

STATE RESTS IN FLOTH CASE

Detectives Swear that Floth Told Them He Kicked Fee.

STATE'S ATTORNEY SPRINGS SURPRISE

Calls Michael Moliner, One of the Co-Defendants to Witness

The best witnesses for the state in the Floth murder trial before Judge Baker were reserved until the last. This is why it happened that the particular blow which, it is contended, was the cause of Edward Fee's death on the night of August 22, was not mentioned until a few minutes before the state rested. Up to this time there had been a missing link in the testimony. Dr. Lavanor had demonstrated that the blow on Fee's head which, in his opinion, caused the contusion fracture and indirectly the rupture of the blood vessel and the consequent death, had been made by a hard substance of some kind. He ventured the opinion that it might have been made by a bat, but probably was made by a kick.

None of the witnesses mentioned a kick. Wachter told the court he saw both Coyne and Floth pummel Fee with their fists, but he declared positively that none of his companions on the night of the crime in the rear of the blacksmith shop had kicked Fee. The next to the last of the prosecution's witnesses was Detective Savage. He supplied the missing link to the complete chain of testimony. "I arrested Coyne the day after the murder when he was at work in the 'Union Pacific shops,' the detective said, "and I took him to the police station for an examination before the captain. In my presence and before Captain Iler, Detective Dunn and Floth himself, Coyne stated that on the night referred to Floth struck Fee several times prior to leaving him and walking to the Burt street sidewalk. He said that the group afterward returned from the walk to the place where they had been drinking in the rear of the shop and that Floth resumed his assault on Fee with a stick, as well as struck him with his fists."

The defense made a determined resistance to the admission of this testimony, objecting to it on the ground that it is hearsay evidence, but the court overruled the objections and Detective Savage's statements quoting Coyne as swearing that Floth kicked Fee, became a part of the records which will go to the jury for consideration.

State Springs Surprise. The attorney for the state caused something of a surprise when he informed the court that he had but a single witness more, and then called the name of Michael Moliner. This man is one of the co-defendants with Lee Coyne. Nothing had been said to suggest that he might take the witness chair and tell of circumstances that would incriminate his companions, so there was a flutter of genuine surprise when Moliner stepped before the bench and was sworn. Moliner is a youth of slender stature. A pallor overspread his features and he was excessively nervous when he seated himself in the chair before the court. His eyes avoided those of Floth, who sat just behind his attorneys and watched him furtively. Most of the time Moliner stared at the attorney questioning him. Occasionally, when the queries related to circumstances incriminating his companions, Moliner would drop his head and stammer, but never once did he glance in the direction of Floth. The defendant was so unbecomingly nervous, Moliner's having been a turn-out to the "game" was apparently as unexpected to him as to the spectators, but he showed no anxiety. The only emotions he gave signs of were curiosity and amusement.

Moliner's story was: "On the night of August 22, just after supper, I met Lee Coyne, Harry Floth and John Wachter near the corner of Thirty-second and Burt streets. We chatted awhile and then at the suggestion of someone in the group, I do not remember who, we went down to Anderson's saloon near Twenty-fifth and Cumings streets to buy some beer. As soon as the beverage was purchased we crossed the street, going down the driveway at the side of the blacksmith shop to the rear where a box wagon stood. Four climbed into the vehicle and drank the beer, passing the jug containing it from one to another till the crockery was empty. Floth was the only one who had any money. He said he had five cents and would spend it. He then crossed over to the saloon again to get the second supply of liquor. When that was finished Wachter suggested that we go home, saying that he must work in the morning and thought he had stayed out late enough.

Coyne Was Still Thirsty. "All of us but Coyne assented. He suggested that we should go to the saloon for drinks. Floth said he had another nickel and volunteered to go after a sandwich if Coyne would again rush the can. The rest of us left the wagon and found seats on the ground a few feet from the wall of the shop. Coyne returned with a conversation on the watch, but a few minutes later we returned to see if the man had any money. That was at Coyne's suggestion. When we reached the man's ride Floth went through his pockets. He took the watch. After that he struck the man several times. Then we all started home, leaving the man lying against the wall of the shop."

