

VERDICT OF MANSLAUGHTER IN BOCHE CASE

(Continued from page 3.)

Like a pirate when he said it, that for a half hour Boche had sat on a settee with Grace Cole and that mysterious third party whom he couldn't describe and had never seen before or since. Well, Edna Ingham says Herman Boche spent \$40 for beer that night.

"Morning began to dawn and Boche dead drunk. Then Jarmer, one of your semi-respectable persons, respectable when the sun shines, vicious when the curtain of darkness falls, wanted to get away from the resort.

"Herman Boche was dead to the world, dead to the fact that he had a wife and children, dead to the fact that he was a respectable citizen enticed into a disreputable den."

Senator Allen reviewed in minute detail the incidents preceding the shooting.

"Vroman has seen heavy drama from 'nigger heaven' and hence his dramatic, 'Herman, Herman, don't, Herman, don't!'"

"There he stood while the first shot was fired. There he stood while the second shot was fired, there he stood while the third shot was fired. There he stood while the fourth shot was fired. Then without turning he jumps on his back and rushes across the plowed fields. Oh, what a liar that fellow is!"

"He says he was scared and I have no doubt that he was. But no honest man ever stood within four or eight or ten feet of a man shooting down another man without exerting himself. But 'Red' stood there like a statue, dumb as marble, as motionless as a man can be. If it had been you the moment that Boche fired that moment you would have been on Boche's back. But if you had been his accomplice what would you have done? He was scared, very scared and he is scared today."

"All of a sudden after that tragedy someone has more money than before."

Then came a scathing indictment of "Red" Vroman and Grace Cole. Never in the court room at Madison have two people been so strongly branded in terms of disrepute.

The chief counsel for the defense found in the testimony of the witnesses an undeniable story of a struggle and a robbery.

"God held Herman Boche's hand when he sent that fellow into eternity. Boche did but the bidding of the divine and civil law."

"The law does not protect a criminal. You have a right to shoot a man dead if he is engaged in robbery from the person."

"I will use as little time as possible because I feel that you have had irksome imprisonment, something that may give you a little foretaste of what must come to a man imprisoned."

Senator Allen declared that Boche was the best witness the state had when in his simplicity he had given Conley the revolver and announced that he had killed Jarmer with it.

When Senator Allen launched on an eulogy of Mrs. Herman Boche, the man charged with murder wiped his eyes.

Senator Allen said that Jarmer aimed to get Boche's money under conditions that would make Boche afraid to confess his debauch and shame.

"That was Jarmer's security which Boche had asked for."

"I am making no claim of insanity. But that Herman Boche is a man of weak intellect is true. That his mind is diseased is true."

"Mr. Conley completely impeached 'Red' Vroman's testimony when he swore that Vroman had told him that he was going to do all he could to help Jack get Boche in the penitentiary. 'Red's' idea is that this is just a game, a contest in which he wants Jack Koenigstein to win. He don't care if a man is put in the penitentiary until his hair is as white as the driven snow."

Senator Allen denounced houses of prostitution.

"Woe unto him that puts the bottle to his neighbor's lips and makes him drunk," Senator Allen said. "Jarmer sleeps as he ought to sleep in his grave."

Senator Allen in closing told the jury that if in their cool and sober judgment they found Herman Boche guilty, they not only branded him as a criminal but they put a premium on perjury and licentiousness in Madison county.

On several of the jurors Senator Allen's address apparently made a deep impression. It was followed closely by all.

Judge Jackson Closes.

Judge N. D. Jackson of Neligh, engaged as special counsel to assist in the prosecution of Herman Boche, was the last attorney to address the jury. His address covered about an hour's time and was delivered in the evening. When he finished speaking a little before 9 o'clock Judge Welch read his instructions to the jury and then placed Herman Boche's fate with the twelve men.

Judge Jackson's address was concise and effective.

He said in part: "The right of liberty, the right to property, the right to the pursuit of happiness, the right to life are divine rights and every function of government is constructed with these rights in view. Courts are constituted to maintain them and juries are called as part of the court function."

