

SMITH OUT ON BAIL.

The Slayer of Patrick Brannigan Profits by Habeas Corpus.

Judge Van Fleet Says the Evidence Indicates Justifiable Homicide—A \$10,000 Bond Given.

The habeas corpus proceedings in behalf of George H. Smith, better known as "Big Neck" Smith, who killed Patrick Brannigan on the 8th inst., were resumed before Superior Judge Van Fleet yesterday afternoon.

Charles T. Jones, Smith's attorney, announced that he desired to withdraw that portion of the petition asking for the absolute discharge of Smith, and would only solely upon the question of admitting his client to bail.

Lincoln White, special counsel for the prosecution, said he did deny the right.

Addressing Deputy District Attorney Buckley Judge Van Fleet said: "Mr. District Attorney, do you contend that the petitioner is not entitled to be admitted to bail?"

"No, I do not," replied Mr. Buckley. "I think in view of the conflicting testimony and the showing of self-defense that is made, it is a bailable case. I make that statement after consulting with District Attorney Ryan."

Attorney White insisted that the court should not interfere at this time. The committing magistrate, Police Judge Craven, had held Smith on the charge of murder, without bail. That official had had an opportunity to see the various witnesses on the stand and to note their demeanor.

The matter was finally submitted to Judge Van Fleet for decision.

"In view of the action of the petitioner in withdrawing his application for a discharge on this writ," said the Judge, "it becomes unnecessary to pass upon the question whether there was reasonable or probable cause for the committing magistrate to hold the defendant, and it may be assumed that the magistrate acted entirely sufficient for that purpose, and that the action of the committing magistrate was proper in holding that this was a case calling for the determination of a petit jury. As I suggested yesterday, under such circumstances, I would not entertain the idea of discharging a man from custody."

But the statement of the evidence that has been presented here, the defendant is entitled, as a matter of right, to be admitted to bail. The Constitution of the State guarantees to persons charged with crime the absolute right to bail in all cases, and the law which provides the offense charged is punishable by death, and in the language of the Constitution, "the guilt is evident or the presumption great—that is, the presumption of guilt. Certainly under this evidence, taking the evidence of the prosecution alone, and it appears to me that it would arouse in the mind of any reasonable man a reasonable doubt of the guilt of the defendant of the crime of murder for which he is held in custody."

"Of course," continued the court, "I am simply commenting on the evidence as it has been stated and presented here. What it might appear on trial before a jury is another thing, but the Constitution and the laws made in conformity therewith have provided the showing that I have made upon the part of the defendant, and the law contemplates that there may be and will arise instances under which committing magistrates will hold defendants without bail, in instances where the circumstances do not warrant them, because it is provided that application through the medium of a writ of habeas corpus may be made for admission to bail in such instances. Now the evidence here, taking it as it is presented to my mind, in its very strongest sense, shows this state of facts. The defendant and his counsel have presented evidence and facts for a number of years; they voted and rested and had in their domiciles in the city of Sacramento. One was living in the southeastern part of the city, or in the southern central part of the city, and voted in a precinct in the east or in the west part of the city, and the other in the lower part of town, and on this day of the election he was in his own proper precinct, when he voted, and he has lived for years. During the day, prior to the renewal, the deceased came into that precinct, and during a conversation held with the defendant and several others the deceased made violent threats against the Chief of Police, and threatened to do him and his family some mischief, and some mischief, which angered the defendant, and thereupon the defendant said some unpleasant things of a violent nature, and some vile names. The defendant either slapped him in the face or pushed him away, the evidence does not clearly disclose which; but certainly, taking in the strongest phase, the first meeting of the parties on the day of the homicide there was nothing of such a violent nature as to justify the killing of the other. The deceased, it appears, was under the influence of liquor, and the testimony shows that the defendant at that time was very angry. He went away from the police place and threatened to put the Chief of Police in a box, or to put him in a box, before night; he threatened that he would kill him. He was taken away almost forcibly by his friends. He said he would arm himself, and he did go home, a distance of a mile or a mile and a half, as the evidence shows, and armed himself with a revolver, and went back with the defendant in his pockets, and then distinctly threatened, in the presence of several persons, that he would have the life of the defendant and that he was looking for him—that he was hunting for him for that purpose. It appears that the defendant had returned from the place. There is no evidence to show that he returned until about the hour of the shooting of the police. But he came back there where he had a right to be, in his own voting precinct and under circumstances that justify him in believing that the deceased had gone home and was not there. He came back and came upon the deceased unexpectedly, and the deceased immediately opened upon him, being angry about the circumstance that had occurred in the afternoon, and referred to it in an angry and violent manner, and the defendant endeavored to conciliate him, and suggested that he had always been his friend and was then appears distinctly that the defendant did endeavor to avoid a conflict or any difficulty. The evidence stated on behalf of the people itself tends to show that that very time the deceased came up with his hands in his pockets, the very pockets in which he was subsequently developed that he had the revolvers, one in each side coat pocket, and at the time the shots were fired the evidence shows that his right hand was in the right hand side pocket of his coat, and that he was acting apparently in a manner that he was about to pull a weapon, or to do so.

