

## Fight Carried To Seven Courts Ends at Chair

Legal Battle Which Brought  
Nineteen Reprieves Con-  
cludes as Lawyers Exhaust  
All Resources.

On the morning of July 5, 1917, the body of Mrs. Lulu Vogt was found lying in the roadside near her home at Elba, Howard county, Nebraska.

Examination disclosed numerous bullet wounds. Indications pointed to the fact that her body had been thrown from a moving vehicle to the side of the road.

Mrs. Vogt had long been a respected resident of the community in which she had lived, and the citizens of the county were immediately roused to frenzied efforts to track the murderer and bring him back to face justice.

The crime developed into one of the deepest mysteries in the annals of police history in Nebraska.

Careful investigation into the movements of Mrs. Vogt the night before her dead body was found, and the disappearance of Alton B. Cole from his customary place of employment at the farm of Allen V. Grammer, Mrs. Vogt's son-in-law, soon threw light on the apparently incalculable crime, however.

Further probe disclosed the fact that Cole had used his employer's automobile the night of July 4. A nationwide search was instituted for the youth, scarcely over 21 years old, and a reward was offered for his arrest.

Weeks passed. Information was finally received that he had been apprehended in a small town in Wisconsin, and had admitted his identity. He was returned to Nebraska to face charges of murder.

Meanwhile, feeling at Elba had increased to fever heat. Lynching was rumored, and whispered threats against the young man, accused of the crime, went the rounds of the entire county.

Cole was kept in Omaha. One night, after a day and night of grueling examination and alleged third degree, at the hands of several Omaha detectives in a room at the Paxton hotel, he capitulated and dictated a confession of his connection with the murder.

In this confession, he implicated Grammer, his former employer, and the son-in-law of the murdered woman, and upon this confession, Grammer was taken into custody. The confession stated that Grammer had offered to pay Cole \$500 to kill Mrs. Vogt.

The two men were placed on trial in Howard county on March 12, 1918.

After a jury had been impaneled and sworn Cole withdrew his plea of not guilty and entered a plea of guilty. He was sentenced almost at once to death by electrocution.

**Is Speedily Convicted.**

Grammer stood trial and was speedily convicted on evidence of Cole's confession in Omaha. He, too, was sentenced to death in the electric chair, to pay with his life for the murder of his mother-in-law.

The condemned men were removed to the state penitentiary, and then began one of the most thrilling fights for human life ever staged in Nebraska.

The trial was replete with sparkling legal technicalities. Pleas, counter pleas, requests for writs of habeas corpus, tried and denied; appeals to the supreme court and affirmation in every detail of the findings of the lower courts met each and every step and move of the attorneys for the doomed men.

At the state prison Cole made a second confession, in which he exonerated Grammer of any complicity in the crime for which he was convicted. The confession was never admitted to evidence before a jury in behalf of Grammer.

**Blocked by High Court.**

The supreme court, prior to this second confession, had blocked the last avenue by which Grammer's counsel might have been able to make use of it.

Cole, having confessed his guilt, did not appeal to the supreme court. Grammer's attorneys, however, filed a bill of exceptions in June, 1918, and the supreme court's action, affirming the decision of the lower court, was returned March 27, 1919.

In its decision, the court set the date for the electrocution of the condemned men for June 6, 1919.

At once motion for a rehearing was filed by Grammer's counsel, causing a stay of execution. Ruling on this motion was made July 16, and the court again named a date for the carrying out of the sentence for September 19.

Habeas corpus action was started on behalf of the two convicted men

## Executed in Electric Chair



Allen V. Grammer



Alton B. Cole

at this time, but was overruled by Judge W. M. Morning of the Lancaster county district court.

Upon a new appeal to the supreme court, the findings of the lower court was again affirmed, and the fatal day was named as January 9, 1920.

On January 2 Governor McKelvie granted a reprieve until January 16 and ordered a hearing on application for executive clemency.

Attorneys Sterling F. Mutz, and J. M. Priest, counsel for Grammer and Cole, respectively, seriously attacked the long trial of the case, alleging innumerable irregular technicalities.

The hearing was featured by a disagreement between the two young men, who had been facing death together in the solitary death cell since April 1, 1918. At this time, Cole repudiated his "second" confession, in which he attempted to exonerate Grammer of any complicity in the crime for which they were both convicted. He stated that his first confession, made in Omaha under third degree, was correct. This confession alleged that Grammer offered him \$500 to kill Mrs. Vogt, and was the evidence upon which Grammer was convicted.

