

Memories of a Murder Trial

There are a great many legal precepts that invariably awaken ridicule among laymen, the wisdom of which has been demonstrated by experiences encountered by courts and lawyers since the administration of laws began. One of them is that it is not safe always to accept as conclusive evidence of guilt the confession of one accused of crime, for men have been known to confess even so serious a crime as murder when the penalty was death, even though they were never in fact in the least degree guilty. Lawyers realize that it is not always safe to trust human testimony, even though it comes from a source the reliability of which cannot be questioned and is given in most positive terms.

Among the lawyers in attendance at the session of the supreme court during the current week was James E. Morrison, now a resident of Gandy, Logan county, but formerly for many years engaged in practice at Plattsmouth. He was standing at the corner of Eleventh and O streets the other day conversing with several acquaintances when his attention was attracted by a passing figure. It was that of an old-time Lincoln printer, Marion Armstrong, who had just strolled back to the city after an absence of considerable duration. The sight of him recalled to Mr. Morrison memories of a murder trial that excited considerable interest in this city nearly a quarter of a century ago. It was one wherein one Charles Viall was accused of the murder of William Armstrong by sending to him through the express office a bottle of whisky doped with arsenic.

"That case," said Mr. Morrison, "taught me the utter unreliability of human testimony. I was associated in the defense of Viall with T. M. Marquett, D. G. Courtney and J. E. Philpott, while George S. Smith, formerly of Plattsmouth, then district attorney, was aided by D. G. Hull in the prosecution. There were a large number of witnesses, many of whom were called to prove that there had been jealousy between the two over a woman in order to show a motive on the part of Viall. As the trial, which was held before Judge S. B. Pound, proceeded, it looked pretty dark for our client, who was badly frightened at the prospect.

"It appeared from the circumstances that whoever had sent the poisoned whisky to Armstrong had himself taken it to the express office, marked simply as 'A present from a friend,' and much of consequence hinged upon the identification by the express agent of the man who brought it in.

"During the dinner intermission Marquett and I went to dinner together at a down-town restaurant and talked over the probability of the identification of our client. Marquett suggested that the express agent, whose name was Chapman, was near-sighted, and that we might introduce another man for his identification with a chance of success. We tried to get a man named Metteer to serve us in that capacity. He was related to Viall, but was not on good terms with him and refused to do so.

"Just after we returned to the court room Express Agent Chapman was called to testify, and Viall was noticed to be as livid as a newly-laundered sheet. Without attracting attention we had Viall move over to another seat a short distance away, while I sat down next to Marquett and was whispering to him. After the usual preliminaries Prosecuting Attorney Smith went straight at the identification by asking Chapman if the man who brought that bottle of whisky into the express office was in the room. The witness responded that he was, and when the district attorney asked him to point him out, looked straight down at me and without a moment's hesitation pointed his finger at me and declared that I was the man.

"Everyone in the court room was astounded, and none of them more than I was myself, who had half wished that he might make the mistake. Counsel for the state were confused and almost enraged. They invited Mr. Chapman to step down close to me, examine me closely and make his identification positive. He did so without a change in his conclusion. Charley Viall was feeling pretty good about that time, I can tell you, and the effect of the mistake of the witness was at once apparent upon that jury.

"Later Viall was pointed out to the witness and he was asked whether or not he was not the man, whereupon Viall again became livid with fear. Mr. Chapman examined him critically and

finally announced with chagrin to the court that he had been mistaken in his first identification and that the man then before him was the man who had brought in the bottle. But the mischief had been done and there was no undoing it. There probably never was a more positive identification than that which Mr. Chapman had mistakenly made of me, and Judge Pound suggested that if he was so badly mistaken in the first instance as had been apparent to everyone, he might be mistaken in the last identification. The result was inevitable. Viall was acquitted.

"Another incident in that case taught me the unreliability of human testimony and the risk incurred in accepting it in a matter of life and death. The late Oscar A. Mullen, court reporter, was called as an expert to compare the handwriting of Viall with that upon the package in which the poisoned whisky was encased. We had Viall write over and over again in court the words 'A present from a friend.' Mr. Mullen carefully analyzed each letter with minute care and finally announced his absolute conviction that the specimens written by Viall and that upon the package could not possibly have been written by the same hand."

The trial to which Mr. Morrison's recital relates occurred on October 31, 1878, and the Charles Viall, who was the ultimately fortunate victim of the inquisition, is now operating a restaurant in one of the inland towns of this state.

by experience that women getting on and off the cars with packages in their hands are more or less agitated. That's when they drop things. At this season of the year—every day at the car barns—you can hear the motormen talk of their "finds" as they come in from their trips.

A motorman on the Havelock car said: "There are even more things found in the street than on the sidewalk. Money and parcels dropped in the street are likely to remain undisturbed longer than if dropped on the sidewalks. So the motorman has practically the field to himself. Once I found a pocketbook that contained \$25. I returned it to the owner who rewarded me with fifty cents. Another time I found a diamond breast-pin, for which I never found an owner."

The veteran always maintains his dignity. In the mountains of New Hampshire I met one of the colored troops who was still fighting nobly driving a stage on a country route and I said to him:

"What is your name?"

"George Washington, sah."

"That is a name well known to everybody in this country."

"I reckon, sah, it ought to be. I've been dribin' heah eber since de wah."

He (at the Christmas party)—Are you having a merry Christmas?
She—Oh, splendid! I got more pres-

DRS. WENTE & HUMPHREY,
DENTISTS
OFFICE, ROOMS 26, 27, 1. BROWNELL
BLOCK,
137 South Eleventh Street.
Telephone, Office, 530.

