

Hensick, pastor of a Madison church was called to translate the attorney's questions into German and the answers into English.

Wife Tells of "Spells."
Mrs. Boche was brought at once to the mental condition of her husband, a subject on which more than one witness had been called during the day.

Mrs. Boche told the jury that she had been married twenty-two years, that before the marriage or courtship she had never noticed anything curious about her husband but that after her marriage she found out that at times he was not right, that in those times he was always afraid of people.

All this was told by the wife in response to queries from Senator Allen. Herman Boche, she testified, at times heard people speaking in his head. Once when he was going to Norfolk with her he turned back after passing the Elkhorn bridge, saying that too many people were talking there when there were no people around to talk.

She told him that it was not so but he would not believe her and turned the team around and went back to the farm. Those spells, she said, did not come close together. One day he was in Norfolk and would not drive home because he imagined that there were too many people at the Junction and that they would do him harm.

He would not go home until his father joined them. This spell lasted four weeks.

Mrs. Boche said her husband had had a "spell" about a week before last May. She knew it was a spell because Boche talked so much and kept running around the outside of the house. He talked to himself and spoke of his troubles.

"Of what troubles did he speak?" asked Senator Allen. "I think he had promised Frank Jarmer the money and did not tell me because he did not think that I would allow it." Mrs. Boche's answer was struck from the records as stating a supposition and not a fact.

Mrs. Boche could not identify the revolver with which Jarmer was killed. Mrs. Boche then testified that she and Herman had nearly \$800, mostly paper money, put away in little shot sacks before the shooting.

After word was received of the shooting she went to look for the money at once and found it missing. It had been pretty close to \$800 and it was gone. The boys had money in the bank but she and Herman never put their money there.

They had spent a year or so in getting the money, it representing the sale of a team of horses, cattle, wood, hogs and the like. She had counted the money a few days before the shooting.

"How long, Mrs. Boche, did you know Herman Boche before you married him?" asked Judge Jackson taking up the cross examination. "Over half a year."

"How much did you see of him?" "Not so very much."

"You noticed nothing about him being afraid before you married him?" "No."

"How long afterwards?" "I soon found out that." "Within a year?" "Yes."

"How long before the next spell?" "I think seven or eight years." "How long did it last?" "Pretty nearly the whole winter." "How long before the next spell?" "It is now three years ago."

"Was that the last one?" "No, there was one last spring." "Four spells altogether from the time you married him up to last May?" "Yes."

She testified that Herman was apparently all right and able to transact his own business when he did not have the "spells."

"Did Herman have any money when he came back home?" "I know of nothing. I don't think so."

Mrs. Boche was questioned on the pocketbook her husband carried. The state drew from Mrs. Boche a statement that the Boches had sold nothing in the days between the time she counted their money and the day when Herman was supposed to have taken the funds to town. She was then excused.

The case of the defense was now ready for Herman Boche to take the stand but his attorneys decided to secure for him a night's rest.

The defense failed yesterday morning to get the testimony of the first witnesses called before the jury. But after the testimony of Broder Kettle-son had been barred late in the morning they had no great difficulty in getting most of what they wanted before the jury.

Acts Out the Death Struggle.
There were three intensely dramatic moments during Boche's testimony this morning, when he three different times acted out the death struggle in which he says he shot and killed Frank Jarmer.

From the wild expression on his face while he acted out this struggle three separate times at the bidding of the attorneys, some in the court room feared that Boche would lose control of his nerves and go to pieces.

Leaning forward from the witness chair, Boche placed both knees on the floor and one hand and then, pointing out to the jury that one man was behind him and one in front, the witness showed how he had reached for his revolver and shot the man in front of him.

His recollection of the struggle which he claimed took place, was more or less hazy and unclear.

"When I come to me I was by a pen and it was night. I felt for my money and it was gone. It was dark."

He testified he then went away, woke up in a hog pen near night, walked home. Dogs barked, his wife

came out and said "They're going to get you." Two men came out, Boche ran, four or five shots were fired at him. Five days later his son told him that Jarmer was dead.

Says He Was Robbed Him.
Boche said that when he woke up in the hog pen he had no money left. "Tell the jury if all your money was lost that night and how?"

"They dug in my pockets and choked me."

"When you came to did you have any money? Any loose money?" "No, it was all gone."

Five Days in the Woods.
Boche said he went south down the creek to the Elkhorn. William Boche's boat was locked and he used Frank Lehman's. When he reached his own home he saw his wife and two men come out. His wife spoke to him and then the two men began shooting. "And what did you say?" "I ran. What else could I do with two men shooting?"

