

GUILTY OR NO?

Testimony for the Defense in the Howard Case Elicited Yesterday.

Interest in the Horror Deepening as the Trial Draws to a Close.

YESTERDAY'S SESSION.

Wednesday p. m. the taking of evidence for the defense in the Howard case was commenced. As usual there was a large crowd of idle boys and loafers in the court room, who watched with eager attention every detail of the evidence relating to the sickening affair. "English Liz" and Thompson, the defendants, were in their accustomed places, and have gained to a great degree a certain composure, which amounts almost to indifference.

Annie Kernan was the first witness for the defense. She testified: I was in Nettie's room at various times. Talked with her frequently. She had little to say, and told me nothing as to the guilt or innocence of the defendants.

Officer Whalen, I talked with Nettie often during Saturday, Sunday and Monday. Don't remember what she said. I was convinced of guilt of accused and paid no attention to anything except to get Thompson to come along with me. Had a conversation with her on Monday. In reply to a question by me "how are you," she seemed indignant to talk, though not acting as if in much pain, and refused to say much. Several persons were there Saturday afternoon and conversations were generally about the case. I heard Nettie speaking of being afraid of Mr. Connelly, and in reply to my question, Nettie subsequently said she was afraid Connelly did not burn her. I took Hackett from jail to see Nettie at her request. Heard no conversation between Hackett and Nettie Saturday afternoon at her house. Nettie said to Hackett that she did not know who did it. Thompson, the defendant, was then present; this was before the defendants were arrested. Nettie was then ill; her voice husky. Thompson called Nettie's attention to Hackett, and she said she recognized him.

Officer Donovan stated: I was police officer and with Whalen at the arrest of Thompson. While there to arrest him, Thompson, in the presence of Nettie Howard, called witnesses to "come here a minute." I walked to door of bedroom, when Thompson leaned over Nettie on the bed, and asked her if (Thompson) ever did anything to her, or burned her, and she replied, "no." At my suggestion Thompson asked Nettie if she knew who did burn her and she said "no." This conversation occurred in the second room, where Nettie was lying. Her voice was weak and she "kind of whistled" out of her mouth.

This was Sunday afternoon. Thos Rnane, At time of burning, Nov 1884, I was police officer. I arrested Connelly on charge of suspicion of burning Nettie Howard. (Here counsel said it was necessary now for him to outline defense. It is in effect that while Connelly was under arrest the private and public talk, in Nettie Howard's hearing, was all about Connelly as the guilty one, and that from this continuous talk, Nettie, in the condition she was, thought it was Connelly who burned her, and that as it was clear that Connelly did not burn her, the declarations of Nettie in the afternoon of the burning, and the credit or taken as reliable—her mind being disordered by opiate.

The court held that no statement made by her at another time can be introduced to contradict her solemn dying declaration; no such statement shall be admitted. Defendant can show a bad state of mind at the time of the burning, and the declarations to invalidate them, but not from statements conflicting with those dying declarations.

Witness continued: I had conversation with Nettie Howard about 4:40 o'clock Monday evening, and at times before that time. I did so before 10 o'clock Saturday morning. She did not know who burned her for she was asleep. The defendants were present at the time. Had another conversation that day with her between one and two o'clock. [Objected to and ruled out by the court until foundation laid. At this point defense stated that they could show various other dying declarations than that admitted by the state. The court said there would be admitted when proper foundation was laid.

Adjourned till 2 o'clock.

PERSONAL.

L. F. Hilton, editor of the Blair Pilot, is in the city.

J. S. Lehigh, Sutton; A. A. Kingsley, Stanton; C. Young, Osceola; C. D. Henry, Sidney; C. A. Hall, Madison; Frank Sanders, Rockport; S. R. Wilson, Cincinnati, are at the Casfield.

E. S. Wilkinson, Denver; R. D. Jones, Red Cloud; C. C. Atkinson and wife, Weeping Water; T. B. Seeley, Omaha; E. A. Hall, Madison, and J. W. Shepherd, Osceola, are at the Casfield.

J. C. Bradley, Lincoln; J. L. McDonough, Ord; William Wheeler, Fremont; A. W. Charles, Oakland; J. F. Nylander, Kearney; W. H. Mottor, Omaha; J. A. Haddelen, Lincoln, and F. Cluzagen, Sidney, are at the Cozzen's.

