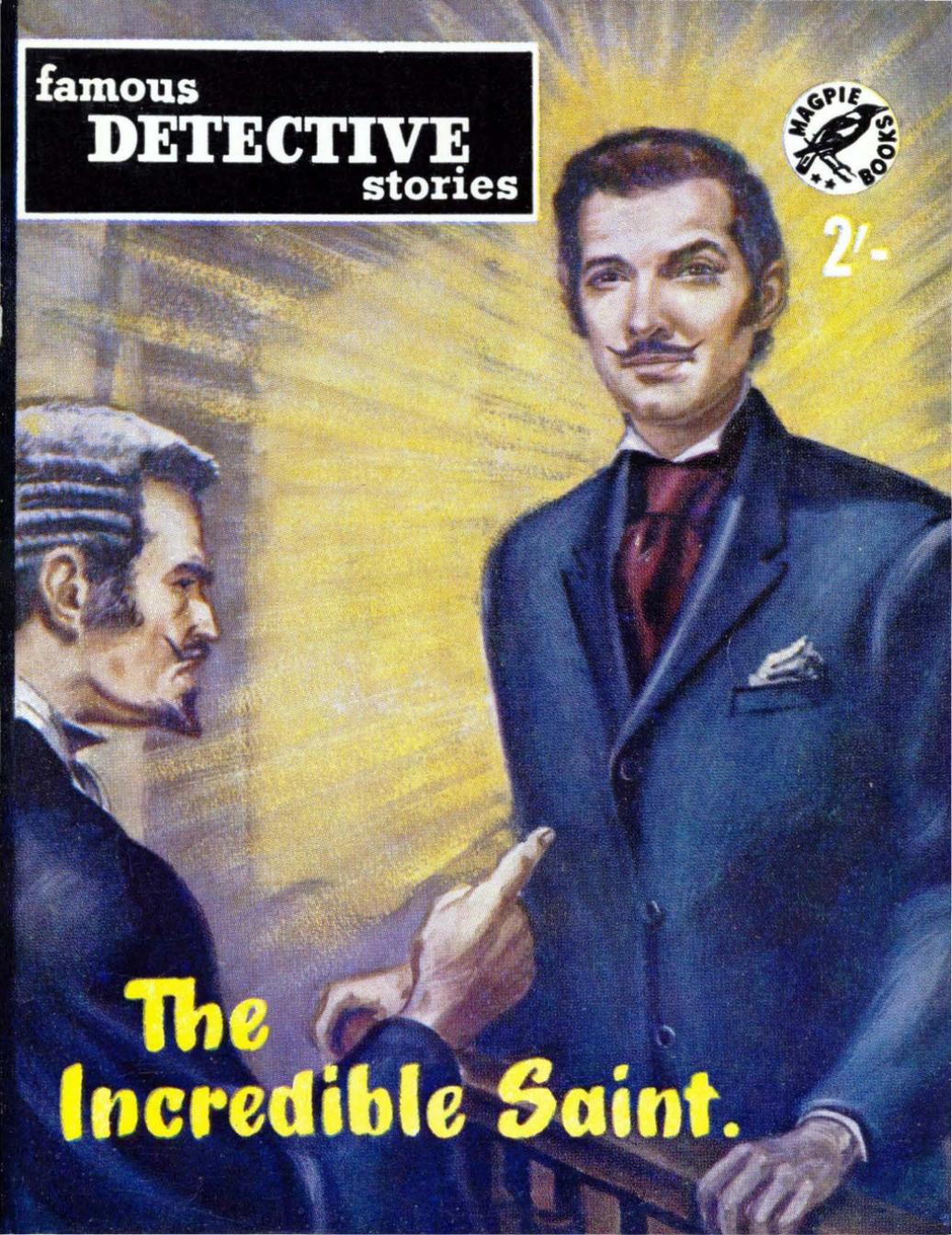


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THE INCREDIBLE SAINT

By CHARLES KAY

Women fell for him wherever he went. The story of an amazing man and an equally amazing murder. What lay behind the mysterious slaying of the voluptuous Mlle Forestier?

ONCE upon a time there lived in the fair country of France the son of the president of one of the lesser South American republics. He was a great lover, a bold and daring adventurer, a thief and the possessor of a heart of stone. To one woman he was a saint.

This incredible saint had a wife and a mistress. And then his eye chanced to fall upon the cultured daughter of a Bordeaux lace manufacturer and he desired her for his wife. When it was pointed out to him that he already possessed one wife (plus a mistress) the great lover proposed that the cultured daughter—it was she who regarded him as a saint—should become mistress number two. Everyone was agreeable, so the incredible saint cast aside his wife and lived happily with his two mistresses and they were all friends together.

Rid yourself of the idea that this is a fairy story. They all lived happily, but not, in the magic fairy-tale words, "ever after." Fascinating people, the French, n'est pas?

The story commences in Paris back in 1885 where, among the numerous ladies of that gay city, was one, 25 years old Eugenie Forestier. Eugenie, by all accounts, was a pretty, well-

dressed bit of goods, bold and brazen as befitted a woman of the boulevards, and doing well at her chosen but deplorable profession. And then she became entangled with that incredible saint, Linska de Castillon. At this stage of his career de Castillon had fallen upon evil times—in fact he was destitute and starving. Eugenie took him in, fed and clothed him, and fell in love for the first time in her life. Heaven knows why. He was said to be fat and unromantic-looking, but he must have had something. Anyway, Mademoiselle Forestier fell and fell hard. She worked for him and put him on his feet again.

De Castillon did not tell her much about himself, but she did learn that he had been a soldier in Cuba and Spain and he never denied his relationship with the president of the obscure South American republic. His name, he said, was simply "Prado." And when later he became an object of interest to the French police, it was under that name that he suffered for his sins.

Not long after Prado and Eugenie set up house together in Paris, on the night of January 14, 1886, to be exact, Prado landed home late and did not appear to be quite himself. As Eugenie later described him, he was covered in sweat and couldn't keep still! He kept disturbing her rest by continually hopping out of bed to wash his hands. Also, he kept smelling them as if they bore some aroma that couldn't be eradicated by mere soap and water.

"Sacre nom de Dieu!" she exclaimed at last. "What is it that ails you, mon ami? Are you taken ill?"

"No, I **am** not ill," returned Prado. "I have just cut a woman's throat. She was settled and done for, all in a minute."

Mademoiselle Forestier had something to ponder over for the rest of that night and on the following morning she was more than interested in Prado's activities. When she saw him burning his boots and clothes, which were liberally dosed with blood-stains and then leave the house with the announced intention of losing his razor, she was given cause for deeper thought. As a result of her cogitation she formed the opinion that friend Prado had gone and killed somebody on the previous night. This opinion was hardened into certainty when she got hold of **the morning paper** and read the sensational headlines.

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A woman named Marie Agaetan had been found murdered in her room in the Rue Caumartin. Her head had been nearly cut off by a razor and there were other wounds on her body.

Eugenie Forestier had little doubt who the murderer was, but she kept her mouth shut. For one thing she was still in love with Monsieur Linska de Castillon, alias Prado. For another, she didn't want to run the risk of having her own throat cut.

Prado did the disappearing act from Paris on the afternoon of the day following the discovery of the murder and headed for Spain. He determined to remain there until the hue and cry had died down. But the Paris police could make nothing of the crime and after long and fruitless investigation, wrote off the murder of Mademoiselle Marie Agaetan as one of those things that occur from time to time, non?

Prado, deeming that the time was ripe and that he was safe, dropped Eugenie Forestier a note to join him at Bordeaux, which she did. They lived in a house they rented from a Madame Couronneau, the widow of a lace manufacturer. Prado gave his name as Monsieur Mendoza. Madame had a pretty daughter named Mauricette, a very nice type of young lady, as kind, virtuous and simple as Eugenie Forestier was tough but handsome. And upon Mauricette, Prado cast his wandering eye.

Prado commenced to visit the Couronneau home a lot and succeeded in ingratiating himself not only with the girl but with Madame too. Madame was a woman of family and breeding, but she fell for Prado's mysterious charms, so much so that she gave him the pet name of "Fred."

One night "Fred" came out into the open, telling Madame that he loved her daughter so much that he intended to marry her. This made Madame open her eyes very wide.

"But, mon cher Fred," she protested mildly, "you already have one wife. You are married to this young woman Eugenie who is with you."

"Nothing of the kind," said the gallant "Fred." "She is merely my mistress. It is the same with all gentlemen and I shall do just the same as they do. I shall break with her."

Madame told him that that would take a hell of a lot of thinking over, but while she was thinking it over, "Fred" was doing

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a bit of spadework himself. Madame was called away from home for a period to attend to wedding preparations for her other daughter, and when she returned Mauricette told her something that made her hot-foot it to "Fred" to find out what his intentions were. She told him he should do the decent thing and marry her daughter so that their child would have a name.

Prado was having none of that. He told Madame that he had once offered to marry Mauricette and had been knocked back, so all bets now were off. He said, however, that he was willing to take on Mauricette as co-mistress with Mademoiselle Forestier.

What was poor, distracted Madame Couronneau to do? She thought the matter out intensely and at length evolved a plan. With Mauricette and Prado she retired for a decent interval to the town of Royan. On their return, Madame told the world that Mauricette and Prado were married. So, being man and wife in the eyes of the world, they lived together, Eugenie making up the third of the interesting household.

Unquestionably, this Linska de Castillon must have been some man. According to what Madame later told the police, every lady who used to visit her worshipped the ground he walked on. Fantastic as it may appear, Madame, Mauricette and Eugenie threw a birthday party for him and all chucked in to buy a special cake to mark the occasion. Mauricette told the cake maker to inscribe the cake with "Vive Saint Louis" in white sugar. Madame, however, thought that the plain word "Louis" would suffice. After all, Prado was far from being a saint!

In due course Mauricette gave birth to a daughter which she named Marie-Louise de Castillon after its saintly father, and life flowed on placidly.

On August 24, 1887, somebody broke into a jewellery shop at Royan (the place to which Madame, Mauricette and Prado had retired for the faked marriage), and stole a goodly collection of jewellery. The police buzzed hither and thither, did no good, and placed the crime on the unsolved list together with the murder of Marie Agaetan 18 months earlier.

Then, on November 28, 1887, a diamond merchant who had rooms at the Hotel du Palais in Paris was rudely awakened from his slumbers by a burglar. He raised the alarm and the intruder

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took to his heels, followed by a bevy of hotel employees. In the street, the hunters bawled loudly for the gendarmes and quite a herd of them set off after the fugitive. When the pace got too hot for him, the burglar turned and opened fire with a revolver, dropping and seriously wounding a gendarme. The others, however, kept up the chase and the burglar was captured. He refused to say who he was, so he was thrown into a cell on a charge of attempted murder, and allowed to rot there until he decided to become communicative. It is a way they have among the lads at the Paris Surette.

Now it so happened that a description of the jewellery stolen in the Royan case had been circulated around the country and one day in December—four months after the Royan theft and a month after the affair at the Paris hotel—two women were picked up and questioned at Bordeaux about certain jewellery in their possession. They could not give a satisfactory explanation, so were gaoled at Marennes.

If you haven't already guessed it, the two females were Prado's mistresses, Mademoiselles Forestier and Couronneau. Prado had done the thieving and had decorated his girl friends with some of the stolen jewels.

The two women had much to talk about while they were languishing in prison and not unnaturally Prado formed the subject of long discussion.

One day Eugenie remarked to Mauricette, "If I were in your place, ma pauvre petite, I should not like to have a child by the name of Linska."

"Why not?" asked Mauricette.

"I will tell you another time," said Eugenie.

"No, please tell me now," begged Mauricette, her interest, quite naturally, fully aroused.

"Tres bein," said her fellow mistress, "but you must swear by le bon Dieu, that you will not repeat what I say to anyone else."

Muricette swore by all the holy saints she could think of that her lips would be sealed tight.

"Our Linska has murdered a woman, one Marie Agaetan," said Eugenie in a thrilling whisper and when Mauricette had recovered sufficiently for further details, Mademoiselle Forestier gave her the

lot, winding up by saying that there would be no need for her to go spreading the yarn about because she, Eugenie herself, intended to tell the authorities all about it. And she did too.

It might be explained here that French criminal detection and procedure is totally different to that practised in British countries. In France an accused person is presumed to be guilty until he is proved innocent, whereas the reverse rules in the British Commonwealth. In France they have what they call a "juge d'instruction," or examining magistrate, who takes the place of a lower court hearing here. This juge d'instruction gets hold of witnesses and accused alike and grills the life out of them, no holds barred.

When he is satisfied, he sends the case on to the higher court presided over by a judge, or president. This president goes into intimate detail, dragging up the past of an accused from the day he is born, accusing him, insulting him and assuming that he is guilty. It is up to the accused to fight back the best way he can. Again, the accused has to answer each prosecution witness as he is called and anyone, practically, during a trial can take a hand in it.

It is well to bear these facts in mind when considering this Prado case, in fact when considering any French trial, because the method of procedure is utterly foreign to our Australian courts, and would not be tolerated for a single moment.

Anyway, Eugenie Forestier was hauled up for questioning by the Paris examining magistrate, Monsieur Guillot, and to him she told the same story she had told Mauricette. Guillot immediately got to work looking for Prado (who was languishing in gaol for the Paris hotel affair). He managed to discover that Prado had been married in Madrid (Spain) in 1879 to a woman who had £7000. Prado lived with her until the money had been spent and then, in the words of the A.I.F., he "shot through."

Eventually, by painstaking investigation, Guillot hit the trail that led to Prado but it was a solid 12 months before the great lover could be placed in a criminal dock. Guillot got nothing out of Prado himself except denials and evasions, but he did have a string of witnesses for the prosecution when Prado was placed in the dock with his two mistresses at the Paris Court d'Assizes on November 5, 1888. He had refused to engage a

lawyer, informing the authorities that although he might not be a Cicero or a Demosthenes, there was no better advocate in the whole wide world than himself, Prado.

And then there began one of those scenes very common in French courts, where witnesses can say practically what they like and which the Paris Press publishes in long detail.

Prado opened the ball after he had been charged by informing the President, Judge Horteloup, that he was going to read out a long address.

"That is what you think," retorted the judge. "I shall ask you questions and you will answer them. Let me make the position quite clear. You can only speak when I permit you to do so, but I shall treat you very liberally in that respect."

This was a laugh. His Honor knew well that Prado would speak when he liked and to whom he liked, in time-honored French fashion. It should be noted, too, that the case opened with the judge grilling the accused. In British courts the prosecution first presents its case and then the accused is called upon for his defence. The judge does not act as a prosecutor either.

His Honor commenced by asking Prado to give his correct name. Prado replied that he went under the name of Linska de Castillon and that he alone could prove whether he had the right to it.

"And I don't see fit to furnish the necessary proof," he added defiantly.

"That's all right," replied the judge, not batting an eyelid. "You shall be tried by that name. I will only add that we don't know who you are, and what we know of your past is derived from what you yourself have stated to the examining magistrate."

Prado, with some gusto, then proceeded to libel the said examining magistrate.

"Let us not discuss these stories," he told the judge. "I will tell you what they are worth. In certain pleasure resorts one pays for what one has had in money. In the cabinet of a juge d'instruction, which is not infrequently turned into a boudoir, and in which I was allowed certain indulgences, I paid for them with the only money I had—my imagination. I wanted to show Guillot that I had as much imagination as he; but I must admit that he

had more than me. They wanted to make me out a Fra Diavolo or a Rob Roy and I was good enough to lend myself to this fabrication, but today I declare its falsity and denounce the whole instruction as immoral and unjust."

"You were married in Madrid in 1879, you deserted your wife after spending her dowry of about 50,000 francs and you returned to Paris where in January 1886 you were short of money. That's right is it not?" asked the judge.

"Rubbish," said Prado. "I lived by my pen as a journalist and was not in need of money."

"Oh, we've got witnesses here to prove that!" said the judge. "Anyway, where did you get the money with which to make a hurried trip to Spain on January 16, the day after Marie Agaetan was murdered?"

"I had won 200 francs at the gambling table. One wins. One loses. Any young man about town knows that," said Prado.

"Very good. We later hear of you at Bordeaux where you are living with a woman named Forestier under the name of Mendoza. And didn't you rent a cottage from a Madame Couronneau?"

"Mais oui!" exclaimed Prado. "You see, Monsier le President, I had seen the charming Mauricette and she made such an impression on me that I determined to marry her at once."

"Diable!" ejaculated His Honor. "But you were already married!"

"Oh, that?" asked Prado airily. "That was under an assumed name, and doesn't count at all!"

"No? Well, this counts—under a promise of marriage you seduced a young and charming girl, Mademoiselle Couronneau, and she soon became in a certain condition," said the judge.

"Well, what of it? That is just the natural consequence of our intimate relations. Anyway, the thing had gone on itself. You see, I met the charming Mauricette just at the psychological moment when the first lover that comes along is always welcome."

"Callous dog!" stormed the judge. "Why, cochon, at this period you were still on intimate terms with Eugenie Forestier and at the same time were living on Madame Couronneau, the mother of la petite Mauricette!"

"You make me tired," snorted Prado.

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"Sacre blue!" shouted His Honor. "Enough of this! You stole the jewellery at Royan on August 24, 1887, and you tried to rob the man at the Hotel du Palair on November 28, for which crime you were arrested. Deny it!"

"I don't deny it. Certainly I received some of the jewellery from the Royan affair and I cannot get out of the hotel business. I was arrested for it on the spot," said Prado candidly.

"And you murdered callously, Marie Agaetan!" shouted the judge.

"I did not!" roared Prado.

"You did, and we have the words of your two mistresses to prove it," screamed His Honor, beside himself with fury. (Can you imagine a British or Australian judge carrying on like that?)

"You confessed the crime to Eugenie Forestier. Deny it, villain!"

"I am not guilty of this terrible crime," screamed Prado. "What is more, I cannot be condemned on the unsupported declaration of a hussy like Forestier. I want the jury to judge me by what they hear today. I have confessed to certain things that I now retract. I only did so to back up the statement of Mauricette Couronneau. If she had told me to sign my death warrant I would have done so. Is it strange to worship such a woman? Who would not give the whole world for her?"

"But she is your accuser!" the judge pointed out.

"Yes, and do you know why?" demanded Prado. "I'll tell you. She has been promised her liberty because a German has offered to marry her. And she, still warm from my embraces, will sell the head of the father of her child! Mon Dieu! Can't you see it? She has yielded to the hellish art of Eugenie Forestier. These two women who were ready to pull out each other's hair in the streets of Bordeaux, have now become sisters in their plot against me! Ah, gentlemen of the jury, you have been promised an interesting trial. Well, it will be more interesting than even you can imagine."

"I can see from this your system of defence," said the judge.

"What do you mean by my system?" demanded Prado.

"Oh, well then, your explanation if you like it better," said His Honor.

"That's better," snorted Prado. "I have no need for a system."

I simply speak the truth, which is easy for an innocent man. Who knows but, when this trial is at an end, I may pick up this charge you have flung in my face out of the mire from which it has sprung and use it as a scourge for my accusers today. All men will applaud the verdict of acquittal which I look for from this court."

"An optimist," observed His Honor. "Now touching the evidence concerning the murder of Marie Agaetan. At 11 o'clock on the night of January 14 the woman returned home with a man. At 4 a.m. on the morning of the 15th she was found murdered. She was seen the previous night at the Eden Theatre with a man whose description closely answers to that of you. One witness particularly describes the man as precisely like you—small round eyes, short hair, pale complexion, cynical manner. We have seen that cynical manner here."

"How nauseating!" exclaimed Prado. "Cynical? If a prisoner holds up his hand he is called impudent. On the other hand, if he is prostrate with grief, he is told that he is overcome with remorse."

"That is not an answer to a question but a speech for the defence," said the judge.

"Each of your questions has been a speech for the prosecution so each of my answers is obliged to be a speech for the defence," snorted Prado.

"You have said most contemptuous things about the character of the woman Forestier," said His Honor. "You once thought very different of her."

"But of course. When a person is your friend you naturally think him to be honest, but if next day he knocks you on the head with a stick, you don't still say he is a good fellow. That would be ridiculous!"

"When you came home to Eugenie Forestier on the night of the murder your manner was peculiar and you spoke of the murder of Marie Agaetan before it was even known to the public. On the morning of the 15th you even joked about the murder of Marie Agaetan. 'One woman the less,' you said, 'I'd willingly kill every one of them.'"

"That would hardly be in accordance with the principles of a man who appears here today with two mistresses by his side and

a wife about to appear in the witness box," said Prado haughtily. "However, I admit that if they were all like Eugenie Forestier, it would be a pleasure to get rid of them."

There was some more give-and-take between judge and accused before His Honor called Mauricette Couronneau into the witness box "to swear Prado's life away" as that gentleman bawled at her. The look of intense hate she threw at him should have shrivelled him on the spot, but this Prado was tough, mighty tough.

There was very little tact and finesse about Judge Horteloup. As soon as Mademoiselle Couronneau entered the witness box, His Honor fired at her the direct question, "You have been Prado's mistress, haven't you?"

"I have been cruelly deceived and very unfortunate," replied mademoiselle, dodging the direct answer.

"In what way?" the judge wanted to know.

"He promised to marry me; but I had hardly known him before he began to distress me. He used to threaten me. Before I became his," she went on, getting up steam, "he told me that I should belong to him or he would kill me. He came constantly to our home and I got to love him. When our child was born he again promised to marry me when it was baptized. He often used to be away and I thought he was working. I always looked forward to marrying him."

The judge then questioned her concerning the conversation she had had with Eugenie Forestier in the gaol at Marennes during which Eugenie told her of Prado's confession that he had murdered Marie Agaetan. Mauricette repeated what Eugenie had told her and added that the terrible news made her very miserable. She decided to confide in her clergyman, Monsieur Grener, and did so. The parson rebuked her for not telling the authorities and pointed out that she ran the risk of being named as an accomplice. Later she mentioned this to Eugenie who told her that she herself intended to inform the police which she, in fact, did.

Mauricette said that Eugenie was very cut up about the whole affair and cried a great deal during her recital of her suspicions and of Prado's actions. Eugenie did not seem to be actuated by motives of revenge, rather did she seek to exonerate Prado when she was being third-degreed by the juge d'instruction.

"Is it true that you are now betrothed to some German?" asked His Honor.

"That is so," she replied.

"Prado says you have given this evidence against him so that you can get rid of him and marry your German lover," observed the judge.

Mauricette replied that there was truth in that, but she had certainly not invented the story. It was perfectly true.

"You hear this, Prado?" asked His Honor. "What have you to say about this young lady's accusations?"

"Sacre nom d'un chien!" snorted Prado. "What have I to say? Bah! Monsieur le President, to reply to this foolish young girl, whose presence here I utterly deplore, would be to embark upon an entire speech for the defence. I haven't the time for that now, but as her evidence is so grave, I will reply to it in a few words. This woman is simply unworthy of credence for the sole reason that she wishes to bring under the knife the head of the father of her child.

"But, Monsieur le President," he went on loftily, "I can be magnanimous. The resentment of the lover is merged in the feelings of the father and I desire her to be free that she may return to her child and watch over her until I take her in my arms again."

"I will never give the child back to you," yelled Mauricette from the witness box.

"Don't try to shield behind your child," said Prado. "You lost that right on the day you deserted her cradle to deliver her father to justice. And you said that you loved me."

"So I did. It is true that I once loved you. But not now," said Mauricette.

