

A Murder Conspiracy

Arthur Train

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WILLIAM M. RICE, eighty-four years of age, died at the Berkshire Apartments at 500 Madison Avenue, New York City, at about half after seven o'clock on the evening of Sunday, September 23, 1900. He had been ill for some time, but it was expected that he would recover. On or about the moment of his death, two elderly ladies, friends of the old gentleman, had called at the house with cakes and wine, to see him. The elevator man rang the bell of Mr. Rice's apartment again and again, but could elicit no response, and the ladies, much disappointed, went away. While the bell was ringing Charles F. Jones, the confidential valet of the aged man, was waiting, he says, in an adjoining room until a cone saturated with chloroform, which he had placed over the face of his sleeping master, should effect his death.

Did Jones murder Rice? If so, was it, as he claims, at the instigation of Albert T. Patrick?

These two questions, now settled in the affirmative forever, so far as criminal and civil litigation are concerned, have been the subject of private study and public argument for more than seven years.

Mr. Rice was a childless widower, living the life of a recluse, attended only by Jones, who was at once his secretary, valet and general servant. No other person lived in the apartment, and few visitors ever called there. Patrick was a New York lawyer with little practice who had never met Mr. Rice, was employed as counsel in litigation hostile to him, yet in whose favor a will purporting to be signed by Rice, June 30, 1900, turned up after the latter's death, by the terms of which Patrick came into the property, amounting to over seven million dollars, in place of a charitable institution named in an earlier will of 1896. It is now universally admitted that the alleged will of 1900 was a forgery, as well as four checks drawn to Patrick's order (two for \$25,000 each, one for \$65,000, and one for \$135,000, which represented practically all of Rice's bank accounts), an order giving him control of the contents of Rice's safe deposit vaults (in which were more than \$2,500,000 in securities), and also a general assignment by which he became the owner of Rice's entire estate. Thus upon Rice's death Patrick had every possible variety of document necessary to possess himself of the property. Jones took nothing under any of these fraudulent instruments. Hence Patrick's motive in desiring the death of Rice is the foundation stone of the case against him. But that Patrick desired and would profit by Rice's death in no way tends to establish that Rice did not die a natural death. Patrick would profit equally whether Rice died by foul means or natural, and the question as to whether murder was done must be determined from other evidence. This is only to be found in the confession of the valet Jones and in the testimony of the medical experts who performed the autopsy. Jones, a self-confessed murderer, swears that upon the advice and under the direction of Patrick (though in the latter's absence) he killed his master by administering chloroform. There is no direct corroborative evidence save that of the experts. Upon Jones's testimony depended the question of Patrick's conviction or acquittal, and of itself this was not sufficient, for being that of an accomplice it must, under the New York law, be corroborated.

In the confession of Jones the State had sufficient direct evidence of the crime and of Patrick's connection with it, providing there was other evidence tending to connect Patrick with its commission. This corroborative evidence is largely supplied by the facts which show that for a long time Patrick conspired with Jones to steal the bulk of Mr. Rice's estate at his death. This evidence not only shows Patrick's possible motive for planning Mr. Rice's murder, but also tends to corroborate Jones's whole story of the conspiracy.

Rice did not know Patrick even by sight. He had heard of him only as a person retained by other lawyer (Holt) to do "the dirty work" in action brought by Rice against Holt, as executor, to set aside Mrs. Rice's will, in which she assumed, under the "Community Law" of Texas, where Rice had formerly resided, to dispose of some \$2,500,000 of Rice's property. If Rice was a resident of Texas she had the legal right to do this,—otherwise not. Holt employed Patrick to get evidence that Rice still was such a resident. Rice knew of this and hated Patrick.

Patrick's connection with the Rice litigation had begun four years before the murder, which was not planned until August, 1900. His first visit to Rice's apartment was made under the assumed name of Smith for the purpose

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of discovering whether the valet could be corrupted into furnishing fictitious proof of Rice's intent to reside in Texas. He flattered Jones; told him he was underpaid and not appreciated, and, after a second visit, at which he disclosed his right name, persuaded him to typewrite a letter on Rice's stationery addressed to Baker, Botts, Baker & Lovett (Rice's attorneys), in which he should be made to say that he had lost hope of winning the suit against Holt, was really a citizen of Texas, and wanted to settle the litigation. Patrick said that he could arrange for the signing of such a letter and was willing to pay Jones \$250 for his help. Jones agreed.

