

ONE MORE CHANCE FOR LIFE

Supreme Court Grants New Trials to Three Convicted of Murder.

DRUGGISTS HAVE HARD TIME PASSING

Out of Seventy Candidates Only Eighteen Receive Permission to Mix Medicine—Flag Day Slightly Observed.

(From a Staff Correspondent.)

DES MOINES, Dec. 20.—(Special.)—The Iowa supreme court finished its work for the present special session today and did considerable interesting business in the way of granting new trials for men who have killed other men. Three such new trials, now serving a life sentence, and the other two with sentences of execution hanging over them. In both cases the reversal of the lower court was on technical grounds, not affecting the merits of either case, and there is nothing in the decision of the court which will prevent repeating the convictions on second trials.

In the case of A. M. Hunter, who killed Homer Holland at Mount Airy, November 3, 1901, after a quarrel over a telephone bill, in which Hunter received a life sentence on second degree murder, Judge Parrish, who presided at the trial, committed a grievous error in regard to challenges of jurors. The defendant had waived the eighth challenge, the state did the same, and the court refused to entertain any more challenges. The supreme court says the waiving of one challenge did not waive all that followed, and this was reversible error. The court erred in one particular in regard to the effect of acquittal, leaving the impression that if the jury erred in finding him guilty the error could be remedied, while if error was made in acquitting there was no remedy. This prejudiced the case against the defendant. Therefore a verdict was reached the jury asked for special instruction as to whether murder in the second degree could be committed in a heat of passion and blood. The justice went too far in answering the question.

Erred in Ruling on Intent.

Albert G. Phillips, colored, and Lewis Brooks, who had been sentenced to hang last Thursday, got a new trial in Buena Vista county. They killed John Sundblad November 16, 1901. They had been surrounded by a mob of men, and the mob was headed by Marshal Lodine and a running fire was going on. After they were driven from the depot the floor was covered with empty cartridges. They were pursued and finally arrested. Dolan, an accomplice in their bank robbery, was killed. Lodine was wounded, but recovered. Sundblad died soon after. The most important feature of the reversal relates to the intent of the murderers. Judge Baile, who presided, instructed that if a man, in shooting distance of another, is seen to take aim and fire and kill his man, such taking aim and firing would be of itself prima facie evidence he intended the result of his act and it would therefore be unnecessary to prove intent. The supreme court refuses to take this view, but says such an act would presume malice only and therefore second degree murder. Especially where there is a battle and exchange of shots, the premeditation and deliberation must be proved with the same certainty as in a case where a man cannot be presumed. There was also error in admitting as evidence the statement of Sundblad's wife that Sundblad said "the bigger had shot him," when it was not shown he thought he was dying. Testimony regarding a bottle of nitro-glycerine was wrongly admitted, because it was not identified as one taken from the defendants. There was no error in showing that revolvers, etc., were taken from the men. Conversations in jail relating to the bank robbery were properly admitted. An instruction in regard to the doubt which would justify acquittal was bad, because it implied that the jury was under obligation to convict unless there was strong doubt. There was much said about the lawfulness of the arrest without warrant and by an armed posse, but the court holds that the posse was justified in taking the action it did. Judge Deemer dissented from the majority view in regard to the dying declaration of Sundblad.

Court's Decisions.

The following are the other decisions rendered by the supreme court today: Mrs. William Andrews against Marshall Creamery company, appellant, Marshall county, Judge Burnham; affirmed by McClain. Mrs. Mary A. Murray against Mary E. Quigley, appellant, Allamakee county, Judge Hobson; affirmed by Sherman. Andrew Durgan against Chicago, Milwaukee & St. Paul railroad, Keokuk county, Judge Beck; action for damages; affirmed by Ladd. Peter Reilly against City of Fort Dodge, appellant, Webster county, Judge Weaver; reversed by Weaver. Robert F. Young against A. W. Lohr, appellant, Sioux county, Judge Hutchinson; damages for defective abstract; affirmed by Sherman. Helen E. Dillon against Iowa Central Railway company, appellant, Franklin county, Judge Walker; reversed by McClain. Catherine Goodwin against Merchants and Bankers Insurance company, appellant, Polk county, Judge Bishop; affirmed by Weaver. James W. Larkin against Chicago Great