A BUSINESS CHANGE.

The Red House Selling Out, and Why.

What C. H. Gilman Says—He Expects to Remain in Business and Keep Certain Profitable Lines Up.

A rumor upon the streets that C. H. Gilman of the Red House mercantile establishment is about to go out of business was refuted yesterday, at the fountain head.

Mr. Gilman was found at his place of business, and entirely open to questioning. Perhaps in no better way can the facts involving the rumor be gotten than to present the conversation that ensued.

Question—Mr. Gilman, they are saying upon the street that you are going out of business.

Answer—They are? They do not know anything about it.

Q.—But whatever affects the business of Sacramento, like a change in a mercantile house, the closing or opening of a business, is of public moment. Can't you, therefore, afford to give me the facts about this rumor?

A.—Yes, certainly. There is nothing to conceal, and there is nothing that I can collect upon Sacramento. Oh, no; business changes in any establishment, whether public can know all about. In fact, I intended, in a day or two, to put it into my advertising space.

Q.—When, then, are you going out of business?

A.—Well, yes and no; I am and I am not.

Q.—How is that?

A.—This way: I am going to close down in some lines and continue in others. I want to close out some of my lines.

Q.—Do you mean that you may, or may not, retire?

A.—I am positively going out of many lines, but I cannot know all that I will drop until about July 1st. I shall certainly drop clothing, boots and shoes, hats and caps, and furniture, and a part of dry goods and fancy goods lines.

Q.—You propose, then, to sell out of these certain lines of goods, why?

A.—Yes. The only way to do so is to dispose of them at cut rates, and to buy no more in the classes I shall lay down. I shall buy no more in the classes I shall lay down, though I had ordered in my spring stock before I resolved upon this move.

Q.—Then the new lots go with those on hand?

A.—Yes, in the lines I give up. I may, of course, to keep my customers supplied, have to buy to some extent, say from 10 to 15 per cent. of my sales, but not largely, for my plan is to wholly give up sales of certain lines of goods.

Q.—Well, how about the disposal of certain lines of your stock?

A.—That will be announced, and the public will then see what goods the change will affect. Millinery and all that goes with it will be retained, kept with the case we can proceed; if not it had better be sold.

Q.—Yes. But will that mean no reduction on millinery prices now?

A.—No. That line during the closing out will have to suffer some with the rest. Understand, the sale will be general; but the cut will be heaviest in lines I shall not keep up.

Q.—Ah! I see now.

A.—Yes. The staple lines will not be excepted from the change.

Q.—What, Mr. Gilman, are the reasons for this change, and which, you say, may mean closing out?

A.—Well, my embarrassment I assure you. The chief reason is that I cannot make a profit that re-ays for the effort and investment. Most all goods in Sacramento are sold at a loss, and the wholesale price that when the expenses are added, and a part of the business are lost, there is left no profit; none, at least, that satisfies me. Now my revenues, in the Red House consist mostly of staples, on which the profits are light, very light.

Q.—Has trade declined?

A.—Some, and competition has become sharper. I do not complain of the trade in Sacramento that I have had. As a rule it has been very good, and the first day I started. But the expense of doing business, along with it has rather increased, and as the margin of profit is now so narrow, as I stated, that I do not see how I can continue the other can't be done. For an estimate, let me see: I have paid out since I started in business in February, 1891, I should say, over a half a million of dollars. Printers, advertising, landlords, employees, taxes—these swallow up large sums in such a business. So now I propose to close down in certain lines, to save expenses, and sell the goods I have, and most of them are new. Possibly I may go into other lines, but I do not know.