**Alleged Third Degree.**

The attorneys alleged at this hearing that third degree methods had been resorted to successfully to secure the confession from Cole in Omaha, that the district court of Howard county had allowed the audience in the court room at the time of the trial to express its feelings against the man on trial, and so exert a psychological influence upon the jury, in which, they further alleged, was a juror who was neither a citizen of the United States nor mentally competent.

January 16, the day Cole and Grammer were really expected to die, Governor McKelvie announced that he had granted a two weeks' reprieve to the two men, because of incomplete legal action in Cole's behalf being undecided. He included Grammer in the reprieve because the two cases were so closely linked.

**Say Slayers Sane.**

On January 30, the fifth date set for the execution of Cole and Grammer, a medical board, comprised of Dr. Munger and Drs. B. F. Williams and B. A. Finkle, reported to the warden that in their opinion both slayers were sane under the law, having full faculty to distinguish between right and wrong, although it was the belief of the board that both men were moral degenerates.

**Last Minute Reprieve.**

At 3:30, the afternoon of February 6, 1920, just two and a half hours before Executioner John Hulbert was scheduled to switch the death-dealing current into the bodies of Cole and Grammer, Warden W. T. Fenton was notified that Governor McKelvie had signed a last minute reprieve, granting the two men a 24 hour stay.

The prison had been humming in preparation for the execution and the reprieve came as a complete surprise. It had been solicited by Attorney General Davis following a 3 to 2 decision by the state supreme court against an appeal for a jury to pass on the sanity of Grammer.

**Decision Invalid.**

The supreme court decision was now invalid because Judge Day, formerly of the Douglas county district

court, was not present to cast a vote. Judge Day was requested to go to Lincoln immediately to cast the deciding vote, which, it was believed, would settle the fate of the two prisoners.

It was with great difficulty that Warden Fenton succeeded in mollifying Executioner Hulbert who had made reservations for an immediate return to New York. On the promise by Governor McKelvie that the supreme court would give its final decision on the appeal the next morning, Hulbert agreed to remain and complete "the matter."

**New Complications Arise.**

Although the supreme court voted next morning to sustain the district court's decision against an appeal on safety grounds few complications arose, however. Federal Judge T. C. Munger returned to Lincoln, repudiated a writ of habeas corpus, but permitted an appeal which automatically stayed the execution.

Executioner Hulbert left that afternoon for New York, vowing he would never return to "attend to the matter." His fee had been drawn from the state treasury the day before in preparation to pay him for his work, but he had not received it.

Warden Fenton informed Cole and Grammer of the stay early that afternoon. Grammer collapsed completely. His girl wife, Elizabeth, who had been with him most of the time during what he believed to be his last hours, only smiled and said, "I'm glad."

**Cole Indifferent.**

Cole maintained his indifferent attitude, remarking, "I knew they wouldn't carry it out. It was a close shave yesterday," he added.

The next date of execution was fixed for February 20. Federal court procedure automatically would keep the execution on this day, however, and the date was advanced until March 19.

On March 18, E. R. Currier, professional executioner from Massachusetts, arrived in Lincoln. All was again in readiness for the execution, but, as in the past, calculations of state officials had been wrong. Attorney General Davis had anticipated a decision from the United States circuit court at St. Louis on an appeal made for Grammer, but the decision was not forthcoming.

The governor granted a reprieve until June 4, and Executioner Currier returned east. When Warden Fenton went to Grammer's cell to inform him of the latest reprieve Grammer had collapsed entirely, and even when he heard the news of the stay his condition was not improved. Examined by physicians his condition was pronounced abnormal, but it was declared he was not "legally insane." Cole still

maintained his calm indifference, which physicians said was due to a lack of "finger sensibilities."

**Still No Decision.**

Another 30-day stay of execution was granted by the governor on June 2, pending hearings in the United States circuit court, and thus June 4, the 13th date set for the execution, passed.

On July 3 Governor McKelvie wrote judges of the circuit court asking how much longer it would be necessary to stay the execution. On July 7, two days before the 14th date set for execution the governor stated he had received no advice from the judges, and although he did not grant another reprieve on this day no effort was made to secure a professional executioner.

The next day, however, he stayed execution until August 6, still waiting for the result of appeals in the circuit court. Another respite was granted by the governor on August 4 because no decision had been received from the circuit court. September 10 was the 16th date set for execution. When this date arrived, however, new court proceedings had been started for Cole and no decision had been received on Grammer's latest appeal.

**Another Chance Goes.**

Hence the 17th date of execution was set for November 12. On October 12, however, Federal Judge Woodrough remanded Cole back to the Howard county court where he was sentenced, for a new hearing, declaring the trial judge had not determined the degree of guilt of Cole.

Due to Judge Woodrough's decision and to a new appeal to the United States supreme court started by Grammer, Governor McKelvie gave another stay, fixing the 18th date of execution for December 17.

