ME XV.

O'NEILL, HOLT COUNTY, NEBRASKA. JUNE 27, 1895.

NUMBER 51.

rest Told As They Are

HOW IT HAPPENED

ngs Portrayed For General ion and Amusement.

of fire works at Bentley's. ever before. to see the baloon ascen-

's on the Fourth. Carlon has returned from relatives in Illinois.

rs. Elmer Williams enternsington club last evening. and daughter Helen left for Chicago, where they

Gordon and Wallace John-Ray, were married last

Mrs. Thomas Tierney are

out six miles north of this urdwy, a daughter.

ent a couple of days last for trout in the Big Sandy. Yarman has just returned

lack Bird valley where she siting relatives for the past General Barry and Major

he regular army, were in the day night and inspected the bers ball team played the

on the home grounds last The score was 46 to 6 in

ill ball team will play a at the ball grounds Saturday The Henry brothers will be for the picked nine.

stolen, one two-year-old and red, branded Y H on red yearling heifer. KE MULLEN, O'Neill, Neb.

ho is employed as butcher artell, fell and dislocated his er Monday evening. Dr. callad and set the shoulder.

rge Riggs and children, of left this morning for Ranre they will visit a few days ad Mrs. J. H. Riggs.

Evans celebrated the passenth mile stone last Monday picnic in the grove south of About seventy-five of her nds assisted in celebrating the

es of the Presbyterian church lawn social at Mrs. Lowrie's ening July 2. Refreshments wed and a general good time . Every person has a special

-I have one dark roan pony ded J. L. on left hip and ne yearling pony colt, gray, e. Owner can have same property and paying charges. J. B. BERRY, Paddock.

Ryan returned last week from Chicago and other Illinois He says Nebraska is far ahead art of the country this year. had but an inch and a half ice January.

attie Crumpacker finished a ths' school at Minneola last which time a sociable was the scuool-house, which was by pupils and patrons. Miss er is much esteemed in the district as a teacher.

orning to procure a coffin for of Mrs. Hunt, mother of nt, of that place. She died by morning of consumption, fears. The funeral will occur and the remains interred in ert_cemetery.

will be the regular service in byterian church next Sabbath, rning and evening. Sabbath 12 o'clock. Prayer meeting esday evening of each week. or the morning sermon will be ife;" text St. John 5:40. "And not come to me that ye might Christian Endeavor at 7 The public is welcome to these

R. E. LEE HAVES, Pastor.

THE CONVENT CASE.

The convent case, which has been in the supreme court the past four years, has been decided. This was a case brought by St. Patrick's church against the contractors' bondsmen, after the building burned and the contractors refused to make good the loss. The case was tried in the district court and the church got a judgment against the bondsmen for about \$13,000. It was taken to the supreme court on error and the decisiou reversed, and remanded for a new trial. The following is the de-

Gallagher et al. against St. Patrick's church, O'Neill. Error from Holt county. Reversed and remanded. Opinion by Commissioner Ragan.

Meals and McVes, contractors, entered into a writing with St. Patrick's church, in and by which they agreed to furnish labor and material and construct for said church a certain building. The contract provided: (a) That the building should be completed by the 31st of December, 1890; (b) that if the building should not be completed by that time the contractors should forfeit to the church the sum of \$10 for each day that the building remained unfinished thereafter: (c) that if the contractors should neglect or refuse to comply "with any of the articles of this agreement" that the church might take possession of the premises, after giving three days notice in writing, complete the building and charge the costs thereof to the contractors; (d) that the architect should make estimates on the last days of August, September, October and Nowmber of the value of the material and labor furnished by the contractors and of the articles of this agreement" that the contractors, and the contractors, and the church at said dates should pay to the contractors three-fourths of the amount of said estimates; (e) that the church should protect by insurance to cover its interest in the property when payments had been made to the con-tractors. To secure the performance of their agreements the contractors executed a bond to the church, signed by themselves as principals, and a number of parties as sureties. The building was not completed by the 31st of December, 1890, and the contractors were proceeding with its construction on the 18th of February, 1891, when it was totally destroyed by fire. Prior to the 31st of December, 1890, the church had paid December, 1890, the church had paid to the contractors for labor and material, the sum of \$12,440; prior to the day of destruction of the building the church had paid to the contractors \$14,489.59. The church took out insurance on the formed. property in the sum of \$10,000, and no more. The church sued the contractors and the sureties on their bond to recover the money paid to the contractors under the contract. Held. (1) That the fail-ure of the church to keep the building insured to the extent of its interest therein was a complete defense for the

