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ALONZO SWARTS' TRIAL

Before Judge Burnett of the Circuit Court

FOR MURDERING EDWARD SWARTS

Synopsis of the Testimony and Arguments.

TUESDAY AFTERNOON. At 3 p. m. the court met again to consider the case of the state vs. Swarts, indicted for murder of Edward Swarts, his son. Eleven jurors had been secured and G. W. Ellis was the twelfth man. There was a buzz in the court room and after the jurors not needed were excused.

THE CASE OPENED. Deputy District Attorney A. O. Condit opened the case to the jury. He read the indictment and stated the case as it has been published in THE JOURNAL. He related how Swarts began a quarrel with his wife. They had some words the day before over Edward's age, and that evening he ordered her to get the family record, threatening if she did not comply to "shoot her damned head off." He abused the girls because they had not given him a knife. When they gave him one he swept it off the plate and ate his supper with his pocket knife. Swarts kept up his abuse and threatened his wife when Edward said if there was going to be murder he would leave. He went to get his coat, which hung on a nail near the gun rack. As he went to put it on Swarts struck at him with the pocket knife he was eating with. He cut him in the side of the neck from the ear down. He also struck Edward near the breast and in the back. The girls separated them and Edward sank to the door from loss of blood. The smaller boy got one gun and carried it out of the house. Swarts said to his boy "you were going to get a gun to shoot me, weren't you?" He then took down the Winchester rifle and pointed it at Edward, but the girls interfered and prevented him shooting. The little boy carried the news to the neighbors.

Swarts interfered with the girls waiting on Edward and would not even allow them to put wet cloths on him. He then told how the doctors had treated him at the hospital at Portland where he died April 21. This is the substance of Mr. Condit's case as he related it. John H. McNary stated the case for the defence. Swarts and Edward had been to town all day and had about seven drinks together. They did business together and went home and set down to supper together. Mattie Swarts had quit work in town a few days before and Swarts had not learned of it until he went to town. His wife knew it but had not told him. He told her some men would shoot her head off if she neglected to tell such a thing. Some hot words were exchanged between Swarts and his son. Soon Edward left the table and went to get a gun, as the father supposed, and he jumped and grabbed him and they had a scuffle. Edward was cut several times with the pocket knife in the struggle, once in the left ear down to the angle of the jaw, severing the temporal artery.

The evidence would show that the knife-cut did not cause Edward's death. The cause of the boy's death was an injury lower down on his neck, made by the doctors. The cut made by Swarts was on Friday night at 9 o'clock. The wound was not dressed until the next day at 3 o'clock. They neglected the case for nearly 50 hours. Instead of tying the temporal artery, they made an incision and tied the carotid artery, an operation from which 90 per cent die. The upper end of the artery should have been tied, and that was what he was finally taken to Portland for. The temporal artery was no larger than a match. The common carotid supplies the brain with blood and when it was severed death by shutting off the supply of blood. The wound was cut between the brain and the neck.

Walter Swarts: Detailed evidence as heretofore given. It agrees in the main with the girl's statement. He told the story remarkably prompt and clear for a boy of 13 or 14. Cross-Ex: It was ten or fifteen minutes between the time of the cutting and witness starting for the doctor. When he returned they all had hold of the gun, and for five minutes after. As soon as Swarts got the gun released from the others he threw the cartridge out of it and threw the gun out in the door. There were seven loads in the gun. Father took out son. Talked with Wanless and Blanche several times about what would testify to her. Talked with sister as to what would swear to. Denied having any talk with his father since trouble. Court adjourned 10:30 a. m. Wednesday.

THE SWARTS JURY. The trial of Lou Swarts began again Wednesday morning by the following jury: F. L. Kennedy, Wash. Man.

GAIL BORDEN EAGLE Brand CONDENSED MILK. Has No Equal SOLD EVERYWHERE. Dr. Price's Cream Baking Powder Awarded Gold Medal St. Louis 1904, San Francisco 1906.

It was easily operated and not necessarily fatal. The boy died from wholly unnecessary operations and loss of blood from these operations. Unfortunately there were no witnesses to this case but Mr. Swarts and his children. The children were poisoned in their minds by one Frank Wanless, who, from pecuniary motives, was interested in keeping the children away from their father and away from counsel for defence.

Mr. McNary's maiden speech in an important criminal case was delivered to the jury in an easy and impressive manner, and was listened to with the closest attention by all persons in the room.

THE TESTIMONY.

