

STORY MUST STAND

Evidence of Miss Loving Can-
not be Attacked

DECISION OF THE JUDGE

Cited the Thaw Trial Among Other
Precedents

Decision a Heavy Blow to Prosecution—A Number of Witnesses Introduced by Prosecution to Rebut Insanity Plea Set up by Defense—Prosecution Rests Case at Close of Examination.

Houston, Va., June 27.—The taking of testimony in the case of former Judge William C. Loving, who was placed on trial here last Monday for the murder of Theodore Estes in Nelson county on April 22, was concluded at 5 o'clock this afternoon. The court adjourned until 10 o'clock tomorrow morning when the instructions to the jury will be argued before Judge Barksdale.

The rapidity with which the trial has progressed has been most surprising to all concerned.

Today marked a most important turning in the case, when Judge Barksdale rendered an opinion in the case concerning the admissibility of certain evidence, the decision dealing a heavy blow to the prosecution. Yesterday Attorney Daniel Harmon, for the prosecution announced his intention to call witnesses to show that the story told by Miss Elizabeth Loving to her father that she was drugged and assaulted by Theodore Estes was a fabrication and that Estes never offered an indignity to the girl, even suggesting that there might be another motive back of the killing. The defense objected on the ground that since the testimony had no bearing on the case and whether true or false had nothing to do with the question of Judge Loving's state of mind at the time of the tragedy.

Judge Barksdale in a lengthy opinion today sustained the contention of the defense, and among the cases he cited as precedents was Thaw trial in New York.

After the opinion of Judge Barksdale rendered the prosecution began the examination of a number of witnesses in rebuttal of the evidence introduced by the defense that Loving was insane at the time of the shooting.

During the morning 7 witnesses were examined. Most of these reside in Amherst and Nelson counties and have known Judge Loving for many years. The trend of their testimony was that they had never heard of the insanity of Judge Loving discussed before this trial and they had always regarded him as a sane man, with a mind superior to the ordinary. Several further declared that the defendant was a high tempered man, was intolerant of the opinions of those who opposed him. It also was testified that Judge Loving was an excellent hunter, a good shot, had served with honor as judge and had charge of large estates.

Recess was taken from 12 o'clock until 4 o'clock to give the prosecution time to prepare a hypothetical question to propound an expert on insanity—Dr. J. S. Dajarnette, of the Western state hospital of Staunton. This question was similar to the one asked Dr. Emmons, of Washington, yesterday by the defense. It reviewed the life and experiences of Judge Loving, his marriage, separation from his wife, his struggles against the whiskey habit, his trip to an institute for the cure of the habit, the account of the story told him by his daughter, the killing of young Estes and his appearance and action after the tragedy.

There was some variations to the questions, the defense taking a more serious view of his appearance after the shooting.

In reply to the question "what effect do you think such experience would have on the mind of this man?" Dajarnette said:

"I think he would be very angry from the provocation that he thought his daughter had been ruined by the young man referred to, but not insane."

Dr. Dajarnette testified that during his connection with the Western State hospital he had under his care 4,500 patients suffering from diseases of the brain. He was closely examined by counsel for both sides.

Mr. Lee, for the defense, touched on numerous diseases, their cause and effect.

Dr. Dajarnette testified as to the effect of alcoholism on the brain, the effect of insanity on the nerves and tissues, the temporary and permanent results from delirium tremens, the effect of stress and strain on the mind, how sudden joy, excitement, horror, disappointment, grief, etc., could affect the mental faculties.

Most of his testimony as well as the questions asked him, were of a technical nature.

When the doctor left the stand Attorney Wood Bouldin, for the prosecution announced: "We rest our case."

The attorneys for both sides tonight held conferences to prepare instructions to be submitted to the court tomorrow.

SOUTH CAROLINA DAY

Large Delegation From State Present to Honor the Occasion.