ors; (2) the object of the provision in the contract requiring the church to insure its interest in the property was to lessen the risks taken by the sureties: (5) that the sureties were under no obligations to make inquiries from time to time to ascertain if the church had complied with its contract to insure its ino had been visiting relatives left this move that the church would come by the church would come in that respect, and that if the building should be destroyed before its accept ance by the church, and they were called upon to and did make good the loss that they would be entitled by abrogation or otherwise to the benefit of the insurance effected on the property by the church; (5) that the question as to whether the destruction of the building was the result of the negligence of the contractors was an immaterial issue; (6) that the weather and all, must have been the church could not excuse its failure to comply with its part of the contract on the ground that its performance

> pals would defeat a recovery of the insurance if it had been effected; (7) that its duty was to insure the property, and when the loss sued for occurred and was paid by the sureties, to transfer to them the insurance contracts, and leave the sureties and the insurance companies to litigate the question of the latters' lia bility: (8) that the fact that the church was unable to procure responsible insurance companies to write insurance on the building to the extent of its interest therein did not relieve it from the performance of its agreement to insure the property to the extent of its interest; (9) hat it is evident from the contract that it was within the contemplation of the parties thereto at the time it was made that the building might not be completed at the very day fixed by the terms of the

would have been of no value to the

sureties because the loss of the building

through the negligence of their princi-

contract, and that ff it were not the church had the option to permit the contractors to finish the work and to recover from them whatever damages the church might sustain by reason the building not being completed in time, or the church might at its option frownlee, of Page, was in the exclude the contractors from any further connection with the work and complete it itself; (10) that the church by per-mitting the contractors without protest

or objection to continue the work after the date when the building was to be completed recognized the contract as in full force, and as long as it was in force the church was under obligation to perform its part of it; (11) that by such it waived, as it had a right to do, the completion of the building on the day named in the contract, and reserved the right to recover damages from the con-

tractors for the delay

CAMP FIRE AND PICNIC.

The G. A. R. boys of Leonia will have a camp fire and picnic at Mc-Clellan's grove on July 4. There will be speaking, by the best talent they can procure, singing, and a general good time. Come everybody.

BY ORDER OF COMMITTEE.

The Long Drawn Out Trial Nearly Completed.

SIDES HAVE RESTED

The State Has Made a Good Case But a Conviction Not Anticipated.

BUTTE, NEB., June 19.-[Special.]-Miss McWhorter, who was the first not diverge from the story told by her of the day was the examination of the termine. man, Palmer, of Dorsey. He stated witness, and upon close observation the witness said that Mullihan's eyes were too light to answer the description of the man he saw near Parker on the day to light to answer the man he saw near Parker on the day to light to answer the description of the man he saw near Parker on the day to light to answer the description of the man he saw near Parker on the day to light to answer the description of the man he saw near Parker on the day to light to answer the description of the man he saw near Parker on the day to light to answer the description of the man he saw near Parker on the day to light to answer the description of the man he saw near Parker on the day to light to answer the description of the man he saw near Parker on the day to light to answer the description of the man he saw near Parker on the day to light to answer the description of the man he saw near Parker on the day to light to answer the description of the man he saw near Parker on the day to light to answer the description of the man he saw near Parker on the day to light to answer the description of the man he saw near Parker on the day to light to answer the description of the man he saw near Parker on the day to light to answer the description of the man he saw near Parker on the day to light to answer the description of the man he saw near Parker on the day to light to answer the description of the same than to light to answer the description of the same than the man he saw near Parker on the day to light to answer the description of the same than the man he saw near Parker on the day to light to answer the description of the same than the man he saw near Parker on the day to light to answer the description of the same than the man he saw near Parker on the day to light to answer the description of the same than the man he saw near Parker on the same than the man he saw near the same than the man he saw the man he saw near Parker on the day the assault was made. It will be remembered that the man at the preliminary identified Mullihan as the man seen, and in private conversation said he would know him in hell. The reflection cast upon ex-Sheriff McEvony is nothing if not ridiculous. It is well known that he was in O'Neill that day han and met Mullihan coming from leaving his pace with the man at the preliminary identified Mullihan coming from leaving his place went south toward the school house.