Q.—When did you come to this conclusion?

A.—I did not contemplate it until our spring inventory was completed, on the 12th inst. Then my spring stock had been purchased, however, and some of it had arrived. But the new goods will make the sale only the more important. Why, you must understand that my new catalogue, just issued, was an expense of about \$2,000, including its distribution. In most of the lines I have advertised in that catalogue I shall be able to fill most orders up to July 1st. After that I shall announce the exact status of the business, if I continue, or if I do not.

Q.—I don't intend to throw my goods away—people don't expect them to be given away because there is a reorganization of a business.

Q.—Of course not. I understand you—the lines you dispose of for good are to go out, those you keep up will suffer some.

A.—There you have it. Q.—Can you speak more fully of your future intentions?

A.—Not now. I will first find out how well the people treat me, in helping me dispose of my goods. I expect the loss, and it will be heavy; but I do not expect it to exceed \$20,000 or \$25,000 in the aggregate. I have stated that as a mere estimate, of course. I do not intend to be heavier than the smaller sum named for the goods are worth full cost and a fair profit added, so that when I cut the price it will not be less than the cost for the buyer and a loss to me, but then it will release me from lines on which the profit is insufficient for me.

Q.—Is there any other reason moving you but a desire to narrow the liability in such a business of small marginal profit?

A.—Yes, there is, purely personal. Had my son lived I would not have these plans. I would have shaped the business for him to come into it; he was becoming helpful, and things would have been different with me. When one has no partner, runs a large business and has only employees, he cannot easily make the weight he carries lighter. He has to rely too much upon his help.

CHINESE ARMY.

The Police Court Overwhelmed by Highlanders and "Chin" Cousins.

The case of Ah Tong and Ah Lee for disturbing the peace came up for hearing before Judge Craven in the Police Court yesterday.

Attorney Anderson, counsel for the defense, asked for a continuance to a time when the whole day might be had for trial, saying there were a large number of witnesses to examine.

H. W. Johnson, special counsel for the prosecution, thought that as the case was simply a charge of disturbing the peace it ought to be settled in a short time. He said parties interested in the result were present from San Francisco and elsewhere and that his side of the case was ready to proceed.

Mr. Anderson replied, still urging continuance, on account of the number of witnesses that would be called, but Mr. Johnson maintained his stand.

Judge Craven said: "The fact is, I hardly know when to believe you follow. If it is possible to get through with the case we can proceed; if not it had better be sold."

Mr. Anderson thought his honor was hardly justified in what he had said. To substantiate his view of the time required he asked for a continuance of several days, and asked for a continuance of several days, and asked for a continuance of several days.

The court cast a despairing look at the assembly and then continued the case until Wednesday—a day later than the defendant and his counsel had expected.

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ALSO Medium Weight SOCKS without seams, in brown and tan colors. PRICE, 14c.

Why Not Save Your Money?

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Among the stylish Suits we show at present are: Double-breasted Suits, rough cloth, light tan color, made by one of the best manufacturers in the country. Price, \$25. English Clay Serge, in dark color, a quiet and stylish suit of superior quality. Price, \$27 50. Havana Brown Suits, with patched pockets, for young men, \$15. Double-breasted Black Clay Serge Suits, \$22 50. Square-cut Sack Suits for young men, dark blue fancy worsted, with silk binding, \$22 50.

We also have many other lines of Fine Suits and a large assortment of Stylish Light-weight Overcoats, etc.

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400 to 412 K Street, Sacramento.

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THE SPRING SEASON IS UPON US, AND ALL WISHING REPAIRING, PAINTING AND JOBBING SHOULD CALL UPON BROWN BROS., Manufacturers of all kinds of Bugies, Spring and two-horse Wagons, Corner Eleventh and K streets, Sacramento, Cal. M12-611

HAMMER'S GLYCEROLE OF TAR For Coughs and Colds. A SPEEDY AND RELIABLE CURE. Fourth and K streets and all Sacramento druggists.

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ALSO Medium Weight SOCKS without seams, in brown and tan colors. PRICE, 14c.

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