"She has loved me!" exclaimed Prado to the court in general. "How grotesque! What a woman! There she sits—she who had neither the courage to support me, the constancy to remain faithful to me nor the ordinary shame that would have obliged another woman to put a decent interval between one lover and another."

"I have had no other lover," protested Mauricette. "The man I am going to marry is a good man. You have ruined me and he wishes to rehabilitate me. I forbid you to speak of him."

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"You received visits from this German swine while you were in prison at Marennés," said Prado. "You have lent yourself to all this—to these confidences of Eugénie Forestier—at the exact moment when it was expedient for you to get rid of me to give yourself to this German dog. Just in the very nick of time you found everything to hand, even down to this Protestant pastor. It is a funny thing, but nothing you have said today occurred to you when you were before the juge d'instruction."

"I told the truth to the examining magistrate," said Mauricette.

"And set a pretty trap for me with his assistance," said Prado. "I was forced into a corner by this young girl and the juge d'instruction."

"One moment, Prado," interposed the judge. "You are lying. The juge d'instruction allowed you to have private interviews alone with Mademoiselle Couranneau in a room adjoining his office."

"Interviews which were just traps set for me by the juge d'instruction to try to discover the secret of my birth," snorted Prado.

"That is a lie," interjected Mauricette. "You yourself asked for these interviews with me in private, appealing to the juge d'instruction that you wanted to be alone with me. The magistrate was full of kindness and permitted it, and you used our meetings to try to persuade me to help you to escape by climbing through the window."

"Bah!" exclaimed the baffled Prado.

"And what is more," added the judge, "what about the letter you wrote to mademoiselle describing the defence you had planned?"

"What do you know about such a letter?" exclaimed Prado.

"I've got it here," answered the triumphant judge, waving a screed at Prado. "It is all in black and white what you intended to do. This was the end you had in view when you besought the juge d'instruction with such earnestness to allow you to have private interviews with Mauricette Couranneau."

"That is a lie. Mauricette is not telling the truth. The door was always shut. It was I who fastened it."

"What door?"

"That to our love."

"What this wretch says is false. He would scheme to dishonor me. He lies as he always does," said Mauricette wildly.

"I can prove what I say is true," said Prado. "I have it here in a letter you wrote to me a fortnight before the trial."

"Hand it over," ordered the judge and Prado did so. In the letter Mauricette stated that since Prado had expressed the wish never to see her again, she was writing to him for the last time to assure him that she had suffered martyrdom and that he had made her weep many tears. The screed finished up with, "I don't want to live. The sooner I die the better. Goodbye from your darling child. Goodbye forever, but I shall never forget you." There was a postscript, "Goodbye, papa. Mamma loves you and so do I." This was signed "Marie-Louise."

"I had loved him once, Monsieur le President," Mauricette told the judge. "There are some things one cannot forget, especially when one is a mother."

"Such rubbish!" commented the flinty-hearted Prado.

"Callous wretch!" observed His Honor.

Next witness was Eugenie Forestier. She told the court that she had picked Prado out of the Paris gutter in 1885 and had sacrificed everything for him. He was content to live upon her shame. And yet he was the only man she had ever really loved.

Eugenie then detailed her association with Prado and told the court of his confession of murder.

"And you adhere to this statement?" asked His Honor.

"Absolutely. Linska told me all this. How could I have invented it when I never saw a soul? I have lived shut up with him."

"What of the occasion that you lived with a Turk?" asked Prado nastily.

"I have never been kept by a Turk!" screamed Eugenie, leaping to her feet in the witness box and shaking an indignant fist at Prado. "It is an infamous and an abominable lie. But it does not surprise me. You have so often told me that you worship a good liar and that you have never known a finer liar than yourself. Ah, you scoundrel! No, 'scoundrel' is too good for you!"

At this sally the court burst into hearty laughter and was rebuked by the president who reminded the audience that a man's head was at stake.

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"Nothing of the kind," said Prado. "My head is all right."

"Incurable optimist," observed Monsieur le President.

Next witness was Madame Couronneau, the lace manufacturer who had bestowed upon Prado the title of "Fred." She told the court how Prado, or as she first knew him, Monsieur Mendoza, and later Linska de Castillon, had come to her at Bordeaux with Eugenie Forestier, who he had said was his wife, and had rented from her a little cottage near Bordeaux.

Prado, she said, often visited the Couronneau home, the attraction being her daughter. Prado apparently fell in love with the girl because he said he wanted to marry her. Witness said she pointed out to Prado that he was already married to Eugenie, but Prado had replied that Eugenie was merely his mistress and he would desert her for the pleasure of marrying Mauricette.

"I felt that Monsieur Linska was very distinguished and he seemed to me to be straightforward also," Madame told the vastly interested court. "All the ladies who used to visit me worshipped him and were always saying how nice and charming he was. However, I could not quite make up my mind to accept his proposal until I called together a kind of family council. I have never come to any decision without consulting my sons-in-law and we all came to the conclusion that the marriage was not a suitable one.

"I therefore announced this to Monsieur Linska, and he seemed distracted. Shortly after this I was very busy over the preparations for the marriage of my third daughter to a medical student. I was a great deal away from home and Monsieur de Castillon took advantage of my absence to seduce my daughter who, before, had not even known the meaning of the word 'sin.'

"After the discovery of my poor child's condition, I entreated Monsieur Linska to marry her. This he refused to do, saying that he was quite unable to comply with my request. I was desperate. Then Linska agreed to a plan. Mauricette, Linska and I went to Royan for some time and on our return I informed my friends and others that Mauricette and Monsieur de Castillon had been married.

"From that moment, as they were posing as man and wife, they were compelled to live together, he and she. This is what I did

and I know that I ought not to have done it. I ought to have kept my daughter to myself, but we were, so to speak, all fascinated by this man."

"Ma pauvre madame" murmured the sympathetic judge.

Madame Couranneau did not spare herself in self-condemnation, and she wound up her pathetic story by appealing to the jury to be merciful towards Mauricette.

"I beseech you to be merciful," she cried. "Believe me, my daughter is innocent. She loved and there you have the whole story. She is pure and honest and I cannot tell you what she was to me. We are indeed unfortunate!"

There was hardly a dry eye in court and when Prado saw some of the jurors weeping copiously, he must have known that he was a gone coon.

There were several other witnesses who added their little bits of evidence, tying up loose threads and then the judge indicated to Prado that the floor was his.

"Gentlemen," he said to the jury, "I have been painted here in all colors, some the most brilliant. You have heard them for yourselves. I have been called a sorcerer, a charmer and so on. Would that I had been a charmer of snakes for they would not have stung me. Would that I could charm you, gentlemen, so that you should say to me, 'Go home and take your child in your arms.'

"I have been credited with such an excessive degree of ability and intelligence that you might think me the more responsible for such offences as I have committed, however immoral their character. Alas! My intelligence and my ability only with difficulty instruct me how I should begin my speech and what I should say to you.

"In the first place, who am I? What does that matter? I am an unfortunate. They say I am an adventurer. Mon Dieu! Launched on this vast sea of human affairs, I have yielded too readily, perhaps, to the beating of my heart and the surging of my brain. I have been represented as a Lovelace and a Don Juan. I am the first to hear of it. I am only sorry that I did not know myself that I was possessed of these qualities while I was free, because then I could have put them to some advantage and

THE INCREDIBLE SAINT

should have got something better out of them than the two mistresses who stand beside me in the dock.

"Remember, gentlemen, that in striking at me, you strike at my child—the child who, I give you my word, I long to take in my arms. My punishment already has been greater than any you can inflict. I have endured enough to shatter a thousand, I, who am only one standing alone.

"I admit that, as my mother-in-law, Madame Couronneau, has told you, I am no saint. But today there stands between me and wrong-doing an impassable barrier, the cradle of my infant, and if you hold out to me that helping hand which I have so long sought in vain, then by your aid I shall start on a new and happier life. This is my hope.

"Hear this, the last utterance of my soul, and do not withhold from me your forgiveness for such faults as may be laid to my charge."

The jury retired and returned with a verdict of murder against Prado and not guilty on all charges against Mauricette Couronneau and Eugenie Forestier.

Prado was sentenced to death and duly met his end under the keen blade of the guillotine.

One point was never cleared up—the reason why the incredible saint murdered Marie Agaetan.

BALDY

By F. J. LYNCH

Bitter enemies they met for the last time in a prison cell. The result of their meeting provided business for the undertaker and the hangman.

THE events here recounted were run off back in the days when the world was wide and not nearly as keen. One evening in 1870 Baldy Robins, tramp at large in the Western District of Victoria, was making a slow advance in the direction of the Eumeralla River. The weather was as cold as a bald devil without pants, and Baldy was worried by thoughts of the freezing night that lay ahead of him. Thinner the blood, slower the flow, when 60 years lie astern.

As he moved slowly along he recalled the days when he had worked for his father on the latter's cattle station, and remembered that the hours were many and the pay infrequent. But then he remembered that in those days gone by he always had a warm bed to sleep in and tucker galore.

In fact the senior Robins became one of the earliest of the Victorian Western District cattle nobility, and was firmly convinced that the sun rose behind his stables, and that the fixed stars set in his coat-tail pocket.

This first of the line ("Baldy" was the last) early noted that his

son was the kind of man unlikely to have £100 when there was a pub about, and he held the reins tightly. But he was ambitious, and in later life he over-reached himself financially and crashed, said crash greatly assisted by a succession of bad seasons. But long before that sad event in the annals of Victoria his son "Baldy" had become one of the most experienced swagmen both north and south of the Murray River. Some time prior to the point at which this story opens he had decided to take a look at the district in which he had spent his boyhood. Already he was regretting the impulse, for aided and abetted by a stiff blow straight from the Antarctic the weather was engaged in a steady freeze.

Suddenly the man with his bed on his back and his cooking utensils in one hand came to a standstill, and in the gathering gloom focused his eyes on what appeared to be a structure in the forest.

Any port! "Baldy" inspected it at closer range. It was an old splitter's hut, and because it had been stoutly built it had made fewer concessions to the passage of time than most of its kind. "Baldy" moved in, and soon had a fire going in the dilapidated fireplace. After warming himself he went outside to gather wood enough to keep the fire going all night, and also to fill a billycan from the Eumeralla, which stream he found to be closer than he thought. "Luck's with me, and no mistake," said he to nobody in particular, as he warmed himself at the blaze and watched the water coming to the boil.

Unfortunate "Baldy"—he wasn't as lucky as he thought!

On the wings of the gale smoke went tearing across the landscape.

The perfumes of Araby have come in for much eulogistic comment. Orange-blossoms also subtend a pleasing fragrance, as often stated. Nor do I wish to decry these memoried odors, but—give me the smell of burning gumleaves in the bush! At about a quarter-mile range the characteristic Australian aroma reached the nose of "Curly" Burke, who was busy shuffling through the gloom and wondering hard about shelter for the night.

On receipt of this ethergram "Curly" inserted a slew in his progress, left the road and travelled against the smoke-drift. Inside a minute he proved that his nose was still a reliable institu-

tion, for he sighted the hut in the trees and saw the flames winking at him through cracks in the chimney.

By way of the crackling underfoot of dry leaves and bark "Baldy" heard him coming, and he opened the door. How could he know, as he peered into the gloom of the bush, that he had opened the door to—Death!

In fact "Baldy" thought the visitor had come to turn him out, but he was completely reassured when "Curly" dressed in rags stepped into the firelight. "Curly" also was comforted, for the man in the hut might have been an employee of the land-holder who would object to company. But when each saw in the other a man whose clothing was in as much need of reorganisation as his own, both were satisfied. "Wipe your boots," said "Baldy" facetiously.

"Curly's" true name was Cornelius, but in his younger days he had used his head to support a dense mass of curls, hence his nickname, which was so universally used that in course of time his christened name came to be forgotten. Long since "Curly's" mop had come undone, but the well-worn nickname held on.

In his native London "Curly" had endangered the safety of the realm by stealing 12 pounds of beef. But he was awkward at it and was caught, which fact later enabled a Judge to sentence him to 12 years transportation to New South Wales—one year per pound of beef. Clearly enough Britannia was annoyed A.D. 1842. Had "Curly" stolen a whole side of beef he possibly would have been hanged, or exiled to the moon.

In New South Wales and later in Victoria "Curly" became a person of no fixed abode, and a debit to the country generally. In 1848 he crossed the Murray at Castle Donnington (Swan Hill of today) and continued south, till he fetched up on the banks of the Eumeralla River.

As "Baldy" an hour or so before, now "Curly" thought that the Goddess of Good Fortune at him had directed her smile. He "showed willing" by going outside for more firewood, and added bread and a nice piece of beef to the common store, whereupon the strangely met couple had their first meal together. Twin dead-beats, nomadic by instinct, both endowed with a reverence for beer, they agreed on all points that mattered, and with the

prospect of a warm night or two ahead of them the world appeared a less tough planet.

The partnership which was entered upon seems to have been harmonious enough for all needs of two men "on the track," and month after month they travelled the dusty tracks of the time in company. Occasionally one or both dropped into casual work, following which periods they called into some collection of iron shanties miscalled a town in the '40s and invested the proceeds in beer. Love's young dream never proceeded more sweetly than the partnership of "Baldy" and "Curly" in days a-gone.

In this sharing his lot with a comparative stranger "Baldy" Robins was not the first, as he was not the last, to go wandering Australian roads with Death in the form of a mate keeping steady pace beside him; nor were they the first pair of mates who ended by quarrelling. Perhaps it was the intrusion of a third man that led finally to trouble.

When again the weather turned crusty, swirling up from the south in a succession of frigid gales, the pair were lucky in finding an unoccupied hut on Tea-tree run, near Colac. It was an even better shelter than the splitter's hut in the forest, and sitting in front of a good fire the men yarned and all seemed well. But suddenly the door was opened and a man literally burst into the hut. Discord! He could "cap" anything.

During the day the partners had seen a team of bullocks hooked to a tree, which had fallen across the entrance to a blacksmith's shop, but which they had failed to move. The addition of six bullocks had turned the trick, and the log was dragged clear.

"Call those poor squibs bullocks," snorted the newcomer. "I've seen teams of half their number that would pull hell out by the roots."

Bad times! They didn't know what bad times were. He had met a man who was starving, when a crow hove in sight. That crow was the nearest approach to mutton that he had seen in four days, so he gave chase. Whenever the bird tried to rest in a tree he started him into the air with stones—and that fellow could throw a stone, too. On the afternoon of the third day the crow was showing signs of weakness and by the afternoon he was completely knocked up, and the man captured him.

"I am sorry to have to add that this genuine battler wasn't repaid for his labor, for the crow was very tough and hard to digest," said the newcomer, "but I take certain pride in even only knowing a man who ran after a crow for three days. YOU talk about hard times."

Then the stranger commenced a story about the dryness and general dreariness of life in Australia which threatened to go on till it reached back to the Deluge; and the partners went to sleep.

In some way unexplainable the advent of this talking machine led to slight asperities between the partners. A full-bodied asthma reached for "Baldy," and his coughings and gaspings annoyed the ex-Londoner, and that was perhaps the first whisperings of a storm of dislike that later was to burst into a tornado of hatred.

With the easing of the weather the stranger went about his business. Thereafter for no reason that could be tied up in a parcel and put in a box the partners were never again quite the same to each other. On occasion there were "words." No longer were they twin souls with but a single throat, two hearts that boozed as one.

Out of his early training on his father's property "Baldy" understood how to butcher a sheep, and on occasion the two dined on the best loin chops in the district. "Baldy" held that a crisis was again in attendance in the form of a shortage of edibles, and that another sheep was due to breathe its last; and in due course one breathed as stated.

In a wayside inn some hours later, whilst the pair were handling a quantity of beer on the latest principles, "Curly" was absent a minute or two—just long enough to inform on his partner.

To kill a sheep, where a sheep is a sacred animal! Poor "Baldy's" arrest was as near as possible immediate, and on the following day he was travelling by coach bound for Geelong Gaol. That was "Baldy's" mistake.

Without his ex-partner, who had attended to all the firm's thinking and most of the victualling, the ex-Londoner was as helpless as a butterfly in a thunderstorm. He lost weight with every stride, and probably already regretted his perfidy. Even an informer must eat, and perforce "Curly" essayed to steal a piece of beef from a butcher's shop. But he had the same luck as he had had in his

native London—and that was “Curly’s” mistake. He was caught and logged. In truth he was tethered to a log, for in the early '40s every village didn't possess a gaol.

Two days later, under escort, he also was on the road to Geelong Gaol.

At the period here written of, telegraphy had not yet burst upon a wondering world, therefore the trooper in charge of “Curly” did not know of “Baldy’s” lapse, or his present prisoner’s share in the transaction. It followed that the gaol authorities were unaware that there was any reason why this later prisoner should not be tossed into the cell occupied by the recent arrival from the same quarter. And tossed he was! That was “Baldy’s” bad luck. Even as chance had brought them together at the lonely hut in the forest, so now mischance had brought them together in a lonely cell.

It might have been the occasion of garrulous reminiscences, and a comradely, if not hilarious reunion. But it wasn't. Instead murder was done. We cannot blame the authorities for having placed the two men together. The officials could not be expected to sense that at the moment that division of New South Wales later known as Victoria probably held no two men who more surely should have been kept apart.

At the time when the cell door was unlocked and “Curly” thrust in “Baldy” was asleep. But he soon awakened, and thoroughly aware of this late partner’s infamy, he used grammar in his opinion appropriate to the occasion. Indeed he called him adjectives and nouns of shocking import and then made to follow up with his fists. The ex-Londoner met him—with a length of hardwood. “Baldy” crashed, and shortly passed beyond the reach of medical aid. That was “Curly’s” bad luck!

A warder close at hand heard a frenzy of noises coming from the cell occupied as he knew by two old men, both nearing their 60th milestone, and marvelled that two such elderly occupants could make so much noise. He opened the door for closer inspection, and was nearly knocked off his feet by the rush that “Curly” made to get out of the cell. But long experience had reacted that the warder needed no warning. Instantly he closed powerfully on “Curly” and brought his attempted rush up all

standing. Inspection showed the cell in vast disorder—and worse. “Baldy” lay on the floor, bleeding heavily, and plainly enough outward bound.

Swiftly the gaol’s medical men inspected the smash, and said that “Baldy” had ceased breathing immediately following the blow.

In due course of law “Curly” was charged with murder. The case was considered by and large—the alleged attack “Baldy” had launched when he saw who his cell-mate was, was of course an important plea, powerfully pressed by counsel. Indeed, at this distance it would appear that “Curly” deserved acquittal, but the fact that the jury consisted of bushmen suspected of a particular “derry” on the informer, whether justified or not, told heavily against the ex-Londoner. Probably had the foreman expressed ALL his opinions he would have added to his finding a remark that all informers should be hanged. Whatever the reasoning the decision of the twelve left the Judge no choice but sentence the accused to death; and he added a remark that “Curly” should prepare to meet his maker at an early date.

The Old Man in the dock disclaimed any desire for instructions. “You look to yourself,” said he. “Don’t bother about me.”

“Curly” for some obscure reason was removed to Ballarat Gaol, there to await the hangman’s grisly attentions. History records that he seemed quite indifferent to his fate. Perhaps he was fortified by the reflection that his cause was just—that he had done what any other man would have done in similar circumstances and with similar provocation.

When informed by the Governor of the Gaol that there was no chance for him he replied: “Oh, that’s all right. Don’t let that worry you. But could you get me a fill of tobacco?”

On the final day great difficulty was experienced in waking him for his execution; and when finally his befogged intellect seemed to grasp that something untoward was afoot he cursed everybody vehemently for disturbing his rest over such a trifle! And he made to settle down and once more drop off to sleep.

The minister of religion who attended him was so sure of “Curly’s” imbecility and pleaded so hard that he secured what might truly be referred to as a deathbed postponement of the execution, and got a Medical Board appointed to inquire into

the matter of "Curly's" sanity or otherwise. Deliberations were hasty, and it seems clear that the Board was much more interested in finding "Curly" sane and hangable than otherwise. It decided that one phase of his behaviour gave presumptive proof of cunning which required intelligence. This, it was held, proved him perfectly sane. It seems to me that such a test, applied today, would promptly empty all our mental asylums.

"Curly's" last remark this side of Eternity stands alone in the history of the world. Said he to hangman and the spectators generally: "I never liked 'Baldy' after the night he used my boots for a pillow—that started it."

And "Curly" swung.

THOSE DEADLY WHITE POWDERS

By C. F. J.

Dr. Spilsbury, world-famous pathologist, helps forge the chain of evidence that sends the dapper Major Armstrong to the gallows. The dramatic story of a famous British trial.

IT WAS a great joke among the citizens of the little Welsh town of Hay that its railway station was in England, just across the English border, and each newcomer was soon told the joke which was usually accompanied by loud guffahs, as if this information was to be kept a dark secret until one discovered that the point of the joke was that many travellers desiring to reach Hay had taken a train to a station on the opposite side of the river Wye, which was in Wales, instead of to Herefordshire in England where the railway station was, but that standing joke was completely forgotten for a time when they heard the almost incredible news that one of their leading citizens, and a solicitor at that, had been arrested and charged with the murder of his wife.

The solicitor was Major Herbert Armstrong, a very popular Englishman, who had practised his profession in Hay for many years.

Everybody in Hay and the surrounding neighbourhood knew Major Armstrong. Even I, practically a stranger in Hay, had met the dapper Major, who was a small, slight man with blue eyes

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and who weighed no more than about seven stone. Smartly dressed with a flower in his buttonhole, he sported a highly waxed moustache, and wore rimless glasses, and I could not help but notice that the Estate Agent with whom I had business in Hay and who shared an office with solicitor Armstrong, in the one and only main street of the town, stressed the military title "Major" as he introduced him to me.

After the Major had excused himself by saying that he had to go to the Courthouse, where he was also clerk to the local justices, the agent told me that since Armstrong's return after war service he called himself Major Armstrong and seemed to attach much importance to his military rank, but in discussing this little idiosyncrasy of solicitor Armstrong we both discovered that we had been buck privates in the same 1914-1918 scrap, and agreed that we had no desire to retain OUR military rank and left it at that.

I had not, of course, met Mrs. Armstrong for she had been dead and buried for something like the best part of a year when the bombshell fell, which stunned nearly all the citizens of Hay. When I say nearly all, I believe that four or five people in Hay were expecting that bombshell to fall at any tick of the clock. One was local physician Dr. Hincks, another was solicitor Martin, the latter's wife, Mrs. Martin, and no doubt the senior officers of the Hay police.

As tongues began to wag in Hay one soon learnt the preliminary happenings leading up to the dramatic arrest.

The legal business of the town and the farmers in the neighbouring countryside of Hay was in the year 1921 conducted by Major Armstrong and Mr. Martin, whose offices faced one another across the street. Martin, also a returned soldier, had the more successful practice of the two although he was not as popular as Armstrong and the efforts made by Armstrong to rid himself of a business rival undoubtedly led to Armstrong being charged with the murder of his wife.

Mrs. Armstrong, who had become suddenly ill, had been removed to a mental asylum, then after a period of treatment had been returned to her home, died on February 22, 1921, and was buried at Cusop Churchyard, not far from her home, and shortly after Major Armstrong started to give little dinner parties at which

alcohol (banned by his wife) was no longer absent from the table.

