

THE BARR MURDER CASE UP IN DISTRICT COURT

(Continued From Page 1.)

he could not hear and Mr. Neuman had told him of Barr having called him a name and stated that he could not take him, as he was the better man of the two. There was considerable argument between the witness and the attorney for the defense over the answer to questions put to Mr. Rainey during the preliminary hearing of the case, and during these questions the court several times ruled against the defense on objections raised by the state. One of these was on the question of Barr being under the influence of liquor, which Mr. Rainey stated he thought he was, while at the preliminary hearing he had stated he was not apparently under the influence of liquor. On the question of the statement as to the peaceful behavior of the defendant considerable variance was found. On the question as to any previous trouble between himself and Barr, the chief stated that he had arrested him some two years ago and that he had fought on being taken to jail. The attorney for the defense opened the way to the discussion of a case in which the chief had occasion to take Mr. Barr into custody some three years ago. The defense then rested their cross-examination of the witness and Mr. Taylor for the state than questioned the witness further as to the position of the two men at the time the shot was fired. He stated also that Barr had exclaimed, "My God, I've shot that man," after the shooting. Chief Rainey showed, with Attorney Gering, the position occupied by Barr and himself at the time of the shooting. He stated the pistol had been held some inches above his knee and that Barr had the gun by the handle, while he held the barrel. He also testified on cross-examination of Barr having fought with him when he was pushed from the wagon by Neuman.

Officer Neuman, on direct examination, testified as to his having been near the Goos hotel on June 24th, and of Chief of Police Rainey coming along and telling him to get in, that he was going after a man. He had been in the wagon when they met Barr near the east end of the subway. Barr was in the livery wagon that was in front of the one in which the two Rainey were driving. Barr was sitting on a box in the back of the wagon, while Bunker and Low were sitting on the seat of the wagon. Their team followed closely behind that of Barr on the way to the river, and as they were going over the bridge east of the ball park Barr had turned around and called Rainey a name and stated that he was a better man than Rainey and that he could not take him. He had told Rainey and Rainey got out and called to Low to stop the wagon, which he did, and Rainey had asked Barr to get out and come back to town, as he was under arrest, and that Barr had kicked Rainey, but just where he did not see. He had gotten up on the wagon wheel and pushed Barr out onto the ground, where he and Ben had tussled, and he had started back up the road with Barr and Rainey with the promise of Barr that he would go all right and not make further trouble. He had started back to the wagon to turn it around, when Bunker, getting out of their wagon, asked him to go with him to the river to get the fish that he had started after, and that the witness had replied that he could not as he would have to secure the permission of the chief. He had about this time heard Rainey call out, "He's got my gun," and started to the place where the two men, Barr and Rainey, were struggling for the weapon. Bunker was then slightly east of Neuman and behind him. He had seen Barr with the handle of the gun in his hand placed near the knee of Rainey. He had seen Bunker lying in the road with his head slightly to the east and south. He had run up after the shooting and told Barr to drop the gun that he had in his hand, and he did so, exclaiming, "My God, I did not do that." Barr had then started off toward the north and had been brought back by Rainey, while the witness had gone back to see how bad Bunker was injured. On the cross-examination he stated that Rainey had told Barr he might go after the fish at the subway if he did not get too fresh. The team of Barr was some four or five yards ahead of the team of the police when they entered the subway. He stated he did not see Barr get out of the wagon until he was pushed out. The two teams had kept pretty close together on the way toward the bridge east of the ball park. The witness stated that Barr had turned around when on the bridge and cursed Rainey and stated that he was a better man and could not be taken. Then he had told the chief, who had stopped and called to the other wagon to halt, and had gone over there and asked Barr to get out

and was refused and Barr kicked and hit him. The witness then related his getting onto the wagon and pushing Barr out, as was developed in the direct testimony. He was turning the wagon in which they had driven to that point around when he heard Ben call as to Barr having the revolver, and started to run to where they were, some 100 feet away, and was within ten or twelve feet when the shot was fired. He did not know that Rainey desired to arrest Barr for fighting, but thought they were after John Richardson. He had gone back to the side of young Bunker after Barr had dropped the gun to learn how bad the man was hurt. He had also picked the gun of Chief Rainey up out of the spring wagon of Barr's when he pushed him out, and after the two men had quit fighting he had returned the gun to him and did not see it until he saw it in the hands of Barr at the time they were struggling for it.