Patrick now learned that Mr. Rice was living with no companion except Jones; that he held little communication with the outside world; that the valet was in his confidence and thoroughly familiar with his papers, and that the will made in 1896 disinherited natural heirs in favor of an educational institution which he had founded in Texas. He also learned that while Mr. Rice was 84 years of age he was in possession of all his faculties, conducted his own business, and might live for years. Possessed of these facts Patrick's evil mind soon developed a conspiracy with Jones to secure the whole estate.

Mr. Rice's pet charity was the William M. Rice Institute "for the advance of science, art and literature," of Texas, which he had founded in 1891. He had donated to it more than a million and half dollars. By the will of 1896 only small legacies were bequeathed to relatives, while the bulk of his fortune was left to the Institute.

About a month after Patrick's first visit to the Berkshire Apartments, that is, in December, 1899, while he and Jones were examining Rice's private papers, they stumbled upon the will. Patrick saw his opportunity. By the forgery of a new will which would increase the legacies of those mentioned in the will of 1896 and leave legacies to every person who might have any claim upon the estate, it would be for the interest of those persons to sustain and carry into effect the forgery. The whole scheme was based upon the belief that "every man has his price." He told Jones that he thought the will unjust; that he did not think it right to leave so little to relatives, and later he brought to Jones a rough draft of a will which could be substituted for the genuine one. Patrick was to get half the estate, the relatives were to receive double or three times the amount provided in the 1896 will, and what was left was to be given to the Rice Institute. He proposed that Jones should typewrite this will, and guaranteed to arrange for the witnessing and signing of it, and promised that Jones should get whatever he wanted. Jones at first objected, but was finally won over. Rewritten many times to include new ideas of the conspirators, the document finally reached the form of the will of June 30, 1900, in which Patrick substituted himself for the Rice Institute and made himself one of the executors.

An ingenious part of the conspiracy was the decision to leave the 1896 will in existence. If Patrick had destroyed it and the relatives had succeeded in overthrowing the will of 1900, the estate would have been left without testamentary disposition and the relatives would have got more than was provided by either will. With the will of 1896 in existence, however, the relatives would get less if they overthrew the forgery. By retaining it, therefore, Patrick figured that the relatives would have selfish reasons for accepting the forgery as genuine.

The preparation of this bogus will occupied about a month, and the next question was the procurement of witnesses. It was desirable to get the same persons who witnessed the former will. These were Walter H. Wetherbee and W.F. Harmon, clerks for many years at Swenson's banking house. On the assumption that Wetherbee had been injured by Rice and was therefore hostile to him, Jones practically unfolded the scheme. He told Wetherbee that one of Mr. Rice's bonds had disappeared and that Rice had accused Wetherbee of stealing it. He wound up with the suggestion, "I will get one witness and you can get another and the thing is done." But Wetherbee indignantly declined to join in the conspiracy.

Morris Meyers, who had been employed in Patrick's office, and David L. Short, a friend of both, were the false witnesses finally selected.

They were clothed with the appearance of honesty and were brought into contact with Rice by Jones at various times: Meyers as a notary public, and Short as commissioner of deeds for the State of Texas, an appointment procured for him by Patrick probably for this specific purpose.

The date of the forged will, June 30, 1900, was selected to correspond with the date of three genuine papers which Rice acknowledged before Short on that date.

The next step was to obviate the absurdity of Patrick's being selected as the residuary legatee at a time when he was engaged in bitter litigation against Rice. The best way out was for Patrick to pose as a lawyer who had brought about a settlement of this expensive litigation and thus won Rice's regard. Patrick first tried to accomplish this by getting friends to visit Rice and urge a settlement. But Rice rebuffed them all. Accordingly, Patrick again

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resorted to forgery, and in August, 1900, manufactured an instrument of settlement, dated March 6, 1900.