One day he invited Mr. Martin to his home for tea, and as there was a business difficulty between them, Martin thought that Armstrong wanted to discuss it and accepted the invitation, but it later turned out that Armstrong did not discuss business matters at all. During tea Armstrong had handed Martin a buttered scone with the apology, "Excuse my fingers," and Martin had eaten that as well as some currant loaf. He had hardly got home before he was seized with the most violent pains, with vomiting and diarrhoea, which continued throughout the night and reduced him swiftly to a condition of extreme weakness.

Local physician Dr. Hincks was called in, and saw the usual symptoms of a severe bilious attack and prescribed accordingly. But, as the sickness continued he was not entirely satisfied, and he had an analysis made, and found in the sample submitted that there was one-thirty-third of a grain of arsenic.

There was only one place that Martin could have been dosed with arsenic and that was at Armstrong's, and after a few inquiries which Dr. Hincks made, revealing the business difficulties between the two solicitors, he began to ponder, and revolving in his mind the circumstances attending the death of Mrs. Armstrong, until the solution flashed on him. That neuritis of hers, which they had all regarded as merely functional disorders, had not been functional but organic; it was peripheral neuritis—one of the symptoms of arsenical poisoning.

He remembered all the other symptoms. Vomiting, diarrhoea, discolouration of the skin—all symptoms of arsenical poisoning. What Martin was suffering from, Mrs. Armstrong had died of. And if in a small liquid sample taken from Mr. Martin one-thirty-third of a grain of arsenic had been found, what might be found in the body of Mrs. Armstrong?

The more he thought of it the plainer it became. Mrs. Armstrong had been removed to Barnwood Asylum for treatment, so Dr. Hincks wrote at once to the doctors there, and they too realised that they had been deceived as to the cause of Mrs. Armstrong's physical illness. They remembered how the symptoms had diminished during her stay in the asylum and reappeared after her return home; they, too, realised that they had mistaken

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organic for functional disease, and being completely unsuspecting, missed the diagnosis which would have put them on the right track.

The facts were brought to the attention of the authorities and the slow but certain wheels of the criminal law began to turn. The first steps were taken cautiously. Strange men arrived at Hay at night. It was rumoured that a body had been exhumed at Cusop Churchyard. No one—except Dr. Hincks, Mr. and Mrs. Martin, and the local police, knew whose body it was. They had been sworn to secrecy, and Mr. and Mrs. Martin had been warned to keep away from Armstrong's home, and not to eat or drink anything in his presence.

That the secret was well kept for something like two months is proved by the fact that Armstrong kept asking Martin to have tea with him, although the latter kept refusing or putting the Major's invitation off for some future date. These invitations became so pressing that Mr. Martin told Dr. Hincks that he could not stand it much longer.

"Hold on a bit longer," said the Doctor.

"That's all very well," replied Martin, "but he is bombarding me with invitations to tea every time I see him."

As Martin refused the tea invitations Armstrong was at last put to the necessity of asking Mr. and Mrs. Martin to dinner.

"I've managed to dodge having tea with him," Martin told Dr. Hincks, "but how the dickens am I going to refuse his invitation to dinner?"

"Perhaps something will turn up before that," said Dr. Hincks, "but if it doesn't, don't under any circumstances go."

The dinner party was timed to take place on the last evening of the year 1921, but on that day Chief Inspector Crutchett of Scotland Yard arrested Major Armstrong and Martin breathed a sigh of relief.

I should say that nearly all the residents of Hay tried to cram into the little courthouse when Major Armstrong appeared before the Magistrate. His place as Clerk was taken by an elderly colleague from Talgarth. As the latter's infirmities hampered him in the execution of his clerical duties, the prisoner offered to help him, but the old man brushed him aside and managed to complete

his work. After the usual depositions were taken Major Armstrong was committed for trial at the April Assizes at Herefordshire.

The trial was held before Mr. Justice Darling and a jury, within the Shire Hall at Hereford and commenced on April 3, 1922. The Attorney-General, Sir Ernest Pollock, K.C., appeared for the Crown whilst the accused was defended by a notable criminal lawyer in the person of Sir Henry Curtis Bennet, K.C.

I recall the newspapers announcing that the trial would be the last over which the celebrated Judge Darling would preside as he was then on his last circuit prior to retirement.

The proceedings began with an argument from which the jury were precluded, but ended in complete agreement by the latter who had the final say. The argument concerned the admissibility at the murder trial of the evidence of the attempt by Armstrong to poison Martin, but the learned Judge having ruled that the evidence was admissible, the Crown Prosecutor rose to state the case for the Crown.

Describing the symptoms of the last illness of Mrs. Armstrong he said that they were—in the light of what they now knew—trustworthy symptoms of arsenical poisoning. At the time of her death Dr. Hincks thought the symptoms were due to natural causes, but later he had doubts and drew the attention of the Director of Public Prosecutions to the case. It was later decided to make a post-mortem examination and the remains of Mrs. Armstrong were exhumed.

The examination was made by Dr. Spilsbury, and he found on analysis that in the curiously well-preserved remains and in the organs nearly three and a half grains of arsenic.

"Who poisoned her?" asked the Attorney-General. "Who administered that fatal dose and that constant poisoning which led to her death? I am going to submit to you that the evidence points conclusively to the fact that she was poisoned by her husband."

The Attorney-General then said that he was going to relate some facts which, he submitted, were convincing. Mrs. Armstrong before her illness had made a will leaving the residue of the property to her children, but in July what purported to be a new will was made by Mrs. Armstrong. This will revoked all former

wills and testamentary dispositions, and bequeathed all her real and personal estate to her husband absolutely, and appointed him her sole executor.

The first will was drawn with great care and forethought for the children and was in the handwriting of Mrs. Armstrong herself, but the will of July, 1920, was wholly in the handwriting of the prisoner.

"I am going to prove by clear and unmistakable evidence from Lily Candy, now a married woman named Mrs. Evans, that at the time she signed the will as purporting to be a witness of it, Mrs. Armstrong was not present. I ask you to take due note of the fact that that will made no provision for safeguarding the children's interests—a most curious alteration, having regard to the manner and circumstances of the first will."

Continuing, the Attorney-General related how Mrs. Armstrong was seen by Dr. Hincks on August 1, when there was nothing the matter with her, how on August 15 he gave her a sleeping draught, and how on August 22 she was certified insane and taken to a private asylum near Gloucester. During her illness, which was physical as well as mental, she displayed symptoms now recognised as those of arsenical poisoning. Dealing with Armstrong's relations with Mr. Martin, it became Martin's duty to press Armstrong for the completion of a sale for which he held large sums of deposit money as solicitor for the vendor. As solicitor for the purchaser, Martin wrote Armstrong giving notice of the rescission of the contract and demanding the repayment of the deposits with costs and expenses.

The next afternoon Armstrong invited Martin to come to tea, and he continued doing so from day to day until Martin actually went to Armstrong's home on October 26. On returning home he began to be ill, and was ill for several days with symptoms which, by October 30, made Dr. Hincks so uneasy that he had analysis made and a definite trace of arsenic was found. When Martin got better he met Armstrong, who said to him, "It may seem a curious thing to say, but you will have another attack of that kind," and he asked him again to tea, and renewed the invitation not once but scores of times.

The matter of the sale was not cleared up, and the money was

not returned; but the invitation continued to be given by Armstrong, until he asked Mr. and Mrs. Armstrong to have dinner with him. Inquiries had been going on ever since Martin's illness, and on December 31, 1921, the day the dinner party was to be held, Chief Inspector Crutchett visited Armstrong in his office at Hay, and took from him a statement in which he gave his own version of what happened at the tea with Martin, detailed his dabbling in the preparation of weed-killer from arsenic which he admitted he purchased and specifically denied having poisoned Martin on October 26.

On his arrest which immediately followed, documents were found on him and among them was a packet containing a white powder which turned out to be arsenic, and which he attempted to abstract from the letters he was giving to the police. It was said that such evidence was only circumstantial, but direct evidence in a poisoning trial was practically impossible. In a crime so sinister and subtle the value of circumstantial evidence was that it did not depend on the veracity of witnesses, but each separate part of it fitted together like the parts of a puzzle and pointed to one conclusion, namely that it was the prisoner who killed his wife.

"You will find the motive in the will which I have described to you. These questions that arise will be answered by the evidence and I shall invite you to come to the conclusion upon the evidence that the prisoner is guilty of the charge, and, if he is guilty, your sympathy for the living must not cause you to forget justice for the dead, or that the interests of justice require you to do your duty fearlessly and faithfully, as I know you will."

After witnesses gave evidence of witnessing the first will made by Mrs. Armstrong, which was in her own handwriting, Lily Candy, who said her name was now Mrs. Evans, gave evidence that Major Armstrong on July 8, 1920, asked her to put her signature to a document. There was no one else present at the time. He did not tell her what the document was but she now knew it was the will that Major Armstrong had drawn up.

Mr. Martin the solicitor then gave evidence of the business difficulties with the accused, his constant invitations to have tea with him, his refusals and finally agreeing to have tea and the

incident of the buttered scone and his subsequent illness.

It was quite clear to those in Court after Dr. Hincks gave his evidence that he had acted with a courage worthy of the highest tradition of his profession. He had been mistaken about Mrs. Armstrong's illness and the cause of her death, but as soon as his suspicions were aroused he shouldered the burden of the inevitable consequences and did his duty to society.

"The certificate you issued as to the cause of Mrs. Armstrong's death was what?" Counsel for the Crown asked.

"It was to the effect that death was due to heart disease, nephritis, and gastritis."

"Going back to the matter as we know it to be, we know that arsenic was found in that body nearly ten months subsequently. What is your opinion now?"

"My opinion now is that her illness when she went into the asylum was caused by arsenical poisoning. She had a remission of heart symptoms while she was in the asylum, and her last and final illness at her home was again due to arsenical poisoning."

When the name of Dr. Spilsbury was called to give evidence for the Crown I expected to see an elderly man step into the witness box, but this famous pathologist looked very youthful for a man of his reputation. Tall and good-looking, he seemed perfectly at ease as he answered the Attorney-General's questions, and did not at all seem put out when Armstrong's counsel tried unsuccessfully to shake Spilsbury's damaging pronouncements as to the cause of Mrs. Armstrong's illness.

Dr. Spilsbury told the jury that from the amount of arsenic which was present in the small and large intestines, it was clear that a large dose of arsenic must have been taken, within twenty-four hours of death, and from the amount of arsenic found in the liver it was clear that the poison must have been given in a number of doses extending over a period. He gave it as his opinion from what he had heard in evidence that the cause of Martin's illness was also acute arsenical poisoning.

At the conclusion of the case for the prosecution Major Armstrong went from the dock to the witness box to give the main evidence for his defence. On the whole he was a cool and collected witness; but on some vital points, when he was taken in hand by

Judge Darling, he was far from convincing. In a statement to the police before his arrest, he said that he had no arsenic in his possession except in the diluted form of weed-killer. His story was that after he was charged with the murder of his wife, he discovered the little screw of paper containing white arsenic which had been in his pocket and which he had forgotten. He said nothing about it, knowing that it must be found when the police went through his letters. Later he remembered another package in a drawer of his writing bureau. He said nothing about this either, except to his solicitor. It was produced at the trial and contained two ounces of white arsenic.

The jury listening to the cross-examination of Armstrong in regard to the strange illness of his wife, and the invitations to Martin to take tea with him, and the subsequent results may have already made up their minds but hard upon nearly four hours in the box after he had tried to answer some penetrating questions about his strange forgetfulness at the time of his arrest, and his peculiar and elaborate method of disposing of dandelions, came a dramatic incident.

The accused was about to return to the dock when Judge Darling said, "Wait a minute, Major Armstrong," and proceeded to ask him more questions, going over the same ground, apparently with the object of driving home to the jury the inadequacy of the replies.

How did the witness account for having forgotten all about that arsenic, the only white arsenic he ever had? He had used some of it to make up twenty little packets, with nineteen of which he destroyed nineteen dandelions. That was very interesting, was it not? How then, did he come to forget it? Did it not strike him, a solicitor, that it was remarkable to forget it? As for the twenty little packets themselves, why go to the trouble of making up the arsenic in that way, instead of pouring it straight from the original paper into the holes in the ground? Why, when he did remember this interesting experiment, did he not tell the police? Why, when he remembered the two ounces of arsenic in his bureau, did he not tell the police about it? He was a man accustomed to criminal procedure. If he thought the police were certain to find the

THOSE DEADLY WHITE POWDERS

arsenic, as he said, would it not have been better to have made a clean breast of it, and take the credit of telling them himself?

"I really do not know," was all Armstrong was able to say.

On the tenth day of the trial, after the final speeches had been made, the judge commenced his summing up. He made short work of the argument about the arsenic in the bureau, saying that it proved nothing except possession. The greater part of his charge to the jury related to the medical evidence about Mrs. Armstrong's last weeks on earth. In words he had used earlier, what concerned the jury was what and who killed her. When he had finished he left small doubts as to his own views.

The jury were absent for 48 minutes by my watch and returned to give a verdict of guilty.

Armstrong stood unflinchingly in the dock as Judge Darling sentenced him to be hanged.

By the time Armstrong's appeal against his sentence was heard I was on my way to Australia as an emigrant. On the way out I read in the wireless news posted upon the ship that his appeal had been dismissed, and as I stepped off the ship at Circular Quay on May 31, 1922, I read in an afternoon paper that ~~Armstrong~~ had been executed.

THE TREADMILL

By J. H. M. ABBOTT,

The most dreaded punishment of all—the author offers a glimpse into one of the grim primitive measures of the early colonists of Australia.

IN HIS old days Timothy Scantlebury, a member of the Legislative Council after the inauguration of responsible government in New South Wales, and a rich retired storekeeper, used to laugh at the many amusing things that had happened to him in his youth.

But he didn't laugh at them at the time by any manner of means. They were not amusing. There was nothing funny in the story of a poor Surrey yokel who had snared a rabbit under a hedge and been himself snared under the deck of a convict transport sailing him off to the Antipodes from all he ever cared about. Nor was there anything to laugh about in the actual acquiring of that horrible degree of learning called Colonial Experience.

Those first five years changed him, and thousands like him, from simple adolescents into hard, stiff men with as little mercy to their fellows left in their souls as had been dealt out to them in the police courts, the Lumber Yard, the iron-gangs, the stockades on the mountain roads, the Limeburners' Camp at the Coal River, or ~~the~~ Treadmill at Carter's Barracks. There had been nothing

THE TREADMILL

amusing about it all in those days. It was only when as an old man Tim Scantlebury could drive in his carriage along roads to whose construction he had contributed aching, sweating, driven days and perishing nights of hungry misery in windy huts, or go and hire servants in the Immigration Barracks where formerly in its convict depot days his own labor had been bargained for without any terms of wages and hours and conditions of toil, that he could afford to smile at the recollection.

There wasn't an experience he couldn't vividly recall—the Sessions House, Newgate, the transport Admiral Gambier and her stinking 'tween-decks, the sunny morning they came up Port Jackson and the sudden realisation of slavery when settlers came aboard in Sydney Cove and handled their muscles as if they had been draughthorses. The harshness of the Principal Superintendent of Convicts' welcome when he'd tersely announced "We'll give you hell," the bloody nose he'd dealt out to his first master and the bloody sore back he got for it, the stockade at Castle Hill, were still all quite fresh in his memory.

Some of these remembrances of bygone evil only made Tim Scantlebury laugh in later days, but there was one which always made him swear.

"The horrible uselessness of it!" he'd say. "We ground wheat, but it was better ground in the windmills, and cheaper. Convict labor cost nothing they said? By God it did! It cost the country all that was worth anything while it lasted. Nothing cheap about slavery. That bloody Treadmill!"

He recalled the day when the Police Magistrate gave him three months of the Treadmill at Carter's Barracks up beyond the Brickfields. An infernal place, a devilish machine. The Treadmill stood for all that was worst in the dying convict system, all that made men into brutes and denied them any hope of salvation. The inexorable dulling, grinding, walking upstairs and never getting to the landing at the top—there had been nothing so paralyzing in all the history of "the System." Brutish, senseless, useless!

It was a sunny morning in September, with the smell of the wattles in Hyde Park and cottage gardens along the streets, when Tim Scantlebury and a dozen others had walked out of the watch-house, under a guard of a corporal and three soldiers with fixed

bayonets, to go to Carter's Barracks.

"Well, Corporal Martin," said the doorkeeper as he admitted them into the barracks, "another little lot, hey? More steam for the engine! But, Gawd save us, what a han'ful o' scrag! W'y can't ye get in a few likely customers once in a way?"

The guard marched off and the door closed behind Tim Scantlebury and his mates, and presently came the Superintendent, Mr. Michael Merton, to call the roll and take stock of his labor reinforcement. Not too highly delighted did he seem to be with its collective appearance.

"Lord!" he remarked, whilst Doorkeeper Martin nodded approval and agreement. "A day in the stocks is about all the 'ard work most of you coveys is fit for. Well, come on in, an' we'll see what y're made of."

In the big shed at the back where the treadmills were, its inside almost dazzling with fresh whitewash, the crews of the two mills had been having a brief spell whilst the Superintendent took over his new charges.

"Now, then, get to it again," he commanded. "You new lot can watch for a shift an' see how it works. Your turn'll come next. An' just remember that any loafin' in the game'll take you to Hyde Park Barracks with a recommendation for a Botany Bay dozen. Ye've got to earn y'r rations at Carter's, an' ye'd best larn it sooner than later."

The prisoners slouched to the four big drums, something like the enormous paddle-wheels of the steamships of the day. They stood against the rear wall of the shed and their axles went through holes in the two ends of it to turn the grinding machinery outside. Each treadmill consisted of two drums side by side, and the steps trodden by the men who worked them were stout boards about nine inches apart. In front of each drum, and close to its circumference, was a horizontal wooden bar which the prisoner grasped with both hands. The larger mill employed thirty-six men, eighteen on a drum, and the smaller twenty, divided into two lots of ten. A shift on the big mill lasted for thirty-six minutes, when the gang was relieved by another lot of twenty-four. On the smaller the working period in each hour was forty minutes, with twenty minutes' rest. Between August 30, 1824, and January 15,

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1825, the two mills ground 657,765 pounds of grain.

"We watched the old hands," said Tim Scantlebury, "and some of 'em seemed to fare better than others, somehow. Like every other sort of hard work there was a trick in it for those who knew how to play it. It didn't amount to much, though. On the mill you simply had to keep moving, and to try to dodge doing your share was almost as hard as doing it. To some extent you could obtain a little ease by supporting your weight on the horizontal-bar you grasped with both hands and letting your mates do most of the treading, but the overseer soon got to mark any men who did that, and punished the whole crew equally by increasing the pace, shouting out 'One, two, one, two,' as the men's feet pressed down the steps.

"Then if the overseer in charge thought some men were taking it easy he would spell a few of those who were doing their bit—just call 'em down to the floor—and let the loafers keep the mill turning. There weren't many ways you could dodge work at Carter's, and you wouldn't dodge it long."

So Tim and his comrades in adversity grasped the bar and began their grinding. The roar and rumble of the huge, clumsy machinery shook the shed, and the noise of the slowly-revolving mill wheels outside kept up a constant din terrifying in its monotonous regularity.

At first the work did not seem so hard, but after half of their spell was over the newcomers began to realise that labor on the roads, or labor anywhere else, was a diversion compared with this. They sweated and gasped, and the perspiration ran into their eyes, but still the great wheels went round and round, and the ceaseless din smote their eardrums until they felt like bursting. When the end of their spell on the steps came, the overseer yelled, "Relief!"

The great wheels did not slow down or cease to turn—the men simply dropped off their perches at the wooden rail and the next shift, standing by in readiness, took their places.

Freed from the constant stepping and downward thrust of their feet on the moving treads, their legs gave under them, and not a few of them tumbled down on hands and knees as they came off the wheel. Never in his life, old Tim used to say, had thirty-six

minutes seemed so long, or the twenty-four while they rested so short and fleeting.

Stiff and cramped and aching, they resumed their trampling toil at the end of the spell, and the second shift was twice as bad as the first, and the third and subsequent turns almost too terrible to remember. When dinner-time came, and the hideous din and uproar ceased for an hour, he was too weary to want food. They could please themselves about eating the rough rations provided in the big messroom alongside the shed, but promptly at one o'clock they went back to the ever-descending steps and the grip-rail. The uproar and clatter began again, and all through the afternoon the rumble of the great engines went on without stopping, and they worked and sweated in a kind of semi-conscious daze, their clothing damp with sweat and their muscles one interminable ache.

When he came down for the last time that day Tim Scantlebury fell in a heap on the floor, and only the heavy boot of the overseer could bring him to his feet again. He hardly knew how he shuffled out of the shed and into the messroom for the scanty bowl of hominy and chunk of coarse bread that was the evening meal.

"There was only one mercy," he would say. "Water wasn't stinted. You could drink as much as you liked, dipping it out of a big wooden tub that was kept full almost to the brim. At first you drank gallons of it. Later on, when you got hardened a bit, you didn't drink so much. By the time my three months was up I'd have, say, only one drink in the forenoon and one after dinner. But I was pretty tough by that time—tougher than I'd ever been before or have been since."

The mental effect of the treadmill seems to have been peculiar. After months of the monotonous labor they were hard as nails bodily, but they were dazed and uncertain of themselves in the unusual quiet when their sentences came to an end, and it took a week or two to recover their balance and become ordinary human beings again.

"We missed that infernal row," said Tim—all this came to me from an old man whom he used to entertain as a youth with his tales of the early days—"and at first didn't seem to be able to get along without it. We were almost too bewildered by the quiet-

ness of things to think about what we'd been through. But when we got back to our ordinary selves, the feeling that got me was one of the most tremendous hatred for the Treadmill, and for all who had to do with it.

"I hated the Police Magistrate who'd sent me there, I hated the Superintendent of Carter's Barracks, I hated the other prisoners who'd worked there with me—but most of all I hated Overseer Clancy, the chap who'd been in charge of the relief I'd belonged to. As soon as I came to myself I began to nurse a particular hatred for that little red-headed Irishman. There was nothing I wasn't ready to do to Clancy. Nothing at all. Actually, I began to plot and contrive how I could do Clancy in. Murder. That was what I was thinking about.

"He'd been a perfect devil to me. For some reason best known to himself, I must have been a sort of red rag to a bull to Overseer Clancy. He seemed to hate the very sight of me from our first meeting the morning I came with the others to Carter's Barracks.

"'As for you, ye big ugly gossoon,' he said to me when he was taking our names, 'I'll make ye shewat blood afoor I've done wid ye. Ye'll not forgit Paddy Clancy in a hurry, me bhoyo—that ye won't.' I didn't. I've never forgotten him."

Tim Scantlebury seems always to have been a good fellow, and whom other men couldn't help liking. He was not a convict long. The little bit of hasty insubordination in the Lumber Yard that had landed him on the Treadmill was never repeated, and in another three months he had his ticket again, and in two years a conditional pardon, which meant that he was altogether free in New South Wales, but couldn't go back to England. However, in five years he was completely at liberty, and might go where he chose. But he stayed in Australia, and was never sorry for it.

"And did he get even with Clancy?" I asked his old friend.

"Well, he said he didn't—but I always thought he did.

