

STEVENS AGAINST THE COOPER BILL

Minnesota Congressman Opposes Also the Plan for a Commerce Court.

By W. W. Jermans.

Washington, Jan. 6.—As no majority member of the house committee on interstate and foreign commerce, the opinions of Congressman Fred C. Stevens of Minnesota on the subject of railroad legislation acquire added importance. Some one or seven or eight whose votes will determine the fate of the Cooper-Quarles bill, it is interesting to learn that Mr. Stevens is opposed to that measure and to the principles upon which it is drawn.

"I believe that bill is unconstitutional," says Mr. Stevens. "There are several respects in which it is open to serious criticism, but in the one respect that an effort is made to limit the opinions of the judiciary it is clearly against the constitution."

"It is my judgment, too, that Senator Elkins' plan for an interstate commerce court is entirely unconstitutional. That is an effort to delegate a strictly legislative function to the judiciary. That has been held by the courts many times to be unconstitutional. In the Jackson case there was a specific ruling on that point."

"Congress cannot turn over its legislative prerogatives to the president or any branch of the government; no more can congress turn over its prerogatives to a court, or to the judiciary, in general. What is proposed to do is to give a court the rate-making power; not the rate-making power is a legislative function."

Can Legislate Rates. "Congress can legislate rates to any extent short of the constitutional prohibition which forbids congress to take without due process of law or without just compensation for a public use. Rates could not be regulated to the point of being a mere formality, but short of that they can be by congress. But congress must exercise that power itself, either directly or thru an agency created for that purpose, independent of the other branches of the government."

"Congress could create a commission and invest it with legislative powers; congress could create a commission to legislate on the one subject of rates. But that commission must be a purely legislative body, amenable directly and only to congress. It must not be a judicial body. Its judgments should be final, and would be, except where they were open to review by the supreme court of the United States on the grounds specified above."

Legislative Matter. "The theory of the matter is not obscure. The regulation of railroad rates is a matter not of administration only; it is a legislative matter. The power to make these regulations comes from the people. Congress represents the people. The will of the people is ascertained and exercised thru congress; not thru the courts or thru the executive branch of the government. Congress may create any instrument for carrying out its will which seems best; but congress may not turn over its powers and duties in the courts."

"A rate-making commission would be subject to the control of congress, and thru congress to the people. That is as it should be. The railroads should be regulated by the people in the interests of all the people."

"For these reasons I am opposed to the interstate commerce commission or any rate-making commission under the jurisdiction of the secretary of commerce and labor, or any other cabinet officer. That would be a delegation of legislative power to the executive branch of the government."

"I am disposed to think that the working out of this problem will have to be along the lines which I have suggested. The purely administrative work might be left to the present commission, while a new commission might be created with the single function of legislating equitable and just rates, their action to be final."

Not an Obstructionist. Representative Stevens does not desire, in what he says above, to pose as an obstructionist, or to convey the impression that he is not in favor of legislation in harmony with the general principles laid down in the president's message. He thinks that legislation is absolutely necessary and that congress, either this winter or next, will pass some sort of a bill.

HE GOT IT JUST BEFORE MURDER

Continued from First Page.

"About 9 o'clock." "Had you ever distributed any pencils before that night?" asked Judge Webber.

"Yes, about forty or fifty." "Did you give Dr. Gebhard one?" asked General Childs. "What time did you leave the office?" "After 9 o'clock." "How was Koch dressed?" "In a dark suit and overcoat, I think."

"Did you see him before or after he left the office of Hoidal & Somerson?" "No, sir."

"Did you see Dr. Koch the day after the murder?" "Yes, we practiced singing at Henry Somsen's residence on Wednesday night."

"Did you see his hands?" "Yes, a slight scratch on his right thumb."

"With whom did you leave Hoidal & Somerson's office?" "Brooks, Hoidal and Somerson."

"Where did you separate from them?" "At the postoffice."

"Where did you go after that?" "To Crown Brothers' store, then to Alwin's drug store, then to Pfeiffer's drug store, and then to Pfeiffer's store."

"Did you hear any noise when you went into Pfeiffer's store?" "Yes, just as I was going into the drug store I heard sounds like some one was having a tooth pulled."

Brooks Discovers the Murder. "Did you see any one when you came out of the store?" "Yes, I met Lindemyer and Brooks. Brooks said, 'There seems to be trouble upstairs.' He went upstairs and came back and said, 'There seems to be a murder being committed up there.' He got Cavanaugh and went upstairs. I went up after Dr. Reinecke."