Norfolk, Va., June 27.—Governor Ansel, of South Carolina, his family and staff, the entire South Carolina Jamestown commission, the Second regiment of infantry of South Carolina national guard, under Colonel Henry T. Thompson, 700 men, and a large party of South Carolina state officials and members of the legislature arrived today for South Carolina Day celebration at the Jamestown exposition tomorrow.

Governor Ansel at the exposition today presented in person the diplomas to this year's graduates of the South Carolina (Citadel) Military Institute now in camp at the exposition. This evening Governor Ansel was tendered a reception at the Virginia Club in Norfolk by Lieutenant Commander Victor Blue, United States navy, and Dr. Rupert Blue, of the United States Marine hospital service. A notable feature in connection with the South Carolina Day celebration tomorrow will be the presence of the governors of three states at a reception to be given in the Virginia state building in honor of the visiting South Carolinians. These will be Governor Ansel, of South Carolina, Governor Warfield, of Maryland, and Governor Swanson, of Virginia.

VICTIM OF THE FIRE

Body of Charles Fulbert, a Musician, Found in Ruins of Madison Hotel.

Norfolk, Va., June 27.—The body of Charles Fulbert, a musician who had been playing at different resorts about Pine Beach, was found in the ruins of the burned Madison hotel there today. Fulbert was 30 years of age and came from Bridgeport, Conn. His wife was an actress and has been summoned from San Antonio, Texas. Fulbert is declared to have been asleep and an effort was made to awaken him when the fire broke out yesterday morning. He could not be aroused and was burned in bed. The body was identified by a double row of teeth. This makes the second known fatality in the Pine Beach fire, the other being the negro bootblack, Larry Harris. Several persons are reported missing.

PARDONS GRANTED AND DENIED
Application of Herfield Crandall, of New Hanover, Denied.

(Special to The Messenger)
Raleigh, June 27.—Governor Glenn grants two pardons and denies four other applications. J. D. Phillips, Rowan county, serving four years for larceny, pardoned at request of trial judge, who said he felt that he had given Phillips too long a term. Donk Morgan, Forsyth county, sentenced in 1905, for stealing a horse and buggy, pardoned because it appears the man was drunk and did not realize what he was doing or intend to keep them.

Applications refused for Herfield Crandall, New Hanover county, serving eighteen months for assault and trespass. Chas. Murphy, Guilford county, serving sentence for assaulting and shooting policeman, Cross Edmundson, Columbus county, serving three years for murder in second degree. William Sledge, Halifax.

M. H. SMITH A SUICIDE

Was a Graduate of Trinity College—Afterwards in Employ of American Tobacco Co.

Durham, N. C., June 27.—William M. Smith, captain and short stop of Trinity college baseball team the past two years, committed suicide at noon today by placing a pistol against his temple and firing. Smith graduated from Trinity college last year and this year took the degree of master of arts. He afterwards entered the employment of the American Tobacco company as an inspector. His nervous system broke down and he thought he was a failure at the business.

Britt-Nelson Fight Postponed.

San Francisco, June 27.—The Britt-Nelson fight, which was scheduled for July 3, was postponed last night until July 31. A reason given for the postponement is the inability of Nelson to continue training owing to an abscess in his ear.

If Japan should seize the Philippines, oughtn't the president to set aside a day for thanks throughout the United States—Baltimore Sun.

When you feel the need of a pill take a DeWitt's Little Easy Rider. Small pill, safe pill, sure pill. Easy to take—pleasant and effective. Drives away headaches. Sold by Robt. R. Bellamy.

It is strange to hear that the mosquitoes are annoying the president at Sagamore Hill. What are the secret service men up to.—Philadelphia Press

He Fired The Stick.

"I have fired the walking stick I've carried over 40 years on account of a sore that resisted every kind of treatment, until I tried Bucklen's Arnica Salve; that has healed the sore and made me a happy man," writes John Garrett, of North Mills, N. C. Guaranteed for piles burns etc., by R. R. Bellamy, druggist, 25c

DECISION AGAINST DEFENSE THE RAILWAY RATE SUITS

Limits Proof of Counter Conspiracy Against Haywood

BOYCE ON THE WITNESS STAND

Connected With Federation for Years. Is Now Wealthy Mine Owner—Denied Existence of an "Inner Circle" in the Organization.