"More than fifteen years after he'd had his experience of Carter's Barracks, Tim was storekeeping at Clarence Town, on the Williams River, and had to come down to Sydney on some business matter or other. In those days he had to go overland to the Green Hills at the head of navigation on the Hunter, and there catch the steamer for Sydney. The packet left in the morning,

about eight o'clock, made a call at Newcastle before putting to sea, and arrived in Sydney at the end of the day. Tim rode across country from Clarence Town, stayed the night at one of the Green Hills inns, and went aboard in the morning. As soon as he got up on deck the very first fellow he saw was Mr. Patrick Clancy, and, though he'd never seen him since he left Carter's Barracks, Tim said he felt all the old hatred revive, and used to swear that he immediately made up his mind to push the Irishman overboard somehow as soon as they got to sea.

"'Watch him?' he said to me. 'I think I did watch him! You can't have any idea as to how I felt about that man; I'd not forgotten a single thing. All the misery the fellow had put me through came back to me as strong as if it had happened only yesterday. I loathed the very sight of him, and what I'd like to have done as we were steaming down the river to Newcastle was to have walked up to him as he stood smoking there on deck, taken him round the throat and neck with my two hands and carried him to the rail for'ard of one of the steamer's paddle-boxes. Then I'd have said to him, just before I dropped him overboard to be chewed up by the paddle. 'There's another sort of wheel for you to try, Mister Clancy. I hope you'll like it!'"

"'But I reckoned I had to go careful!' Tim said. 'I wasn't long married, and didn't want to be hanged for murder. So I made up my mind to do the job delicately. It mightn't be quite as satisfactory, but 'twould be safer for me. I'd have to make up to him and get him down in the boat's stern, where I might have a chance of emptying him into the ocean when no one was looking. It would be dark before we got to Sydney Heads, and somewhere down there would do. I could tip the little fellow over and get away from the steamer in Sydney before he was missed."

"'So I talked with him,' Tim said, 'and found him quite a good companion. He seemed a lot milder and pleasanter than when we were at Carter's Barracks long before. We drank together at the steward's little bar in the saloon, and took a couple of bottles on deck and drank 'em down in the stern by the rail. It began to get dusk when we were off Broken Bay, and was quite dark as we began to turn round North Head. I got him to the rail, a-look-**ing** down at the steamer's wake, all aglow with phosphorescence."

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And then I took him by the collar of the coat and the slack of his pantaloons and tipped him into the sea. As he grabbed at the rail and hung there a moment, he cried out "I can't swim!" but I banged his fingers with my fist, and he dropped into the creamy foam.'"

"'And he drowned, I suppose?' I said to Tim.

"'No," he said, shaking his head. 'Y' see, I hadn't quite recovered from the Treadmill, even after all those years. I was still a bit barny, I think. I jumped in, too, and held him up until a boat saved us. A man never quite gets over that damned Treadmill.'"

THE MAN WHO MADE GOOD

By R. M. McKAY

They said Brodie was incorrigible and they gave him the dread label of "habitual". One man, however, could see some good in him, and decided to take a chance!

ABOUT twenty miles south of Christchurch was the Burnham Industrial School where juvenile offenders were kept until they were licensed out to farms and other homes.

A tough, unruly mob they were, too, real desperados. It was said that they gave the Christchurch police more trouble than all the crooks in the district. Escapes from the institution were not uncommon and were always followed by outbreaks of theft, breaking and entering from the dwellings nearby and on the road to the city, the destination of the offenders.

They were generally at large for a week or so and when they were brought before the court were usually ordered to be given twelve strokes from the birch. This was done at the police station, and the boys were then returned to the school.

Detective Cassells had a good deal to do with these juvenile offenders. Apart from his official duties, he was ever anxious to help them to see a better way of life. Much useful advice he gave.

Some of the boys were, in the true sense of the phrase, victims of circumstances. One in particular had the detective's heartfelt

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sympathy. He was a youth named (for purposes of this story) Brody. Both his parents were drunkards and the boy had no home life or training at all. He was a pitiable case.

As was to be expected, he soon came under the notice of the police as a child not under proper control, and for thieving. Brought before the court he was committed to the school at Burnham. Under the lawless influence of his older compatriots, his character, or what he had left of it, went to the pack. He became cunning, deceitful, unreliable.

Within a few months he escaped with another boy. The pair were at liberty for nearly a fortnight when Cassells got on their trail. The result was that each was ordered to receive the usual twelve strokes of the birch.

Detective Cassells stood watching the punishment. The first boy to receive the cuts stood there yelling so loudly that he could be heard streets away from the police station. Bitterly protesting he was held over a constable's knee as the other officer counted the strokes as they were given.

The other boy, Brody, stood by laughing at his mate who was yelling and kicking all the time. As soon as the first boy was finished, Brody downed his pants and dived on to the constable's knee.

The officer started to count and Brody took the full dozen without a murmur or even a whimper. He just laughed at the officer. He was incorrigible.

A few months later he escaped from the school again but this time he could not be traced. He was regarded as the worst boy in the entire school. His description had been sent to every police station in the country.

Then he was wanted in the North Island for a series of breaking and entering and theft charges. By this time Detective Cassells had been transferred to Wellington and was, like other officers, on the look out for Brody. It was thought he was operating somewhere in the Wellington area.

An outbreak of breaking and entering in the capital culminated with a sensational robbery from a city hotel, the Windsor. Cassells was assigned to the job.

"Oh, well, Mr. Cassells," said the proprietress of the hotel, "I

don't expect to get the jewellery back, but there are others here who have lost about £200 worth and I'd like to get that back if possible. I'll call in the housemaid who saw the thief and can describe him."

Cassells interviewed the housemaid, a pleasant-faced wench, not more than 20. Excited and obviously honored by a visit from the police she told how about 9.30 the previous evening she went into a room to overhaul the bed and do some chores when she was astounded to see a young man there, clearly an intruder, with a portmanteau on the floor. He was going through the contents.

The startled housemaid saw he had a handbag full of stuff. She saw the windows were open and there was a fire escape leading down from outside the window to a right of way to a city street.

She called out, but before anyone had time to answer the youth dived out the window and down the fire escape, taking the bag and the gear. The girl screamed and ran down to the proprietress. The youth had got clean away and there was another man on watch in the right of way, she said. From the description she gave, Cassells had no doubt that this was Brody.

Standing on the back platform of a city tram a week later Cassells saw Brody standing near another hotel. With him was another man wanted by the police.

The detective got off the tram at the next stop and went back, but evidently the pair had seen him for they were nowhere in sight. The following night with another detective he visited the hotel outside of which he had seen the two the day before.

He gave the proprietress a description of the men he wanted and she said they were both staying at the hotel. "They have been here about a fortnight, but not under the names you mention," she said. "They occupy different rooms," she added.

She gave them the keys and first they went to the room occupied by Brody. They unlocked the door and saw Brody in bed.

He recognised Cassells at once. "Hullo, Jack," he greeted, cheeky as ever.

The detectives handcuffed him. Cassells left his mate in charge of Brody while he went to the other room.

"What right have you to come in here?" cried this man. "You

fellows won't let a man go straight," he protested.

He had a good list, too, though he had never been in the Burnham school. He was considerably older than Brody.

Taken to the police station they were charged and put in the cells. In due course they appeared before the Supreme Court and were found guilty of a variety of charges involving breaking and entering and robbery. Brody got three years hard labor and was declared an habitual criminal as well. The other man was given a similar sentence.

After they had been in prison a week or two Detective Cassells had a ring from one of the warders at the Terrace Gaol. It was a Saturday night.

"Jack, that prisoner, Brody, says he is anxious to see you urgently. Come up tonight and I'll tell you all about it."

"All right," said Cassells, "I'll be up with another detective about 7 o'clock."

The warder told them that Brody wanted to see Cassells and would tell him something if the habitual criminal tag was removed. "He says he will tell you where that jewellery is planted," said the warder.

Brody was brought along to see the detectives.

"Well, Jack," he said. "I want to do a bit of bargaining. Will you listen to what I say?"

"Yes," said the detective, curious to know what the proposal would be.

"You can do me a good turn if you like," went on Brody after a slight hesitation.

"I will if I can. What is it?" asked Cassells.

"Well, if you'll listen to a frank statement I think we can get together. The fact is that I want this habitual tag removed. And if you can help me to do that, I'll tell you where all that Hotel Windsor jewellery is planted and other stuff from Wanganui and Palmerston North. I can tell you all about it."

"All I can say is that I'll do all in my power to get the tag removed," replied Cassells. "I can promise no more."

"It doesn't matter about the three years term," said Brody and held out his hand to the detective. "It's a bargain then," he said as the pair shook hands.

"Tell me first about the Hotel Windsor affair," said the detective. "We'll get that matter cleaned up first."

Brody told the detective that if he poked a piece of wire down into the cistern of a certain closet at the hotel he would find all the jewellery there. "When I got away through the window, I went into that lavatory at the back of the Empire Hotel and stuck it in the cistern and then slipped into Willis Street. It will still be there. Now do what you can for me," urged Brody.

Cassells assured him he would do what he could and with his mate went to the hotel and got the handbag in the cistern. It contained all the unrecovered jewellery.

The pleased detectives went to the Windsor Hotel and saw the licensee and his wife.

"Hello, Mr. Cassells," they said. "You haven't found the jewellery yet, and never will I suppose."

"That's what we really came about," said Cassells.

Cassells threw the handkerchief and contents on the table and the others gasped with amazement and excitement. There were drinks on the house that night for the sleuths.

Cassells returned to the prison and got particulars of where other stolen stuff was. Then he made representations about the prisoner Brody.

Within a few months of the end of his three year term he was released and the tag was removed. His fare had been paid to New South Wales and Cassells was down at the wharf to see that he left the country. "Good luck," were the detectives last words, "and go straight in the future."

Brody thanked him for what he had done and the ship sailed across the Tasman . . .

Some years later Cassells resigned from the New Zealand Police Force and joined the Federal police in Australia..

He was walking down Pitt Street, Sydney, one afternoon when he saw a man and woman walking towards him on the footpath. She was wheeling a pram with a baby in it and had another little one by her side.

The detective recognised the man as Brody immediately but thought he would pass on as he didn't wish to revive bitter memories.

As he was going to pass by, the man stopped. "Hello, Jack" he greeted. "How are you?"

The woman walked on. "Fine thanks," said Cassells. "And who is the lady may I ask?"

"My wife," said Brody.

"And the youngsters?"

"Mine also. The baby is six weeks old." The pair had a chat and the detective advised the man not to tell his wife anything about the past, or the fact that Cassells was a detective.

"No, I won't. I have turned over a new leaf. I have a good job here as a leading hand in a factory," replied Brody who went on that he was working and married under an assumed name.

"Come and be introduced to my wife," he said. The detective was introduced as Mr. Brown or Mr. Jones and told Brody's wife that her husband and he had known each other in Christchurch, New Zealand.

She was a pleasant-mannered, well spoken woman, obviously a good influence on her once wayward husband.

Although Cassells did not see the man again, he received one or two letters from him, and from all reports he was doing very well for himself.

"He is the only one I know who did any good and I've known several under indeterminate sentences, liberated under the same conditions who failed to make good. In fact, I knew one who was twice declared an habitual criminal," says Cassells in recalling this story.

HIS TYPEWRITER BETRAYED HIM

By F. J. LYNCH

Mr. Styche used a typewriter to hide his anonymity. He discovered too late that the machine was equally as incriminating as his handwriting.

AS confidential clerk in the office of A. E. G. Rhodes, in Christchurch, N.Z., in the closing years of last century, Henry Vincent Styche, an expert typist, stirred the keys of an old Remington typewriter to a quick-march tempo. Then, as now, in legal documents erasures are not permitted, but for the excellent reason that no Styche finger ever struck a wrong key he did not need a rubber. He performed typing for other legal men; and with the ease born of long practice his fingers travelled over the keys to general satisfaction.

But speed and accuracy in the company of a typewriter are scarcely subjects for chronicle in Famous Detective. The man's elevation to these pages came by way of an astonishing defect in his typing knowledge. One commonly hears it said of this or that able person that he (or she) knows a subject from A to Z. Unfortunately for Mr. Styche his knowledge of typewriting bogged down at X. In a typing sense he had no hint of the dangerous possibilities hidden in Y and Z.

As, of course, you're already guessed, the deficiency in Mr. Styche's information eventually landed the man in trouble. Oddly,

had he even a suspicion of the facts hidden in Y then his ignorance of Z would not have mattered. Conversely a mere glimmering of the possibilities inherent in Z would almost certainly have saved him from disaster. Indeed, in this circumstance his blindness concerning Y could have continued through life without endangering the man's freedom. It was the twin ignorances that one day landed their possessor behind bars for a lengthy term.

Life is full of odd contradictions. "It is fairly plain to me," said a judge one day, "that Nature meant many men to be criminals, but fortunately she overloaded most of them with caution, and fright keeps them in the middle of the chalk-line of probity."

That bygone man of law had a seeing eye, and a nice way with the language.

The human race is indeed an enigma, which it would require the judgement of Solomon to solve—and Solomon is dead!

There follows the story of Mr. Styche, and the hopeless predicament into which his ignorance of two facts—one inherent in every typewriter ever built, and the other a human fact, akin to the unforgeable fingerprints of police records—dropped the man.

On the evening of 6th June, 1900, Dr. Jeffrey Sherbourne Clayton, of Christchurch, N.Z., received a typewritten letter dated 4th June, which ran as follows:

"Dear Doctor,—The writer of this letter will not give you her name, but simply tells you she is a woman. What I am going to tell you I depend on you keeping a secret to the end of your days, and I will do the same. I know a woman who is continually ailing off and on, but she hates doctors, and in consequence has not consulted one for a very long time. I know that her husband has often wanted to call one, but she objected; and I once advised him to call you in. I think I could persuade him to do so if I go carefully and cautiously to work, as he told me once that his wife said that she would just as soon die as to continue ailing as she is.

"What I wish to tell you is this—if you are called in to attend this woman, and she does not recover, I will pay you £200. Bear in mind you will never know who I am, so you will not be able to get me into trouble over this if you wish to; and it's not likely that I will ever peach on you, as if I did I should get into trouble as well. You quite understand that you have only to play your

cards well and be able to give a certificate of death to make the £200 your own. If the woman dies I will post you the money in banknotes, but not before she has been dead three months, as I shall have to sell some property to raise the money. But I will be true to my word and you must be true to yours, or have nothing to do with it. I might tell you that the woman has no children depending upon her.

"Of course, I must make myself secure, so I will not give you the chance of finding out who I am by writing to me, so if you are ready to make £200 easily put an ad. in the press as follows—

"'Wanted to buy, good dog-cart. Apply Medico, Press office.'

"Then you will be able to call at the Press office and get any replies without any fear of detection; or you can leave them uncalled for. I will give you three weeks to think the matter over, so if you agree, put an ad. in the paper either Saturday, June 9, or the 16th or the 23rd of June. If it is not in any of these Saturdays I will conclude that you do not wish to easily make £200.

"Mind it will not pay you to advertise if you do not mean to be faithful with me. If you simply advertise in the hope of bringing me to book, you will not only fail but you may have to pay for it.

"If you advertise as above, I will then write to you again, telling you who the woman is, and how I propose you should win your money. Remember, you can depend on me being secret, and you can depend on getting the money. I swear it, so don't be a fool. I know the money will be useful to you, as I said before.

"I am to you forever. — Unknown."

On 12th June a second letter came to the doctor. He had been inclined to regard the first one as a brand of hoax, but this second letter, written in much the same terms as the first, drove from his mind the idea that the whole thing was somebody's idea of a practical joke. Self-preservation entered the picture. Suppose somebody—anybody—died, then might not there be possible dangerous repercussions. If death came to one of the doctor's patients!

The second letter followed much the same lines as the first. It urged upon the doctor to take the opportunity of earning £200 in such an easy fashion; and it stated that the writer would look for the ads. in the Press each day until the 23rd. But it gave no

indication of who the woman was who was to be murdered, though it suggested that the doctor should tell her to go to bed for a week, and give her medicine "that included the power to send her to sleep forever."

Now both suspicious and worried, on the following morning Dr. Clayton called on Supt. Tunbridge and placed both letters before him. The Supt. read the letters through before commenting, "You certainly have a very dangerous correspondent, doctor, and you've done the right thing in calling here." He then said, "Let me see any further letters you may receive. Typewriting and typewriters are both distinctive, and the work can be traced to the operator and machine, as Conan Doyle showed in an excellent Sherlock Holmes story some years ago. But to check up on every typewriter and machine, even in Christchurch alone, would be a big job. Then the machine might be a privately owned one, and almost impossible to trace. One thing I'll say—your correspondent is not a woman, but a man."

It was then arranged that the advertisement mentioned by the unknown correspondent should be inserted, because of possible developments. It appeared in the "Press" of 16th June.

Four days later Dr. Clayton received an undated letter. Plainly the writer was not feeling sure of himself (or herself), or the outcome. The letter expressed doubts that the doctor was "playing the game," and, remarkably, mentioned a suspicion that he had given the letters to a solicitor; and that it was by arrangement with the police that the advertisement was inserted. "But you can never pierce my identity (the letter ran on) for I have taken every precaution. Handwriting is individual, and could be traced, but the impersonal typewriting machine affords no clue, either as to user or the particular machine used."

The letter closed with some vague hints about the woman who was to be dropped out of life. "She is a young woman living in a south-eastern suburb of Christchurch," it read. "She has been married several years, and it is possible that she will be consulting the doctor shortly."

In Dr. Clayton's position I'd have taken that letter as a hint to clear the decks for action!

On that same day the letter was passed into police possession.

"After all there is no particular urgency," commented Supt. Tunbridge after reading it. "Nobody's life is in danger. One of these days this prolific typist will hand himself over free of charge. A man who writes so much is bound to tumble over his own fingers some time or other."

On 17th June this energetic correspondent resumed his wordy offensive. The letter was brief and pointed, also it advanced the woman's identification a trifle. "I saw Mrs. S. at Opawa the other day, and she looks none too good (it ran). I know Rome wasn't built in a day, and that I must have patience. But I think I can promise you that she will be going to see you very soon. I promise to give you at least one clear day's notice, so that you can have everything ready. Although I am a very close friends of yours I must, for the present at any rate, sign myself—Unknown."

Supt. Tunbridge was wrong in his forecast of a comparatively early solution. Instead the correspondence slowed, and during July only two letters reached Dr. Clayton. In both the writer complained of the slow advance. "But it not my fault, I assure you. As I told you in my first letter the lady dislikes doctors. But you may rest assured, dear doctor, that as soon as I can manage it, she will be in your surgery and you will be in a position to earn your £200 fee. I should like to drop in and discuss the matter with you, but that would never do. We must just keep on hoping! —Unknown."

Thus ran the first July letter, and the second followed it closely enough to render quotation unnecessary.

August began to drag its 31 days across the calendar, and still the authorship of the letters seemed no nearer solution. But appearances were deceptive, for shortly facts commenced to show up which appeared to have a bearing on the case in hand. On the 3rd the doctor received a short business note in which the writer referred to a piebald horse which he said he had offered for sale to the doctor personally in late May or early June. "You will remember (the note went on) that at the same time I spoke of my wife's health." The letter was signed Henry Vincent Styche.

The advertisement suggested in early letters referred to a dog-cart. Now the doctor was in possession of a letter signed by Henry Vincent Styche in which the writer referred to a horse suitable to

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draw just such a conveyance! The combination sounded like a suspicious association of ideas. Then he remembered that Mr. Styche had spoken of his wife on the occasion of the late May visit as "anything but a well person." This also seemed to represent a deadly duplication.

The doctor remembered that he had treated Mrs. Styche ten years before, when he resided in Rangiora, but since her marriage he had not attended her since a date late in May of 1900, or about two months before.

The doctor knew Styche well, and in fact had some slight personal regard for the man, with whom he had had several business deals to their common satisfaction. Because of these facts he was inclined to dismiss the remarkable coincidences as the result of sheer chance, and probably for this reason Dr. Clayton did not at once communicate with Supt. Tunbridge. But he considered the matter, and finally came to think that whilst one coincidence might be only that and nothing more, it was asking too much of sheer chance to admit the possibility of a second one.

On 5th August he strolled around to the Police Office, and had a talk with Supt. Tunbridge.

"Well, like the racehorses, they run in all shapes," commented the Supt. after the doctor had told his queer story of the double coincidence. "Old Styche has no idea of possible danger, for I talked with him only this afternoon. Take a walk tomorrow, tell him about the letters and see how he takes it. By the way, I hope you remember that I said that your correspondent was a man."

Accordingly, on the following morning Dr. Clayton walked as suggested, struck up a conversation with the now suspected man, and told of the mysterious letters he had been receiving. The doctor said that he thought that a detective should be called in, but Styche suggested that it would be better to let the matter develop.

Mr. Styche also hinted that he should take charge of the letters and place them in the safe, but of course the doctor was not agreeable to this proposal.

On the next day Supt. Tunbridge and a detective called into Mr. Rhodes' office to interview Styche. They discovered that just

before their arrival there had been accident to the typewriter, which had been badly wrecked through a fall to the floor. It may, of course, have been a coincidence that this should occur on the morning following the interview between Dr. Clayton and Styche, but Supt. Tunbridge was taking no further risks. "You're under arrest on suspicion of inciting to murder, Mr. Styche," said he. "You, of course, understand that anything you say may be used against you."

"On account of long association I'll not handcuff you," said the detective to his flabbergasted captive. "Just walk quietly with me." And Styche did as bidden.

Examination of the typewriter, a No. 3 Remington, No. 5042, showed that it had been very badly smashed in its alleged fall. The carriage was completely jolted out of its runway, and bent as well. Experts declared that the machine could have suffered such extensive damage only through being wilfully smashed, and they proved their statement by showing clearly two points of heavy impact.

But it was already too late when Mr. Styche at length awakened to the dangers inherent in typewriting and typewriters. Even had he dropped his machine into the Avon a week previously the "ghost" of the machine would have arisen from the stream and given deadly evidence against the man who so capably hammered its keys.

A sheet of admitted Styche typewriting was placed alongside a sheet of one of the anonymous letters. At a first glance there was little that might distinguish them from the work of any other good typist. But examination through a good glass disclosed points of difference common to both.

Because of much typing Mr. Styche's left little finger had developed strength above the average of typists, with the result that Q, A, and Z were somewhat definitely more marked. Then the forefinger on the right hand had once been broken when a fast-moving cricket ball had struck it, and in consequence Y, U, H, J, and B were less heavily struck than the other letters and figures. Understand that these slight differences were so slight as to elude ordinary eyes, or a casual glance from any eye. Both sheets duplicated them, proving that they were the work of the same typist.

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There were other points of similarity between the sheets, but I have listed the main ones, as the reading-glass drew attention to them.

Remarkably, as his own statement in one of his letters to Dr. Clayton proved, Styche had not even the glimmering of an idea that typewriting could be traced to the particular typist—and that was "Y."

The list of points of distinction in the typewriting machine would fill pages. They totted 63! This time a microscope was turned first on to the letters individually, and then to the machine which impressed them. In both the second parenthesis mark showed up $1/25$ th of an inch shorter than the first. The tiny "flat" at the bottom of the second "leg" of the capital H was missing from the typed sheet—and also from the steel letter. The microscope showed a tiny break in the straight line at the top of the figure 3, and again the machine was in agreement. Careful measurement showed seven letters fractionally out of alignment, and in every instance the typewriter supported mathematics. In short the machine seconded every motion that made for conviction—and that was "Z."

Mr Styche's typewriting education was now complete, for he had added Y and Z to his information; and the sum of Y and Z was—seven years. .

