

CRITICAL TIMES IN COURT

Psychological Effect of the Unexpected in Trial Cases.

PITFALLS IN CROSS-EXAMINATION

Dramatic Episodes Engineered by Clever Lawyers in Desperate Cases—Taking Big Chances.

Those who have read "A Tale of Two Cities" will easily remember the episode of Sydney Carton toasting across the table his co-accused, Stryver, who was cross-examining the crown's witness...

The man who had been a reputation as a criminal lawyer knew the psychological effect of the critical moment, and prepared for it with as much care as a general marshal his forces for battle.

Convicted Himself.

There was a man on trial for murder in a second district court in Missouri. He had armed himself with a double-barreled shotgun, walked some distance to a neighbor's field and emptied both barrels in his enemy's body.

On cross-examination the state's attorney let him repeat his story in detail, and then quietly asked:

"Mr. —, why did you fire the second shot?"

The defendant nervously passed his hands over each other, coughed and said this helpless reply: "Mr. —, I don't know."

Working the Jury.

Somewhat more elaborate was the "artificial" moment arranged by J. H. Whitcomb, an attorney, who was in charge of the defense of a man who was indicted for the killing of a prominent and highly respected citizen of Shelby county.

Mr. Whitcomb hovered about her, gently placing the cot where the jury and stenographer might hear the feeble words of the invalid. It was a sad scene and affected all as if they were in the presence of death, as in the truth they were. But the dying woman felt that all the trouble used in taking her from her comfortable home in Shelby county to the trial indicated the gravity of her son-in-law's situation, and she gave her testimony under the inspiration of stern duty.

"Ah, gentlemen, I may be wrong in my figures and my deductions from this evidence. I may have made mistakes, for which I trust you will pardon me. But there is one person who testified here and who must be believed if anything on earth is true. You saw her as she was carried in here in the arms of her husband. Today gentlemen she lies upon her deathbed. The angel of heaven flutters across the great vaults above and is preparing to receive her. Her mother—long since gone—with yours and mine, is there with arms outstretched for poor Mrs. Swift. You wondered how she was able to reach the court room from her home far off in the country. Why didn't she die? What great unseen power fanned the whirling life in her body until this session came out? Ah! I will tell you what kept the dying spark alive. It was because the Great Father of the universe who always stands by poor, unfortunate humanity, decreed otherwise and issued the fiat that she should live to save her boy—to save her boy! Thanks be to the merciful God of heaven for it! Take her now from her mother; take her away to her heavenly home for she has died before a jury of her countrymen. My boy was assassinated there, and what he did was in the lawful defense of his life!"

The speech wrought a greater effect than did the appearance of the dying woman on the day before. The court room was crowded, many women being present, and they wept so bitterly that the atmosphere of grief was communicated to the jury, and eight held out so stubbornly for the defendant that a mistrial occurred. It was a surprising circumstance considering the nature of the case, and was almost entirely due to the portions of the trial given. Not long afterward the case was retried, and the jury's finding was so mild as to practically amount to an acquittal.

Effect of a Story.

An Iowa school teacher shot a man who had, as he thought, introduced his wife. He had read Lytton's story of "Eugene Aram," and was so impressed with it that he discharged his lawyers and tried his own case. When he came to sum up he related a great deal of the story and dwelt especially upon Aram's speech in his own defense.

The jury went out and after some debate they came in to ask a question. That was the "critical moment" in the school teacher's trial. The jury wanted to know what had happened to Eugene Aram. The court ruled that as the defendant had introduced part of the story the jury was entitled to know the result. "They hung him," replied the defendant cheerfully.

The school teacher's jury wasn't quite as hasty; they only sent him to the pen. One hundred thousand dollars worth of business property comprising practically all the stores of Ebel, Mc., was the stake before a jury in the federal court at Hannibal. The plaintiffs claimed that sparks from the locomotive pulling the California Limited westward on the Santa Fe railroad set out the fire on the roof of an old frame building near the track, and that from this structure the blaze was communicated to all the stores in town.

There was a man on trial for murder in a second district court in Missouri. He had armed himself with a double-barreled shotgun, walked some distance to a neighbor's field and emptied both barrels in his enemy's body.

