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Vignettes in the Criminal Court: Heard and Seen in the Criminal Court

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HEARD AND SEEN IN THE CRIMINAL COURTS

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A Colored Woman Kills Her Lover

A friend who had served on a jury told of acquitting a colored woman charged with the murder of her sweetheart. The two had cohabited for several years. In accordance with custom, the man ultimately tired of her. This was the provocation for the slaying. Of course, she had been in a struggle with him and her act was in necessary self-defense. The jury condemned the man for his conduct in the love affair, making it possible for the defendant to explain away her guilt. The sympathies of the jury, as usual, were with the woman. The jury felt that there was little lost in the death of the man and nothing to be gained by sending the girl to jail.

An Alibi Witness Begins to Doubt

The charge was robbery. The victim of the hold-up made an effective witness. To meet the accusation, the defense called eight alibi witnesses. The hold-up took place at 10:00 o'clock on a Saturday morning. An electrician testified that he was wiring a service station owned by the defendant's brother-in-law. The accused had directed him as to openings for the lights. He described how the defendant was dressed, stating that he was in his presence from nine to twelve o'clock, when he went to lunch. Seemingly disinterested, he naturally made a strong witness for the defense. The accused was unable to take the stand on account of his previous record, for it could then be introduced to impeach his credibility. So many witnesses testified in connection with the alibi, offsetting the lone identifying witness for the state, that the jury acquitted.

A novel situation had arisen when the electrician, just before the trial, said, "I wonder whether the defendant is really the man who was at the service station that morning." The defense inves-

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tigator re-assured him, "Oh, it must have been him. He was wearing different clothes. That is why you are in doubt."

The investigator has since become a successful lawyer.

Motion for Bail in a Murder Case

The defendant, thirty-five years old, had been indicted for murder. A motion for bail was being argued. The accused was charged with being the leader of a gang of boys who had staged a number of hold-ups on the south side. The state indicated he was the Fagin of the group. Eight boys between the ages of sixteen and twenty-six were marshalled before the court at the hearing of this motion. One of them hod told the Captain of Police in charge of the case that the defendant supplied them with guns to consummate their hold-ups. The state was relying upon the principle enunciated in the Cardinella case a few years ago in which the accused had furnished youths with guns, planned the hold-ups, and shared the loot. Although Cardinella had not actually participated in the hold-up in which one of the victims was killed, the jury convicted him of murder and the Supreme Court sustained the verdict. He was hanged. The defense attorney stated that he had read the coroner's minutes and the preparation sheets of the state's attorney's office. He was willing that the court make its decision upon all the evidence in the state's attorney's hands, whether the presumption of guilt of murder was so strong as to make the charge unbailable.

His only purpose at this time was to make this motion for bail. He wanted it to be distinctly understood that he had not been engaged to represent the defendant in the pending murder trial. He maintained that the evidence tended to show the defendant to be an accessory after the fact, which is a misdemeanor and bailable. The right to bail existing in every charge except a murder case where the evidence is great and the presumption strong that the defendant is guilty, he asked the state to furnish evidence to show why this was a non-bailable murder case. The real purpose of making the motion was of course to cause the state to show its cards. In the course of the state's proof as to why a case is not bailable, the defense obtains an insight of tremendous advantage.

A Juror Reflects

It was strange that a law book salesman should have been deemed acceptable for jury service. Yet this young man was selected as a juror in three cases. In one of them a colored man

was charged with being an accessory to murder. The colored woman who had done the actual shooting was brought back from Joliet to testify for the state. In explaining his acquittal verdict the juror said, "She admitted the shooting. We didn't see why the defendant should be punished for it. There was not sufficient evidence offered to show how the defendant had conspired or assisted in the slaying. The state was proceeding along technical lines. According to strict legal rules, the defendant may have been guilty; but the jury was unable to detect this connection and felt that the punishment of the one most guilty satisfied the requirements of the law.