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By A. BRENNAN

This story was originally published in one of the early issues of F.D.S. By special request, and because it has long been out of print, it is now repeated.

AT 2.30 on the morning of 18th January, 1903, at the Royal Hotel, Auburn, a suburb of Sydney, Constable Long was murdered. Digby Grand and Henry Jones, engaged in burglary at the time and place mentioned got clear, but were at length run to earth, charged, and placed on trial for murder. The jury occupied six hours in thrashing out a ten days wrangle, and in their verdict expressed extreme doubts of the guilt of the accused men. The foremen referred to the possibility of a third man having fired the fatal shot.

But there was a thirteenth man on that jury—the trial judge, Acting Justice Rogers, bent on slaughter. In one swift snarl, His Temporary Honor faulted the result of six hours deliberation,

flouted the jury's doubts of guilt, and in effect reached for two ropes. Yet all will agree that nothing that followed should have been allowed to alter the jury's opinion and clear intent.

The Judge came to his point overbearingly. "It's a clear case," he said.

Clear to whom, one may ask. It plainly wasn't clear to the jury; and juries exist for the purpose of getting between prosecution and accused—to listen dispassionately, and judge accordingly. They alone should be judges of the facts, and a judge has no right whatever to reflect disparagingly on their findings. Indeed it is written that he is legally powerless to resent any well-chosen back-talk that an insulted jury may see fit to give him; and if one considers the amount of rubbish that spouts from beneath horse-hair, this will come to be regarded as a very wise limitation. The Law isn't always an ass!

There you have the bones of the much-discussed story of the alleged crime and well-ascertained hanging of Digby Grand and Henry Jones. In the course of this essay on crime and criminals, I shall add a bone here and there, and on the completed skeleton drape the flesh of narrative.

The attempted robbery of the Royal Hotel at Auburn was a businesslike transaction. Plainly the criminals were well up to the work they had undertaken; for even in crime there is an aristocracy, not of birth, but of ability. There are men too lazy to work, too incompetent to steal, but the Royal Hotel operators stood out from this helpless division of the criminal world. The method of the attempt, the headlong flight along a prearranged course which followed the unexpected shot, all contingencies considered, pointed to a matured scheme. As in all else, the criminal begins at the bottom, and from petty delinquencies—mere sample offences, so to

speaking—advances to the stage of being a criminal of resource. There were no novices on the job at Auburn. There were not many men possessed of the ability and cold-blooded daring necessary to commit such a crime, and get away so cleanly and cleverly.

Detectives applied their particular abilities to the problem, noted the amount of skill of the offender, deduced therefrom the "position" he occupied in his "profession," and logically decided that he must be known to the police. And based on such apposite facts, detectives began to form sound opinions as to the perpetrator, or perpetrators. A good many of the desperate and capable section they already had under lock and key, but there are always a few at liberty, and to these the police search was chiefly directed.

The available facts at Auburn were soon laid bare. As he later deposed at the inquiry and trial, Theodore C. Trautwein, licensee of the Royal Hotel, said that at 2.20 a.m. on 18th January he heard a loud noise, grasped the revolver which he always kept under his pillow, and dashed towards the bar. After slight trouble with a door, he looked in and saw a man on the floor, writhing and groaning. He ran to the Railway Station, telephoned Dr. Furnival, asked the Signaller on duty to telephone police-stations both east and west, and inform them of the shooting at the Royal Hotel, Auburn. He then returned to the hotel.

Dr. Furnival found that Constable Long of Auburn had been shot in the head. The stricken man tried vainly to speak to him, but death intervened.

All honor to Long's name, for he died in the fearless execution of his duty.

Other facts came to hand. A blacktracker looked the ground over, circled, cut tracks left by men apparently in a great hurry, then found similar footprints facing in the other direction but

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leisurely made. He said that one man was short and heavy, the other tall and light and he discovered where a horse and sulky had been tied in the bush about where Greg Keighrey's hotel now stands. A lengthy stay was deduced from the fact that the horse had gnawed considerable bark from the sapling to which it had been tethered. The tracker also indicated the horse's uncommon height from the upper limit of the gnawing, stated the animal's colour from a hair stamped upon by its own hoof—a handy list.

He also stated that the horse and sulky had departed at some speed. "Look," he exclaimed, all a-gasp. He got a policeman to measure a 3ft. 10in. gap between the take-off and landing where the sulky wheel had jumped a slight obstruction. "Big hurry," he commented.

Criminals seldom own a horse and sulky, and close inquiries were made at livery stables from Parramatta to Sydney, but without any helpful result. There was no admitted hiring that could not be traced, nor any report of a stolen turn-out.

The criminals had left no clues to the crime, and the police were pessimistic as to the chances of an arrest. What if there was no chink in the armour of these competent operators? It was an obvious deduction that the men concerned were of equal calibre—professional criminals whom no reward would tempt. An offer of £200 was advertised, with free pardon to any man not the actual murderer, but the silence continued.

But the chase was narrowing. It crossed a detective's mind that there had been a notable absence of Digby Grand and Henry Jones just lately—both men capable of such a crime. Enquiry in known haunts failed to uncover them; and that is always a danger sign. Still there was no definite ground for suspicion, but merely an idea—only that and nothing more.

On Tuesday afternoon, with all the solemnity of a Police Funeral, Constable Long was buried; and as he watched that dignified march of uniformed men, as they followed their comrade who had gone down in the battle, Thomas Woolford, groom at the hotel, wilted under the strain.

Shortly, sobs issuing from a shed at the rear of the Royal Hotel attracted the attention of a waitress employed by Mr. Trautwein, and she informed her employer. He questioned Woolford, and at once communicated with Sub-Inspector Roche, who was in charge of investigations. He was soon on the spot at Auburn, and by careful arrangement he and Detective Jones and Bradley secreted themselves in a stable and listened to a conversation between Woolford and Mr. Trautwein. Nearly every Woolford sentence tossed forth a useful fact. Clues in torrents! On his own confession Woolford was arrested as an accomplice. But it was at first found impossible to get any names from him. "I could identify the men," he said.

Woolford became the sun and centre of the police chase, case, trial and conviction. There were times when the poor weak wretch became a decidedly wintry orb, of lustreless aspect, but threats and promises held him on the informer's track.

A careful check-up of Woolford's acquaintances yielded results. Albert Yeomans, a livery-stable keeper of Annandale, was roped in; and thus was explained the matter of the horse and sulky. A black horse of notable height and obvious speed was also arrested.

And now Yeomans' friends were considered. The result was that at five o'clock on the morning of 22nd January, Detectives Fullerton, Murdoch, Hawe and Ward proceeded to a house in the Sydney suburb of Erskineville. Two watched the lane at the rear, whilst

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the others approached the front door and knocked. In a few minutes the back door was quietly opened—and thus easily Digby Grand was taken. There was as yet nothing definite against Grand, but he was charged under the dragnet of vagrancy, and held on suspicion of having “visited” the Royal Hotel at Auburn on the fatal morning of 18th January. Check! Brought face to face with Grand at Central Police Station, Woolford denied all knowledge of that man. “Never saw him in my life,” he said. Grand was notoriously dangerous, and Woolford was scared.

Senior Constable Mason entered, “picked” Grand from the row. “This man says he saw you and another fellow in a sulky careering along Parramatta Road behind a big black mare,” said Detective Fullerton.

“He’s mad,” said Grand. “I know what you want me for. It’s that affair at Auburn. Well, I’ll come at some things, but never at shooting a policeman.”

Woolford was cracking up under the strain of guilty knowledge, and later made several contradictory statements. Ultimately he admitted that he knew Grand, identified him in the dock at Central Police Court.

“This is the groom referred to in the statement read to you,” said Detective Fullerton.

“The lying——” said Grand. “I never saw him before in my life.”

“You asked me to get the key of the safe at the Royal so that you could make an impression of it,” said Woolford.

“I suppose you know no better,” said Grand contemptuously.

And thus suspicion deepened into certainty that Grand, and probably Henry Jones, were implicated in the attempted burglary at the Royal Hotel.

Naturally and reasonably it was thought that a more serious charge might be levelled against the pair, and deadly evidence adduced of how Constable Long came by his death. But Henry Jones had gone away without leaving a change of address.

Woolford had now loosened up considerably, and following another remark by him, Joseph Daniel Gallagher was apprehended. But in conversation with capable Sub-Inspector Roche, Gallagher had little difficulty in clearing himself of serious implication. Of course it is possible that the experienced man who had "piloted" the awful Butler, Montgomery, Williams, and many other commanding names on the criminal list, decided that Gallagher would be more useful in another sphere; and thus it came about that when on 24th January the death of Constable Long came up for review, instead of in the dock, Gallagher stood in the witness box. On that date John Thomas Woolford, 27; Digby Grand, 32; and Albert Yeomans, 31, were committed on a charge of having feloniously and maliciously murdered Constable Long at the Royal Hotel, Auburn, on 18th January, 1903.

Joseph Daniel Gallagher deposed that some twelve months before, Woolford had informed him of an "easy job" at Auburn—a small safe that never held less than £100, and that he knew of two men who could deal with it.

"'You should prat in with them,' he advised me. 'How do you know that they could handle it?' I asked him. 'Because,' he replied, 'they nearly had the Auburn post office safe opened when they were interrupted'."

As the inquiry proceeded it showed Woolford in the role of a great man at suggesting deeds of danger—for others.

Gallagher related how he and Woolford had met in front of the hotel at Lillibridge, Forest Lodge, shortly after the Auburn mur-

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der. "What did you think of the Auburn affair?" Woolford asked me. I said that it was red hot. "My God, it was hot," Woolford said.

Gallagher also retailed a conversation with Grand in which the projected robbery of the Royal Hotel was discussed. "I'm sick of the stuff," said Grand. "In future I'm going for the ready gilt."

It has been shown that Grand was not a man to leave clues behind, but he certainly strewed them before.

"'Snowy Woolford has put up a job for me at the Royal Hotel, Auburn.' Grand told me," said the witness. 'I've been up to look it over. It's easy.' he added. 'The safe is at the end of the bar-counter, and it's as sweet as a nut—only a padlock between me and the gilt.'"

Mr. Roche was a good judge! Gallagher was an excellent witness.

Gallagher also showed up Albert Yeomans in a very bad light. He retailed conversations between that man and Grand, told of the frequent hirings of the big black mare and sulky, and proved Yeomans' knowledge of the purposes intended. Never a midnight "job" but the mare was in a handy situation, prompt to resent interference by others, but all docility and speed when Grand spoke to her.

This portion of the inquiry had the object of establishing definite relationship between Grand and the black traveller.

Nor could C. Bull, Yeomans' representative, shake Gallagher's evidence.

Gallagher recalled that on 20th January, while he and Yeomans and some others were standing outside the Annandale blacksmith's shop, Yeomans' black mare trotted by. Someone remarked that

she was a bit lame. "So would you be if you came from Auburn to Annandale in 20 minutes," Yeomans said to him.

Gallagher also recognised a photograph handed to him. "That's the man I've often seen talking to Grand on Parramatta Road," he said. The picture showed Henry Jones.

"When did you see him last?"

"Driving away with Grand at 9 p.m. on the night of 17th January," replied Gallagher.

Up to this point there had been some doubt about Jones. Grand was a free-handed Ishmaelite, as ready to spend or lend as borrow, was popular—and talkative. Jones was a silent man, secretive, resourceful, determined and also dangerous. While serving a sentence in New Zealand, before crossing to Australia, he once proved himself very courageous. A warder had fallen into a racing turmoil of water. A poor swimmer, he was in rapid process of being swept to certain death in a narrow, rocky channel that led underground. It looked like certain death, but Jones dared it, leaped in, grasped the half-drowned warder, clung to a rock while icy floods poured over both, and awaited a rope. On recovery the warder went to shake hands with his rescuer. Jones spurned the proffered hand. "You're no friend of mine," he said.

Had Grand been as taciturn as his partner in crime, then the death of Constable Long might have remained a mystery to this very day. Jones told nobody of his movements, hence he was hard to trace. Week after week the closest search, the endless watch of suspected haunts, the questioning of suspected friends, yielded no useful result. January waned, February commenced to follow it, and still no detective found himself in the position to enquire after the health of Henry Jones.

The case took another short step on 6th February. On police

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application, the accused men were remanded to 9th February. Bail was refused.

On 9th February, Mr. Cargill said that there was no further evidence to call against prisoner Woolford, and he asked for his release. E. H. Wilshire, S.M., ordered his discharge. He then asked Grand if he wished to cross-examine a witness.

"My counsel is not here, your Honour," replied Grand.

Mr. Wilshire: "Well, you must cross-examine yourself. We can't postpone from day to day. I can't wait for you."

Grand: "Well, Your Worship, I suppose I must retire from the case."

Just then Ernest Abigail arrived, and went to work on Joseph Daniel Gallagher. He accused that man of being paid to give evidence, but Gallagher repudiated it. "I knew there were crook doings, and of the threat on the Royal Hotel. But it wasn't my business. I did nothing, warned nobody."

And business closed for the day.

The woman in the case! On 10th February Henry Jones was taken. Feminine information received guided Senior Detective Jones, Sergeant Carson, Constables Mackie, Lenehan and Clarke to a house in Ada Street, Ultimo. As usual, the dwelling was taken both front and rear. On entry, two men and three women were found playing cards.

"That's him," said Lenehan, who had been a warder in Bathurst Gaol at a period when Jones was in residence there. "That's Jones."

"Yes, my name is Henry Jones," said that man. "What do you want me for?"

"We have a warrant for your arrest," said Detective Jones. "Your

presence is desired at the police station for purposes of identification."

Jones laughed as the police went to handcuff him. "There's no need to be afraid of trouble," he said. "I'll go quietly."

Later that same day Jones was placed in the dock alongside Grand and Albert Yeomans. Always careful, he recognised neither man.

Constable Edward Mitchell, No. 1 Station, said that at 8.30 a.m. on 28th January he was in the corridors at Central Police Station, and overheard a conversation between Yeomans and Grand. He repeated it as follows:—

Grand: "They can't have a very good case against us for the murder, or they would not fetch men in to turn dog on us for other jobs we've done."

Yeomans: "I wonder who will get the rewards for our scalps?"

Grand: "The b—— Johns; and if they dig up many more witnesses they won't have much to divide among them. Keep cool—it's harder to fit a man for murder than anything else."

Yeomans: "'Messer' Gallagher made a mess of things in the box today. Whoever named him 'Messer' made no mistake. They've still got the black mare. She should be in good condition when she gets out."

Mitchell said that the men were in cells 9 and 10, and that he stood in the passageway that led to cell No. 10.

Because Jones' name was not mentioned in the original indictment, the inquiry was gone through a second time. It was at this stage that Yeomans followed Woolford and Gallagher out of the case, leaving Jones and Grand committed to stand trial for the murder of Constable Jones.

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And on 3rd March another start was made. Grand stepped into position with a jaunty air, Jones was pale and palpably nervous. But difficulties interposed. It had been found impossible to serve subpoenas on persons whom it was alleged were purposely avoiding service. In an affidavit Grand gave the name of a man who would prove that he was miles away from Auburn on the night of the murder. He said that he had no money nor solicitor's or counsel's fees. He also said that he had written to the Attorney-General asking for E. R. Abigail as solicitor and Walter Edmunds as counsel, but had been advised that accused persons could not nominate solicitor and counsel in that way. No solicitor or counsel had been assigned to him. Jones duplicated these statements, and also asked time to find a witness who would prove that he (Jones) was not at Auburn on the fatal night.

Abigail supported these statements. Said he: "I have not had time to prepare proofs of evidence for counsel, nor to confer with counsel; nor have I had time to dig into the antecedents of some of the Crown witnesses."

Mr. Pollock said that in view of the strong affidavits that had been read, the Crown would not oppose an application for adjournment.

His Honor thought that the Crown had done rightly in consenting to an adjournment till next sessions.

And on 6th April, 1903, before Judge Rogers, Digby Grand and Henry Jones faced trial for the murder of Constable Long at Auburn on 18th January. Hugh Pollock prosecuted for the Crown. A. G. Ralston appeared for Grand, and E. R. Abigail stood legally behind Jones.

It is on record that Grand's demeanour was that of an amused

spectator, rather than an accused principal in a very serious case. Jones was as always—silent, watchful.

Grand challenged eight jurors, while Jones objected to five.

Mr. Pollock outlined the evidence he proposed to call. He laid it down that if only one man fired the shot, so long as the other was with him, engaged in a criminal action, and standing by while his accomplice murdered Constable Long, both men were equally guilty.

Seemingly, the battle was on.

Witness Woolford threw a spanner into the wheels of justice. A remarkable change had come over the prompt and useful witness of the committal. The man was now a nervous ruin. Clearly the many criminal friends of Grand and Jones had been at work. Indeed the court was full of men and women who, as far as they dared, sympathised openly with the accused men; and many pairs of eyes gleamed hatred of the man who had turned dog. The dull red-rimmed orbs of Henry Jones, that seemed never to blink, were turned full on Woolford's face. Grand "looked" the murder he'd have accomplished in quick-march time, could he have got his powerful hands about Woolford's throat. It would have taken a man of inflexible will to face that battery of hate, and poor soft Woolford wilted badly. He hung his head, and in general acted like a man whose worst nightmare has come true. He acted as though he didn't understand questions which at the inquiry he had answered with promptitude.

His Honor: "Have you been drinking, or are you in a bad state of health?"

Woolford: "I am in a bad state of health. My head is bad. I have had only one drink."

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His Honor thereupon stood Woolford down till he recovered somewhat.

But the Court almost at once collided with the fact that without Woolford's evidence the case could make no headway worth chronicling. Indeed, without the evidence of the informer the Crown had no case. Only with the assistance of Woolford could Grand and Jones be got safely to the gallows. The trial was thereupon adjourned to the following day.

On 7th April Woolford was again brought in to face the broadsides, both optical and oratorical; and again he wilted like a moth in an oven. His evidence consisted in very truth of facts and incidents of which he said he had no recollection. He "didn't remember Long's funeral."

"Yes, he had known Long a long while."

His Honor: "Does that mean months or years?"

"Years."

Woolford said that he didn't remember when he last saw Long. He remembered Central Police Court, but did not remember being there or being arrested. He didn't remember giving evidence before the Magistrate there; and he didn't remember being arrested.

In answer to His Honor: No, he didn't remember giving evidence about the death of Constable Long.

Mr. Pollock took this very reluctant witness in hand.

"When did Constable Long die?"

"A long time ago."

"What did he die of?"

"He was killed."

"You were good friends with Constable Long, weren't you?"

"I don't remember."

"Do you remember how he died?"

"I heard he was shot."

And again His Honor stepped in. "Do you remember the funeral of Constable Long?"

"No."

His Honor: "Can you write?"

"Yes."

Dr. Taylor, a nerve specialist, was called. He said that he had examined Woolford after his appearance on the day before.

Mr. Ralston (for Grand) said that this was evidence for His Honor, and he asked that the jury should withdraw. His Honor directed accordingly.

Dr. Taylor said that Woolford was sane, but in a very nervous condition. "He is very frightened, and very nervous, and is in need of treatment."

It might here be said that poor terrified Woolford had been receiving too much "treatment."

An important point in criminal practice here arose. Mr. Pollock asked His Honor to discharge the jury. "The witness was an important one," he said. "He had been shown to be in a state of nervous collapse. There were circumstances in which a juror might be withdrawn, but this was a different matter. If a witness is withdrawn, the men could not be tried again. But if the jury is discharged without giving a verdict, then they could be."

But His Honor said that he wanted to hear more about the high degree of necessity which was the judicial reason given in the precedent quoted by Mr. Pollock; and he adjourned the case.

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On resumption next day, Dr. Taylor declared that Woolford was no better, and not fit to give evidence. "But with rest and quietness," he went on, "he will improve."

His Honor: "You think he will presently be able to give evidence?"

Dr. Taylor: "Yes."

Mr. Ralston: "You think he is sane?"

"Yes."

Mr. Ralston: "You would not undertake to say that on a future occasion he might be as bad as he is now?"

Dr. Taylor: "No."

Mr. Pollock: "You think that as far as natural memory goes he could have answered the questions?"

Dr. Taylor: "Yes."

Mr. Pollock then renewed his application of the day before, and asked that His Honor forthwith discharge the jury without giving a verdict.

"The witness is one on whom the case for the Crown absolutely turns," he stated. "Without his evidence I could not safely proceed. I ask your Honor to exercise the right you possess and discharge the jury forthwith."

But still His Honor hesitated. "The application is an uncommon one," he said. "There were cases quoted in which the Court of Appeal held that discharge of the jury was wrong, and recommended that the prisoner, convicted at the second trial, should receive a free pardon."

Quick to note his chance, Ralston spoke up. "I apply for an acquittal now, Your Honor; and I ask you to take that course, and not to discharge the jury."

His Honor was canny. "I am convinced that a Judge can act according to his discretion," he said. "But I have to consider whether there is any likelihood of justice being frustrated. In this case before the Court I think this may happen. I do not for one moment think that Woolford has been coerced by the prisoners, but that the inquiry into the circumstances of Constable Long's murder might be frustrated. I have to consider whether justice in the spirit of that inquiry is being properly carried out, or being frustrated. In the present case a very important witness, or a witness considered very important by the Crown, is temporarily unable to give evidence; and I think it would be a scandal if the presiding Judge did not exercise the discretion given him, and discharge the jury.

"On application by the Crown," His Honor then stated, "the Judge discharges the jury, being satisfied that the evidence of one, Woolford, was most material, and that Woolford was not then in a fit state of health, according to medical testimony, to give evidence. The witness, though not insane, is suffering from nervous prostration, and unable to give evidence."

Accused were then remanded and removed. Grand in particular maintained the alert buoyant demeanour that he had exhibited during the trial, and left the Court brisk and smiling.

On 7th May the pair again faced the solemn music of a trial for their lives. Not unnaturally—for human sympathies tend to lie with the man who is sure to be beaten—the minds of Sydney people veered to the side of the accused men. Grand seemed in good health and excellent spirits; which remarks with one exception applied also to Jones. Jones was thoughtful.

Another false start! Trouble arose at once, in that the defence of prisoner Grand had not been provided for. Mr. Ralston did

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not arrive, although the Attorney-General had been asked to arrange for him to represent that prisoner, instructed by E. R. Abigail.

Mr. Abigail did not desire a postponement, and was prepared to proceed with the defence of Jones. But, of course, this would have left Grand in the unfortunate position of having nobody to represent him. Therefore, in the interests of Grand, in order that counsel might be arranged for him, Mr. Pollock asked for a postponement. His Honor granted it.

It was on 11th May that the battle truly commenced—a fight for two men's necks that was destined to fill the premises for ten sweltering days. Because of certain legal incidents, Mr. Pollock retired from the prosecution. His place was taken by Mr. C. E. Pilcher, assisted by Wilfred Blackett.

Grand and Jones knew that the issue of life or death was now down for final decision, but neither wilted. They took a keen interest in all that happened, and called their challenges to jurors without trace of nervousness, in voices devoid of tremor.

Mr. E. R. Abigail stood behind Jones. The equally able H. A. Moss (destined to continue fighting for Grand even after that man had died terribly at the foot of a rope) did his best for Grand. As before, Judge Rogers held the scales. And day by day the galleries were crowded by men and women friends of the prisoners.

