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NEBRASKA; THURSDAY, AUGUST 3, 1905.

NUMBER 33

The Big Shoe Sale is On at Norton's

All our Men's, Ladies' and Children's Oxford Slippers and Colored Shoes of all descriptions, (except black shoes) have been put on the shoe tables at such extremely low prices that they must be sold quick. Do not fail to call and see the shoes and the prices we ask for them. You are liable to be surprised.

W. W. NORTON

BUSINESS LOCALS.

Another car of Puritan flour, the best flour in the city, at A. D. Rodgers'.

Buy feed and flour at Pilkington's.
Dr. Allen, dentist, Opera house blk.
E. E. Barr, Physician and Surgeon. Calls answered promptly day or night. Phones: Office 201. Residence 151. 12-11
Dr. Allen, dentist, Opera house blk.
Go to the Alliance National Bank to deposit your money. Oct. 7-11.
Dr. Koons, dentist, Office over Norton's.
Buy your sheet music at Miller Bros. and hear it sung on the talking machine. 23-11.
For Sale:—House and two lots, two blocks east of First National bank. Enquire at the house or saloon—W. N. Corneal. 6-11
Buy "America patent" flour at Pilkington's. 25-11
If you want bargains, look at Miller Bros'. 5, 10, 15 and 25c counters. 23-11
Dr. Allen, dentist, Opera house blk.
"America patent" flour is the best in town at Pilkington's. 25-11
\$1.00 Value for 75c.
at Fred's to day bargain sale.
We carry the best grade of machine oil at the Eagle Pharmacy. J. E. Joder. 30
Our ice cream, crushed fruits, etc. at the fountain are delicious. J. E. Joder. 30
See F. E. Reddish for loans on real estate. 27-11

Save Doctor Bills
BY EATING
FRESH FRUIT
EVERY DAY
At GLEASON &
FRANKLIN'S
Ice Cream Parlors

DR. KREAMER,
DENTIST

In Alliance 10-30 of every month.
Office over Norton's
Phone 391.

AUGUST JAHNKE BROUGHT BACK

Warden Beemer Brings the Convicted Murderer of Michael Sierks Back to Box Butte County—New Trial to Follow—The Supreme Court Decision.

Warden Beemer of the state penitentiary arrived in the city from Lincoln last Sunday on No. 41, having in custody August F. Jahnke convicted three years ago for the murder of Michael Sierks, and sentenced to prison for life, but after months' struggle by his attorneys, Jahnke was sent back for a new trial. The prisoner was turned over to Sheriff Reed and is now in his custody incarcerated in the county jail where he will until the November 27th session of the district, presided over by Judge Westover who at the time of Jahnke's conviction pronounced the life sentence in one of the most cold blooded murders ever committed in Nebraska.

Jahnke was the target for a large crowd of spectators at the depot and it seemed that the spirit of the murdered pointed its finger at the nervous prisoner as the officers hurried him to the county jail. Of the many at the depot who knew the prisoner few greeted him and the majority regretted the turn the case had taken.

The crime for which Jahnke was convicted was the shooting of Michael Sierks on a farm fourteen miles northwest of Alliance. County Attorney Mitchell was the prosecuting attorney at that time and will again handle the case in the same able manner, fearless and to the end that people of Box Butte county may be safe from the hands of a person of the worst character.

New evidence has been discovered by the prosecution that will be brought forth.

Box Butte county tax payers will not be responsible in any manner for Jahnke's attorney's fees and the defense will have to look to that.

The opinion of the supreme court bearing on this case is of such importance that THE HERALD goes to the expense of publishing it in full, and which is as follows:

JAHNKE v. STATE.
[SUPREME COURT OF NEBRASKA.]
1. Homicide—Evidence of Motive.
If, upon charge of a trial of murder, evidence is introduced by the state tending to prove that the life of deceased was insured in favor of defendant, as showing a motive for the alleged crime, it is error to exclude evidence tending to show that the policy of insurance was of very little, if any, value, and that the defendant was aware of that fact.
2. Criminal Law—Evidence of Accomplice.
The evidence of an accomplice should be closely scrutinized. If it appears that such witness has wilfully sworn falsely in regard to a material matter upon the trial, his evidence cannot be sufficient, if uncorroborated, to support a verdict of guilty.
Holcomb, C. J., dissenting.
[Syllabus by the Court.]
On motion for rehearing. Reversed.
R. C. Noleman, B. F. Gilman, and Hamer & Hamer, for plaintiff in error. F. N. Prout, Atty. Gen., and Norris Brown, Dep. Atty. Gen., for the State.
SEDGWICK, J. At the former hearing it was thought that the evidence of the witness, Oleson was sufficient to require the issue to be submitted to the consideration of the jury, and that, the jury having found the defendant guilty, the verdict was so far supported by the evidence as to require this court to affirm the judgment. It was said that the record is quite voluminous, and that there were nearly 300 assignments of error in this court. No exhaustive analysis of the evidence was attempted. Upon the motion for rehearing, the court having re-examined the evidence with great care, there was doubt in the minds of the court as to the sufficiency of the evidence, and a rehearing was therefore ordered mainly upon that question. We have since this last argument again carefully reviewed the record, and are convinced that the evidence is not of such a character as to exclude all reasonable doubt of the defendant's guilt. The whole case against the defendant rests upon the evidence of the witness, Oliver Oleson. It is claimed that there was evidence other than that of the witness Oleson which tended to show a motive on the part of the defendant to commit the crime, but it is not contended that any other witness has

