

J. A. MOCK MAY ESCAPE DEATH

(Continued from Page 1.)

"My wife says you had the dog locked up in a closet," continued Mr. Mock.

"I did not have your dog in a closet," Smith replied.

"Then do you mean to say my wife is a liar?" asked Mock.

D. M. Martin was called to the witness stand and testified to practically the same thing as the evidence of McMullen. When the fight started Martin dropped his book and called for McMullen to separate the men. He heard Smith say, "He has cut me," McMullen then caught hold of Mock and said: "Don't strike him any more; you have killed him." Smith then sank to the floor and Mock backed away.

Mrs. D. M. Martin testified that Mr. and Mrs. Mock called at their house and Mr. Mock inquired for Mr. Martin. She informed him that Martin was at the Mullen residence and offered to send her daughter Mary for him. This Mock refused, stating that he would go over and see him himself as he wanted to play a game of cards with him. Mrs. Mock remained at the Martin home and played the organ and sang with Mary Martin. Martin came in shortly afterward and said: "I guess Mock has killed Jesse."

Mrs. Mock then arose from the organ stool and said: "Tell me the truth." Then Mock came up and Mrs. Mock exclaimed: "My God, man, what have you been doing?" and Mock replied: "I have done what I said I would do, and I guess he will not call you nor any one else a d—n liar any more."

Mary Martin, the young daughter, testified to practically the same story, but in cross-examination Mary gave contradictory evidence to her own testimony in direct examination.

On Saturday morning the state finished its direct testimony. J. H. Ballinger was called to the witness stand and testified that he was foreman of the coroner's jury; that he had examined the body of Jesse A. Smith at the undertaker's—not thoroughly, but had looked at the wounds; that he believed Smith to be a man about five feet six inches in height and would weigh between 130 and 140 pounds.

J. N. Manning, the constable and deputy sheriff who arrested Mock on the Applegate, was next called to testify. He first met Mock at the home of Mr. and Mrs. George Trask, on the Applegate river, about 18 miles from Medford. It was in the morning and Mock was just coming down stairs. He ordered Mock to throw up his hands, which he did, and then told him, "You are Julius A. Mock, wanted for the killing of Jesse A. Smith in Medford." Mock replied: "You are mistaken in the man." Manning then told him he would have to go to Jacksonville and Mock said, "Oh, very well; I can soon convince you that you have got the wrong party; my name is not Mock."

"What is your name?" asked Mr. Manning.

"Paul Jones," answered Mock. The deputy sheriff then searched Mock and found in his possession a pocket knife. Mock also had with him a Winchester rifle which he had left downstairs during the night. While waiting for breakfast Manning

invited Mock out for a walk. They went out to the barn, where some hunters were camped, and after talking for a while started back to the house, when Mock said:

"You need not look any further; I am the man you want. I am Julius A. Mock. I am all in. I was just ready to return and give myself up. I have but one favor to ask—do not put shackles on me and I will return without the slightest trouble."

Mr. Manning granted the request and Mock made no trouble en route to Jacksonville.

Mr. McMullen was called and testified that he had known Jesse about a month; that Smith was a man about five feet five inches tall and weighed 151 pounds; that Smith was in the habit of fixing up and occasionally carrying a .38-caliber revolver, but he did not believe Smith was armed on the night of the homicide. McMullen further testified that Smith had offered to sell this same gun to Mock for \$2.50; that it was an Ivers & Johnson .38-caliber gun and was the only gun in the house aside from a .44 Colt's, which was at the bottom of a trunk, and that on the night of the fight Smith had put the .38-caliber gun up on a shelf and did not have it on his person when the fight occurred.

George Freese was called and testified that he was at McMullen's house on Palm street in Medford about 8 o'clock on the evening of the fight. He saw Smith lying on the floor bleeding. He met Mr. Mock just before he got to McMullen's; that Martin and Mrs. Martin were not there at the time, but he met them shortly afterward. He did not remember seeing Mary Martin. It was a light night and he saw some children running at a distance.

The cross-examination brought out nothing new in the testimony of Mr. Freese.

Mrs. Martin was called and testified that Mrs. Mock was at their house and was playing on the organ and singing with her daughter Mary, and that to the best of her knowledge Mary had not left the room until after Martin returned with the news of the fight.

Mr. Martin, on being recalled, stated that Smith admitted Mock into the house and shut the door after him; that he had shut it in an ordinary manner; that Smith had carried a gun when out with his team and had been in the habit of carrying it about the yard when he was working on it, fixing a broken spring.

At 10:30 the state rested its case. At 1 o'clock p. m. Julius Mock was called to the stand and testified as follows:

"My right name is Julian Addison Mock. I am 37 years of age; was born in the state of Missouri and am the defendant in this case. I came to Medford on the 31st day of March one year ago, and am by trade a carpenter. I have not known Jesse Smith any length of time—not more than a week or ten days before this trouble.

