

## STEPHENSON SCORES POINT

(Continued From Page 1)

"Well, I'm Mr. Butler, Mr. Stephenson's secretary. Is there anything I can do for you?" I said, "No, I don't think so." Then Mr. Lansing, another detective, spoke up and said, "As a matter of fact, you're Mr. Stephenson, aren't you?"

"What happened then?"

More objections were overruled by Judge Sparks at this juncture.

"He said, 'Yes, I'm Mr. Stephenson, what's the racket?' I said, 'I have a warrant for you.' He said 'Read it,' and I said 'Do you want me to read it?' He said 'Yes,' I read it. Then he said 'I can call a bondsman, can't I?' and I said 'I suppose so.' Then he said 'I'm armed. I am an officer, and have a right to carry this gun,' and he took out a forty-five revolver and laid it on the table.

"He said, 'Why didn't you call me up, if you wanted me? I'd have come down, and—'

"We object," shouted Christian starting to get up.

Objection halted.

Inman plucked Attorney Christian's coat tails, and pulled him back in to his chair, at the same time whispering to Christian to "let him go on."

"Go on, Mr. McMurtree, go on, I beg your pardon," said Christian.

"He said 'You came very near missing me. I was getting ready to go to New York.'"

"Did you tell him at that time what you were arresting him for?" asked Remy.

"We object," cried Christian. "It is not shown he was arresting him on a murder charge."

Judge Sparks overruled him and McMurtree said:

"I told him I had warrants for assault and battery kidnapping and conspiracy to commit a felony."

"Did you name the person about whom the warrants were drawn?"

"Well, I read the warrant to him. It had her name in it."

This was ordered stricken from the record as improper for the ears of the jury.

"By whom were the warrants signed?" asked Prosecutor Remy.

"I told him they were signed by George Oberholtzer."

"That's all right," said Remy.

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At this point noon recess was called.

Through a series of questions by Prosecutor Remy this is the story Miss Spratley told:

"I was called to the Oberholtzer home on March 17. On reaching the Oberholtzer home, I called Dr. John K. Kingsbury, to tell him that I had arrived and then went upstairs to see the patient.

"She was lying on the bed, was unclothed, in a state of collapse and very dirty. After the doctor arrived, we washed the patient and examined her.

"Her right cheek was bruised, a big deep bruise, peculiar, and parts of her body.

"Describe the peculiarity," Remy suggested.

"I don't know how—they were green and black and blue—they had a sort of pinched look—the one on the cheek."

"Describe the one on the upper part of the thigh."

Miss Spratley was obliged to refer to her nurse's record to refresh her memory. In the meantime Remy asked her to locate the bruise.

"The left hip was very deeply bruised."

Record Introduced.

Remy then obtained her nurse's record of the case and introduced it as State's exhibit four. He then returned it to her and she told of the progressive gain in Miss Oberholtzer's temperature on a reading of slightly above normal when she first was summoned to a fever of several degrees above 100 in the last few days.

Mrs. Spratley testified that Madge's temperature was 106.8 at 10 a. m. April 14.

"No more then," she said, holding up papers.

"I believe Miss Oberholtzer died then," said Remy.

"She died five minutes after that."

Remy then drew from the nurse the details of the hopeless fight out by the family to save their daughter. She described all the medical maneuvers of Dr. Kingsbury and five other specialists who were called in.

"The bruises which you testified about—state to the jury whether any of them were still visible at the time of death."

Some Clear Up.

"One portion of the body was still deeply bruised," said the nurse. The bruises on the legs were still visible. And those on the lower abdomen were still slightly visible. The others had "cleared up," she said.

"State if any of the lacerations became infected."

"The one on the left breast."

Some time had to be taken out while the court reporter and defense attorneys got the spelling of a medical term Miss Spratley used frequently.

"We kept up a continuous alkaline proctoclysis," she said.

This turned out to be a method of introducing an alkaline solution in an effort to combat the bichloride of mercury.

"Cross-examine," said Remy.

"What do you call this chart?" asked Inman.

"Beside notes," said the nurse. Inman and the English woman got into a discussion on what the temperature of a normal person is.

"Miss Spratley, what is the temperature of a normal person?" he asked.

"Well, in England they say 98 point four. That's the way I learned it in England. That's just my English way."

"You don't follow the American system of using tenths?" asked Inman.

"Well, it makes no difference; it's only a matter of expression."

Inman then carefully inquired into the matter of infection mentioned, evidently suspecting an effort to hook up his clients more closely with murder.

"You say the infection was superficial? Not serious?"

"It was superficial; I don't know how serious."

Recalls Ball Hearing.

"Do you recall testifying at the ball hearing that it was only superficial?"

"If I did it so," said the nurse.

"Just what is this alkaline proctoclysis?"

"It's an alkaline powder from the drug store in water," Inman and the nurse then indulged in a few polite personalities.

"Come from Milwaukee, I believe, Miss Spratley?"

"No, I came from St. Paul, where I am registered."

"I just came here for a holiday, to see my brother. I took a few cases, and was called on this case, and I stayed to finish it."

"You like Indianapolis?" asked Inman.

