

UNJUST SENTENCE

Imposed Upon Bishop McNamara --The Right of Free Speech Refused by the Court.

A Review of the Evidence --Other Disgraceful Proceedings on the Part of the Prosecution.

A PACKED JURY.

When men are made martyrs, the people become converts. Such is the case with the imposition of the officers of Kansas City against Bishop J. V. McNamara. The people of this city and Independence, Mo., are enraged beyond the power of endurance. No such base treatment has ever been brought before the public in the west since the death of the Spanish inquisition. The treatment received by the bishop from the officials of this county cannot be put in print. Suffice it to say that nothing short of starvation and death would suffice the statement. The abuse which he has endured, and many who have attempted to assist him, is too base and profane to come as a repeated sentence from the mouth of a man who has the slightest bit of self-respect. Written testimony can be produced to this effect, at any time. Men do not fight Godly teachings, but they abhor the diabolical acts of men in whom the enforcement of laws are reposed, and who make the laws political purposes, and corrupt their power for persecution and gaining strength with such an element as will sustain them therein.

The trial of Bishop J. V. McNamara before Justice Nichols, of Independence, Mo., where a change of venue had been taken from Justice Latschaw's court, in Kansas City, was nothing more than a tribunal of inquisition with the entire court of the prosecution as inquisitors. The case was called about 10 o'clock on the morning of February 1, 1894, in the lower court room of the county court house, with an overflowing audience. The charges accusing the bishop with slandering Priests Dalton and Lillis were revised by the prosecuting attorney, Marcy K. Brown, before the trial, so that they could be made to "stick." Before this time, at least one day, a jury had been summoned by the prosecution. The attorneys for the defense argued that the jury previously called should be set aside, as those who were instrumental in procuring it were prejudiced. Justice Nichols overruled the motion to set aside the jury, saying that he knew nothing of such a jury being summoned, but admitted that it had been the custom to prepare a list of jurors, to save time in the procedure of the court. Marcy K. Brown, prosecuting attorney, became very wrathful at the statement that a jury had been summoned, and said that "it was an infamous falsehood." Attorney Burnham, for the defense, asked for proof to be brought into court to prove his assertion that a jury had not been thus summoned, and stated that he believed that Marcy K. Brown had been furnished with a list. This cooled Mr. Brown, but Justice Nichols refused to order the constable of Blue township to summons a new jury.

The people have become very indignant that the officers who would have presided in the Latschaw court had followed the case into another township and another court, and took the place of the officers who should have presided. The case might as well have been tried in Latschaw's court, as the only difference was the justice who presided. The first case was the alleged slander of Priest Lillis. A hard fight was made to secure an unprejudiced jury, but it was not accomplished. The witnesses for the state were: Edward A. Brittan, of the Times; John W. Booth, a policeman; Andy O'Hare, a policeman; Jas. D. Mackey, 921 Oak street, a paper-hanger; Jules C. Rosenberger, of the Star; Arthur Morrison, ex-deputy from Latschaw's court; Officer Clepper, a policeman; Frank Dalley, a policeman, and Frank Cribbins. The evidence obtained from these witnesses was virtually word for word on the points probed by the prosecution, and answered with smiles and ready response, but when questioned by the defense the witnesses became evasive and some impertinent.

When Mr. Brittan was asked by the defense why the word "bishop" was placed in quotations in his article in the Times, he replied: "To indicate that he was not." When asked if he knew that J. V. McNamara was not a bishop, he answered: "I know nothing about it." When asked what the bishop did when stones were thrown through the windows of Turner hall, on the night of January 16, at the lecture, he answered: "Appealed to the crowd to keep cool." He also stated that the bishop read from manuscript or book part of the time. The book referred to was Kenrick's "Moral Theology."

Mr. Booth testified that he was on duty at Turner hall during the lecture. He stated that he was a member of the Catholic church, and that he had lived in Independence at a previous time. He claimed first that there was "only one disturbance--that was when they were leaving the hall." He stated later that

a rock and piece of iron were thrown into the hall. In reference to points, he said it was "all general abuse," meaning the language of the bishop. Mr. Mackey was at Turner hall to hear the address "to men only." His testimony was similar in points pushed by the prosecution to the other witnesses. He said that he was raised a Catholic, but "do not go to the church." That the bishop was "about half way through his discourse when I was in there." His evidence was deficient on all but one or two points.

