

THE WEEKLY REVIEW.

THE OWEN MURDER TRIAL IN THE MONTGOMERY CIRCUIT COURT.

REPORTED EXPRESSLY FOR THE REVIEW.

SIXTH DAY.

MONDAY, July 25.

Court opened at 10 o'clock, but as Mr. GREGORY had not yet arrived, counsel for the defence agreed that the Court might wait for him until 2 o'clock, P. M.

AFTERNOON SESSION.

Court opened at 2 o'clock.

Dr. Thos. W. Fry recalled. A patient might take a dose of poison that would prove fatal and still walk before spasms commence, but could not walk after convulsions began.

[Dr. Fry then explained from a draft of the house of Mr. Manners, in which he slept the night of the post mortem examination, showing the position of the jar and the bed in which he slept, &c.]

Am not now certain that I could get to the jar from where I slept, unless I passed through the room in which old Mr. Manners and his wife slept. I drew up the plan of the house from my own recollection.

John S. Hougham called.—I am Prof. of Agricultural Chemistry and the kindred sciences in Franklin College; also Prof. of General and Analytical Chemistry; have been experimenting more or less for thirteen years; have been a Prof. more than 11 years; Dr. Fry delivered to me these three bottles between the 20th and 25th of December, 1858; the corks were placed in firmly and sealed closely, so as to make them not only water-tight, but impervious to the air and gases; they were well secured. When I received the bottles one was labeled, "Part of the contents of the stomach of Kiziah Owen"; another was labeled, "Part of the contents of the upper bowels of Kiziah Owen"; and the third was marked, "Part of the stomach and upper intestines of Kiziah Owen"; the last of which (a half pint bottle) was two-thirds full, the others contained small amounts. In the first place I took a part from the bottle marked "stomach and bowels," and cut into small pieces, then placed part into a capsule to detect strychnine; a larger part I placed in a glass retort for the purpose of seeking mineral or inorganic poison; this I treated according to the plan of Regnault; (the difficulty of detecting poison in the human body is in separating the poison from the other matter in the stomach.) to thus separate them, in my tests for inorganic poisons, I first treated with sulphuric acid; after evaporating, I treated with nitric acid, to convert arsenic acid into arsenic acid, which latter is the more soluble acid; then treated with water, filtered and afterward employed what is called Marsh's test. I found neither antimony, arsenic, nor any other inorganic poison present. I took the remaining contents of the stomach and bowels of deceased, and a part of the stomach and bowel, and treated it according to Rodgers' plan; I treated it first with hydrochloric acid—this converts the strychnine into hydrochloride of strychnine, which is quite soluble in water or alcohol; after I thus dissolved it and digested for three or four hours, I filtered, after straining twice through cloth so as to remove the glutinous matter; after filtering I evaporated to dryness. I treated with alcohol, which would dissolve the strychnine and leave back the other matter. I then treated the alcohol solution, then evaporated to dryness—and then I treated with water and then treated with ammonia, this leaves the strychnine in the solid form, then treated the precipitated strychnine with chloroform, I then introduced a pipette and drew off the chloroform and strychnine and placed it in a capsule; then evaporated to dryness, I then placed a small part of the residue in strong sulphuric acid, this converts it into sulphate of strychnine, I then applied the tests and found strychnine. [Prof. Hougham then performed experiments upon the result of his analysis of the stomach, supposed to be strychnine before the jury, showing the reactions and changes of color.] I obtained some crystals, not so well defined as crystals often are. I tested it, the taste was intensely bitter. It is my opinion that I found in the stomach is strychnine; I can form no accurate idea of the amount I found, but there must have been a pretty large quantity, at least I tried a large number of experiments; there is no doubt in my mind with regard to the accuracy of my analysis.