Cross-examination by Senator Somerville. "Where did you see Dr. Koch the next day after the murder?" "At Henry Somsen's residence, where he was rehearsing to sing at Dr. Gebhard's funeral."

"What injuries did you see on his hand?" "Just a small scab on the body side of the right palm. It was about an eighth of an inch long."

Re-direct examination by General Childs. "You said that your clerk may have given out some pencils. To whom would he have given them?" "To customers."

"Did you give any pencils to strangers?" "Yes; to two traveling men."

Injuries Upon Koch's Hands. Cleveland Frederick, formerly a clerk for W. G. Alwin, druggist, was examined by General Childs.

"Yes, in the drugstore." "What was he doing?" "Putting rubber coats on his hands."

FIXING TIME OF MURDER

Witnesses Disagree, Varying It from 9:28 to 9:40.

From a Staff Correspondent.

New Ulm, Minn., Jan. 6.—Seven witnesses were examined at the afternoon session of the court yesterday, and, although they all testified to hearing sounds in Dr. Gebhard's office, they disagreed in time, varying from 9:28 to 9:40 p.m. Every one of them estimated the time, and a careful examination of the things they had done showed that the latter hour was probably more nearly correct.

Joseph Polta said that he was 9:30 o'clock when he heard the sounds. He said that he was looking at a clock when he was at 9:05, when he left a saloon at First North and Broadway streets. He walked three blocks, stood on the street corner awhile, until he met Miss Martinka and Miss Roesch, and then the three walked evenly blocks before they heard the noise. Shortly afterwards the church clock struck and he thought it was 9:30. Events that occurred indicated that it was 9:45 instead.

Miss Martinka also fixed the time at 9:30. She heard the clock strike immediately after the murder in the office. She thought it was 9:30 then, but she knew it was just 10 o'clock when she, Miss Roesch and the two Martinka boys left the office. That was only a few minutes afterwards.

The two Baltrusch boys, composers in the Review office, were there until 9:34 and the trouble had not started then.

Alfred Kellar fixed the time at 9:30, but Herman Lindemyer, who was with him, says it was 9:40.

Both Sides Sued. General Childs says that the fixing of the time of the homicide as late as 9:45 is not inconsistent with the state's theory. "Yes, sir," said the defense, saying that it will be able to prove that Dr. Koch was home at 9:38 and could not have committed the crime, even at 9:30.

Herbert Baltrusch was recalled for further cross-examination. "Were there any screen doors at the foot of the Gebhard stairs?" asked Senator Somerville. "No, sir."

"Did you hear the door slam when the party went upstairs?" "No, sir."

"What conversation did you have with your brother?" "I went out to see who went upstairs. He didn't go, though."

Oscar Baltrusch, aged 14, brother of Herbert Baltrusch, was also called. He also works in the Review office and was there when Dr. Koch passed the window and when some one was heard to go up the stairs. He was distributing papers when Koch passed the window.

"Did you see Dr. Koch pass the window?" asked General Childs. "Yes, sir."

"Did you hear any sounds?" "Yes; I heard a man go up the stairs, open the reception-room door and go to the front of the office."

"Did you hear any other sounds?" "Yes; I heard the door slam when Dr. Gebhard's machine. It stopped when the man went in."

"How much longer did you stay in the office?" "About five or ten minutes."

"Did you hear any other noises up in Gebhard's office?" "No, sir."

Noise on the Stairway. Cross-examination by Senator Somerville. "Did you hear the screen doors at the foot of Dr. Gebhard's stairs close when the man went up?" "No, sir."

WILL KOCH A BROTHER OF DEATH?

Church Clock Said 9:30.

"What time was it?" "When I got to my sister's house it was 9:30 by the church clock."

"Who did you first speak to about this matter?" "To mama when I got home that night."

"To who else?" "To detectives." "Cross-examined by Senator Somerville."

"Did you tell it to Justice Henningson?" "Yes."

"To detectives again?" "Yes." "How did you get to your sister's by 9:30?" "The clock struck twice, which means half-past."

"How do you know it was 9:30?" "Polta said it was that time."

"Who said anything about the noise first?" "Polta did. He said: 'Oh, there is a fight. Let's go over!'"

Miss Roesch's Testimony. Frances Roesch, who was with Polta and Cecelia Martinka when they heard screams in Dr. Gebhard's office, was called.

"As you came back did you hear any sounds?" asked General Childs. "Did you see anyone on the corner at the Brown County bank?" "Yes."