testified to any fact or circumstance tending to show his guilt. The special motive for the crime is found in the fact that there were two policies of insurance on the life of the deceased, amounting upon their face to \$4,000. This insurance was payable to the defendant, August Jahnke, and there was evidence that the defendant had assisted in procuring the insurance, and had made some payments to the company thereon. This insurance, however, was in a local company that had been in existence but a few months. It was a mutual benefit association. Evidence was offered that there had been but one death in its membership since its organization, that upon his life there was a policy of \$2,000, and that there was only \$500 in the fund available for its settlement. It was also offered to prove that there was at the time of the death of the insured only about 300 members who could be assessed for the payment of the loss, and that but a very small amount could be realized upon a policy of \$4,000, and that defendant was aware of these facts. This evidence was excluded by the court, and an exception was taken by the defendant. The evidence shows that there had been a long-time friendship between the deceased and the defendant, Jahnke, and there is no intimation in the record, outside of the evidence of the witness Oleson, that there had ever been any misunderstanding between them, or any reason to suppose that the defendant had any designs upon the life of the deceased. This evidence in regard to the value of the policy, together with the evidence that the defendant knew of the facts showing the worthlessness of the policy, ought to have been admitted; and if we consider it as in evidence, the proof of the motive, under the circumstances, for the murder of a lifelong friend, is not very conclusive, and in itself furnishes, of course, no evidence of the defendant's guilt. It becomes, then, very important to carefully consider the evidence of the witness Oleson, upon whose sole testimony his conviction rests. He testified upon the trial that the defendant and himself had planned the death of the deceased for the purpose of obtaining the insurance upon his life. There were four separate attempts on their part to carry out this plan before it finally succeeded.

The witness and defendant both resided in the town of Alliance. The witness testified: That he had known Michael Sierck, the deceased, for ten or twelve years, and that Sierck lived about fourteen miles northwest of Alliance, in Box Butte county, Neb. That the witness and the defendant were at Sierck's residence about the fourth of March, 1902. The defendant, Jahnke, owned a farm about two miles further from town than that of Mr. Sierck. The witness and defendant started from Alliance in the morning, and reached Mr. Sierck's place about 1 o'clock in the afternoon. They found Mr. Sierck at home. They went out there "to take a pump out of Jahnke's well." They took dinner with Mr. Sierck, and then went up to Jahnke's place "to get out the pump and pipe out of Jahnke's well, and move it down to Mike Sierck's." After they had taken the pump and pipe, the witness says: "Well, there was a piece of pipe down in the well, and Jahnke, he said, 'We will let Mike down there, and let him get that piece of pipe, and give it to him.'" The questions then asked and the answers given by the witness were as follows: "Q. Well, did you let Mike Sierck down in the well? A. We had a pulley, and we put the pulley up in the tower, and put a clevis up there, and let the rope on, and we put a board on one end of the rope, and started in, and let Mike Sierck down as far as the rope went, and when he got down to the end of the rope, as far as it would go, he said he was quite a ways from the water; and so we pulled him up again. Then we took a chain and put across from one post to the other, and put the pulley on the chain, and then fixed the rope again, and let him down with a small rope and hook, so he could fish around for the piece of pipe. Q. Well after Mike got to the bottom of the well, what did you do? A. Well, when he was down there, Jahnke said, 'Now let's hitch a team to the rope.' * * * Q. Well, what did Jahnke say when Mike