Cross-Examined.—There are the same other poisons which give the same colors as strychnine; the color displayed in the experiment results from the oxydation of the strychnine, the changes of color are due to the different degrees of oxydation. I regard the color test when proper care is taken, as infallible; this is the first case I have ever attempted to find strychnine in a body after death, I know not how the contents of the stomach were treated before I obtained them; there was alcohol in the bottles when delivered to me. I never have found strychnine in alcohol or wine; the plan I pursued is called Rogers' plan; the difference between this and Stas' plan is that in the latter plan the fluid is evaporated to dryness in vacuo. There are several formulas; I do not know the number; Taylor I think gives a great number of formulas; I do not know how small a quantity I could detect when in organic matter; the work of the chemist is to separate the poison from the organic matter; the tests have not changed materially with regard to strychnine since 1845-6. I think practical chemists are not very much divided on the subject of strychnine test; there was a great diversity of medical opinion in the Palmer trial; strychnine was not well known as a poison prior to 1854-5. Brucia and strychnine are both products of the same vegetable. I can't say how great the diversity of opinion among physicians may be as to chemical analysis and color tests, but my opinion is that no reputable chemist in either England, France, Germany or America, but that considers these tests as unmistakable, when taken in connection with the crystalline form and bitter taste. I did not examine for brucia, brucia with nitric acid

gives a red color; if brucia were present it would not interfere with the test used to obtain strychnine. I saw an allusion to the Green trial but did not examine it thoroughly. There are as many salts of strychnine as there are acids to unite with it; muriate of strychnine and nitrate of strychnine are common salts of this poison. The materials I used in my experiments were all tested by me before the analysis.

Thomas E. Jenkins called. I am acquainted with Dr. Fry. On the 7th of May last, Dr. Fry brought me two bottles, both sealed, and one labeled as the contents of the stomach and bowels of Mrs. Kiziah Owen, and the other a part of the stomach and bowel of the same. I have been a chemist for ten years—actively employed in the business seven or eight years. I treated the contents according to Trull's method, modified by Rodgers and Girdwood, and found a small portion of strychnine. I tested the crystals. I found first by the shape of the crystals, by the taste and by the color test; also by the trial upon a frog. All these tests corroborated each other in making out the substance found to be strychnine; I only used the contents of the stomach. I have not the slightest doubt as far as my knowledge of chemistry goes, that the substance obtained is strychnine. The vessels I used were all new and perfectly cleansed, and all the materials used in the analysis were tested before being used, so as to prove them free from foreign substance. The tests I used taken singly I consider as the most reliable that have been found, and when taken together I consider as infallible as any chemical tests known or as certain as our knowledge in any human affair can be.

Cross-Examined.—I practice chemistry in Louisville Ky., am now in a drug store and chemical laboratory; these tests are used to heighten the knowledge obtained by our natural senses; my process was this: I acidulated the contents of the stomach by adding a few grains of tartaric acid this rendered the strychnine soluble; I then added chloroform this took up the strychnine in solution and I then neutralized it with ammonia and then drew off the chloroform solution; Brucia if it were present would turn the solution red. The contents should be kept in glass or some metal which would prevent contamination and should always be sealed; the authorities I think require the seal to be in some way marked, so that the seal could not be broken without its being manifested; these bottle I think had paper pasted over them; the color tests above I do not regard as infallible, but when taken in connection with the crystalline form and the taste I regard as infallible; I have examined the human body for morphine and other poisons, I know of no other poison which will produce the same colors as strychnine, color tests are not regarded as infallible in other poisons as in strychnine; there are other articles which take about the same crystalline form as strychnine; the result of experiments performed with pure strychnine and the substance found in the contents of the stomach were identical.

Dr. John B. Wilson called. I reside in Ladoga. I practice medicine—have been practising about six years; was acquainted with Kiziah Owen in her lifetime. I am acquainted with the Coroner of the county, Jas. Vanarsdall. I was at an inquest over the body of Kiziah Owen, on the premises of Willis Clark. Dr. Fry conducted the examination. Dr. English and I assisted him. There was a wound above and behind the left ear. We examined and found the wound superficial, and the skull was found sound beneath the injury. There was a circular incision made around the scalp, and after the scalp was removed the skull was removed by sawing, and the covering of the brain and the brain itself were examined; the organs were all found in a healthy condition of the close; Dr. Fry, my wife and myself slept in the same room that night; the stairway leads up out of the big room, it was late when we got home, between midnight and day; the jar was placed on the stairway, I think the third or fourth step; I don't remember who placed it there; there was a good deal of talk about where it should be kept; there was no communication between where Dr. Fry slept and where the jar was placed; no looks about the house, I am acquainted with William Harris; known him some time, I know his moral character, it is bad, I am acquainted with his character for truth and veracity, it is bad.