Judge Baker asked the witness if he saw any one kick Fee. Moliner's answer was no. When court convened Detectives Johnson and Hain were put on the witness stand in turn to tell of the recovery of Fee's watch, which Floth took from his pocket after assaulting him. Detective Johnson said that at first Floth denied having stolen the watch, but on being confronted by Coyne, who had previously admitted that he had taken it, he confessed and accompanied the officers to a vacant lot at Twenty-fourth and Jones streets, where the timepiece was recovered from its hiding place in the weeds.

Defense Calls but Two Witnesses. Before the close of the afternoon session the testimony was all in and the arguments of the attorneys for the prosecution were completed. The case did not go to the jury, but will be submitted this morning after the arguments of the defendant's attorneys. The defense is contented with calling two witnesses to tell the court that on the night of the murder they heard a wagon or carriage driven through the alleyway past the shop where Fee was found. The importance of this circumstance is that Fee might have been killed by having been struck by a horse's hoof, as he lay at the corner of the shop near the alley.

Harry Floth, the defendant, was put on the stand. He admitted that he was drinking in the rear of the smithy, but declared that neither he nor Coyne nor any of the others in the group struck or kicked Fee. His testimony was identical with that of other witnesses, excepting that he would not admit having quarreled with

striking him or taking the watch, as charged by the police.

OBJECTS TO DRIVING MILK WAGON. Mrs. George C. Jennings Given a Divorce from Her Husband.

When George C. Jennings compelled his wife to drive a milk wagon he furnished the last straw that made the matrimonial burden too heavy to be borne, and, as well, gave sufficient cause for the courts to come to the rescue of his wife with a decree of divorce. Judge Keyser heard the case at yesterday's session of court. One witness related the milk wagon episode. There were others who were willing to tell of further indignities which had been heaped by Jennings on Mrs. Jennings, but his honor waived them off. "I don't want to hear any more," he exclaimed. "That's enough," and the tone of his voice, as he vigorously applied his pen to the decree prepared by the attorneys indicated the enormity of Jennings' offense in his eyes.

Mrs. Jennings' name is Anna C. It was said in court that her husband was not over-fond of work and that he allowed Mrs. Jennings to do most of the chores. Witnesses said that Mrs. Jennings carried the money with which to purchase the cows and a wagon to peddle milk and did all the work of tending to the cows and milking them. Jennings, they said, even refused to drive the wagon from one house to another to furnish customers with milk, compelling his wife to add this to her other duties. Another household incident that contributed to the court's willingness to grant a divorce was a time when Jennings came home and without provocation became angry and kicked down the pipe to the kitchen stove.

MORE EXPOSITION LITIGATION. Motion for Rehearing of an Old Case in the Supreme Court.

In the supreme court of Nebraska next Monday another step in the recovery of funds of the Greater American Exposition assets by the trustee will be taken. At that time Hayden Brothers will file a motion for rehearing in the case which was decided against them on a point of law at the last sitting of the court and the trustee will contest the motion. It is generally believed that the court will sustain its former action and the case will come to Douglas county where it will be tried upon its merits. There is \$10,000 involved in the suit, but it may be several years before any money is realized should the case finally be decided in favor of the association.

Some time ago it was generally understood that a dividend would be declared by the referee, but that dividend is now as uncertain as it ever has been for the reason that the trustee decided that he could better protect his trust by keeping the funds on hand to pay court costs and other expenses, rather than to pay 10 per cent or less to the creditors. The trustee waived his right to payment of fees under the first dividend, and will, he says, take his chances of securing his fees after the preferred creditors are paid in full. From this it can be seen that the trustee feels confident that in the long run the estate will pay the preferred creditors, and if all of the suits now pending are decided in favor of the trustee the unpreferred creditors may hope to receive a portion of the money due them.

Court Notes. Judge Baxter has returned from Washington where he acted as a special agent for the board of fire and police commissioners.

Judge Carland closed his work in Omaha yesterday and returned to South Dakota. He is acting as a judge of the district court in the federal court.

The Rock Island Plow company has not yet decided whether to accept the offer of an implement dealer at Clay Center, to secure a debt of \$25,000. Action has been brought in the federal court to recover that sum. Judge Dickinson has granted a decree in the case of the order Land company against the ordering contractor. The contractor is to pay and curbing Twenty-fourth street from Patrick avenue to Wirt street.

The case of Otto Hirney against the Chicago House Wrecking company is in the hands of the jury in the federal court and the cases for trial today before Judge Carland have all been concluded or disposed of, so that the other jurors were excused until Thursday morning.

