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HEITMILLER IS FOUND GUILTY.

A Cold-Blooded Attempt to Murder Emil Arndt.

PRISONER ESCAPES AND IS RECAPTURED AT HIS HOME.

Judge Burnett Sentenced Him to Four Years Imprisonment.

William H. Heitmiller was brought up for trial on Tuesday before Judge Burnett on a charge of assault with a dangerous weapon with intent to kill Emil Arndt while he was at work in the saw mill of the Truckee Lumber Company at Hobsonville on the 17th September.

District Attorney J. N. Hart and Deputy-District Attorney W. H. Cooper prosecuted the case, and Attorneys T. B. Handley, B. L. Eddy and C. Thayer defended the prisoner.

Council for the prisoner demurred to the complaint that it contained two distinct charges, that of assault with a dangerous weapon and that of attempt to kill, while there was only one act, but the judge overruled the demurrer and instructed the clerk to draw a jury.

The entire list was called before a sufficient number of satisfactory jurors were agreed upon, and after selecting several persons in the court room the jury was made up as follows:

J. V. Alderman, Gus Allison, J. Waldvogal, Wm. Scott, Wm. Smith, James Stasck, W. T. West, Geo. T. Pottee, John Zuercher, O. H. Moore, Stephen Hill and Sam Downs.

The Trial.

In the opening addresses of counsel the prosecution said they would prove that Heitmiller went to the saw mill and committed the crime charged in the complaint deliberately, and if the other side undertook to prove that the prisoner was insane they would produce evidence in rebuttal. The defence said it intended to show the state of the prisoner's mind at the time and previous to the shooting that it was unbalanced on account of family troubles.

The first witness called was Emil Arndt said his home was at Nestucca. He was working in the saw mill of the Truckee Lumber Company at Hobsonville on the 17th September. He had no acquaintance with Heitmiller previous to the shooting. Witness pointed out where he was working on a plat of the saw mill. He was working at the edger. He heard the report of a gun and then felt a bullet pass through him. He believed he was stooping at the time the shot was fired. He looked up and was unable to stand, and having made a few steps to where he could sit down, he fell, and as he did so heard another shot. The witness described to the jury where the shots entered his side below the heart. He had never spoken to Heitmiller and no conversation took place between them in the mill previous to the shooting. He did not know what Heitmiller did after he shot him. The witness said he was able to get round,

but owing to the wounds was unable to resume his work, and could only do light work. Being cross-examined, witness said he did not become acquainted with Mrs. Heitmiller until about 1899. He did not know Heitmiller when he saw him in the mill. He did not know anything about Heitmiller until he saw an account of the divorce proceedings in the newspapers.

Dr. David Wiley testified to attending Arndt for a gunshot wound. One shot had entered the left side between the sixth and seventh rib, while the other shot had made a flesh wound of about two inches below the skin. After dressing the wounds, the doctor made a search for the bullet, but could not find it by probing. He found a blue spot on the right side and cut in between two ribs and extracted a bullet, which he produced in court. Witness said he was agreeably surprised that Arndt recovered, as the bullet had passed through his body, and he believed the lung as well.

Gus Nelson said he saw Heitmiller come into the mill, who appeared to be looking for someone, and he came up to him and asked "Where's that man who has been sparking with my wife. I want to talk to him. I want to see him." Witness did not point out Arndt to him, but said "Don't be in a hurry" as Heitmiller left him, who went to where Harrison was at work and he saw him talking to him. Nelson did not notice anything particular about Heitmiller, although he appeared to be anxious and angry. He did not hear any other conversation, and was about 120 feet away when the shooting took place. After the shooting he followed Heitmiller to near the door, but he would not give up the revolver. When Mr. Sibley came up he pulled out the revolver and gave it to him. Cross-examined: Had known Heitmiller 10 years and he was in a rational state of mind.

J. M. Harrison was working with Arndt at the gang trimmer, and the first he saw of Heitmiller in the mill was talking to Bodle. After that he saw him at the cut off saw and then walked to where he was working, and addressing him said "Where's Emil?" to which the witness replied, "He's here; working with me," and then pointed his finger to Arndt. Heitmiller was at the other side of the rollers, and as witness looked up he saw him pull a revolver and fire twice. Arndt was facing the lumber and was leaning slightly over. Witness said Heitmiller acted cold and did not appear different. He prevented Heitmiller from leaving the mill.

J. W. McKinley saw Heitmiller in the mill, who was there about fifteen minutes before he did the shooting, after which he walked back to the door. Witness first went to Arndt, who was laying face down on the floor with his arms folded over his face, and asked him if he was shot, to which Arndt replied that he was shot through. Heitmiller appeared angry and acted as though something was wrong.

P. D. Pearson was in the mill at the time of the shooting, and was one of those who prevented Heitmiller from

leaving the mill. He was very cool, and did not notice anything out of the ordinary or different with Heitmiller. While detaining Heitmiller after the shooting he said "That damn son of a bitch has caused me a lot of trouble. That will teach some of those young fellows something." He did not notice anything to show that Heitmiller was out of his mind.