W. E. Standeven of Omaha, who has been engaged in some engineering work for the city at different times, was called to the stand by the state to testify as to the situation of the land on the river bottom in regard to the contention as to the land being located in Nebraska, and pointed out the original lines of the river. The state called Roy Holly, who testified as to Chief Rainey having visited the clothing store of William Holly on the afternoon of June 24th for the purpose of washing his hands, and at that time he had been shown a bruise on the forehead of Rainey, as well as some blood on the side of his face.

Edward Donat was called by the state and detailed the trouble in his saloon, which preceded the shooting affair on the bottoms and of his having sent for Rainey to arrest Floyd Richardson, and the statements he had made at that time to Rainey. He stated that Barr had not been drunk on the afternoon of the shooting as far as he knew.

The defense was opened with the calling of witnesses to the stand to testify as to the status of the land on the river bottom east of the Burlington right-of-way, where the shooting of Bunker occurred.

County Register of Deeds A. J. Snyder was called to identify certain records of his office covering the boundaries of the city and the course of the river at an early day.

John McDaniel testified as to the changing of the course of the river at different times within his recollection and from his experiences as a worker on it at different times. He described the river as running close to the Burlington tracks for a great many years and its gradual changing of its course eastward until its present location had been reached.

Officer Frank Neuman was recalled by the defense and questioned as to a conversation he had held near the jail on the afternoon of the shooting, in which he had stated to James Higley that Barr had shot at him and Rainey and this he denied, as well as having made the statement that Barr had told Rainey that he would go along with him if he did not beat him up.

Albert Low, the young man who was driving the horse and wagon in which Barr was riding on the afternoon of the shooting, was placed on the stand at the session of the court this morning as the last witness for the state. He testified as to the circumstances surrounding the trip to the river bottom. He had been engaged with the horse and did not hear any conversation between the parties. Had heard Barr and Rainey quarreling when the wagon was stopped. On cross-examination by Attorney Gering Low stated that he had not heard Barr swear at Rainey. Barr was sitting on a box at the time. He did not see Rainey grab Barr, but had seen Neuman push him out of the wagon. Had seen Rainey draw gun at time he was at the wagon. The horse he was driving was rather restive and he did not pay much attention to the men. The men, Barr and Rainey, had started north after Barr got out of the wagon. Barr and Rainey were the only two quarreling. He had seen Bunker when he fell after the shot. The witness, in response to the request of Mr. Gering, showed the positions of the two men after the shooting when he turned around, and stated Rainey was slightly north of Barr. Barr was the first to reach the side of Bunker and had lifted him up and then laid him down again. Rainey was also with the wounded man. On re-direct examination young Low stated that it was two or three minutes after the shot was fired before he turned to see where Barr and Rainey were. He stated to cross-examination that after the shooting Neuman had driven up.

J. A. Edgerton was placed on the stand to testify as to his knowledge of the Missouri river, and stated that he had worked around the river some fifteen years, being engaged in running a flat boat carrying sand and wood from a point north of the city,

near where the water works now stand down to the business part of the city, where it was sold. Channel was about 100 feet from where the tracks of the Burlington now run. There was some nineteen feet of water at the landing at the foot of Main street in 1887. It was some 200 feet from the center of tracks to the center of the river at this time. Where the base ball park now stands was east of the then channel of the river. The river is now about a mile east of where it then ran. On cross-examination Mr. Edgerton stated that after the placing of the riprap along the Platte the water receded rapidly, but there were small channels on this side of the bank of the river, which was much broader than formerly.

Dr. J. S. Livingston, called for the defense, stated that Chief Rainey had asked him to examine his face on the afternoon of June 24th, and he found no abrasion there. He had just glanced at the place where the injury had been supposed to be.

Dr. E. W. Cook testified as to having examined the neck of George Barr at the office of Attorney Gering on June 27th and found a slight swelling on the side of the neck.

Miss May Murphy was called to the stand to identify the transcript of the testimony in the preliminary hearing of the case which was made from shorthand notes taken by her.

