

Defense Moves Into Action With Series of Witnesses

Manning Medics Dispute Earlier Death Opinions

Horace Manning's defense attacked the state's testimony on several fronts Monday.

Off to a flying start in the morning when it turned to its advantage the last stage of Dr. E. O. Heinrich's testimony, the defense devoted the afternoon to a steady fire of its own evidence directed at various points in the state's case, which ended at mid-morning.

The defense introduced evidence including attempts to show:

1. That the arm wound was the first received by Horan. The state had contended it was the heart wound first received.
2. That Horan was not in the position in which they were found by officers after the shooting, emphasized by the state as an indication Horan was sitting when the gunplay began. Also that a man may walk after being shot in the heart.
3. That Howard E. Perrin, Manning's brother-in-law, was not in the ante-room to Manning's office between 5 and 6 p. m., February 12, as state's witnesses had testified.
4. That glass was heard to break on Seventh street at 5 o'clock, February 12. State witnesses had testified it broke after 5:30.
5. That Manning was not under the influence of liquor late on the afternoon of February 12.
6. That Horan had been drinking that afternoon.
7. That there was no wastebasket in the Manning ante-room. A state witness said a gin label was recovered from such a basket.
8. That Dr. George H. Adler was not present when Manning turned over a gun to officers after the shooting. Dr. Adler had described the manner in which the gun was turned over.

Dr. J. G. Patterson was the first defense witness. He began by answering brief questioning about his qualifications, stating he attended Stanford university and received his M. D. from Jefferson in Philadelphia in 1908. The physician said he had seen and treated gunshot wounds.

Hypothetical Case Made
Defense Attorney Roberts then read a lengthy hypothetical question to the witness. This was virtually the same question asked of state medical witnesses. It described a young man, about 30 years of age, an attorney by profession, who sustained two gunshot wounds. It described the wounds as one entering the chest, passing through the heart, lung cavity, and out between the ribs at the back. The other entered the arm and lodged near the collar bone. This presumably is an exact parallel of the Horan case.

Showing Dr. Patterson the Horan shirt, bearing bloodstains on the arm and back, Roberts asked the physician if he thought the arm or heart wound came first.

Patterson said he would judge the arm wound came first because of the hemorrhage. If the heart wound came first, he said, he would expect no bleeding from the arm, for the circulatory system would stop functioning with the heart punctured in the described manner.

Roberts then asked the physician if it were possible for a man, lying on the floor in the position Horan was found, to kick his feet after receiving a heart wound. Dr. Patterson said there would be nothing unusual in such a condition, because persons sustaining heart wounds have been known to walk and converse. The implication was that Horan, after falling on the floor mortally wounded, could have kicked his foot over a rung on the bottom of Manning's desk in a position which the state emphasized.

Van Vector Cross-Examined
Patterson also said the person on the floor, through reflex action, also could kick the chair. Van Vector cross-examined Patterson.

He asked if it would not be possible for a person with a heart wound also to move his hands and arms. Patterson said it would.

Van Vector then questioned the witness at length about the nerves and muscles of the heart. Patterson, in answer to a question, said passage of a bullet through the neuro-muscular bundle in the heart, could lose consciousness in 2 to 5 seconds.

"In the face of an injury to the neuro-muscular bundle, and profuse hemorrhage, how long could the victim retain consciousness?" asked Van Vector.

"From 2 to 5 seconds," said Patterson.

Dr. Patterson repeated to Van Vector that he believed the arm wound the first sustained because of the presence of hemorrhage.

Answering a question, he said the heart deposited eight ounces of blood in the circulatory system at each beat. Under normal conditions, the large arm artery (the one severed in Horan's arm) carried a large amount of blood. The doctor explained, however, that in the case of a wound of explosive character, with frayed ends of the veins and similar conditions, one would find anywhere from no blood to more than was on Horan's shirt after such a wound.

Roberts asked Dr. Patterson if he would call the blood on the shirt the result of oozing. The physician said he would judge it to be hemorrhage.

