

CONTEND WRONG MAN WAS HELD

Defense in Lem Woon Chinese Murder Trial Outlines Its Position.

STATE'S STORY OF CRIME

Special Prosecutor Malarkey Goes Into Details of Killing of Lee Dal Hoy—Defense Alleges Coercion.

The Lem Woon Chinese murder trial, which is in progress in Judge Bronaugh's department of the Circuit Court, has proceeded to the place where the state is ready to place its first witnesses on the stand. The last two jurors necessary to complete the 12 who will try the case were secured yesterday. Dan J. Malarkey, special counsel for the state, then proceeded to make his opening statement, and was followed by Attorney Frank F. Freeman for the defense.

Pointing out to the jurors on a chart the dwelling house at Fourth and Pine streets, the room occupied by Lee Dal Hoy and his wife before his death, the hallway and a rear door where he was murdered, Attorney Malarkey related to the jury the facts which are to be brought out by testimony.

On the night of March 7 Dal Hoy entered his home by the front entrance, and had started to ascend a stairway at the rear when a shot rang out. His wife, who was in their apartments on the second floor at the time, ran to the stairs and down, until she came to a door opening off a landing in the stairway. There she saw her husband lying on the floor and three men standing in a rear doorway. She recognized one of them, said Mr. Malarkey, as Lem Woon. The others she did not recognize.

As she saw the flash of steel she became frightened and shut the door, remaining on the stair, however, and watching through a large crack in the floor, in which a large shot was followed in quick succession, all being poured into the prostrate body of her wounded husband.

At the first shot, said Mr. Malarkey, another Chinaman, occupying apartments in the rear of the building, ran to his door, and, looking out, saw these Chinese, two of whom he recognized as Lem Woon and Yee Gueng, who is a co-defendant with Lem Woon, although he will have a separate trial. He asked them roughly what they were doing there, but their guns flashed in the dim light, he slammed the door and, running to a window which gave him a safer view, watched the three men. After the murder he and two of them ran south on Fourth street, while the third man went to the Pine-street entrance to the dwelling.

Mr. Malarkey said another Chinaman, who was acquainted with Lem Woon and Yee Gueng, was walking north on Fourth street at the time of the murder and recognized the three men as they ran past him, and turned east on Oak street.

Detectives Find Dying Man.

Detectives Tom Kay and B. F. Smith were on their way to the scene of the murder to search for Chinese gamblers, said Mr. Malarkey, when they saw the first shot rang out they were only about a block away. They started on the run, with their sledge hammers in their hands, toward the scene of the shooting, and after an interval heard the rapid succession of shots. They hesitated at the entrance, when somebody said, "Get the hell out of here," and they ran into the hall by the front door, to find Lee Dal Hoy lying at the foot of the stairs in the arms of his wife. Kay bent over the wounded man, while Smith ran out the rear entrance to prevent any one from leaving. As he questioned Lee Dal Hoy, with whom he was acquainted, Kay learned that Lem Woon was the man who did the shooting.

In the meantime, friends of Dal Hoy had learned of the murder, and that Lem Woon and Yee Gueng were among the men implicated. They went on the run to the Police Station, and securing Detectives Richner and Jones, went to the building at 45 Second street to look for the murderers. Easy access to the rooms on the third floor could usually be had, but the detectives found the door this time locked with five locks.

Find Men in Hiding.

Upon breaking in they found Yee Gueng and Jo Bong in a closet, armed with a revolver, fully loaded. The two were placed under arrest and handcuffed. At the east end of the hall, sitting on a bunk, they found Lem Woon. Knives, revolvers and weapons of various descriptions, which were brought to the Courthouse yesterday to be used as exhibits, were found in profusion.

The three men were taken to the hospital, where Lee Dal Hoy lay dying. He pointed out Lem Woon as the man who shot him, and Yee Gueng as his associate. The other man, however, Lee did not know.

At the scene of the murder, within a few feet of where the shooting was done, Officer Wanders found a 35-caliber Smith & Wesson revolver, evidently where the murderer had thrown it after having slain his victim. This will be introduced as evidence.