He saw nobody for five days. Then it was his son Herman whom he saw at Carl Sorge's place, who told him of the Jarmer killing, told him of the place and the murder charge against him.

Says Jarmer Robbed Him Before.
Boche said that he and Jarmer quarreled about a year before the shooting. They had been to a church meeting and went to the Jarmer saloon afterward. Boche said he wanted to go home but Jarmer insisted on his remaining. Boche claims to have had \$40 at that time.

"Let's take another drink," he quotes Jarmer. "After that drink I went to sleep right away and didn't wake up till 4 o'clock the next afternoon. My money was gone. I had had \$40 in money and a check Jarmer had given me for money he wanted. Both were gone. He said I had spent it, but I hadn't."

Boche's son, Walter, was called to the stand to corroborate this story. He said his father one day in 1906 came to town to a church meeting. He was gone all night long. Next day Walter came to town, got the marshal, found his father asleep drunk on Jarmer's saloon floor. They aroused Boche and took him away. The marshal had placed Boche's team in a livery barn before Walter reached town.

Carl Relche, a prominent farmer and a relative, was called to corroborate this story. He testified that during August 1906 he and Boche and Jarmer and one other man sat in Jarmer's saloon till the lights went out one night. Relche and Boche wanted to go, but Jarmer insisted on their staying, pushing them back in their chairs. At 4 o'clock in the morning Relche left the place for his home. Jarmer kept Boche there on the pretext that he wanted to tell him something.

Concerning That Night.
To Herman Boche as soon as he mounted the stand were put the usual preliminary questions. Then Senator Allen entered on the story of April 30, 1907.

"How long did you know Frank Jarmer?" he asked. "About fifteen years."

"Were you both members of the Sons of Herman last April?" "Yes."

"Were you both members of the Eagles?" "Yes, we were both Eagles."

"What relation did you bear to each other?" "We were friends."

"Were you at Jarmer's place the last day of April?" "About 3 o'clock."

"Who was with you?" "My son, Walter."

"How long did you stay?" "Until about 5 o'clock."

Herman Boche then testified that Jarmer two weeks before had told him that he needed money to pay his saloon license. He said that that afternoon he went home and got the money and brought it in that night. He returned home that afternoon with his son, Walter Boche, and part way with Frank Lehman. When he got home he ate supper, then got his money and counted it.

"Where did you get the money?" "In the place where we hang clothes. I don't know what you call it."

"In the closet?" "Yes."

"What did you do with the money?" "I counted it and put \$760 into one pocketbook and left a little at home in another pocketbook."

"Did you take a revolver with you that night?" "Yes, I had so much money."

"How did you go to Norfolk?" "Through the timber."

On reaching Norfolk Boche said that he first visited the Beveridge saloon and drank some whiskey. Then went over to the Jarmer saloon.

"Who did you see there?" "There was some people there. I don't know who."

"Who was running the saloon?" "Jarmer."

Herman Boche swore that Jarmer asked him to drink but that he (Jarmer) said nothing about money.

"What did you say to Jarmer?" "I said you can have the money if you give me good security."

"What was said to you by Jarmer about money?" "He didn't say anything, then."

"Did you say anything?" "I said I had it, I guess."

"In what part of the saloon did you tell him that?" "When we went out behind."

"Do you remember seeing any other person there?" "Yes, I saw John Freythalier."

back door. That is all I know." "Where did he take you?" "We went to a restaurant."

"What restaurant?" "I don't know." "What took place?" "Frank said, let's have something to eat."

Leaving the restaurant room a moment, Boche said when he returned he started to drink a cup of coffee and it was so bad he couldn't.

"What happened then?" "Frank said, 'Come on, let's go over.' I don't know what he meant."

"What happened next?" "I remember he threw me in a hack."

"What happened then?" "I got dizzy."

"When did you come to next and where?" "And then he told of remembering two men on top of him and shooting. Here he acted out the struggle that he claimed took place."

"Now Herman, did you ever go over to those houses before?" "Yes, I went there to sell fish and ducks."

On cross examination Boche said he had put his money in his pocket—\$760 in one pocketbook, \$80 in another. "When you took it out to count it, you had \$840?" "Yes."

"You had all this money at home before you started?" "Yes."

Boche Helped His Own Case.
Boche left the stand at a little before noon. It was generally conceded that he had made a good witness and that he had supplied testimony to fill in a number of missing links of the chain of circumstances which the defense has been trying to establish.

He had good control over himself, though he was nervous. His testimony was that of the densely ignorant man. Questions were put to him slowly. The fine points of meaning in the English language bothered him somewhat. He seemed to be searching his brain for remnants of the tragedy of that May day.

