

WOMAN SANE, SAYS DR. TILDEN

Mrs. Banner Realized Her Action in Killing, Affirms State's Expert.

BATTLE OF ALIENISTS IN TRIAL

Feetle Problem as to Communication Between Husband and Wife Arises Over Conflicting Verdicts of Law Book.

Aside from their testimony the feature of the day was the attempt of the state to put Frank Banner, husband of the defendant, on the stand. His testimony was objected to and the argument over this developed one of the most peculiar situations ever known in the district court of Douglas county. It all depends on the presence or absence of the letter "S" in a Nebraska statute.

Communications between husband and wife are privileged and one may not testify against the other by virtue of an old rule of the common law adopted in the code of every state in the union. But there is another provision in the Nebraska statutes which refers to "preceding sections" or to a "preceding section," and provides that when the interested party (the defendant) waives, the other party may testify with regard to the points covered by the other.

Judge Sears had a copy of the statutes which read "the preceding sections," and which would include the section which relates to testimony of husband and wife. Attorney Gering's copy of the statutes read the "preceding section," which would only include testimony of clerymen. Over night the attorneys and Judge Sears are examining further into the matter. The defense denies any waiver, anyhow.

Three Doctors Swear Her Insane.

The defense not only put in the record statements by Drs. Greene and Witte, the imported experts, that Mrs. Banner was insane, but it recalled Dr. McCrann of South Omaha, who, as the attendant of Mrs. Banner for a long time, declared that she was insane. McCrann, whose experience on the stand Thursday was not exactly pleasant, faced even worse yesterday on cross-examination.

"Was she of sound or unsound mind at the time she fired the shot?" he was asked on direct examination.

"She was hysterically insane."

County Attorney English then took the witness.

"Did you make any inquiry as to what member of your distinguished profession performed the operation on Marjorie?"

"I did not."

"You were not indignant about it?"

"No."

"You were not angry until Mrs. Banner accused you of lying to her?"

"No."

"You then made your speech to her?"

"I object," interrupted Gering, "to the county attorney's calling Dr. McCrann's statement a 'speech.'"

"You didn't care," English continued, "what effect it might have upon her?"

"I told her not to be guided by feelings, but to use her judgment."

"You thought her insane at the time?" The witness admitted he did.

Asked if He Advised Murder.

"Did you after making this speech then direct her to the nearest hardware store?"

"I object to the question," shouted Gering, "insulting to Dr. McCrann."

Counsel for the defense was sustained.

"You let her go out into the street, however?" pursued English.

"Yes."

"You were her family physician?" asked the county attorney with a hardly disguised leer.

"Yes."

Dr. J. L. Greene proved a less easy witness for the state to handle on cross-examination than Dr. Witte, who is of equal eminence as an alienist, but not so quick witted as the Kankakee man, formerly of Nebraska. Dr. Greene, who is superintendent of the Eastern Illinois Hospital for the Insane, is well known in Nebraska and personally popular. He made an excellent impression.

The species of insanity which he and Witte believe Mrs. Banner suffered from was further developed by his testimony as being a form of "exhaustion psychosis," what is known as "delirium collapse." With his testimony the defense rested and the state called Dr. Tilden. His qualifications were first set forth, the witness stating that he had investigated several thousand cases of insanity as insane commissioner and had specialized in mental diseases as well.

Piercing Scream Interrupts.

The county attorney then read him an addition of his own to the defense's hypothetical question, which included the state's chief testimony with regard to the

visit to the cigar store in search of Fred Banner, the purchase of the revolver and so on.

"That the defendant came across the street, that her husband rose and went toward her, that she waved him aside and going up to Fred Banner shot him dead, that—a piercing scream started the court room at this point. Mrs. Josephine Banner, mother of the dead man had been deeply agitated by the recital of the killing of her son, and her grief for a few minutes was loud and uncontrollable. Attorney Gering asked that she be removed from the court room, but Judge Sears would not assent. When Mrs. Banner had recovered the county attorney went on with the rest of his question, ending with, "Would you say, Doctor, that she was sane or insane?"

"I think she was sane."

"Capable of distinguishing right from wrong with reference to that act?"

"She was capable."

She Was Capable.

On cross-examination of Dr. Tilden Gering went after the white-haired physician with a library of books by foreign authorities. The attorney for the defense had posted himself on classifications and definitions of insanity and for a time a battle royal waged. The witness held his own, however. Gering wished and witness to answer a hypothetical question, which left out the facts added by the state and Dr. Tilden refused to answer.

After Tilden, Frank Banner was called. The argument over his testimony followed for some minutes, and then the matter went over until this morning. Mr. Josephine Banner testified for a few minutes before court adjourned. It did not seem likely at the close of court Friday that the case could be terminated today.

"Mrs. Atta Banner was suffering from exhaustion insanity when she shot and killed her brother-in-law, Fred Banner," declared Dr. Max E. Witte, first of the alienists called by the defense in the trial of Mrs. Banner before Judge Sears of the district court Friday morning. Dr. Witte is superintendent of the Iowa Hospital for the Insane at Clarinda and a professor of mental diseases in the University of Iowa.