The witnesses and expert physicians were sworn, all not physicians being excluded from the hall until needed. The state opened its case by introducing W. J. Culver to prove plat of Swarts' house and arrangement of rooms. He explained the plat to the jury. On cross-examination it was shown that the plat did not reveal the distance from the floor to where the gun hung.

Emma Swarts: 16 years of age; was present at fight between Edward and his father; when father came home he first talked to the baby, then to mother; first thing he said was about Edward's age; his birthday was the day before, March 28; he was 22; he disputed that, said he was only 21; when Edward first came in there was no disputing; they sat down together and father said, passing him a plate of meat: "Have some of my tongue; you'll need it when you get married." "You'd have plenty left if I did," said Edward. The father said: "Don't be sassy, or I'll boot you off the place." He told her to get the book and show him how old he was. She was going to do that when he said he would "shoot her damned head off if she didn't." Edward got up and went to get his coat, saying it was time he was booted off the place if there was going to be murder on the place. She then described the struggle as it had been stated.

He said, now I'm going to shoot you. Edward said, shoot away. We took hold of the gun and struggled with him. We begged him to quit quarrelling and put it up. He drew the cartridges out and gave the gun to my little brother and told him to take it out to the shop and break it up. His knife was a common sized pocket knife. District Attorney McNary here introduced clothes worn by Edward at time of trouble. He displayed the knife remnants to the jury. She stated that they had a good many quarrels.

Cross-Ex: They all sat in the kitchen as that was the only fire in the house. Father had been drinking, had a cranky spell on; could tell from his actions and talk; could smell it; acted drunk; Edward was not drunk; never saw him drink or knew him to drink; father talked to mother in a kind of drunken way; that was quite common for him to come home that way; then he and Edward talked awhile; father sat there eating away; some words passed; mother went out of the room. Q. Didn't your brother get up from table, cross the room, go to where the guns were, take down the shotgun, and your father interfered and cut him? A. No, sir. The shotgun hung under the Winchester. My little brother took down the shotgun and took it out in the kitchen. Mother went out and stayed out until after the doctor came and went away. Father and Edward scuffled over the gun for ten or fifteen minutes. He was on his knees and had hold of the gun; we two girls had hold of it; when he got the gun he threw the cartridge out and handed it to my little brother and told him to take it out to the shop and break it up.

Walter Swarts: Detailed evidence as heretofore given. It agrees in the main with the girl's statement. He told the story remarkably prompt and clear for a boy of 13 or 14. Cross-Ex: It was ten or fifteen minutes between the time of the cutting and witness starting for the doctor. When he returned they all had hold of the gun, and for five minutes after. As soon as Swarts got the gun released from the others he threw the cartridge out of it and threw the gun out in the door. There were seven loads in the gun. Father took out son. Talked with Wanless and Blanche several times about what would testify to her. Talked with sister as to what would swear to. Denied having any talk with his father since trouble. Court adjourned 10:30 a. m. Wednesday.

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saker, C. R. Briggs, J. A. Dickey, H. L. Bents, Chas. Cannon, H. Von Behren, Geo. Gooding, H. St. Earle, L. S. Thomas, Michael Egan, G. W. Ellis.

Mattie Swarts: When her father came in that night he went to quarrelling with mother. Her story then was word for word the same as Emma Swarts. Swarts asked Edward if he didn't take the gun down to shoot him. Edward said no, Swarts said he was a d--- liar. The gun would have been discharged if my sister had not held her hand below the hammer of the gun. He threw the cartridges out and told the little boy to take the gun out and break it to pieces. He didn't want any more guns around. Mattie was at first timid but soon got her voice and told her story very rapidly. She repeated all the rough language her father used in an effective manner. She employed quite a dramatic style of delivery, and threw a good deal of force and feeling into her story. The two children who testified before were quite timid and showed signs of breaking down. Mattie is a young woman of great nerve.

Cross-Ex: Lawyer Ford seemed to approach this witness timidly. He asked questions in a low tone and very gingerly. She stood cross-examination well and it was a battle royal between a shrewd sharp woman and a sharp shrewd lawyer trying to lead her to cross herself. She and Walter are exact types. She said her brother had his arms in his coat when his father attacked him. He was larger, stouter and heavier set than her father. Edward never touched the shotgun. My little brother took it down from the wall and took it out. Father got down the Winchester to shoot my brother after he had stabbed him. After Walter came back from Luger's he stood on the floor and reached down the shotgun. As Ford tried to tangle her up she showed a good deal of temper.