Boche's attorneys were very much relieved at the showing made by him on the stand. Nobody knew what he would do or what he would testify before he went on the stand this morning and his attorneys were apparently nervous when he began testifying.

Boche said he did not recall having been in the Ingham place the night of the tragedy.

Fred Boche on Stand.
Before Herman Boche himself stepped to the stand Fred Boche, the big Madison county giant, was examined. He testified that on the seventh or eighth of May J. H. Conley came to his camp to see Herman Boche, that he was there an hour and a half. Fred Boche said that he went to the home of Herman Boche with Conley and Herman and that he saw Herman give Conley his revolver.

"Did Herman say, 'Here is the revolver I shot Jarmer with?'" "No."

On cross-examination Fred Boche swore that Herman was at his tent about an hour and a half and that he came to the tent from the house.

Fred Boche is a cousin to Herman Boche.

Walter Boche, the son, was recalled and questioned about the pocketbooks that Herman Boche, his father, used.

William Uecher was recalled and told more about the pig pen. Mrs. Herman Boche was called and said she did not know where Boche was between the time he left home and the next night when the dog barked.

The state then rested.

Rebuttal Begins.
Dr. P. H. Satter was called in rebuttal. He testified he reached the scene of tragedy a few minutes before Dr. Tashjean. After caring for Jarmer he and Dr. Tashjean examined the place in the roadway where the shooting had occurred. The dust was an inch and a half thick and spotted with blood. Many footprints were in the dust. Apparently eight or ten people had been walking around, some bare-footed.

How the Ground Looked.
"What did the condition of the ground look like?" "Like there had been many people looking at the place, just as we were doing."

He found a bunch of keys and fifteen cents in the dust.

"But Dr. Tashjean testified that he picked up the keys and handed them to you," said Senator Allen. "I distinctly remember picking them up myself."

Here there was a wrangle over Dr. Tashjean's testimony but it was so far buried in the heap of notes that Senator Allen withdrew his question.

John Hermann of Norfolk was called. He had entered the Jarmer saloon on the evening of April 30 and stayed until the saloon closed. He talked to Boche.

Boche Proposed Restaurant Trip.
He did not remember all that Boche said, but he did recall that Boche asked him to go over to the restaurant.

Did Not Leave by Back Door.
When the saloon closed, he said, he and Jarmer and Boche and others left the place together. Mr. Herman testified that he bolted the back door with an ice pick.

Here Senator Allen got very technical and interposed many objections, getting them into the record.

Emil Koehn was called. On the morning of May 1 he, with County Attorney Koehn and Mrs. Jarmer, went to the Jarmer saloon. He was asked if they visited the back door, but an objection to the question was sustained.

LAST TESTIMONY SATURDAY.
Court adjourned until Monday afternoon.

Madison, Neb., March 2.—From a staff correspondent: The last witness in the Boche murder trial left the witness stand a little after 1 o'clock Saturday afternoon.

After a short conference with the attorneys District Judge Welch announced a recess until 1 o'clock this afternoon when the arguments of the lawyers begin. Save for the arguments and the summing up of

the case by the attorneys the story of the May day shooting had been retold for the last time.

The twelve men who are under oath to deal out justice to Herman Boche, if in their judgment he is guilty of the charges of the state, spent a quiet Sunday in the county seat town, Madison is a quiet town on a Sunday and with the general exodus of lawyers, witnesses and Norfolk spectators Saturday night the town lost the bustle of court week.

The jurors were not restricted to the court house Sunday but took various little excursions for exercise and recreation, being always under the supervision of the two bailiffs. Save that they could walk about and converse with themselves the twelve men have been shut off from the world for a week.

With outsiders their conversation is restricted while an absolute embargo exists against newspaper reading. The case that has been before them all week they are not allowed to discuss.

What verdict will these men return? Which of the several possible views will they take of the killing of Frank Jarmer?

It is doubtful if outside of the twelve men in the jury box there has been among the hundreds who have crowded the court room another dozen men who have heard the story of the witnesses with unprejudiced ears.

The people in the court room have listened intently and quietly to the words of the witnesses and while there has been scarcely the slightest demonstration of their sentiment, that sentiment is undeniably against Boche and on a popular ballot would have sustained the cause of the county attorney.

The sentiment of Madison people against Boche is said to date back to his attack on Sheriff Clements last summer, when he tried to ram a pitchfork through the anatomy of that officer out in the little cemetery by the court house.

But the men of the jurybox are not supposed to be prejudiced, are supposed to know nothing of the attack of Sheriff Clements or of the killing of George Ives nineteen years ago or nought of the case save what they have been told by the score or so of men and witnesses summoned to the stand.