He served in another murder case where self-defense was raised. The deceased and defendant had been in business together. The former had taken fraudulent advantage of the defendant. The accused waited for him and took personal vengeance. While the defendant told a story indicating a compulsory shooting in self-defense, the jury did not believe him. They sized it up as a planned shooting. The defendant was found guilty but his punishment fixed at only fourteen years. The facts were of such an extenuating nature that the judge set aside this verdict and permitted the defendant to plead guilty to manslaughter.

Nonchalant, Though Charged With Murder

A noted gangster was charged with killing an associate in a soft-drink parlor about two years before the trial. He submitted to arrest, claiming that he had been in Paris when the offense was committed. The venerable investigator who had been in the employ of the prosecutor's office for many years now appeared on the defense side of the table. He was opposed by his former associate who had investigated the case for the state.

Important state witnesses either vanished or changed their story when placed on the stand. An unusual sight was the nonchalance of the accused. He appeared boyish, although about thirty-five years of age. During the intermission he joshed with reporters. The impression was given to the jury and spectators that he was certain of the result. His confidence proved prophetic, as he was speedily acquitted.

Neighbor's Quarrelling Leads to Fatal Shooting

Here was a neighborhood feud. The defendant, owner of his home and the head of a large family, was charged with slaying his

neighbor under the following circumstances. There had been constant quarrelling between the two families. Upon the day in question a dog belonging to the defendant dug a hole in the grass lawn of the neighbor. The latter seized the daughter of the accused, standing near the animal, and jerked her arm. This picture sent the defendant into a frenzy. He picked up his revolver and rushed at his victim, firing several shots.

In answer to his counsel on direct-examination, the accused testified that he didn't know how many shots had taken effect. All he remembered was that his daughter was knocked down and that the deceased came after him like a lion. Contrary to the state's version, he maintained that no shots were fired after the first volley.

The defendant exhibited a withered left hand which negatived the testimony of state witnesses that he had led the attack. He made an ideal witness, frequently crying. For twenty-eight years he had worked steadily with a large, nationally-known corporation.

On a previous occasion, his neighbor had attacked a close friend of his and when he saw the defendant looking through the door, said, "You ———, if you come out, I'll kill *you.*"

On the day before the homicide, he had said to the defendant, "I can lick half a dozen like you. I'll kill you yet, you ———."

The defendant told about the threats which had been communicated to his wife on a number of occasions in which the victim had promised "to get the defendant, sooner or later."

The daughter, sixteen years of age, crying constantly on the stand, clinched the verdict for her daddy.

Wife and Baby Sit Behind the Accused in Murder Trial

A young farm-hand, married and the father of a family, was charged with having taken part in a robbery resulting in the murder of one policeman and the wounding of another. An attorney came up to Chicago from a small town in southern Illinois to defend him, bringing along a host of neighbors of the accused to testify as to the latter's previous good character. According to the defense theory, the accused thought that he was being held up by plain clothes men and fired in self-defense.

It was a touching sight to behold the defendant's wife with a baby in her arms, sitting directly behind him. As an additional factor in his behalf, the accused appeared mild-mannered and intelligent. Yet the jury returned a guilty verdict, fixing his sentence at thirty years in prison.

Star Alibi Witness Is the Defendant's Sister

A cab driver was the victim of this robbery. He was to be the only witness for the state. Defense counsel invaded the slums in searching for his own witnesses. He finally succeeded in lining up four friends of the accused, including a Miss Potter, who substantiated an alibi. While communicating with the defendant as the latter sat in the prisoner's chair, defense counsel was stunned with the information that the Miss Potter sitting in the rear of the courtroom was a sister of the deceased. She had never related this kinship. He dared not call her for fear that the disclosure of relationship on cross-examination might completely destroy the alibi.

The testimony of the remaining witnesses satisfied the jury that there was a reasonable doubt of the defendant's guilt.