Peter Kelley, the next witness called, stated that August Oberly was at his place about noon on the 31st, gathering up property belonging to the township. Oberly in leaving his place went south toward the school house.

T. A. Butterfield of Knox county was called. He was acquainted with Mullihan coming from leaving his place went south toward the school house.

T. A. Butterfield of Knox county was called. He was acquainted with Mullihan coming from leaving his place went south toward the school house.

T. A. Butterfield of Knox county was called. He was acquainted with Mullihan coming from leaving his place went south toward the school house.

T. A. Butterfield of Knox county was called. He was acquainted with Mullihan coming from leaving his place went south toward the school house.

T. A. Butterfield of Knox county was called. He was acquainted with Mullihan coming from leaving his place went south to ward the school house.

T. A. Butterfield of Knox county was called. He was acquainted with Mullihan coming from leaving his place went south to was considered a man of good reputation. Polk had expressly said his metter and Polk had expressly said he was going to do all he could against Harris in the trial. Polk had expressly said of all he could against Harris in the trial. Polk had expressly said of all he could against Harris in the trial. Polk had expressly said of all he could against Harris in the trial. Polk had expressly said of all he could against Harris in the trial. Polk had expressly said of all he could cold when a searching party was

The evidence of Schmidt taken at the the following week. preliminary, was read to the jury. He who drove the cart when he was separated from Scott.

BUTTE, NEB., June 20 .- [Special.]-In the trial today the matter of venue was settled beyond a doubt in regard to the murder of Scott and as to whether it was done in Boyd or Holt county, by the testimony of John Harvey, who for seventeen years has lived in Holt county near the Whiting bridge. The identification of the tracks that went over the bridge and then returned to Holt county, was a conveyance that contained Scott or stars were visible. Scott was not strangulated and not hanged as people are supposed to be who are strung up by a mob. The testimony of Harvey is corroborated by the medical testimony of Dr. Salter, of Norfolk, and Dr. McDonald of Atkinson; both of them swore that the murder under the circumstances shown to exist. committed within a few minutes of the time that the body was put into the river, and under no circumstances, to exceed two hours prior.

The first witness put upon the stand was little Fannie Scott, aged 8 years. She is an exceptionally bright little girl and remembers the incidents well. She stated that during the assault at Parker her father had her ask one of the men if he had a little gurl, which she did, but the man made her no answer. She says she has seen this man since the day at Parker. It was at her father's house at O'Neill, and she identified him by his eyes and a certain way he stood, which she noticed both times.

The evidence of J. P. Gilligan and that of J. L. Biddle, as given at the preliminary, was read to the jury.

Peter Kelley said that he lived about two miles from the Postlewaite house. He heard a team pass his house about 7 P. M. of December 31. It was a wagon he thought, and was being driven quite rapidly. About noon on December 30 he saw Mullihan pass his house on horse back, going in the direction of Elliott's. The examination of Chas. Hall and

Theodore Crawford followed. John Harvey again testified as to the wagon tracks at the bridge and the opening in north side of channel.

Simon Simonson testified as to the overshoes worn during the winter by Harris. Mr. Petterson also testified to the overshoes; said that he loaned a shotgun to Harris a week before the assault. Gun was number 10. The shells found at the scene of the crime were 31 near Elliott's home. number 10. Sheriff Hamilton was called for the purpose of identifying a shell found at the Postlewaite house. Dell Akin identified the quilt found in the river, after which the state rested.