Mr. Rosenberger, of the Star, testified in line with the others on the " requisite points." He stated that the bishop had a book in his hand, which he said was "Kenrick's Theology," and that Bishop Hogan had the book in his library. This is the book which Bishop J. V. McNamara based his lecture upon, and which he quoted from, and the book which was ruled out of court as evidence of what the bishop said in his lectures.

Arthur Morrison claimed to be of the Methodist faith; that he was an ex-deputy from Latschaw's court; that he had served for about two months, but was not a deputy now. When questioned by the defense he grew impudent and evasive. In answer to questions regarding the bishop quoting from Kenrick's Theology, said "he had a book in his hand," that when rocks were thrown through the hall windows from the outside, that the bishop said: "Let the Dalton gang come on." He stated further that "no one in the hall created a disturbance," although a man had been ejected from the hall for calling the bishop "a liar," and which fact had been given in evidence.

hear the lecture, after it was in progress, but did not know how much had passed before he came; that he did not get all of the lecture, as his book ran out, and it was some time before he secured another. His notes contradicted his "strong points," which were being forced by the state to a radical degree. The state based its case upon hearsay alone, and fought in every conceivable manner to force the witness to acknowledge that it was the exact wording of the bishop's speech. Prosecuting Attorney Brown would read the charge as he had it, as a question to the witnesses, and when they would repeat the language as they understood the bishop to have said it, he would ignore their reply and read his question again as "Peachy" had given it, and demand the witness to answer "yes or no." Justice Nichols sustained Mr. Brown in this through the entire trial, trying to force the witnesses for the defense to reply to questions by "yes or no," when they knew perfectly well that it was a dastardly deed to try and force a witness to swear to a lie for fear of being prosecuted for contempt of court. There was no justice shown the defense by the prosecuting attorney or Justice Nichols.

Bishop J. V. McNamara was placed on the stand and testified that he was a resident of Brooklyn, N. Y., and a bishop of the Reformed Catholic church. Also, that he was born in Ireland, and ordained in 1864, in Paris, France. He was a pastor under Bishop Gibbons, now Cardinal Gibbons, when located in Raleigh, N. C. He renounced the Roman Catholic faith in September, 1877. The further testimony was cut off by an objection by Prosecuting At-

torney not answer the question truthfully by saying either yes or no. Mr. Brown asked: "Are you a member of the A. P. A.?" "No, sir," replied Mr. Hines, "but I don't know but what I shall be."

The evidence given by the witnesses for the defense was sustained by Jas. T. Christensen, of Westport, who was present at the lecture.

M. McMillon was on the stand for some length, and his testimony refuted the claims of the state. Mr. Brown, of the prosecution, tried every means to get into the secrets of the A. P. A. through him, but failed. When asked by the prosecuting attorney if he was a member of the A. P. A., he replied that he was, and that he was proud of it. After leaving the court room that night he was attacked by some hoodlums.

The defense strongly argued against the uncalculated denunciation by the state, after which the case was given to the jury, which "hung," and was dismissed about ten o'clock Saturday morning, February 3. The state has taken no further action.

The case charging Bishop McNamara with slandering Priest Dalton was called at 9 o'clock Friday morning, February 2, while the jury "hung" on Priest Lillis' case.

The jury in the Lillis case called for a translation from "Kenrick's Moral Theology" of such points as the bishop had used in his lecture, provided some competent Latin scholar would translate them, as the jury desired to decide the bishop's case on this point. If the book contained the assertions he would be acquitted, and if not he would be

Wm. Boston, wife a Catholic. Wm. Dadds, Catholic. V. Perkins, works for a Catholic.

In reply to objections proposed, the court said that he was "personally acquainted with the majority, and knew them to be honorable men." He also said that he regretted that the people were divided by church affairs, and that he would "neither say that no Catholic shall not be put on the jury, nor that a Protestant shall not be on the jury."