So that period of time became a controlling matter in the case. Bert D. Norton, a young village lawyer, who had the case for the plaintiffs, met the issue this way in the course of his argument: He handed his watch to a member of the jury, told him to note the minute hand's position and make an announcement when five minutes were up. There was a strange silence in the court room while the jurymen leaned over and scanned the face of the watch. The pleader grew weary standing inactive and took a chair. The judge tapped absent-mindedly with a pencil, looked at his own watch and then at the jury. A court marshal stepped in from the lobby and glanced around to ascertain the meaning of the sudden suspension. A man in the audience arose and slowly paced back and forth in the rear of the seats. An impatient expression crossed the face of the judge. It seemed like a thousand things might have happened in that endless five minutes. At last the jurymen snapped the watch. "The five minutes are up," he said.

To everyone who endured the suspense it appeared nearly half an hour. It convinced the jury that five minutes was ample time for the limited to have fired the old frame building and to probably burn it to the ground, so long did that period seem during inaction. There was a recovery by the plaintiffs for the full amount in suit and the United States court of appeals sustained the verdict.

A Remarkable Battle.

A man named Niblick stabbed to death one Townsman during a celebration in Coatsville, a small town on the Iowa-Missouri line. Townsman was a well known farmer and had many influential friends in the section indicated. The feeling was intensely strong against Niblick, who was arrested and hurried to jail at Leavenworth in order to strengthen the prosecution. Townsman's friends employed one of the best known and most successful criminal lawyers in northern Missouri to assist the county attorney. Niblick was indicted for murder in the first degree. He was a poor man, but somehow he found means to employ a couple of young lawyers to defend him. There lived in Bloomfield, Ia., a lawyer, Colonel H. H. Trimble, who, on learning of the case, came down into Missouri and volunteered his services to aid in the defense. The young attorneys welcomed him gratefully, as a murder trial of this character was something unusual for them. The older attorney sat at the table with the young fellows, now and then modestly tendering them a suggestion, but letting them conduct the examination. When an intricate law point came up, however, Mr. Trimble by reason of his superior experience, took charge of the argument. At the close of evidence, the prevailing impression was that Niblick would be convicted, although he had stoutly maintained that he had acted in self-defense. There was some fine speech-making on that case. The graybeards of southern Iowa and northern Missouri still talk about this remarkable court battle of thirty years ago.

Influence of a Speech.

Colonel Trimble was a fine looking man, with the voice of a great actor. Besides he was a profound student of human nature. He closed the argument for the defense, and in the course of his talk drew a graphic picture of the battle of Pos Ridge, which occurred near Bentonville, Ark., in 1862. He told of the charge of the enemy, the repulse, the reforming of the lines, the second charge. The hand-to-hand fight and the earthworks.

"The captain with powder-blackened face, with hair and whiskers all awry, sabre flashing, trods down the path for his men to follow. Over the corpse-strewn field they swept on to meet the red, withering blast of guns uncountable, and all worked with deadly skill. The line wavers. A few turn and look at frightfully back."

"Steady back, and forward!" "The color of the enemy's fierce eyes—eyes of men who have tasted human blood and like it, can almost be distinguished as the smoke lifts and gives, for the instant, the charging squadrons a better view. Then bayonets are pointed for the death grapple. At the very moment of victory—"

"Go on boys! Don't mind me. The captain hard hit, is down and out, but the soldiers, with clubbed muskets, rush on and beat down the southern battle line."

"Gentlemen! I get that from no history of the war! I saw it! What I tell you comes not by word of mouth or from the reading of books. That gallant officer, stricken down in his hour of triumph, was Captain Niblick of my regiment, the prisoner at the bar, the man you are asked to send to the gallows!"

The special attorney employed to assist the state tried to counteract the influence of that speech, but he couldn't convince the jury that the defendant was the sort of a man who would commit a murder and the gallant captain left the court room in triumph.

CHAIN OF WIRELESS TOWERS

Extensive System of Aerial Communication Planned by Navy Department.

The United States Navy department is now planning the construction of a chain of wireless stations more extensive than any similar system in existence, or contemplated by any other nation.