Defendant, 82 Years Old, Senteced to 14 Years of Hard Labor

This defendant, whose criminal abortion cases occupied the attention of our courts thirty years ago, was again facing Joliet Prison. She was now eighty-two years of age. When the judge asked, "Have you anything to say before I pass sentence upon you?," the old lady did not hear him. Her attorneys informed her of the question, whereupon she declined to answer. The judge then sentenced her to fourteen years of hard labor at Joliet. The phrase "hard labor" sounded startling when applied to this woman. Breathing heavily, she walked out of the courtroom resting her weight upon the arms of men at her side. Defense attorneys moved for a stay of *mittimus* and for a continuation of her bond. They also asked for sixty days to prepare a Bill of Exceptions. The final curtain was perhaps being drawn upon her criminal court experiences.

Plea of Guilty to Murder Arising Out of Burglary

Three Polish boys between the ages of seventeen and twenty were riding in dad's car. It was about 11:30 at night, in midwinter. As they passed an unlighted home, the thought occurred to them to burglarize it. They were ransacking the premises when one of them noticed that the owner was driving his car into his private garage in the rear of the home. The boys ran to the front door but could not open it. They became panic stricken when forced to scamper directly in front of the owner. In the excitement, one of the defendants fired a bullet into the body of a seven-year old boy at his father's side. The youngster died in a few days. A

pedestrian had observed the license number of the car and the police arrested the three defendants within six hours of the offense. The boy who had done the shooting claimed that he had aimed his gun at the ground and shot merely to frighten his victims.

When the case finally reached trial, defense counsel informed the judge that they were advising their clients to plead guilty and throw themselves upon his mercy. Two of the boys called members of the family to trace their life history. While the sisters admitted the waywardness of the brothers, they were bewildered by the present trouble, not believing the boys could possibly be guilty of such a crime. They left the impression that the boys were really good at heart but victims of inherent weaknesses. The third youth on trial had left home at an early age and had no one to testify in his behalf.

Each of the attorneys summed up the points that had been developed in the testimony of the witnesses. In the course of their arguments they touched upon the following matters:

1. The folly of youth.
2. The humble homes of the boys.
3. The age we are living in, including motor cars and jazz bands.
4. Difficulty of obtaining employment.
5. The absence of previous criminal charges.
6. The lack of premeditation. There was an intent to burglarize, not to rob anyone personally, and certainly, not to kill. Burglarizing cannot be reconciled with robbery. Burglars are sneak thieves, as a rule. They do not contemplate meeting the occupants of homes. There never was a thought of killing at the time these boys left their car to enter the house.
7. The family background must be considered.
8. In the Leopold-Loeb case, where there was a clear intent to kill, the boys had been given imprisonment penalties, mainly on account of their youth.

The commission of an act with felonious intent, resulting in a death, makes the offender guilty of murder. This provision was put into Section 145 of our Criminal Code to cover a situation wherein the accused might kill in commission of a crime and avoid a murder charge because of lack of intent to kill. With this provision in force, the prosecution need only establish the felonious act and death. They are not required to prove a specific intent to murder. From this analysis the defense argued, "These boys may

be guilty under our criminal law. Yes, according to Blackstone, they are guilty. But the fact remains that they are not morally guilty of murder, for they did not harbor malice against the victim."

Further arguments of counsel ran along these lines: "The reason discretion is given the court and jury to approximate the proper penalty to fit the offense is in the understanding that the degree of moral guilt varies with different sets of circumstances. Otherwise, all acts of murder would be punished by one sentence. We know that each case is different and stands on its own footing. The personal history of these boys and the manner in which the offense was committed characterize it. This case does not stack up as a murder calling for the extreme penalty.

"You have to take all the facts into consideration in fixing the penalty. Your question is: 'What penalty will satisfy the law?'

"Talk about sufficiency of punishment! These boys are already paying the penalty for their foolish act. On the threshold of life, there is no future for them except punishment. They will pay and pay for this rash act. Only death can terminate the penalty."

Defense counsel had asked one of the defendants, "Isn't it a fact that you knew your confederate, Gordon, only a few weeks?" Answer: "Yes." He also brought out the fact that his client ran to the front door but couldn't open it. This attorney developed the thought that his client did not know about his associate having a gun or firing it. When he heard the report of the weapon he thought that he, himself, had been shot by the home-owner.

The judge fixed penalties of fourteen years, twenty years; and a life sentence for the youth firing the fatal bullet.