"Oh yes, I like it very much, thank you," replied Miss Spratley politely in her broad English accent, smiling and nodding at the chief defense attorney.

"Miss Spratley is a British subject and her accent on several occasions caused attorneys to experience considerable difficulty in understanding her," Miss Spratley lives at 2403 Kenwood Ave.

Attorney Inman then got out his copy of the ball record again.

"Now to refresh your memory, I'll ask you if you didn't say then that you got to the house at 11:30?"

"Oh, no, I left my house at 11:30. I know, I was looking at my watch when the taxi started," Inman then read from the ball hearing testimony.

"Does that refresh your recollection?"

"Well, I didn't know I'd forgotten anything," said the nurse. "I remember the doctor told me I had 'stepped on it' and I didn't know what he meant." The crowd laughed.

Inman then fixed the time of the array of deliciously prepared foods at White Cafeteria "On the Circle."

As always—odd penny prices.

blood transfusion, in which Marshall Oberholtzer gave his sister some of his blood, as April 3, at ten minutes after two. The temperature just before the blood transfusion was normal, the nurse said. The defense contends that Madge had hopes of recovery when she submitted to the blood transfusion and therefore the dying statement is not a bona-fide dying statement under the law.

"Did you remain with the patient day and night, or did you have a substitute?" Inman asked the nurse.

No Substitute.

"I had no substitute, but Mrs. Oberholtzer, and her son assisted me."

"And she died at 10:05 a. m. on the fourteenth?"

"Yes."

"How many days was she normal?"

"I want to know just what you mean by normal, do you refer to her temperature or what. I want to know just what you mean before I answer your question."

Miss Spratley replied with a toss of her head.

"No, I don't mean her temperature, I mean her—"

"Well, she was rational—in that sense normal."

Inman then obtained the chart and the defendants and their counsel hovered over the document, and made a thorough inspection. After they had made a few notations, Inman resumed the interrogation.

Gave Morphine.

"Now, at 9:30 a. m., March 28, did you give her morphine?"

"Yes."

"How many grains?"

"One-fourth grain."

"Then answer as to the exact times thereafter the morphine was administered and as to the quantity used each time. What other drug or narcotic did you give her in addition to the morphine?"

"No other narcotics."

"What other sedatives?"

"None others."

"Didn't you give her phenacetine?"

"Well, if you would call that a sedative."

"Well, whatever you call it."

"Did the phenacetine was to send her to sleep?"

"Were you present at the blood transfusion?"

"I was asleep."

That Stephenson telephoned the Hotel Washington at Indianapolis and ordered tickets for the stadium on the Pullman car on Sunday night, March 15, in which Miss Oberholtzer is said to have been taken to Hammond, was the testimony of Culbertson, the night clerk.

The testimony was admitted only over vigorous protest of defense attorneys, who asserted Culbertson did not testify he recognized Stephenson's voice. Judge Sparks admitted the evidence on the ground it was corroborative of the dying statement.

Culbertson was unable to call many of the details of the call for Pullman reservations and the subsequent delivery of the tickets to the person who called for them. He said the drawing room reservation was made for D. C. Stephenson, but he could not say who obtained the tickets. Culbertson's brief testimony was interspersed by numerous objections from the defense, and precipitated one of the daily clashes between Ralph Kane of the State and Christian of the defense.

Inman, regarded Culbertson's testimony as so trivial, that he declined to cross-examine the witness.

An overflowing crowd, containing many people from Indianapolis, was present at the opening of the fourth week of the trial.

Overrules Motion.

Judge Sparks started proceedings by overruling a defense motion to stop admission of evidence, discharge the jury, and start all over again, based on the contention he commented on evidence Saturday afternoon.

He ordered the jury brought in and the trial to go on.

The motion was presented by Floyd J. Christian, defense attorney, and alleged the judge made prejudicial and unwarranted remarks during the testimony of Levi Thomas, colored Pullman porter, Saturday afternoon.

The reason assigned was as follows:

"The defendants move to stop

the submission of evidence and dismiss the jury on account of the prejudicial remarks and the action of the court while the witness was testifying, in that the court construed and stated in the presence of the jury the meaning of the word 'Oh, dear' in the answer of the witness wherein he (the court) stated: 'Here is the proposition: She said 'Oh, dear, put the gun up.' She might not have meant to address it to him. She might have addressed it with fear. That is not fair. Gentlemen, you can argue that before the jury. I don't know.'"

The judge's comment was made when Thomas testified just at the close of court Saturday, that Madge said to Stephenson, in the Pullman stateroom: "Oh, dear, put the gun up, I am afraid of it."

Second Reason.

The second reason assigned was that the judge had invaded the province of the jury and infringed the rights of the defendants to have the jury determine the construction to be placed upon answers of the witnesses without comment from the judge.

Another reason was as follows.

"That the court has heretofore publicly announced from the bench it was not the duty of the court, to resolve any reasonable doubt in favor of the defendants."

An additional reason was a contention that the judge has no jurisdiction to hear and try the case as a special judge.