"Juries were first picked from among a man's neighbors, those supposed to know him best and to be familiar with the case. Now we search for men who know nothing of the charge. But in becoming jurors you are not supposed to lose yourselves; you are supposed to still be men with the right of judgment. You are to harmonize those statements that you can and to pass on the reliability of the

witnesses where the statements conflict. Nor does the law of reasonable doubt interpose an unmountable barrier over which you cannot cross in the exercise of your judgment.

"In a trial of this importance much rubbish accumulates, partly through purpose and partly thoughtlessly.

"The state could not select the place of a crime or pick its witnesses. If Herman Boche is guilty he selected his own ground. The witnesses must be the associates of the man who commits the crime and from them we must search for the truth.

"The defense did not call anyone to testify that the reputation of any of the state's witnesses was bad as to veracity. Nor does the occupation of a man determine his reputation for veracity.

"Edna Ingham was a part of the defense of this case. And other witnesses attacked were called by the defense and in this way were vouchered for by the attorneys for the defense.

"What of Frank Jarmer? He may not have been the kind of a man in whom you would impose the greatest confidence. But he had the right to live. Nor was it in the hands of the defendant to punish Jarmer because he was a saloon-keeper.

"The defense claims that providence directed this act of Herman Boche's. But I once went to Sunday school and there I read an injunction, 'Thou shalt not kill.' It would have been better put to have said that Herman Boche having filled up with booze and being prompted by the devil, fired those shots.

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"Malice is presumed in purposeful killing.

"Why didn't Jarmer take Boche home that morning? He was Boche's friend, why didn't he take him home? This is the question that the counsel for the defense has been reiterating. My dear friends that was just what Jarmer was trying to do.

"Herman Boche hasn't claimed to be a saint. He doesn't look to me like a very weak-minded man. You have seen him on the stand and you have the right to decide whether he is strong minded, whether he is a saint. True Boche testified that he went to church once. But Jarmer went to the same church meeting. By the same token if Boche was a saint, Jarmer was a saint.

"Jarmer's saloon was Boche's saloon. There he associated with the class of men his counsel condemns.

"And then 'Red,' as he is called, is condemned because he permitted Herman Boche to fire three shots without interfering. You saw 'Red' on the stand and you saw Herman Boche. You know that when Herman Boche used his revolver he was a dangerous man. Why, it would have taken a half a dozen men like Lee Vroman to have put Herman Boche down on his knees.

"Boche has been paraded before the jury by his defense as a coward. My experience is that a coward is the most dangerous man on earth. With Boche holding that smoking gun I don't know what I would have done.

"Now when a man is assaulted he does not set the standard to determine whether or not his life was imperiled in danger to justify him shooting. Testimony that Jarmer was a powerful man has no connection with Boche's defense because Boche swore that he did not know who was assaulting him.

"It is finally conceded that Herman Boche is not insane but that he has an unbalanced mind. He has mental instability of the nervous system, sometimes more nervous than at other times. How was he last May? He knew what his assailants were doing. He knew that he was assaulted. He knew that he was robbed. He knew that he reached in his pocket for his revolver and shot. Was that mental instability?"

"It is now suggested that Boche when he started off, started for home as he ought to have done, following the road automatically. It is a little peculiar that he took the right direction 'automatically.' Let's see how far he went. Now its fortunate that he came 'to' in the night season or that he hadn't kept 'to' when he started home—otherwise he might have been arrested. Now isn't it a little peculiar that he woke up in that pig pen in the night time when no one could see him? I suppose he woke up 'automatically.'"

"We are challenged to say that Herman Boche never took \$750 to Norfolk and I am inclined to accept the challenge. Little things sometimes lead to important conclusions. Mrs. Boche—and I sympathize with her—says that Herman had the money, \$800. The boy says that Boche counted the money and put it in a purse with a clasp. Now while on the stand for the defense Emil Koehn testified that Herman showed him a purse with a clasp and said it held less than \$100. That couldn't stand. That boy was off the stand twenty-four hours. He had every chance to change his mind and he did. Now his mother had testified that the purse was one with a leather strap. I draw the mantle of clarity over the testimony of that boy. He testified for his father. These things show which way the wind is blowing.

