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NO. 48.

A QUEER DEFENSE FOR MAIL THEFTS.

Clock Dimitry Does Not Attempt to Deny Crime.

But Presents Witnesses to Declare His Irresponsibility

Because of His Addiction to Use of Drugs.

An Insurance Declaring Involving the Force of an Award by Appraisers.

Hearing of the case of United States vs. A. J. Dimitry, formerly clerk in Station C, of the United States Post office on Magazine Street, near Louisiana Avenue, accused of having abstracted and concealed a valuable package which had been deposited for transmission in the mails on the 20th of July, 1902, was begun yesterday before Judge Parlane and a jury.

The Government was represented by Assistant District Attorney DeLeon and the defense by Messrs. Thomas, O'Connor and M. D. Dimitry.

A jury was impaneled as follows: Alfred Miller, Foreman; Aron Heiser, Alb. B. Bredemeyer, James W. Devotes, Jr., Wm. P. Lock, Samuel H. Moyer, Wm. McCracken, Frank J. Armstrong, Maurice B. Dierke, W. A. Brand, Wm. D. Orice, Geo. H. Bales.

Postoffice Inspector Hamilton was the first witness. He testified in regard to having arrested the accused and sworn to an affidavit against the accused before United States Commissioner S. D. Craig. Witness was asked by counsel for the defense if he had noticed anything peculiar in the prisoner's appearance when placed under arrest, and he replied that Dimitry seemed under the influence of some drink or drug, or narcotic.

Letter Carriers Owen, Holland and Mason, attached to Station C, were subsequently called. The witnesses advised that on the 20th of July, 1902, they had seen the accused near the package in question, tear off the wrapping, and put the incriminating stamps affixed to it in his pocket.

The case for the Government. The defense introduced no witness as to facts, but instituted a line of proof to show the irresponsibility of the accused for his act, because of mental weakness, perpetuated by overindulgence in alcoholic drinks, narcotics and cocaine.

Dr. M. Stafford, who was employed at the City Hall a few years ago in the same office with Dimitry, testified that on several occasions the accused did not seem to be in his right mind. It looked as if he was in mental trouble. Witnesses could not say if Dimitry's condition was due to drink or to the influence of narcotics, but the jury was something the matter with the accused.

Henry J. Langford, at present clerk in the office of United States District Attorney, and in 1901, Secretary to the late Postmaster Barstow, was next called.

Langford said that in 1901 he became acquainted with A. J. Dimitry through the latter's appointment as clerk in the postal service, which necessitated witness making out the clerk's papers to be sent to Washington in connection with the appointment.

"Did you ever notice anything peculiar in his conduct?" asked Mr. O'Connor of the witness.

"Yes," was the reply. "Dimitry came to me and thanked me for his appointment. I told him I had had nothing to do with it, as I had simply done clerical work in preparing and forwarding his papers. He then said that he often came into my office, and was so persnickish and pedantic that I began to suspect him of not being right in his mental state. My suspicions were confirmed when Dimitry met me on the street and repeated his thanks, adding that he would soon be Postmaster, and perhaps Postmaster General, and would see that I was promoted."

Being asked by the Assistant District Attorney if he had noticed any other idiosyncrasies on the part of the accused, Mr. Langford cited a few minor incidents, and added "and he borrowed some money from me."

This statement caused a ripple of a gasp among the spectators, and some said "remarkable, so-to-voice." "The witness obviously should be on the far side leading the witness."

Dr. E. H. Archibald, a specialist in the treatment of nervous diseases, was called in as an expert for the defense. Dr. Archibald testified that he examined Dimitry in November last and concluded him long and very closely. "The patient had all the symptoms of a man who had been indulged in the use of alcoholics and opiates to excess, although at the time of examination the man was free from the influence of any drink or drug."

Dr. Archibald said that Dimitry acknowledged having been addicted to cocaine and morphine. A man who has used these drugs for years is not responsible for his acts, because he has lost the willpower necessary for resisting the physical wants and his surrounding temptations.

"Do you think that Dimitry was irresponsible on the 20th of July, 1902, the date on which he is accused of having abstracted a valuable package? Could a man in that condition in a hypothetical case be held responsible for a theft committed by him?" asked the Assistant District Attorney DeLeon.

"No," replied the witness. "I am sure that a man who has been addicted for years to the use of cocaine and morphine could not stop for months. He might cease their use for days and perhaps three or four weeks, but not longer. If at the time of committing the act Dimitry was under the influence of drink or of drugs, his responsibility was at a low ebb."

Here the defense rested. Counsel for the defendant desired to submit the case to the jury without argument on the latter's charges, but the Assistant District Attorney said that he desired to address the jury on the question of mental irresponsibility.

