

ALMOST A YEAR IN JAIL

Ed Koen Gets a New Sentence from the District Court.

WAS SAVED FROM THE PENITENTIARY

Supreme Court Reverses the Former Judgment and Sentence—Technicalities Are Not Allowed to Stand in the Way of Justice.

Ed A. Koen is again behind the bars, and in all probability will stay there for some time to come, for although the supreme court, in passing upon the case reversed the judgment of the lower court it held that the prisoner was duly and properly convicted, and should be punished, although not so severely as the sentence of three years in the penitentiary inflicted several months ago by Judge Davis called for, and the district court is therefore ordered to impose sentence anew.

It will be remembered that Koen was indicted for publishing in the Kansas City Sunday Sun, for which he was the local correspondent, libelous matter concerning W. S. Shoemaker, who was at that time assistant city attorney, and upon trial in the district court was convicted and sentenced to three years in the penitentiary. The case was appealed to the supreme court, and the decision is the one received yesterday. During its pendency, Koen was released from confinement under bonds after having served about two months of his sentence, and for the past two or three months has been enjoying the society of his family, and the wish of an individual who knows what it is to be deprived of it.

The first official notice of the action of the supreme court in the matter was received yesterday by W. S. Shoemaker, in a letter from Attorney General Hastings, which stated that inasmuch as the higher court decided that it had not been proven that the paper in which the libelous matter was printed was a paper of general circulation the offense was not a felony, and therefore not punishable by imprisonment in the penitentiary, but that it was proper that a lesser sentence should be imposed, and advising that the defendant Koen be at once taken into custody before the decision was made public. Accompanying the letter was a copy of the opinion of the supreme court, and Mr. Koen was immediately locked up and lodged in jail.

Technically Remedied.

The following is a copy of the opinion of the supreme court in the case of Ed A. Koen, State of Nebraska, Plaintiff, vs. Ed A. Koen, Defendant, Term, 1892—To the District Court of the Fourth Judicial District, sitting in and for the County of Douglas, Nebraska: Whereas, in a late action before the district court of Nebraska was plaintiff and Ed A. Koen was defendant, and the said plaintiff recovered a judgment against said defendant upon a transcript of which record and proceedings in your said court the said defendant prosecuted a petition in error to the supreme court of the state of Nebraska, wherein the judgment of the said supreme court, during the September term, 1892, the said supreme court found that there was error apparent upon the record in said proceedings, and that the indictment fails to state a felony, and that said judgment should be reversed; that the error alleged was that the defendant was not a felon, and that the said defendant should not have been sentenced to the penitentiary; that the said defendant was rightly convicted of a misdemeanor, and that the cause should be remanded to the said district court to impose a proper sentence for that offense; and whereas the judgment was duly rendered in said supreme court in accordance with said finding at the cost of said plaintiff, fixed at \$100.00.

Now, therefore, you are commanded without delay to proceed in said case according to law and carry into effect the judgment of our said supreme court according to the tenor thereof. Witness the Hon. Samuel Maxwell, chief justice, and the seal of said court at Lincoln, this 16th day of November, 1892. D. A. LAMBERT, Clerk.

The decision was along the line of the following section of the argument of Mr. Shoemaker, who opened the case from the fact that it was begun in police court and the defendant was landed in the penitentiary, and who again took up the fight as soon as the latter was returned on bond pending the appeal to the higher court.

"The court should find that the paper was not one of general circulation within the meaning of the law, but that there was error otherwise in the record, then the question would be one simply of excess of punishment by the court, and the defendant would be entitled to a new trial, and the court would have the right to modify the sentence within the punishment that the court below could properly inflict, or otherwise remand the case to the court below for the proper sentence."

Lectured and Sentenced. Just before the evening adjournment of court, Koen was brought before Judge Davis for sentence. He was told that the only thing to say why the sentence of the court should not be imposed. In reply he stated that he had referred and was trying to lead a better life, and that he was a man of honor, and would eventually make him an ornament to society. He thought that the sentence should be modified, as he had already suffered a great deal.

Judge Davis listened and then quietly remarked as follows: "It is a part of the history of this case that out of the public mind, that paper many crimes were provoked, not only in this county, but in other counties throughout the state, and has been at least one homicide which can be attributed to no other cause than the publication of that paper, and besides this there has been an attempt to commit another."

"The peace of this state has been disturbed for months by the reports published in that paper. The publishers are morally responsible for the shedding of human blood in the state of Nebraska. It is a stigma and a disgrace that the authorities of this city will permit those reports to be circulated upon the streets, and they are unworthy of public confidence when they allow such publications to be sold, that the statements therein contained may provoke assaults, homicides and injure the reputation of the citizens of this state."

