



PLATTSMOUTH, NEBRASKA.

THURSDAY, OCT. 31, 1867.

THE KELLOGG TRIAL.

Was commenced in the District Court in this county—Judge Lake presiding—on last Friday morning. The greater part of the day was consumed in empaneling a jury—ninety six men being summoned as jurors before the panel was complete. The evidence was begun about four o'clock in the afternoon, and was finished at noon on Saturday. Then began the summing up, and the arguments in the case. The opening speech on the part of the prosecution was made by Hon. S. Maxwell, who spoke for the space of two hours in his usual forcible and argumentative style. He was followed by Hon. Gaylord J. Clarke, on the part of the defense, who spoke for an hour and a half with that vigor, eloquence and power which is the exclusive province of great minds. It was the first time we ever had the pleasure of listening to Mr. Clarke, and we felt the court room impressed with the fact that there are few if any more effective speakers in the west. Hon. T. M. Marquet closed the argument for the defense. He reviewed the case in all its bearings, and closed with one of those outbursts of eloquence so peculiar to his nature when aroused. The case was closed by Prosecuting Attorney A. L. Sprague, who treated the case in a purely matter of fact way, and presented an apparent unbroken chain of evidence. The Court House was crowded with spectators during the argument and in fact during the entire trial. The Judge's charge was very emphatic, and those who had heard the entire proceedings of the trial were not disappointed when the jury, after an absence of half an hour, returned a verdict of "Not Guilty," and the prisoner was discharged.

THE NEWS.

A party of men who recently came down the river in Mackinaw boats were attacked by Indians just below the mouth of Yellowstone. The Indians represented themselves as friendly Crows, and tried to get the boats to land; but the passengers feared to trust them, and kept along. Towards night the Indians, who followed them down the river, discharged a flight of arrows into the boats, killing one man, named Emmett C. Randall, who was from Emersonville, Ohio. The boats made a night run that night, and thus escaped the Indians.

A St. Louis dispatch of the 25th says the treaty with the Kiowas and Comanches gives them 6,000 square miles—3,500,000 acres—of land between the north fork of Red river and the Red river. The tribes number 4,000. The Indians are to receive a suit of clothing annually, besides other presents. They agree to keep a lasting peace, capture no more white women, attack no trains, and allow railroads to be built. They are allowed to hunt on the old reservation south of the Arkansas river till the settlements drive away the buffalo.

Advices from Mexico to the 19th state that the election of Juarez is confirmed. Tejedo is elected President of the Supreme Court.

A strong protest has been laid before the President against Seward's course respecting the Fenian prisoners in Ireland. His removal is urged.

Judge Benedict of the United States Circuit Court, has granted an injunction restraining dentists from using hard rubber in dentistry without permission from the Goodyear Rubber Company.

A New Orleans dispatch of the 28th says the late storm on the Rio Grande was the most destructive within the memory of man. Twenty six persons were killed at Matamoros, and 1,500 houses and huts blown down; ten were killed at Brownsville, twelve at Brazos, and not a house left standing in Bagdad; ninety inhabitants escaped on a vessel and the balance perished.

Cable dispatches of the 26th and 27th state that fighting had occurred within half a mile of Rome. Garibaldi is at the head of ten thousand troops, and is being constantly re-inforced.

Rome dispatches claim that the Garibaldians were beaten in an engagement at Viterbo.

Florence dispatches claim that Garibaldi has defeated the Papal forces with heavy loss.

The Italian people almost unanimously proclaim their sympathy, and hold large meetings adopting addresses to the king, favoring Rome as the capital of Italy.

The Evidence

In the case of the State of Nebraska vs. Hubert L. Kellogg, on an indictment for the murder of Robert J. Palmer on the 19th day of August, 1867.

PROSECUTION.

