

CONVICTED OF MANSLAUGHTER

Twelve Men at Same Time Declare He Was Insane Last March.

IS THE VERDICT ILLEGAL?

Lawyers Say Defendant Could Not Be Found Guilty if Crazy.

Dr. Harry D. Kelly, the Council Bluffs physician, is guilty of the crime of manslaughter.

This is the finding of a jury which made its report to Judge Bradshaw in the criminal court shortly after 6 o'clock last evening.

A second verdict, or rather an answer to a special interrogatory was returned, in which the jury found that the defendant was insane on the morning of March 25, the date he shot down Edmund Sterzing, and for which he has been on trial for his life, and Clarence Woolman.

Attorneys say that the verdict of manslaughter is illegal, because an insane man cannot be convicted of a crime, and that the court can set it aside.

J. J. Mulvaney, chief counsel for the defense, will file a motion in the criminal court today asking that the verdict be dismissed.

The jurors reached an agreement about 5 o'clock Sunday afternoon, after deliberating on the case fifty-four hours. They retired at 11 o'clock Friday morning. Persons directly interested in the case had scattered to all parts of the city, so it took Bailiff Dug Miller nearly an hour to notify them. When he turned the lights on in the big court room a throng of people on the streets outside the building knew that something had happened and nearly filled the chamber when the jury was ready to report.

Judge Bradshaw received the verdict in person, as no deputy clerk was present, and as soon as he opened and read it, an expression of complete surprise came over his face. He summoned County Attorney Thomas Guthrie and Attorney J. J. Mulvaney to his desk, and held a hurried consultation with them in a low tone. No one could hear what was said, but many of them guessed what had happened.

Judge Bradshaw first read the special interrogatory in which the jury had found the defendant insane, and then he read the verdict. "We, the jury, find the defendant, Harry D. Kelly, guilty of manslaughter."

The judge then took a poll of the entire jury, asking each if that was his verdict, and if that was his answer to the question in regard to the insanity of the defendant.

As soon as the reading had been concluded the defendant turned to his mother and said: "Its all right now, mother." Then he threw his arms around her neck and kissed her.

He got up immediately and walked to a point at the side of the judge's desk and as the jurors passed out he shook each one by the hand and thanked him, even though the men did not give him his liberty.

The defendant was asked what he thought of the verdict and he merely said, "I am satisfied. I don't want to discuss it any more, because I realize there is likely to be complications, and I would rather have my attorney do my talking for me. Had the jury found me not guilty it would have been different, but as it is, I am satisfied."

"I feel very grateful," said the defendant's mother, "and I want to thank Judge Bradshaw for the excellent manner in which he conducted the case. Both the judge and the people have been very considerate of me," she added.

When Kelly's father was questioned he said: "The trial was eminently fair and we are satisfied with the outcome of it. I wish I could express my gratitude to Judge Bradshaw for the manner in which he conducted the case."

When the jury retired at 11 o'clock Friday morning one ballot was taken before dinner. This stood eight for acquittal and four for guilty of murder in the first degree. After dinner about a dozen ballots were taken and no change. On the thirteenth ballot they stood nine for acquittal and three for guilty of murder in the first degree. Another bunch of ballots were voted before the result changed to ten for

acquittal and two for guilty of murder in the first degree.

The next change was when four of the men voted for murder in the second degree, and eight of the men stood pat on the acquittal verdict.

The balloting continued with considerable rapidity all during the afternoon when the next change was nine for acquittal and three for murder in the second degree. The next one was ten for acquittal and two for second degree murder.

The balloting continued with this ratio until late Friday night when suddenly three of the jurors—W. D. Fusion, the foreman, a retired farmer; George Duston, a contractor, and W. E. Jones, a miner—voted that the defendant was guilty of manslaughter. The other nine men, however, still continued to hold out for a complete acquittal.

This was the first permanent division of the jury and the vote stood this way from time the men retired Friday night until the verdict was finally agreed upon Sunday evening.

Jury Fixes Price of Eye.

Keokuk, Dec. 11.—The loss of an eye is worth \$1,500, according to a jury which returned a verdict for that sum Saturday in the case of Michael Allen against the DuPont Powder company.

DARROW IN THE SCANDAL

Burt H. Franklin Held to Superior Court on Bribery Charge.

CLARENCE DARROW IN DENIAL

Attorney Fredericks Says They Lack Enough Evidence in Case.