Dr. Rodgers called Dr. W. T. Rodgers was then called to the witness stand. He

said that he had lived and practiced medicine in this city for the last five years, and that he was a graduate of the University of Illinois and Northwestern university medical college. In his testimony he declared that he had conducted approximately 200 autopsies in the Cook county hospital of Chicago, a 3000-bed hospital, during his two years there.

Dr. Rodgers, after hearing the hypothetical question read to him, and after examining the blood-stained clothes found on Horan's body, declared that in his opinion, the arm wound was the first one to have been received. He stated that to cause so much blood outside the wound, pressure in the arteries would have been necessary, and thus the heart wound must have been second.

"Could the person described in the question," asked Roberts, "have kicked his legs into the position I have described, one caught in the rung of the desk and the other under the chair?"

"That is entirely possible," answered the doctor. "He might even attempt to get up."

"Could he have moved the chair around kicking or other movements of his feet?"

"That would not be unusual," Cross-examination by Van Vector was short, bringing the statement from Rodgers that it would take considerable time for an arm to distend with blood under certain conditions.

Dr. Paul Sharp took the stand. He said he graduated from the University of California in 1925. The same question was read to him. He was asked which wound he thought came first.

He asked about the condition of the heart before answering. Told it was in a state of contraction, he said the arm wound would come first.

If the heart was contracted, he said, it would not force any blood through under the given conditions.

Dr. Paul Sharp also said that in the case of a person being shot through the heart as described, he could kick his feet. It would be impossible to tell where the feet, hands or arms might go under such conditions, he said.

Under cross-examination, Dr. Sharp said that hemorrhage from the wound in the arm while the heart was still beating would depend upon the type of wound. If it was an explosive type, such as a bullet might make, hemorrhage would be less.

Dr. Dietzsch Called
The wound in the heart, he said, would produce unconsciousness in one, two or three seconds, and possibly momentarily. The witness said he could not judge how far apart the two wounds came.

He said hands as well as feet would move in the muscular reaction. The state was careful to get this statement from each witness.

Dr. E. Dietzsch took the stand for Manning.

He said he had practiced here since 1923. He received his medical education at four universities in Germany. He told of his war service, which included two and one-half years in field service. He was a surgeon at a field hospital. He has had experience with gunshot wounds.

The hypothetical question was again read, and he was asked which wound came first.

He said he could not tell exactly, but that it was his opinion the arm wound came first.

The bleeding from the arm, he said, indicated the circulatory system was still functioning when the wound was inflicted.

He said that legs could get in any position in the muscular reactions after a wound through the heart.

account of his movements on the late afternoon of February 12. He said that at approximately 5 o'clock on that afternoon he heard glass break in the street.

He said that he was standing at one table in his drafting room, with a window on Seventh street. He said J. E. Isted, his draftsman, was at the other table. There had been a meeting of the armory committee that afternoon and he and Isted were discussing the armory plans, when they heard the noise of glass.

(State witnesses previously testified to seeing a glass bottle crash in the street after 5:30 that afternoon.)

This happened, Perrin said, just before 5 o'clock. As the witness started to give an account of what he did from then on, the state objected on the ground the testimony was immaterial.

Roberts insisted it was material. The court overruled the objection.

Tells of Actions
Perrin said he had telephoned Mrs. Perrin and was to meet her at 5 o'clock. He said he left the Underwood building about that time, drove home, brought Mrs. Perrin down town and left her in the shopping district, went to the postoffice and while there showed his son how the letter slots worked, bought stamps and drove to Emil's grocery store.

There, he said, he found Mrs. Perrin, waited until she had made her purchases, and drove home with her at about 5:45 p. m. He said he did not return to the Underwood building.

"Were you in the window of the ante-room in Mr. Manning's office?" asked Roberts. "Absolutely not."

"Did you raise the shade?"

"I did not."

"Were you in his office or any part of the office?"

"Not until later. I came down around 7:30 p. m. (after the shooting)."

Gillenwaters did the cross-examination.