J. V. Huntsinger was working in the box factory, and the witness corroborated the evidence of the previous witness as to what Heitmiller stated after the shooting. Heitmiller seemed to feel bad, but did not notice anything unusual with him.

L. M. Biggs allowed Heitmiller to pass him and after he had done so, and about four feet from Arndt, he saw him pull a revolver, but before he could reach him he had fired two shots at Arndt in quick succession. Heitmiller retraced his steps and witness informed Mr. Sibley of what had occurred. Heitmiller acted the same as usual.

L. M. Alley was working in the lath room and saw Heitmiller talking to John Bodle. After that saw Heitmiller's hand go out and then heard two shots. Did not see anything different with him.

J. E. Sibley said he was informed that a man had been shot. He went into the mill and saw Arndt, who he thought would die in a few minutes, and then went to where Heitmiller was and demanded the revolver. He took it away, and produced a Smith & Weston revolver in court loaded with three balls and two chambers discharged.

Dr. W. Tatom knew Heitmiller and about the latter part of last March he had a conversation with him at the Larsen house, when he said, referring to Arndt, that "one of these days he was going to get hurt." Heitmiller repeated this threat to the witness as he left him.

Mrs. Bodle, daughter of Heitmiller, testified to her father visiting her on the day of the shooting and remaining with her at Bay City about three quarters of an hour.

The prosecution here rested, and the defence called.

I. T. Mansby, who had been acquainted with Heitmiller for 18 years, and who thought he was of unsound mind, basing his supposition for this that Heitmiller had taken about an hour to decide whether the witness could remain with him over night. Had noticed a great change in him in recent years.

Blake S. Thompson noticed that Heitmiller's mind changed when talking about family troubles.

L. J. Johnson knew Heitmiller 20 years ago in Kansas and 12 years in Oregon, and at times he thought he was of unsound mind.

L. M. Parrish had known Heitmiller since he had been in the county and was well acquainted with him. At times he was as crazy as a bed bug. In cross examination, witness admitted Heitmiller was in the habit of getting excited and in a rage.

W. H. Reynolds knew Heitmiller 14 years and thought he acted peculiar.

E. T. Lester saw a vast difference in Heitmiller, for he was fit and would break down and cry.

J. M. Harrison was neighbor to Heitmiller and in regard to his family his mind appeared to be weak, and it seemed to prey upon his mind. Would not say he was insane. On the day of shooting he was cool and collected.

J. E. Sibley said after the shooting Heitmiller wanted to talk about his troubles, and cried when doing so. Witness believed he knew right from wrong.

H. H. Alderman said that Heitmiller had been working for him about 1 1/2 years. He loaned him the revolver last May to protect himself when going into the woods. Witness testified that when

Heitmiller talked about his family troubles he would go into a passion. He stopped at his house three days previous to and up to the morning of the shooting. Witness served the divorce notice upon him on the Saturday, and he did not appear to him to be in trouble, but remarked, "The old woman has gone back on her only child." That evening he was feeling cheerful, and said he would let the matter drop and allow his wife to get a divorce. Witness was with him next day, and on Monday Heitmiller said he "Had a notion to kill himself." Witness procured him some provisions and advised him to go straight home on Tuesday and not stop in Hobsonville, which he agreed to do. Witness thought he talked foolish about his family while at other times he thought a good deal of them. He was often under the influence of liquor and was ugly at those times. Witness would not undertake to say that Heitmiller did not know right from wrong.

William H. Heitmiller was then put on the witness stand. He stated that his wife had left him four years ago. He was not acquainted with Arndt. He went to see his wife at the Truckee Saw mill, but she would not see him. Saw her at Goynes office after he came to town. He did not know that he had the revolver in his pocket until after he left Bay City and had spoken to his daughter. Heitmiller said it was through the conversation with his daughter in regard to Arndt, that caused him to do what he did, for "If it was not for that man there wouldn't have been trouble in his family." Witness admitted on the stand that he "Thought he'd knock the damn stuff out of him," while he was on his way to the mill, and while near Arndt he shot him, thinking "I'll settle the damn cuss." They took him to the store. Had talked about a compromise in the divorce proceedings, with the understanding that his wife deed a block to his daughter. He had never seen Arndt with his wife; witness said he was not in the habit of getting drunk.

Mrs. John Bodle testified to being the daughter of Heitmiller and resided at Bay City. She denied saying to her father that Arndt was the cause of the trouble. She positively stated Arndt was not the cause of the family troubles. Her father remained about half an hour at her home on the day of the shooting and the conversation was in regard to the divorce proceedings. When her father was under the influence of liquor he got into a rage. He knew right from wrong, and always drank more or less and flew into a rage when drunk. He had threatened her mother's life two or three times. "She did not think an insane person would act like he did."

F. D. Pearson was in charge of Heitmiller in the office until the sheriff arrived. He believed he was sane for he asked Mr. Lem Parker to get him a glass of water and to squeeze a lemon into it.

J. V. Huntsinger was with him at this time and he testified to his being quiet and sane. He knew right from wrong, for he admitted that he had done wrong in shooting Arndt.