On December 14, three days before he was condemned to die in the electric chair, Cole was a prisoner in the Howard county jail at St. Paul. John M. Priest, attorney for Cole, on the same day filed a motion for a new trial based on Judge Woodrough's former decision. On December 16, one day before the 18th date set for execution Cole lost his last chance for clemency at the hands of Judge Woodrough when the judge refused to consider Attorney Priest's request that he cite Governor McKelvie, Assistant Attorney General Mason Wheeler and District Judge Paine for contempt of the court. Request for these contempt proceedings was based on the refusal of Judge Paine to grant Cole a new trial and his ordering Cole back to the penitentiary.

Attorney Priest immediately appealed to the supreme court for a stay of sentence, which was refused. Saturday, the day set for the execution, Cole and Grammer were

## Complete Record of Execution Dates

July 12, 1917—First date set for execution by trial court.  
January 17, 1918—Second date set for execution.  
April 25, 1918—Third date set for execution.  
July 12, 1918—Fourth date set for execution.  
September 19, 1918—Fifth date set for execution.  
January 9, 1920—Sixth date set for execution.  
January 16, 1920—Seventh date set for execution.  
February 20, 1920—Eighth date set for execution.  
February 27, 1920—Ninth date set for execution.  
February 27, 1920—Tenth date set for execution.  
February 27, 1920—Eleventh date set for execution.  
March 19, 1920—Twelfth date set for execution.  
June 4, 1920—Thirteenth date set for execution.  
June 4, 1920—Fourteenth date set for execution.  
August 6, 1920—Fifteenth date set for execution.  
September 10, 1920—Sixteenth date set for execution.  
November 12, 1920—Seventeenth date set for execution.  
November 12, 1920—Eighteenth date set for execution.  
December 17, 1920—Nineteenth date set for execution.

taken to the death chamber. Just opposite this chamber is a room containing the electric chair prepared for their execution.

The state supreme court dismissed a petition in error filed as a last attempt to save Cole's life. Governor McKelvie signed a reprieve until Monday, but ordered the execution to take place then. No hour was named officially. E. B. Currier, executioner of Boston, Mass., was telegraphed to hurry to Lincoln.

During this conversation he calmly smoked a cigar, which he later tossed aside and lighted a pipe. "This was given to me last Christmas by Cavanaugh, captain of the guards, here at the prison." Lighting the pipe from a small nickel-plated cigar lighter, he tossed it into the lap of his attorney, John M. Priest, who had entered the cell, and told him that he could have it.

Three o'clock arrived, the hour scheduled for the execution, but it was postponed because of the late arrival of Dr. I. C. and A. D. Munger, the former being the prison physician.

Immediately upon their arrival Grammer was called from the room in which he had been taken with his relatives and taken across the hall where he was examined by the two physicians. As he left his cell he turned and for the last time got a glimpse of his father and wife. The door then closed upon him.

Grammer was accompanied to the death cell by the Rev. T. A. Maxwell, prison chaplain. He walked with a firm steady tread. At the door the chaplain offered prayer and then Grammer turned to those who crowded around and shook hands with them. Especially grateful was he to Warden Fenton. As he grasped the warden by the hand he smiled and wished him the best of luck. The warden returned a heartfelt good-bye.

Grammer entered the cell and at 3:20 o'clock the current was applied.

**Physicians Late.**

**Death Penalty Paid**

**By Two Murderers**

(Continued From Page One)

**"Ready to Go"**

"I believe that, although not everything that has appeared concerning this case has been without color, the majority of you men here this afternoon have meant to do the right thing. I have made my peace with my Maker and I am ready to meet Him, and it appears now that I am about to."

"Mutz and Mr. Campbell have

made a good fight for me, but have been defeated. I hold no ill feelings toward anyone either connected with this case or on the outside. I am ready to go."

During his short speech Grammer stood erect before his auditors and never once displayed the least sign of nervousness. His recital, however, was punctuated by repeated sobs on the part of the girl wife who was supported by her roommate. The father, sat quietly during the entire speech of his son and occasionally wiped the tears from his eyes.

**Cole Leaves Statement**

Following the dismissal of newspapers by Grammer, the door was again closed and Grammer was given his last moments on earth in company with those near and dear to him.

In the adjoining cell, Cole sat in quiet conversation with L. A. Gregory and G. E. McFadden, Christian Science practitioners of Lincoln, who have been his companions since his arrival at the state prison.

Cole was fully dressed in a blue serge suit and a white linen collar. Calling for the warden, Cole requested that the representative of The Omaha Bee be called for a private conversation. It was during this conversation that he informed the reporter that he had prepared a statement which he had given to his attorney. In making this announcement he stated that the releasing of the statement would be left entirely to the discretion of his advisers.

