

**L. E. LACKEY IS BOUND OVER TO DISTRICT COURT**

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tent to kill, given candy containing strychnine to his seven-year-old daughter, Pauline.

The state was represented by County Attorney Lee Basye and Eugene Burton, who called to the stand Dr. Einar V. Blak. Dr. Blak testified that he was the Lackey family physician. He had been called by a teacher at the Central school about 9:20 on the morning of December 11, and had arrived at the school house some five minutes later. He found Pauline Lackey in a state of relaxation upon his arrival, but a few minutes afterward she had a mild convulsion. He phoned for his car, wrapped the little girl up and took her to her home. There were repeated attacks of convulsions at intervals of from two to five minutes until she died.

The symptoms, Dr. Blak pronounced to be those of strychnine poisoning. He gave as a characteristic symptom the concentration of the muscles along the spinal column, which resulted in the head being thrown back and the back curved. Between convulsions, the child was able to talk, but the least little excitement or noise would bring about another convulsion. He stated that the effects of strychnine poisoning would be noticeable in from ten to forty-five minutes, depending on whether the stomach was empty or full.

The child's grandmother, Mrs. Mary Lackey, was at home when the child was brought there, and the father was called almost immediately afterward. He was present at the death, and broken down. The doctor said that Lawrence Lackey had made no inquiry as to what caused the child's death.

An autopsy was held at the Darling undertaking establishment on December 12, Doctors Blak, Baskin and Hand and an attendant of the establishment being present. A routine examination was made, Dr. Blak stated, and the organs were found to be normal. There was a congestion of the blood vessels of the brain, usually found in cases of death by convulsion. No examination was made of the stomach at the autopsy, but it was tied up at both ends and later packed in ice and sent by Dr. Blak to Governor McKelvie.

Cross-examination by the attorneys for the defense, William Mitchell and H. E. Gantz, brought out the fact that the embalming of the child's body would not prevent the discovery of strychnine poisoning had this been the cause of death. Dr. Blak stated that one-sixth of a grain of the poison was sufficient to cause death in a child that age, and that a larger quantity might hasten death. The doctor said he had administered an emetic and had later given a hypodermic injection to opium to quiet the patient's nerves and reduce the convulsions. He had not used a stomach pump and doubted whether, under the conditions, it could have been used. He had, he said, suspected strychnine poisoning from the symptoms, and had communicated his suspicions to Dr. Hand, city physician, and later to County Attorney Basye.

After the first witness had been examined, recess was taken for an hour and a half. At 1:30 p. m. court again convened.

Mrs. Mary Lackey, mother of the defendant and grandmother of the dead child, was then called to the stand. She testified that her son and four of his children, two boys, Lawrence and Charles, and two daughters, Wilma and Pauline, were living with her. On the morning of December 11, all of the children had eaten a breakfast composed of pancakes, bread and coffee. At 8:15 she had sent the two girls to school. Their father accompanied them. Pauline was apparently in good health when she started for school.

There was strychnine in the house. It had been in her possession for several years, having been purchased

by her last husband, while living on the farm, to kill ground squirrels. He had purchased two bottles, and had used but one. The other she wrapped in paper, and placed in a trunk. When she removed to the city it was still there and remained there until about five weeks ago when he youngest son, who is a carpenter, brought it down to her. He was leaving for Wyoming and in getting his tools from the trunk discovered it. She had placed it, still wrapped, in a glass and set it on top of the sideboard, out of reach of the children. Later, after the child's death, on the advice of a neighbor, she had burned the bottle, but had not looked to see whether it had been unwrapped and the seal broken.

In the cross-examination, Attorney Mitchell sought to show that she was on unfriendly terms with her son. She admitted that she had employed a lawyer to defend her in the case, and later qualified that statement by saying that her son, Frank, had retained the attorney. She did not know why he had done so. She denied that she was unfriendly to the defendant, declared that he liked her and that she had no reason to believe that he had other than the best of feeling toward her. When asked whether she had felt any grief at the death of the little girl, she said:

"It worried me a great deal more than it did the father."

The father had brought home candy the night before. He had left the sack in his pocket, and had handed around a piece to each child and to herself. The rest of the candy remained in his pocket all night, his coat hanging in the pantry downstairs. He slept upstairs. He got up before she did, but the coat had not been moved and she had not noticed that the strychnine on the sideboard had been touched.