But such an agreement would not explain the paradox of a man whom Rice hated and despised and did not know by sight turning up as the principal beneficiary under his will. It was necessary to manufacture evidence to be used after Rice's death in support of his claim of close relations. The idea of a personal meeting with Rice had been abandoned on Jones's advice, and Patrick therefore caused the valet to prepare twenty-five or thirty forged letters addressed to him and purporting to come from Rice. These referred to current business matters and conveyed the impression that it was Rice's custom to seek the lawyer's advice. One instructed Patrick as to the terms of the will of 1900. Carbon copies were made for filing in Rice's letter book after his death.

To make assurance doubly sure and to secure immediate possession of Rice's securities a general assignment to Patrick of all Rice's estate was forged, and an order giving him access to and possession of the securities on deposit in Rice's safety vault.

But Patrick did not stop here. He procured from Jones three checks signed by Mr. Rice in the regular course of business, one payable to Jones for his July salary and the other two for the July and August salary of an employee of Rice's in Texas named Cohn. These three checks Patrick kept as models, forwarding to Cohn two forged checks filled out by Jones upon which Rice's signature had been traced, and returning to Jones a substitute check with Rice's signature traced upon it. All three checks passed through the banks unsuspected. Traced signatures were also substituted for genuine ones upon letters dictated by Rice to his Texas correspondents. Thus Patrick secured the circulation of five copies of Rice's signature which, if occasion demanded, he could produce as standards of comparison to correspond with his other forgeries. The principal preparations were complete. But title under the will might long be delayed and perhaps even eventually fail. Patrick was poor and in no condition to conduct adequately a serious litigation. The moment Mr. Rice died a large amount of cash would be necessary. For the procurement of this Patrick and Jones looked to the current balance of Rice's bank account, which amounted to some two hundred and fifty thousand dollars on deposit at Swenson's private bank and at the Fifth Avenue Trust Company. With this they felt reasonably secure of success. For even if the will should be set aside as fraudulent they had a second line of defense in the general assignment of the estate and the orders to Rice's two million five hundred thousand dollars of securities.

While the evidence affords a motive for Patrick to desire the death of Mr. Rice, it does not of itself, up to this point, indicate the slightest intention on the part of Patrick to do away with the old gentleman. It was therefore conceded by the prosecution that, upon Jones's own testimony, the conspiracy to murder was not formed until about seven weeks before the event. The first evidence which points to an intent to murder is the famous "cremation letter," dated August 3d.

The cremation letter from Mr. Rice, authorizing Patrick to cremate his body, shows that Patrick intended to do away with Rice in such a way that an autopsy must, if possible, be prevented and the evidence of murder destroyed. That Patrick forged such a letter was evidence that his connection with the murder was premeditated and deliberate. To cremate the body before an autopsy it was necessary to procure a physician's certificate that Rice had died from natural causes. He therefore made preparation to secure such a certificate, and then upon the strength of the cremation letter to give directions for the immediate destruction of the body.

Patrick, with the view of having at hand a physician who would be unsuspecting, and who would issue a certificate of death from natural causes, induced Jones to send for Dr. Curry, his own friend and physician, on an occasion when the valet was ill. This was in March, 1900. Dr. Curry came and Jones, acting under Patrick's advice, cautioned him not to mention the lawyer's name to Rice. In course of time he saw Rice, gained his good opinion and became his attending physician. But Rice did not die, and curiously enough it was he himself who suggested to Jones the instrumentality of death which was finally employed, for he read an article dealing with the dangers of chloroform as an anæsthetic, and discussed it with the valet. This suggestion was conveyed to Patrick, who asked Dr. Curry whether chloroform left any traces discoverable upon an autopsy. Dr. Curry rather carelessly replied that it left but slight traces if administered only in the quantities which would be fatal to a man with a weak heart. Patrick told Jones, so Jones alleges, to procure some chloroform and this he did, sending to Texas for two bottles of two ounces each. From Dr. Curry's remarks it was manifest that a weakened condition of the patient was an important element, and as Jones was taking some mercury pills (prescribed for him by Dr. Curry), the valet induced his master to take some of them. The old gentleman was benefited, however, rather than weakened. This was before the forgery of the cremation letter. It was clear that larger doses of mercury would be necessary,

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and accordingly Patrick furnished Jones with pellets containing the drug in such quantities that Jones, experimenting with one of them, became ill.