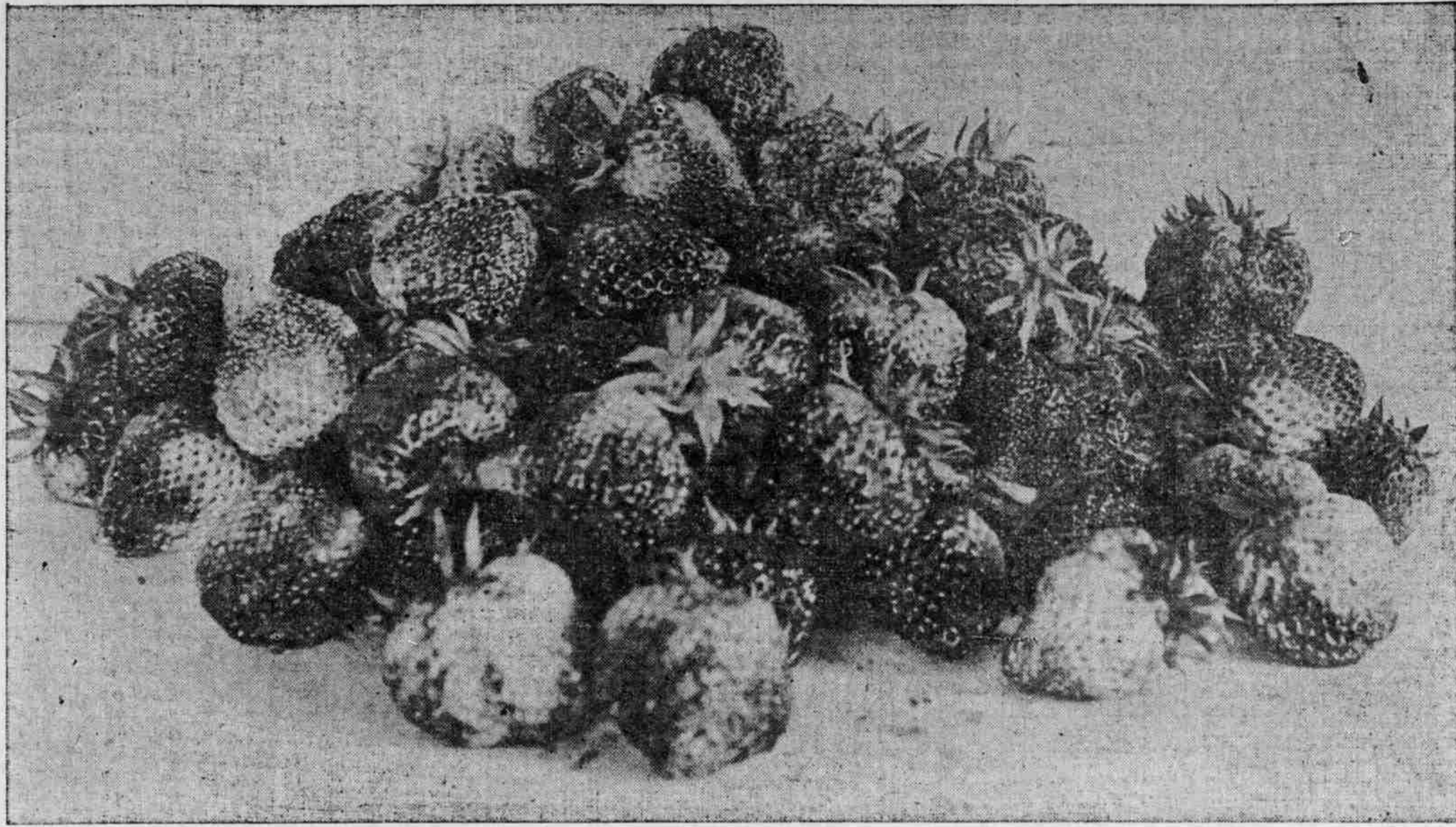
Lee Dal Hoy, together with the men under arrest, were members of rival factions in the Bow On Tong. Dal Hoy is said to have embezzled some \$2000 from the funds of the tong, for the payment of this money. The Chinese consider it a sin not to pay one's debts. This is offered in explanation of the feeling which resulted in the slaughter of Lee Dal Hoy.

Contentions of Defense.

In defense of the accused man, it is to be contended by his attorneys that he is not Lem Woon, but that he has a relative by that name who looks like him, and who is a year and a half older. To strengthen this point, the defense will introduce police records containing the picture of the man now on trial. It is admitted that this man's surname is Lem, however, and that he is a fisherman.