Q. You have taken a great deal of interest in this prosecution against your father? Did you ask Mr. Savage not to go your father's bail? State objected.

Court: You may ask the question, Mr. Ford. At what time and place did you speak to Mr. Savage about your father and what was it about, for the purpose of showing her feelings.

A. I have not spoken to Mr. Savage since the trial. Spoke to Wanless and Blanche. Stopped at same place. Talked it over with my brother and sister. Got up early this morning and talked with the district attorney again as to the evidence.

Ford: Hesitating.

Court: Go on Mr. Ford.

Ford: You have not the best feelings in the world toward your father?

Mattie: I think he committed a crime and ought to be punished for it.

DR. BYRD CALLED.

Related story as before published. Got to Swarts place at 11 Friday night, found injury to side of face and neck, had lost much blood, was pale and blanched, out was one inch to inch and a half long, wound inward and downward, three inches deep, did not make a complete examination that night, the wound was clotted and did not bleed freely, removed part of clot when it bled freely, bandaged it up and controlled hemorrhage, and left it next day in the afternoon went out with Dr. Smith, put boy under chloroform, removed dressing and clots when hemorrhage began again, tried to stop blood from pressure below but could not; thought we could open it up and get hold of the artery and tie it; we then had to ligate the artery below the cut and stop the hemorrhage; concluded it must be the external carotid artery.

Was shown photograph of arteries in neck and explained to them the chart. Judging from the direction of the wound he concluded one of the main branches of the carotid artery was cut or punctured. Could not state positively or absolutely as to what one was cut. Did not finally ascertain positively which artery was cut. We believed it was the external artery that was cut but it might be the internal artery, as we cut below the juncture of the two and tied the common artery. Might have ligated the external artery. In the universal practice to ligate the common trunk of the artery if the internal carotid is cut; if the external is cut, that alone can be tied. Friday night following the ligation he had an extensive hemorrhage but it was stopped before we got there. Dr. Smith dressed the wound and nothing occurred for another week; from that on nearly every night or every other night he had a hemorrhage. The wound had closed, except a small hole where it was plugged. Was removed to Portland for a second operation. Never saw the body after that; believe it was a proper operation and was performed

in good faith to save the boy; a man's blood is one-tenth of his body; could not tell how much he lost; a recurrent hemorrhage was caused by the blood coming through the distal (or farthest from the heart) end of the artery. Monday, a week following the operation the ligature gave way and came off entirely. Cross-Ex: Lawyer Ford now employed Junior counsel McNary to show exact place of wound and ligature, the doctor indicating the wound extended across the cheek bone outside about an inch; it was ligated four inches below cut. The wound would have to be diagonally down three inches to cut the external carotid artery. Could not tell with finger if there was an artery cut; the ligature of the artery cut the artery entirely off about the tenth day; the first hemorrhage from the distal end in seven days was from the artery being cut in two by the ligature; the vessel separated completely or partially where it was tied; the hemorrhage came from the wound we made in ligating the artery; decided if the bleeding came again we would have to open up the wound and tie it again; none occurred until next Friday; concluded it was from the distal end of the artery we had tied; were not certain but that the blood came from some smaller blood vessel or vein cut in making the incision for the operation; the artery was 2 1/2 inches deep in; it bled half a dozen times before we took him to the hospital; simply had the hemorrhages temporarily arrested until we concluded we had to take him to the hospital for a re-ligation of the artery; Dr. Byrd made a good witness, kept himself very clear from confusion and at the end warmed up a little and freed back at Mr. Ford so that lawyer checked himself just in time.

Re-direct: The effect of a clot is to obliterate the artery where the clot forms. Dr. J. N. Smith: His testimony was in substance same as Dr. Byrd's. The hemorrhage was bright red arterial blood, coming out in waves, or welling out in waves like. Cross-Examination by Ford: The doctors at Portland ligated the distal end of the artery, one-half inch below where it branched, and half an inch above where we ligated it; clot forms on both sides of the ligature from where it is tied toward the next branch above and below; when the second operation was made by Drs. McKenzie and Jones at Portland, it was found the bleeding was from above where we tied it; after he was operated upon at Portland he got numb on one side. Going back: All indications were that external carotid was cut; so testified before justice; Byrd did same; ligating external carotid the chances of death would have been ten or fifteen fold less than ligating common carotid; the doctors at Portland were not certain what artery they were tying; they just took up the one that was bleeding; that was determined after he was dead, that it was the external that was tied; it was not ascertained on the inquest what artery was cut by the original wound. Adjoined at 1:35 p. m. WEDNESDAY AFTERNOON.