Mr. Pilcher opened the case for the Crown. He explained that the Crown had sometimes to fasten together a chain of small facts, which when linked together formed a sufficient proof to reasonable minds of the commission of a crime charged against a prisoner. He said that such was the case in the crime with which the men before the Court were charged. He explained that the crime had been committed at night, when most people were asleep. "Con-

sequently," said the Crown Prosecutor, "certain difficulties surrounded the proof of the charge, which it would take reasonable men to deal with."

In conclusion, he advised the jury not to rush to an unfavorable conclusion against the prisoners, but to consider coldly and dispassionately the evidence which, he believed, would enable them to arrive at the conclusion that one or other of the two prisoners had fired the shot which had killed Constable Long.

Theodore Trautwein repeated his exciting story of the 2.30 a.m. sound of a shot in the bar of the Royal Hotel, his awful discovery of a man writhing in agony on the floor, of his unsuccessful chase of the fleeing men, and his action of telephoning for police and a doctor.

Constable Eddy detailed the finding of Constable Long's dead body on the floor of the bar, and of the dead match by his side. "It would seem," he said, "that the constable ignited the match to illumine the bar, or to look for the electric switch, and that he was at once shot down."

Dr. Furnival said that he had examined the body of Long at the hospital. The forward course of the bullet as it went tearing through the brain told of a shot from the rear. The absence of singeing told that the bullet had travelled beyond reach of the flash and discharge that impelled it. "I should expect," concluded the doctor, "that the police will be able to indicate the minimum distance of the shooting."

Mr. Moss cross examined, and elucidated that the range of the shot was close enough to blacken the wound slightly, too great to singe the hair.

His Honor: "Does all this very much matter? It is quite evident that one of the burglars shot the constable."

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My earlier statement that there was a thirteenth man on the jury could, I think, be altered to read that the jury consisted of only one man—Acting Judge Rogers.

Mr. Moss asked Constable Eddy whether Grand's boots were sent for to see if they fitted the tracks allegedly discovered at Auburn. Grand at once started to take off a boot, but was told that this was unnecessary.

He then hoisted a boot up above the front rail for inspection.

Ethel Pope gave evidence of identification of both prisoners. Grand had rented half her house at Forest Lodge up to a fortnight before the "business at Auburn."

Woolford now entered the box, took the oath and asked His Honor to protect him from anyone using anything he said against him.

His Honor: "I daresay that assurance can be given by the representatives of the Crown."

Mr. Pilcher: "I am instructed to say that an assurance will be given."

His Honor (to Woolford): "You understand that nothing will be used against you."

Woolford: "Yes, I understand."

Still mightily afraid of the forces of intimidation, powerfully at work in the interests of the accused men, poor flabby Woolford then commenced to disremember everything, know nothing, and deny the balance!

But now the law held him gripped, and Dr. Taylor was called. He said that Woolford possessed memory, and was now malingering. "He is feigning loss of memory," he averred. "But he is sane and normal, and can answer questions."

Now authoritatively convinced that he had before him a man with brains enough to understand questions and answer them, but who was determined not to, Judge Rogers became more definite with this doubtful witness.

"You asked me just now to protect you. You seemed to hesitate lest evidence be used against you. I tell you now that if you do not answer I shall deal with you in such way as I think fit."

But still Woolford was nervous, and still he thought to quibble, shuffle, and dodge. "Do I understand that for anything I have done I will not be punished?" he asked.

After consultation among representatives of the Crown and Clerk of the Peace, Mr. Pilcher said that he had no doubt the Attorney-General would do as witness desired.

But the very next question rendered it abundantly clear that Woolford intended "not to remember" seeing Grand and Jones on the night of the shooting! He linked the evasion with a promise that he would tell all if he got a guarantee that he would not be punished for anything he had done since.

Mr. Pilcher again gave the required assurance.

It was at this point, and reasonably enough, that His Honor's patience blew up like a steam-boiler—everywhere at once. "You will not be punished," he said, "if you tell the truth, but if you go on as you've been doing I shall have you punished severely, and the Crown can deal with you in any way they like."

This definite threat convinced Woolford that it might be more dangerous to equivocate than to remember, and from this point the trial commenced to move in earnest.

Woolford now remembered nearly all the things and doings of which he had no recollection before, and said that he had seen

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Grand and Jones on the Auburn traffic bridge (over the railway lines) on the night of the fatal shooting. He also saw them at the trapdoor in the street outside the Royal Hotel, saw Grand disappear down the cellar, saw the bar-door opened, saw Jones enter, saw Constable Long cross the street, stand doubtfully a second, saw him enter. "It was just after that that a shot was fired," he said. "Grand and Jones immediately emerged through the open door, and ran in the direction of the Railway Station. And then I heard the sound of a sulky being driven very fast."

Again Woolford wavered, couldn't remember certain details.

His Honor: "Having put your hand to the plough, you cannot turn back. It will not help you with anybody to palter with the proceedings."

And Woolford's memory improved visibly. But he always asked to be allowed to consult his depositions (of the original inquiry) before answering any question of great importance.

On the morning of the fourth day of the trial a letter came up for review. It was addressed to John Norton, editor of "Truth," under the previous day's date, and in it the writer alleged that he (Woolford) was being "bribed and threatened by police and detec-

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tives to give evidence against Digby Grand and Henry Jones." In a P.S. it was added that "I will swear no lies to hang any man, not for all their promises of money. All I want is a clear conscience if I never have a penny in my pocket."

Challenged on the matter Woolford turned his eyes floorward, but spoke firmly enough, though with much hesitation, and said that the letter had been dictated to him by two friends of the prisoners, one of whom had threatened to stab him if he didn't write it.

The simplicity of the criminal mind!

There was evidence of identification. Constable Mason said that on the morning of the crime he noticed a black horse and sulky containing two men being driven rapidly along Parramatta Road at Petersham. He challenged them on the matter of lights, but the horse was sent on a swerve past him. He noticed that the horse was in a lather of sweat and was "pumping" hard. He later identified Grand as one of the men in the sulky.

Henry McDonald related that early on Monday morning he saw two men in a sulky travelling at a fast gallop along Cornwallis Street. He identified Henry Jones as one of the men.

Alf. Bailey was more sweeping. He lived opposite McDonald, also saw the sulky. He identified both men!

Archibald Coyte, meat-preserver, of Rookwood (Lidcombe of today) said that at about 1.30 a.m. on Monday he saw two men at Auburn, one tall and one a short stout man. He identified the tall man as Jones.

Said Grand to Jones: "Wonderful where they got 'em all from, isn't it?"

Grand maintained himself stoutly as days succeeded—waved and

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smiled at friends in the galleries when a point was made in his favour. Jones, stern of appearance and sombre, knew better. His keener intelligence told him that he was being impelled, firmly and certainly to his doom.

Nearing the end of the Crown case the lag-time traditions of Botany Bay intruded. "Histories" were dragged in! Unfortunately for Grand and Jones their careers were very easy to outline; and certainly the lives of both men came badly out of this review. It was clear that they loathed the monotonous regularity of the mill-round of toil.

The trial was one week old—one week and a bit; from Monday to Monday inclusive the legal battle surged, now in favour of this side or that, but generally veering against the accused men.

Constable Edward Mitchell's evidence of the conversation he overheard in a corridor of Central Police Station was now repeated. One sentence of Grand's challenges attention. "It's harder to fit a man for murder than for anything else."

More than forty years afterwards, when one considers the quite extraordinary and determined efforts by the Crown to secure the conviction of Grand and Jones, one's wonder is excited. What caused these quite unusual efforts? Probably there were several reasons: and one of them, I dare to think, was this overheard conversation. If Grand made the statement attributed to him, about the extreme difficulty of "fitting" a man for murder, then I think he assisted to bring about his own undoing. For it is quite likely that such a statement would bring about a determination to "fit" him at any cost. Of course, even if he made it, it doesn't follow that he was actually guilty. The remark might have been intended to calm Yeomans, who was greatly alarmed at the charge levelled against him.

Mitchell's evidence closed the Crown case.

The defence opened by Grand making a statement from the dock. He soon passed from opening nervousness to firm clear utterance. The man had intelligence. In brief survey he ridiculed the evidence against him, centring particularly on the testimony of identification. Suddenly he stopped, looked at the Judge, and sat down. "What's the use," he muttered.

Digby Grand, strong-willed as he had shown himself, had thrown in the towel. Perhaps he sensed the impossibility of winning a verdict in a pre-judged case.

Jones attempted to speak, but was stopped. "Grand's defence first," said the voice of authority.

Henry Asa Moss commenced his battle for the life of Digby Grand. He said that if the men on the jury fully and carefully considered the evidence, they would come to the conclusion that there was nothing sufficiently definite to convict either accused man.

"Woolford's evidence against Grand was the strongest—indeed the only evidence, as I shall show," said Moss. "He is the only man who says that he saw Grand and Jones at the Royal Hotel on the fatal morning. No reasonable man could doubt that he confessed to save his own skin. Dr. Taylor has said that earlier in this case Woolford was malingering—that for an object of his own he was not answering questions. Note how particularly careful he was to demand immunity for other crimes, and how frequently he demanded to be allowed to consult his depositions, obviously to the end that his stories might continue to tally with those told at the inquiry, and at the previous trials. I put it to you as average men that this important Crown witness was purchasing indemnity for himself by falsely accusing the men in the

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dock. Literally the man Woolford sold the required evidence, and as you heard him say, his price was clearance from complicity in any crime whatsoever, when and wherever committed. It amounted to a criminal blank cheque, and it did not even exclude murder. In a long career I have not seen so steep a price paid for police evidence."

Mr. Moss then dealt with the question of identification, and in truth buried it in doubt. "Every member of the Crown's team of identifiers has stated that a black horse was travelling at a fast gallop," he said. "This means, allowing the men sat upright in plain view, that each police witness got at most a very brief glance at two faces travelling at speed through the gloom of Parramatta road after midnight. Yet, with lives at stake, these men have the temerity to swear to the identity of the men in the dock with two faces they allegedly saw in the darkness months ago. Some of these witnesses identified one man, some attended to the other, but Mr. Bailey was even more obliging—after his inspection in ill-lit Cornwallis street at 3 a.m. he swore to both men. Plainly, there are men who know nothing of the truth, except perhaps to laugh at it."

Moss paused, took a drink of water.

"I think," he resumed, "that I can trust to the intelligence of the jury to view with extreme doubt the important question of identification."

He next referred to the evidence of the revolver found at Grand's house in Erskineville on the morning of his arrest. "Mr. Dunn, an acknowledged expert in firearms, has informed the Court that the weapon is a very common type. The fact that Constable Long was killed with a bullet that fitted it, means merely that a very common missile fired from a very common

variety of firearm, was used fatally at Auburn—but fired by whom? That question is still unanswered; and if I judge the jury rightly, then I dare to say that their verdict will leave it still unanswered.”

Point by point Moss traversed the evidence, picked holes in it, derided it. “Woolford’s evidence was literally dynamited out of him,” he said. “His Honour threatened him with severe punishment if he didn’t give it. ‘Severe punishment’ is a term capable of wide interpretation, particularly as it would be interpreted by a man of Woolford’s timidity. I submit that to convict men on Woolford’s testimony, obtained in such circumstances, would be a greater crime than the shooting of Constable Long.”

In his forensic battle on behalf of Jones, Mr. Abigail attacked the quality of the police witnesses. “Almost without exception—and I’ll deal with the exceptions,” he said. “The witnesses in this case are men who originally were arrested on suspicion of guilty knowledge of it. Yet one by one they were released, and instead of appearing in the dock, they stood in the witness-box and made dastardly efforts to swear away the lives of two men, with whom they had once drunk the glass of friendship. Woolford! Gentlemen of the jury, take a look at the pivot and hub of the Crown case—the noble fellow without whose evidence there would not have been a case.

“See, he squirms,” said Abigail. “Well, that’s the way of a worm.

“Gentlemen, I put it to you straight, that these men purchased their freedom—bought it by a promise to tell lies in a Police Court, lies in which they had been carefully coached. Have you ever seen a witness allowed to check up on evidence by referring to depositions, obviously so that his answer to the question would match his answer to the same question at inquiry and prior trial? I haven’t.”

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In order categorical he dealt with the witnesses, and by documents proved that the white flower of a blameless existence had had but little to do with their passage through life.

A lady witness against Jones caught it hot and often. "Her husband is in England, where he is occupied with a Judge's direction that he live in a big stone building for two years," said Abigail remorselessly. "She has been living with a gentleman in Redfern, but a Judge burst up the even tenor of his thieving way with a remark about six months, and again romance fizzled.

"Gentlemen of the jury, a case made out with the support of such witnesses is not a case at all. If this method became general, then no man's life or liberty would be safe. I ask you unequivocally to bring in a verdict that will set both men free."

And E. R. Abigail, prominent and able participant in many a drama of life and death, sat down.

Mr. Pilcher, Crown Prosecutor, was brief. He said that during the trial much had been said against the police. "They have been accused of influencing Woolford and others to obtain false statements to incriminate prisoners," he said. "Diabolical! Did the jury believe that police would so act—suborn witnesses for the sake of securing a verdict against these men? Line taken in defence was that Woolford was concerned in the burglary. In that case, who more likely to know who his mates were? Woolford vacillated, but there is no doubt that much of his evidence was true."

His Honor commenced his summing-up. "Notwithstanding much that has been said against the police, I think the public owes them a debt of gratitude," he said. "No doubt there are bad men in the force, and mistakes are made. But I think it awful that advocates should impute such things to these men—that they

would willingly suborn evidence, knowing it to be untrue, to get men convicted for murder."

His Honor then dealt minutely with Woolford. "There appears to be a theory that Woolford fired the shot. You have seen Woolford, heard his evidence. Poor, wretched contemptible person—an absolute coward. It was for the jury to say whether he had the pluck to fire it. Woolford had been attacked over his evidence, justly attacked, but he was one of the vile instruments that had to be used if crime was to be detected."

The question of alibis were brought up for review. "Both accused men have made statements, and these statements, together with the evidence called in support of them would, if the jury believed them, form a complete alibi. If the jury believed them, that would put an end to the Crown case. But the effect of an alibi that was not established was to recoil upon the persons setting it up. If it failed, then it would go to strengthen the Crown case. The point for the jury to consider was whether they had any reasonable doubt. The doubt must be something that intruded itself on the intelligence, not some fanciful thing raised up by the mind. Has an alibi been set up? If so, then that would mean the end of the case set up by the Crown. But it seems to me, subject to your better opinion, that one of the persons who committed the burglary was the person who did the murder. If there was sufficient evidence to convict on a charge of burglary, then there was sufficient evidence to convict of murder. If satisfied that the accused men committed the burglary, then it would seem to me that there is no escape from the finding that they also committed the murder, even if Woolford was in it with them from the outside. But I think you will dismiss Woolford from your minds, We have seen him in the box, and I think that you will agree that he hasn't courage to fire a child's toy pistol."

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And the jury retired.

Mr. Moss asked His Honor to direct the jury that if either of the prisoners committed a crime foreign to the criminal purpose, the other was neither principal in the second degree nor an accessory, unless he actually instigated or assisted in its commission.

His Honor: "I won't do anything of the kind. I won't direct them differently from what I have doné."

Moss then asked that His Honor direct jury's attention to the fact that though fifteen to twenty police and detectives had thoroughly searched the vicinity of the tied horse and sulky at Aubun, the chisel and hammer identified by Mrs. Pope as the property of Grand was not found till four days after the murder.

Grumbljng, His Honor agreed. "I do not wish to appear otherwise than absolutely fair," he said. And the jury was recalled and directed on the matter of the chisel.

On feet of lead six hours dragged their dreary length. Clearly the case was not nearly so simple as Judge Rogers had characterised it. How long—how dreadfully long—that six hours must have seemed to Grand and Jones. Would the decision of the twelve open Freedom's gates, or unlock the door of Eternity? Of the turmoil within, neither man gave outward sign.

Dramatic moment of re-entry!

"Guilty, Your Honor, but with a strong recommendation to mercy."

"On what grounds?" asked Judge Rogers.

"On the grounds," replied the foreman of the jury, "that there is no evidence who fired the shot, and there is the possibility of a third person having been present."

"Do you mean that you do not know which of these two men fired the shot?" queried His Honor sharply.

"Yes."

It looked very much like as if the foreman was surprised into giving this answer. His original declaration clearly indicated a belief in the possibility of a third man having fired the shot. As Moss had forecast in his fight for Grand, both law and police had failed to solve the riddle of who shot Constable Long. In truth the verdict was one of "not proven," or of "grave doubts." The jury said, by verdict and recommendation, that though they thought that one of the two accused had committed the murder, there may have been a third person present who could have shot the constable.

The plain English of the verdict was that the men of the jury were in such difficulty and doubt over the matter that they felt conscientiously bound to strongly recommend both accused men to mercy. The very fact that they took six hours in arriving at their verdict is in itself evidence of extreme doubt. Their finding was a full admission of this—a frank confession that they did not know who fired the fatal shot; and one is forced to the opinion that the verdict, hedged around with such categorical statements of doubt and uncertainty, accompanied as it was for that very reason, by a strong recommendation to mercy, was both in law and reason a verdict of "Not Guilty," and should have been recorded as such.

Queer though it sounds, the opinion is unalterable that had the men been tried separately, then each must have been acquitted; for even Judge Rogers could not have hanged one man, if the jury in its verdict declared that quite another fellow might have fired the fatal shot.

In the trial here reviewed, by one swift question the judge

distorted the solemnly arrived at decision, twisted the verdict to his way of hoping—and won. A verdict which indicated extreme doubts of guilt, said doubts expressed in a strong recommendation to mercy, was literally flouted, and treated as a finding of guilt. What can a recommendation to mercy mean, other than that the jury does not wish to see an accused man capitally punished? A man can't be hanged gently, or to a limited extent. But Judge Rogers promptly disposed of the humane recommendation. "I feel bound to say that it will not be entertained," he said. A reasonable person would think that a recommendation to mercy was a matter for the Executive Council to decide upon.

In answer to the question as to anything he might care to say before sentence was passed Grand stood up and spoke in a firm voice: "Yes. I wish to thank the man who so ably defended me. I was left undefended by the Crown, and only for a certain person I should have been left undefended all last week."

At this point Grand paused, leaned forward over the dock and

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looked fiercely at Judge Rogers. "As for you," he said. "I wish to tell you to your face that you have tried this case like a Crown Prosecutor. There was a judge in this State named Windeyer. Where did he die? Away from friends and relations, where I hope you will die. I shall meet you before our God, and then you shall know whether I am guilty or not."

Jones followed him. "I have to thank Mr. Abigail for the trouble he has taken in defending me. I have nothing to thank Your Honor for at all. Throughout the whole of the case you have been prejudiced from beginning to end."

And Digby Grand and Henry Jones were cast for death.

Mr. H. A. Moss continued the battle for Grand's life. As a result of his efforts Mr. Justice Owen, Mr. Justice Pring and Mr. Justice Simpson considered particularly that portion of the trial judge's direction to the jury, in which he stated that "the same evidence that would be sufficient to commit accused of burglary would also be sufficient to convict them of murder."

"If that was a direction to the jury," said Mr. Justice Simpson, "it was a wrong direction. It was a misdirection, and the conviction should be quashed—subject of course to hearing argument."

And the matter was adjourned, that the important matter of misdirection might be further investigated.

Moss spoke and wrote with ability on behalf of the accused men.

"A meeting was convened," he wrote, "at which Judge Rogers was present. Mr. Fosberry was there to represent the police—the police whose probity I had questioned! My arguments were received, traversed, rejected, over-ridden."

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But still Moss continued the fight.

Sydney opinion became sharply critical of the whole relentless business, much as it had done over the hanging of Montgomery nine years before. **But as in that case, so in this. Public opinion was ignored, and Grand and Jones were hanged. Or it might be more correct to say that they were judicially murdered.**

WHEN DEATH STALKED IN THE SHADOW OF AORANGI

By J. B. RAYWOOD

An ace crime writer, tells the story of one of New Zealand's most mysterious cases. Why did Death visit the popular young drink steward The answer has never yet been found.

ON the vast Tasman Glacier in New Zealand, Death appears at times with a terrible suddenness in the snow storms which sweep across its frozen surface. A recent tragedy—three young women accompanied by a guide caught unprepared in a sudden blizzard which arose in a few moments on Tasman—is still fresh in the minds of those who reside permanently at Mt. Cook. Five minutes after the blizzard struck, Death passed on with a mocking grin leaving the party where they had stood silent and immovable in their last long sleep.

The ascent of Aorangi is difficult and dangerous. Who knows if the tiny figures roped together seen at this moment on the icy face of the cloud piercer will return? For Mt. Cook, like all the peaks of the Southern Alps, does not favour all. Death lurks eternally in the mountains of which Aorangi is supreme. But on the evening of the fifth day of November, 1931, weary of lying in wait, he came from his hiding place in the icy mountain waste

WHEN DEATH STALKED IN THE SHADOW OF AORANGI

to stalk his prey for once in the shadow of the majestic cloud piercer.

The great hotel the Hermitage was crowded with many care-free happy guests hailing from the four corners of the globe. Americans, Englishmen and tourists from many countries in Europe together with many visitors from Australia and different parts of New Zealand composed an international band of pleasure seekers determined to forget the world at large for the moment and to enjoy the Alpine glories to their full. Some had come for thrills which they found in abundance on the ice-falls and steep crags. Others enjoyed themselves less energetically on the toboggan-runs and ski-fields or on the skating rink of the Blue Lakes. There were still others who, having had their fill of the magnificent scenery or wearied by many arduous walking excursions, were content to lounge in the beautifully appointed public rooms, where they sat at ease chatting or reading before big crackling log fires. Better still, they sauntered into the famous bar to enjoy one of the celebrated cocktails mixed there and then went out to the portico at the front of the hotel to meet the gay if tired members of different parties returning from time to time from long hikes on the glaciers and from the exhilarating exercise found on the rink and ski-runs.

It was late afternoon. All roads now led to The Hermitage. Groups of climbers with their guides each burdened with a 50 lb. pack drew near. Several of the parties had spent the night before not in the comfort of the hotel beds but in the rough bunks of one of the outposts—The Ball Hut or Malte Brun Hut—after an arduous ascent of some distant peaks. Laughing girls in smart riding-habits galloped up to the entrance on the sturdy hotel ponies; threw the reins to waiting attendants and then hurried inside to their room to change or into the bar to partake of several aperitifs before dinner. Many of the younger persons in the bar called for "Bill," the popular young bar-tender who usually mixed their cocktails. Signs of keen disappointment were to be seen on all sides, when "Bill" could not be found. Many more late-comers began to arrive at the portico, sometimes in pairs, sometimes in large parties. Beautiful girls whose photographs appear-

ed regularly in the society pages of Australian and English dailies entered the foyer calling hearty greetings to friends and acquaintances. They were tired but happy after a strenuous day on the ski-fields. Many were in hard training for the women's championship competitions to be held at the Aorangi Winter Sports Meeting in a few weeks' time. With shouts and laughter they were joined by escorts and friends who quickly deprived them of their skis and alpenstocks and then hurried them away to the amenities of the lounge and drawing room. Following the sportswomen in the rear came their coach, Alf Brustad, a sturdy young Norwegian, who in addition to acting as alpine guide was also the skiing expert associated with The Hermitage. Stragglers still kept arriving—from the Blue Lakes; from the toboggan-runs; from the ruins of the Old Hermitage located a mile away and which was demolished in the flood following a cloud-burst in 1915. Lastly they began to drift in from the numerous tennis-courts at the back of the hotel.