If the matters as published were true, there would be no good purpose served, and I want to say that I regard the publication of this paper and the permission by the authorities to sell it, as one of the most serious outrages that has ever existed in this state. If a punishment were to be inflicted in accordance with the moral responsibility of the persons who printed the sheet, it ought to be equal to that of almost any crime on the statute books."

"Heretofore when you were brought into this court you showed no signs of contrition or regret; your conduct was that of bravado; you seemed to take pride in the work in which you were engaged; you showed no signs that you were not perfectly satisfied, so long as you could escape the punishment."

Then followed the imposing of the sentence. It was that Koen be confined in the county jail for the period of three months, at the rate of \$5 per day, and the costs of the prosecution.

The young man was considerably taken back, as he expected to go free. He had nothing to say, but his attorney, E. Duffie, arose to object. He said that he expected to the sentence and asked the court to fix the amount of bond.

Judge Davis remarked that he did not know there was any appeal from the sentence of the court. If the attorney did not like the sentence, he could go to the supreme court on a writ of error, but the sentence would not be suspended while the case was pending.

ANOTHER GREAT FAILURE

Abrams & Co., Cloak Manufacturers, 474 Broadway, New York, Go Udar.

BOSTON STORE BUYS

The Finest Stock of High Grade, Latest Style Cloaks and Jackets at Less Than One-Half the Manufacturers Actual Cost.

Sale will begin Saturday. This firm, from whom Boston Store bought these cloaks and jackets, manufactured directly for only the finest cloak houses in New York city, employing only the best skilled labor and using only the very finest of materials, and their styles are invariably reliable and the latest correct ideas.

To give an idea of what will be. To give everybody an opportunity. What to expect and that every one may be fully prepared to grasp this wonderful accidental opportunity. BOSTON STORE desires to state most emphatically that all of the cloak sales ever held in Omaha, or for that matter in any store in America.

THIS SALE OF CLOAKS, JACKETS AND WRAPS, will not only be the greatest but will actually cause one to disbelieve their own eyes, such tremendous bargains are in it. Watch Friday evening's papers. Read our advertisement word for word and be prepared to find every promise fulfilled. And still we have not told half how big the bargains will be. This sale will be at BOSTON STORE, N. W. Cor. 16th and Douglas Sts. Bankrupt towel sale, 5c and 10c tomorrow. HAYDEN BROS.

THE LADIES OF KOUTZE MEMORIAL LUTHERAN CHURCH, COR. SIXTEENTH AND HARNEY, WILL HAVE AN OYSTER SUPPER FROM 8 TO 8 P. M. A FULL SALE OF FANCY AND USEFUL ARTICLES, SUITABLE FOR CHRISTMAS GIFTS, ON FRIDAY AFTERNOON, NOVEMBER 18. ALL ARE WELCOME AND CORDIALLY INVITED.

THE PETRIFFED MAN. The petrified man discovered recently at Chadron, Neb., on exhibition in this city at 1413 Farnam, Paxton hotel block. It is an object worth seeing. The body lies on one side with one leg drawn up and is a perfect specimen of physical development. Even the toenails, fingernails, teeth, eyebrows and the pores of the skin are as natural as life. By the head one would judge it to be the body of an Indian. The form is about six feet four inches long and weighs about 150 pounds. The finder has been offered \$10,000.00 for the curiosity.

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For the meeting of the American Public Health Association and International Medical Congress, to be held in the City of Mexico November 29th to December 2, 1892, the Santa Fe route will sell tickets at one lowest first-class fare for the round trip. This is an excellent opportunity to visit Mexico, one of the most delightful trips imaginable, at very little cost. A special party will leave Omaha Saturday, November 19, and join a large party from Boston and other eastern cities at Kansas City. The fare for the round trip from Omaha is only \$81.00. For further information and reservation of Pullman accommodations call on or address, E. L. PALMER, Passenger Agent Santa Fe Route, 1316 Farnam St., Omaha, Neb.

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Real estate. Bargains only. My word is good. W. G. ALBRIGHT, 621-2-3 N. Y. life bldg.

COLD WAVE COMING. Observer Hunt Gives a Forecast of the Weather We May Expect.

Unless all the indications prove to be deceptive there will be a marked change in temperature in the vicinity of Omaha and over the state of Nebraska before this morning. A high barometer and low temperature are approaching from the west while a low barometer holds away over the eastern states.

The Omaha weather bureau was instructed about 11 o'clock yesterday to hoist the cold wave signal as there was a strong probability that there would be a drop of 15 to 20 degrees in temperature before Friday morning.

A strong, cold breeze set in from the north at an early hour yesterday morning and it increased in velocity every hour during the day.

"We are liable to have a touch of winter tomorrow morning," said Captain Hunt today at the weather bureau in the upper story of the postoffice building.