"Who?" "Frank Behnke." "What time was it when you heard the sounds?" "About 9:30."

"Did you cross the street when you heard the sounds?" "Yes."

"Where did you go?" "To Berg's candy store."

"What kind of sounds were they that you heard?" "Cries of 'Owl Owl Owl!'"

"Were the sounds as loud when you reached the foot of the stairs at Gebhard's office?" "Not quite."

"Did anyone appear when you were there?" "Yes, a man came down stairs." "Any other men?" "Yes, two came from the north and all three went upstairs."

"Did you see them come down again?" "No, we went on."

"No, we went on." "Did you hear of the murder that night?" "No, not until the next day."

Mrs. Roesch cross-examined by Senator Somerville. "Isn't it a fact that when you saw Frank Behnke at the corner at the Brown County bank, that it was when you and Miss Martinka were walking before you met Polta?" "Yes."



GEO. R. KOCH, THE DEFENDANT

"Where did you go?" "We walked up the street to the American Express company's office. We stood there two or three minutes and then went back to the stairs at the Masonic lodge. Kellar went up the stairs and I waited. Vogel came along and I told him that the clerk was upstairs. I called Kellar and he went into the drug store with Vogel."

"Did you see Brooks?" "Yes, I saw him coming from the postoffice."

"Where did he go?" "Into his office. Then the trouble started and Brooks came out and went upstairs. He came down and ran across the street and got Cavanaugh."

Cross-examination by Senator Somerville. "When was it that you went to the drug store?" "At just about 9:20."

"When was the store closed?" "At 9:30."

"Where were you standing when Brooks came by?" "At the foot of the stairs of the Masonic lodge."

"Was Brooks there ahead of Vogel?" "Yes. Brooks had been in his office about a minute when the noise started."

"At what time was that?" "About 9:40."

"Where were you when Brooks went by with his gun?" "In front of Pfeiffer's store."

"Where was Kellar?" "Up the Masonic stairs."

"Where was Kellar when Brooks went up the stairs?" "He and Vogel had just gone in the drugstore."

A mistake was made yesterday by all the correspondents in the name of a witness, Dr. J. E. Graf, a veterinarian surgeon, and not Dr. J. L. Schoch, who was the fourth man to enter Gebhard's office.

FORTIFICATION BILL PASSED BY HOUSE

Baker Brands Roosevelt War Shipper of War God, but that Fails to Stop Bill.

Washington, Jan. 6.—The house passed the fortification bill without amendment and adjourned until Monday.

Mr. Baker of New York attacked the policy which permitted a bill such as the one under consideration to be brought up without notice. Mr. Baker vigorously condemned the bill as a waste of public money.

"Oh, yes," when we are led by a man who worships the war god, who wants to hold himself up in the United States as the equal as the equivalent, as the counterpart of William III, the great war god, when an administration is dominated by such a spirit as that, what a farce it is to talk about anything in the interests of peace?"

Lash for Wife-Beaters. Under license of debate, Mr. Adams of Pennsylvania spoke in advocacy of

E. E. Atkinson & Co. 716-718 Nicollet Avenue. New Juvenile Dept.

A Genuine Clearance Sale that has no competitors. A clean sweep of every dollar's worth of merchandise that is not desirable for the opening of the spring season.

Clearance of Children's Coats and Junior Suits. 75 Coats — Meltons, Scotchies and Zibelines, assorted styles, former prices \$7.50 to \$10, to close \$5.00

JUNIOR SUITS, AGES 12 TO 16 YEARS. \$12.50 Suits, imported mixtures, blouse and jacket styles, to close \$5.00

TAMS AND TOQUES. 75c Pulldown Tams, brown broadcloth and blue kersey, to close \$3.50

BOYS' SUITS. \$6.00 All Wool Scotch mixtures, double breasted styles \$3.95

BUSTER BROWN. \$6.00 English Serge, red and blue chevrons, plain brown and blue, also Scotch mixture, Buster Brown styles \$3.95

ETON AND SAILOR STYLES. \$12.50 All Imported Coats, mixtures, plain and blues, all made with knickerbocker trousers, and perfectly tailored, Eton blouse style \$7.50

OVERCOATS—TOURIST STYLES. \$6.00 and \$7.50 All Wool Irish Freize and Scotch Mixtures, made double and single breasted, to close \$3.95

his bill introduced yesterday providing for a whipping-post in the District of Columbia for wife-beaters.