Los Angeles, Cal., Dec. 12.—Burt H. Franklin, an investigator employed by the defense in the murder trial of James B. McNamara, just ended, was held to the superior court yesterday by Justice William P. Young to answer charges of bribing a juror and attempting to influence the verdict of a jury. The \$10,000 cash bond, furnished at the time of his arrest by counsel for the McNamaras, was again made surety for Franklin's appearance. An information by the state's attorney, which, in California may displace grand jury proceedings, probably will be filed within a week, Assistant District Attorney W. Joseph Ford said last night. The prosecution does not seek an early trial.

The name of Clarence S. Darrow, chief of counsel for the McNamaras, was brought into the case twice yesterday by witnesses at the preliminary hearing.

George N. Lockwood, a ventriloquist, who was arrested when Franklin was and later released, said Franklin told him he would see Darrow "and arrange how the money was to be paid." Robert F. Bain, a juror who accepted a bribe, told how he came to do it and added Franklin told him Darrow had given him the money "to use."

Franklin, in court, denied that he ever said anything of the sort. "I never mentioned Darrow's name to the men," he declared.

"I owe it to Mr. Darrow to say that much. Its an absolute lie." Previously Franklin said: "I might be guilty—though I don't for a moment admit that, but I'm no fool." He refused to elaborate this declaration.

Attorney Darrow flatly denied any complicity in the affair.

"I do not know what words passed between Franklin and Lockwood," he said. "I have had nothing to do with 'getting to' any jurors. Lockwood, I am told, said later in the day that he spoke to Franklin about 'the big fellow,' saying he supposed I was meant and Franklin replied, 'I didn't mean Darrow, I meant Captain White. It looks as if Lockwood might have had my name in mind when Franklin was not talking about me.'"

District Attorney Fredericks said that the state does not possess evidence which would warrant including Mr. Darrow in the tangle.

"What was testified was pure hearsay," he said. "It is not evidence in court of law. This office before proceeding against men secured what it believes to be valid evidence."

"Have you such evidence against Darrow?" was asked.

"We have not," he said, and corrected this to say that they had not sufficient evidence against Darrow.

COAL MINE RETAINS DEAD

Miners Perform Herculean Tasks Removing Debris From Galleries.

NUMBER IS NOT KNOWN

Red Cross and People of Tennessee Active in Aiding Sufferers.

Briceville, Tenn., Dec. 11.—Somewhere in the depths of the Cross mountain coal mine probably one hundred men lie dead today, while their sorrow-stricken families keep vigil at the mouth of their tomb, hoping against hope that their loved ones may be alive when rescuers reach them. Eight mangled bodies had been brought forth at nightfall, when search was abandoned for the day.

Outside of the immediate families of the entombed men, no one in this little mountain village believes that any living thing in the mine has survived the terrific explosion of coal dust that wrecked the workings Saturday morning.

For more than thirty-six hours every surviving miner in this region had toiled with no thought of food, sleep or pay, to remove the debris and force fresh air into the innermost recesses of the mine. Last night they practically had penetrated to the main entry head, nearly three miles in. Today they expect to be ready to work the cross entries, in which the great mass of bodies undoubtedly were cast by the force of the blast.

Black damp developed yesterday and stopped progress for a time, but soon the silent force pushed dauntlessly on, some of them till they were carried out overcome by noxious gases.

Thousands of the morbidly curious flocked into Briceville yesterday and crowded about the main entrance of the mine. They saw nothing put the pitiable grief of the stricken families.

There is hardly a family in the entire Coal creek valley that has not felt the touch of death.

The problem of caring for the widows and orphans will be a grave one. Certainly Briceville will be unable to care for her living with most of her wage earners numbered among the dead.

It has been impossible to get any authentic figures on the exact number of men in the mine when the explosion occurred. Mine officials have given out no statement and it has been impossible to get any check on the men who went to work Saturday morning. That it is more than a hundred seems certain, and that all are dead seems almost as certain.

It was expected much of the black damp will be driven from the passages last night. Today, with the crew of one rescue car on the ground, another hurrying here, and representatives of the Red Cross on hand, it is expected rescue work, so badly retarded, will go forward rapidly.

Steps have been taken to establish the work of the American Red Cross society. John Logan of Atlanta, representative of the society, reached here last night, in the meantime the Red Cross flag has been conspicuously suspended from the federal mine rescue car and its attendants were preparing to administer relief if called upon.