was in the bottom of the well? A. He said, 'We will hitch a team onto the rope and pull Mike out, and when he is pretty near the top, we will cut the rope and let him down in the well.' Q. Did you hitch the team to the rope? A. Mr. Jahnke got his team and took them around there, and we pulled the rope up so far, so that we could get the clevis on (we had a clevis that was a square shape, like) and, then he said, 'You can drive the team, and when we get so far we will cut the rope, and make it appear that the clevis cut the rope.' And I said, 'No; you take the team. They are use to you.' Q. What did you do further? A. Mr. Jahnke told me—He said, 'Yes; I will drive out, and when he gets pretty near to the top of the well, you make a motion, and I will cut the rope.' And he had his knife in his hand when he started. Q. Did you draw Sierck to the top of the well? Q. Tell the jury what you did with Michael Sierck? A. Mr. Jahnke started with the team, and his knife in his hand, and when Mike got pretty near to the top of the well, I raised my hand, and Jahnke made one cut at the rope, but I didn't see how many times he cut, but he said he cut two or three times before the rope separated (he had one ply on one side of the clevis, and two on the other), and Mike Sierck went down to the bottom of the well. And the water rebounded again, and he remained on the curbing. There was a curbing sticking out about a foot and a half from the well. Q. Where did the defendant cut the rope? A. He cut it close to the clevis. Q. How close to the singletree that the horse was hitched to? A. Right close up to the clevis that was on the whiplashes. Q. Now, had you had any talk with August Jahnke, prior to going out to Michael Sierck's, relative to letting him drop in the well? A. Yes sir. Q. What was that talk? A. He said he had a great scheme on hand. Q. Tell, if you can, what he said the scheme was? A. He said he had the life of Mike Sierck insured, and a will made out in his favor. Q. What did he say, if anything, that he intended or proposed to do with Mike Sierck? A. He proposed to me, if I would assist him in killing Mike Sierck, he would give me half of the insurance policy, except to pay the doctor's bill and the funeral expenses."

This well, according to the witness' testimony, was 110 or 115 feet in depth. He says he thinks that Sierck fell about 100 feet. Oleson called to Sierck immediately from the top of the well, and asked him if he was hurt, to which Sierck responded that he was not. He then was assisted from the well, and they all went to Sierck's house together. They remained there over night. The deceased seems to have suffered no inconvenience from the fall. On the next day the defendant and Oleson planned the second attempt on the life of Mr. Sierck. Oleson's account of this attempt upon his direct examination is as follows: Q. What did Jahnke say to you about killing Sierck that night? A. He said we had got to get rid of him some way, and 'Mike Sierck has an old revolver here and there is something wrong with it, and you are pretty handy fixing a revolver. I will get Mike to let you fix the revolver. Then I will have Mike get some cartridges, and you take the gun and make an accidental shot and kill Mike Sierck.' * * * A. I put the cartridges in the gun as soon as Jahnke requested me, and Mike was staggering to one side of me, and I held the gun in my left hand in this position, and slipped the thumb over the hammer and pulled the hammer back, and let the thumb slip off, and the gun went off." He testified that Sierck was not over two feet from him when he fired the revolver. Sierck immediately said that he was not hit, but they both thought that he was, and after remaining another night at Sierck's place. On their way home, they discussed the matter between themselves, and concluded that Sierck must have been shot in the stomach, and would die. Mr. Jahnke then said "he thought he had better go out and see whether Mike was dead or not, and I thought it would be a good idea." Three days later Mr. Jahnke, according to this witness' testimony, went out to Sierck's place to see if he was yet alive, and, having stayed overnight, upon

his return informed the witness that "Mike was not hurt a particle." The witness then procured some corrosive sublimate and this is the way he tells what they did. Q. State what August F. Jahnke stated to you in that conversation at that time? A. Why he said he didn't think a bullet would kill Mike Sierck, and he thought poison would be the best thing. He thought we had better get some poison—strychnine or arsenic—but if we got that why, he would suspicion us. Q. Well did you get any poison? A. Yes sir; I told him that corrosive sublimate was about as strong a poison as there was. Q. Did you get the corrosive sublimate? A. Yes sir; he told me to get the corrosive sublimate, and I got it. Q. Now, after you got this corrosive sublimate, what did you do? A. Why, two or three days afterwards we started for Mike Sierck's again, and we was going to bring the horses belonging to Jahnke. Well did Jahnke * * * Who was it suggested, if any one did, the manner of using this corrosive sublimate to poison Mike? A. August Jahnke. * * * A. When we got there we unlatched the horses, and went to work and got dinner ready; and, when we got done eating, Mike stepped outside, and Jahnke said, 'I will go out, and while Mike and I are hitching up you can put the corrosive sublimate in the sugar. And they went out, and I put the corrosive sublimate in the sugar—part of it. * * * Q. Go ahead now and state what happened at supper that night? A. At supper that evening, after we had supper ready, Mike Sierck set down and eat supper, and took two spoonfuls of that corrosive sublimate and sugar, and put in his coffee. Q. What effect, if any, did it seem to have on Mike? A. The first cupful didn't seem to have any effect on him. When he got that drink, I poured another cup, and put in two more spoonfuls of corrosive sublimate and sugar. Q. What effect did that have on him? A. He drank a little of it, and said it tasted bad. * * *

[CONTINUED IN SUPPLEMENT]
Death of Henry Crilly.