After the council had addressed the jury, the judge made his charge, it being about six o'clock when the jury retired. Twenty minutes later the jury had agreed upon a verdict.

Being brought into court Foreman West handed the verdict to the judge, who handed it to the clerk to read, which found Heitmiller guilty of the charge in the complaint, upon which the judge deferred passing sentence until 10 o'clock Wednesday morning.

The Escape.

There was great surprise in the city on Wednesday when it became known that Heitmiller had escaped from the county jail early that morning and had made good his escape. All manner of idle and some silly yarns soon became public property. Some spoke as though it was a put up job, but on being interrogated we found they were talking through their hats, for this was only the imagination of some person. Of course some took this for gospel truth and told it as such, and that a certain lodge had connived at it. None of the rumors, however, could be substantiated, only that some people thought that was a splendid opportunity to give the sheriff and his deputies hell and embraced that opportunity to do so

instead of waiting for the truth or helping them out. The facts are simply these. After the jury brought in their verdict, Sheriff Alderman gave the prisoner in charge of Deputy Sheriff Stanley and Gilford Stillwell, and as it was thought he might commit suicide, the sheriff gave orders not to lock the cell door so that they could get at him quickly in case he did, as it took quite a little time to unfasten the door. The sheriff went home satisfied that he had made proper provision for the safe keeping of his prisoner and was much put out when aroused next morning about three o'clock that Heitmiller had escaped, as any man would have been under like circumstances. Early in the evening Heitmiller had made up his mind to escape if an opportunity presented itself, as, no doubt, his guards would not anticipate such a thing, as he had been allowed the same privileges about the county jail which other prisoners had enjoyed for a number of years past. Stillwell went to sleep in the next cell and Stanley kept watch in the sheriff's office. Every time Stanley heard Heitmiller move he went and looked at him in his cell. The prisoner at one time complained of headache and the light hurting his eyes, so asked to have the door slightly closed. About three o'clock Stanley heard the prisoner move and thought he was only turning in bed, so did not go and see him that time. Heitmiller had been waiting for that opportunity. He sprang out of bed and crept out of his cell while Stillwell, who prides himself as a watchman and detective, was sleeping soundly in the next cell, to say nothing of the noise he was making snoring and drawing what disturbance the prisoner made. Having taken the key of the outside door from the nail, he easily made his escape. Not many minutes after Stanley went to see his prisoner again, when, much to his surprise, he had gone. Stillwell was called and ceased his snoring, and one can only imagine how he looked when told the prisoner had taken flight—there are several amusing incidents connected with the escape and this is one. When Heitmiller was free he thought the best place to go was his home on Nehalem beach, for he was under the impression that the slough would be the first place they would be searching for him, so he struck out for the beach as hard as he could go to get there before it became light and to avoid being seen. He did so, but was perfectly played out when reaching there. Bolting the doors he placed an ugly looking gun and a bottle of poison on the table and then laid down and went to sleep.

The Capture.

Of course an active search was made

for the fugitive, Sheriff Alderman loosing no time. Deputy Sheriff Stanley started north, and at Hobsonville came upon the freshly made track in the road. This he followed to the beach and he felt he was not far behind his man. The tide had washed out the track along the beach. Then tracking the foot marks again in the dry sand to a house, Stanley tried the front door. It was bolted. He then went round to the back door, which was bolted also. Heitmiller had heard the doors tried, and pecking through the window to see who was around, caught Stanley's face as he looked in, being only a few inches apart with the window between them. Stanley took in the situation in a moment when he saw the gun upon the table. He did not propose to take chance with a man who had evidently intended to show fight. Stanley's hand was on his revolver in an instant, and Heitmiller seeing that the game was up and the deputy sheriff had the drop upon him, he unfastened the door at the stern command of Stanley. Had Heitmiller attempted to use the gun Stanley would have had to shoot him down to protect his own life. Probably had Heitmiller known that it was the deputy sheriff outside and alone he would have shown fight, but being caught where the deputy had the drop on him he concluded it might be himself who would bite the ground first. Had Stanley been one hour later he would have missed his man, for Heitmiller intended to strike out again after getting rested. He said if it had been Stillwell who had come to arrest him he would have shot him.

Although Deputy Sheriff Stanley is responsible for the prisoner's escape, he is deserving of a great deal of credit for the judgment and nerve he displayed in following the prisoner up and capturing him, which, in our estimation, shows that Stanley is a good deputy, for when placed in an unenviable position he came out of the trying ordeal by making a quick and clever capture, so on that account he is not deserving much criticism after all.

The Sentence.

Stanley brought the prisoner back to the city soon after two o'clock, and the judge being in waiting, Heitmiller was taken to the court room. Attorney T. B. Handley made a brief plea for the prisoner, and after a few minutes silence in solemn expectancy while the judge was writing in the journal Judge Burnett, having finished his writing, looked at the prisoner, and without any comment, said "I pass sentence of four years in the penitentiary."

Sheriff Alderman left with Heitmiller for Salem early Thursday morning.

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