The construction of this chain of wireless stations will make the United States the proprietor of a system of communication circling more than half the globe. The government will then be independent of the commercial telegraph and cable companies, in war and in peace. The advantages of the system can hardly be overestimated. For example, Rear Admiral Murock, commanding the Asiatic fleet, now on duty in Chinese ports, sends to Washington by commercial cables daily reports on the developments in the Chinese revolution and the steps he is taking to protect Americans. This method is both expensive and slow. Were the chain of wireless stations in operation Admiral Murock could send his daily reports without any expense, and with greater speed. The advantages to the Navy department are equally apparent. It is not proposed to abolish the less powerful stations now in operation under the Navy department control on the United States coasts and in the Pacific, with the establishment of the giant stations. The ships of the fleet, though capable of receiving messages at a 1,000-mile radius, have a maximum sending range of about 1,000. Therefore, in many cases, the warships will be obliged to relay messages through the nearest relay station, or through one another. The low altitude of the highest point on even the largest ships seems to have put a permanent limitation on the sending power of wireless stations on shipboard—Scientific American

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CATS SING? WHY, OF COURSE!

What Everybody Knows Soberly Affirmed by a Musical Manager.

Cats sing. Yes, everybody knows that they make a noise, that is what it means. They really sing, truly sing, giving voice to arias, choruses, duets and quartets, according to Carlo Fischer, associate manager of the Minneapolis Symphony orchestra. Mr. Fischer also said recently that everybody musically inclined, by listening patiently to the nightly outbursts on the backyard fence, can easily trace the furtive melodies of the blending voices, even snatches from the works of the master composers of the days that are so carelessly picked out of the mysterious feline harmonies.

Mr. Fischer said he never realized that cats really sang until recently, when the first heavy weather—forecasting of the spring-struck Minneapolis. Fischer, it must be known, has become a fresh-air addict, and all winter has slept each night in a coffin box on the rear of his porch at his home. Through the cold weather there was so much. The neighborhood cats were too busy keeping warm. But the springlike breezes of late have brought out the songsters. Fischer never noticed them last spring, for he wasn't sleeping on the porch. But now, with his care close to nature, the symphony manager has had a chance to make a careful study of songs of the back fence choir.

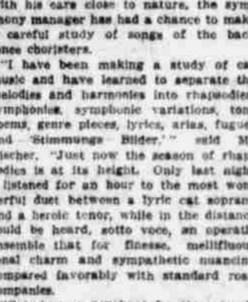
"I have been making a study of cat music and have learned to separate the melodies and harmonies into rhapsodies, symphonies, symphonic variations, tone poems, genre pieces, lyrics, arias, fugues and 'Stimmungs Bilder,'" said Mr. Fischer. "Just now the season of rhapsodies is at its height. Only last night I listened for an hour to the most wonderful duet between a lyric cat soprano and a heroic tenor, while in the distance could be heard, sotto voce, an operatic ensemble that for fitness, mellifluous tonal charm and sympathetic numbering compared favorably with standard road companies."

"Cats have a penchant for staccato effects. The tenors, however, are given to glissandos and glissandos. Minnesota cat tenors are among the best in the world, because the severe winters give their voices a peculiar firmness and penetrative quality. That is why they may be heard warbling the 'Bird Song' from 'I Pagliacci' or 'O Don Patele' from 'Don Carlos.' The long winter has been rather severe on the baritone and basses, notably the basso profundo, whose characteristic croaking hoarseness distinguishes them from the rest of the feline singers. 'These basses excel in Wagnerian 'vorspiel' and Tchaikowsky andante cantabiles, con amore and delicate. The baritone may be counted on to supply the sforzando and crescendo effects. Con spirito and con furioso passages are admirably suited to the sopranos, who at this time of year are in excellent voice, after a long rest of the vocal organs. A Lisztian cadenza or a Strauss intermezzo, requiring keen appreciation of the rhapsodic in music, is the kind of heavenly harmony which just now is being improvised by feline sopranos. Contraltos, who seem to experience considerable trouble with their throats, like their human sisters, prefer the sad and dolorous, Molto con dolorosa, the melting canzonetta, soars through the night and falls upon the ears of the restless sleeper within range. If he is musical like me, he will enjoy it, but if he is not, he probably will shy a show at the offending minstrel.'"—Minneapolis Journal.

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