"But there is one peculiar thing about this climate," continued the observer. "That is the fact that you can have changes of from five to ten degrees without noticing them. In the climate where I have lived for several years a change of five degrees in temperature was very noticeable. Such a change will frequently send people home for their overcoats. I presume the difference in the humidity of the climates is the chief cause of this marked difference in the effect of these changes here and in New Orleans."

Captain Hunt is very anxious to have several important additions made to the service at the Omaha station. He finds it difficult and practically impossible at times to make a local report with the limited reports from eastern stations. It is necessary to know the condition of the temperature along the

Members Already at Work Laying Plans for Organizing the New Body. The fight for the presidency of the new council which will be organized is already being waged, with several aspirants seeking the plum.

There is no extra pay in the position, but there are none of the members who would put the offer of the office behind them, simply because it gives the holder some standing to secure. Besides this, the fortunate individual escapes committee work, which is something that they all consider.

The democrats have given up all hopes of electing the president, and they will be disappointed in the minority when the council comes into the stage of action. Of the members-elect, the democrats secured but three out of the nine, while among the hold-over members they can figure out only one who will be with them. This throws the fight wholly within the republican ranks and leaves the republican members to make the most of the opportunities.

The men who have bared their breasts and are willing to accept the presidency are William F. Bechel, George F. Munro, A. G. Edwards and Sol Price, with Bechel, so it is alleged, slightly in the lead.

ATLANTIC COAST IMPROVER

Atlantic coast improver to make a careful estimate of the effects of approaching changes from the west and northwest. A low barometer hanging over the middle states is something to be feared, and high winds are likely to be experienced, and when the case the approaching changes from the west or north may be effected in its progress by the holding back of the low over the middle states.

IN THE CO. RTS.

Henderson Gets Another Postponement—Claims Against Omaha Street Railway Co. The case of the state against H. H. Henderson was called for trial in the criminal court yesterday morning, but on the showing being made that some of the state witnesses were absent a continuance until Thursday, December 1, was granted.

In Judge Ozien's court the case of Patrick Ogan against the Omaha Street Railway company is on for trial. It is being tried to convince a jury that the defendant should pay him \$100.00 damages for personal injuries sustained by him on the street car. Ogan was working for the company and was injured while assisting in the work of laying a new cable on the North Twentieth street line. He was struck by a street car and sustained some severe cuts and bruises, which he alleges were caused by the negligence of the company.

In the Federal Court. Judge Dundy delivered his instructions to the jury in the Midland case yesterday morning and the jurors took the case into consideration. In the case of the Denver Water Works company against the American Water Works company Attorney Congdon appeared and asked leave to file a petition in intervention for the benefit of the Edward P. Aills company, which has a claim against the American Water Works company for \$30,000 for balance due on the large engine placed in the power station at Florence last year. The petition was permitted to be filed.

ARE YOU SUFFERING FROM Weakness, Catarrh or Rheumatism, Chronic, Nervous or Private Diseases. IF SO, CALL ON Dr. Searies & Searies Consultation Free For the Treatment of Chronic, Private and Nervous Diseases, MALE AND FEMALE. ALL BLOOD AND SKIN DISEASES, ORGANIC WEAKNESS AND DISEASES OF NO MATTER HOW LONG STANDING OR HOW PROFOUNDLY INCURABLE. NERVOUS DEBILITY, PILES, FISSURE, FISSURE Permanently Cured without the use of knife, ligature or caustic. All maladies of a private or delicate nature, of either sex, positively cured. Dr. Searies & Searies, 113 South 14th Street, OMAHA, NEB. Next door to Postoffice.

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BEST CURE FOR

All disorders of the Throat and Lungs is Ayer's Cherry Pectoral. It has no equal as a cough-cure.

Bronchitis

"When I was a boy, I had a bronchial trouble of such a persistent and stubborn character, that the doctor pronounced it incurable with ordinary remedies, but recommended me to try Ayer's Cherry Pectoral. I did so, and one bottle cured me. For the last fifteen years, I have used this preparation with good effect whenever I take a bad cold, and I know of numbers of people who keep it in the house all the time, not considering it safe to be without it."—J. C. Woodson, P. M., Forest Hill, W. Va.

Cough "For more than twenty-five years, I was a sufferer from lung trouble, attended with coughing so severe at times as to cause hemorrhages, the paroxysms frequently lasting for four or five hours. I was induced to try Ayer's Cherry Pectoral, and after taking four bottles, was thoroughly cured."—Franz Hoffman, Clay Centre, Kans.

La Grippe "Last spring I was taken down with La Grippe. At times I was completely prostrated, and so difficult was my breathing that my breast seemed as if confined in an iron cage. I procured a bottle of Ayer's Cherry Pectoral, and no sooner had I begun taking it than relief followed. I could not believe that the effect would be so rapid and the cure so complete."—W. H. Williams, Cook City, S. Dak.

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