He asked Perrin where he left his car. The witness said it was parked near the service station at Seventh and Pine streets. He said it was a tan, five-passenger Buick coupe. He said he could not remember how he went to the car, but that he supposed he crossed the street from the Underwood building to get it.

Gillenwaters dismissed the witness after asking him again about his relationship with Manning.

Perrin Story Supported
J. E. Isted, draftsman in Perrin's office, came to the stand. He corroborated Perrin's testimony about the bottle crash just before 5 p. m., as he and Perrin stood talking about the armory. Perrin, he said, was standing with his foot on the window sill, and Isted's watch was on the shelf.

Isted said he left the office after Perrin, just after 5 p. m. He said the lock to the door of the office requires a slam to catch, and as he stood at the door he saw Manning at the end of the hall, near the latter's office.

The witness said Manning spoke to him, and came to where he was standing, where they conversed briefly.

Answering questions, the witness said he did not smell any liquor on Manning's breath and that the attorney's talk was entirely rational.

Isted said he left Manning at the head of the stairs to the Underwood building.

Judge Talks to Attorneys
On cross-examination, he said he had been employed by Perrin off and on since 1923.

As Ruth McAuliffe came to the stand Judge Wilson called attorneys from both tables to him. There was a brief conference, the nature of which was not divulged to the audience.

Mrs. McAuliffe resides at the Roosevelt apartments, and works as a bookkeeper at the Sanitary market. Her office adjoins the Houston beauty parlor.

Answering Roberts' questions, she testified that a morning or two after the shooting, Mrs. Houston talked to her of the incident. She said Mrs. Houston told her that approximately at or near 5 o'clock, February 12, while she was in the beauty shop, a bottle flew into the street and a short time later she saw a man in the window of one of Manning's offices, and she knew it was neither Manning nor Horan.

The next question ended in some defense confusion as the witness indicated she could not answer it by either "yes" or "no." It had to do with an alleged conversation between Mrs. McAuliffe and Mrs. Robert Stephens, another state's witness. The question, as stated, was to the effect that the man who raised up the shade in the Manning ante-room "must have been going downstairs or in the room when the shots occurred."

"No, that conversation did not occur with Mrs. Stephens," said the witness. "She however, said—"

"Wait a minute!" called Gillenwaters, and Roberts advised the witness to stop.

The defense attorney asked permission to recall the witness as his notes had become confused.

that on February 12 she saw Ralph Horan leave the apartment taken by a Mrs. Keep. She said the time was 1:25 or 5:30 p. m. She said she did not talk to him.

Mrs. Lois Keep was then called.

She said she saw Ralph Horan in apartment No. 4, Slater apartments, between 4:30 and 5 p. m., February 12. She said he had some drinks—"highballs," she called them. Asked to explain, she said he had whiskey, ice and lime rickey. He was accompanied by Mr. Sweet and Mr. Van Buskirk, she testified.

She said he left a half hour later.

John Nelson, employee of the Saddle Rock beer garden, said that about 4 o'clock, February 12, Horan came into the place and had a glass of beer.

Defense witnesses were coming rapidly to the stand. Charles Inman was called next.

He said he now lives at Bonanza, and has lived 20 years in Klamath county. He is well acquainted with Manning.

He saw Manning at Seventh and Main streets about 5 o'clock February 12, Inman testified.

"There was a Swede there," said Inman. "Mr. Manning was talking to him. I can't remember the other gentleman's name. Mr. Manning introduced us."

Inman testified he did not notice the smell of liquor on Manning and did not think the attorney had been drinking. He said Manning told him, he, Inman, had a host of friends.

The two made an appointment for the next day.

Inman Questioned
On cross-examination, Inman said the time of the meeting was between 5:00 and 5:30 p. m. He said he was in the taxi cab business at that time.

Inman testified he later saw Manning in the Eagle pool hall sitting on a stool talking to Mike Lavink.

Mrs. Ethel Lazott next came to the stand. She has been employed in the Manning home and office for cleaning work.

On the Saturday before Christmas, she said, she was cleaning Mrs. Manning's room in the home when she saw a pistol on the clothes press.