Mine officials decline to give out any positive information as to the number of men who went to work in the mine Saturday morning, but it is thought that there were between 100 and 200.

Value of Hand Placed High.

Waterloo, Dec. 11.—Mary E. Withey, a pianist and teacher of the piano, values the loss of her left hand at \$15,000. Recently, while a guest of Mr. and Mrs. M. H. Loomer, she was taken about the city for an automobile ride. While allowing her hand to hang over the side of the tonneau, a drayman collided with the side of the car and the end of the tongue crushed her hand. The driver was in the employ of the Fowler company, and now Mrs. Withey has sued for the amount named, alleging that her left hand has been ruined so far as piano playing is concerned.

Mary M. Fredrickson and Lila B. Maunister, sisters, who are musicians, have brought suits against the Waterloo, Cedar Falls & Northern railway for a total of \$11,000 dam-

ages for injuries received at Cedar Falls while returning from Dike, where they gave a concert. They were driving in a carriage and were struck by a street car.

Third Arrest in Robbery Case.

Chariton, Dec. 12.—Otto Schwon-ski was placed in jail here yesterday morning on a charge of implication in the recent robbery of the State bank at Derby. He was arrested in Omaha Saturday by Sheriff Henry Engebretsen of Lucas county and Detective J. W. Williams of Lincoln.

James Burns and John Wilson, arrested at Omaha last week on the same charge, will be arraigned today. They are in jail in default of \$3,000 bonds each.

May Be Fatally Injured.

Miles, Dec. 11.—Marshall Hysell probably was injured fatally Saturday when he was struck on the head by a crowbar, his skull being fractured.

With others he was trying to move a shredder with a crowbar. In some unknown manner the crowbar caught in the flywheel, struck Hysell on the head, bent itself almost double and was hurled twenty feet. Physicians offer little hope for his recovery.

LIQUOR MEN ARE WORRIED

Dubuque Men Expect Supreme Court to Uphold Moon Law.

A BIG CUT IS NECESSARY.

Thirty-nine Bar Rooms Will Be Allowed, Instead of 110.

Dubuque, Dec. 12.—Although the supreme court at its last session did not dispose of the test case on the Moon law limiting the numbering of saloons in a community to one for every 1,000 inhabitants, there is a spirit of uneasiness manifest in Dubuque among the dispensers of liquid joy. One year from now the present petition of consent will have expired. Then there will be a new deal.

Attorneys agree the provisions of the Moon law in all likelihood will go into effect and the present saloon licenses will become obsolete. The question arises, which of the present saloons will be allowed to continue and which will be denied renewal.

At the present time the city has approximately 110 barrooms. Under the Moon law provision there will be but thirty-nine.

The granting of permits, assuming the consent petition shall carry, rests with the city council. What will be the method employed in deciding who shall be denied licenses? In the belief there was a possibility that the favored ones would be decided by a priority of application upwards of a score of saloon men already have filed written requests for new licenses with the city council.

The law does not stipulate the method of deciding the question and the council has taken no action looking to a solution of the question of method to be employed.

What is true of Dubuque is true of every other city where saloons have place and where the present number exceeds the limit of one to 1,000 inhabitants.

COMING AGAIN SOON

These Successful Specialists, the Northwestern United Doctors, Will be in Webster City at the Wilson Hotel

THURSDAY, DEC. 21—ONE DAY ONLY.

Well pleased Patients—In all Parts of the State, Show the Remarkable Success of These Talented Physicians in the Treatment of Chronic Diseases.

The united experience and special formulas discovered and perfected by these Doctors has enabled them to accomplish more than any one physician can ever hope to accomplish. They number their patients by the thousands and have treated successfully nearly every known nervous and chronic disease and deformity.

Extracts from hundreds of letters

The Christmas Store for Men

LOUIS FRANK
The Leading Clothier

CLOTHCRAFT
All-Wool
Clothes



Xmas stocks in splendid readiness here, brim full of practical suggestions. You'll find this the most interesting Holiday Store for men you ever visited.

House Coats, \$5.50 up to \$10.00.

House Robes from \$5.00 to \$8.50.

Silk Neckwear from 25c to \$1.00.

Silk Knitted Neckwear, 50c and 75c.

Silk Hosiery, 50c.

Suspenders, 50c to \$1.00.