"I wanted to go hunting and went to Martin's and asked if Mr. Martin's father would not like to go with me. He said he didn't think he would, but that he knew a man who would, and called Jesse. I did not know what the man's last name was, but we made arrangements to go hunting, Jesse furnishing the team, while I furnished supplies, guns and ammunition. We went hunting—my

wife and I and Jesse. We had no luck after hunting practically all day, returning to camp only for lunch. The next day Jesse had to leave, as he had promised some ladies the use of the team. I kept on hunting, but without success, and when I returned on Saturday I met Jesse, who asked me if I had had any success, and I told him no. When we went on the hunt my dog was left behind and when we returned I went looking for my dog. I met Mary Martin and asked her if she knew where the dog was, and she said he was at the McMullen house. Then I went downtown and my wife went after the dog. She went to Smith and asked if he had seen the dog, and he said he had not; that if the dog was there he was under the house. Mrs. Mock looked under the house and did not find him, but heard a dog whine, and some children pointed to a closet and said he was in there. Smith then slapped the child and turned the dog out, and Mrs. Mock took him home. I returned home from town at 6:30 and Mrs. Mock told me about the dog, and I thought that Smith had done me a dirty trick, after my having treated him like a gentleman while on the hunt. Mrs. Mock and myself went over to the Martin home and I asked for Mr. Martin. Mrs. Martin said he was at the McMullen home and that she would send Mary for him. I said I would go myself, and walked direct from Martin's to McMullen's and knocked on the door. The door was opened almost immediately by Jesse Smith and I shook hands with him and he introduced me to Mr. Mallen and also to Mr. Martin. I shook hands with them, and then it flashed in my mind that Smith had done me a dirty trick, and I turned to him and said: 'Jesse, didn't I treat you like a gentleman when we went on that hunt, when I paid all the expenses and furnished you a gun and ammunition?' and he said, 'You did, Mr. Mock.' Then why did you try to steal my dog?' 'I didn't try to steal him.'

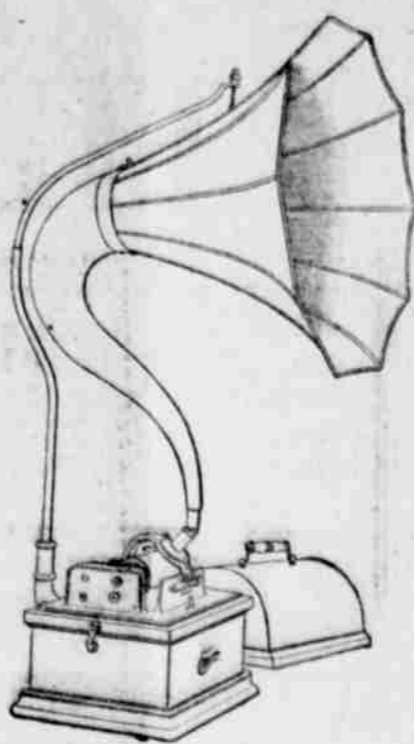
"My wife says you had him shut up in a closet."

"I didn't have him shut up in a closet."

"Then do you mean to call my wife a liar?" and he says, 'I do,' and struck me."

"When Smith struck me I clinched him. I saw he was trying to get to his right hand hip pocket and grab hold with my left hand and prevented him getting that gun, which I am confident that he had. How I got my knife I do not know, but I got it in my right hand and struck him twice. Then Mr. McMullen took hold of me and said, 'You have hurt him; do not hit him again,' and then Smith threw his head back, his muscles relaxed and he fell to the floor, groaning. I looked at him for perhaps a half minute and remarked that I did not think Smith was as badly hurt as he let on to be. Then my wife came and asked me to go home. It was then I began to feel nervous, and feared that I had hurt him badly. I was not particularly angry at Smith. I was merely protecting myself and my wife's honor, and I did not know that he was dead until the next morning. I did not intend that my blows should kill him. Had I desired to kill him I could have cut his head off."

Cross-examination failed to move Mock from his well-delivered direct testimony.



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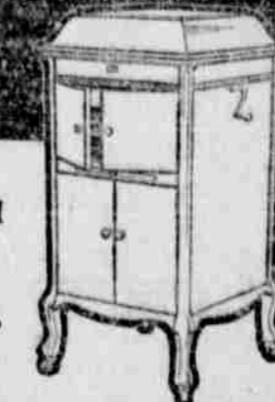
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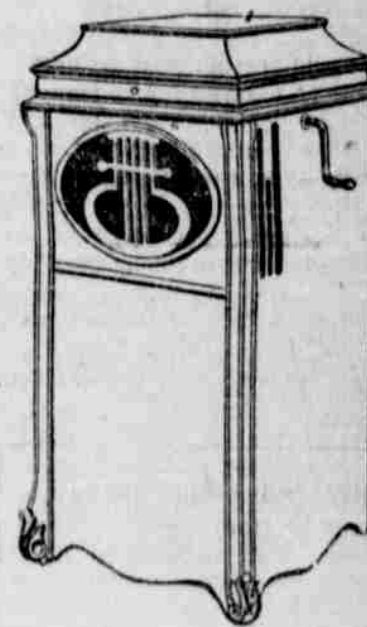
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