Jacob Valley—I reside in Platts-mouth. I was in front of Stadelmann's store when Palmer was shot on the 19th of August. Heard Palmer make loud remarks. He was in front of Mathis' old B.erry on Main street, Cass county, Nebraska. I was facing towards Palmer. He stepped up on the trough and shook his fist at some one who was standing near a team. The other man reached to his pocket, drew a revolver and shot Palmer.—Palmer stepped down and acted like he was trying to draw a revolver. He stepped around, and the other man shot again. Palmer then started up street, saying he was shot. The other man went across the street. They appeared to be watching each other. Palmer had nothing in his hand. He was not in striking distance of the other man. Don't know what Palmer said; he talked loud and used some profane words. They called the man Kellogg who shot; I think the prisoner is the same man. Think it was the first shot that hit Palmer; he was up high. Both were standing still. Think the shot was fired over backs of horses; was looking at him when he shot; he fired in front the second time. Prisoner stood further west when second shot was fired; were facing each other when first shot was fired—Palmer was going past the wagon when the second shot was fired, and was sideways to Kellogg. If the first shot had missed Palmer the ball would probably have hit the building five feet up from the ground. Top of trough was about two feet above the level of ground. Kellogg was standing on the ground when he fired. The ball hole in building is about two feet above door sill. I was west and south from parties when shots were fired. They were not more than eight feet apart when the first shot was fired, and five or six feet further at second. Palmer appeared to be endeavoring to fire at Kellogg when Kellogg fired the second time. Hole in door ranges too far west for first shot; it could not have been made by the first shot, have examined the hole and range. Palmer was going west when the second shot was fired, and kept on after the shot was fired.—Kellogg went towards the center of the street after the second shot. Palmer came to Stadelmann's after he was shot; I saw where he was shot, a little to the right and above the navel.

Cross Examined.

The wagon and horses were between me and Palmer Kellogg was on the same side I was. The team was headed north-east. I could see most of Palmer's body; he might have had a pistol in his hand when talking to Kellogg, but I think not. I could see Palmer reach to his pocket after he got down off the trough. Am not positive he put his hand into his pocket, but it looked that way.—Think Palmer was trying to get around the wagon to shoot Kellogg when Kellogg fired the second time. I could see the pistol in Kellogg's hand plain when he shot first time.

Re-direct.

Palmer stepped a few paces north after first shot. Jaa. O'Neill.—I was in Platts-mouth on the 19th of August last; was sitting beside Hanna's old store at the time of the shooting; was a little east and width of street south of parties—about 25 feet distant. Shooting occurred about noon. Saw Palmer step up on the platform or trough, and heard him talk loud to Kellogg. First I recollect of hearing him say was to the effect that Kellogg had a loaded pistol, and that he must leave the country. He repeated two or three times that Kellogg must leave the country, and was repeating it when Kellogg shot. Saw the smoke of the pistol both times when Kellogg fired. Palmer had nothing in his hand that I could see. Kellogg stood close to the team. Palmer was motioning with his hands when the first shot was fired; he then stepped back, north, quick, and then east. First shot was fired over the horses withers, near the hames. The ball would have struck the building five or six feet from the ground if it had missed Palmer. It would have struck the building east of the bakery door. The horses backed after the first shot. I think the second shot struck the door. If the second shot had struck deceased it would have hit his legs or hips. Kellogg went towards Hanna's store, and appeared to be watching Palmer. I saw deceased at the hotel several times before he died, which was four or five days after the shooting. I took the statement of the deceased just after the shooting.

Cross Examined.

I do not know whether deceased had a pistol in his hand when Kellogg fired first. Kellogg appeared "cowed," and kept close to his horses. He looked excited as he came to Hanna's. He came across the

street about the same time that Palmer went towards Stadelmann's. I looked for a fuss, because Palmer had just told me that he had cow-hided Kellogg a few days before.

Re-direct.

Palmer told me that he had whipped Kellogg, and that Kellogg would be in that day and would probably file an information, and he wanted me to be easy on him. He also told me that Kellogg must leave the country.