They had now the means to effect gradual death, but as mercury leaves traces discernible at an autopsy, it was decided that the body must be cremated promptly. Hence the cremation letter. It was hoped that Rice might drop off at any moment, owing to his weakened condition, and in anticipation of death Patrick discontinued his visits to the apartment in order to establish a satisfactory alibi. Jones also frequently absented himself from the apartment in the evenings after the old man had fallen asleep.

On September 16th Rice had an attack of acute indigestion, which might have resulted seriously had it not been for the mercurial pills which promptly relieved him. The reader should observe that practically all of this testimony comes from Jones. There is no extraneous evidence that Patrick induced the giving of the mercury. Patrick, however, spread false rumors as to Rice's general health and also as to his financial condition and intentions, namely, that Rice was only worth seven hundred and fifty thousand dollars, and that those who expected he was going to leave his money to the Institute were doomed to disappointment. But neither his statements about Rice's condition nor his remarks as to the disposition and extent of his property are inconsistent with a mere hope that he would die and thus leave Patrick free to enjoy the fruits of his forgeries.

There now occurred, however, an event which may well have played a part in inducing Patrick to supplement forgery by murder. On Sunday, September 16th, the plant of the Merchants' and Planters' Oil Company of Houston, Texas, of which Rice owned seventy-five per cent. of the capital stock, was destroyed by fire. The company being without funds to rebuild, its directors telegraphed to Rice requesting him to advance the money. The amount needed was two hundred and fifty thousand dollars—and if Rice consented, all the available funds on deposit in the New York banks, upon which the conspirators relied to accomplish their object, would be exhausted. Jones endeavored to dissuade the old man from advancing the money, but without effect, and Rice sent a letter to Houston agreeing to supply one hundred and fifty thousand dollars and more in instalments of twenty-five thousand dollars each. This was on September 18th, after he had wired to the same effect on September 17th. Patrick and Jones suppressed a telegram that Rice would advance two hundred and fifty thousand dollars, and on September 19th the old man received word that the first draft in conformity with his telegram of September 17th had been drawn and would arrive in New York on the 22d. Jones says that on showing this to Patrick the latter announced that Rice must be put out of the way as soon as possible. Accordingly, on September 20th and 21st, Jones administered larger doses of mercury than usual, which, while weakening and depressing him, failed to cause his end. Saturday, September 22d, the draft was presented at Rice's apartment. The old man was not confined to his bed, but Jones told the bank messenger, after pretending to consult him, that Rice was too ill to attend to business that day and to return on Monday. That night Jones and Patrick met, and it was agreed (according to Jones) that Rice must not be allowed to survive until Monday. They still hoped that he might die without any further act upon their part, but Jones was informed by Dr. Curry that, although the old man seemed weak and under a great mental strain, he nevertheless thought that he would recover. This Curry also told to Patrick, the latter calling at the doctor's house about five o'clock in the afternoon.

"You think Mr. Rice will be able to go down Monday morning?" Patrick asked.

"You had better wait until Monday morning comes," replied Dr. Curry.

"Do you think he will be able to go down town next week?" persisted the lawyer.

The doctor answered in the affirmative.

That night Mr. Rice slept quietly until eight o'clock Sunday morning. Dr. Curry called and found him in excellent condition, having eaten a hearty breakfast. His heart was a trifle weak, but it was sound. His organs were all working normally; he felt no pain. The doctor left without prescribing any medicine, stating that he would not return unless called, and expressing his opinion that the patient would recover. This was about eleven o'clock, and Jones immediately hastened to Patrick's house and reported the conversation.

It was clear that Rice's death would not occur before Monday morning. He might live to pay over the two hundred and fifty thousand dollars; long enough to give further testimony in the Holt litigation, and thus expose the whole fraudulent scheme of pretended settlement and of friendly relations with the lawyer, and finally, perhaps, even to make a new will. The success of the conspiracy demanded that Rice should die that night. Did he die naturally? Was his death caused by any further act of the conspirators? Did Jones kill him by means of chloroform?