"Herman Boche was very thoughtful of his property when he called for security but he came to the saloon at 10. How could he expect good security at that hour?"

"Now \$800 meant a good deal to Herman Boche. He knew before he left the premises of the resort that it was gone. He knew with whom he had associated. Frank Jarmer was dead and no money was found on his body. The story of Boche's deed was public. Did he take any steps to have anyone arrested? These things convince me that Boche lost only what he spent for beer.

"If Jarmer wanted to rob Boche why did he delay it?"

"If Vroman wanted to rob Boche why didn't he do it when they were

alone in the side parlor? "Instead they are supposed to have waited until they got him outside, aroused and vicious, a most inopportune time.

"One thing which Boche does not deny is enough to condemn him. Boche stood over Jarmer after he was down and fired two more shots into the body of prostrate Jarmer, powerless and helpless. There is no law on the books or in common sense to justify those last two shots.

"They tried to impeach Lee Vroman. Suppose he had said that he was going to do all he could to help get Boche in the pen. Did he say that he would do anything more than what the law required him to?"

Judge Jackson attacked Dr. Mackay's testimony.

He then closed with a few remarks to the jury.

Instructions to the Jury.

District Judge Welch at once read his instructions to the jury. There were thirty-four instructions in all. One stated that premeditation had not been proven and that the jury was instructed not to bring in a verdict for first degree murder.

The Boche murder case then went to the jury.

LEGAL BATTLE ROYAL

Now Being Waged in Madison in the Boche Murder Trial.

Madison, Neb., Feb. 28.—From a staff correspondent: Yesterday afternoon when Senator Allen, attorney for Boche, and Attorneys Koenigstein and Jackson, prosecuting for the state, brushed over the attempt of the county attorney to place Boche's revolver in the hands of the jurymen, the legal battle of the Boche murder trial was formally opened. County Attorney Koenigstein succeeded in getting the gun over in the jury box but it took thirty minutes to do it. Senator Allen entered his objections in the record.

With the gun incident in the records and with the testimony of the defense beginning, the legal contest between the opposing attorneys pushed into the foreground. Then the trial at Madison in addition to the dramatic elements in its story developed into a big legal battle.

The state presented its case in simple outline. Its witnesses testified that there had been no quarrel between the men up to the time they left the resort. Lee Vroman, eye witness to all the details of the shooting, told that Jarmer was merely trying to get Boche into the cab when without provocation Boche thrust Jarmer aside, flashed out a revolver and fired three shots into the man's body. The state contends the claim that Boche was "dead drunk" or that a struggle or quarrel preceded the shooting. A good part of the state's efforts were devoted to establishing legally that Jarmer was dead and that Boche had killed him.

The case of the defense is naturally more complicated. Its outline was given Wednesday and its foundation laid yesterday. The defense attempts to impeach the testimony of the state's eye witness, Vroman, to discredit his testimony. And the defense attacks the character of Jarmer, the dead saloon keeper. This outline appears in the Boche case: Boche, Jarmer's victim, drugged and drunk, robbery, resistance, a struggle, defense of property, justifiable homicide.

There has been months' of work put in on the Boche defense. That is shown by the mass of information in the grasp of Boche's attorneys, the witnesses on their lists, the outline and structure and completeness of their case.

The Boche trial is a big murder trial, a big legal battle just now the center of the stage in this section. Everyone connected with the big case is on a strain.

Herman Boche, on trial for his life for all that he sits there stiff and stolid in front of a terrible strain. Boche's hair is fast turning gray. Those gray streaks have been coming, it is said, since his present trouble started. Boche was upset by his brother's tragic drowning on the eve of his trial. It is rumored that Herman Boche believes that his brother committed suicide.

At Herman's side is his wife. She has not missed a minute of the trial and it is all heavy upon her.