Two men had just finished a strenuous game of tennis on one of the courts. They moved to the side-line; donned their coats and began to walk towards the hotel. The taller of the two was Mr. J. H. Wear, a company manager from Christchurch, who was spending a short holiday at The Hermitage. The other was young and of slight build. He had all the appearance of a trained athlete. He was in fact an exceptionally good tennis player. His name was William Edward Wogan. His popularity among both the guests and the staff of the hotel was marked. In the bar, frequentees soon got to know him as "Bill," and the younger set always vied with each other in their attempts to inveigle him into mixing them some new special to take their fancy. Undoubtedly the likeable young employee, Bill Wogan, was one of the most popular bar-tenders who had ever faced the thirsty internationals across the bar-top of The Hermitage and asked the time-honoured question: "What's yours?"

By rights Bill Wogan should have been already on duty at that time of the day, but the management allowed him considerable latitude in the matter of his hours. As the pair walked towards the hotel building, Wogan ceased to swing his tennis

racquet. He raised it and began a close examination of the strings. His hard driving that afternoon had broken two of them. He smiled ruefully at the damage and decided that it would mean sending the racquet down to Timaru this time for urgent repairs. The sooner the better. He made up his mind to write a note to the repairer immediately before going on duty so that the racquet would go down in that night's mail. He also decided to dash off another letter before taking up his customary position before the lively throng which he knew would be collected in the bar long before six o'clock.

A group of persons had collected together on the pathway leading to the portico at the front of the hotel. There—the centre of attraction—stood a tall English girl in striking shooting attire with a .303 rifle held in her hand. At her feet lay the carcase of the animal which had fallen to her deadly aim. The animal was a fine chamois—the first of the season. She had shot it that afternoon at an elevation of 9000 feet after hours of difficult stalking. The girl was surrounded by a circle of admirers and photographers, including the staff photographer attached to the hotel, were busily clicking their cameras.

Wogan glanced in the direction of the group gathered in front of the hotel. He had it in mind to approach and take a close look at the girl's trophy but time was pressing. With a few cheery words to his companion who intended to join the little group of admirers, Wogan turned quickly away near the end of the building and took the path leading from the tennis courts to the courtyard at the back of the hotel.

The bedrooms assigned to members of the hotel staff were situated at the back of the hotel and the doors opened out on to the courtyard. It was Wogan's intention to go straight to his room and begin the letter writing but he changed his mind on the instant and went to an entrance leading to the large kitchen, where he knew he would at that hour find a fellow member of the staff—a friend whom he had known from his school-boy days in Hokitika on the Westcoast. At length he arrived in the large kitchen where a scene of great activity presented itself. A small

army of cooks and their assistants were busy catering for large though epicurean appetites engendered by the invigorating mountain air.

Wogan glanced for a moment on the scene of bustle and movement. He located the first cook and a general relieving the second cook busy at their tables. Assistants hurried about between the cluttered tables and a host of pantrymaids kept coming and going. At last the bartender spotted his friend at the far end of the room.

William Whalley was an important member of the hotel staff. He occupied the responsible position of chef and his word was law in the large kitchen. He had just finished making his usual rounds of supervising everything to ensure that the dinner would be served on the stroke of the clock done to a turn. He was now contemplating beginning the finishing touches to the piece de resistance of the menu—a task requiring his personal skill and attention.

Wogan threaded his way between the tables, waving his racquet in friendly greeting to some of the assistants. He found the chef giving instructions to one of the pantrymaids—Miss Florence Johnson.

“When are you going to measure me for those trousers,” Wogan asked the chef in his breezy characteristic manner. He placed the racquet down on the table with a flourish. Whalley gazed for a moment at the ingredients and utensils awaiting his attention and then looked at his friend.

“I’ll come down to your room in a few minutes, Bill,” he replied at length, “and I’ll fix you up.”

“That suits me,” remarked Wogan, picking up his racquet again. “I want to send the measurements away to-night.”

Whalley nodded assent.

“It’s about time you were breasting the bar and shaking Aorangi specials for our thirsty guests,” remarked the girl to Wogan jokingly.

"Not just yet," he replied with a smile. "In addition to being measured for trousers by our friend here, I've got to write a letter or two before going on duty with the cocktail-shaker to-night." He held up the racquet and pointed to the broken strings. "Besides I've got to pack this up ready for the post also."

"Hitting as hard as usual—those tremendous drives of yours," she said laughing. "No wonder you're always breaking the strings of your racquet."

"The penalty of being a good player," retorted Wogan with another laugh. He turned to go.

"By the way, what is the time?" asked Miss Johnson.

Wogan glanced at his wrist watch. "Exactly half past five," he replied.

"Plenty of time for me to snatch a rest before I go on duty," she remarked, as she left them.

Wogan began to move away from the table.

"I'll be there in two or three minutes," stated Whalley, who had busied himself at the table.

"Righto," called the bar-tender. "You'll find me writing letters."

Wogan immediately left the kitchen with its bustling contingent and proceeded out to the courtyard. As he walked across the yard in the direction of his room, he was singing snatches of a song which he had heard echoing from the radio in the lounge the night before. He swung the racquet jauntily. He stopped to greet Jessie Duncan, another member of the staff. After exchanging a few pleasantries with her, he proceeded to the door of his room. A few feet further along was another door giving access to the room occupied by Mr. W. G. Williams, a photographer, residing at The Hermitage. Wogan went along to this door to ascertain

if the room was occupied. Having made certain that Williams was not there, the bar-tender retraced his steps and entered his room.

It was a small room, sparsely furnished, but comfortable enough for all that. In one corner stood a low bed. On the other side of the room against the wall was an improvised settee made from three petrol boxes, two being inverted and the centre one laid flat so as to form a seat. The whole was roughly covered with chintz. A small table and ordinary high chair completed the furniture except for a clothes cupboard.

Having tossed his racquet on to the bed, Wogan procured a writing-pad and, sitting down at the table, began hurriedly to write a letter. Death had successfully stalked his victim to this unprepossessing room in the great luxury hotel, but he was yet to wait a few more minutes before knocking on the door and claiming the popular young bar-tender for his own.

The hands of the large clock in the hotel bar pointed vertically to the hour of six o'clock. The bar was crowded by a gay throng, many of whom had changed into evening dress for dinner. But scattered about in the laughing, jostling crowd were some who still wore their skiing and climbing attire incongruously sombre and out of place amid the colourful tres decollete evening dresses of the ladies and the black and white attire of the men. Many were calling loudly for "Bill." They had ceased to wait patiently for him to turn up and mix their favourite drinks. They had never known him to be as late as this. Invariably he was at their service before the hour of six o'clock. When the minute hand pointed to four minutes past six, many decided to wait no longer for the mixer of their specials but moved up to the bar and contented themselves by ordering something that did not require to be mixed in a shaker.

The sound of a shot was suddenly heard in the courtyard at the rear of the hotel. The person who heard it was Mr. Williams, the photographer, who occupied the room next to Wogan's. He paid no attention to the sound. Rifle shots at dark were not uncommon. There were countless rabbits to be found in the immediate vicinity of the hotel and many of the guests turned amateur sportsmen at this hour of the day and took potshots at the scurrying cotton-tails. Williams continued his walk across the yard which was deserted and entered his room where he began to change his heavy walking boots and socks, putting on his light shoes. He had just finished tying the laces, when the door of his room was flung open and a man visibly agitated stepped across the threshold.

"Bill has shot himself," cried the intruder in a strained, unnatural voice.

Williams looked up at the intruder in startled bewilderment. He saw the figure of the hotel chef framed in the doorway. Suddenly Whalley dashed away. As the chef rushed across the yard, he met Miss A. L. Wright, one of the maids employed at the hotel, who was walking up from the tennis-courts. Whalley paused sufficiently long to inform her also that his friend had met with a shooting accident.

The significance of the startling information had at last dawned upon the photographer who immediately hurried out of his room after the chef who had gone in the direction of the kitchen. The bald statement of fact had left Williams in a mild state of shock. What really had happened to Bill Wogan? Williams hurried to the kitchen to find out. It did not occur to him to go at once to Wogan's room and find out what had happened.

As Whalley ran into the kitchen, Arthur Stinson, the general

who happened to be relieving the second cook that evening, was surprised at the chef's blanched face and agitated appearance. He knew that the chef had come from Wogan's room, because Whalley had informed him that he was going down to his friend's room earlier in the evening.

"What's wrong?" asked the startled Stinson.

"Bill has shot himself," was the only reply.

Williams now arrived on the scene with an urgent request for information that would put him in possession of the full facts. The only reply he received was in the nature of an admonition: "Go to Bill?"

Whalley turned hastily to the second cook and having told him to carry on with the serving of the dinner disappeared into the dining-room eventually arriving at the servery.

"Give me a brandy—quick," he demanded from Nellie Duncan, the waitress who was in charge of the servery. He offered a ready explanation, when she turned a quick look of inquiry at him. "I want it badly," he said, "as Bill has just shot himself." He gulped the liquid down and then hurried back into the kitchen, where he rejoined the rather perplexed photographer who had decided to wait for Whalley to accompany him before going back to investigate what had actually happened.

The two men returned back to the yard and at length entered the bar-tender's room. Williams' quick glance centred in the far corner of the room. Lying there slumped on the floor was Wogan, with his head resting against the wall. His hands which were empty were extended by his side. There was something about the propped-up attitude of the bar-tender which immediately suggested to Williams that Wogan had not fallen into this position

which was not the posture to result naturally, when a person suffers a sudden physical collapse. It appeared to him that the man had been placed in the corner by the efforts of another.

Williams immediately knelt down and examined the unfortunate man. There was blood on the left side of Wogan's head and also on the settee next to his head. The photographer glanced quickly about the room for signs of a weapon. But he could not see any firearm.

Whalley, who had been standing by in an attitude of complete hopelessness, continued to gaze with staring eyes at the man whom he had called friend for many years.

"How did it happen?" questioned Williams rising up suddenly from the floor. He quickly scanned every nook and corner again in the hope of locating the weapon.

"Bill shot himself accidently," muttered Whalley in an indistinct voice. "Can't you do something?" he cried suddenly verging on an hysterical outburst. "Can't you do something? Take off his collar," he ordered in a calmer voice. Then he added: "You had better feel his heart. I haven't the nerve to do it."

"Have you notified some of the others?" demanded Williams in a serious tone.

"Yes, I told them in the kitchen," replied Whalley anxiously. "I went there for help but they seem to be a long time in coming."

Suddenly Whalley hurried out of the room, Williams with a final glance towards the man sprawled grotesquely in the corner of the room, also went out and returned to his own room. The photographer did not notice in which direction Whalley had gone. He had only just entered his room, when the chef came back again across the yard. Williams rejoined him and the pair again entered Wogan's bed-room.

As they stood gazing at the man on the floor undecided as to what to do, they were slightly startled by the sudden entry of a newcomer into the room. It was Estella Boucher, a member of the hotel staff. She brushed past the two men and cast one look at the figure in the corner.

"Why is Bill lying there?" she demanded to know of them. "What has happened to him?"

"He has grazed his head," she was told. The practical girl stooped down and felt inside Wogan's shirt for the heartbeat. Then she grasped his wrist and felt his pulse.

She stood up quickly and faced Williams. "It is only beating feebly," she said in a hushed voice. The girl and Williams stood looking at each other for a moment. During that space of time her glance had moved beyond Williams to Whalley, who was standing behind the photographer between the bed and the settee. She was startled to see that the chef had a rifle in his hand. He moved quickly over towards the settee and stood the weapon straight up against the wall at the end of the settee. For several moments, the girl lingered staring first at Wogan then at the rifle. Then she disappeared out of the door. Miss Boucher's departure seemed to be the signal for action on the part of Whalley. He went to Williams and said: "We had better get him back on to the bed." The two men took hold of Wogan with the intention of carrying him to the bed but they were interrupted in the task by the hurried entry into the room of Mr. C. D. Elms, the licensee of The Hermitage.

"What has happened here?" he asked, turning to Williams and motioning them to one side in order to get a look at the prostrate man. "I was in the store-room, when I thought I heard the report of a rifle."

"Bill has been shot," was the answer to his question.

"How did he come to be shot?" demanded Mr. Elms.

"I haven't the slightest idea," was Williams reply.

The three men then lifted Wogan up and carried him to the bed. Others had now arrived and they crowded into the room. They included Mr. D. Standage, general manager of the Mount Cook Tourist Company, who was a permanent resident at the Hermitage and Mr. P. W. Dingwall, an engineer, employed at the hotel. Mr. Standage crossed over immediately to the bed and examined Wogan who was evidently unconscious. He felt inside his shirt for the heartbeat. There was a slight flutter which stopped a moment after he had inserted his hand.

"He's dead," he remarked, turning to the others. There was a hush in the room. It was difficult for each and all of them to realise that vivacious Bill Wogan, the most popular member of the large hotel staff, was dead from the effect of a gunshot wound apparently self-inflicted.

Mr. Elms walked over to the settee and took up the rifle, which was lying on the settee hard up against the wall with the muzzle pointing towards the table and the trigger upwards. He examined the weapon and found that it was not loaded. Then he carefully replaced it back in its original position.

"I'll be back in a moment," said Mr. Elms at length. "I'm going to notify the police and get them up here as soon as possible."

As soon as the licensee had left the room, Messrs. Standage and Dingwall made a close examination of the wound. There was no evidence at all of burning or singeing around the wound. Mr. Standage turned and glanced towards the settee. The rifle was gone. With a muttered exclamation he looked quickly around the room which was now deserted except for himself and Dingwall. At last he moved to the doorway. Outside in the courtyard, he perceived Whalley standing with his rifle in his hands a few paces away from the entrance to the room. When he noticed Mr. Standage, he suddenly exclaimed: "We don't want any more accidents."

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"We do not," agreed Mr. Standage in an emphatic tone. "But all the same, I don't think the rifle should be touched, until the police get here."

Mr. Standage thereupon moved away from the door and began to discuss the unfortunate happening with the engineer, who eventually left the room. A few minutes later, Mr. Elms returned. The first thing he noticed was that the rifle was missing. After searching around the room, he looked outside the door and found the weapon in the yard. He brought the rifle back into the room and placed it in the same position hard up against the wall on the settee.

Messrs. Elms and Standage were still examining the body, when a newcomer made his appearance. He was Alf Brustad, the young Norwegian ski expert.

"Is that your rifle?" asked the licensee, pointing to the weapon on the settee.

"Yes," replied Brustad. He glanced once at the tragic burden on the bed. Then he fixed his gaze on the weapon. His eyes moved slowly around the room. At length they rested for a moment on an empty cartridge shell lying on the floor about eight inches from the head of the bed.

"How did the rifle get here; do you know?" one of the men asked him.

"I don't know," replied the Norwegian. "I don't know at all." He again cast a quick glance at the body on the bed. "Whalley borrowed it from me one or two days ago. He said he wanted it to go shooting rabbits. I told him it was an automatic," continued Brustad at length, "and he said that he could handle it alright. Whalley told me on the evening of the day he borrowed it that it was not much good, as he had not been able to shoot anything with it. But he didn't return the rifle to me; nor did he tell me where it was," he added after a pause.

"The police will be here sometime to-night," remarked the licensee. "You will tell them what you have just told me. Wogan was shot with this rifle. That's quite plain and it doesn't look to me like suicide."

The licensee again examined the body to satisfy himself beyond all doubt that life was extinct. Then having locked the door of the room in the presence of the others, the licensee accompanied by Mr. Standage went into the hotel office.

The Norwegian did not reside in the hotel like other members of the staff but instead he had a house of his own some distance away from the hotel. After leaving the death room, he went straight down to the kitchen and firmly requested Whalley to accompany him up to his house, explaining that he naturally desired to question the chef at length about the shooting, since he himself was the owner of the death weapon. Whalley readily agreed to accompany him to the house.

"I want you to tell me exactly what happened," said Brustad after they had entered the house.

"I don't know," came back the reply. "I was showing Bill how to load and unload the rifle and, after I left, I was going to the door and the shot was fired. I don't know what happened."

In answer to another of Brustad's questions, Whalley explained that Wogan had been sitting on the bed with the rifle between his legs.

"What was Bill doing with the rifle anyway?" asked the Norwegian.

"Bill wanted to borrow the rifle to-morrow to shoot rabbits," replied Whalley. "I agreed to lend it to him. I didn't think you would mind."

After a few more words, Whalley got up from the chair preparatory to returning to the hotel.

"Well," said Brustad who had accompanied him to the door, "you'll have nothing to worry about, if you tell the police the truth. I was a bit anxious to know exactly what had happened, as after all it's my rifle."

"You don't need to worry, Alf," rejoined Whalley, as he was about to take his departure. "I'm the one they'll take."

The nearest police station to The Hermitage is situated at the little town of Fairlie—the rail head 57 miles distant from the alpine hotel. A few minutes after learning of the tragedy, Mr.

Elms had got into touch with the station by telephone and reported the shooting to Constable Mackintosh of Fairlie, who left immediately for the alpine resort which he expected to reach soon after midnight.

The news of Wogan's mysterious death cast a gloom over the whole staff that evening. The jovial young bar-tender had been popular and well liked by all. He had been an exceptionally good tennis player often taking part in games organised by the guests. In the bar, he was first favourite with all and sundry of the habitués. But the gloom in the staff quarters did not extend to the gay spacious lounges occupied that night by the throng of cosmopolitan holiday-makers. They danced in the large salon to the latest jazz tunes broadcast from Wellington and Sydney and enjoyed themselves to the full, oblivious of the fact that death had come and passed on again that fatal evening—that "Bill" Wogan who had mixed their special concoctions with quick, deft hands lay dead in his room killed in some mysterious manner by a rifle bullet in the brain. Mysterious it was, because there was not one member of the management nor the staff who believed for a moment that the late bar-tender had deliberately snuffed out his own life. Bill had been joking in the kitchen a few minutes before the fatal shot. He had been seen by Jessie Duncan entering his room and he was then full of his usual fun and singing to himself. Every one was certain that Bill Wogan had not committed suicide. How then had he come by his death?

That was the question which the whole of the hotel staff was asking that evening after dinner, when the members had gathered together in the staff-room. No one could ever remember Wogan having done any rabbit shooting before. He had never borrowed a rifle. He had always spent his time, when not on duty in the hotel, either playing tennis or going out on walking tours. It was even stated by more than one that the bar-tender had had a peculiar aversion to firearms of any sort. It was only natural that members of the staff should approach Whalley individually that night for some explanation of the mystery.

When Estella Boucher asked him early in the evening about it, he said: "Bill had the rifle in his hand and was standing by the

door. When I went out of the room, I heard the shot and thought Bill had fired at me." Later to a group in the staff-room who asked the same pertinent question, he explained that, when he went out of the room, Wogan was sitting on the settee with the rifle between his legs. But to Jessie Duncan, who had met the deceased just before he entered the fatal room and who had told other members of the staff that Wogan was in the best of spirits and actually singing to himself, Whalley gave a slightly different version of the events which had taken place in the death room. He told her that Wogan had had the rifle on the settee and that the deceased was sitting in the chair—not on the settee. As he was leaving the room, Whalley stated to her that he heard a shot and turned to see a stream of blood coming from a wound in the side of Wogan's head.

The chief also explained to Florence Johnson that the deceased had been sitting in the chair at the time of the shooting. Even with all these explanations to chew over in their minds, members of the staff had nothing to offer by way of even partial solution of the tragedy, as the time drew near when the representative of the law would arrive to make an investigation of what had seemed from the very first moment to be an enigma wholly baffling and sinister in every respect.

Constable Mackintosh arrived by motor-car just after 1 a.m. He was immediately taken to deceased's bedroom. He found that the wound in the head was about an inch and a half in length above the left ear. It had been caused by a bullet from a .22 calibre rifle. There was nothing to show that the bullet had gone through the head. It was clear to the constable on the first examination that the wound had been caused by a rifle held at right angles to the head. He could find no trace of blackness or powder marks around the wound and there were no signs of singeing of the hair. On examining the wall between the settee and the table, he found a spot, about 5 inches in circumference and three feet two inches from the floor. It was clear that this spot had been caused by the deceased's head having stained it, as there were signs of hair oil. From this point extending directly to the floor was a streak of blood, which had formed a small pool on the floor. The

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constable also found a good deal of blood on the end of the settee. He picked up the rifle, which was on the settee close by the wall and examined it carefully. There was no blood on the weapon. A close inspection of the room disclosed under the bed the cartridge shell which Alf Brustad had detected, when he first entered the room. A writing pad and letters were found on the table by the officer who took charge of these articles ascertaining that none of the letters was a "suicide" note. After making a thorough search, he found a box of live cartridges and the sum of £7 18s 9d hidden in the toe of a boot. After a complete investigation of the room, the constable proceeded to interview Whalley. The chef readily made a statement in which he said that he had known Wogan for about six years. They had been mates together and Whalley had often gone to deceased's room to talk over different matters. He had borrowed the rifle from Brustad to shoot rabbits and had promised to leave the rifle with Wogan, who also wanted to try his hand at rabbit shooting. Whalley had gone to deceased's room to show Wogan how to load the rifle. As he was leaving the room with his back turned, the chef had heard a shot and, turning round, saw that deceased had been shot in the head. At the time Wogan had been sitting with the rifle between his knees. He was quite sure that he had emptied the chamber, after showing deceased how to load the rifle, before returning the weapon to the deceased. The statement concluded with the intimation that Whalley and the deceased had backed horses together at different race-meetings and had always been on the best of terms. The deceased according to Whalley had been very popular with everybody at the hotel.

After a few more inquiries had been made among the members of the staff, the investigation concluded in the meantime and the constable returned to Fairlie to make his report and to arrange for a post-mortem examination.

On November 7th, the post-mortem examination was carried out by Dr. J. Sutherland, of Fairlie. The doctor found a clean cut circular wound about the size of a split pea on the left side of the skull one and a half inches above the base of the ear. The hair was not affected in any way. He looked for singeing and

burning without result. There were no powder marks. The bullet had entered the skull horizontally. The bones on the right side of the skull were not injured internally. On removing the brain matter, he found four or five pieces of lead. These were lying in the centre of the base of the skull. The doctor reported that death had been caused by laceration of the brain and would have been almost instantaneous.

An inquest on the death of William Wogan was opened on the same day at Fairlie and the hearing after formal evidence had been given was duly adjourned to the 10th instant. On that date the hearing was resumed before the Coroner, Mr. C. R. Orr Walker, when Whalley was called by the police to give evidence along the lines of the statement already made by him to Constable Mackintosh. The inquest was again adjourned to allow of further investigation into the mysterious shooting on the part of the authorities. The onus of conducting the further investigation into the matter was now to fall on the shoulders of Mr. A. S. Bird, Inspector of Police for the District of Timaru.

It was not until the 21st of November, however—sixteen days after the date of the fatal shooting—that the Inspector himself visited The Hermitage where he personally interviewed Whalley. The hotel chef again made a statement concerning the death of his friend signing it as correct. Whalley stated that, when he first entered the room on that fatal evening, Wogan was busy writing letters. When he left the room, Wogan was sitting on the chair with the rifle between his legs, the butt being on the floor. Whalley had not shown Wogan how to manipulate the rifle the last time he (Whalley) was in the room, as he had shown Wogan on a previous occasion. He denied having touched the rifle, after it had been found on the settee. One part of the statement was calculated to attract the close attention of the authorities. It

was to that fact that Whalley was practically certain, when he first saw Wogan after the accident, that the deceased was sitting on the chair with his head resting back on the wall. (When Williams first entered the room accompanied by Whalley the deceased was found lying on the floor in a corner of the room.) Whalley admitted that he had received the sum of £6 from Wogan to be wagered on a horse named Pharoah at the Rangiora race meeting. He had duly placed the money with a bookmaker, so he said.