T. H. McCague of the Commercial National bank, returned Wednesday from the Washington inauguration ceremonies. Contrary to expectation he came back unmarried. Mr. Chase, of the Excelsior, is now in Chicago, and returned yesterday.

A. Phillips, Charles Chapman, Frank A. Chaffee, J. C. Bradley, Lincoln; E. S. Bogart, Springfield; G. F. Hunter, Hastings; W. McGuire, Fairburg; H. C. Van Camp, Rochester; Thos Leighton, Plattsmouth, and C. Cook, of Fremont, are at the Metropolitan.

John Moran, Alex; S. H. Daniels, Plattsmouth; O. G. Beeson, Lincoln; C. C. Valentine, Columbus; C. W. Thomas, Grand Island; John M. McFarland, Columbus; E. E. Brown, Lincoln; John M. Regan, Hastings; N. W. Wells, Schuyler; S. F. Perry, Kearney, are at the Paxton.

Wm. Donald, Columbus; C. H. Omhoff, Lincoln; D. S. Cromer and C. Selah, Ewing; George B. Hartland S. L. Sturtevant, Fillmore; Wm. Fuller, Nebraska City; F. M. G. Hill, Fremont; C. E. Westcott, Plattsmouth; Wm. Franklin, Lincoln, and L. F. Hilton are at the Millard.

The River.

The Missouri river is fast clearing of ice, and so far as rapids show, has manifested no disposition to jump its banks. The river at this point is about stationary.

On the Platte, the Union Pacific reports say that the ice is rotting fast and moving out readily to safety. At North Bend and Valer the river is bank full, but unless sudden and heavy rains follow there will be no overflow. At other points on the Platte, similar conditions exist.

Rowen recalled: Went to Nettie's house Saturday evening. She asked for water and said it was a divorce case, she drank, as she was going to die anyhow. She at this time and at another time told me she had no idea who burned her, as she was asleep at the time.

Bloomfield, recalled, said Nettie had been drinking some the night she went for the oil.

James Burns: Knew defendant in the house about midnight of Friday, the night of the burning. Thompson and

Lizzie Howard, the defendants were in bed in the back room. Mr. Montgomery was with me. Nettie was very drunk at this time, and she and Mr. Montgomery went out to a saloon and got a pint bottle of whiskey; Nettie drank twice while I was there at this time, about midnight, perhaps not after. All this time I was there (about twenty minutes) Thompson and Lizzie remained in bed. I think both defendants took a drink while I was there; they all had a drink. We left because Lizzie said it was time to close the house. Nettie Howard left us out.

Geo. Montgomery: Knew Nettie about six months. She and Lizzie were seemingly friendly. I was there about 11:30 this night she was burned. Nettie had been drinking and drank while I was there. Thompson and Lizzie were in bed. I left the unused whiskey and bottle there. Don't know how much was left.

Mike Gilligan: Known defendants for three years. Knew Nettie for about four years. The relations of the three were friendly. I was in the house about 3 o'clock in the morning of the burning. Thompson came for me to go down with him to Nettie's house to do what I could to help her. She was in bed, and in reply to my question she said she felt bad, and that she had no idea who burned her or how it was done. Later in the day, about 10 or 11, I asked her the same question, and she said the same thing—that she did not know how or by whom she was burned. Nettie Fuller was there at both these times, but not so situated as to hear these statements of Nettie Howard to me.

Leo Helsley: Was a reporter on a newspaper on November 24. I went about 2 o'clock Saturday morning (the time of Nettie's burning). Found defendants and a third person (unknown to me) in the house. Nettie Howard was there also, lying in a semi-conscious condition. Thompson was passing the floor suffering with burned hands. A suggestion was made to put Nettie on the bed. Thompson or Lizzie, one or the other, said, let Nettie on the floor, that she was better off there. Mountains fire broke out in back room; Thompson and I put it out. We returned to the room where Nettie was and put her on the bed. Just at this time Officer O'Donovan came. He and I examined the room and saw that the fire was extinguished. I then left the newspaper office. The fire that broke out while I was there broke out from a dress hanging beside the bed and from the wall.