C. H. Parnele.

I was at Dr. Donelan's Drug Store, Main street, Platts-mouth, on the 19th of August, when the shooting occurred. I was south and a little west of the parties. The first I heard of the affray was some loud words. I looked around and saw the smoke from a revolver. The team ran back. Kellogg stood near the head of the off horse; the team ran back eight or ten feet after the first shot was fired. Palmer started west on the sidewalk; the wagon was between him and prisoner; I thought he started to go around the end of wagon; he turned east again and came up near heads of horses when the second shot was fired by prisoner; Palmer then ran west on sidewalk and said he was shot; he came across to Donelan's. The last I saw of Kellogg he was half way across to Hanna's. Only heard two shots; think Palmer did not shoot.

Cross Ex.

It was about the time the first shot was fired that I first saw Palmer; saw a pistol in his hand after he got on the sidewalk; might have had a pistol in his hand when the first shot was fired. Horses were between me and deceased; could see most of his body; think he was on the watering-trough. Did not hear Kellogg say anything; could not understand what Palmer said before the shot was fired. Prisoner did not go across the street fast; he had started, as I thought, across the street, but came back when Palmer came towards the wagon. Kellogg shot under the horses heads the second time. He stood near the horses shoulders; they stood at the pump when the first shot was fired; and about as far west as the Bakery doors when the second shot was fired. There is a bullet hole through the Bakery door. The range of the bullet hole in the door is nearly in range with where prisoner stood when he fired the first shot. He stood further west when he fired the second time.

Re-direct.

The horses heads were at the watering trough west of the pump when the first shot was fired; the hind end of the wagon was about eight or ten feet from the sidewalk. It was after the second shot that Palmer said he was shot; he had gone about fifteen feet when he said it.

H. F. Price.

Was on Main street, Platts-mouth, on the 19th of August; heard the first shot but did not see it. Stepped out and saw Kellogg apparently pulling the off horse back, and reach around under the horses heads and fire. Palmer went towards Donelan's. Kellogg went over to Hanna's, stood up by the door-check and raised up his revolver and cocked it.

R. G. Doon.

Was in Platts-mouth on the 19th of August, at Simpson & Mickelwait's store, saw Palmer standing on the watering trough. Kellogg was there with his hands; prisoner was on the same side with Palmer. He started and went around the wagon; deceased was talking and had his hands in motion. Saw the smoke of prisoner's pistol, he was then on the south-east side of the wagon; deceased was on the trough, he got down after the first shot. Palmer went towards Amison's and then went to Stadelmann's. I saw the smoke from both shots. I went to Stadelmann's and saw where deceased was shot. At the time deceased had his hands up making motions I did not see anything in his hands. Saw deceased have a revolver at some time, but do not know when it was. Kellogg appeared perfectly cool at the time of the shooting. Could not see prisoner as distinctly as deceased.

Cross Ex.

I mean by Kellogg being cool that he did not talk. Saw Palmer in at Simpson & Mickelwait's store just before the affray; he started out of the store and went down street; as he started, out I heard him say "Kellogg."

John Black.

I was called upon to see Palmer after he was shot; found him in Stadelmann's, wounded with gun-shot wound. I tended on him, in company with Dr. Livingston, until his death, and helped to make a post-mortem examination. The ball which wounded him went into the bowels above and to the right of the navel. Palmer died on the 24th of August from the effects of that wound.

Cross Ex.

The ball had passed nearly straight through, ranging slightly downward.

Wm. Stadelmann.

I was in front of my store, in Platts-mouth, on the 19th of August. Heard some loud talk and heard Palmer saying "God damn" to

some one; saw Kellogg draw a revolver and shoot. Palmer was on the watering trough; could see his body down as low as the waist. After the first shot was fired deceased ran up the street and got his revolver out; he ran back and Kellogg fired again. Deceased then ran up the street and said he was shot; did not see anything in his hand while he was on the trough.—Kellogg went across to Hanna's store after the shooting; saw him cock his revolver after he went over to Hanna's. I took deceased into my store.

Cross Ex.