Cross-Examined.—There is a girl at home but I do not know where she slept. Once thought I slept with Dr. Fry that night; I do not remember taking supper that night; I have been thinking a good deal about the jar; I can't say positively when I got possession of it, but think it was when I got into the woods, that is about three hundred yards from Clark's; I stopped at the woods and took Dr. Fry's horse and they took me to the house, we had it wrapped up in a white cloth, the contents had been running over, so as to make it very unpleasant to carry; I had to hold it off from me, and used great care in carrying it; my father, myself and Gardner Clark; Manners had described the plan of his fathers house, condition and relation of rooms and the place of the close; Dr. Fry, my wife and myself slept in the same room that night; the stairway leads up out of the big room, it was late when we got home, between midnight and day; the jar was placed on the stairway, I think the third or fourth step; I don't remember who placed it there; there was a good deal of talk about where it should be kept; there was no communication between where Dr. Fry slept and where the jar was placed; no looks about the house, I am acquainted with William Harris; known him some time, I know his moral character, it is bad, I am acquainted with his character for truth and veracity, it is bad.

James Manners called. I have been sworn; am father of James Manners Jr., was present at the post mortem and at Willis Clark's; it is about three fourths of a mile from Clark's to my house the way we went, Dr. Fry, Gardner Clark, my son and myself, went together, noticed the jar about the time we started from Clark's, my son carried it part of the way; my house fronts south, runs east and west, the house is a two story house, the jar was placed in the stairway that night, I think Dr. Fry placed it there, there is no communication between that stairway and the room Dr. Fry slept in, there is no connection between the closet in the room Dr. Fry slept in and the stairway; there are no locks on any of the doors, they were latched, there are two rooms up stairs; it was quite late when we went to bed; it was tolerably late when Dr. Fry got up, it was after the rest of the family got up, I cannot say how long; I am acquainted with William Harris, know his general moral character, it is not good; I am acquainted with his general reputation for truth and veracity, it is not good.

Cross-Examined.—I got the jar at my office; I do not keep all the medicines that are used; I got the jar in Cincinnati; I had used the jar, it had opium in it; it had a tin cover, I think the cover was not colored but do not remember distinctly; I carried it to the place of examination myself; it was washed out, I think I put my hand in when I washed it; it is what is called a quart jar but holds over three pints; the branch is about twenty steps from the place of examination; the water

gives a red color; if brucia were present it would not interfere with the test used to obtain strychnine. I saw an allusion to the Green trial but did not examine it thoroughly. There are as many salts of strychnine as there are acids to unite with it; muriate of strychnine and nitrate of strychnine are common salts of this poison. The materials I used in my experiments were all tested by me before the analysis.

morning; I know of no intermeddling with the jar while there; I told Dr. Fry to put it there and I opened the door for him to put it in; we understood each other about the contents of the jar; there was something said about it and we all had about the same opinion; I know of no intermeddling with the jar at any time; Dr. Fry went to bed first in the room he slept in, it was some little time before anybody else went into the room; the contents of the jar had a very offensive odor, that was one of the reasons we put it in the stairway, the door was shut after the jar was put in.

Ex. Thos. McDaniel called. I have lived in the neighborhood some four years. I am acquainted with the general moral character of Wm. Harris; it is not good. I am acquainted with his general character for truth and veracity; it is not good.

Joseph States called. I have known defendant over 20 years; lived within about two miles from him for near 25 years. I have often been at his house, as frequently as neighbors usually do. I never knew him to treat his wife unkindly. I am acquainted with William Harris; have known him from boyhood. I know his moral character; it is not good. I know his general reputation for truth and veracity, it is not good.

Cross-Examined.—I know nothing more about his treatment of his wife than what I have seen in visiting the house. I never saw anything unusual about his treatment of his wife while I was there.

Deposition of Matilda Owen.

The deposition of Matilda Owen, taken by and before me the undersigned, a Justice of the Peace in and for the County of Montgomery, State of Indiana, at the house of John Owen, in Clark Township, in said County, on the 20th day of July, 1859, to be read in evidence on the part of the defendant in a certain case pending in the Montgomery Circuit Court of said County, wherein the State of Indiana is plaintiff and Jonathan S. Owen is defendant. The said Matilda Owen being first duly sworn to testify the truth, the whole truth and nothing but the truth, as she should answer to God, deposes as follows, to-wit:

Question 1st, (by defendant's attorney)—State whether you ever had any conversation with Kiziah Owen, the deceased, wife of the said Jonathan S. Owen. If yes, when and where was it, and what was the conversation?