Boche faces a long table in the court room. On one side sit M. D. Tyler, Bert Mapes and former United States Senator William V. Allen, the lawyers who are defending him, and on the other side of the table are County Attorney Jack Koenigstein and Judge N. D. Jackson of Neligh, prosecutors. On the bench is District Judge A. A. Welch. Just a little to one side is Court Reporter William Powers and right next to him and adjacent to the railed-in jury, the witness stand. District Clerk Fields has his desk between Judge Welch and the clerk's office, now filled with witnesses.

With Herman Boche occasionally but most of the time in the witness room is Mrs. Gus Hanska of Wakefield, his sister. Carl Sorg, a brother-in-law, has stood by Boche and Carl Reichle is also down at Madison.

Until today Herman Boche's sons had not been to the court room. Fred Boche, a cousin, the Madison county giant, was also sent for last night.

Mrs. Frank Jarmer, the widow of the man Herman Boche killed, came to Madison yesterday.

So the trial goes on. The lawyers clash oftener as it advances, the witnesses get less and less mercy, the lawyers gather around the reporter's desk more and more frequently to dictate long exceptions to the judge's ruling.

And out in the crowd men are wagering on the result.

Yesterday the crowd forgot itself

again and laughed. It was a funny point the witness made but the crowd laughed out loud. The judge rapped for order. Senator Allen asked that the "demonstration" be entered in the court records. Judge Welch consented, designating it as a "slight manifestation of amusement."

Senator Allen was provoked at the laughter. As he complained to the judge he said: "This is not a town caucus for men to come in and laugh. It is not a dog fight."

The big crowd which has packed the court room has been orderly.

LITTLE MISTAKES OFTEN FATAL

Wrong Date in Jarmer License May Have Had Dramatic Meaning.

As the Boche murder trial at Madison has yielded up fragment by fragment the story of that May day killing the spectators have marvelled, as they always do when such stories are told, at the very serious role in the life of the world that is played by the little things, the minor details of every day existence, apparently unimportant in themselves at the time of their passing, but oftentimes of mighty and everlasting consequences.

A false step here or there, an erroneous stroke of the pen, a little detail left undone or neglected in ordinary every day common place incidents—and lives often pay the penalties, families are broken up, the whole complexion of community life is altered and sometimes mixed with tragedy that, were humans gifted with foresight, might, by a simple touch here or there, have been altogether prevented.

Such a trial as this impresses upon spectators the fatality of chance and the irony of fate. It tends to emphasize the fact that life's tragedies and life's bloodshed hinge, more frequently than not upon little trivial mistakes which might just as easily not have been made at all.

One bit of testimony—that showing that a mistake had been made in issuing Jarmer's saloon license and that he really ought to have had several days more in which to secure license money—tended to drive home with dramatic intensity to all who sat in the courtroom, the serious consequences, oftentimes tragic, which may attach to the slightest detail of a business transaction, and more particularly to business matters involving the making out and signing of legal documents, even those that seem at the time comparatively unimportant and insignificant.

The theory of the defense in the Boche case is that Jarmer needed license money May 1 with which to renew his license. He had no money. And so, the defense argues, he was willing to take desperate chances to get money without borrowing it. And the defense claims that it was in trying to rob Boche that Jarmer was slain.

Men's minds are queer things and the study of them brings out interesting conclusions. Who, for instance, can say what might have happened if Jarmer had had six more days in which to secure money for the renewal of his license? Who shall say that in those six days—many things can happen in six days, sometimes—Jarmer might not have chanced upon a purchaser and sold out his saloon? Who shall say that some brewer might not have come to his rescue?

Who is to say that something might not have happened—nobody knows—during those six days, if Jarmer had not thought he must get money by May 1, to have presented that May morning tragedy? What might not have interfered to save Jarmer's life, to save Herman Boche's murder trial and whatever shall be his fate, to save Madison county a tremendous expense, to save Norfolk from another stain of human blood?

And who knows what effect the preventing of that murder might have had upon the late William Boche, brother of the accused murderer, whose dead body was found in the Elkhorn on the eve of the trial and whom Herman Boche believes to have suicided?

What anguish, what suffering might have been saved in three homes, if that killing had not occurred!