The state's next witness was E. E. Cooper, deputy sheriff, who identified Lou Swarts' pocketknife. Dr. Jones, physician at St. Vincent's hospital testified for state; saw Edward at 5 o'clock with Drs. McKenzie and Smith; he was pale, emaciated, exhausted; described wounds opening down into the neck large enough to admit two fingers; made by operation; supposed there was a large blood vessel bleeding through this opening; put to sleep by anesthetic; opening of leading blood vessel could be felt; could not find the vessel at first. Connected the two wounds that were partly healed; the blood came from above, arterial blood from the distal end of the artery; was the common, or internal end of the artery, we did not know which; was caused when the ligature first made cut through the post mortem showed that the common carotid had been obliterated by the first ligature.

Cross-Ex: There were present a large number of well-dressed ladies who took a deep interest. Dr. Jones made a cool witness under Ford's scalpel and underwent vivisection without anesthetic of any sort; the artery he felt with his finger was as large as the tip of his forefinger with which he stopped it. Ford: If you couldn't tie the external artery wouldn't it have been proper to tie it as near as possible to the wound above the wound? Dr. Jones: It was far enough from branch; it should be one-fourth inch; the temporal artery could be tied anywhere; smaller the artery, less chance from death from ligation.

Dr. McKenzie: Described facts same foregoing. Deep successive incisions had to be made to get hold of the blood vessel; if punctured near fork of artery, ligation must be made below on main artery; Byrd and Smith made every honest effort to save the boy's life; no plugging up of wound would have saved him; the autopsy showed that he died to death from the distal end of the carotid artery, a short distance below the point where it branched.

Cross-Ex: If the external carotid were cut and you tied the common carotid, the blood would be forced around above and out of any cut; besides tying the common artery, you'd have to tie the above, too.

Dr. Amos: Made autopsy; found carotid had been tied twice; could not tell where original wound was, or what blood vessel was punctured; brain was soft for want of blood supply.

F. A. Wanless: Related to Swarts; went to Portland with the boy, was present at death; he said he would as soon die in Portland as die here; cross-examination. State rested.

THE DEFENSE. Dr. Hall: Heard testimony, took chart showing by red marks original wound and wound made by physicians to tie carotid; that tie would not stop blood flowing out of wound above the ligature if temporal artery were wounded, tie it up; the external was twice as large, the carotid twice as large as that; ordinarily the external carotid if cut should be tied on each side of the cut. As this report closes the first witness for the defense is still on the stand. The case will hardly be concluded before Friday.

SHORT \$25,000.

Omaha's City Treasurer Proves to Be a Defaulter.

OMAHA, June 19.—City Treasurer Henry Hollin is a defaulter. Experts are checking his books. The facts of the shortage became known Tuesday morning and Hollin at once disappeared leaving a note to his family saying that the hour had come for him to die. His bondsmen, who are liable to the amount of \$1,000,000, set the police to looking for the man. Last night he was located in a suburban roadhouse, drunk. He was heavily armed and when the officers appeared attempted to draw a revolver with which he declared he intended to end his life. He surrendered without a struggle. He is now in his bondsmen's hands. They assert they will give him a chance and will settle his shortage in full. Hollin has been drinking heavily of late and has also lost money in stock speculation. After a hurried checking of Hollin account Comptroller Olsen reported a shortage of \$15,588 outside the amount said to be lacking in the Midland state bank. His deposit blanks indicated that Hollin had \$15,588 deposited there, while the actual deposit was only \$19,000.

A Negro Lynched.

MEMPHIS, June 19.—Passengers on the Illinois Central report that an unknown negro was lynched at Alibonville, Miss., last night for an attempted criminal assault on the wife of a motionorman. The negro was hanged to a telegraph pole and riddled with bullets.

Lezow Results.

NEW YORK, June 19.—Police Inspector McLaughlin has been sentenced to six months imprisonment at Sing Sing.

Hot in California.

SAN JOSE, Cal., June 19.—The thermometer ranged 100 in the shade at noon today, the highest point in the year. As a result, fruit is ripening fast.

THE MARKETS.

CHICAGO, June 19.—Wheat, cash 71; July 71. PORTLAND, June 19.—Wheat Valley 82 1/2; Walla Walla 80 1/2. SAN FRANCISCO, June 19.—Wheat 59 1/2; New York, June 19.—Silver 91. Lead, 83 1/2.

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