J. W. Sage and F. H. Steimker were called to the stand and testified as to the reputation and conduct of the defendant in the city.

John Richardson was sworn and testified that he had lived along the Missouri river all his lifetime, practically, and had been engaged in working along the river fishing and boating. Had resided on the east side of the river in his boyhood. The changes in the channel of the river had been rapid and sudden from 1884 to 1899. He had first saw young Bunker at the ferry about 11 a. m. June 24th. He had not seen Barr before that day. Barr was in company with Bunker. The witness had come up town with his son, Floyd, in the wagon belonging to Floyd, as he had a sore foot at the time and got Floyd to haul him up to the city. They had reached the city ahead of Barr, Bunker and the men with them and had met them near Geiss's saloon, where someone suggested they go in and get a drink, and Bunker had said he would not go in there, but would go anywhere else. They had then crossed over to the Egenberger saloon and remained there a few minutes when Barr and Richardson had gone up street to a pool hall, while Bunker and his companions went to dinner, and the witness came to the saloon of William Hinrichsen, where he dressed his injured foot with some medicine he had procured at the Gering drug store. The witness had then gone over to the saloon of Ed Donat, where he had bought a drink for all in the saloon. This was about 1 o'clock.

Floyd Richardson had come in and offered to try and test his strength with his father by pulling fingers, and this they done. Floyd won, John setting up the drinks. Floyd and Barr had then tried the stunt with the result that Barr won out. Barr had then offered to try the witness, John Richardson, who had refused, but got Ross Collins to take his place, and Barr won. Someone had suggested a game of cards, and as they set down to play Bunker and his companion had come in and asked if they wanted to play a game of pitch, and Barr and John Richardson had set down to play Floyd Richardson and Bunker. In the first game there had been a card picked up on the floor and Barr had said if a person could not sit down and play without cheating they ought not to play. This had occurred in the third game and Barr had repeated the charge, and at this Floyd had jumped up and the witness had then interfered and they were sitting down again when the porter of the saloon came in and grabbed Barr and Floyd Richardson and told them they could not fight in there. Barr had told the man to let go of him and the porter had then grabbed Floyd by the shoulders and told him not to start trouble. The party had then started for the bar of the saloon and were setting up for their drinks and Mr. Donat told the witness to get his son out of the place. John Richardson had paid his money for the drinks and Barr and Donat had a misunderstanding as to the amount due and that Donat had told Barr that all he wanted was for him to get out of the saloon. The witness and his son had then gone out and Barr stopped a short distance behind them. As they went out Chief Rainey entered and asked what was the matter, and he had been told there was nothing wrong. The witness and Floyd Richardson had started with their wagon for the subway and there Floyd had gotten out and came back up street and the witness heard nothing more of the matter until he was told later that Floyd was in jail. On cross-examination John Richardson stated that Floyd and Barr were fishing to-

gether. He did not remember just what was drunk by the party on the day of the shooting. The witness and George Barr had been partners in the fishing business at one time and were good friends since the time the witness had known the defendant. Donat had told them to get out of the saloon. During the time that the witness and Barr were partners they had made a trip up the river as far as Hevman, Neb., where Barr was taken sick and came home. This was on a fishing trip. He stated the face of Rainey appeared flushed as he came into the saloon. The court sustained the objection of the state to a number of the questions put by Gering on re-direct examination.

Floyd Richardson was then placed on the stand and stated that he and Barr were partners in fishing and that they had caught a big fish the day before the shooting and had telephoned to O'Brien at the state fisheries, stating that he could come down in the morning. He and Barr had met young Bunker at the depot and accompanied him to the river, where they had viewed the fish and he had then come back up with his father. Barr's shirt sleeves were rolled up on the day of the shooting. Had gone into Donat's with Barr in the afternoon. The story of the trouble there as detailed by John Richardson on the stand. The porter had told him that they would have to go outside to fight. The porter in the saloon had then grabbed him as they went out. Told of the porter and John Richardson falling on floor. He had come back after going as far as the subway with his father and asked for a drink and had been refused. He had then swore and had some words with the porter. He detailed the story as told at the preliminary hearing of having \$4.12 in his pocket and the attempt of Rainey to count and could only get \$4.02. Barr had been brought over to the jail while he was there. He had examined the shirt of Barr and found it torn and a lump on the left side of his head. Had not heard any conversation between Barr and County Attorney Taylor. He was then turned over to the state for cross-examination and was on the stand when the noon recess was taken.