The defense made another fight to have the constable of Blue township summons a jury, and have the entire existing panel set aside. Up to 2:30 in the afternoon no jury had been impaneled. The court rendered a final decision that two Protestants should be summoned, and that this should be a permanent decision. The Protestants, however, failed to get on the jury, and it was settled as above after heated arguments, with much "clap-trap and balderdash" assertions by Mr. Brown, and an energetic appeal from the defense for justice.

Mr. Brown, for the state, in his statement to the jury at the opening of the case, said: "The testimony of true, uninterested witnesses will be so overwhelming that they (the defense) need not introduce any evidence."

The witnesses for the state were Mr. Edward H. Brittan, Officer Booth, Andy O'Hare, Jules Rosenberger, Arthur Morrison, Jas. B. Mackey, "Officer" Dalley, "Officer" Clepper and Frank Cribbins.

Mr. Brittan was the first witness placed on the stand in the Dalton case. His testimony regarding the presumed slander of Priest Dalton was somewhat

evasive, and had to be questioned several times to produce the statement from him that he was still in the employ of the Star. This seemed to please those of the mob who were present. When asked in regard to Mr. May's notes and if he knew that "what he (May) has there is accurate," Hosenberger replied: "I'll vouch for it."

It would puzzle many citizens how any mortal could remember the exact wording of a lecture well enough to swear that a stenographer's notes, which would take about a half hour to read, could be perfectly exact, and at the same time allow them and his idea of the speaker's words to differ.

Mr. Albert Morrison was questioned, when placed on the stand, regarding the position which the bishop occupied when the alleged slander was spoken. He said: "On the east side first and then walked around to the other side of the table." In collecting the entire evidence on this line, it was found that the bishop was on a dozen or more different parts of the stage at the same time. His evidence was "in line" with the other state witnesses regarding the wording of their special point. He stated that he was a "collector" and had been a "deputy constable" under Mr. Solan in Latschaw's court. When asked about the shooting in the street when the bishop was driven from the hall and was chased by the infuriated mob, and the driver being shot, he said: "I believe that that man (nodding toward Bishop McNamara) there shot him." He also stated when asked if the bishop took fire-arms into the carriage, that "I saw him come down with a gun and a pistol." This was positively denied by the next witness for the state. He also stated that shots were fired from the carriage but did not see any fired at it.

The next witness for the state, John B. Mackey, testified in harmony with the others in the principal points, but like the others, could not harmonize in other questions propounded by Attorneys Burnham and Elliot for the defense. In answer to a question by Attorney Burnham, he said: "I was baptized a Catholic." It seemed as if Attorney Walsh was interested in the case as he dictated frequently with Prosecuting Attorney Brown. When Mr. Mackey was asked by the attorney for the defense, Burnham, if there were shots fired from the back he replied: "Shots came out through the back window," and when asked how many he said, "Two." When asked what the bishop said when the man in the gallery called him a liar, he replied: "He said, put that man out." When asked by Attorney Burnham if the bishop read or referred to the book, "Kenrick's Moral Theology," he answered: "He claimed to read from the book in regard to different connections."

Officer Dalley, of the police force, followed the regular formula for the state. When asked where the bishop was located when he made the alleged remarks of slander, said: "He stepped out from the table to the edge of the platform at the time." When asked where he was located in the hall, said: "Upstairs, in the balcony, in the southeast corner." In answer to the question of the defense that rocks had been thrown through the windows, and that the audience rushed for the door when the rocks were thrown, he said the bishop advised the people to "keep their seats," that "I (the witness) am supposed to be a Catholic, I was not outside the hall at the time of the lecture." When asked what transpired outside the hall, he said: "I heard some revolvers fired off, and I ran around to the front as the hack drove off."