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Jones's story is that Patrick supplied him with some oxalic acid which was to be mixed with powdered ammonia and diluted in water, on the theory that it was preferable to chloroform since it would not require Jones's presence in the room at the moment of death. Jones said that he endeavored to administer the mixture to the old man, but that he refused to take it. Jones had already procured the chloroform from Texas, as has been stated, and had turned it over to Patrick. He says that that afternoon he procured this from Patrick, who told him how to administer it. This was a few moments after six o'clock. Rice was sleeping soundly. The colored woman who did the housework was absent for the day and the rooms were deserted. He saturated a sponge with chloroform, constructed a cone out of a towel, placed the sponge in the cone, put the cone over the sleeping man's face and ran out of the room and waited thirty minutes for the chloroform to complete the work. Waiting in the next room he heard the door bell ring, and ring again, but he paid no attention to the summons. In point of fact he was never quite sure himself whether the bell was not the creation of his own overwrought brain. At the end of half an hour he returned to the bedroom, removed the cone from Rice's face and saw that he was dead, then after burning the sponge and the towel in the kitchen range he opened the windows, straightened the rooms out, called the elevator man, asked him to send for Dr. Curry, and telephoned to Patrick that Rice was dead.

Jones had no sooner telephoned Patrick that Rice was dead than the lawyer hastened to Dr. Curry's, and within forty minutes appeared with him in Rice's apartments, assuming complete charge. Summoning an undertaker and having the cremation letter at hand, he gave orders for speedy cremation. But he now discovered the principal mistake in his calculations. He had omitted to investigate the length of time required to heat the crematory. This he now discovered to his horror to be twenty-four hours. But the body must be destroyed. The undertaker suggested that the body might be embalmed while the crematory was being heated, and Patrick at once seized upon the suggestion and gave orders to that effect, although the cremation letter sets forth specifically that one of the reasons why Rice desired cremation was his horror of being embalmed. The body was embalmed at the apartments that night, Dr. Curry innocently supplying the certificate of death from "old age and weak heart," and as immediate cause, indigestion followed by collocratal diarrhoea with mental worry."

Having arranged for the cremation at the earliest possible moment, Jones and Patrick rifled the trunk in which Rice kept his papers, and stuffed them in a satchel which Patrick bore away with him.

The funeral was to be held early Tuesday morning and the ashes conveyed by Jones to Milwaukee, to be interred near the body of Rice's wife, while the relatives should not be notified until it should be too late for them to reach New York.

The next step was to secure the two hundred and fifty thousand dollars which Rice had on deposit. Patrick had already forged Rice's name to blank checks on Swenson and the Fifth Avenue Trust Company. Early Monday morning Jones, with Patrick looking over his shoulder and directing him, filled out the body of the checks, which covered all but ten thousand dollars of Rice's deposits. These consisted of one for twenty-five thousand dollars and one for sixty-five thousand dollars on Swenson, one for twenty-five thousand dollars and another for one hundred and thirty-five thousand dollars on the Trust Company. They were all made payable to the order of Patrick and dated September 22d, the day before Rice's death. One of the drafts on the Fifth Avenue Trust Company was cashed for him by a friend named Potts early Monday morning, and was paid without suspicion.

But now came the second error, which resulted in the exposure of the conspiracy and conviction for murder. Jones, in filling out the twenty-five thousand dollar check on Swenson, had in his nervousness omitted the "I" from Patrick's Christian name, so that the check read "Abert T. Patrick," and Patrick in his excitement had failed to notice the omission or attempt to obviate it by extra indorsement. This twenty-five thousand dollar Swenson check was intrusted to David L. Short for presentation to Swenson & Sons for certification. When he presented it, Wallace, the clerk, recognized Jones's handwriting in the body of it, and thought the signature looked unnatural. He took it to a rear office, where he showed it to Wetherbee, who was the person whom Jones had approached nine months before with a request that he join the conspiracy to manufacture a bogus will. Wetherbee compared the signature on the check with genuine signatures in the bank, and returned it to Short without any intimation that he regarded it as irregular, but assigning as the reason the defect in the indorsement. Short thereupon returned the check to Patrick, who supplied the necessary supplementary indorsement and telephoned to Jones what had occurred, instructing him to say that the check was all right in case the Swensons should inquire.

