

MABRAY TURNS THE TABLES

Declares Marks Helped Play Part in "Big Store" Deal.

ON THE STAND FOR THE STATE
Defense Objects to the Evidence Showing How a Division of the Profits in Swindling Was
 Cot. P.

John C. Mabray, the state's principal witness in the Ben Marks trial, for taking a part in the "big store" deal, was placed on the stand late Monday afternoon at Council Bluffs. Attorney General Carson attempted to introduce the division sheets in two of the first items dealing showing a division of the spoils by percentages, which Mabray was to explain by showing that 5 per cent went to Marks in consideration of an agreement to secure official protection, before he had attempted to show by evidence a connection of Marks with the reputed conspiracy. It was exactly the same proposition that caused the civil suits against Marks, Hart and the First National bank to be thrown out of the federal court by a ruling of Judge McPherson. Judge Arthur took the same view and refused to allow the alleged division sheets to be admitted.

Almost from the moment Mabray went onto the witness stand, objections by the attorneys for the defense began. It was contended that Mabray could not be used to identify any part of the documentary evidence captured in the raid at Little Rock when he was caught with a trunk full of the records of his business that made possible the arrest of all members and effected breaking up the gang.

Court Sustains Contention.
 Attorneys for the defense claimed that any names found in this batch of stuff were worthless evidence until it had been shown by evidence outside of that offered by co-conspirators that the persons named were parties to the conspiracy. The court sustained this contention in two rulings, each in separate instances when the division sheets were brought forward. It was regarded as a rather demoralizing blow, but did not disturb the serenity of the attorney general who intimated that he had other means by which he would show the division of the spoils and that a certain percentage had gone to Marks.

The sheets, marked exhibits 16 and 17, were only figures indicating amounts of money and dates showing the transactions.

Mr. Carson, however, succeeded in getting before the jury by questions asked the witness, to which objections were sustained. Throughout the afternoon nearly all of the court's rulings were in favor of the defense.

The court room soon became packed when it was known that Mabray was on the stand. There was not a tremor visible when he faced the array of attorneys. The attorney general brought out the fact at the outset that Mabray was a convicted felon by making him tell where he had spent the last year or more of his life.

Mabray said he now lives in Des Moines, but the attorney general made him immediately declare that his previous abode before going there was the Leavenworth penitentiary.

Had Known Marks.
 He declared he had known Marks ten or twelve years, becoming acquainted in 1898, when he, Mabray, was running a gambling house over the Sherlock saloon on Pearl street. He said that he returned here in the spring of 1907 in compliance with a plan of the "big store" in connection with his partner, Harriman and Brown; that the day he arrived he called on Ben Marks and detailed the scheme of wholesale swindling and told Marks that the "big store" could not be opened unless protection was assured from county and city officials. He said he explained all of the details of the scheme and told Marks that at least 5 per cent of the gross profits could be set aside to secure this protection. He said Marks promised to consider the proposition and was to let him know the next morning.

Marks in the Deal.
 According to Mabray's testimony, this conversation occurred late in the evening, and early the next morning Marks gave him an affirmative answer and he was led to believe that everything had been "fixed" in the short interval that intervened. Mabray said he then wrote and wired his partners at New Orleans that there was no failure this time and to get ready for business. He said immediately went to Omaha and rented an office and got postoffice box No. 8 there, and that Harriman and Brown came here at once.

Detailing the amount of the division that was to be given Marks upon his guaranty of police protection, Mabray said that he had first offered him \$500 a month, flat, or 3 per cent, assuming that the income from the business would approximate at least \$10,000 a month, but that Marks chose the percentage. He told of bringing on the fake fighters and wrestlers, Thielman and Marsh, and named some of the other employees, among them Moore, a former Council Bluffs man, who has never been apprehended.

Mabray said he was not here when the first victims were brought forward to be forced in April, May, 1907, but that he had kept the sheet showing the division of the profits. It was then that the defense began its successful fight against the admission of the sheets. This sheet, Mabray testified, was not made by him, but he identified the writing as that of Harriman. The second sheet, the one showing the division in the second case, Mabray said was made under his supervision and he was ready to identify it. It was for this reason that the attorney general hoped to get it into the record, but was defeated when the court held that it could be of no value except as a means of refreshing the witness' memory.

During the controversy it came out that 1 per cent was added to the original 3 per cent, which Mabray explained was to pay for "additional service" that was in some manner to be performed by Marks. There was anxiety to know what this additional service was and who performed it, but Mabray was not permitted to tell. Mabray's examination was scarcely commenced when the court adjourned shortly before 6 o'clock.

