

WILL EXAMINE MENTALITY OF ACQUITTED MAN
(Continued from page 1)

of the long handled shovel which has figured to some extent in the state's testimony.

Stadter developed particularly the theory of self-defense, pointing out that under the law Halvorson was entitled to defend his home as well as himself from attack. The testimony given by the state, particularly by Ed Rogers, dovetailed perfectly into that of the defendant, who, as Stadter pointed out, is the only eye witness of the shooting.

Cowardice Explanation

Burdick analyzed the chief features of the case, which he declared hinged entirely on the testimony of Halvorson. He declared that Halvorson's actions were all to be explained on the basis of cowardice, his apparent great bravery in facing Garrett at the Halvorson home just before the shooting being the action of a cornered coward.

Halvorson knew Garrett was armed with a hard shooting gun, knew he was intoxicated, and did as any man would do in securing his revolver as he saw Garrett approach, said the attorney. Burdick believed that Garrett had jumped to the top step to fire through the door, and had swung to the ground before Halvorson sped the fatal bullet.

Referring to questions by the state throughout the cross examination of the defendant, seeking a reason why Halvorson should not have left the house by a rear entrance, Burdick pointed out that the defendant had the right under the law to remain and defend his home. Even if he had made the attempt, the quantity of miscellaneous effects stored in the adjoining room from which the door led, would have made such an attempt fatal.

Garrett Stunned, Hinted

Plainly expressing his belief that the Halvorson house had been prepared for the inspection of the jury earlier in the day to emphasize the impossibility of Halvorson's exit, McMahan brought the arguments of attorneys in the case to a close.

He scored local authorities for conducting no post mortem examination of Garrett's body, and asserted that the verdict of the coroner's jury, lacking such an examination, and with the district attorney absent, constituted no vindication. The action of the county judge in binding Halvorson to the grand jury, and the action of the grand jury in returning a true bill of indictment both showed the existence of evidence sufficient to warrant a trial, he pointed out.

McMahan demanded an explanation of the wounds found on Garrett's head in the post mortem conducted by Dr. Morse. "Was Garrett struck on the back of the head with a long handled shovel and stunned shortly after the first two shots were fired?" he asked. "What hit him, and who did it?"

"If his skull was crushed at the Halvorson house, was the bullet fired into his body as he lay on the ground?"

Says Truth Not Told

"The whole truth has not been told in this case," McMahan concluded. "Something is being covered up."

The court's instructions were delivered at an evening session, the case going to the jury a few minutes after 8 o'clock. Under the instructions, three verdicts were possible—second degree murder, manslaughter, and not guilty.

That Ed Halvorson, indicted as the murderer of Willard Garrett, has in his story of the killing, shielded some third person, was the declaration of District Attorney A. J. Moore, when he outlined the state's case to the jury at the opening of circuit court Thursday morning. "Halvorson has taken the entire blame for the shooting," Moore stated. "He has not told the entire story."

A well filled court room heard the opening addresses by attorneys for the prosecution and the defense. Beginning of testimony on the second day of the case was made possible by an evening session last night when the jury, consisting of L. S. Silvery, Elmer Lehnerr, K. E. Sawyer, G. A. Lemke, V. R. Manny, George Bates, R. A. Meek, C. E. McLine, John B. Steidl, Harry J. Power and Claude Vandeventer, was selected. At the opening of the morning session, Halvorson complained of illness, but made no effort to be excused from the court room.

Ed Rogers of Tumalo was the first witness called. He had gone by auto with Garrett to the Garrett ranch the night of the shooting, he said. Garrett was hatless when he picked Rogers up on the Tumalo road, but was unable to find a hat to suit him as they passed through Bend. On the way out to the ranch, Garrett left the car to search for a cache of moonshine, but brought no liquor back with him, and reported failure in his quest, the witness said.

On the porch of the Garrett home, Garrett treated his guest to strawber-

ries and beer, drinking a bottle himself and the greater part of the bottle which Rogers found not to his liking. Then Garrett carried canned fruit to the car, and as he started to load it in, two of the jars were broken. Garrett went toward the house for a shovel, and after he returned with it and with a jug and partly filled bottle, Rogers was removing the fragments of glass, voices were heard near the house, the witness stated. Garrett took back the shovel, and on returning to the car declared that there were chicken thieves at work and that he intended to "get them." More conversation from the house was heard.

Use of Liquor Told

"He got his gun and started for the house," the witness said. "After he passed through the gate, he fired two shots in the air. I got tired of waiting, and started for home on foot. I had gone about 300 yards when I heard two more shots. I stopped and listened, but heard nothing more. That is my testimony."