BUTTE, NEB., June 21 .- [Special.] When court commenced today, the de-

fendants' counsel moved the court to inguilty without requiring any evidence from the defendants, for the reason that no evidence tending to show the commission of the crime of murder in Boyd county; no evidence tending to sustain a conviction and no evidence that Barret Scott was strangled in Boyd county, was offered by the state.

This was argued at length by Harrington and Golden and numerous cases cited. Attorney Gurley and Churchill argued that it was not a material allegawhich was that the question of venue at the preliminary. The main feature was a matter of fact for the jury to de-

August Oberly being the first witness way to O'Neill about 2 o'clock on the dants, stated that he was 60 years of neighbors. afternoon of the fatal day. He noticed age, a resident of Holt county, was at a team coming behind him, which he home on the morning of December 31. about two miles away. He met a man to Mr. Postlewaite's then to Kelley's tell the truth. about eighty rods on the other side of who was township supervisor, his busi-Parker, who was going northeast, wore ness being to get the township property a fur overcoat, blue overalls, dark cap, together, he being elected supervisor. pants outside of his boots, walked very He got one statement and two other straight, had very dark eyes. His first books at Kelley's. It was about noon impression on seeing Mullihan shortly and he went to the school house to get | ified that Harris was considered in his after at C'Neill was that he was the the voting booths and then southeast to neighborhood to be a peaceable and law same man he had met near Parker, but Tom Lear's place. He left Lear's house since that time he has seen another man about 3:30 and went south. He saw who answers the description better. Moses Elliott and Mert Roy coming former witness named Polk, which they This man he claims is H. McEvony, who from the west, driving one sorrel and is ex-sheriff of Holt county. At this one bay horse to a top-buggy They They could not recall any particular time Mullihan was brought before the turned and went north towards home at time when said Polk's reputation had Polk.

and among the first to brave the intense Creighton on December 31, and made an agreement with him to trade a pony for a colt, the trade to be consummated

Joseph Shattmeyer went to the Bopositively identified Elliot as the man hemia mills, Knox county, on December 31, and left the mills about 3 o'clock in the afternoon, arriving home about 7

Ben Postlewaite was called and idenhouse several months prior to the capture. Oberly was at the house on the 31. He saw him again at the school house at the Women's Christian Tem-

been hunting horses that day and was acquainted with Elliott whose reputation was good. The night was dark.

Judge McCutcheon of Holt county, identified Harris' overshoes as the ones shown to Miss McWhorter at the preliminary hearing, which she claimed

were not the same as worn at Parker. He said Schmidt was acquainted with Elliott and had seen them conversing clean clothes and remained over night. together. He heard Schmidt mention Elliott's name during the conversation. The witness identified the silver ring on Elliott's finger as the one worn at the time the conversation took place between Schmidt and Elliott. He has seen Elliott wearing this ring for the last four years. He never saw Elliott wear a gold ring. The judge swore that Miss Mc Whorter testified at the preliminary hearing that her finger nails would not fit on the scars on the back of Mullihan's hand. Tom Lear, who lived at the time of the assault, about half a mile from Elliott's stated that Elliott was at his house on December 30, and had a new double and single tree on his buggy which was painted black. Elliott and Roy accompanied by another man passed his house about 11 o'clock on the morning of the 31st. They were in a buggy drawn by one sorrel and one bay.

BUTTE, NEB., June 22 .- [Special.] Elliott was placed on the stand this morning. In giving an account of his whereabouts that day said that Roy, Mullihan and himself were together; went out looking for a horse and found it. Did not remember that Roy's buggy was peculiar in any respect. Particularly in the respects noticed by Mrs. Scott. He was not at Parker that day nor did he wear a mask December 31. Never owned a gold ring.

Oberly was re-called and testified that he saw Elliott about 4 o'clock December

Sargeant was recalled and said that Biddle has a white horse, also a double box wagon, and these may have been the ones used at Parker. Mr. and Mrs. McGowen were both

called to identify the silver ring on El-On December 31, at 6 o'clock, Reuben | John Bushard, who was mail driver at | 0.07 | On December 31, at 6 o'clock, Reuben | that time, boarded with Multihan. Said rive

Newton getting on the wrong road, was that Mullihan arrived home that night struct the jury to return a verdict of not led to Elliott's house, saw him and conversed with him for a few minutes.

