

SELLS BOTTLE OF BEER TO TEST REPEAL OF MULCT LAW

Phillip Nickel, Saloon Keeper, Receives Ten Cents for a Drink From Fred J. Krieger, Today.

ARRESTED BY SHERIFF

Preliminary Hearing is Held Before Burrows and Habeas Corpus Writ is Issued in Case.

When Phil Nickel pushed a ten cent bottle of Lelsy beer across the bar of the old saloon at No. 2 South Water street and Fred J. Krieger laid down a dime and picked up the bottle, the fight to test the validity of the repeal of the mulct law in Keokuk was begun. Surrounded by a crowd of thirty friends, Krieger opened the bottle and drank the contents. There was a sigh as the last drop disappeared, and the crowd inside the saloon building fled out. Sheriff John C. Scott witnessed the sale, and immediately made his way to the office of County Attorney E. W. McManus to ask for the information, and to make the arrest of Nickel. Just before 11 o'clock Nickel was placed in custody.

There was a big crowd in front of the saloon at Number 2 South Water street some time before 10 o'clock came. They wanted to see all that there was to see, and some of them admitted that they hoped there might be a drink on the house. In this they were doomed to disappointment, as only one drink was to be sold, and that by Nickel, who is making the test to Krieger.

Sheriff Scott was on the job just before 10 o'clock. As the clock was striking the hour, Nickel and Krieger were seen coming down Main street, and the crowd was busy looking at them and jollifying both of them. Some one suggested that minors were not allowed in saloons, and the sheriff cautioned Nickel about allowing any minors in the building. As soon as the door was opened, there was a mad rush. It had been ten long days since they had been inside a saloon, and they wanted to sniff the atmosphere, and of course the crowd was curious to see the sale.

Is Given Bottle.
Krieger walked up to the bar and pushed a dime across the counter. He called for a bottle of beer, and it was produced by Nickel, who handed it to Krieger. The bottle disappeared in Krieger's pocket. Krieger consumed the contents, surrounded by a crowd of thirty non-combatants.

Sheriff Scott walked out of the building, and Nickel and Krieger followed. The crowd was dispersed, and the sheriff got into his car and drove to the office of County Attorney E. W. McManus, asking for an information against Nickel. Armed with this he

made the arrest of Nickel shortly before 11 o'clock.

Crowd Had Good Time.
The crowd followed Nickel and Krieger up the street. There must have been three or four hundred in the crowd which was gathered to see the sale made. Some of those who were there, explained their presence as being due to the fact that they had to go to the wholesale house and thought they might as well go down a block and see what was happening. Delivery wagon drivers seemed to have special business about this corner and there was a line of wagons and autos. Some of the freight cars on convenient sidings furnished a good amphitheater for some, and men and women were looking out of the windows of the surrounding buildings.

"Gee, I wonder if they ain't goin' to have drinks on the house?" one thirsty party remarked.

"Looks like you fellows were all looking for something," another wag suggested.

The crew of a freight train which drew slowly down the track suggested that they might throw a few half pints their way.

Altogether it was a good natured crowd that was drawn out by pure curiosity for the most part.

Preliminary Hearing.
The preliminary hearing of Phil Nickel was held in Justice Burrows' court at 11 o'clock, a half hour after the former had been arrested by Sheriff Scott.

County Attorney McManus conducted the examination. The state's side was further represented by C. A. Robbins, assistant attorney general, who came to Keokuk last night from Des Moines to officially represent Attorney General Cosson here.

Fred Krieger, the party who purchased the bottle of beer this morning, was sworn in by Justice Burrows and Sheriff Scott testified first, after having been sworn in. The official proceedings were taken by Charles J. Smith, official reporter for the first district. Following are the official minutes of the preliminary examination:

State of Iowa, Lee county—vs.
In the court of James S. Burrows, Justice of the Peace.
State of Iowa
vs.
Phil Nickel.
Appearances: For the state: C. A. Robbins and E. W. McManus. For the defendant: F. M. Ballinger.