Mr. Bede of Minnesota inquired if Mr. Adams had reported the bill because he was a bachelor and therefore immune.

Mr. Adams replied that the only class of persons who could introduce such legislation was the single men, because they are not in the married man's trust."

Gladiators Are Smaller. At the opening of the senate today, Dr. Edward Everett Hale prayed for the nations of the world, which, he said, "Every day making smaller and smaller every day in Thine infinite providence."

NEW OFFICERS AT MADISON. Lac qui Parle Fair and Commercial Club Hold Annual Elections.

Madison, Minn., Jan. 6.—The Lac qui Parle Agricultural society elected the following officers: President, H. A. Larson; vice president, W. S. Farnham; secretary, J. J. Little, treasurer, P. G. Jacobson; delegates to the state agricultural meeting at St. Paul, John Shule, Magnus Berg and J. J. Little.

The Commercial club elected officers for the ensuing year: J. R. Swan, president; Hans Bergendale; vice president; W. R. Hurd, secretary; and P. G. Jacobson, treasurer; J. F. Rosenwald, Amund Hegna and Frank Palmer, executive committee members.

SLAIN GIRL BY ROADSIDE. Chicago, Jan. 6.—The body of a young woman was found today in a ditch at the side of a road a mile west of Dunmore. An examination by physicians disclosed the fact that the woman had probably died during an operation, and the body had been removed to the place where it was found. The woman was well dressed and was apparently about 25 years of age.

HEADACHES AND NEURALGIA FROM COLDS. Laxative Bromo Quinine, the well-known Cold and Grip remedy, removes the cause. Call for the full name and look for signature of E. W. Grove, 25c.

Always Remember the Full Name Laxative Bromo Quinine Cures a Cold in One Day, Grip in 2 Days E. W. Grove on every 25c

ONE LIFE IS LOST IN GASOLINE EXPLOSION

Calumet, Mich., Jan. 6.—By the explosion of a tank of gasoline, caused by a fire in the Hubbard laundry, at Greenland, yesterday, one person was killed and another probably fatally injured. The building was wrecked, causing a \$4,000 loss; no one was hurt.

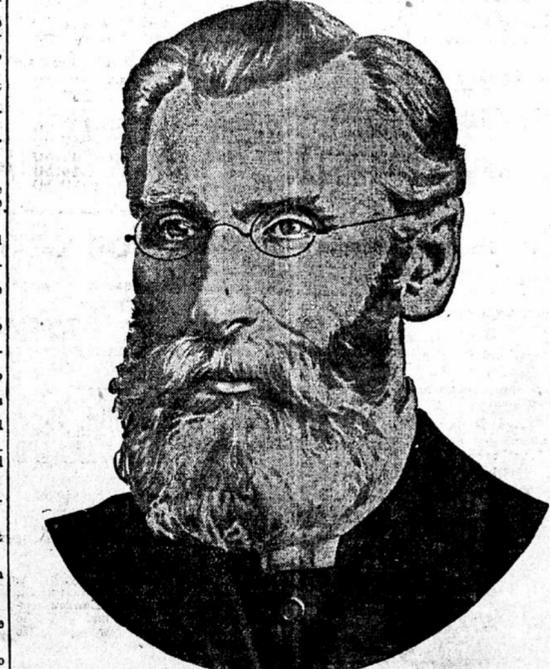
The Fashion Center. The great Plymouth Clothing House.

Overshoes. For Saturday we offer some specially interesting prices on good quality overshoes. LADIES' OVERSHOES—Ladies' storm overshoes, medium toes, sizes 2 1/2 to 6. 49c

Home Trade Shoe Store. 219-221 Nicollet. Women's warm lined lace shoes, values \$1.25, \$1.48 and \$1.75. at 98c

Girl Witness for the State. Miss Cecelia Martinka, who was with Joseph Polta and Frances Roesch when they heard sounds coming from Dr. Gebhard's office, asked to have an interpreter so that she might give her testimony in German.

Defective Page



REV. A. McLEOD, D. D., OF THE DETROIT PRESBYTERY.

"I am in my 73d year and have served God fearlessly and to the best of my ability in my chosen calling. For more than forty years I have been afflicted with dyspepsia and nervous prostration. At times I would get so run down constitutionally that I was almost entirely unable to discharge my ministerial duties. The older I grew the more the disease seemed to prey upon me. The most noted physicians failed to prescribe any medicines that benefited me. I could neither eat nor sleep, and for more than two years I had to take sleeping powders every night."