Cross examination by Denton G. Burdick brought out the points that Garrett had seemed slightly under the influence of liquor when he met Rogers, and that the effect of liquor was noticeable when he started in pursuit of the suspected chicken thieves.

Rogert partly identified a shovel presented to him, as the one used during his visit to the Garrett ranch. Sheriff S. E. Roberts was the first witness of the afternoon. He testified that the shots fired through the Halvorson door could not have been fired from the ground.

William Shelby identified the revolver used by Halvorson as one he had loaned him last winter. Halvorson had told Shelby that Garrett had threatened his life, pointing a pistol at him and accusing him of poisoning a cow, the witness said.

E. D. Gilson, acting coroner on the night of the killing, told of visiting the Halvorson ranch with other officers and of finding Garrett's body approximately 30 feet from the front door of Halvorson's house.

District Attorney Witness

District Attorney Moore took the stand, testifying that several months before the tragedy, Halvorson had come to his office and told him that Garrett had threatened to kill him.

J. H. Baxter, whose former wife was Garrett's housekeeper, and who had worked at intervals for Garrett, related an incident of last December when one of Baxter's cows had become suddenly sick, Garrett accusing Halvorson of poisoning the animal. Garrett had gone to Halvorson's home on that occasion and forced the defendant to accompany him to the barn, intending to make Halvorson cure the cow. Baxter did not recall ever having seen a pistol in Garrett's possession. Shortly after, Garrett had called on Sheriff S. E. Roberts and the district attorney and had received their assurance that Halvorson would not visit the ranch again. Baxter quoted Garrett as stating that he had seen Halvorson leaving the Garrett chicken house in the early morning.

Relating in detail the circumstances attending the killing of Willard Garrett on the night of July 1, Ed Halvorson, accused of the second degree murder of Garrett, took the stand in his own defense shortly after circuit court opened Friday morning, then submitted to a grilling cross examination by Special Prosecutor L. H. McMahan. The prosecutor, in his questioning emphasized particularly that Halvorson had made no effort to avoid an encounter with Garrett, although believing that the latter intended violence. The defense rested at 11:45 o'clock.

Halvorson went to the Garrett place between 9 and 10 o'clock on the night of the tragedy, found no one at home, and had retraced his steps some 50 feet when he saw Garrett coming up from the gate with a shovel over his shoulder, the witness testified. As he greeted Garrett, the latter asked him what he was doing out so late, and Halvorson replied by asking for help with his haying on the following day. "Garrett said he was working, and wouldn't work for me anyway," the witness said.

Declares Death Threat Made

"I asked him why, and he said there had been a chicken thief around, and he was going to get him," the witness continued, stating his belief that Garrett was making an accusation against him. "I started for home, and had got about half way when I heard a shot, and then another," Halvorson went on. "I waited six or seven minutes, then started on for home again."

"I sat up for eight or ten minutes, and was ready to roll my bed down when I saw somebody coming up to the gate. It was Garrett, and I thought, 'there's evil on his mind.' I got my revolver, put it in my hip pocket, and threw open the door. By that time Garrett was in front of me."

Halvorson greeted Garrett, asked him what was the matter and was answered by a foul epithet, and an accusation of having turned out Gar-

rett's horses. Halvorson denied the charge.

"Come out for the last time in the world, I'll kill you," the witness quoted Garrett as saying.

Heard Garrett Moan

"I saw his right hand start for his pocket, and I slammed the door and swung to one side. Two bullets came through the door, and missed me. I opened the door a little, and saw a dark object standing there. I fired. Then I closed the door and went back and closed the back door."

"I looked out the window and saw a dark spot on the ground near the gate. I thought it must be Garrett, and then I heard a moan. I said: 'Mr. Garrett, are you hurt?' There was no answer."

Halvorson next went to the telephone, called the E. A. Griffin home, and was given the number of the police station. He was afraid to strike a light and look in his own telephone book, for fear that Garrett might be "playing possum," and shoot him, he said. He called the police station, reporting the case, but no one was sent out. Later he called L. D. Wiest, who notified the county authorities. They arrived early on the morning of July 2.

Earlier Attack Related

In regard to the controversy over Garrett's cow, which had died in December, 1921, Halvorson testified that Garrett had come to his house in the early morning, seized him by the collar, dragged him from his chair, forced him at the point of a gun to cross the snow covered fields in his slippery feet, accusing him of having poisoned the animal. Garrett was raising his gun to shoot when Mrs. Cora Baxter slipped behind him and took the gun from him, the witness said.

"I'll let you go this time," Halvorson declared Garrett said, "but if that cow's going to die I'll come over and plug you."

A few days later the two met, made up their difference, and shook hands, the defendant said.