John C. Scott.
A witness of lawful age, called on behalf of the state, having been first duly sworn, testified as follows in answer to interrogatories by Mr. McManus:

1. What is your name?
A. John C. Scott.
2. What official position do you hold?
A. I am sheriff of Lee county, Iowa.
3. I will ask you to state whether or not you are acquainted with Philip Nickel?
A. I am.
4. You may state whether or not you saw Mr. Nickel, this morning, in

the building known as No. 2 South Water street, in Keokuk?
A. I did.

5. By this morning you mean January 10th, 1916?
A. Yes, sir.
6. What, if anything, did you see Mr. Nickel do at that time?
A. I saw him sell a bottle of beer.
7. To whom did he sell the bottle of beer?
A. To Mr. Krieger.
8. Did you see any money pass?
A. I saw something pass into the hand of Mr. Nickel, who put it in his pocket, it was so small I could not see what it was and I asked Mr. Nickel and he said it was a dime.
9. I will ask you to state whether or not this occurred in Jackson township, inside the city of Keokuk, Lee county, Iowa?
A. Yes, sir.

By Mr. Ballinger: No cross examination.

Identifies Krieger.
By Mr. McManus:
10. Is the Mr. Krieger whom you saw buy this beer and to whom you have referred, Mr. F. J. Krieger?
A. Yes, sir.
- 11. The man sitting here?
A. Yes, sir.
- 12. What was done with the beer?
A. Mr. Krieger drank it.
- 13. At that place?
A. Yes, sir.

By Mr. Ballinger: No cross examination.

F. J. Krieger,
a witness of lawful age, called on behalf of the state, having been first duly sworn, testified as follows in answer to interrogatories by Mr. McManus:

1. What is your name?
A. F. J. Krieger.
2. Where do you live?
A. 728 South Fourteenth street, Keokuk, Iowa.
3. Are you acquainted with Philip Nickel?
A. Yes, sir.
4. Did you see Mr. Nickel this morning?
A. Yes, sir.
5. By this morning you mean January 10th, 1916?
A. Yes, sir.
6. Where did you see him?
A. In the building known as No. 2 South Water street, Keokuk, Iowa.
7. I will ask you to state whether or not this morning, January 10th, 1916, you bought some liquor from Mr. Nickel?
A. Yes, sir.
8. State to the court what you bought?
A. I bought a bottle of beer.
9. What kind of beer?

PRINCIPALS IN TEST CASE.



Phil Nickel, who sold the drink (at left) and Fred J. Krieger who bought the bottle of beer (at right).

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A. Yes, sir.
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magistrate, and that a time and place was fixed for trial or hearing, and that upon the hearing of said case said magistrate bound this petitioner over to the grand jury, and that he is now in custody of the sheriff of Lee County, Iowa, awaiting the action of the grand jury.

Par. 5. Your petitioner further states, that said restraint is illegal, and that said illegality consists in this, to-wit: that this petitioner was complying with, and had strictly complied with the provisions of Section 2448, of the Code of Iowa, 1897, and amendments thereto, and had complied with all the provisions of same before the act charged in the information was committed. Your petitioner further alleges that Section 2448, of the Code of 1897, and amendments thereto is still in full force and effect in the City of Keokuk, County of Lee, and State of Iowa, and that by reason of the provisions of said section this petitioner is immune and exempt from prosecution for the act complained of in said information, all of which is fully shown by the original acts of the general assembly of the State of Iowa, as shown by the original bills now on file in the office of the Secretary of State of Iowa.

Par. 6. This petitioner further shows to this Honorable court that there was no sufficient testimony to justify the action of the committing magistrate to bind him over to the grand jury, as shown by a transcript of the original minutes of the testimony, taken at the preliminary hearing.

Par. 7. Your petitioner further shows that the legality of said imprisonment and restraint has not been adjudged upon a prior proceeding of this character to the best knowledge and belief of your petitioner.

Par. 8. Your petitioner further shows that application for the writ of habeas corpus has not been by your petitioner, or any one else in his behalf made to and refused by any court or judge of the State of Iowa.