Lisle Hosiery, 2 pairs in a box, 50c.

Gloves and Mittens from 50c to \$3.00.

Mufflers, from 50c to \$2.50.

Fur and Fur Lined Coats. Ladies' Cloaks. Ladies' Furs. And hundreds of other items. Come in and see.

LOUIS FRANK,
THE LEADING CLOTHIER.

The Burleson Dry Goods Co.

Handkerchiefs for Women and Men.

Beautiful new designs in Women's Handkerchiefs—Embroidered in corners, French Hand Embroidered, Armenian Lace trimmed, 25c-35c

Real Convent Hand Embroidery Ladies' Handkerchiefs, beautiful work, all linen, at 25c-35c-45c-50c each.

Pure Sheer linen Ladies' Hemstitched Handkerchiefs, put up in sealed boxes. Sealpackerchief, sanitary, never been handled, ready for use, at 10c each, 2 for 25c, 3 for 50c and 25c each.

Men's Sealpackerchief Handkerchiefs, put up in sanitary sealed boxes, 2 for 25c, 3 for 25c and 25c each.

We are selling these Women's and Men's Sealpackerchiefs by the dozen. You should see them. BURLESON DRY GOODS CO.

received show that they carry out their promises, and that they are succeeding to a remarkable degree in effecting permanent cures.

Read the following letters and you will be convinced of the good work these doctors are doing:

July 17, 1911.

Dear Doctors:

"It has been a month since I began taking your first medicine and I can see that it is helping me very much. I am feeling much better and have only had trouble once since I began your treatment. I have lots of faith in you and your medicine and feel quite encouraged. I am living up to your instructions as near as I possibly can and am doing all I can to help get well."

A lady in Lake Park, Ia., writes:

"I took a three month's treatment from you in the hopes of healing my lungs from an abscess, also of anemia. I have been very prompt in taking the treatment and am feeling a great deal better and much stronger. I think I will soon be entirely well but will carefully follow all your directions to make sure."

Another lady in Flugstad, Ia., says:

"I received the medicine you sent a few weeks ago and can say I have begun to improve already. I have no doubt but what it will cure me as the change I now feel is quite remarkable. I received the directions you sent me and I certainly feel very grateful to you. Indeed I cannot say otherwise but what I feel like a new person."

Other well-pleased patients write:

"I am satisfied with the medicine I received three weeks ago as it has done me very much good."

"Your medicine seems to be helping me as I sleep a great deal better at night and haven't had any bad headaches like I used to have."

"I have never felt so well in five years as I have in the few weeks I have been taking your medicine. I wish to continue your treatment as soon as possible."

"I haven't had that pain since I started doctoring with you. I feel just fine, don't vomit that froth, and it is the first relief I got in nineteen months."

The weak, anemic, run-down, nervous and disheartened should not fail to see these doctors and take advantage of this opportunity to get well.

The cases that have been successfully treated by them after the skill of the family physician has been exhausted, show their diagnoses and treatments to be far superior and more certain in their effects.

Diseases of the Stomach and Liver, Gall-stones, Piles, Goitre, Catarrh, Rheumatism, Early Consumption, Bed-wetting, Leg-ulcers, Cancer and other malignant growths, Kidneys and Bladder troubles, Sciatica, and Diseases peculiar to sex are all treated by their up-to-date, scientific methods, with remarkable success.

Deafness often cured in sixty days.

No matter what your ailment may be, no matter what other physicians may have told you, it will be to your advantage to see the Northwestern United Doctors this time and have it forever settled in your mind.

If you have kidney or bladder trouble bring a two-ounce bottle of your urine for chemical analysis and microscopic examination.

Married ladies must come with their husbands and minors with their parents.

Didn't Know It Was Loaded.

Harian, Dec. 11.—William Gessmann, a Union township farmer, was injured badly yesterday afternoon by accidentally shooting himself in the leg with a 38 caliber revolver. He thought the gun was not loaded and pulled it from his pocket, the bullet taking effect in the fleshy part of his leg below the thigh and lodging near the knee cap.

Workman's Leg Torn Off.

Mason City, Dec. 12.—Michael Zukovich, employed at the Lehigh cement plant, had a leg torn off yesterday when he was drawn into the machinery at the mill. His coat caught in the gearing. Zukovich's condition is serious.

Nice things for the toilet at Teed's. 7412112