A fat-stead skeleton in the Hudspeth family closet was laid bare through the testimony of Dr. Witte, who has had under his care for several years John Hudspeth, formerly a lawyer of Atlantic, Ia., and a brother of Mrs. Atta Banner. It developed on cross-examination that John Hudspeth's insanity was discovered after he was accused of murdering a man and placing his body on the railroad tracks.

English attacked the hypothetical question in piecemeal.

"You have heard, doctor, of cases of domestic discord and separation, and the members of the family still retained their sanity?"

"Yes," answered the expert, who apparently did not relish the question.

"Anything peculiar," English went on, "about a mother's working for a daughter and sending her to school?"

"No," answered the alienist.

"Anything extraordinary in her being fond of her daughter?"

"No."

"Unusual for a mother to wait upon her daughter when she was ill?"

"No."

"It does not of necessity lead to insanity?"

The Wear and Tear Would Count.

On redirect examination Gering asked what form of insanity Mrs. Banner had, a fact not previously brought out. Dr. Witte answered, "Exhaustion insanity."

Mrs. Banner Long on Stand.

Mrs. Banner occupied the stand for further cross-examination the greater part of the morning. The county attorney piled her with questions intending to show deliberate purpose with regard to killing Fred Banner and also in the hope of shaking the defense's contention that it was the sudden discovery of her daughter's condition which drove her to shoot Banner.

Mrs. Banner became affected only during questions with regard to the shooting. She had a "hazy, a very hazy recollection of firing the shot. After that the whole world seemed still."

She had a dim recollection of having been in the hardware store where she bought the gun and did not know at the time she approached Banner whether or not she had a gun in her hand.

With the evidence of Dr. J. L. Greene, another expert, the defense will conclude. The state's rebuttal will not be lengthy and the case will go to the jury some time Saturday. Dr. Greene is superintendent of the Illinois hospital for insane at Kankakee.

Alienist Met Alienist in the Banner Murder Trial Yesterday Afternoon, the state in rebuttal calling Dr. George Tilden. He was just as emphatic that Mrs. Banner knew right from wrong when she killed

Fred Banner as Drs. Greene and Witte had been that she did not.

Clean the City, Let Politics Go

This is the Order of Health Commissioner Connell to His Eight Sanitary Inspectors.

"You men are employed to clean up the city physically, not politically, and from now on I will expect you to work assiduously for the city from 8 o'clock in the morning until 5 in the afternoon."

This notice to the eight sanitary inspectors was posted Friday by Health Commissioner Connell in the office of the Board of Health in the city hall. The inspectors have been having it rather easy during the cold months, but with the opening of spring the health commissioner says there is no excuse for them to be idle any of the time, hence the instructions to eschew politics.

The health commissioner will not set a stated day for a general cleanup on the part of citizens until the middle of April.

Dakota Banker Drops Dead.

TYNDALL, S. D., March 19.—W. G. Youngworth, vice president of the First National bank, dropped dead while hunting near here today.

TRAFFIC BUREAU NOW A FACT

Joint Department for Grain Exchange and Commercial Club.

M'VANN IS PLACED IN CHARGE

Changes in the method of handling traffic affairs will be made as a result of a meeting of the board of directors of the Omaha Grain exchange, which passed favorably on the proposition of the transportation committee of the Commercial club to establish a traffic bureau to care for traffic matters of the Grain exchange and Commercial club jointly.

The bureau will be established by members of the Commercial club who are shippers; it will be controlled and supported by the Commercial club and Grain exchange and in direct charge of the transportation committee of the Commercial club, reinforced by a strong representation of the Grain exchange.

E. J. McVann, at present secretary of the Grain exchange, will take direct charge of the work of the bureau. The secretaryship of the grain exchange will be vacant when Mr. McVann takes up the work with

the traffic bureau. It is probable that another secretary will be elected who will be relieved of handling transportation matters which have been a large share of the duties of E. J. McVann.

No changes will be made in the Commercial club except that Commissioner Guild will be relieved of the work of handling traffic matters, enabling him to give attention to other matters in the conduct of the club's affairs.

Details of the new bureau are yet to be arranged by the committee. The action of the grain exchange was final and until that action was taken Thursday there was no certainty that the traffic bureau would be established.

Sanify Croquettes.

Clean and grate, eight roots of vegetable oyster, previously boiled. Add to this four large spoons of sweet cream, two eggs well beaten and season with pepper and salt. Mix in a quantity of cracker crumbs to make it stiff enough to handle with a spoon. Then mold into croquettes. Dip into egg and cracker crumbs and fry until brown in hot butter and catolaine or lard.

Bigger, Better, Busier—That's what ad-

To Clean Globes.

When the globes from a chandelier have become dirty with smoke, they should be soaked in warm soda water, about twenty minutes. Then add a few drops of ammonia and wash the globes well with a soaped flannel, rinse in clean cold water, dry with a soft linen cloth.