Wherefore, Your petitioner prays a writ of habeas corpus to the end that he may be discharged from said illegal imprisonment or restraint.

F. M. BALLINGER,
Attorney for Petitioner.
State of Iowa, Lee County, ss.
I, Philip Nickel, being first duly sworn on my oath, depose and say that I have read the foregoing petition, and that the statements made therein are true as I verily believe.

PHILIP NICKEL,
Subscribed and sworn to before me this 10th day of January, 1916
F. M. BALLINGER,
Notary Public.

The Petition Filed.
In the Superior Court of the City of Keokuk, Iowa, Philip Nickel, Plaintiff vs. John C. Scott, as Sheriff of Lee County, Iowa, defendant—Petition in Habeas Corpus.

Par. 1. The petition of Philip Nickel, respectfully shows that he is restrained of his liberty by John C. Scott, as sheriff of Lee County, Iowa, at the county jail of the said county; that the cause or pretense of such restraint according to the best information of your petitioner is by virtue of a warrant of commitment, (a copy of which is hereto annexed, marked Exhibit A and made a part of this petition, as fully as though written herein.)

Par. 2. Your petitioner further states that he was on the 10th day of January 1916, arrested by one John C. Scott, sheriff of Lee County, Iowa, on a certain warrant, then and there being in the possession of the said John C. Scott, which warrant charged this petitioner with bootlegging, or selling intoxicating liquors within the City of Keokuk, Lee County, Iowa, contrary to the laws of said state, (a copy of which warrant is hereto attached, marked Exhibit B, and made a part of this petition, as fully as though written herein.)

Par. 3. Your petitioner further shows to this Honorable court as he is informed and believes that said warrant was issued by one James S. Burrows, a duly elected and qualified magistrate of the County of Lee, and the State of Iowa upon a certain information filed with and before said magistrate, (a copy of said information being hereto attached, marked Exhibit C, and made a part hereof as fully as though written herein.)

Par. 4. Your petitioner further shows to this Honorable court that he was arrested upon said warrant marked Exhibit B, and was taken before the above named

Writ Served by Kenney.
The writ was given to John M. Kenney, chief of police of the city of Keokuk to serve and he served same on Sheriff Scott and produced the sheriff and his prisoner in superior court. After a short consultation between the attorneys, Nickel was remanded to the custody of Sheriff Scott, and the sheriff given until tomorrow morning when he is to answer the reasons why he holds Nickel in custody.

This disposed of the case for the day, and tomorrow further hearing will be held in the matter.

Assistant is Here.
C. A. Robbins, assistant in the office of the attorney general is here to conduct the state's part of the case. Mr. Robbins left Des Moines last night, arriving here this morning in time to conduct the hearings.

OFFICIAL COUNCIL PROCEEDINGS.

(Continued from page 6.)

portion of Commercial street as relocated and extending from the easterly line of Lot Four, Block Six, Reid's Addition produced southerly across Commercial street, thence to the westerly line of B street; also B street from Bluff to Commercial street, by paving with brick blocks and curbing with cement, in the manner provided in said contract; and

Whereas, The said Cameron, Joyce & Company, contractor, has fully completed the said work, in accordance with the terms of its contract, and the said work has been duly accepted by this council as fully complying with the terms, conditions and requirements of the said contract, and the plans and specifications thereto attached; and

Whereas, Under the terms of the said contract so much of the cost of the said improvement as is by law assessable against each privately owned lot or parcel of ground abutting thereon or adjacent thereto, according to area, so as to include one-half of the privately owned property between the street so improved and the next street, whether such privately owned property abut on said street or not, but in no case including privately owned property situated more than three hundred (300) feet from the street so improved, is to be so assessed and special assessment certificates are to be issued in anticipation of the collection of such special taxes which certificates are to be accepted by the contractor in payment of so much of the cost of the said improvement as equals the amount of such special assessment; and