The jury is composed largely of men of Scandinavian stock and is said by those acquainted with some of the jurors to be a jury of good caliber. Two localities in the southwest part of the county are represented on the jury. Kalamazoo precinct and the vicinity of Newman Grove. Those who have watched the jury closely have seen in its membership at least two men who are apt to have considerable influence with their fellow jurors.

The aftermath of this trial hangs on the decision of these men. If they vote acquittal the case drops for a man's life can never be put in jeopardy twice for the same offense. If the twelve men agree on a verdict of "guilty" and it can be for first or second degree murder or for manslaughter, the defense has recourse to the higher courts. A disagreement of the jury would bring a second trial.

It is believed by men who have followed the case carefully that a disagreement of the jury may quite likely be the outcome of the present trial. "The man on the street" in Madison says that the verdict will be for "manslaughter."

No testimony was introduced that the killing of Jarmer was premeditated. Nor was the actual killing of Jarmer by Boche disputed by the defense. The defense has sought to picture to the jury Boche as a man who followed the case carefully that a disagreement of the jury may quite likely be the outcome of the present trial.

The "man on the street" in Madison says that the verdict will be for "manslaughter."

No testimony was introduced that the killing of Jarmer was premeditated. Nor was the actual killing of Jarmer by Boche disputed by the defense.

The defense has sought to picture to the jury Boche as a man who followed the case carefully that a disagreement of the jury may quite likely be the outcome of the present trial.

The "man on the street" in Madison says that the verdict will be for "manslaughter."

No testimony was introduced that the killing of Jarmer was premeditated. Nor was the actual killing of Jarmer by Boche disputed by the defense.

The defense has sought to picture to the jury Boche as a man who followed the case carefully that a disagreement of the jury may quite likely be the outcome of the present trial.

The "man on the street" in Madison says that the verdict will be for "manslaughter."

No testimony was introduced that the killing of Jarmer was premeditated. Nor was the actual killing of Jarmer by Boche disputed by the defense.

The defense has sought to picture to the jury Boche as a man who followed the case carefully that a disagreement of the jury may quite likely be the outcome of the present trial.

The "man on the street" in Madison says that the verdict will be for "manslaughter."

No testimony was introduced that the killing of Jarmer was premeditated. Nor was the actual killing of Jarmer by Boche disputed by the defense.

The defense has sought to picture to the jury Boche as a man who followed the case carefully that a disagreement of the jury may quite likely be the outcome of the present trial.

The "man on the street" in Madison says that the verdict will be for "manslaughter."

No testimony was introduced that the killing of Jarmer was premeditated. Nor was the actual killing of Jarmer by Boche disputed by the defense.

The defense has sought to picture to the jury Boche as a man who followed the case carefully that a disagreement of the jury may quite likely be the outcome of the present trial.

The "man on the street" in Madison says that the verdict will be for "manslaughter."

No testimony was introduced that the killing of Jarmer was premeditated. Nor was the actual killing of Jarmer by Boche disputed by the defense.

The defense has sought to picture to the jury Boche as a man who followed the case carefully that a disagreement of the jury may quite likely be the outcome of the present trial.

The "man on the street" in Madison says that the verdict will be for "manslaughter."

No testimony was introduced that the killing of Jarmer was premeditated. Nor was the actual killing of Jarmer by Boche disputed by the defense.

The defense has sought to picture to the jury Boche as a man who followed the case carefully that a disagreement of the jury may quite likely be the outcome of the present trial.

The "man on the street" in Madison says that the verdict will be for "manslaughter."

No testimony was introduced that the killing of Jarmer was premeditated. Nor was the actual killing of Jarmer by Boche disputed by the defense.

with an ice pick. Dr. Salter was recalled to testify to the fact that he had made no use of the keys until he gave them to the county attorney. Dr. Salter had taken a seat at Senator Allen's side after giving his testimony a little earlier in the afternoon. This led to a brush between the Norfolk physician and Boche's counsel in which the doctor did not come out second best.

Dr. Salter and Senator Allen Clash.
As Dr. Salter seated himself in the witness chair Senator Allen objected to his testifying because the doctor had not complied with the court rule requiring witnesses to be out of the trial room when other evidence was being taken. Dr. Salter had been talking to the senator and Judge Welch asked the Madison attorney if he hadn't given Dr. Salter permission to remain. "I said he could stay if he wouldn't do any damage," said the senator.

Dr. Salter gave his testimony. "Didn't you stay in the court room by Senator Allen's permission?" inquired Judge Jackson.

"Yes."

"Now didn't I say that you could stay if you weren't an open enemy and wouldn't do any damage?" interjected the senator.