But would the murder have been prevented if Jarmer had been given, as he ought to have been given, six more days in which to raise license money? Ah, there's the rub.

It was through an error of the city clerk two years ago in making out saloon licenses, that the date of April 30 was set down as the time when the license should expire. Correctly, the license should not have expired until May 5, the end of the municipal year.

The saloon men, therefore, paid their year's license money for a license which was cut short by about a week of the time that they were entitled to. Their bonds were made out in accordance with the licenses, so that for a time there was serious question as to whether the saloons could remain open during the time between April 30 and May 7. Some went on the theory that the city council could meet May 1 and grant new licenses, beginning with that date. Jarmer was under that impression, although it was not right.

Jarmer believed that he must have money by May 1 to renew his license. That was the date which his erroneous license set and, the mistake having been made, that date had to be abided by. Jarmer was bankrupt at that time. Settlement of his estate gave creditors seventeen percent of money due them. And so the defense claims that, desperate for money with which to pay for his license on May 1, Jarmer conceived the plan of drugging and robbing Boche as the easiest way of getting the cash. This is the theory of the defense in justification

of the killing. And so an intensely dramatic interest attached the testimony of the city clerk when he went on the stand to tell about the Jarmer license, how it had been dated wrong and how Jarmer had spoken of the renewal.

For who can say that in that extra week to which Jarmer was entitled on his expiring license, something might not have transpired to have prevented the whole terrible tragedy and all its equally terrible consequences? Who shall say—but this, like many another perplexing question in life, will never be answered and no man shall ever know what might or what might not have taken place in those six additional days.

ALL TAFT SENTIMENT HERE

MADISON COUNTY CONVENTION SATURDAY AFTERNOON.

IS LAST ONE FOR FOUR YEARS

Under the New Primary Law, There Will Not Be Another County Convention Until the Next Presidential Campaign in 1911.

Madison county republicans hold their leap year county convention at Battle Creek Saturday afternoon on the odd day of the year, the twenty-ninth of February.

For three long years the twenty-ninth of February will be missing from the calendar of the year and for three long years county conventions will be missing from the political calendar.

The Nebraska legislature has decreed that county conventions shall be as rare as the twenty-ninth of February and the chance that brought the two on the same day gives an opportunity to bid a long good-bye to both. Neither will come again for four years. It being permissible under the new primary law to hold county conventions only to select delegations to the conventions that pick the delegates who represent Nebraska at the national convention.

Sentiment is All For Taft. There isn't any question that the Battle Creek convention will be a Taft convention. The big war secretary is as strong over the county as he is in Norfolk.

Wednesday evening the Madison republicans met in caucus and named a Taft delegation: George Richardson, Frank A. Peterson, C. S. Smith, F. P. Prince, C. S. Snyder, Chris Schaviand, A. M. Cunningham, U. D. Mathews, W. C. Elley, L. G. Bley, James Nichols and S. C. Blackman.

The Battle Creek convention will be called to order at 1 p. m. by C. A. Smith of Tilden, chairman of the county central committee. The business of the convention will be to select two delegations of fifteen delegates each to the Norfolk congressional convention and the Omaha state convention.

Several familiar convention figures may be missing from the Battle Creek convention on account of the Boche murder trial at Madison which will probably hold Madison county attorneys away from Battle Creek.

ENTERTAIN CREIGHTON MEMBER

Beulah Chapter, Eastern Star, Hostess at Special Meeting.

Beulah chapter, Eastern Star, last night entertained thirty members of the Creighton lodge and about ten other visitors. In all there were about seventy-six persons present. Degrees were conferred, after which a three-course supper was served. The visitors were entertained in Norfolk homes. "We had just a Joe dandy time," said one member, "and that's all there is to it." The hall was beautifully decorated in the lodge colors.