Whereas, There have been heretofore levied by this council against each privately owned lot or parcel of ground abutting upon or adjacent to said improvement, according to area, so as to include one-half of the privately owned property between the street so improved and the next street, whether such privately owned property abut on said street or not, but in no case including privately owned property situated more than three hundred (300) feet from the street so improved, special assessments to the amount of \$1300.26, as shown in the schedule now on file in the office of the City Clerk, which said assessments were levied on the 1st day of November, 1915

Therefore, Be It Resolved, By the City Council of the City of Keokuk, that there be issued by the City of Keokuk, street improvement certificates to the total amount of \$1300.26. One certificate shall be issued for each and every separate piece of property assessed, as shown on said schedule, which certificate shall be for the amount of the special taxes assessed against such property, and the certificates shall be numbered from 1043 to

1046, inclusive, such certificates shall transfer to the bearer all the right and interest of the city in such assessments, and shall be in the form provided by the laws of Iowa and the ordinances of the City of Keokuk.

Be It Further Resolved, That the Mayor and City Clerk be, and they are hereby, instructed to execute said certificates, and when so executed that they be placed on file in the office of the City Clerk for a period of thirty days from and after the date of the making of the said assessment, to-wit: the 22d day of December, 1915, to the end that the owner of any lot or parcel of land, against which an assessment has been made, may, within said time promise and agree in writing endorsed on said certificate, or in a separate agreement, that in consideration of having the right to pay his assessment in installments he will not make any objection of illegality or irregularity as to the assessment or levy of said tax upon and against his property, and will pay said assessment with interest thereon.

Be It Further Resolved, That at the expiration of said period of thirty days, the City Clerk be, and he is hereby instructed to deliver said certificates to Cameron, Joyce & Company the contractor for the said improvement, and to take his receipt therefor, said certificates to be delivered to the contractor in payment of so much of the cost of the construction of paving and curbing that portion of Commercial street as relocated and extending from the easterly line of Lot Four, Block Six, Reid's Addition produced southerly across Commercial street, thence to westerly line of B street; also B street from Bluff to Commercial street as is represented by said certificates.

Adopted November 22, 1915, by the following vote:
Aye—Moorhead, Collins, Schmidt.
Ayes 3; noes 0.

Approved and signed:
S. W. MOORHEAD,
Mayor of the City of Keokuk.

Attest: O. W. SANDBERG, City Clerk.
Resolution No. 1271.

Be It Resolved, By the City Council of the City of Keokuk, That after full consideration of the schedule of assessments and the accompanying plat showing the assessments proposed to be made for the cost of the sanitary sewer constructed through Blocks 48, 56 and 58, Kilbourne's Addition, to run from the storm sewer at Nineteenth and Des Moines street thence from Des Moines street south to alley, thence westerly through said blocks to easterly line of Randall's Addition, thence northerly in private alley in Randall's Addition, also through alley in Block 44, Kilbourne's Addition in rear of Lots 7, 8 and 9, to connection with sanitary sewer in Nineteenth street between Des Moines and Palsan, filed in the office of the City Clerk on the 1st day of November, 1915, of the filing of which notice has been published and posted, as required by law, and after full consideration, appraisal and apportionment of the special benefits conferred upon the property shown in said schedule and plat by the said improvement, this council finds, that the said property is specially benefited by the said improvement in the amounts shown on said schedule, and that the said amounts are in proportion to the special benefits conferred upon the property by said improvement, and are not in excess of such benefits, and are not in excess of 25 per cent of the actual value of the lots, parts of lots and parcels of ground shown in said schedule; and

Be It Further Resolved, That the said schedule of assessments and the accompanying plat be, and the same are hereby, approved; and that there be and is hereby assessed and levied as a special tax against and upon each of the lots and parcels of land described in said schedule, and the owner or owners thereof liable to assessment for the cost of the same, the respective sums expressed in figures set opposite to each of the same on account of the cost of the construction of the said improvement; and the said assessments against the said lots, parts of lots and parcels of land are hereby declared to be in proportion to the special benefits conferred upon the said property by said improvement, and not in excess thereof, and in excess of 25 per cent of the actual value thereof.