Mag Johnson, (colored). Known defendants and Nettie Howard. Went to her house about 5 o'clock of the morning of the burning. Nettie then was in bed in the front room. I spoke to her, she recognized me, and she was well for about 11 o'clock Saturday. Nettie told me she was full of pain; she did not know how she was burned, as she was "pretty full;" that she had heard some of them say Lizzie did it, but she did not believe it for they were friends. Nettie asked Lizzie not to leave her. I asked her several times if she knew who did it and she said "no." I knew her well for about five years. She and Lizzie were for years most friendly. Nettie wanted Lizzie Howard and no body else to put on and take off her bandages, saying Lizzie could wait upon her better than anybody else.

Upon cross-examination this witness bore honestly with perfect coolness and clearness of statement.

E. A. O'Brien: At time of the burning I was city editor of the Republican. I saw Nettie Howard just after burning; was at the house at the time Father O'Conner was there. It was on Monday after burning. I went into the room Nettie was in, before Father O'Conner left. I went into the room and asked Nettie if she knew how she was burned. She replied, "No, father." This same answer was given to several similar questions. This was about 3 or 4 o'clock on Monday evening. She was so weak that I could barely hear her. She spoke in a low voice, and had to lean and place my ear near her mouth to hear the words of her answers. Father O'Conner was in the room during my interview with her.

G. H. Hackett: Knew Nettie Howard; saw her the Sunday afternoon about 2 or 3 o'clock, after she was burned. She told me she did not know how she came to be burned.

Adjourned to 9:30 to-morrow morning.

HIGHLY IMPORTANT.

The Decision of the Supreme Court Relative to the License

To be Paid by Wholesale Liquor Men - The School Board's Victory.

Mr. E. W. Simeral has received official notification from Lincoln that a writ of peremptory mandamus has been issued by the supreme court in the case of the state of Nebraska, ex rel, school board vs. Marshal Cummings.

Shorn of its technicality of phraseology, this case presents many interesting and important features.

In May, 1884, Messrs. Simeral and Estabrook commenced mandamus proceedings in the supreme court of the state to compel Marshal Guthrie to report to the council, the names of all wholesale liquor dealers in this city, in order that they might be required to take a \$1,000 liquor license, in accordance with the provisions of the Slocumb law; or failing in this, might be sued for non-conformance with the statute. This Marshal Guthrie had refused to do, saying that the liquor dealers were exempt from the license, which was intended only for retailers. A few months ago, the attorneys for the school board argued the case before the supreme court but the mandamus proceedings were temporarily checked by the fact that Guthrie was no longer city marshal and hence no action could be taken against him. Baffled temporarily by the technicality, Messrs. Simeral and Estabrook instituted mandamus proceedings against Marshal Thomas Cummings.

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THE MCKUNE MURDER.

Fourth Day's Proceedings in the Trial of Dr. Cross for the Murder of Dr. McKune in Council Bluffs.

THURSDAY'S PROCEEDINGS. Special Correspondence to THE BEE.

GLENWOOD, Iowa, March 12.—All parties immediately concerned in this important case were on hand before the opening of court this morning. The defendant and his counsel seem to be untroubled by the somewhat damaging evidence of yesterday, and their confidence in their ultimate success and the final triumphant acquittal of Cross is unshaken. Thus far witnesses have been lightly cross-examined. Judge Hubbard has occasionally presented some law questions to the court in his calm, sarcastic way, and in a manner which inevitably conveys to the mind of an outsider the impression that he is inclined to "quilt" the case. He is the most remarkable character connected with the case, and it is often hard to decide whether he is earnest or merely cracking some joke at the expense of court or counsel. His profound learning and large experience make him a formidable antagonist, and whenever he rises to speak he is sure of respectful attention.

He generally succeeds in making the court believe that he is right. A motion to suppress the deposition of H. P. Lennox was filed by the state. Mr. Sapp announced that the witness, Handthorn, was in attendance, but that the state had decided not to examine him in chief. He also stated that the witness, Miss Berger, would be recalled upon a material point overlooked yesterday.

The identification of the map, clothes and bullet was admitted of record. The attorneys for the accused admitted the objections, though purely technical, to the deposition of Lennox, to be well taken. Judge Hubbard said the deposition would not be offered in evidence.