Palmer might have had a small pistol in his hand while at the pump, but I do not think he had; his pistol was a small one. Did not see his left hand. Palmer and Kellogg were 25 or 30 feet apart when the last shot was fired. I saw blood on deceased's shirt before he said he was shot. When he came into my store he said it was the first shot that hit him. He said so three or four times.

[Sufficient evidence was here submitted to the Court]

(with which the jury had nothing to do) to show that the statement of Palmer was made while he believed himself about to be summoned before the Bar of God, and the following was admitted as evidence in the case:)

Statement of Robert J. Palmer, made before Jas. O'Neill, a Justice of the Peace, in and for Cass county, Nebraska, in reference to his being shot by H. L. Kellogg, on the 19th day of August, 1867:

I told him that I was going to have my wheat threshed day after to-morrow; he said, "I will kill you if you fool with me." I said, "I do not intend to hurt you; but you or I will have to leave this country, as I understand you are carrying a deadly weapon for me." He then pulled out his revolver and shot me.

Question.—Did you make any threats or motions towards him.

Answer.—No, sir. My revolver was in my pocket when he shot me. I make this statement having been told by my physicians that I cannot live long, and the same is true, as I expect to answer at the Bar of God.

R. J. PALMER.

I do hereby certify that the above statement of Robert J. Palmer was made and signed before me on the 19th day of August, A. D. 1867.

JAMES O'NEILL, J. P.

DEFENSE.

G. H. Black.—I was at the store of Black & Battery at the time of the shooting, a little west of south from where the shooting occurred. I was sitting inside the store when the affray commenced, but got up and went to the door. I had a fair view except what the team obstructed. I heard loud talk from Palmer. Heard him say "God damn your soul, you will have to leave this country or I will. We cannot both stay here." He was on the platform. After saying this he started around the pump. Kellogg was on the opposite side of the team, facing west of north, with his hand in his coat pocket. He raised his hand up even with his body and fired under the horses necks or near there. Deceased put his pistol over the horses necks and endeavored to fire at defendant. Some one fired a second shot; don't know which it was. Deceased went up near the tailor's shop, and said "I am shot." He then started across the street towards Donelan's, and then defendant started across. I saw Palmer's pistol almost immediately after the first shot. He had to go over the watering trough or around the pump to get to Kellogg. The horses were at the west end of the trough. The barrel of the pistol was elevated when first shot was fired. I could not see Palmer's hands for the horses. He was gesticulating.

Cross Examined.

I was sitting down when I heard the first noise. It was but a few seconds after I went to the door that the first shot was fired. Platform extends about 2 1/2 feet west of the pump. Palmer was either on platform or pavement when I first saw him. Trough is on south side of the pump. The team was angling across the street. Horses heads were near west end of the trough. Prisoner stood south of off horse, near his head, when he fired first shot, not over six feet from deceased, with left hand hold of horses.

Re-direct.

I was a little nearer to the shooting than where O'Neill testified he was.

W. Mickelwait.—I was in Platts-mouth on the 19th of August when the shooting occurred. Deceased was in our store for about an hour before the affray occurred. He left there about 12 o'clock, and I went out about the same time he did. He was tending goods. I did not notice that he was in any more hurry than usual when he went out of the store. I do not know which way he went.

Lewis Walters.

I am acquainted with prisoner. Kellogg went away to

Iowa; the morning he started Palmer came to my house, where prisoner was boarding, and told him he must leave the country before eight o'clock or the blood of one or the other must be spilled. After prisoner came back he went around Palmer's house instead of going past.

Cross Ex.

Kellogg went to Iowa about the first of August; am not positive as to day.

Mrs. E. J. Walters.

I heard the evidence of Lewis Walters; was present at the conversation; Kellogg refused to go out with Palmer; prisoner was boarding at our house; we were not up when deceased came; while prisoner was boarding at our house and at Fowler's he went around Palmer's. Deceased came again and wanted Kellogg to go out and have a talk with him; prisoner refused. Deceased told me he would way-lay the road for prisoner; this was after the horse-whipping. Kellogg is a quiet, peaceable man, so far as I know.