Boise, Idaho June 27.—A ruling made today by Judge Wood while Edward Boyce, for years the leader of the Western Federation of Miners and now a wealthy mine owner of the Couder D'Alenes, was testifying in behalf of Wm D. Haywood, may limit materially the showing of the defense as to the existence of the counter conspiracy against Haywood and his associates.

James H. Hawley, for the state, objected to a general question as to the policy and practice of mine owners throughout the west in blacklisting union miners, and in the argument that followed Clarence Darrow, for the defense, claimed the same latitude in proving counter conspiracy that the state enjoyed in showing a conspiracy.

Mr. Hawley contended that the state had directly shown the existence of a conspiracy by Harry Orchard and by so doing had laid the foundation for and made the connection of all the evidence subsequently offered on the subject. He said that the defense was trying to show a counter conspiracy by proving various isolated instances and certain general conditions, none of which was connected with the case and none for which the proper foundation had been laid.

In ruling the court accepted in part the contention of the prosecution and limited the proof of the defense along along this line to events in Colorado and at the Couder D'Alenes mine, connected with the case as now established.

Ed Boyce was the principal witness of the day, and his testimony was chiefly devoted to the history, purposes and work of the Western Federation. He denied the existence of an "inner circle" or that there had ever been a conspiracy in the organization to do an illegal act.

The chief importance of Boyce's cross examination was the production of a speech by him at the convention of the Federation at Salt Lake City in 1899 in which he said that every union should have a rifle club and every member a rifle, so that the Federation could march 25,000 armed men into the ranks of labor.

Mr. Boyce would not agree with the accuracy of the quotation, but saying that the sentiment was correct, declared with spirit that when he spoke the words imputed to him he had in mind the misconduct of state troops in Colorado, the use of troops elsewhere against the federation and the constitutional right of all citizens to bear arms, which is as much the right of the miner as of the aristocrat.

William Easterly, one of the most important witnesses in the case was called just before adjournment and his testimony will be continued tomorrow. He occupied the witness chair long enough, however, to deny directly the statements of Orchard, charging him with criminal misconduct in Colorado. He denied that he had ever discussed the Vindicator or any other plot with Orchard, or that he had helped Orchard in experiments for the device that blew up the Vindicator mine and denied that he and Orchard had discussed the Vindicator matter or any subject with Moyer and Haywood at Federation headquarters in Denver.

TRAINS IN COLLISION

Engineer Killed and Several Passengers Injured.

Philadelphia, Pa., June 27.—In a collision on the Pennsylvania railroad near Cynwyd, a suburban station between a Pottsville accommodation and a freight locomotive, the engineer, Oliver Renert of the passenger was killed and several passengers were injured. Engineer Renert was buried under his engine.

The freight engine was going in the same direction as the passenger train but on a near track and was a short distance ahead when it ran into an open switch entering the track occupied by the passenger train.

Fires Equity Suit.

Uniontown, Pa., June 28.—In an effort to have the two-cent fare law in Pennsylvania declared unconstitutional the Baltimore and Ohio Railway Company, operating the Pittsburgh and Connellsville road, has filed an equity suit here, asking that the act be declared void and that the defendant, the county of Fayette, be perpetually enjoined from demanding of the plaintiffs or bringing any suit against them for recovery of any penalty imposed by the act in case the plaintiffs shall not comply with the act.

A man who is in perfect health so he can do an honest days work when necessary has much for which he should be thankful. Mr. L. C. Rogers, of Branchton, Pa., writes that he was not only unable to work, but he could not stoop over to tie his own shoes. Six bottles of Foley's Kidney Cure made a new man of him. He says, "Success to Foley's Kidney Cure." Sold by Jos. C. Shepard, J. Hicks Bunting Drug Co.