This closed the evidence used to prove an alibi for Elliott.

Mr. Carns met Harris on Blackbird creek December 31, about 12:30. He was riding a gray horse and looking for a gray mare. This was ten miles distant from Parker. Witness said at 8 o'clock it was quite dark, no moon being visible

Dan Cronin was acquainted with Harris and said that his reputation in that separate them his hands were jammed tion. The court passed upon it in a country is good. He saw Harris pass witness on the stand this morning, did very lengthy opinion, the substance of his house twice on the 31, once about 2 o'clock going west and again at 4 coming from the north. When asked as to the veracity of Polk, a former witness for the state, he stated that it had that he passed through Parker on his called to testify in behalf of the defen- always been considered good by his

Andrew Smith said he had heard Brennan, Flanner, Cohen, and other supposed was Scott's team. It was He left home about eleven o'clock, went neighbors of Polk say that he could not

Mr. Nat McGrew also saw Harris pass Cronin's place on December 31 about 2 o'clock

Hon. H. R. Henry, Arch Henry, and James Stanton were called and testabiding citizen. They were also asked about the reputation for veracity of a about the reputation for veracity of a former witness named Polk, which they said was generally considered not good.

They could not recall any particular Adolph Peterson said he knew noth-

testified as to the meeting and conversation. He said Polk's reputation for truthfulness is bad. He had known Harris for a long time and he has a good reputation among all his neighbors.

Miss Ada Linsworth testified as to the conversation between herself, Harris and Simonson, wherein she joked Haro'clock in the evening. It was very ris about the kind of a mask to wear when he next assaulted Scott. She stated others of their family were prestified the shell found by Hershiser as ent and took part in a joking way. the one found by him and left at the This occurred after the preliminary hearing.

Harry Stanton, who was also arrested in this case but recently dismissed, appeared on the stand. It seems he and perance union meeting that evening. Harris were batching it alone in Decemthat he did not reach O'Neill until after 2 o'clock. day Sunday, December 30, James A. Barnes testified that he had to bunt a horse that had strayed. Shortly after Stanton left, going to Mc-Allister's. On Monday they left about 8 o'clock, together, went two miles and separated. They both returned by 11 o'clock, got dinner and were away during the afternoon, returning about dusk. Stanton brought home with him a berd of horses that he found near Young's. That evening he went home, got some Stanton states firmly that he was not at Parker on December 31, did not assist in the capture nor see Scott or family.

Mert Roy, one of those arrested for the crime, but since dismissed, was called, and told in substance, the same story as Elliott had related about their going with Mullihan to find one of Elliott's horses for the purpose of trading. They started about 12:30 and returned about 5 on the day of December 31. They rode in his buggy with a sorrel and bay team. He described the whiffletrees of his buggy and said he painted them on Thursday. In answer to the questions propounded about the assault and crime, he said he was not in Parker and did not assist in the tragedy.

BUTTE, NEB., June 24.—[Special.]— Miss Etta McAllister was the first witness this morning. She said Mr. Polk's reputation was not the best.

Frank Eppenbough, who lives about four miles from Parker, said that Harry Stanton was at his house about 9 o'clock December 31, and also there about 7 in the evening.
Steve McGinnis testified as to to the

good character of Harris.

Harris was placed upon the stand in his own defense. He was look-Harris was ng for horses all day December 31. He left home in the morning at eight and returned at 11; had dinner and then was out on the same mission until dark. While on his trip he saw Barney Kearns, John Carton, Dan Cronin and John Donahoe. Was not at Parker nor at the capture or killing.

H. M. Bradstreet testified as to the good reputation of Mullihan. han's ramily was visiting at his home that day. Saw Mullihan going north past his farm about 3:30; he was on

Jim Gregg said that Mullihan was s good, honest citizen.

Hon. John A. Robertson was acquainted with all the defendants and he considered them gentlemen and scholars. John Bayha has known Mullihan for years and thinks he is all right. him riding toward home about 4 o'clock.