Rusher and Hemelbrecht.
 The fore part of the day was devoted to recounting the experiences of two more of the "mikes." They were Henry Rusher, then a sheep man of Wyoming, but now living in Eldorado, Kan., and John Hemelbrecht of Bancroft, Neb. Rusher dropped \$1,000 and Hemelbrecht \$5,000. Neither of the stories varied any from the usual tales of the mikes. Both went against the fake horse race run in the public road near Alnawa, Hemelbrecht

is vice president of the First National bank of Bancroft. He was compelled to admit that he conspired, not only to the fake robbery of the alleged millionaire, but agreed to have the stake holder bet the stake money of \$10,000 until it offset \$25,000 on the second day's betting. He was also confronted by a most compelling letter which he had signed, posing as the owner of "Red Leo" and characterized himself "a true sport."

Judge Arthur broached the subject of holding night sessions to get through the case this week, but the attorneys for the defense objected. "Mr. Marks is an old man and very feeble and ill," said Mr. Organ, "and he could not stand the strain even if we could." There will be no night work done.

The condition of Marks is really alarming to his friends and the attorneys. He has been unable to get to sleep until after 1 o'clock each morning and must be in the court room at 9:30. A long continuation of the strain would break him down, both mentally and physically, his attorneys say.

Nebraska Preachers Talk of the Churches

"Is the state of Nebraska over-churchered?" This question was discussed at the afternoon session of the Home Missions' council at the Young Men's Christian association rooms yesterday. Many of the ministers at the meeting contended that there are more churches in the state than are necessary, while others were of the opinion that there are not enough to meet the demand.

Rev. W. A. Baldwin said that in the western part of the state there is a vast stretch of territory, formerly grazing land, but now being taken up by settlers, and that little villages are springing up there and are without religious influence of any kind. He said that in these places there is a great demand for churches and preachers, and that religious activity should be started.

In the southeastern part of the state there are many towns and villages, Rev. Mr. Baldwin said, with churches, but without pastors to fill the pulpits. The reason for this, he thought, is because the salary which the congregations are

willing to pay is too small for a minister to live on.

Shuster Sustained by Persian Council

TEHRAN, Dec. 19.—The national council has refused to accept the cabinet's proposals regarding a solution of the Russian difficulty and the Russian troops are preparing to advance on the capital. It is believed that the advance will begin on Thursday. The people are apathetic and only the women continue an active boycott.

The official attitude suggests passive resistance, but the provincial sentiment is strongly opposed to the Russians. The former shah, Mohammed Ali Mirza, is at Gumesheh Tepe.

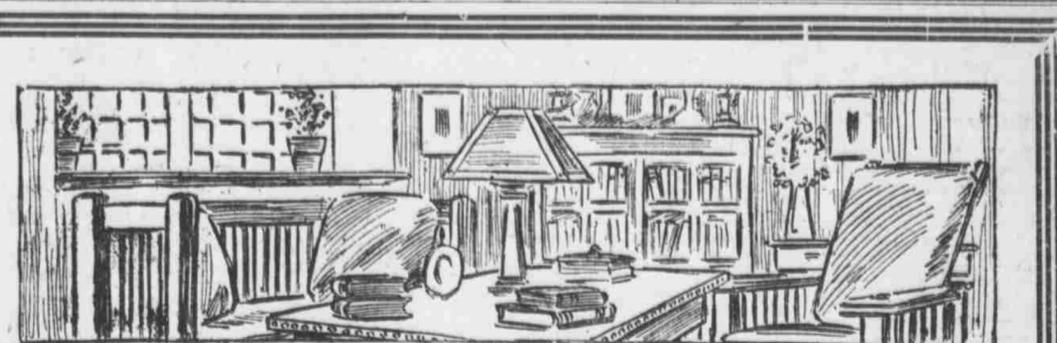
The foreign minister, in presenting the question before the national council today, made a determined attempt to secure the support of the council. He represented that the cabinet had made every effort to retain Mr. Shuster, but the plight of the country was desperate. The former shah, he said, was advancing on the one hand and Salar 154 Dowleh on the other, while Russia refused to abate its demands. Therefore, he argued, the cabinet should be empowered to conciliate Russia.

In spite of his appeals the deputies insisted that the retention of Mr. Shuster was Persia's only hope and that nothing was to be gained by yielding.

ANOTHER SON BORN TO THE GERMAN CROWN PRINCESS

BERLIN, Dec. 19.—Crown Princess Cecilia, the wife of Crown Prince Frederick Wilhelm, gave birth to a son at 1 o'clock this morning.

The crown princess was Duchess Cecilia of Mecklenburg-Schwerin. Her marriage with Crown Prince Frederick Wilhelm took place on June 15, 1906. The family of the royal couple now consists of four sons.



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- \$35.00 Ladies' Writing Desk—Beautiful walnut; colonial design; roomy compartments; heavy writing bed \$25.00
- \$30.00 Ladies' Writing Desk—Handsome birch; two spacious drawers; very excellent model; roomy compartments; thorough construction \$22.00
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- Italian Marble Pedestal—For "Priscilla" \$25.00
- Two-Toned Italian Marble Bust—8 inches high, "Laura" \$15.00
- \$42.50 Italian Marble Bust—16 in. high, "Devotion" \$30.00
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- Three Panelled Frame—Fumed oak, plain green double burlap filling, for \$6.60
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