Cross Ex.

I have been acquainted with Kellogg since last April. Deceased did not say what he wanted to talk to prisoner about.

Chas. Fowler.

I know of Palmer making threats against the life of prisoner; when we were cutting wheat on Kellogg's place, for deceased, in July or August, he was talking to one of the hands, he said Kellogg must not come on that place again, or one of them must be killed; said he did not want prisoner to come on. So far as I know prisoner's reputation is good.

Ca. cline Palmer.

I am acquainted with prisoner; am the daughter of deceased; deceased said he would kill prisoner when he got his eye on him. Father loaded a pistol and put it in his pocket; said he would way-lay prisoner. I told prisoner that father would kill him if he did not look out; this was right away after the horse-whipping.

Cross Ex.

Told Kellogg of the threats as I was going to school; it was after the horse-whipping.

[The testimony of several witnesses]

in regard to the range of the ball that passed through the door of the bakery is here admitted, it being unimportant in the case.]

F. M. D. rington.

Heard deceased in Hess's saloon, in August, say prisoner or himself must leave the country. He said he could take prisoner's heart's blood with good grace. Afterwards said he had horse-whipped prisoner, and would do it again if he did not leave the country.

Cross Ex.

Palmer said prisoner had created disturbance in his family; that his wife had left him, and prisoner was the cause. That Kellogg had broken up his family, and he had horse-whipped him for it. That he believed there was criminal intercourse between prisoner and his wife; that they were too intimate. Palmer appeared determined that Kellogg should leave the country.

Geo. Amick.

I am acquainted with defendant. Heard deceased say, while prisoner was over the river, that he or Kellogg had to die; that he had gone to Walters' to shoot him, but could not get him out. Asked me to tell Kellogg he had nothing against him, so that he would not be shy and he could get any one of this while deceased was living.

Cross Ex.

These threats were made in August. No one else present.—Palmer said his wife had attempted to murder him, and he thought Kellogg had helped to lay the plan.

Re-direct.

Deceased said he did not think there was any criminal intimacy between Kellogg and his wife, but his wife had fallen in love with Kellogg.

W. G. Woodruff.

On Friday before the shooting was shot; I was at his house, and he told me he had horse-whipped Kellogg, and that he would do it again. He said Kellogg had to leave the country or he would kill him.

[Here the testimony of several witnesses]

is omitted, as they were called only to prove the general reputation of the prisoner as a peaceful, law-abiding man. They all testified that his general reputation was good.]

John Fowler.

I am acquainted with defendant. He knew of threats made by Palmer. Kellogg was boarding at my house, and was afraid to go out to the field to fix his fence. He said he was afraid Palmer would kill him. He avoided Palmer's house for fear of Palmer. I came with him to town the day of the shooting. He said he was afraid to come alone. Palmer started for town directly after we did, and we waited and let him get ahead.

Geo. Dunaway.

I am acquainted with defendant. He at one time went about three miles out of his way to prevent going past Palmer's house. On Sunday before the shooting prisoner asked me to look for his horses about Palmer's premises, as he did not want to go near there.

John Fowler—re-called.—Prisoner had made arrangements about a week before the shooting to go over the river to make hay.

Mrs. Walters—re called.—The children of Palmer told me to tell Kellogg to keep out of their father's way or he would kill him. I told Kellogg. They told me three or four times.

Wm. Piggott.

I heard Palmer say he had went to Walters' to tell defendant to leave the country or his heart's blood would pay the debt.

Wm. Colvin, jr.

I heard deceased say that Nebraska was not large enough for both him and prisoner, and that prisoner must leave the country or die. This was a short time before the shooting—I think the Sunday before.

Cross Ex.

Palmer said prisoner had ruined him and his family, and he would have revenge.

Geo. Dunaway—re-called.

I think it was three or four days before the shooting that the horse-whipping occurred.

ANOTHER.