Dr. George J. Hand, city physician, said that Dr. Blak had reported the death to him and had declared that, under the circumstances, an investigation should be made. He was suspicious of strychnine poisoning, and Dr. Hand recommended that an analysis should be made. The witness stated that he had been present at the autopsy, and that the organs of the body, with the exception of the stomach, which was not examined, were normal. He gave it as his opinion that the result of a post-mortem alien would not show conclusively that death had been caused by strychnine, but that a chemical analysis of the stomach contents would be required. Dr. Hand also gave the characteristic symptoms of strychnine poisoning.

Dr. F. J. Peterson testified that he had examined some samples of candy left at his office by Earl Mallery, and that he had found them to be free from poison of any kind.

Hal Gribble, meat cutter in the Mallery grocery, was called. He stated that on the afternoon of December 10, the day previous to Pauline Lackey's death, the father had come into the store and he had waited upon him. Lackey had purchased 25 cents worth of chocolates, and had particularly asked for chocolates with soft centers, and had repeated his request when Gribble gave him some other varieties. Three kinds of candy were in the assortment. On December 12, Lackey came into the store again and asked for Gribble. Lackey told him that he wanted some of the same kind of candy and suggested that he "be pretty quick about it." Then he said that he believed the candy had "killed his little girl," and declared that County Attorney Basye had told him to get some of it for examination. He had spoken of the matter to Earl Mallery as soon as the latter came in and had made up a selection from the same pails as the candy sold to Lackey had been taken from. He said there had been no complaints from other purchasers of the candy; that he himself had eaten of candy from the same containers without ill effect; and that they had continued to sell from the same containers. On cross-examination he said that the candy was kept in open pails back of one of the counters; that it was

on a shelf well off the floor; and that no poison of any kind was used around the store. The candy was not the highest grade of candy made, but it was the best quality of bulk goods.

Earl Mallery testified that he had taken the samples of candy selected by Mr. Gribble to the office of Doctors Slagle and Peterson, where he had left it with Mr. Slagle for Dr. Peterson to examine. Dr. Peterson had done so and reported to him that it was free from poison.

The most sensational testimony of the afternoon was furnished by Frank Lackey, brother of the accused. Frank said openly that he believed his brother had committed the murder and said that he had charged him with it. Attorney Mitchell was severe in his denunciation of the witness, and the court ordered one question withdrawn, in which Frank was asked to furnish reasons for believing his brother guilty or "forever brand himself as a modern Cain."

Frank Lackey testified that the baby daughter of the defendant lived at his home. He had been called the morning that Pauline died, and had seen and talked with the father several times during the day. In the evening he told Lawrence that from his actions, he believed that the father was guilty.

"Lawrence got red in the face and didn't say a thing," the brother said.

Frank told of his efforts to get the father's permission for a post mortem and said that this was not obtained until after the minister who preached the funeral sermon had recommended it. He did not want the little girl's body mutilated.

The testimony developed that after the death of the girl, her father had stayed at the brother's house, as had also the accused man's wife. Frank

admitted that he didn't like her, but that there had been a sort of reconciliation after the death of Pauline. There were two things that caused them to fall out again—one was, Frank said, that she wouldn't help his wife around the house. The other was that she tried to connect his mother, the girl's grandmother, with the crime.

He admitted that he did not know whether Lawrence had anything to do with his wife's attempt to connect Mrs. Mary Lackey with the death of the girl, but said that he had blamed him for it. He had taken an active part in seeing that his brother stood trial, but "no more than the law allowed."

Frank told of Lawrence calling at his home the night before the murder. He had given one of the children a piece of candy, which the little one said tasted bitter and put in the stove. The child was sick all night, Frank testified, although no physician was called.

The next witness to be called was Mrs. Nettie Lackey, wife of Frank Lackey. She also told of the defendant giving one of her children candy the evening of December 10, but phrased the story differently. She said that the child said the candy was nasty, and that she told her to take it out of her mouth. The child was restless all night, and didn't sleep well.

She was not convinced that Lawrence Lackey was guilty, but thought he might have showed more grief at the death of Pauline.

Dr. C. E. Slagle was the last witness examined Monday. He stated that Earl Mallery had brought to the office and delivered to him samples of candy with the request that Dr. Peterson analyze them.

At the conclusion of Dr. Slagle's testimony, the court took a recess until 9 a. m. Tuesday.

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