Under cross examination, Halvorson reiterated that he thought Garrett meant to kill him when he saw him approaching the house. He admitted that he could possibly have made his escape by a rear door and hidden in outbuildings, but thought that Garrett might have killed him anyway. He fixed the time of his visit at Garrett's home as between 9:30 and 10 o'clock, stating that he had looked at his own clock just before starting. He denied having shot at Mrs. Baxter's son, Joe, earlier in the year.

Borrowed Revolver

The shots were fired just as Halvorson slammed the door, he said. His shot was a few seconds later; and Garrett was about two feet to the left of where he had last seen him, on the ground, but near the door. Garrett must have been on the steps when he fired, Halvorson thought. He could hear Garrett's teeth chattering when he spoke, before firing.

William Shelby had offered to lend Halvorson his revolver, after the cow episode, Halvorson said. On the night following that occurrence, or the next night, Halvorson had visited Shelby, and asked why he had not come to his assistance. Shelby replied that he could not tell from what direction he had called. After hearing the story, Shelby had insisted that Halvorson take the revolver. It had five cartridges in it at that time. Halvorson killed two rabbits and crippled two, at various times after that, with the revolver, he said.

"You're something of an expert with a revolver?" McMahan asked. "No. Anybody can do that," was the reply. Halvorson had a shotgun in the house; but the stock was broken and the barrel bent, so that he did not depend on it.

Relatives on Stand

Halvorson did not call out for Garrett when he called at his ranch, he said. In the conversation a little later, Garrett appeared unsteady on his feet, and did not seem normal, he stated on re-direct questioning. Halvorson denied that he was excited at the time of the shooting. "I didn't have time to get excited," he explained. Halvorson described in detail the interior of his house.

On state rebuttal, G. H. Moser and Riley Garrett, relatives of Willard Garrett, testified to the visit to the Halvorson ranch with McMahan and Gilson, and to Gilson's saying that Garrett's head could not have fallen where the rock was found. Riley Garrett said the rock was three and one-half feet toward the gate from where Gilson located the head, and a little to the right.

The jury spent the early part of the afternoon examining the scene of the tragedy.

Say Garrett Had Gun

Sheriff Roberts and Gilson were recalled to the stand earlier in the morning to testify to having talked with Mrs. Baxter at the Garrett place, early on the morning of July 2, and to have been told by her and her son that Garrett had been drinking heavily, and that he owned a .32 caliber Colt's automatic, the same

size and make of gun as that found near Garrett's body. Sheriff Roberts stated that Mrs. Baxter had told him that Garrett had been carrying the gun.

Dr. Hendershott was recalled to testify as to the position and condition of the body.

Head Wounds Described

Shortly before Willard Garrett, Deschutes county rancher, was shot to death by Ed Halvorson, his neighbor, on the night of July 1, he was severely beaten about the head, one of the blows causing a fracture of the skull, others causing numerous bruises. This was the outstanding feature of the testimony introduced Thursday by the state, which rested at 4 o'clock in the afternoon. No testimony was produced to fix the responsibility for the head wounds, but from the emphasis placed on the examination of Dr. W. B. Morse, Salem physician, who conducted the autopsy on July 16 resulting in the discovery of the injuries, it became apparent that Special Prosecutor L. H. McMahan had pinned his hope for a conviction on the evidence given by Dr. Morse, and the corroborative testimony of Dr. E. Rea Norris of Bend.

Bullet Caused Death

Dr. Morse, on the stand, told of finding bruises over the right temple, above the right cheek bone, on the forehead, over the left temple, and at the top of the head. Under the one on the right temple was found a triple fracture. The brain and its sheath were intact, he said. He considered that the fracture would have produced unconsciousness, but that death itself was due to a bullet wound through the heart. This Halvorson admits having inflicted. The bullet was found just under the skin on the back of the body.

Bruises, both physicians pointed out, can only be inflicted before death. The head injuries, Dr. Morse said, could have been inflicted with any blunt instrument, such as the shovel found on the Garrett ranch, which earlier testimony had shown Garrett to have had in his possession the night of the tragedy. The state's attempt to introduce the shovel in evidence was successfully resisted.

Mrs. Troy Beaver testified to hearing shots on the night of the tragedy.

Finding of Body Told

Cora Baxter, Garrett's housekeeper, testified that she had found the house empty when she returned from Bend between 10 and 11 o'clock. She did not know that Garrett had been killed until the next morning. She

denied that Garrett ever drank, contradicting the testimony of Ed Rogers, the state's first witness, who had been at the Garrett ranch on the fatal night when Garrett started off with his pistol in search of chicken thieves, and never returned.