Nels S. Emert has commenced suit against the city to recover judgment in the sum of \$317 on account of back pay for services as fireman. Emert was in the employment of the city from 1895 to 1897. He contends that he should have received \$70 a month part of the time instead of \$60.

Judge Sibaugh is hearing the case of Mrs. Jennie Link against the Woodmen of the World, in which suit is brought to recover \$1,000 on an insurance policy which was forfeited by the husband, Frank Link, who married with the organization. Link killed himself on May 12, 1900. The officials of the organization contend there is a clause in the policy exempting them from payment in the case of suicide.

'T WAS ONLY A DREAM— We were in Albany and stopping at the least I remember my name. I know where he was a party by the name of Schaefer who ran a drug store in Omaha. We telephoned his office but were disappointed to learn he was in Europe spending the summer. I had a moment later a messenger knocked at our door with a message from his assistant manager tendering a check for \$500 and a bill for \$500. We were delighted, and accepted, and oh, what a magnificent ride we had. We were also shown through his elegant offices—then we awoke. It was only a dream. T. G. D. (To be continued.)

1 doz 2-gr Quinine capsules 75
1 doz 2-gr Quinine capsules 75
1 doz 4-gr Quinine capsules 150
Bromo Quinine 150
Hayden's Cough Syrup 50
Alax Tablets 50
Formaldehyde Bitters 50
Shred's Pig Powder 250
Scott's Emulsion 250
Psychine 250
Old Glory Bitters 250
Wyeth's Beef, Iron and Wine 250

Hayden Bros' Book Sale. \$1.50 books only 25c, including all Captain King's famous copyrighted novels. \$3.00 set of Dickens' works, 15 big volumes, for \$2.99. Your choice of over 100 titles, such as "Alice's Adventures in Wonderland," "Black Beauty," Burns' poems, "Imitation of Christ," only 12c.

\$1.50 COPYRIGHTED BOOKS ONLY 81c. "Janice Meredith," "When Knighthood Was in Flower," "The Religion of Law," "David Harum," and "Tony and Grael," your choice, 81c.

\$2.00 SILK-SEWED BIBLES, 95c. For one day the International silk-sewed bible, containing old and new testaments, revised large clear mirror type edition, references, only 95c. \$2.00 Shakespeare, complete, 25c. \$2.00 Shakespeare, complete, 35c.

Grand sale on pocketbooks, handbags, hair brushes, cloth brushes, military brushes, etc.

HAYDEN'S CHALLY SALE. Every large dry goods house has a chally sale two weeks before Christmas. We will place on sale tomorrow morning two lots of all wool broad Roman and Shearur, Louth & Co. high grade challis at 25c and 35c—and we defy any other house in any city to give as good value at 50c and \$1.00 per yard. Sale commences at 8 a. m. and will continue Friday and Saturday.

GRAND ANNUAL TOY OPENING THURSDAY. The most complete assortment of toys and fancy goods will have their opening display sale at the big store Thursday.

Open Thursday evening.

Economical piano buyers should not fail to attend factory price piano sale going on at Schmoller & Mueller's, 1213 Farnam st. You can save \$100.00 on your purchase.

HOMESEKERS' EXCURSIONS. Dec. 15th, Via Missouri Pacific Ry. Tuesday, Dec. 15, will be the next date on which the Missouri Pacific will sell round trip tickets at very low rates to points south, southeast and southwest. For further information call or address company's office, S. E. Cor. 14th and Douglas streets. T. F. GODFREY, P and T. A. J. O. PHILLIPPI, A. G. F. and P. A.

Lead is Booming. E. T. Peterson, chief clerk in the office of City Engineer Rosewater, has returned from a visit to Lead, S. D. "More than 100 buildings are in course of construction at Lead and prosperity seems to have struck the camp broadly," said Mr. Peterson. "Lead has a good system of sewers now and is a beautiful place. The Homestead company has completed its tunnel and an abundant water supply is had from Spearfish. Deadwood is quite as beautiful as the new camp. The smelter and the railroad are all there and in the town of Lead, and when the Northwest and Burlington get their direct lines into Lead Deadwood will be a thing of the past."

Parties having Washington state Transmississippi exposition, commission scrip will please communicate with us. THE BEE PUBLISHING COMPANY.