Half an hour later Short returned to Swenson's, where the check was examined by one of the firm. Rice's apartments were then called up, and Jones said that the checks were all right. But this did not satisfy Mr.

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Swenson, so he instructed Wallace to call up the apartment again and insist on talking to Mr. Rice. Jones delayed replying to Wallace and in the afternoon called up Patrick on the telephone, inquiring what he should say. Patrick replied that he would have to say that Rice was dead. And in accordance with this Jones informed Swenson that Rice had died at eight o'clock the previous evening. It was thus clear to Swenson that although the maker of the check was dead, Patrick, a lawyer, cognizant of that fact, was seeking to secure payment upon it. For Jones had told Swenson that he had reported Rice's death to the doctor and to Rice's lawyer, Patrick.

Patrick, accompanied by Potts, went immediately to the bank, where Swenson informed him that the check could be paid only to the administrator. Patrick replied that there would be no administrator; that Rice had left no property in this State, and informed Swenson that he had an assignment by Rice to himself of all Rice's securities with Swenson. He also invited Swenson to the funeral.

Later in the day Patrick attempted to obtain possession of Rice's securities in the Safety Deposit Company and in the Fifth Avenue Trust Company, by presenting forged instruments of transfer and the orders heretofore referred to; but after some delay the trust companies declined his access. The conspiracy had begun to go to pieces. The two mistakes and the failure to secure funds placed Patrick in a dangerous position.

Two o'clock on Monday afternoon, eighteen hours after the death, Jones, at Patrick's direction began to notify the relatives that Rice had died the evening before, and that the funeral would take place the following morning. The telegrams to Baker and to Rice, Jr., in Texas, were in the following extraordinary form:

Mr. Rice died eight o'clock last night under care of physicians. Death certificate, "old age, weak heart, delirium." Left instructions to be interred in Milwaukee with wife. Funeral 10 A.M. tomorrow at 500 Madison Avenue.

It is significant that care was used to convey the information that the death was a natural one with a physician in attendance; that the body was to be interred in Milwaukee, without reference to the cremation. This may well have been so that if any suspicions of foul play should arise, the recipient realizing that they could not reach New York in time to arrest matters there, might hasten to Milwaukee to intercept the body, where they could be met by Jones with the cremation letter in his pocket and his urn of ashes under his arm.

But the telegram did arouse suspicion, and Baker and Rice immediately wired Jones as follows:

Please make no disposition of Rice's remains until we arrive. We leave to-night, arrive New York Thursday morning.

Baker also instructed N.A. Meldrum, a Texan then in New York, to co-operate with Jones in preserving everything intact.

In the meantime, however, Swenson had notified his attorneys, who in turn had informed the police and the District Attorney's office, and that evening at about eleven o'clock James W. Gerard, accompanied by a detective, who posed as the lawyer's clerk, interviewed Patrick at his home. Patrick informed Gerard that he had an assignment of all Rice's property and also a will of Rice's of which he was executor. This was the first reference to the will of 1900. He also informed Gerard that he would not receive a cent under its provision. To have explained the real terms of the will would, under the circumstances, have excited too much suspicion. Yet he was eager to let the Swensons know that as executor he was in a position to control the profitable banking business that would arise from the settlement of the estate. In the meantime four Headquarters' detectives, representing themselves as lawyers, visited the apartments.

Patrick hurried to 500 Madison Avenue, where he learned of Meldrum's presence in town. Things were turning out far from the way in which he had expected. He then hastened to his office downtown, which he reached about half-past one in the morning, and, alone, destroyed great quantities of paper, attempting to dispose of them through the toilet bowl, which was so clogged that the water flowed out upon the floor, necessitating an apology to the janitor. In the silence of the night misgivings came upon him. He lost his nerve, and at two o'clock in the morning called up the undertaker and revoked the signed order for cremation which he had given. Leaving the office at about five in the morning he first visited Meyers, thence proceeded to his own boarding-house, and from there went to the apartments, which he reached at eight o'clock. Here he found the detectives who had been

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on guard since early morning to forestall any attempt to remove the body.