Answer—I had a conversation about September last. She said she wished the hurt on her head would kill her, because Jonathan and William Owen almost deviled the life out of her. The two above named are sons of Jonathan S. Owen. The conversation was called out by my asking her if she was not afraid the hurt on her head would kill her.

Q.—Had you any conversation with her before that?

A.—I heard her say last April a year ago, that she would poison Jonathan (her step son) if she was not afraid her own children would get it too, and heard her say the same at another time.

Q.—Was you intimate at the house of Jonathan S. Owen?

A.—I was.

Q.—What was the treatment of Jonathan S. Owen to wife?

A.—I never saw him mistreat her, or speak an unkind word to her.

Q.—How long have you lived by him?

A.—I have lived within one quarter of a mile of him for seven years, and have known him intimately ever since they were married.

Q.—What was Mrs. Kiziah Owen's treatment towards William and Jonathan, her step children?

(This question was objected to.)

A.—It was very unkind; she always had a quarrel with them, and driving them from home.

Q.—Are you able at this time to attend Court?

A.—I am not, being near my confinement. Cross-questioned by plaintiff's counsel:

Question 1st.—What relation are you to Jonathan S. Owen, the accused, whose case for murder of his wife, is now impending in this court?

Answer—I am a sister-in-law, the wife of his brother John.

Q.—Are you anxious to have the accused acquitted, and don't you take a deep interest in his behalf?

A.—I think the guilty ought to be condemned and the innocent acquitted, and I think so of him.

Q.—Did you know a Mrs. Huffman who was at Jonathan S. Owen's house?

Answer—I was at Jonathan S. Owen's house.

Q.—Are you anxious to have the accused acquitted, and don't you take a deep interest in his behalf?

A.—I think the guilty ought to be condemned and the innocent acquitted, and I think so of him.

Q.—Did you know a Mrs. Huffman who was at Jonathan S. Owen's house?

Answer—I was at Jonathan S. Owen's house.

Q.—Where is she living now?

A.—I don't know.

Q.—Did she not cause disturbances in the family of Owen?

A.—If she did I know nothing of it; never heard of it; had as good chance to know of it as any one else.

Q.—Were James Owen, or Horatio or Alfred Owen here about a week after the burial of Mrs. Kiziah Owen, to talk with you about her death?

A.—No sir, never, to the best of my recollection.

Q.—Did you not drive them from your house?

A.—No sir, I did not.

Q.—Was Jonathan S. Owen a man that staid about home most of the time?

A.—Yes, sir, to the best of my knowledge he did.

Q.—How did he treat her better than she did them?

A.—She would not give them sufficient to eat, would not wash their clothes nor let their sister do it, and she would drive them from home; this is my opinion, I saw it.

Q.—Where was her husband when these things took place?

A.—He was at home on the farm.

Q.—What did he say and do when she acted so?

A.—I never heard him open his mouth. I give it as my opinion that he took it rather than have any difficulty with his wife.

Q.—What lead you to ask Mrs. Owen if she was afraid her head would kill her?

A.—Because it looked badly.

Q.—How long was this after she was hurt, and where was she at the time?

A.—Four or five weeks afterwards, and she was here at the time.

Q.—Was she ever confined to her bed with the wound on her head?

A.—She was confined for two or three days at first.

Q.—Did her husband bring a physician to wait on her?

A.—Yes, sir, the next day after she was hurt; her husband came here and got Dr. English to go and treat her.

Q.—Do you know what time in the night she died?

A.—I do not.

Q.—What relation are you to the Mrs. Huffman that you say was about the house of Jonathan S. Owen?

A.—I am a sister of hers.

Cross-examined by defendant's counsel:

Q.—What was Mrs. Huffman's occupation?

A.—She was a seamstress; she did all of Owen's sewing; was there two months and a half, off and on; she and her husband was parted; he was a drunkard, and drove her from home last December one year ago. She sewed for several of the neighbors.

Q.—What account did Mrs. Owen (deceased) give of how she got the hurt on her head?

(Question objected to.)

A.—She said that she went out with her husband to cut wood, that her attention was called to her child, and as she turned to address it she received a lick on the head, that the axe either slipped from her husband's hands or flew off the handle; she never intimated to me that the lick was made on purpose; she said she did not know anything until after she was taken in the house.

Matilda Owen.