Shown the state's exhibit of the Iver Johnson gun taken from Horan's hand, she said it looked similar to the weapon she saw in Mrs. Manning's room.

In January, she said, she was cleaning again in that room, but the gun was not there.

On the Sunday before what she termed "the accident," the witness said, she cleaned the Manning office. Speaking of the small ante-room, she said there was no wastebasket basket there and never had been one there. The state sought to show a gin bottle label had been recovered from a basket in that room.

Guns Identified
In January, Mrs. Lazott testified, she was cleaning around Manning's desk when, in a drawer, she noticed two guns. One of them, she said, was almost

exactly like the gun she had seen at the Manning home.

On cross-questioning, she said there was a dark gun and a light gun in the drawer.

Gillenwaters went with her to the desk drawer in the courtroom, and she explained. The dark gun, she said, was back of the light one.

(In Manning's statement to officers after the shooting, he indicated Horan grabbed the light gun out of the drawer and he got the dark one.)

The witness reiterated her statement there was no wastebasket in the ante-room. She said she kept her cleaning bucket closed in a locker in the room.

Don F. Hamlin, law associate of Manning, took the stand and said there had never been a waste basket in the ante-room and that he had never seen a cleaning bucket there.

Dr. J. M. Carter, dentist, was called. He has known Manning 25 years.

He testified he was doing dental work for Manning in February, 1934.

Manning telephoned him around 4:00 o'clock and told him he was going south and would need to have the work done before he left. Dr. Carter testified he detected no indication in Manning's talk that the attorney had been drinking.

Whitlock Disputed
When Earl Whitlock, funeral director, took the stand the state objected to his testifying. Gillenwaters said Whitlock had been noticed in the door and ante-room of the courtroom, and that witnesses were not supposed to be there. The state, he said, had kept to the rules and it felt the defense should do the same.

The defendant declared emphatically Whitlock had not been in the courtroom. He said he noticed Whitlock in the door and instructed him to leave as he was a witness. Roberts declared the defense had not intended to bring any witnesses into the room.

Judge Wilson said he would hear testimony on the matter, but Whitlock asked for permission to make a statement. He said that he had come into the ante-room Saturday and was there only a minute or two when Vandenberg told him to leave.

He said that this was the first time he knew he was to be a witness in the case, and that he had come to the courtroom without that knowledge. Gillenwaters questioned him on the time again and learned it was Friday. Then the district attorney withdrew his objection to the testimony.

Gets Phone Call
Whitlock testified that on February 12, he received a telephone call to go to the Underwood building. He said it was 6:20 p. m. when he was told of the call and he went immediately to the Manning offices.

When he arrived, he said, Deputy Sheriff McMillan, State Police Sheriff Walker and Deputy District Attorney Van Vector were there. One of the officers let

him in. He said Manning was sitting in the office.

"Hello, Horace," Whitlock testified he said.

"Earl, this is terrible," Manning was quoted in reply.

Whitlock then quoted Manning as follows:

"Ralph and I have had an argument. There was a scramble for guns. He got one and I got one, and they say—he shot twice and I shot twice, and they say—I have killed him."

Whitlock said he made no effort to question Manning in any way, but shortly thereafter he heard Manning tell someone the guns were in the drawer.

Talks With Manning
Several times, Whitlock testified, he heard Manning say:

"This is terrible."

Frequently, he said, Manning stated:

"Ralph was a fine boy."

Vandenberg was questioning the witness:

"Did you ever hear him say that of all his partners, Ralph Horan was the only ingrate?"

"I did not."

Vandenberg again asked Whitlock about the persons present when he arrived at the Manning office. He asked him if Dr. Adler was present when the gun was turned over by Manning to officers.

"No, he was not," was the emphatic reply.

Dr. Adler testified for the state that he saw the gun turned over.

Gillenwaters cross-examined Whitlock as to the time he arrived at Manning's office.

"At about 6:22," Whitlock replied. "I looked at the clock when I received the call, and it was 6:20. My office is about a block and a half away, and I walked over there hurriedly."

Tells of Guns
He stated that he left at about 9:30, with Horan's body.