Counsel for Southern Railway Company Completes Argument

ATTACKS AUDITOR'S AFFIDAVIT

Commissions Counsel Asserts That Figures in Affidavit are in Excess of Those in Report Made to Commission—Suit of A. C. L. Begins Today.

Asheville, N. C., June 27.—The railway rate suit of the Southern against the state corporation commission, Walker D. Hines completed his argument for the Southern and Chief Counsel A. P. Thom also spoke for the company. Mr. Thom was followed by Judge Shepard, of the commission. The feature of today's proceedings was an attack by the commission's counsel on Auditor Plant's affidavit in regard to the cost of doing business in North Carolina on the ground that the report showed such cost as to be greatly in excess of the same officer's report before the commission before the passage of the reduced rate law. The case closed with Judge Shepard's argument.

The hearing in a similar suit to the Southern's, that of the Atlantic Coast Line stockholders against the North Carolina corporation commission will begin tomorrow.

PENNSYLVANIA DEMOCRATS

J. G. Harman Nominated for Treasurer—Resolution Endorsing Bryan Shelved.

Harrisburg, Pa., June 27.—John G. Harman, of Columbia county, was nominated for state treasurer by today's democratic state convention on a platform confined to state issues. Harman is a former member of the legislature. A resolution endorsing William Jennings Bryan for the presidency was shelved.

State Treasurer Wm. H. Berry, who claims the credit for having uncovered the capitol scandal, was chairman of the convention and made a speech advocating the election of a democratic treasurer as a check on the republican state officials. He commended the capitol investigation commission and said that much of the testimony taken by the commission has substantiated the charges he made in the last campaign.

Get a free sample of Dr. Shoop's "Health Coffee" at our store. If real coffee disturbs your stomach, your Heart or Kidneys, then try this clever Coffee Imitation. Dr. Shoop has closely matched Old Java and Mocha Coffee in flavor and taste, yet it has not a single grain of real Coffee in it. Dr. Shoop's Health Coffee Imitation is made from pure toasted grains or cereals, with Malt, Nuts, etc. Made in a minute. No tedious wait. You will surely like it. Sold by S. W. Sanders.

(The railroads and corporations are only bluffing. What Mr. Roosevelt will be able to do with a republican congress behind him is giving them little real uneasiness.—Durham Herald.

The democratic party cannot be expected to recognize Mr. Roosevelt as a democrat as long as he gives all the offices to republicans.—Durham Herald.

Piles get quick and certain relief from Dr. Shoop's Magic Ointment. Please note it is made alone for Piles, and its action is positive and certain. Itching, painful, protruding or blind piles disappear like magic by its use. Large nickel-capped glass jars 50 cents. Sold by Robert R. Bellamy.

From the amount of heat Old Sol has been giving out lately he has evidently had those spots removed from his face.—Washington Post.

If you will make inquiry it will be a revelation to you how many succumb to kidney or bladder troubles in one form or another. If the patient is not beyond medical aid, Foley's Kidney Cure will cure. It never disappoints. Sold by Jos. C. Shepard, J. Hicks Bunting.

There is no truth in the story that Mark Twain and King Edward played leap frog at the Windsor garden party.—New York Sun.