To the contention of the state that Lee Dal Hoy identified Lem Woon as his murderer, the defense will set up the claim that he only winked his eye or nodded his head as he lay on the operating slab at the hospital, when the three men—Lem Woon, Yee Gueng and Jo Bong—were brought before him.

Attorney Freeman said that the defense expects to show that, although Dal Hoy has been in America 25 years, and could speak English, he spoke at the hospital through an interpreter, a



The above photograph shows a choice lot of Magoon strawberries grown by John H. Haak on his three-acre tract at Mt. Tabor. Mr. Haak is a Portland business man with offices in 702 Oregonian building. The berries in the photograph are a trifle smaller than actual size.

MAGOON STRAWBERRIES, GROWN BY JOHN H. HAAK, AT MOUNT TABOR

NERVOUS ON STAND

Walton Ill at Ease During His Third Trial.

CASE WILL CLOSE TODAY

State Makes Sharp Attack on Testimony of Youth Who Was Once Convicted of Shooting Officer Nelson.

Charles W. Walton, the young musician who is on trial before a jury in Judge Cloward's department of the Circuit Court, for holding up a Willamette Heights streetcar and shooting Policeman Olaus Nelson, was apparently ill at ease as he sat upon the witness stand yesterday telling of the crime. The familiar way in which Deputy District Attorney Bert Haney, in a searching cross-examination, addressed him as "Charley," apparently unnerved him. He digressed with his fingers and often played for time by repeating the question, which had fallen from the lips of the Deputy District Attorney.

Walton realized that Mr. Haney was endeavoring to impeach his testimony by jumping from this point to that, and as a result, his answers were often evasive. The accused man realized, too, that his word was being pitted against that of several witnesses, and that the jury, as well as the court and spectators, knew that somebody was telling an untruth.

Not only Walton's reputation, but his character, was assailed by state's counsel. He was compelled to admit on the witness stand that he joined the Order of Washington when he was only 14 years old, by swearing to a falsehood regarding his age.

Walton Gives His Version.

Walton said that on the night of the hold-up, September 1, 1907, he played a mandolin with the other members of an orchestra in Watson's restaurant, on Fourth street, between 6 and 7:30 P. M. As he had a headache, he told his friend, Fred Wagner, a member of the orchestra, that he intended to take a car ride. He borrowed 25 cents from him, and putting on a dark top coat, light hat and a handkerchief about his neck, went to Willamette Heights, walking back to the fair grounds. He said a friend gave him 25-cent flask of whiskey to ease his headache before he went.

Walton said he found it was 10 o'clock, and had an engagement with a young woman at 10:20, so he hailed an east-bound car. As he swung onto the car, a man brushed past him, and Walton was struck over the head with a revolver in the hands of the motorman, according to his story. He said he had only 15 cents with him at the time.

Yesterday morning the records of the police station were introduced and Archie Leonard was placed on the stand to testify as to their correctness. Leonard was the clerk at the time of Walton's arrest. The record shows that \$2.50 in nickels, dimes and quarters was found on Walton when he was searched.

Walton was asked what kind of a handkerchief he had about his neck. He said he didn't know. He was asked if he tied it, and said, repeating the question after Mr. Haney, that he didn't know. Asked if he did not say at a former trial that it was not tied, he admitted he did. Asked if he tied it in front or at the back of his head, he said if it was tied it was tied in front.

Conductor's Testimony Read.

The testimony of Conductor Johnson at a former trial was read yesterday by Mrs. C. Badgley, the official reporter. She took the shorthand notes. This testimony was only introduced after Attorney Henry St. Raynor, for Walton, had made a strenuous objection to it.

After placing Captain of Detectives Slover on the witness-stand, Attorney St. Raynor tried to impeach his testimony with that of Mrs. C. K. Smith, a missionary who works about the jails. Slover was asked if he did not have a talk with Officer Nelson at the Good Samaritan Hospital in which Nelson said that he did not know who shot him. He said he did not; that he only talked to Mrs. Nelson. Nelson had previously testified that he had no conversation with Slover. He was asked if he had not told Mrs. Smith of such a conversation, and he said he had not. Mrs. Smith's testimony was ruled out by the court on motion of the state's prosecutors.