Nine days later, namely, on the 30th of November, being the adjourned date of hearing of the inquest to the Magistrate's Court at Timaru, Inspector Bird was surprised to receive an early visitor to his office in the person of Whalley who explained to the officer that he desired to make a further statement regarding some blood which stained his hands and apron on the night of the tragedy.

"While attending to the deceased," explained Whalley to the Inspector, "I got blood on my hands and a little on my apron."

The hearing of the inquest was resumed before Mr. Orr Walker the same day. The scene at the room where the shooting had occurred was reconstructed in the court from the original furniture for experimental purposes.

The first witness was Mr. A. Z. Hill, a gunsmith of Timaru with fifty years experience. He explained to the court that the rifle belonging to Brustad required normally a pull of $5\frac{1}{2}$ lbs. The rifle was a dangerous one especially for a stranger. The rifle was equipped with a safety-catch but in his opinion a stranger would not know how to manipulate it. It would require a mechanic to demonstrate the working of the safety-catch. The witness produced exhibits of the effect of shots fired at 6, 12, 18 and 24 inches distance respectively. Powder discolouration was associated with the first two, slight discolouration with the third but none at all

with the shot fired at a distance of 24 inches. He told the Coroner that by holding the rifle in the hand at full length, one could fire a shot at a distance of 6 inches from the head.

"Can you hold the rifle so as to fire it at 12 to 14 inches away to agree with the medical evidence of horizontal fire?" asked the Coroner.

"It would be very difficult; in fact, almost impossible."

"It is clear that a person could not deliberately shoot himself in that position?"

"Yes," replied the witness.

Inspector Bird then sat down on the chair so as to represent the deceased and the witness took up his stand several feet away with the rifle.

"If the deceased had the rifle between his legs and lifted it up to place it on the settee, would it be possible or probable," Inspector Bird asked the gunsmith, "that the rifle would go off?"

"I see nothing on the settee to interfere with the trigger," replied the witness. "I have tried the rifle all ways and it will not discharge on its own volition. I have bumped the rifle with varying degrees of force without result."

"Therefore the trigger must have been caught by something?" suggested the officer.

"Yes."

Mr. Elms, the licensee of The Hermitage, was then called by the Inspector to give evidence. He related how he had come into the room and found the deceased.

"What was Wogan doing in his room at the time?" asked the Inspector.

"He should have been on duty and so should Whalley."

"There was nothing to indicate that Wogan would take his life?"

"It is the last thing in the world I would think of."

Wallace Williams, the photographer, stated that Wogan had been a partner with Whalley in betting transactions. When asked to tell the Court how long he was occupied in changing his boots and socks after hearing the report of the rifle, he stated that a good four minutes must have elapsed before he finished, just as Whalley entered his room to inform him of the tragedy.

Whalley, who was sitting in the Court, then asked the witness a few questions.

"Did you hear me singing out to you immediately after the shot?" he asked Williams.

"I did not hear you."

"Are you certain it was four minutes, before I came to you?"

"Yes."

"Are you certain that I left the room, after we went in together?"

"Yes," replied the witness.

As a matter of fact, when the police subsequently timed Williams changing his boots and socks, it was found that the time occupied in making the change was 2 minutes 23 seconds.

A suggestion was made in the Court that there had been friction between Whalley and the deceased five days before the tragedy. Wogan was supposed to have given Whalley £10 to be wagered with a bookmaker on a certain horse. This particular horse had not started and the money at Whalley's instigation had been carried to another, which had won. The suggestion was that Wogan had

intimated to other members of the hotel staff that he was determined to get his money back from Whalley.

The next witness was Constable Mackintosh who had initiated the investigation. He stated that there was a writing pad on the table. It appeared as though the deceased had commenced to write a letter headed "Hermitage Mount Cook 5." There was a mark of blood on the pad.

"Have you tested this for finger-prints?" the Coroner asked the Inspector.

"No."

"I am certain there is a distinct finger-print."

"It is not sufficiently clear," replied Mr. Bird.

"It can be sent away to the proper authorities?" inquired the coroner.

"Yes."

The constable went on to state that a horse's name was written on the pad, apparently in the deceased's handwriting.

Whalley was the next witness to be called. He said that the first time he went to Wogan's room on the afternoon of November 5th, Wogan was away at tennis. He went into the room to put away the rifle and to see the time. He returned later but Wogan was still out. On the third visit Wogan had returned and Whalley measured him for a pair of trousers and helped his friend to spell several words in his letter writing.

"Do you remember any of the words?" asked the Coroner.

"Yes—'waistcoat' and 'racquet'."

"How would you spell 'racquet'?"

"R-a-q-u-e-t."

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"That is not the way he spelt it," replied the Coroner. "It is the only word that would require any spelling. The rest are simple. It is just a letter to have repairs made to his tennis racquet. In his letter he spells racquet correctly."

"Where was the rifle?" asked Inspector Bird.

"Wogan had it between his legs. the last time I noticed it."

"He did not tell you that he had loaded it or knew how to load it?"

"No."

"You were looking at him. Can't you draw a picture of what happened?"

"I have tried hard enough," replied Whalley. "I cannot say where the rifle was, when I turned to leave."

"When did you next see the rifle?"

"On the settee after we had got him on to the bed."

"Then how did it get there?" demanded the Inspector.

"I could not say."

"Did you touch it?" inquired the Coroner.

"No."

"Did you touch that rifle?" reiterated the Inspector in a stern voice. "Now be careful. If you did, say so."

"I was pretty well rattled but I do not remember doing so."

"If it was between his legs, how did it get on to the settee?"

"I couldn't say."

"You really don't know where the rifle was immediately before and immediately after the accident?"

"No. The first impression I got was that he might have been shooting at me."

"Why did you think that?" interposed the Coroner. "Did you quarrel—about figures, for instance?"

"I don't think the deceased committed suicide. I think he accidentally shot himself."

"What is your opinion as to how deceased was killed?" asked the Inspector.

"I have heard a lot of theories but none seem to fit in."

"Have you heard the theory that it was impossible for him to have done it himself?"

"No."

"Do you realise that it is up to you to give some explanation?" said the Coroner. "You were the only two in the room and Wogan was shot, when you momentarily turned your back. He admittedly didn't commit suicide."

"I cannot say."

"Will you say that the blood on this writing pad is not off you?" asked the Coroner.

"I cannot see how it could be," was the reply.

The inquest was again adjourned for further investigation, the Coroner remarking: "I am satisfied from the evidence already given that the deceased did not commit suicide; nor is there any evidence at present for finding that deceased was accidentally shot."

Three months to the day elapsed before the hearing was resumed. On February 29 of the new year, the Coroner again sat at Timaru. Several more witnesses were called, including Mr. T. J. Smallwood and Miss Stella Boucher.

Mr. Smallwood told the Court that he had had fifty years experience in the use and manufacture of firearms. He stated that the trigger pull of the rifle was about 4 lbs. pressure and should

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be 5 lbs. He had carried out a number of tests with the rifle. There was only one way the rifle could have been found as it had been, and that was if somebody had placed it there.

Miss Boucher testified that Whalley had told her that the deceased had had the rifle in his hand and was standing by the door. When he went out of the room, he had heard the shot and had thought for the moment that the deceased had fired at him. She also testified that Whalley had told her later that, when he had left the room, the deceased had been sitting on the settee with the rifle between his legs.

The Coroner returned the following verdict: "That William Edward Wogan died on November 5, 1931, at The Hermitage, Mount Cook, from laceration of the brain substance and haemorrhage, the result of a bullet wound fired from a .22 rifle. The facts so far proved in my opinion definitely exclude the conclusion that the deceased committed suicide. They also are in my opinion inconsistent with a definite conclusion that the deceased accidentally shot himself. The matter is now one for the police to take such further action as they may be advised and the inquest may be legally re-opened if the occasion warrants this course."

Exactly seven weeks went by before the authorities disclosed what further steps they had taken to solve the enigma of the Mount Cook shooting fatality. Meanwhile Whalley had left The Hermitage and returned to his home town, Hokitika, in the west-coast Province. On the evening of the 18th April, 1932, Police Sergeant C. J. King stationed at Hokitika arrested Whalley at his home on a warrant from Timaru charging him with the murder of William Edward Wogan. Whalley must have been expecting this drastic step on the part of the authorities, because his only comment was: "I've been expecting this."

Since the date of the Coroner's verdict, he had been interviewed by the police for the third and last time. On this occasion Detective-Sergeant J. B. Young was the officer who saw the accused. Whalley stated at the outset that he had consulted a solicitor and paid him for his advice. The advice which he had received was not to make any further statements. Notwithstanding this, the detective-sergeant had pointed out that it was his duty to put several questions to Whalley but it was for Whalley to decide whether he answered them or not. Mr. Young then drew Whalley's attention to the fact that there were witnesses who stated that Whalley had made a number of contradictory statements as to where deceased was when the shot was fired. On one occasion he had said that deceased was sitting on the chair; on another occasion deceased according to him was sitting on the settee and again that he was sitting on the bed. The detective-sergeant also questioned Whalley without result about his betting transactions with the dead man.

The accused arrived in Timaru on April the 20th under escort and duly appeared in the Magistrate's Court, when he was remanded. Again another long delay took place—seven weeks before the authorities had finally completed their investigations into this baffling case. The accused had appeared from time to time in the Court to be remanded. At length the police were ready to proceed with the preliminary magisterial inquiry, which began at Timaru on June the 8th, before a Christchurch magistrate, Mr. E. D. Mosley. The hearing occupied two days and Court was crowded by a public eager to hear the evidence against the man accused of murdering his friend of more than six years standing.

Twenty-one witnesses were called on behalf of the Crown, many of whom gave evidence of the conflicting statements made by the accused immediately after the fatality.

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When Inspector Bird had finished giving his evidence, he was asked by the Magistrate when he had first seen the statement taken from the accused by Constable Mackintosh.

"Not until I went to Fairlie, the day the inquest opened," replied the Inspector.

"When was that?" demanded Mr. Mosley.

"On November 7."

"Did you go any further after taking steps to have inquiries made at The Hermitage?"

"Constable Mackintosh had made inquiries and a postmortem was held and after that I went up."

"You made inquiries into everything?"

"Yes."

"As senior officer of police in this district, did you not consider it advisable to call in the services of an experienced detective?"

"Not at that time."

"You have a detective in this district."

"Yes."

"Did you come to any conclusion regarding the death, when you visited The Hermitage the first time?"

"No. I had an open mind?"

"Did it not strike you, having an open mind, of the necessity for an experienced detective to investigate the matter?"

"No."

"When did you get an experienced detective to investigate?"

"After the completion of the inquest."

"When was that? I have no knowledge of these matters."

"On the 30th of November."

The Magistrate's associate explained that the Coroner's verdict was given on February the 29th. The Inspector told the Magistrate that he had reported the whole matter to the Police Department at Wellington.

"There was an extraordinary lapse of time between the death

of the deceased and the activities of the police," said the Magistrate. "Can you account for it," he asked Mr. Bird. "It appears to me most extraordinary—I don't want to say it was a bungle—but it was most extraordinary. You have your duty to perform to the public. Do you consider it a reasonable thing to allow time to elapse from the 5th November until the end of February?"

"I reported the matter as soon as the inquest was over. Every inquiry was made that should be made."

"Were these inquiries made by anyone other than yourself?"

"By Constable Mackintosh and myself."

"You see, you are the senior officer in a big district. Did it not strike you that it required a specialist? You have hundreds of things to attend to. Did you give time to it?"

"I gave time to it. I made other inquiries before. I have inquired into three other murder cases."

The Crown Prosecutor interposed to the effect that he could explain the cause of some of the delay.

"Delay in investigating a crime is entirely different from delay in hearing," remarked the Magistrate. "The delay in investigating the matter by an experienced man, whose business it is to investigate," he continued, "is hard to understand."

Considering that Whalley was standing in the dock charged with a capital offence, the above observations on the part of the Magistrate which were printed in all of the leading newspapers in the Dominion were entirely without precedent and highly improper. Mr. Mosley's critical remarks—surplusage, the only effect of which might be to prejudice seriously the accused, were later the subject of strong comment by the Chief Justice who presided at the trial in the Supreme Court.

After hearing all the evidence adduced by the Crown, the Magistrate committed the accused for trial at the next sitting of the Supreme Court at Timaru. Mr. Mosley remarked that it was quite clear that the shooting was not suicide or accidental. Just how the Magistrate could say definitely that it was not accidental is anything but clear. Mr. Mosley however said that the accused had told three or four different stories of what had taken place in

the room. In his opinion, it was clear that the Crown had established a case of murder or manslaughter. He remarked that it was his duty to refer to the extraordinary delay in getting expert investigation of the matter. "It seems to me the delay has been most extraordinary," he concluded. As a matter of fact the Magistrate had a very erroneous conception of what constituted his official duties in the conduct of the inquiry. In the meantime, the accused was remanded in custody in Paolara Gaol to await trial.

On the 26th day of July, he appeared in the dock at the Supreme Court, Timaru, to answer the capital charge preferred against him.

The Rt. Hon. Sir Michael Myers, K.C.M.G., P.C., Chief Justice of New Zealand, presided at the trial.

The Crown Prosecutor, Mr. W. D. Campbell, conducted the case for the Crown. The accused was represented by Mr. A. C. Hanlon, K.C., of Dunedin, and Mr. L. E. Finch, of Timaru. Mr. Hanlon is a brilliant advocate and has had a most distinguished legal career. He has appeared in different parts of New Zealand as leading defence counsel in many a cause celebre.

A large number of men and women crowded the Court and many were unable to gain admittance.

The Grand Jury returned a "true bill." In his address to that body, the Chief Justice stated that it was a fundamental principle in the administration of justice that a prisoner had the right—it might almost be said the sacred right—of appearing before the trial jury unembarrassed and unprejudiced by prior official or judicial comment. It was officials' duty to avoid comment calculated to prejudice or affect that right.

The main facts upon which the Crown relied, stated His Honor, were: (1) The position and direction of the wound which was about an inch above the left ear on the side of the head.

(2) There was no burning or singeing or powder marks around the wound—a fact which was supported by the evidence of experts.

(3) Accused had made different statements as to where deceased was sitting at the time of the shooting.

(4) The position of the rifle on the settee after the shooting.

The Crown Prosecutor in opening the case intimated to the

jury that it would be proved that the rifle was found on the settee hard up against the wall of the room with the muzzle pointing towards the bed. The empty cartridge shell was found under the bed and an expert would say that a shell when ejected from the rifle would drop at the foot of the person manipulating the rifle. It would be contended by the Crown that the rifle was fired somewhere near where the shell was found. Mr. Campbell admitted that the Crown could not prove a motive against the accused. But evidence would be called to show that the accused shortly before the date of the tragedy had gone to another man and requested him to tell a lie. "If a man goes to another and deliberately asks him to tell a lie," remarked Mr. Campbell, "there must be something in it."

The evidence adduced was similar to that already given at the inquest and at the magisterial inquiry.

Mr. R. D. Elms, a motor-driver employed by The Mount Cook Tourist Company, who resided at The Hermitage, testified that both the deceased and the accused were interested together in horse racing. He had often heard them discussing betting transactions together and he had been commissioned to take wagering money down to Fairlie for both of them. Several days before the tragedy, he had been approached by the accused with a request to say "Yes" if Wogan inquired from him, whether or not he had taken down any wagering money lately.

Mr. A. J. Hutchison, a grocer from Hokitika, gave evidence to the effect that he had known the deceased for twenty-eight years. Witness had often gone out shooting but the deceased had never accompanied him. Mr. Hutchison told the jury that Wogan had a positive dread of firearms and had even shown signs of extreme nervousness when confronted with an empty cartridge shell. Corroborative evidence as to deceased's dislike for firearms was given by Police Sergeant C. J. King who had known Wogan for six years. The sergeant spoke very highly of the deceased who had been keenly interested in football and tennis. Mr. King had never known Wogan to go shooting.

Expert evidence concerning the rifle was given by Mr. L. F. Tisdall, a gunsmith of Christchurch with over twenty years ex-

perience with firearms. The rifle was a .22 Browning automatic and had been sold by witness' firm to the ski-expert, Brustad. It was a reliable and soundly constructed weapon. When he examined the rifle, it was functioning quite well, although the trigger pull was on the light side with a bit of drag. It was not a clean pull but a safe one. He had knocked the weapon but had been unable to discharge it in any way. In his opinion the rifle could only be fired by the application of pressure on the trigger. He explained to the jury that, when the rifle was fired, the empty shell was not thrown out of the breech but deflected immediately beneath the rifle to fall a foot or two in front of the feet of the person discharging the weapon. He had carried out tests starting at a distance of $10\frac{1}{2}$ feet and working in. From a distance of $10\frac{1}{2}$ feet to 2 feet, the punctures on a piece of blotting-paper were quite clean. At a distance of 2 feet there were signs of powder marks. From a distance of 2 feet to point blank the marks increased considerably. At point blank range the powder marks were accompanied by burning. The furthest distance away he could get the muzzle of the rifle from the left side of his head, while holding the weapon in his left hand and placing his right hand on the trigger was $4\frac{1}{2}$ inches. If the rifle was fired at that distance there was considerable singeing. When the rifle was fired at right angles to an object, it made a clean puncture slightly smaller than the size of the bullet. If fired at an angle, the puncture was inclined to be oval. Dr. J. Sutherland testified that the wound was a clean puncture showing no signs of singeing or traces of burning and no powder marks.

No evidence was called for the defence.

The Crown Prosecutor in his address to the jury said that the evidence was definite and stood uncontradicted that Wogan had been shot at right angles to the head. There was no burning or singeing, and an expert had said that, if the rifle had been fired within a foot of deceased's head, there would have been those conditions. It was for the jury to decide how the deceased came by his death. The accused had stated to Standage that deceased was sitting on the chair; to Brustad that he was on the bed and finally to Dingwall that he was on the settee. How then did he come to be huddled up in the corner against the wall? Counsel

invited the jury to believe that Wogan was sitting on the chair, when he met his death. He drew the jury's attention to the fact that an appreciable time elapsed from when the shot was fired up to the time when Williams appeared on the scene. The photographer had had to take off a pair of heavy boots and change his socks. During that time what was accused doing? If the deceased had shot himself how did the rifle come to be where it was on the settee hard up against the wall? The accused had stated that Wogan desired to borrow the rifle because he wanted to get some rabbits to give to the greyhounds. The dogs however had been fed on scraps from the kitchen ever since they had been at The Hermitage.

Mr. Hanlon addressed the jury at length on behalf of the accused. With his usual eloquence and consummate skill in marshalling the facts, he traversed the evidence against his client in detail, pointing out its circumstantial nature and contending in his characteristically vehement style that the Crown had failed to establish its case. The Crown did not have to prove motive, when the issue was beyond doubt. When it was not, however, the jury would have to look for a reason for the killing. Could they believe that it was because Whalley had not sent some money down to the bookmaker for the deceased? Counsel admitted that the hypothesis of suicide had been definitely ruled out but there was always left the possibility of accidental shooting. Did the jury prefer murder to accident? Admittedly the accused had made different statements of what had occurred in the room but this was to be expected from a man who had been placed in the terrible position in which the accused found himself on the night of the tragedy.

The accused, continued counsel, had gone at first to the room to measure Wogan for a pair of trousers. The witness Miss Johnson had said that she had heard Wogan ask the accused to go and measure him. She had also said that Wogan wanted to send the measurements away that night. Counsel pointed out that accused had openly purchased cartridges at the hotel store. Would that be the action of a man with murder in his heart? There was nothing in accused's conduct after the event that pointed to his guilt. Mr. Hanlon submitted strongly that there was nothing to

show that the shot was fired near the bed where the empty shell was found. There had been plenty of traffic in the room and the shell could easily have been kicked under the bed. If the accused had aimed at Wogan while he was sitting in the chair, the shot would not have been horizontal but would have entered the head sloping downwards. It looked as if no one would ever know how the accident really happened. Counsel put it forward for consideration that the deceased picked up the rifle by the muzzle to place it on the settee and the trigger caught on the corner of the settee, thereby discharging the rifle.

Before concluding his address, Mr. Hanlon trenchantly criticised the actions of the Coroner and committing Magistrate in making observations from the bench inimicable to the fair trial of the accused. "These two gentlemen made statements from the bench decidedly prejudicial to the accused, who was going to stand his trial on a capital charge," said Mr. Hanlon. "What they said has been said in public and has been published in the press from one end of the Dominion to the other."

Their actions, stated counsel, had been highly improper in the extreme and he advised the jury of the fact that the Crown Law Office evidently with a full appreciation of the situation facing the accused had offered a change of venue but the accused had declined, having every confidence in a jury of Timaru citizens.

The Chief Justice in his summing up said that in some cases, where the main facts had been proved, but the motive was not apparent, the jury was capable of bringing in a verdict of manslaughter. He asked the jury to consider whether the Crown had excluded the hypothesis of suicide and accidental shooting. There were five possible hypotheses to account for the tragedy:

- (1) That the deceased had committed suicide.
- (2) That the deceased had accidentally shot himself.
- (3) That the deceased was accidentally shot by the accused.
- (4) That the deceased was murdered, and
- (5) That the deceased had been killed by the culpable negligence of the accused who then stood faced with the charge of manslaughter.

His Honor pointed out that the evidence in his opinion definitely precluded the hypothesis of suicide.

The Chief Justice also referred to the remarks of defence counsel concerning the unwarranted observations made by the Coroner and the committing magistrate concerning the case.

"When all the evidence is taken (i.e. the Magistrate) has to decide if a prima facie case has been made out," said His Honor, "and if so to commit for trial and that is all. If there is not, he should dismiss the charge and give his reasons. If, as I gather from the statements of counsel, anything has been done in this case contrary to what I have said, then all I can say is that it is to be deplored. It has not happened previously in my experience in New Zealand, and I hope it will not happen again.

"It is to be deplored," continued His Honor, "because whenever anything of that sort occurs it creates an embarrassment for the Supreme Court judge, who has to try the case and you must be careful, gentlemen, to see the accused is not prejudiced by any comment that has been made and published previous to the charge coming before this Court."

The jury retired to consider their verdict at 4 p.m. o'clock on the second day of the trial and returned at 7.20 p.m. after being out in the jury room for three hours and twenty minutes.

"Not guilty," answered the foreman, when formally questioned by the Registrar of the Court.

There was a loud, almost hysterical, outburst of applause from a section of the spectators in the crowded seats at the back of the Court when it was known that William Whalley had been acquitted. The Chief Justice sternly ordered the police officers to suppress the demonstration and arrest any person found guilty of violating the decorum of the Court.

When interviewed after his discharge, Whalley stated that he had been happy and relieved when arrested, as he wanted nothing more than an opportunity of clearing himself in the eyes of his fellow men from the many insinuations that he had with malice aforethought killed his friend of many years standing. When asked about his feelings concerning the verdict, he admitted that he had rather expected a verdict of manslaughter.

FAMOUS DETECTIVE STORIES

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