Will Cure Consumption

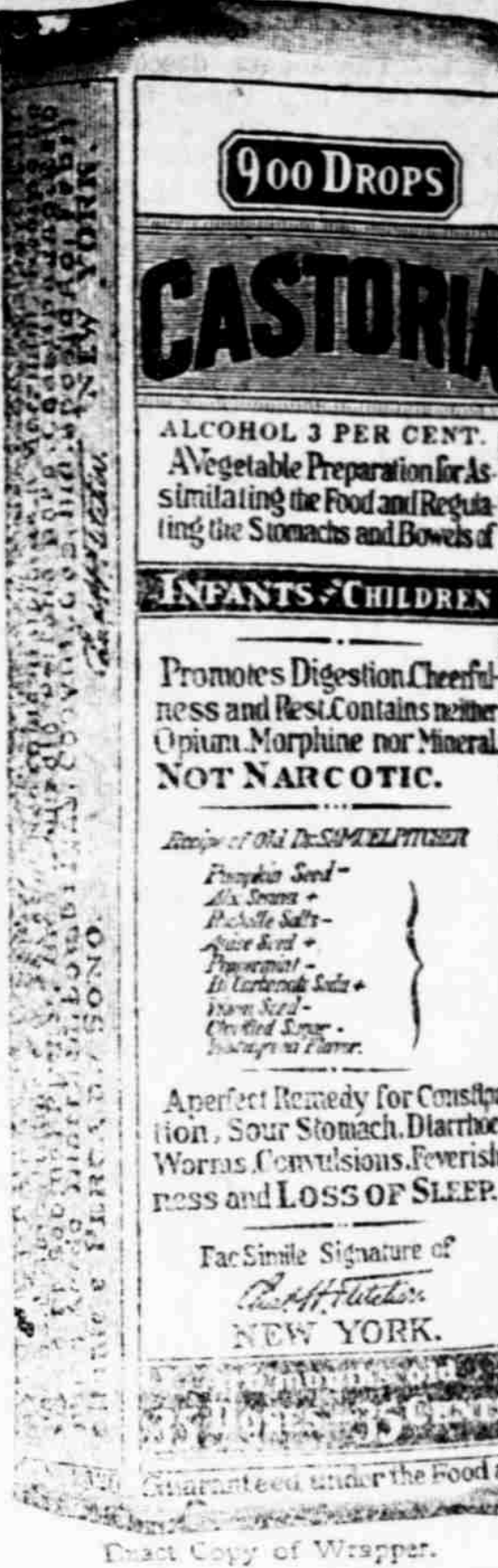
A. A. Herren, Finch Ark., writes: "Foley's Honey and Tar is the best preparation for coughs and colds and lung trouble. I know that it has cured consumption in the first stages." You never heard of any one using Foley's Honey and Tar and not being satisfied. Sold by Jos. C. Shepard, J. Hicks Bunting Drug Co.

No Change Contemplated.

Washington, June 27.—Vice President J. M. Culp, of the Southern railway, stated today in answer to inquiry, that there is no foundation for the published rumor that there will be a change in the office of passenger traffic manager and general passenger agent of that company on July 12. He announced that no change in either of these offices is contemplated.

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and Sour Stomach
Do not suffer longer. You can be relieved immediately by Hicks' Capidine. It induces the proper flow of gastric juices and cures the distress and acidity. Try it. It's pleasant to take—It's liquid. Cures headache also. At all druggists.



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Not only contribute to the purity and goodness of every meal, but just think of the time and labor saved by their use.

The "Universal" Bread Maker is a pail, made of heavy tin, with a kneading rod, which mixes and kneads the dough in three minutes, more thoroughly than you could ever do it by hand. Saves 20 to 30 minutes of tedious, tiresome labor every bread day. No tired back and aching arms—your hands never touch the dough. No muss—no fuss. Bread always the same—light, wholesome and nutritious. Price \$2.00

The "Universal" Coffee Percolator makes the best coffee, and quickly, because the automatic valve forces the water through the coffee as it gradually increases in temperature. By the time the boiling point is reached the coffee is ready to serve—pure, wholesome, delicious—because it has not been boiled. Rich in strength and aroma, for they have not been lost in steam. Aluminum and high grade enamel ware—different styles and sizes. \$2.00 up.

The "Universal" Food Chopper enables you to utilize the untouched portions of cooked and uncooked food that might otherwise be wasted if you were confined to the use of the tiresome chopping bowl. Chops anything you want chopped—easily, quickly and well. Three cutters—fine, coarse, medium, and nut butter grinder. One or two crackers run through the machine after using cleans it thoroughly. No holes or openings to become clogged. All parts exposed to view.

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