Went to bed at 9 and about 7 o'clock. not leave the house again that night.

Charlie O'Neill testified that after hearing of the tragedy he went to Scott's house, where Mrs. Scott said she could not say who the parties were that attacked them.

Mullihan said that he never had any Mullihan said that he never had any trouble with Scott, nor did he receive any Holt county money. On the day of the tragedy he was out looking for a grey colt. He accounted for the scratches upon his hands by testifying that his horse and another got into a fight at Elliott's and in attempting to account the scratches. up against the partition and scratched. He denied that Miss McWhorter was responsible for those injuries. He was with Ediott and Roy all that day until he left for home about 4 o'clock.

BUTTE, NEB., June 25.—[Special.]— Hiram Hodgkin was a witness in re-buttal for the state. Would not say that the reputation of Polk was bad; had never heard it discussed. Nat Bradstreet was not acquainted

with Polk's reputation.

Charles Hall and John Weekes testified that Polk's reputation was as good as the average. Both talked with Harris the average. Both talked with Harris at his home January 1. He said he was hunting horses December 31. Saw Stanton at the same time; he said that he was at Harris' December 31. Wit-nesses also saw Mrs. Elliott. She said that Pinkerman was not at her house that day. These witnesses were not cross-examined, the defense claiming that they were "trumped up for the occasion.

ing against the reputation of witness

the conversation held while her brother-in-law. Mr. Sargent was at her house a few days after the funeral of her husband. W. E. McRobert is acquainted with

Polk and considers him a very fair man. He was a member of the Holt county Cattle company and one of Scott's bonds-

Henry Schmidt, a farmer of Holt county, lives three miles from Polk's.

His reputation is good.

Dell Akin was recalled, and stated that Mullihan, after his arrest, and while in his charge, told him he was hunting horses on December 31 and burt his hand in the bushes.

James Trigg was recalled: he said that he saw Barney Kearns in a saloon in O'Neill between 12 and 1 o'clock. Kearns swore that he saw Harris on the 31st, while on his way to O'Neill and

Sam Nelson identified the constituti and bylaws exhibited to be in his handwriting and not the handwriting of Miss Harrington as claimed by the state.

BUTTE, NEB., June 26. —[Special.]—The evidence in the Scott case is all in, nothing new or startling being devel-oped at the close. The arguments commenced this morning and it is thought the case will go to the jury tonight or in the morning.

SCHOOL MEETING.

The annual school meeting was held in the school-house Monday afternoon and was quite largely attended. There was considerable censure of the old board for employing teachers for the ensuing year, which partly accounted

for the large attendance.

The candidates placed in nomination were: Doyle, McGreevy, Horriskey, Woodruff and Stannard. Doyle, Woodruff and Stannard were elected by large majorities. Doyle being elected for one year, to fill vacancy.

A levy of 10 mills for general purposes and 5 mills for the teachers' fund was made. The debt of the district, is about \$16,000. This includes its bonded indebtedness. which is about \$9,000. The levy made at the last meeting will not be sufficient to run the school for the ensuing year, and when the next annual meeting is held the district will be deeper in debt than it is at the present time.

JULY FOURTH.

The following program has been arranged for the coming 4th of July picnic to be held in Dobbs' Grove.

The procession will leave the court-house at 10 o'clock A. M.: thence to the grove south of the F. E. and M. V. railroad depot, where there will be singing by the Glee Club and the speaker of the day will deliver his address.

Immediatedly after dinner the sports

following:	ust of the
Base ball	\$10.00
Running hop step and jump	1.00
Standing jump	1.00
Running jump	1.00
Three legged race	1.63
Sack race	1.00
Foot race	1.00
Boys' foot race-under 12 years	50
Peny race1st \$22nd	1.00
Boys bicycle race	1.00
East race	1.00
Bowery dance afternoon and even	ing

Refreshments will be served on the ounds all day and evening.
President of the day, Mayor Biglin.
Marshal of the day, Neil Brennan.

Short Line Time Card

Passenger leaves 9:35 A. M., arrives 07 . M.; freight leaves 9:07 P. M., ar-P. M. Daily except Sunday.