Adopted November 22, 1915, by the following vote:
Aye—Moorhead, Collins, Schmidt.
Ayes 3; noes 0.

Approved and signed:
S. W. MOORHEAD,
Mayor of the City of Keokuk.

Attest: O. W. SANDBERG, City Clerk.
Resolution No. 1272.

Whereas, On the 20th day of July and on the 12th day of October, 1915, the City of Keokuk did enter into contract with The Keokuk Quarry & Construction Company for the construction of a sanitary sewer through Blocks 49, 56 and 58, Kilbourne's Addition, to run from the storm sewer at Nineteenth and Des Moines street, thence westerly through said blocks to the easterly line of Randall's Addition, thence northerly in private alley in Randall's Addition, also through alley in Block 34, Kilbourne's Addition in rear of Lots 7, 8 and 9, to connection with sanitary sewer in Nineteenth street between Des Moines and Palsan streets, in the manner provided in said contract; and

Whereas, The said Keokuk Quarry & Construction Co. contractor, has fully completed the said work, in accordance with the terms of its contract, and the said work has been duly accepted by this council as fully complying with the terms, conditions and requirements of the said contract, and the plans and specifications thereto attached; and

Whereas, Under the terms of the said contract so much of the cost of the said improvement as is by law assessable against each privately owned lot or parcel of ground abutting thereon or adjacent thereto, is to be so assessed and special assessment certificates are to be issued in anticipation of the collection of such special taxes, which certificates are to be accepted by the contractor in payment of so much of the cost of the said improvement as equals the amount of such special assessment; and

Whereas, There have been heretofore levied by this council against each privately owned lot or parcel of ground abutting upon or adjacent to said improvement, special assessments to the amount of \$2044.74, as shown in the schedule now on file in the office of the City Clerk, which said assessments were levied on the 1st day of November, 1915.

Therefore, Be It Resolved, By the City Council of the City of Keokuk, that there be issued by the City of Keokuk, sewer improvement certificates to the total amount of \$2044.74. One certificate shall be issued for each and every separate piece of property assessed, as shown on said schedule, which certificate shall be for the amount of the special taxes assessed against such property, and the certificates shall be numbered from 1047 to 1059, inclusive. Such certificates shall transfer to the bearer all the right and interest of the city in such assessments, and shall be in the form provided by the laws of Iowa and the ordinances of the City of Keokuk.

Be It Further Resolved, That the Mayor and City Clerk be, and they are hereby, instructed to execute said certificates, and when so executed that they be placed on file in the office of the City Clerk for a period of thirty days from and after the date of the making of the said assessment, to-wit: the 22d day of December, 1915, to the end that the owner of any lot or parcel of land, against which an assessment has been made, may, within said time promise and agree in writing endorsed on said certificate, or in a separate agreement, that in consideration of having the right to pay his assessment in installments he will not make any objection of illegality or irregularity as to the assessment or levy of said tax upon and against his property, and will pay said assessment with interest thereon.

Be It Further Resolved, That at the expiration of said period of thirty days, the City Clerk be, and he is hereby instructed to deliver said certificates to the Keokuk Quarry & Construction Company, the contractor for the said improvement, and to take his receipt therefor, said certificates to be delivered to the contractor in payment of so much of the cost of the construction of sanitary sewer through Blocks 49, 56 and 58, Kilbourne's Addition, to run from the storm sewer at Nineteenth and Des Moines street thence from Des Moines street south to alley, thence westerly through said blocks to easterly line of Randall's Addition, thence northerly in private alley in Randall's Addition, also through alley in Block 44, Kilbourne's Addition in rear of Lots 7, 8 and 9, to connection with sanitary sewer in Nineteenth street between Des Moines and Palsan, as is represented by said certificates.

Adopted November 22, 1915, by the following vote:
Aye—Moorhead, Collins, Schmidt.
Ayes 3; noes 0.

Approved and signed:
S. W. MOORHEAD,
Mayor of the City of Keokuk.

Attest: O. W. SANDBERG, City Clerk.



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