At the funeral itself he attempted to conciliate adverse interests and to win witnesses for his purpose. He had begun to do this the very night that Rice had died, when he told the elevator man that he was remembered in Rice's will. He had also informed Wetherbee that he had a five thousand dollars' legacy. At the funeral were Blynn, one of Rice's nephews, who had come on from Massachusetts, and two ladies, to each of whom he stated that they had legacies which would soon be available provided there was no contest of the will.

The detectives now informed Patrick that he was wanted at Headquarters, and Patrick invited Potts to accompany him, informing the latter that the police suspected that there was something unnatural in the cause of death, but that he could explain satisfactorily. As a matter of fact no such intimation had been made to him by the police or anyone else. At Police Headquarters after an interview with Inspector McClusky he was permitted to go his way.

Patrick returned to Rice's apartments, sent for Short and Meyers, and conferred with them there. He took this occasion to tell Maria Scott, the colored woman who worked in the apartment, that she was suspected of having poisoned Rice, and that she had better say nothing about his death. Jones told her that she was remembered in the will and that it would be worth her while to stand by himself and Patrick, who would see that she was taken care of. Meanwhile the coroner had sent the body to the morgue for autopsy.

The autopsy was performed on Tuesday, forty-three hours after death occurred, by Dr. Donlin, a coroner's physician, in the presence of Dr. Williams, also a coroner's physician, and of Professor R.A. Witthaus, an expert chemist. The two physicians testified at the trial that the organs of the body, except the lungs, were normal in condition, save as affected by the embalming fluid. They and Professor Witthaus agreed in their testimony that the lungs were congested. Dr. Donlin spoke of their being "congested all over"; while Dr. Williams characterized it as "an intense congestion of the lungs—coextensive with them." Outside of the lungs they found no evidence of disease to account for death, and beyond the congestion these showed nothing except a small patch of consolidated tissue about the size of a twenty-five cent piece. They testified, in effect, that nothing save the inhalation of some gaseous irritant could have produced such a general congestion, and that the patch of tissue referred to was insufficient to account for the amount of congestion present. Dr. Donlin could not testify what the proximate cause of death was, but was firm in his opinion that no cause for it was observable in the other vital organs. In this Dr. Williams concurred. He was of the opinion that chloroform would act as an irritant upon the lungs and cause precisely that general congestion observable in the case of the deceased. Professor Witthaus testified that his analysis revealed the presence of mercury, obtained as calomel, and while the amount was not sufficient to cause death, its presence indicated that a larger quantity had existed in life. The embalming fluid had contained no mercury, and he and Dr. Donlin agreed that the embalming fluid would have no effect upon the lungs beyond a tendency to bleach them. In other words, the People's evidence was to the effect that no cause of death was observable from a medical examination of the body save the congestion stated to exist in the lungs, and that this might have been caused by chloroform.

Thursday morning Mr. Baker and F.A. Rice the brother of the deceased, arrived in New York. Patrick showed them the cremation letter, and, inasmuch as they took a neutral position in the matter, ordered the cremation to proceed, and accordingly it took place that very day. He also endeavored to win the confidence of Baker, but succeeded in accomplishing little. He finally gave the latter a copy of the 1900 will and the original will of 1896. He also informed Baker that he had taken a large number of papers from Rice's apartments, and turned over to him a considerable number of them. He also surrendered on Friday the two Swenson checks.

After considerable discussion Baker told Patrick flatly that he would never consent to the probate of the 1900 will; that he was satisfied that the '96 will was the last will of Rice, and that he would insist upon its being probated, to which Patrick replied, that so far as he was concerned he did not know but that the probate of the '96 will would suit him just as well as the probate of the 1900 will; that it was a matter of indifference to him, and that so far as the Rice Institute was concerned he was prepared to give Baker from three to five million dollars for it, or any other sum Baker might name. These negotiations and conferences continued until the fourth of October, Patrick yielding step by step, until he had divested himself of all control of the documents and securities.