At candlelight on Thursday evening at Hanscom Park church ye ladies will be singing meet in ye quaint costumes of olde.

Shrewd buyers will find just what they are looking for at Schmoller & Mueller's factory price piano sale, 1213 Farnam st., and the prices—well, they are right.

The Womans' club of Hanscom Park church will give an old-fashioned concert at the church on Thursday evening.

Burlington Route. A Fabulous Conception of olden times pictured the genial as transporting inhabited palaces through the air.

This conception is almost realized today in the Burlington's Chicago Special. It is so handsomely appointed it does seem like a palace. It runs so swiftly that it does appear to be flying.

Leaves Omaha 7:00 a. m. Arrives Peoria 6:50 p. m. Arrives Chicago 8:30 p. m.

\$10.00 LADIES' CAPES, \$2.98. Today the Grandest Bargains in GOLF, FLUSH, Fur Capes on Reserve.

AT BOSTON STORE, OMAHA. \$10.00 GOLF CAPES, FLUSH CAPES AND FUR CAPES, \$2.98. This is by far the most extraordinary cloak value that we have ever offered.

Close out all of our broken lots and odd lots of ladies' jackets, made of all qualities of materials, about 200 in the lot, all worth up to \$6.00, choice today, \$1.98.

Announcements of the Theaters. Omaha theater-goers are anticipating much of artistic excellence from Miss Gertrude Coghlan's interpretation of Thackeray's remarkable character sketch, Becky Sharp in "Vanity Fair," which will be presented for the first time in Omaha Friday night, and if it is not the cleverest dramatic entertainment of the young season it will certainly disappoint many.

Sam Scriber's Gay Morning Glories—the big business company which is making such a hit at Miss Gertrude Coghlan's appearance here Friday and Saturday night, and at a Saturday matinee.

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Grand Annual Toy and Fancy Goods Opening Thursday and Thursday Evening.

The greatest event of the holiday season from all over the west as well as our own customers are interested in the opening, as it gives the first complete showing of ALL THAT IS NOVEL, BEAUTIFUL, ENTERTAINING, INSTRUCTIVE AND USEFUL IN HOLIDAY GOODS.

Whether you intend buying or not it will pay you to see this handsome exhibit of dolls, pictures, books, steam toys, wooden toys, iron toys, tool chests, wagnes, velocipedes, games of all kinds, including the very newest; jewelry novelties, albums, ebony goods, card cases and thousands upon thousands of other articles for use, ornament and entertainment.

You will see what you want for young and old at THE BIG STORE.

All the different goods are displayed before you and you can select from the best productions for Christmas trade from all the countries of the world.

Saturday Morning for the Children. The real live Santa Claus will hold a special reception for all the bright children of Omaha Saturday morning.

HAYDEN BROS. Will Make You Happy by doing perfect work and doing it quickly.

DR. BAILEY DENTIST. Not rudimentary or theoretical but practical, being based upon years of study and experience.

10,000 CUPS AND SAUCERS ON SALE. Most Extraordinary Sale of Crockery that Has Ever Taken Place Here.

From the railroad company we bought a carload of handsome decorated china cups, saucers, plates, etc. Also an elegant lot of imitation bronze ornaments and statuary and small bisque statues.

New Illustrated Map of the Kiowa, Comanche, Apache, Wichita and Caddo reservations, which are soon to be opened for settlement.

For CHRISTMAS. There are many LITTLE things which can be used at Christmas time for various purposes but which cannot be found at every store.

Sherman & McConnell Drug Co. Cor. 16th and Dodge.

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Nebraska Clothing Co. Success Creates Imitators. We struck it with those Kersey Automobiles at \$14.75. Women's Stylish Box Coats. Women's Dressing Sacques. Women's Golf Skirts. Women's Shoes. \$1.90, \$2.50, \$2.90.

HAYDEN'S New Particulars and NEW GOODS. Open Thursday Evening. The Most Sensational Cloak Sale Ever Known in Omaha. Hundreds and hundreds of people attending every day. Every one more than pleased. 400 Jackets and 200 Suits, delayed by the R. R. Co. at Buffalo, N. Y., just arrived, and go on sale Thursday. And the Suits. Your choice of 200 Suits, which the railroad company allowed us half on for detailing them so long. They are worth from \$12.00 to \$15.00. Do not think that we exaggerate. They are worth it. Your choice only..... 6.98