Correct Dress for Men and Boys

Spring Top Coats

Specially priced for Saturday. A spring "topper"—every man should have one. The winter coat can now be exchanged for a dapper, lighter weight garment, and whatever style you prefer is here—the shorter box coat—the extreme coat and the between length. Every good material used in the making of fashionable spring coats has been employed in the making of ours—and our prices are always as low as quality will admit. But we never allow a price to touch a point where quality ceases. These spring coats as they are now priced are exceptional values for Saturday's selling—

\$10 to \$35



Boys' Spring Clothes

We believe that boys are real boys in the spring and summer. There is something in the air that sends them racing, jumping and playing more than at any other season of the year. But don't restrain the boy—rather bring him here and let us fix him out with clothes that will stand for the severe test he is bound to give them. Handsome suits in several new models, single and double breasted styles,—sailor suits, Norfolk, Russian blouse, etc. We wonder when looking at our mammoth collection of boys' suits, what wanted style or color another could ask for we haven't got—at the price she wants to pay—from

\$2.50 to \$10

Parents who read this ad and come in will be glad they noticed it, for we've so many good things to show them.



Spring Hats

We'd hat the world if we could get at it—we've hats enough for the people on it at any rate. You would think so too if you would come in and see the new spring stock. We've hats for men of all ages, and our hats come from the best makers. They are carefully selected styles from the choicest productions of John B. Stetson—complete assortments from \$3.50 up to \$12.00. A great collection from Crofut & Knapp's swell creations at \$3, \$4 and \$6. The cream of Mallory's celebrated hats at \$2 and \$2.50. The unexcelled no name hat company's hats at \$2.50 and \$3, and Youman's agency hats at \$5. These manufacturers are undeniably the greatest hat makers on earth. Every shade and color tone is represented in this grand colossal spring gathering. We've never in our experience seen the equal of these qualities and styles at the price.

We make uniforms of every description

The Berg Clothing Co
15th & DOUGLAS

The Rain Coat

The ever useful member of a man's wardrobe. With a good raincoat you are ready for a hot, dry spring and summer or a cold wet one. It matters not whether it blows hot or cold, rains or shines, the rain coat is equal to any weather emergency and looks right at all times. The fabrics are worsteds and chevots, cravenotted or rain proofed, and the cut and tailoring put them right to the front as a stylish, sensible garment for spring wear, and we can offer a real surprise in these presentable and dependable coats as they are now priced for Saturday's selling—we've a long range of

\$10 to \$35

But one is always better satisfied, we find, when they can select from a big assortment, and we've by far the biggest in town—we know it.



Spring Furnishings

We've so many beautiful things in men's toggery and so little space to talk about them.

We've searched the markets for the best things and most interesting styles. Noted makers of shirts, neckwear, hosiery, gloves, etc., have contributed their

Choicest Products

Our mission is the correct dressing of mankind, and our success depends upon the way we do our work. We aim to have the best and we have it and the man who cares for choice and exclusive haberdashery can always find it here.

Elsasser Sign Invites Actual Warfare at Last

Will Be Outlawed if Movement Started by C. F. Harrison is Successful.

While Pete Elsasser has been the subject of caustic remarks by business men for over a week because he erected what is declared to be the "worst sign in Omaha," no one started anything to induce Elsasser to stand up for a more beautiful Omaha until C. F. Harrison of the real estate exchange announced Friday that he had a resolution prepared to be introduced at the next meeting of the exchange which would give the barber-member of the city council a few pointers on his offensive sign.

Mr. Harrison with J. H. Robbins, member of the municipal affairs committee of the commercial club and president of the Real Estate exchange viewed the sign on Farnam street Friday morning.

"It's an abomination," was the verdict of both men.

"The sign ought all to come down," said Mr. Harrison. "We look through a forest of signs when we view Farnam street, yet the best looking fronts in the

city are those of the Thompson & Belden store and the Loyal hotel where no signs over the sidewalks are permitted. Elsasser is a friend of mine, but his sign is the worst offender to municipal beauty in the city and I will introduce a resolution and follow it up to see if something cannot be done to have it removed or made less offensive."

"No one but a member of the city council could erect such a sign and it won't do Elsasser's chances of re-election any good," said one of the men fighting the sign.

Why Women Grow Old.

"Women, condemned to the steam-heated life of our American cities, fed on the too-abundant meat diet, which is ourbane, breathing and sleeping wrongly, suffering the lack of physical exercise, which, oddly enough, is the result of our so-called "busy" lives, continue to age and to lose suppleness, grace, vigor and natural charm," writes Kate Masteron in Collier's. "All the wonder-working grasses and bleaching acids in the world will not do more than achieve a surface smoothness that sometimes in women past middle age creates an almost uncanny effect of mere flesh culture, covering a hopeless posture of youthfulness."

Railway Notes and Personal.

Edson Rich, general attorney for Nebraska for the Union Pacific, left Friday for St. Paul.

Hal Buckingham, chief clerk in the general freight offices of the Burlington, who has been at Kansas City for three days checking freight rates, has returned.

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Uneeda Biscuit

It was the goodness of the crackers that made the fame of the name—

Uneeda Biscuit



5c Sold only in moisture proof packages.

NATIONAL BISCUIT COMPANY