EVIDENCE FOR THE DEFENSE—C. H. SHOLES. Reside in Council Bluffs. Am a short hand reporter. (Witness identifies evidence taken before Judge Aylesworth.) The evidence of Emma Brooks and A. B. Nicholas was referred to. The report was read of the conversation in Nicholas' store between Nicholas and Cross, about Delia Nicholson. The threat read: "If McKune assaults me I will kill him. I will get him to strike me then kill or shoot him and claim I did it in self-defense."

Emma Brooks then said: "I heard him talk about Dr. McKune and all the doctors, but don't remember what he said. He said, however, 'I will kill McKune if I get a chance.'"

C. A. HAMMER. Reside in Council Bluffs. I knew Dr. Cross at the time of McKune's death. Cross has been my physician. He was at my house in January, 1883, when my child died. Mrs. Brooks and daughter were there at that time. There was talk about some abortion case, don't know what it was, but I remember Mrs. Brooks' detailed yesterday by Mrs. Brooks. He may have said he would "get even with him." There was no such conversation as that stated by Emma Brooks. Nothing was said about McKune being a dirty dog, and no threats to kill him. I heard all Cross said while there that evening.

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CHARLES SANG.

He Defends Himself From the Alleged Slanders of the Fremont Press.

Editor of THE BEE.

NORTH BEND, Neb., March 11.—Hon. Edward Rosewater, Dear Sir:—I observe in THE WEEKLY BEE of to-day's issue, under the heading of "State Jottings," the following paragraph:

"Charles Sang, an executor of Dodge county, and a man who has been prominent in Fremont business circles, has fallen below zero in the scale of private and public morals, and stands a good chance of being sent to the penitentiary. He was charged with lustfully seducing a young girl, and the first trial of the case, last December, resulted in a verdict for Sang. The motion for a new trial developed the fact that Charles Sang, with his wife, and kept them well saturated with liquor during the trial, and made a number of promises of substantial rewards if they would testify against him. A new trial was granted, and Charley will probably go over the road."

Of course I do not believe that you would lend the aid of your powerful metropolitan paper to the work of slandering a man simply because he has incurred the enmity, personal and political, of the local press of his own city. I assume, therefore, that the above paragraph was written and published because certain outrageous statements were made in the Fremont papers which you assume to be true, regarding the case in which I was forced to figure as a party. As to the first statement "that I have fallen below zero in the scale of public and private morality that I stand a good chance of being sent to the penitentiary," I will only say that I have been persecuting no man in season and out of season for the past two years had their way, no doubt, but I would stand "a good chance" of being sent there and without any trial either. As to "the motion for a new trial developed the fact that I seduced the girl with my wife," I will merely say that the jury question was composed of such respectable men as Fred Meyer of Meyer & Schurman, wholesale greasers, E. H. Ailes of the firm of A. M. Spooner & Co., and one of the wealthiest and most respectable business men in the county, Charles Vassie, of the firm of Frytag Bros., Vesale & Co., and the late John P. Peck, of the firm of Peck & Bros., both of Fremont. The remainder of that jury were all equally respectable and prominent men upon whose good name there has never been a shadow of suspicion. If I could have had the power to pack a jury there was not a solitary man who sat upon that jury whom I could have approached with confidence. I believe our county contained just enough to have brought their unanimous verdict of not guilty unless they believed it in accordance with the law and the evidence. As to the fact that I kept them saturated with liquor during the trial, it is infinitely false, and rests solely upon the slender foundation, that, before the jury was drawn, I had a party of about 25 to meet several of them in a respectable saloon and asked them to take a drink with me as I did my other acquaintances who were present. I made no promises of reward of any kind or character, I did not even discuss the case in any manner or way or seek to bias the minds of jurors, or in any manner influence the jury, or in any way to prejudice public opinion against me, I was acquitted, and have no fear of the result when it again comes to trial. The new trial was finally granted upon the affidavit of a man named James Murray, reciting "a cock and bull" story about a certain juror (who was probably a juror) trying the case at all saying "he wanted to get on that jury to give Charley a lift," and in support of his statement claimed another person heard the remark made—both the juror and the person called on by Murray flatly contradicted his affidavit in every essential particular, but because this man Murray was connected with the case, and in spite of all attempts to bias or prejudice public opinion against me, I was acquitted, and have no fear of the result when it again comes to trial. 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