raise the window, but failed to budge it. Then he rapped on the pane with his knuckles, and the stout man looked up at him.

"H-o-w?" Mr. Willoughby mouthed through the closed window, and saw with horror that the stout man did not understand him at all. Inspiration seized him. He

made a pistol of his hand, aimed the extended forefinger at the stout man, and let his thumb fall like a hammer on a cartridge. "Bang!" he yelled. "Bang, bang! H-o-w?"

The stout man looked at him in astonishment, glanced at his companion, and then putting his own forefinger to his temple, made a slow circling motion. That was how Mr. Willoughby last saw him as the train slowly, and then with increasing speed, pulled away.

It was when he moved away from the window that Mr. Willoughby became aware of two things. One was that every face in the car was turned toward him with rapt interest. The other was that an iron band was drawing tight around his skull, a gimlet was boring into it, tiny hammers were tapping at it.

It was, he knew with utter despair, going to be a perfectly terrible vacation.



NEXT MONTH...

- CLAYTON RAWSON's** *Miracles—All in the Day's Work*
RAY BRADBURY's *The Town Where No One Got Off*
AGATHA CHRISTIE's *The Sign in the Sky*
REX STOUT's *Too Many Detectives*
HOLLY ROTH's *They Didn't Deserve Her Death*
A. B. GUTHRIE, Jr.'s *The Celebrated Skunk of the Moon Dance Bar*