At 4 o'clock the case went over until noon to-day for argument.

THE CASE OF MRS. DARRAGH VS. BRITISH-AMERICAN ASSURANCE COMPANY.

Owing to an imperfectly understood telephone message Wednesday evening an error crept into the court journals of the Progress relative to the jury's finding in the case of Mrs. John L. Darragh vs. British-American Assurance Company. A correct account of the proceedings is that the jury was given an instruction upon which to deliberate—in fact, upon which the Assurance Company to Mrs. Darragh's claim of \$100,000. The contention which was argued before the jury was that the defendant was that an expert had been called and that the expert should stand. On the other hand, the plaintiff denied the validity of an award made by only two out of three parties to the appointment of fees in the absence of the third umpire. Mrs. Darragh claimed \$100,000, while the demand of the company was about \$10,000 less.

The jury decided in favor of Mrs. Darragh, claiming the exception. The case will come up on the 12th.

THE NEWLAIN INTERVENTION.

In the case of H. Thompson vs. Lewis and Greaves Oil Company, on intervention of Lewis Thompson & Sons, the report of Grant Parrot, Special Agent, was filed yesterday, recommending that a decree be entered in favor of Lewis Thompson & Sons for \$20,000, amount of a note held by them.

ANSWERS.

Charles A. Fawcett et al. vs. Home Insurance Company of New York, Answer denying the right of plaintiff to recover because of violation of contract of insurance in having obtained concurrent insurance from other companies.

United States District Court.

J. W. Hawkins vs. Steamboat City of Camden—Suit for \$101 damages for two

bales of cotton shipped on the City of Camden, which were lost in transit.

CIVIL DISTRICT COURT.

SUCCESSION.

The succession of Mrs. Amelia Looker was opened yesterday.

AUTHORIZATION.

Mrs. Georgina Langermann has asked to be authorized to mortgage.

NEW SUITS.

Paul Bonnel vs. City of New Orleans—Suit to annul a tax sale.

John E. Adams vs. John J. Hollander and John E. Rosenberg—Suit for \$286.50 on a claim.

Harris Suspender Company vs. Adolph Hollander & Isaac H. Rosenburg—Suit for \$143.50 on a claim.

Pierre Sene vs. Mrs. Widow Elizabeth Barton—Suit for \$1,000 and execution.

W. B. Walker vs. C. B. Moore—Injunction restraining and prohibiting C. B. Moore, his servants, agents and employees from tearing down, removing or in anywise interfering with a certain lady's table situated on the second floor of No. 1008½ Orleans Street.

Miss Latta vs. Injunction restraining and prohibiting defendant from transferring, disposing of or dealing with a certain note, dated Oct. 17, 1902.

O. Bryant vs. New Orleans and Northeastern Railroad Company—Suit for \$500 on a claim.

REAPPOINTMENT.

The reapPOINTMENT ordered by Judge St. Paul in the matter of Art. Historic Supply Company, Limited, was filed yesterday. It amounts to \$1,000.

Criminal District Court.

(Section B—Judge Frank D. Oberlin.)

Henry Blackwell, charged with willfully shooting at and with intent to assault with a dangerous weapon.

First City Criminal Court.

George Thomas M. Gill, Jr.

Arraigned and Pleaded Not Guilty—Thomas Herman, Albert Weibler and Henry Brown, assault and battery, and Henry Morrison, cutting and wounding, the State vs. Betty Henry.

Pleaded Guilty—Dennis Denny, carrying concealed weapons, \$50 or 3 months.

Shirley—John P. Darragh, carrying concealed weapons, 30 days.

Discharged—W. Disgrace, intent to commit a breach of the peace, Louis Lema, violating section 500, 10 days.

Guilty—Bill Sharp, Josephine Sharp, assault and battery, the State vs. Charles Jones, or John, assault and battery.

Advertisement—Stephen Pasick, abduction, Common-law assault, charged with shooting and wounding was sent before the Criminal District Court under \$500 bonds.

Second City Criminal Court.

Charles A. M. Acosta Presiding.

Arraigned and Pleaded Not Guilty—Henry Brown, assault and battery, and Henry Morrison, cutting and wounding, the State vs. Betty Henry.

Benito—Lola Rosenbaum pleaded guilty to petty larceny, carrying concealed weapons, and was sent to the Penitentiary for 30 days for larceny and fined \$50 or 30 days for carrying concealed weapons.

Discharged—Walter Deaver and Bragat Lake, charged with robbing at McCully on Pontiac near Hospital Street, Dec. 8, 1902, were discharged, owing to the absence of the prosecuting witness.