OIL DISCOVERED IN IOWA

Woman Who Finds It Leases Large Tract of Land in Sac County. DES MOINES, Ia., Dec. 20.—Oil has been discovered issuing from the banks of the Coos river near Grant City in Sac county. A quart of the oil was sent to Ames college for analysis and found to be 80 per cent pure. The discoverer, a woman, has quietly leased 6,000 acres in the locality. A representative of the Pennsylvania Oil company and of Des Moines capitalists have been endeavoring to buy the lease contract.

WOMAN READY TO SURRENDER

Mrs. Ella Gallagher Will Give Herself Up Soon as Ball Game Is Arranged. DES MOINES, Ia., Dec. 20.—Mrs. Ella Gallagher of Iowa City, a fugitive from justice since her indictment for perjury, growing out of her testimony in her trial for the murder of her husband, has notified the authorities through her nearest relative, George Colwell, that she is near the Canada line and is ready to give herself up as soon as satisfactory terms as to bail can be arranged.

IOWA MAN FIGHTS FLAMES

Drops One Child from Window, While Another Suffocates in Smoke. PORT DODGE, Ia., Dec. 20.—With one child under each arm, J. J. Higgins of Crestona fought his way through smoke and flames in his blazing home today. He finally reached a window and dropped one of the children, a boy. Throwing the other into the snow, he returned for the boy, to find him dead.

Quarrel Ends in a Shooting.

HASTINGS, Ia., Dec. 20.—(Special Telegram.)—As the result of an altercation lasting all day a chicken picker in Swift's establishment named Hearing was shot by William Martin, living south of town. Both men had been drinking heavily and had other quarrels during the early evening. Martin entered Vanora's barber shop and began abusing Hearing, who knocked him down. Martin drew a revolver, shooting Hearing in the mouth. It is thought Hearing is not seriously injured.

HENDERSON GIVES A PARK

Makes Present to Louisiana, Missouri, Where He Spent Days of His Youth. LOUISIANA, Mo., Dec. 20.—It is announced that General John B. Henderson, member of the house of representatives, who began his career in Louisiana, has made a gift to the city of two blocks of city property overlooking the Mississippi river, to be converted into a park.

TESTIMONY SHOWS VIOLENCE

Methods Employed to Prevent Nonunion Men from Working.

MANY WITNESSES ARE ON THE STAND

Anthracite Coal Strike Commission Holds Last Session Before Holidays and Will Meet in Philadelphia January 6.

SCRANTON, Pa., Dec. 20.—The anthracite coal strike commission held its last session of the year today and adjourned to meet in Philadelphia on Tuesday, January 6.

In order to permit the commissioners and others connected with the proceedings to catch "train," today's session began at 9 o'clock. The attorneys for the nonunion men continued calling witnesses from Lackawanna and Luzerne counties for the purpose of proving that violence, intimidation and boycotts were employed to prevent the nonunion men from going to work. Everett Warren, counsel for the Lehigh Valley Coal company, filed the wage statements of the company. John H. Otto, the first witness called, said all the merchants in Archbald, Pa., were compelled to boycott him because he worked in the mines. The second witness was a boy who was forced to leave the store when he was employed on account of his father being a nonunion man, and the next witness testified that strikers tried to have him forced out of the volunteer company, to which he belonged, because he continued to work as a mine engineer during the strike.

Woman Tells of Burning Home.

Mrs. Rhoda Snyder of Wilkesbarre, with a baby in her arms, took the stand and with tears running down her face told of the burning of her home by strikers. Her husband was in the mines and could not come home because he feared bodily harm. She and her children were abandoned when she moved to another part of the city. Her reception in the new home was hostile and she decided to move to her mother-in-law's house. Strikers prevented her moving and the same night the house and its contents were destroyed by fire. James D. Lewis, a mine foreman, who said yesterday that he had been held up by a crowd near Oilpatch, was called in to testify by the miners, and a photograph showing him with a gun, and another showing a picture was placed in evidence.