Officer Clepper, of the police force, stated that he was sent to the hall on the night in question as an officer of the peace. Then, in reply to questions from Prosecuting Attorney Brown, gave the similar routine of state evidence regarding the alleged slanderous words; that he was not a member of any church. When asked if there was any disturbance in the hall, said: "I believe one man called him" (the bishop) "a liar." He further answered to questions that "I was inside the hall all the time before it (the lecture) commenced until after he (the bishop) got in the carriage." When asked about the missiles being thrown into the hall through the windows and results, he said that "Someone in the hall was hit by the ball." The information was given that "It was some time, about a half hour, I think, that the bishop remained in the hall after the audience had left," also that the mob chased after the carriage after the bishop and his wife had entered it and were driven away. When questioned about the shots being fired out of the carriage, he stated that "There was four shots fired out of the carriage." Also, to a question, "I believe there was another man got in." He was then asked if he was sure that another man got in the carriage, answered, "Yes, sir, I'm positive of it." When asked by Attorney Burnham, "Did the bishop carry a rifle with him into the carriage?" he replied, "No, sir, he did not. There was a man with him who carried one of these Winchester rifles into the crowd."

The last witness for the state was then examined, a Mr. Cribbins, who

DRILLING THE ENEMY!

The following item ought to be of startling interest to Americans, as indicating the progress of the conspiracy to unite church and state, with the state inside the wolfish church:

"Captain John Dunn, of the Tenth Infantry, has been ordered by the Secretary of War, Lamont, to report at the Jesuit College of St. Francis Xavier to take the Professorship of Military Science at that institution."

Very recently a military instructor has been placed in Seton Hall College, New Jersey, another popish institution. It is surely bad enough to permit the forming of Romish military companies, without furnishing them with arms and discipline at the expense of the government they are sworn to destroy. Will Americans even now fail to see the urgency of the necessity of enrolling themselves in the A. P. A? If they do not, they shall be taken unawares as surely as past history can certify to the treacherous character of popery. The man who hesitates any longer is unworthy of respect.—Primitive Catholic.

Officer Clepper said he had been a member of the Metropolitan police force for nearly six years, and that he was on duty at Turner hall on the night of the lecture in question; that his parents were Methodists, but he was not a member of any church. His version of the points in question were similar in wording to the others.

Mr. Dalley, a "supposed Catholic," or as stated by him afterward, "I am supposed to be a Catholic," testified that he had been a member of the Kansas City police force for five years, and was present at the lecture on the night of January 16, last, and verified the similarly worded statement, "parrot-like," as given by other witnesses for the state. He said that he lived near Tenth and Michigan avenue. In answer to a question of the defense: "Are you the officer who informed the mob of the bishop's whereabouts?" reluctantly replied, "No, sir," that he was in citizen's clothes, and remained in the hall during the entire lecture; that after the lecture he was at the rear of the hall, on the street, and ran around to the front of the building when he heard shots fired, but did not see them. He was asked: "Are you a Catholic?" and replied: "Yes, sir; supposed to be."

Mr. Cribbins was next summoned, as the last witness for the state, but failed to assert his name on the stand. His evidence was of little consequence.

For the defense, L. A. May was placed on the stand, as a selection from the thirty-six witnesses who were called from a list of two hundred or more in all. The court "ruled" that the defense must limit it to the same number as was used by the state. Mr. May based his testimony on short-hand notes which he says were taken at the lecture on the night of January 16, 1894. He was questioned regarding his capacity as a stenographer, and stated that he was not a professional, but thought that he was accurate. He came in to

torney Marcy K. Brown and the decision of Justice Nichols. The bishop stated that the lecture at Turner hall, delivered the night of January 16, 1894, was on the subject of "Roman Theology." At this point the defense made a strong argument against Marcy K. Brown to allow the defense to introduce Kenrick's Moral Theology, as evidence, and quote from it such parts as were used at the bishop's lecture, to prove that the words were not those of Bishop J. V. McNamara, but the teachings found in Kenrick's Moral Theology. Neither was his manuscript of the lecture allowed as testimony. Mr. Marcy K. Brown's conduct was unpardonable in upbraiding the witness. It was unfair, unjust and undeserving--in all, it was tyrannical. All written and printed testimony was shut out.