The case of the State of Nebraska vs. George Barr was brought to a close yesterday afternoon at 4 o'clock when the last witnesses for the defense were heard and the attorneys commenced their arguments before the jury. The opening of the afternoon session was taken up with the finishing of the testimony of Floyd Richardson on cross-examination, and following this the testimony of Miss Irma Colvert was offered as to the appearance of the clothes of Mr. Barr after they had been brought home. W. R. Egenberger and Dr. E. D. Cummins testified as to the good reputation of the defendant.

The principal witness of the defense was the defendant, George Barr, who made a very clear statement of his side of the case and in detailing the events leading up to and including the shooting on the river bottom. He detailed the fact of his coming to the city shortly before noon on the 24th of June in company with Manley Bunker, and of having met the two Richardsons on Main street and going to the Egenberger saloon and then to the pool hall, where he and Floyd Richardson had remained a few minutes and had then gone to the Hinrichsen saloon in search of John Richardson. They had then gone to the saloon of Ed Donat, where John Richardson was, and while there Richardson had suggested a game of cards, as he was lame and wanted to sit down. They had then started to play pinochle when Bunker and his two companions had come in, and they were invited to take part. Bunker said he would play pitch, but could not play pinochle. They had then started in to play and Bunker and Floyd Richardson had won the first game and they had continued to play and he had noticed a card lying on the floor near Richardson and had said that he did not think that a man playing for a glass of beer should cheat. This was repeated in the third game, when he had repeated his remark and Floyd Richardson had jumped up and the witness had thrown up his arm, as he thought Richardson was about to strike him. John Richardson had stopped the trouble and they were sitting down when the porter in the saloon came up and grabbed them, telling them that they could not fight in there. He had told the porter to let loose of him, which he done. They then went over to settle for the drinks which were out, as well as several cigars. He stated he had not struck a single person in the saloon. He was standing outside of the saloon when Ben Rainey came out and asked where John Richardson was, and he told him that he had gone down to the river. It was then 2:05 p. m. He had then started toward the river to meet the livery team that was to take them

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down to go after the fish. They had then gone to Egenberger's store to try and purchase some ice and Mr. Egenberger told them to go to Baylor's office, as he did not care to open his ice house for such a small amount of ice as they wanted to pack the fish in. They had then driven to the office of Mr. Baylor, who was absent, and then started for the river. They had met Bunker near the office of C. W. Baylor and he had gotten into the wagon that was driven by Albert Low. In reply to questions he stated that there was no swelling on his neck or bruises at this time. He had seen Rainey as they drove through the subway and he had asked, some forty feet east of the subway, as to where John Richardson was, and the witness had told him that he had gone to the river. The chief of police stated he wanted Richardson and the witness, too. He had told him you can get all of us, but he wanted to go after the fish, as it was nearly train time, and Rainey had told him to go ahead, but not to be too smart about it. There had been nothing further said, the witness stated, as they drove along until after passing the small bridge east of the ball grounds he had remarked to Bunker that the old skate could travel as fast as their livery team, meaning the horse driven by Rainey. He denied having called Rainey a name and knew nothing more of it until Rainey asked him what he said and he replied that he said the old horse could travel as fast as their livery team. A few minutes after that Rainey had called to Low to stop his team and then got out and came over to the wagon where the witness was sitting. There had been nothing said before as to Barr being under arrest. He had asked Rainey if he was not going to let him go after the fish, and the chief replied that he was not and grabbed him by the legs and started to pull him out. Neuman had then gotten in the wagon and pushed him out. As he went out he fell on Rainey and was pushed by the chief between the two wheels of the wagon, and Rainey had then gotten on him and struck him several times. He had not noticed Rainey pull the gun at this time. They had started up the road north, Rainey having a hold of the bib of the overalls of the witness, as well as the collar of his shirt. Neuman had started with them, but he had not paid any attention to them. He had told Rainey it was a h—l of a way to do to beat a man up after telling him he could go after the fish. When, after going a short distance, Rainey had told him he would knock his head off and had struck him on the side of the head with his revolver, which was held by the handle, and at the second time the witness had grabbed the revolver and he and the chief struggled for it, holding it about even with the shoulders, and the witness had a hold of the muzzle while Rainey held the handle. It was discharged while in this position and he had heard young Bunker cry out and had run to his side. The wounded man had tried to raise himself to his hands, but had fallen back into the road. The witness had raised his head to prevent the blood flowing out

