

# Without Precedent!

# Deaf Man Stops

# Murder Trial

An air of something like relief swept through the Criminal Court. The strained tensivity of the seemingly charged atmosphere relaxed. It was supplanted by a sense of surprise and semi-bewilderment. An unprecedented situation had arisen.

Pressmen, pens poised, looked questioningly about them. Judge and counsel furrowed perplexed brows, debating on unfamiliar ground the procedure to be adopted. There was no precedent to guide them.

In the dock, strange to court procedure, conscious only that his destiny lay in the hands of the 12 good men and true who occupied the jury box, Newton Charles Livingstone, 63-year-old veteran of the outback, must have wondered for a time what it was all about.

Sharp at 10.30 a.m. he had mounted the stairs to the strongly barred dock, escorted by uniformed police. His worn, brown felt hat in hand, Livingstone answered in firm tones the accusation that he had wilfully murdered his son, Herbert (25): "Wilful murder?—Not guilty."



Newton Charles Livingstone, whose trial on a charge of wilful murder was interrupted in an unusual way.

Court hushed to strained silence as detective Athol Logan Moore Wedd resumed the witness box to continue his narrative.

Foreman of the jury stood. Craving the court's indulgence, he sought some means of bringing witnesses and jury closer. One of the jurors, he announced, suffered impaired hearing.

Judge directed witness to the auxiliary stand within a few feet of the jurors.

"If there is anything the juror would like repeated," he said, "I will arrange for it to be done."

"As a matter of fact," confessed the juror, when the judge's offer was relayed to him by his nearest



the juror, when the judge's offer was relayed to him by his nearest neighbor in the box, "there is very little of this morning's proceedings I did hear."

### Dilemma

Judge and counsel were confronted with a situation that has never before arisen in WA Supreme Court. Because a juror was partially deaf, a murder trial had to be postponed.

**"Had we had any inkling of this man's disability he would not have been on the jury,"** announced Mr. Justice Wolf. **"The consequences of this case are far too serious to continue. This juror has not heard the evidence. I am reluctantly compelled to discharge the jury."**

Livingstone trial was the last listed for the November sessions. Jurors not empanelled at the commencement of the trial were discharged from duty. There was no alternative panel on which to draw for a fresh jury, so trial must stand over to the December sessions.

**"I would like to make it known that in future if any juryman is suffering a disability it must be made known,"** said the judge.