The defense also tried to impeach the

RECEIVER SUES J. M. LONG

Suit to Recover \$3574.20 Rent on the Commonwealth Building, at Sixth and Burnside Streets, Has Been Filed in the Circuit Court by F. W. Leadbetter, A. Berg and Lewis Richards, against R. R. Benham, Leroy Richards, W. A. Spanton and W. L. Benham. It is Alleged in the complaint that a five-year lease to the building was given by the plaintiffs on March 29, 1906, to the Commonwealth Bank & Trust Company. The lease provided that it might be assigned to another upon the written consent of the lessors. This was obtained, it is said, and the building subleased to the defendants. The rent for the building between November, 1907, and June, 1908, at \$1400 a month, was \$9800. It is asserted that only \$6225.80 of this amount was paid.

RECEIVER SUES J. M. LONG

Suit against J. M. Long, a local attorney, to recover \$3574.20, with interest, and \$300 attorneys' fees, has been filed in the Circuit Court by Thomas C. Devlin, receiver of the defunct Oregon Trust & Savings Bank. Of this amount, \$3000 is alleged to be due the bank on a promissory note, signed May 4, 1906, and payable on demand. The balance of \$494.20 is said to have been collected by Long for the bank from Chester V. Murphy, referee in bankruptcy of the United States District Court, on account of the bankruptcy of the Star Bottling Works. Devlin alleges that Long has never paid over the money.

MISSING FOR EIGHT YEARS

Because Joseph Gay has not been heard from for eight years, Mrs. Addie Gay has decided that he is dead, and upon petition, was appointed yesterday as administratrix of his estate. It consists of a \$200 life insurance policy. When last heard from, Gay was in Seattle.

SHOTS GUN BY MISTAKE

While extracting the cartridges from his revolver, Edward Burke, a police officer, accidentally discharged the weapon in a lounge-room adjoining the Municipal Court while the room was filled with patrolmen waiting to go out on duty late yesterday afternoon. The bullet luckily went high and nobody was hit.

Officer Burke had just completed cleaning his revolver and was extracting the cartridges, when he accidentally pulled the trigger. As the gun was discharged the officers who were lounging around made a rush for the door just as those from downstairs were trying to get in, and for a few moments pandemonium reigned.

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AUTO UPSETS INTO WATER

MAN AND WOMAN HELD BENEATH BIG MACHINE.

STUDENT PLAY AT HEILIG

"Forest Bell" Will Be Presented by Christian Brothers.

Schneider's dramatic opera, "Forest Bell," will be presented at the Heilig Theater Friday night by the students of the Christian Brothers' College in connection with the closing exercises of that institution. The principal characters in the dramatic production will be taken by John P. Driscoll, Aloysius Hyland, Robert Driscoll, George Kelly, Joseph Hurley and John Jennings. The music will be furnished by the theater orchestra. Aside from the opera, the programme will include three choruses by over 100 students of the college; an extract, "The American Sailor," by Edwin W. Kenefick, and "The Quarrel Scene Between Brutus and Cassius," by Jerome Hurley and Frank McGinty.

The Alumni Association of the college has reserved a section of seats in the body of the theater for its members, who will be required to exchange the tickets they have purchased for others included within this reservation. The exchange of tickets must be made before 6 o'clock Friday night.

SUGGEST "OUR GEORGE" TO CONVENTION

Facetious Telegram Is Sent Asking That Oregon's Governor Be Made Running Mate of Secretary Taft.

KILLED IN LOGGING CAMP

Frank Quigley, Crushed by Log, Dies Within a Few Minutes.

ASTORIA, Or., June 16.—(Special)—Frank Quigley, who was employed as head brakeman on the Sorenson Logging Company's logging train at Siveness, was so badly injured while at work this morning that he died about 15 minutes later.

He was assisting in unloading logs, when he fell off the car and a large log rolled over him, crushing his breast. Quigley was 25 years of age and was married last October. In addition to a widow, he leaves his parents and two brothers, who reside at Clatskanie.

PORTLAND GIRLS GRADUATE

Three Young Women Receive A. B. Degrees at Smith College.

NORTHAMPTON, Mass., June 16.—(Special)—Three Portland young women were awarded bachelor of arts degrees at the 34th annual commencement of Smith College today. The Portland graduates are: Elizabeth Parker, Lucile Parker and Alta Smith. Anna Russell, of Salem, was also granted an A. B. degree.

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