After lingering till Friday noon, Henry Crilly, whose fatal illness was chronicled in last week's HERALD, passed away. The end came peacefully and the good old man was surrounded by friends and relatives who did all in their power to soothe him in his last hours.

The funeral took place Sunday forenoon at Holy Rosary church, which was crowded with acquaintances who desired to show their respect for the humble toiler whom they honored in life. This instance was the most significant proof that character will live on even though the body be dead. In speaking of the deceased, Father Devos stated that even a short acquaintance was sufficient to discover the kindness and Christian virtues he possessed.

Had Arm Crushed.

Brakeman C. W. Anderson, with Conductor Hicks, met with a painful accident at Ellsworth last evening. While "cutting loose" a car the coupler did not work right and as Anderson reached in to adjust the defective part his right arm was caught between the "man killers" and badly crushed although no bones were broken. It was miraculous that his arm was not taken off. He will be laid up for some time.

Home Again.

Mr. and Mrs. Jules Zbinden returned last Friday from their extended trip through the southwest and along the coast as far north as Seattle, where Jules has two brothers. One of the finest sights of the trip was the Elks headquarters at Pasadena, Cali. The furnishing and paraphernalia of this lodge and cost something like \$20,000. The members are justly proud of their lodge and share their hospitality most generously with visiting brethren. As far as business and thrift are considered, the returned tourists say that the city of Seattle is far ahead of any other town on the coast. In fact, Jules considers it the finest city in the country. H. O. Zbinden, who had charge of the business here during Jules' absence, returned with his family to Sweetwater Tuesday morning.

ARRIVAL OF REMAINS

Body of Ward V. Kennedy Arrived Tuesday Morning and Received by Civil War Veterans and Spanish-American Soldiers.

All that was mortal of the brave young Alliance lad who went to sea last February, with a happy heart and light spirit, to travel the world, Ward V. Kennedy, arrived in this city last Tuesday morning in a white casket on which was a plain insignia, which told the story of his commission in the marine service of the U. S. government.



WARD V. KENNEDY.

The remains were escorted by Arthur Kennedy, brother of the deceased, who arrived in San Diego three hours after Ward's death at Agnew sanitarium, where, with many other victims of the tugboat Bennington explosion, he was taken for treatment.

The scene at the depot here was pathetic and in every eye a tear of sorrow was visible. A body of pall bearers composed of old soldiers and others who had seen service in the Spanish-American war, acted as escort, tenderly lifting the remains to the hearse and following them to the home of the heart-broken parents in Danca's addition. The sight of the old mother, as she threw her arms about the scarred form of her lifeless baby boy cannot be described. It was a mother's love mingled with the deepest grief imaginable. On a table lie a letter dictated by young Kennedy to his mother the day before he died, in which he spoke of his condition and concluded by saying: "Now, my dear good mother, don't cry for me; you know I love you dearly. Good bye, mother."

The funeral took place at 2 o'clock Tuesday afternoon, from the M. E. church, Rev. Ray officiating. A large crowd of people was present, and the services throughout imposing. Interment took place in Greenwood cemetery and amid a profusion of beautiful flowers the white casket was lowered into the grave.

The deceased's biography comprises about eighteen years. Ward Kennedy was the youngest son of Mr. and Mrs. L. M. Kennedy, and was born in this county November 16, 1887. He was a bright young man; ambitious to make a good record and saw what he supposed the avenue for his success in the American navy. He enlisted and was assigned to the training ship Pensacola, at San Francisco. Later he was transferred to the Independent and on the 18th of July was transferred to the gunboat Bennington. Ward Kennedy received three promotions in the six months' service and it is said that he proved an unusually adept seaman, performing such feats as only attempted by older mariners.

At the time of the explosion aboard the Bennington, Kennedy was on the middle deck doing special first-class duty. The escaping hot steam filled this apartment and every sailor made for the upper deck. In his efforts to assist another to the upper deck, Ward doubtless was overcome himself. Together with others he was taken to the Agnew sanitarium. When told of his serious condition by a physician, Ward at once dictated a letter to Miss Elenore Thompson, his nurse, which was forwarded to his mother.

Arthur Kennedy speaks in the highest terms of the kindness and generous assistance given the unfortunates and those dear to them by the citizens of San Diego.

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