

Temporary insanity defense used for Payne

Temporary insanity was the defense pieced together by Caroline Payne's attorneys, Q. Austin East and Frank Regester, in her trial for murder. She was accused of shooting Charles Mattingly on the night of July 5, 1941.

As 14 days of the court sessions dragged on, two Caroline Paynes emerged from the testimony. There was the competent business woman, whose life was shattered by a disfiguring automobile wreck and the loss of her lover. The other image was that of a calculating and manipulating woman who stubbornly refused to let go of Mattingly when he had outgrown her smothering attention.

The jurors chosen were: Maurice Evans, barber; Omer Young, Showers Factory employee; Toddie Hatfield, former Monon Railroad employee; Jess Barr, mill worker; Elmer Parks, farmer; Mrs. Lee Acuff, housewife; Commodore Lanam, carpenter; Dewey Hudson, merchant; and Scott Anderson, Ben Polley, James Eads, Ed Knight, Elmer Parks, farmers.

Their verdict options while deliberating were: first degree murder with life imprisonment; second degree murder with life imprisonment; voluntary manslaughter with two to 21 years; involuntary manslaughter



Looking back

By Rose McIlveen

with one to 10 years; not guilty by reason of not having committed the crime; and not guilty because the defendant was of sound mind at the time the crime was committed.

Prosecutor Sylvan Tackitt and Deputy Prosecutor Robert McCrea opened the case with suggestions that they held all of the cards when it came to physical evidence. East, who had a reputation for flowery oratory in the courtroom, did not disappoint the curious spectators. As the Bloomington *Telephone* of Feb. 23, 1942, put it, "His voice intermittently roaring to great heights and falling to something like a whisper, Mr. East spoke of Mrs. Payne's devotion to the 'one she loved dearest' and of how she devoted herself to advancing him in the political arena until he reached the statehouse in Indianapolis."

As the days passed, the jury and specta-

tors had an opportunity to see the cast made of a footprint found under the window through which Mattingly was shot, which matched the sole of Payne's shoe; two revolvers, one of which had been fired, the bullets taken from Mattingly's body verified as having come from one of the guns; and witnesses who testified that Payne was in the vicinity (of the house where Mattingly was murdered) at the time of the murder.

All of those were givers, considering the defense plea of temporary insanity. It was the prosecution's responsibility to convince the jury that Payne really knew what she was doing when she fired five bullets through the kitchen window of the house at 702 South Walnut Street. It was their further contention that the woman had planned the murder for some time.

Both sides conceded that Payne would not let go after Mattingly walked out of her house for the last time on July 9, 1939, and made repeated trips to Indianapolis to see him. But the defense put a different face on it. "Even then, after he had deserted her for Lurayne Obberholtzer Witchens, it used to do her good to drive to Indianapolis and sit in front of the State house just to see him come out." When one of Mattingly's co-workers testified that he had seen Payne on

hands and knees talking through the grillwork in the bottom panel of Mattingly's office door, the defense crowed that that bit of testimony had helped to prove the temporary insanity plea.

Witnesses for the defense included Payne's employer, Blaine Bradfute, fellow employees, friends, relatives and a couple of medical experts who testified about how much her personality had deteriorated after the automobile accident and Mattingly's departure for good. The prosecuting team tried to negate the latter by suggesting that Payne deliberately went to a mental hospital for a week to lay the groundwork for an insanity plea.

In the end, the 12 jurors were left to wrestle with the problem of coming to a consensus on one of the verdicts. In his best oratorical style with arms outstretched, East told the jury, "Forgive her, she knew not what she did." McCrea told them, "All I ask you to do is render a fair and impartial verdict."

Forty-eight hours later, the jury reported that they could not reach a verdict and Caroline Payne was returned to her cell in the Monroe County jail to await another trial.

Next week: The end of the story.

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