Among those present from Creighton were: Mr. and Mrs. George Hanks, Mr. and Mrs. Raymond, Mr. and Mrs. Kirk, Mr. and Mrs. Blank, Mr. and Mrs. Philbrick, Mr. and Mrs. Paul, Mr. and Mrs. Stockwell, Mrs. Ayers, Mrs. Cheney, Mrs. Scott, Mrs. E. Fox, Jr., Mrs. E. Fox, Jr., Mrs. Cobble, Mrs. Walton, Mrs. Brown, Mrs. Sears, Miss Charles, Miss Raymond, Miss Antrim, Mr. Bruce, Mr. Hanks.

There were clever toasts by Rev. Dr. Ray, Mr. Bruce, Mr. Kirk, Mr. Raymond, Mrs. George Hanks.

PROFESSOR LAWRENCE BRUNER.

Nebraska Man Who Has Made a National Success of His Line.

Neligh Register: Mrs. Fonetta Monroe and Miss Lily Bruner stopped over one day this week to visit old West Pointers now living at Neligh. The ladies are sisters of Professor Lawrence Bruner, head of the department of entomology of the state university at Lincoln. They were on their way to the old home at West Point from the Bruner ranch near Swan P. O. in southwestern Holt county. Sixteen years ago when the government decided to try the culture of various varieties of pine trees on the sand hills of western Nebraska, Prof. Bruner induced the authorities to use the Holt county ranch as one of the localities for the experiment. His offer was accepted and at the present time the trees are immense when compared with the seedlings which were set out at that time. The trees are from thirty to forty feet high and within a few years valuable lumber may be cut from them. Upon the success of similar experiments many thousand acres will be planted to pine trees in western Nebraska by the government. The work is in the hands of government foresters and professors from the forestry department of the state university. Students taking the forestry course at Lincoln spend many weeks each summer helping with the work on these government reserves. It was Prof. Bruner whom President McKinley selected to aid the government of Argentina, S. A., in the destruction of the grass hopper pest. For three or four seasons the farmers of the whole country had lost their wheat crop from the devastations of grass hoppers and the condition of the populace rendered the situation extremely alarming. European countries as well as the United States were appealed to for aid as the local scientists were utterly unable to cope with the pest. At last Prof. Bruner, whose work as an employe of the United States department of agriculture had long ago made himself famous, was selected as the one man able to render the assistance desired. He readily obtained a year's leave of absence from his professor-

ship and sailed at once for South America. On reaching Buenos Ayres Prof. Bruner organized the scientists of the country to take up the work systematically. After a germ disease was discovered which was fatal to this particular species of hopper, numerous specimens were captured and inoculated with the germ. Soon these became mightily sick grass hoppers and on being liberated in different parts of the country transmitted the disease to their associates. Soon millions of grass hoppers became victims of the disease until great drifts of the dead were piled up along the fence like so much snow. After the good work was accomplished the professor returned to Lincoln and modestly took up the duties of his professorship again.

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Mr. Johannes, grand secretary of the Sons of Hermann in Nebraska, who died recently at his home in Columbus, was a man well known in Norfolk and with a large acquaintance throughout north Nebraska. As editor of the "Nebraska Biene" and as state secretary of that typical German order, the Sons of Hermann, Mr. Johannes was a prominent figure among the German-American citizens of Nebraska.

He was born in Grossenkneten, Oldenburg, Germany, on August 2, 1867. He came to America in 1884, working for a short time on a farm at Silver Creek. He went to Columbus in 1889. In 1895 he published a German paper in Fremont. The next year he returned to Columbus, where he became connected with the "Nebraska Biene," first as reporter and then in 1898 as editor and owner.

Mr. Johannes was married on December 6, 1891, in Columbus to Miss Louise Franke. His wife and six children, three sons and three daughters, survive him. His father and four sisters still live in Germany.

After a severe illness lasting several weeks death called at the Johannes home on February 12, 1908. He was forty years old.

In addition to being grand secretary of the Sons of Hermann Mr. Johannes belonged to the Masons, the Royal Highlanders, the Modern Woodmen of America and the Woodmen of the World.

Many Norfolk lodgemen attended the funeral in Columbus on February 15, 1908. In addition to 400 members of the Sons of Hermann, the funeral was attended by the mayor, the councilmen and the fire department of Columbus. Rev. Mr. Neumarker preached the sermon.

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