Meantime sufficient evidence having been secured, Patrick and Jones were arrested on a charge of forgery and held for the Grand Jury. Bail was fixed at ten thousand dollars each, but was not forthcoming.

On October 21st, Mr. House, Patrick's lawyer, visited Patrick and Jones in the Tombs. Jones says that after

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Patrick had talked to Mr. House the former called Jones to one corner of the room and told him that House insisted on knowing definitely whether a crime had been committed and directed Jones to tell House that a murder had been committed, but that he (Patrick) was not concerned in it. This Jones declined to do without implicating Patrick. The two prisoners then returned to House and Jones says that he informed House that he had killed Rice by chloroform, and gave him the "same story which he told on the witness stand." After this Jones apparently lost his nerve and told Patrick that he intended to commit suicide. This idea Patrick encouraged, agreeing that they should both do it at about the same time.

On the 26th of October Jones made a statement to Assistant District Attorney Osborne which was in large part false, and in which he endeavored to exonerate himself entirely from complicity in any of the crimes, and in which he charged the actual administration of the chloroform to Patrick. Four days later Osborne sent for him and told him he had lied, upon which Jones became confused, continued to persist in some of his statements, qualified others and withdrew still others. He was completely unnerved and that night attempted, by means of a knife which Patrick had supplied him, to cut his throat. The attempt was a failure, and he was removed to Bellevue Hospital, where he remained until November 12th. He then finally gave the statement which corresponded with his testimony upon the trial and which jibed with all the circumstances and evidence known to the District Attorney.

Did Patrick conspire with Jones to murder Rice? What corroboration is there of Jones's story that he killed Rice under Patrick's direction? First: What proof is there that murder was committed?

Roughly, that Jones so swore; that Rice died at the time alleged; that he did not die from disease, but that he died from a congestion of the lungs which could have occurred only in the case of a living organism by the administration of some such irritant as chloroform; that some one, therefore, must have killed him, and that Jones alone had the opportunity.

Second: What proof is there that Patrick directed the murder?

Evidence of an elaborate conspiracy, as briefly heretofore set forth, which contemplated the death of Rice. Of course Patrick wanted Rice to die. If Patrick was not implicated in the killing, what motive had Jones to commit the deed? Why did Rice die at the precise psychological moment which would enable Patrick to prevent two hundred and fifty thousand dollars on deposit being diverted to Texas. And finally, why did Patrick prepare a forged cremation letter for the destruction of the body? If the conspiracy contemplated a natural death, nothing could be of greater value to the two parties concerned than the means of proving that the death was not unnatural.

This, in the most abbreviated form, is the case against Patrick. Space forbids any reference to his elaborate and ingenious defense, which was based entirely on an alleged complete failure of corroboration of Jones's testimony. Starting with the premise that the word of a self-confessed murderer and thrice-perjured scoundrel was valueless as proof, he contended that there was no adequate evidence that Rice's death was felonious, and that the congestion of the lungs could have been and was caused by the embalming fluid and was only attributed to the chloroform after Jones had given his final version of how the murder was accomplished. Technically the case against Patrick was not a strong one. Dramatically it was overwhelming. His own failure to testify and his refusal to allow his lawyer, Mr. House, to relate what passed between them in the Tombs, remain significant, although not evidence proper for a jury to consider. Wherever lawyers shall get together, there the Patrick case will be discussed with its strong points and its weak ones, its technicalities and its tactics, and the ethics of the liberation of Jones, the actual murderer, now long since vanished into the obscurity from which he came. On the one hand stands a public convinced of Patrick's guilt, and on the other the convicted "lifer" pointing a lean finger at the valet Jones and stubbornly repeating, "I am innocent."

*In 1906 the Governor of New York commuted the death sentence of Albert T. Patrick to life imprisonment, and the most extraordinary struggle in the legal history of the State on the part of a convicted murderer for his own life came to an end. The defendant in the "Death House" at Sing Sing had invoked every expedient to escape punishment, and by the use of his knowledge had even saved a fellow prisoner, "Mike" Brush, from the electric chair. <=== BACK