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During this conversation he calmly smoked a cigar, which he later tossed aside and lighted a pipe. "This was given to me last Christmas by Cavanaugh, captain of the guards, here at the prison." Lighting the pipe from a small nickel-plated cigar lighter, he tossed it into the lap of his attorney, John M. Priest, who had entered the cell, and told him that he could have it.

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## Rich Prima Donna Vanishes On Eve Of Operatic Debut

Mme. Ganna Walska, "World's  
Most Wealthy Singer,"  
Disappears From  
Chicago.

Chicago Tribune-Omaha Bee Teased Wire. Chicago, Dec. 20.—The performance of Leon Cavallotti's opera, "Zaza," which was to be featured Tuesday night by the operatic debut of Mme. Ganna Walska, the "world's most wealthy prima donna," has been indefinitely postponed. That announcement was made yesterday by Herbert M. Johnson of the Chicago Opera company.

Simultaneously with the above announcement it became known that Mme. Walska checked out Saturday from her luxurious quarters in the Blackstone hotel. She left no forwarding address. Friends said she had returned to her husband's home in New York City.

Various explanations were vouchsafed, among them being that of Mme. Walska herself, which she gave to friends:

"There is a great deal of trouble and I am tired."

Mme. Walska is the bride of Alexander Smith Cochran of New York, whose fortune of \$8,000,000 caused him to be known as the richest bachelor in the world.

It was the Polish soprano's third venture in matrimony. They were married last summer in Europe. Mr. Cochran has an international reputation as a yachtsman. His yacht, the Vantage, successfully defended the America's cup in 1914.

**Women Express Horror**

**Over Taking Human Life**

Interest in the execution of Cole and Grammer was high in Omaha yesterday. All day questions came into The Bee office by telephone. Some of these were merely from people idly curious. Others came from women who expressed great horror over the "taking of human life."

One woman stated she was circulating a petition to stop the execution at the last moment.

At 2:20 a woman called up and in a broken voice asked:

"Have Cole and Grammer received a reprieve?"

Being told that they had not, she asked:

"Neither of them?"

"And will they both be executed?"

"Yes, at 3 o'clock."

"My, that's awful!" she exclaimed and sobs could be heard as she hung up the receiver.

CHRISTMAS:—A time for giving and for getting and forgiving and forgetting.



## A Christmas Tip to Men!

MANY MEN believe that women, at Christmas, want useless extravagances—unusual things which they would never buy for themselves. . . . But it so happens that oftentimes these gifts, received with outward joy, cause inward tribulation. . . .

THEREFORE, let one who knows advise.

If you would be extravagant in your buying, also be practical. Whether it is for your wife, mother, daughter or sister, you may happily choose something to wear; a smart little frock, a big warm coat, a suit, a blouse or furs, that most regal of gifts—particularly fitting for the dearest girl. . . .

AND if you choose here, you will have the added satisfaction of knowing that whatever you select will be serviceable, as well as tasteful. . . .

Thompson, Eelden & Co.

## Come with the crowd

to Oakford's for all things musical. ♡ ♡ We have everything from a Jewsharp to a Steinway Grand. ♡ ♡ Besides, we guarantee you against falling prices. ♡ ♡

OPEN EVERY NIGHT

OAKFORD  
Music Co.

1807 Farnam Street, Omaha

## Dr. Shipherd's Special Christmas Week Prices Benefit the Children



Dr. G. D. Shipherd,  
Vice Pres. and Gen. Mgr. for the past seven years.

We know that the high prices of shoes, clothing and food during these strenuous times are making it a hardship for many fathers and mothers to provide the proper care and attention to the teeth of their children.

We know the value of good teeth in shaping the future of these little folks and it is in recognition of these two important facts that Dr. Shipherd has provided a special service for the children during Christmas week at—

## Prices Slightly Above Cost of Materials

These special low prices are applicable to children of school age or those under 16 years of age, and we are going to take care of just as many as we possibly can during the time this special service prevails.

This is our regular HIGH-CLASS service and is an unusual opportunity for you to obtain attention to the dental requirements of your little folks—remember, we ONLY CHARGE A LITTLE ABOVE THE COST OF THE ACTUAL MATERIALS USED—the service is practically FREE. Your boys and girls will enjoy better health and a happier existence if you do them the kindness to look after their teeth NOW.

Dr. G. D. Shipherd, Vice Pres. and Manager.

Bailey Dental Company

Incorporated Dentists.  
DR. R. W. BAILEY, Pres.  
704-714 City National Bank Bldg. 16th and Harney.  
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