J. A. Westendorland was the next witness. He is a contractor living in Argentine, Kas. He was present at the lecture, but testified that the charges were not given at the lecture as stated in the writ. He was asked: "Had such a statement been made, were you in such a position to hear it?" He replied: "Yes, sir."

J. D. Fulton was placed on the stand and testified that he would not have been present if he could have helped it. He stated that he did not understand the bishop to repeat the language as charged. Marcy K. Brown inquired if he was an A. P. A., to which Mr. Fulton replied in the negative.

J. E. Riordan testified to the contrary of the information, and said that he was at the lecture the entire time of its delivery.

The evidence introduced by C. M. Hines was against the charges as stated by the state. Mr. Hines tried to give the language of the bishop at the lecture, but Marcy K. Brown would not have it that way, and would ask the question as stated by the state, and demand an answer of "yes or no." This lasted for some time. The witness

found guilty. This request was overruled by Justice Nichols.

In the Dalton case the defense made a strong argument for the constable of Blue township, of Nichols' court, to be allowed to summons the jury, stating that Marshal Stewart was prejudiced; also claiming that no Roman Catholic should be allowed to sit on such a jury. During the argument Marcy K. Brown made the following assertion: "Religion does not cut any figure in this case. This clap-trap stuff," etc.

In reply the defense said the state did not conduct the case with fairness.

Mr. Brown said, "You are stating an obtuse falsehood."

In regard to the Catholic question, Mr. Brown said it was clap-trap and balderdash injected for a purpose. The following is a list of those called as jurors by Marshal Stewart, as the plea for the constable of Nichols' court was overruled:

- Sol. Sampson, no church. Wm. Fabay, Catholic; heard the trial. Jas. Larkin, Catholic. Peter Dick, wife a Catholic. Joe Becker, Catholic. Chris. Yith, German Lutheran. Ambrose Ish, not known. Jacob Torpy, Catholic. Ed. McMillen, Catholic. Pat Glennen, Catholic. Wm. Boston, wife a Catholic. -- Glen, Catholic, from another township. -- Weitsel, Catholic. Wm. Dadds, Catholic. A. F. Anderson. L. D. Paddock, not known. John Vall, Catholic. J. Sneed, expressed opinion. V. Perkins, works for a Catholic. Wm. Joseph, has been a Catholic. -- Conway, Catholic. Wm. Stanford, Baptist. Jas. McClosky, Catholic. Asa Duncan, Catholic sympathizer. -- Benard, wife a Catholic. Robt. Campbell, works for a Catholic. The following named served on the Dalton case jury: Sol. Sampson, no church. Ambrose Ish, not known. Asa Duncan, Catholic sympathizer.

like that given in the Lillis case. The charges by the state being identical in both cases charged against Bishop McNamara. Mr. Brittan was very evasive, when questioned by the defense; only short replies were given.

When Officer Booth was asked if the bishop read from manuscript, he replied: "I did not pay any attention whether he delivered it orally or from the manuscript," that he had been a Catholic, but was not now a Catholic, but was not now a member. He was inside the hall, by order of the lieutenant, to see that there was no mob violence. When asked if such was expected, he said that there was "some anticipation on the part of some people."

When O'Hare, the next witness for the state, was asked by Attorney Burnham to state what church he belonged to, he said, "I'm a Catholic." Attorney Burnham, for the defense, then asked him: "Do you remember saying to me that if you had your way of it you would take him (the bishop) down and throw him in the river?" Mr. O'Hare replied: "Yes, sir, I did sir."

His evidence regarding the point pushed by the state was similar to the others on his side of the fence. They all seemed to have their part pretty well memorized. It was queer that so many men could give a word for word quotation without making notes and testify to it without a moment's hesitation some two weeks afterward.

When Mr. Rosenberger, of the Star, was asked to testify he became as clear as crystal mentally, and remembered everything distinctly, so he stated, and claimed that it was all due to the reading of Mr. May's "short-hand" notes in the Lillis case on the day before. Even with this assumption his evidence did not vary from the state's other witnesses, although Mr. May's "short-hand" notes did not agree with Mr. Rosenberger's review of the bishop's language. Mr. Rosenberger was very