of his mouth. In reply to the questions of his attorney, Mr. Barr stated some trouble he had some four years ago with his sister, in which he stated he had slapped her for calling his wife names. He also stated he had been arrested by Joe Fitzgerald some years ago, but that the charge had been withdrawn by the officer. He had no difficulty with Ben Rainey. On cross-examination Mr. Barr was questioned by Attorney Taylor for the state as to several times he had been placed under arrest. He stated he had never resisted arrest. In detailing his actions on the day of the shooting, Barr stated he came up town about 11 o'clock and had stopped at the Goos saloon with Bunker and his companions and they had a beer there, also two later at Egenberger's. His story on cross-examination as to the happenings of the trip to the river bottom were about as on direct examination. He stated Rainey had said something about going back to town when they were struggling after he was pushed out of the wagon. He had been hit several times by Rainey. The gun was held about even with the shoulders of the witness at the time it was discharged. He had gone over the details of the case with his attorney. The state elected to send the case to the jury on the first count, that of murder.

The state opened their argument to the jury at 4 o'clock, when County Attorney Cole presented his statement, which covered about half an hour, in which he gave to the jury his side of the case.

Attorney Gering, for the defense, conducted a scathing arraignment of the police and a plea for the acquittal of his client that occupied an hour and a half.

The case of the state was closed by Attorney Taylor in a short argument for the finding for the state, which brought the case to a close. The instructions were then read to the jury and shortly after 8 o'clock the twelve arbiters of the case retired to deliberate on the evidence and arguments offered them, and occupied some three hours, returning about 11 o'clock with a verdict of not guilty, and giving the defendant his freedom from the charge preferred against him.

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"THE WONDERING BOY" AND "PRODIGAL SON" AT CHRISTIAN CHURCH LAST NIGHT

At the Christian church last evening the subject was, "The Wandering Boy," and the lesson of "The Prodigal Son" was taken on which to build the discourse, which showed the danger which lies in a boy getting away from the influence of home and the home ties. Like the prodigal, many of us are desirous of seeing the world and think only of the fine sights in the world and the joyous times it can afford, never thinking of the cost, but when the money is gone and the youth, with its opportunities, have vanished like the mist before the morning sun, and want, like a gaunt wolf, stares one in the face. The fact of the wasted substance, the wanton spending of the vitalities of this life, with their attendant opportunities for the making of the best of surroundings and meriting that success, which is ever right, will come to all sooner or later, and in that proportion in which they have been profligate, is a fact no one can deny. With many apt illustrations did the evangelist draw his lessons, and with that telling effect that there was a reward of six for the evening's work. During the series of meetings there have now been thirty-one additions to the church here. The space which heretofore has been given to the chorus was not sufficient, and yesterday Elder G. P. Eastwood and the chorus director, Bert Knorr, extended the platform, which enables the chorus to be seated without obscuring the view of the baptism from the auditorium. The subject for this evening will be, "Naaman the Leper," and is one of the especially strong discourses of Rev. Meyers, so do not fail to hear this one. The service tonight begins at 7:30, and remember, out by 9 o'clock.

A Good Stomach.

There is no greater treasure than a good stomach. By this is usually meant a good digestive system. If this system is in perfect working order, we usually feel well; but, as soon as there is any trouble in the digestion, one indisposition follows the other and one sickness the other. What should be done to restore these organs to their former activity? Our advice based upon many years of experience is to try Triner's American Elixir of Bitter Wine. This preparation, consisting of pure red wine and medicinal herbs, in the first place cleans out the intestines of all waste matter, strengthening them at the same time. This means health and strength. At drug stores. Jos. Triner, Manufacturer, 1333-1339 S. Ashland ave., Chicago, Ill.

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