We find the following heavy "Democratic argument" in a late number of the Omaha Herald. It is the kind that is expected to influence and convince the men that read that journal:

"We notice by the telegrams that Maj. General Radical Bottwell and 'Penitentiary of Hell' Thad Stevens."

Special dispatches say

that the proposition to hold a continuous session of Congress during Johnson's term of office is favorably received.

Said Gen. Sicksels in a recent speech in Alabama:

"Whatever the rebels suffer from the reconstruction acts, follows as the unavoidable consequences of their crime and their folly. The incendiary, who fires his own dwelling that he may destroy his neighbor's, must not assail the firemen who put out the flames because they flood his house with water."

This is a terse statement of the question

upon which the copperheads are trying so earnestly to agitate the people.

An exchange asks:

"And if the Democracy of Ohio have the right, being in the majority, to exclude colored men from the ballot-box, why may not the colored men in South Carolina, under similar circumstances, exclude white men?" This is a very pertinent question for the "master race" to study upon.

There is a town of 400 inhabitants

in Ohio, every one of whom voted the Democratic ticket. A few years since a colporteur learned by observation and inquiry that but one in thirty of the people could read, and only one in fifty-five possessed a bible.

ROME.

The movements around Rome are beginning to portend the approach of great events. Popular tumults, and even insurrectionary uprisings, around any other city might mean little; but these occurrences in the vicinity of the Eternal City, have the profoundest significance. No other word has such a comprehensive meaning as "Rome." In religion, in politics, in diplomacy, in civilization, and, it is said, in prophecy, it is the centre of clustering interests that belong to the whole world. Even in its ruins, the old city possesses an importance not inferior to that which it possessed when it was the abode of the Caesars. A shock at Rome creates an instant tremor at Paris, at Vienna, at Madrid, at all the capitals of Europe, and a responsive sensation in the remotest corners of the earth; for whether Rome as the court of the Pope shall stand or fall, is a question that half the governments of the globe, and millions of persons feel the quickest interest in.

We already see commotions in Catholic

populations consequent on the Garibaldian menaces against Rome; equally a movement against the Church in Italy. It is difficult to see how this trouble can be settled itself, and it is evident, too, that if the Garibaldians reach Rome, the question will have reached a point where it will be its own master.

A raftman who had drunk a

little too freely fell from the raft and was drowning, when his brother seized him by the hair; but the current was very strong, and the brother's strength being nearly exhausted, he was about to relinquish his hold, when the drowning one raised his head above the water and said: "Hang on Sam, hang on, I'll treat, I swear I will." His words were stimulating and the other at length saved him.

The English Parliament enacted

in 1770, that whoever shall impose upon, seduce and betray into matrimony any of His Majesty's male subjects, by force, threats, promises, gifts, bribery, or other means, shall be deemed guilty of high treason, and shall be liable to the same penalties as if he had committed the same against the King's person.

Notice is hereby given

that I will offer for sale, at the residence of John Gilmore, in the Missouri precinct, Cass county, Nebraska, on the 13th day of November, 1867, one real estate, while at the residence of John Gilmore, in the Missouri precinct, Cass county, Nebraska, and also a certain piece of land, which has been taken up and advertised according to law by John Gilmore, and appeared at \$50, by James McDonald and Peter Scott.

WILLIAM ROSE,

Justice of the Peace.

PLATTSMOUTH MARKETS.

Corrected by Simpson, Mickelwait & Co

Table with market prices for various commodities like Wheat, Corn, Flour, etc.

New Advertisements.

NOTICE

To School District Officers within the County of Cass, and State of Nebraska:

Pursuant to the provisions of the Revised School Law, passed at the session of the Legislature of Nebraska, entitled "An Act for the Revision of the School Law," which says that I have, in accordance with the provisions of said law, and under the authority of said Act, numbered the School Districts in Cass county, as follows: (Platts-mouth city No. 1; Platts-mouth precinct No. 2, 3 and 4, as follows: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 2