James Dolan told a story of persecution because he worked during the strike. His children were beaten and insulted on the street.

LAST WEEK IN BLUFFS' SOCIETY

Holiday Vacation Brings Many Young People Home from School Duties.

The members of the Woman's Whist club met Tuesday afternoon with Mrs. Bender. Mr. and Mrs. W. F. Sapp of Oakland avenue were entertained at dinner Monday evening a number of friends.

White Linen Table Pieces and Dresser Scarfs

We have the prettiest goods made. Irish hand embroidered, hemstitched, trimmed with Cluny, Arabian, Russian, Irish crochet lace, in all sizes of Centers, Lunch Cloths and Scarfs. A large line of lower priced Centers, Lunch Cloths, Scarfs, etc. Brown linen pieces, handsomely embroidered in colors, are very new, for tables, sideboards, etc. Burnt leather pieces for tables, sofa pillow tops and wall decorations. Finished Sofa Pillows, \$1.15 up to \$2.00. See the handsome Satin Pillows at special cut prices, \$1.87 and \$2.50.

White Linen Table Pieces and Dresser Scarfs

We are showing the prettiest line of Dolls in Omaha. The celebrated Kestner is the prettiest face doll made, and with the pink or white, kid riveted joint body makes the handsomest and most durable doll in the line.

Umbrellas

See the new style handles on our Christmas Umbrellas.

NEW PUBLICATIONS.

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MRS. J. BENSON

WE NEVER HAD SUCH A GOOD CHRISTMAS TRADE as we are having now, but our store is still loaded with the prettiest goods suitable for Christmas presents at very low prices, considering value.

Furs

If you have FURS to buy, don't fail to see our stock, as we are giving special bargains, Isabelle Marten, American Marten, Genuina Russian Marten, genuine Mink, imitation mink, beaver, blended Mink, Raccoon, Seal, Fox, and genuine beaver, in medium and extra fine qualities. Boas and Scarfs of all kinds, from the shortest to the longest. Length made. Prices, \$2.25 to \$45.00. Muffs, from \$1.25 to \$20.00.

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Silk or wool, for house or street. Newest in Silk or Mercerized Petticoats.

Wrist Bags and Chate-laines.

The finest line in Omaha. Leathers in Mexican carved, walrus, seal lion, real seal, alligator, undressed kid, tawesty, etc. Prices 50c to \$5.50.

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Gifts for Men

Fine linen Initial Handkerchiefs, 25c each, or half dozen in fancy box for \$1.50. An all linen Initial Handkerchief at 15c each. A handsome line of all linen Handkerchiefs in 1/4, 1/2, 3/4 and 1-inch sizes; prices, 15c each, or two for 25c; 25c each; 35c, or three for \$1.00; 50c each and 75c each. A white Silk Initial Handkerchief at 25c and 50c; without initial 50c and 75c. Mufflers, Umbrellas, Military Brushes, Toilet Sets, Pocket Knives, Traveling Cases, Shaving Mirrors, Collars, Cuffs and Tie Boxes, Clipping Cases, Ink Wells, Pen Wipers, Shaving Sets, Calendars, Pocket Bill, Address and Memorandum Books.

Novelties in Jewelry

The new Bead Chains, in black, carved, teak and bogwood, pearl, turquoise, coral, etc. Brooch Pins, in cameo, Rhinestones, Solid Gold, etc. Variety of Muff and Boa Chains; Infants' Gold Pins, solid and plated; Stick Pins, Button Sets, Sterling Silver Manicure Pieces, in new French gray finish; Paper Cutters, Files, Shooshers, Tooth Brushes, etc. New styles in Charms and Lockets, gold, silver and gun metal. Hair Ornaments and Combs, in real and imitation shell. Fancy Garters, in round and side.

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