C. W. M. POYNTER, M. D.,
PHYSICIAN AND
SURGEON.
Phones: Residence, L925; Office, L1621.
1222 O Street.

DR. BENJ. F. BAILEY,
Residence, Sanatorium, Tel. 617.
At office, 2 to 4; Sundays, 12 to 1 p. m.
DR. MAY L. FLANAGAN,
Residence, 621 So. 11th, Tel. 968.
At office, 10 to 12 a. m.; 4 to 6 p. m.
Sundays, 4 to 4:30 p. m.
Office, Zehring Block, 141 So. 12th. Tel. 613

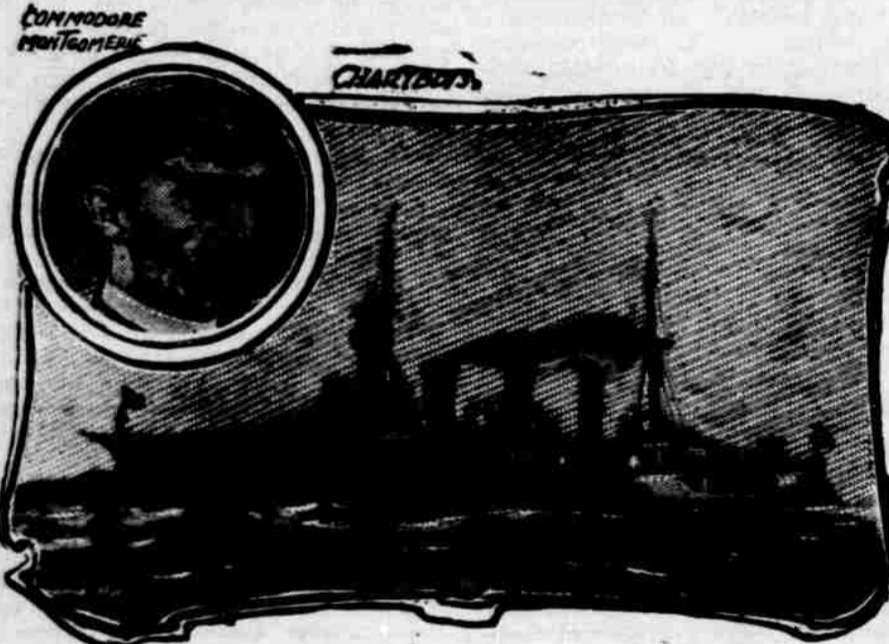
Clements
Cycle Photographs
Athletic Photographs
Photographs of Babies
Photographs of Groups
Exterior Views

The Photographer
129 South Eleventh Street

PRIVATE AND PUBLIC
LIBRARY BOOKS
BOUND IN A SUBSTANTIAL MANNER AT FACTORY PRICES BY . . .
South Platte Publishing Co.,
Paper Box Makers.
Tenth and N Streets, Lincoln, Neb.
FREIGHT PAID ONE WAY.

CARL MYRER
HANGS
PAPER
Does Painting, Frescoing, Graining, and Inside Decorating. Can give you best service at reasonable prices—would like to figure with you.
THE BRUSH AND PASTE MAN
Phone 5232 2612 Q STREET

BRITISH COMMODORE IN COMMAND



Commodore Montgomerie of the British navy, who has been in charge of England's part in the naval demonstration against Venezuela to date, is respected in England as a brave and diplomatic commander. Above is his latest photograph and that of his flagship Charybdis.

The Harvest of the Parcel Hunter

"The woman you see there," said a floor walker in one of the large stores recently to a Courier representative who chanced to be standing near, "is a parcel hunter." He nodded his head toward a woman wedging her way along the crowded aisle, closely scanning the floor as she went.

"They are an odd class," he continued. "With the advent of the gift-buying season, come a small army of people who make an annual practice of searching the big stores and streets for parcels and money dropped by shoppers. Pedestrians also have a hobby of looking for things, and motormen have long followed the practice in the business districts. You would hardly believe it, but eight out of every hundred women who go shopping lose something before they get home. Sometimes it is a small parcel, sometimes money, and more often valuables. Men are careless enough, but they are just about one-third as careless as women. When you consider the thousands that invade the big stores each day you can realize that hundreds of articles are lost. Someone finds them, of course. A number of the lost parcels turn up at the 'Lost and Found' counters of the various stores, but the vast majority of things dropped are never accounted for. The things picked up range from a kid glove to a well-filled pocket-book. Sometimes costly packages of silk and fur are found."

The street-car motorman is also often rewarded by profitable finds. He knows

ents than any of the other girls, my new dress is driving them wild with envy, Molly is crazy because I've kept Jack Horner away from her all evening, and I've just snubbed Dolly Rivalton so that she cried.

Lincoln
Transfer
Co.

If you Want First Class Service Call on Us.

WE DO WE SELL WE CARRY
Piano and Fur all grades of a fine line of Car-
niture Moving. Coal riages and Buggies

OFFICE, TENTH AND Q STS. PHONE 176

This Picture

was made from a kodak photo of a Nebraska baby whose parents reside at Fairfield, Nebraska, and own a

Schaff Bros. Piano.

The Schaff Bros. Co. are using this cut for a catch "ad." all over the United States, and call it "Cupid at Play on the Schaff Bros. Piano." By the way, have you seen the new 20th Century High Grade Schaff Bros. Piano? It is one of the finest Pianos made, and can be seen at the ware-rooms of the

Matthews Piano Co. 1120 St. Lincoln, Nebraska