The defense started its case with the introduction of E. D. Gilson, who told of finding Garrett's body within 10 paces from Halvorson's front door.

On cross examination, Gilson admitted that he might have stated, when he visited the scene of the shooting with Attorney McMahan, that Garrett's head could not have reached the rock in question; but he now believes that his measurement at that time erred in direction, and that the head might have been where the stone was found.

Sheriff Roberts related the occurrences of the morning of July 2, beginning about midnight, when he was called by L. D. Wiest, who told him that Halvorson had phoned and told him that he thought there was a man dying in his front yard. Roberts and his deputy, George Stokoe, left immediately, reaching the scene at about 12:30. Halvorson was standing near the rear door, and on being questioned by Roberts, told the story practically as he has since related it at the coroner's inquest and on other occasions.

Pistol Near Body

According to this story, Halvorson had called Mrs. Griffin, and she had told him to call 84, the police department. He did so, and the police had promised to notify the sheriff. The pistol which Halvorson said he had fired at Garrett was on the stove, said Roberts, and he took possession. This was introduced in evidence by the defense.

Garrett's body, said Roberts, was lying in the path, the head toward the gate, in a straight line with the house. Three tracks which he must have made were seen; had the body been raised erect from where it lay, one foot would have settled back into the last track. The markings corresponded to the soles of Garrett's shoes.

The automatic pistol was found beside the body, and two shells at about the distance to which they would have been ejected, said Roberts. He made no effort to leave the handle untouched, so that it could be fingerprinted.

Rock Found Near Head

The sheriff stepped the distance from Garrett's head to the house as 35 feet. At a later time he attempted to locate the same spot; and after

doing so, he swept away the dust with a broom and located the rock, with what appeared to be a patch of blood beside it. He saw no rock on the night of the tragedy, he admitted. Garrett, some time prior to the shooting, had met Roberts near the corner of the courthouse building and asked him what the penalty would be if he killed a Swede, the sheriff testified. At another time, in regard to the trouble over a cow, Garrett had said, "I made him go down and help me with her," mentioning Halvorson's name, said Roberts.

The testimony of Deputy Sheriff George Stokoe corroborated that of Roberts. On arriving at Halvorson's ranch house, Stokoe went to look at the body at once. Halvorson came with Roberts a few moments later and asked "Is he dead?" Stokoe replied that he appeared to be.

Dr. R. W. Hendershott turned the body over on his arrival, and a spot of something that appeared to be blood was under the mouth, said Stokoe.

Three Shots Heard

Mrs. L. S. Griffin testified that Halvorson had called her about 9:45 o'clock on the night of July 1, and told her what had occurred. She had told him the phone numbers to call, Halvorson saying he was afraid to light a lamp for fear Garrett was playing "possum." She had listened while Halvorson talked to the chief of police. Her husband was away from the house, irrigating, she stated.

E. A. Griffin had heard three shots, two in quick succession and one several seconds later, about 9:30 o'clock, he said. He was working about 240 rods from Halvorson's house, in his own field. Griffin had known Halvorson for 19 or 20 years, he said on cross examination, and they had always been friendly. Attorney McMahan questioned Griffin closely as to his whereabouts earlier in the evening.

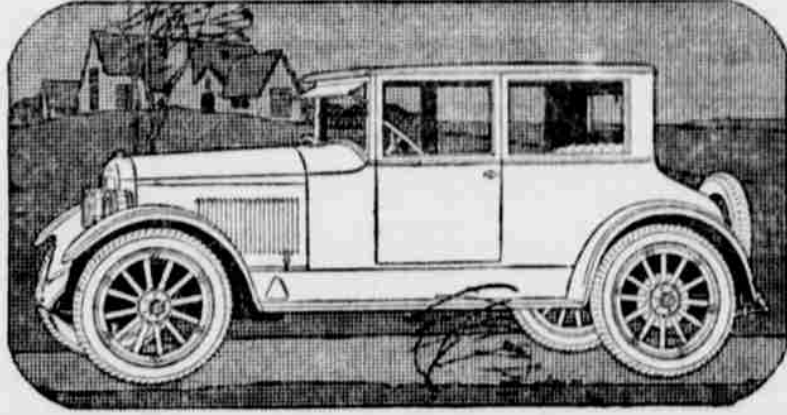
RADIO MUSIC FROM DETROIT RECEIVED

A concert sent out by the Detroit News by radio, was heard over J. M. Herbert's receiving set last week as clearly as if the musicians were performing in an adjoining room, Herbert reports. He checked by telegraph, receiving confirmation of the concert having been sent out from Detroit.

Therefore, Why Worry?

A hundred years' fret will not pay a penny of debt.—Victor Hugo.

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