"When was Manning's gun turned over?" asked Gillenwaters.

"About 10 minutes after I arrived."

Whitlock asserted that he was standing by the desk in the waiting room, and that he was "quite sure" State Police Officer Walker was in the private office at the time.

"Are you as sure of that," demanded Gillenwaters, "as you are that Dr. Adler was not there?"

"Almost."

Asked to tell about the handing over of the gun, Whitlock stated that he asked Manning for his gun, and that Manning started to hand it to him. "I told him I wasn't an officer," Whitlock explained. "He took the gun from his right rear pocket."

Robert H. Sewell, Eagle pool hall employee, was the next person to take the witness chair.

Sewell Testifies
"Have you ever seen Ralph Horan play dice?" asked Roberts.

Gillenwaters objected, and the judge sustained him.

Roberts changed his question. "Did you ever see him use his

left hand to shoot dice?" he asked.

"Yes, often," Sewell replied, stating during further questioning that Horan did not always use his left hand at the game, but probably used it as often as his right. He declared that he was employed at the Mecca for one and a half years, and saw Horan playing dice there almost every day.

SCHOOL BOYS WILL DUST TOURIST CARS

Boys from Klamath Union High school will be allowed to dust cars in the business district of the city, in the hopes of earning pin money during the summer. Permission was granted for this type of service by the city council in regular meeting Monday evening.

Don Fisher, member of the high school faculty, told the council that boys in all the eastern cities were carrying out this idea, only wiping the dust off automobiles, not washing, or polishing them. Motorists pay any small amount they wish for this service.

The boys will be assigned to blocks, and will work under the supervision of Chief of Police Hamm and the police department.

A large delegation from the Communist party attended the council meeting, and asked permission to speak on the streets.

The members of the party were told by the council that they might hold meetings on vacant lots but not on the main traffic streets.

The council asked permission to renovate a building at 31 Main street, and the council as a whole decided to visit the building to determine whether it was safe to be used for such a purpose.

H. M. Bagby, manager of the Hart hotel, resented an objection

to music from billiard halls and beer gardens, which, he declared, was hurting the business of his hotel. The matter was referred to the council as a whole.

The chief of police and city engineer were authorized to inspect the corner of Roseway Drive and Oregon avenue in response to a petition from residents of Roseway Drive asking that a stop sign be installed there. The chief and engineer were given power to act and install the sign if they believed it necessary.

An application for street lights at intersections of Hillside, Erie, Auburn, Laguna and other streets in the district, was granted by the council. The application had been oked by the street committee.

A number of building permits were granted and applications for barber and butcher shops, restaurant and rooming houses, soda fountains, etc., were allowed.

Court House Records

Marriage Applications
Theo Johnson, 30, laborer of Bray to Ruby Cross, 24, of Dorris, Calif.

Colvert H. Fehl, 22, printer of Chillicothe to Theda Frey, 18, of Chillicothe.

Christopher Willibald von Gluck, a composer who lived between 1714 and 1787, often is called the father of modern opera.

The word "alewife" bears no relationship to women, but is a fish of the herring family found along the Atlantic coast.

Balance Your Food Budget at the Pelican Grill

25c Lunch Special
Boston Baked Beans and Brown Bread/
Veal Fricassee with Vegetable
Hot Biscuits and Coffee

40c Dinner Special
Tomato and Macaroni Soup
Combination Fruit Salad
Roast Pork Spareribs,
Dressing
Baked Salmon Loaf
Vegetable Potato
Sunshine Cake
Banana Cream Pie
Fruit Jello Cabinet Pudding



- we believe you will enjoy them

Just as pure as that glass of water—

Your town and city authorities see to it that the water you drink is pure.

And the people who make Chesterfield cigarettes see to it that everything that goes into them is just what it ought to be.

All that Science knows about or money can buy is used to make Chesterfield the cigarette that's milder, the cigarette that tastes better.

An eminent Scientist has said, "Chesterfields are as pure as the water you drink."



Chesterfield
the cigarette that's MILDER
the cigarette that TASTES BETTER