"Yes," agreed the doctor.

"Are you an open enemy?" asked Judge Jackson.

"No," said Dr. Salter. Then he added rather vigorously, "I only came here to tell the truth."

"I don't see how your doctors disagree," observed the senator. Judge Jackson took exception to this last remark.

Got Point Before Jury.
Emil Koehn was now recalled and the state got his testimony before the jury to the effect that he had entered the Jarmer saloon on the morning of May 1 with the county attorney and Mrs. Jarmer and had found the back door bolted from the inside.

Senator Allen: "Mr. Koehn, who has been talking with you since you testified before in this trial?"

"People in general."

"Don't fence. Has Mr. Koenigstein?"

"Oh, we concede that," this from Judge Jackson.

"You didn't pretend to know about the condition of that door before?"

"I was not asked that question."

"Now, Mr. Koehn, since you're talking with Mr. Koenigstein, since you've recalled a good many things?"

"I don't think I have."

William Stokes was called. The witness couldn't recall that Dr. Mackay had ever told him that Jarmer had said that he could get money from Boche if he had "knock-out drops."

Harry Loder was called. He could not remember that Dr. Mackay had ever told him about the "drops" in connection with Frank Jarmer.

Edna Ingham, mistress of the resort, was recalled by the state.

Miss Ingham testified that there was a crowd about Jarmer from the time they found him in the road until the doctors arrived and that after Jarmer's death the body was left alone in a room until Mr. Bell of Sessions & Bell arrived. She testified that two physicians and the house girls were present when Jarmer died.

P. F. Bell of Norfolk, the undertaker who took charge of Jarmer's body, testified that he found the following articles in Jarmer's pockets: a gold watch, a wallet with \$4.15 in silver, \$6 in paper money, one check for \$1 making \$14.15 in all, a knife two memorandum books and a pen.

Joe Trulock of Norfolk, was the last witness examined in the big murder trial. He testified that there had been a hog pen on his place on May 1 and that he thought hogs were in it but that he was not sure. "If I had bugs in the pen that day," said Trulock, "I certainly would have fed them."

With Mr. Trulock's testimony the state rested its case. After a conference between Attorneys Mapes, Tyler and Allen and a talk between Herman Boche and Senator Allen, the defense announced that it too had completed its case.

Judge Welch took up the matter of the arguments of the attorneys.

Plenty of Time For Arguments.
Senator Allen stated that he wanted to have sufficient time to go thoroughly through the case. "We want to leave nothing unsaid or undone that should be said or done," said the senator. Senator Allen thought that the defense would like to have three or four hours for their argument to the jury.

Judge Jackson said that he thought that the state would not need as much time as Senator Allen seemed to think that the defense required. He did not want the arguments that evening.

Judge Welch then announced a recess until 1 o'clock this afternoon.

Judge Jackson drove at once to Norfolk to catch the Deadwood passenger to Neligh. County Attorney Jack Koenigstein, Attorneys M. D. Tyler and Burt Mapes and other Norfolk people at Madison went home on the Saturday night passenger. Judge Welch spent Sunday in Wayne county going back to Madison by way of Norfolk this morning.

Before the lawyers began their arguments, Judge Welch instructed that murder in the first degree could be eliminated from their speeches, that all reference to murder in the first degree would be ruled out of his instructions.

County Attorney's Argument.
Jack Koenigstein spoke slowly and with a display of earnestness. "I filed the information and I prosecuted in this case as county attorney. I have known Herman Boche for many years and we have been friends. In the evidence we have offered we have proven that on the 30th day of April Herman Boche went to the saloon of Frank Jarmer. The testimony is un-

**Tell Them You Know!
You may tell your friends,
on our "say-so," that when
they buy a package of the
genuine Arbuckles' Ariosa
Coffee they get the best of the
coffee trade.**

**No coffee of equal quality can be
sold in this town for the same price,
whether it be sold out of a bag or a bin,
or under some romantic trade-mark.
You may tell them you know and that
Arbuckle Brothers, the greatest coffee
dealers in the world, will stand for it.**

ARBUCKLE BROS., New York City.

disputed that they had been the best of friends.

"Where did Herman Boche pass his time in Norfolk that day? He passed it where he was in the habit of spending his time in Norfolk."

"John Herman and Emil Koehn told you that when Frank Jarmer and Herman Boche left Jarmer's saloon they went by the front door, Jarmer bolting the back door from the inside. John Freythalier alone testified that Boche and Jarmer went around the back way. Herman Boche tells you that he took eight drinks that night in the saloon. He tells you that he left the saloon by the back door. He knew that. From that time he