The announcement referred to evidently was one made Friday by Judge Sparks in which he said, while the jury was not in the room, that there were many points of law in this case never before brought up and he was not obliged to decide all of the doubtful ones in favor of the defendants.

Meanwhile observers believed that Stephenson may base his case largely on the narrow thread of evidence contained in the testimony of Thomas.

After Thomas, on cross-examination, had told Inman what the girl said after he left the stateroom, Inman immediately seized on the "Oh dear" part of the statement as an outcry of endearment.

"Did you hear her call him, 'O dady'?" Inman asked.

The State objected and Judge Sparks sustained the objection, declaring it might have been an exclamation of fright.

The defense immediately retaliated with the charge that Judge Sparks' remarks were prejudicial and invasive of the jury's province.

Prosecutor Remy declared Judge Sparks was right in his action.

The judge did exactly right in catching the defense up on their assumption Stephenson called her anything," he said. "It would have been error if he had not."

"By Inman's clever question: Did he call her anything else? the defense themselves were seeking to prejudice the minds of the jury."

Observers wise in the technique of the trials, say they doubt if the defense will place any witnesses on the stand. It is thought probable they will rely on cross-questioning of State's witnesses and final arguments to develop the suit.

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## Rites Will Be Held for Young Bride

A bride of less than a year, Mrs. Homer Smith, 17, of 127 N. Dickerson St., the victim of an auto accident, will be buried at Greenfield, Ind., Tuesday morning.

The accident which caused Mrs. Smith's death Saturday, occurred on State Rd. 3 near Clayton, Mr. and Mrs. Smith, accompanied by two friends, were on a hunting trip Friday morning.

Mrs. Smith was thrown from the automobile when another car suddenly appeared from a side road.

She suffered a fractured skull and died at the Indiana Christian Hospital without regaining consciousness.

She is the wife of a clerk in the minds of the jurors, who are the sole judges of the law and the evidence both, in Indiana. Judge Sparks, however, will submit instructions suggesting what the law is.

An appeal to the Supreme Court is thought certain, in case of conviction.

Another thing which makes it unlikely Stephenson will take the stand in his own defense is that it would subject him to a short range fire of questioning by Prosecutor Remy on his former connections with Republican officials and the Klan.

Expect Motion.

A motion to take the case from the jury, that is to issue peremptory instructions to the jury to find the defendant not guilty on the grounds the State has failed to make a case under the law, is expected to be filed immediately following the announcement by Prosecutor: "The State rests, your Honor."

Thirteen days were spent getting a jury. Actual taking of evidence started Thursday. Mr. and Mrs. Oberholtzer, Mrs. Eunice Shultz, a roomer at the home of Dr. John K. Kingsbury, family doctor; Asa J. Smith and Griffith B. Dean, family attorneys; Miss Ermina Moore, Madge's friend; the Pullman crew and employees of the Indiana Hotel at Hammond have been on the stand, corroborating the death statement, which went in evidence Saturday.

POLICE CAPTURE BOY

House Breaking Report Investigated By Officers.

When police investigated reports that the home of A. Healy, 516 Lincoln St., had been broken into by a 13-year-old boy who had admitted a 13-year-old boy who had admitted that he was the person whom Mrs. Jeff Knauer, 518 Lincoln St., had seen enter the Healy home. He was sent to the Detention Home.

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## BETTING EVEN AS RACE ENDS

(Continued From Page 1)

of the vote expected may delay determination of the winner until late Tuesday night, it is thought.

Members of the "Protestant Clubs," faction of the Republican organization are expected to circulate "clothes-pin" slates tonight. These slates will bear instructions to vote for Duval and the ticket as well as the Klan slate of school board candidates. The tie-up is permanent, it appears.

Opposed to the Klan slate is a "citizens' committee" ticket.

Many voters are expected to ignore both slates and vote a nonpartisan ticket for the school board race in conformity with the original purpose to take the school administration out of politics.

The voter may choose six councilmen of one party and three of the other, if he desires.

Headquarters of the two parties are industrious today. Final instructions were delivered to precinct workers, arrangements were perfected to haul voters to the polls in automobiles and to maintain strict watch for floaters and illegal voters.

The count of the registered voters in 172,000. However, many are expected to absent themselves from the polls. In 1921 the total vote for mayor was 100,405 on a registration of 143,000.

The election board will permit no

## private detectives nor members of the Horse Thief Detectives' Association within the voting places, it was announced Sunday.

Polling places are open from 6 a. m. to 6 p. m., with no recess for meals, Ira M. Holmes, board president, announced.

## POLL SHOWS MYERS TREND

(Continued From Page 1)

determined by the voters Tuesday.

Myers is gaining with laborers and factory workmen, among whom he had heretofore been decidedly weak. For instance, early morning polls among men carrying lunch boxes today showed Myers leading while the Democratic nominee developed unusual strength with the persons at city market Saturday.

The Times poll foreshadows a light vote among colored persons with indications that those who do go to the precinct voting places will divide their ballots almost equally between the two candidates.

Preference Expressed.

As The Times' vote progressed, voters became more eager to express their preference. It was observed by Times reporters. Especially was this fact noted among several hundred Republicans who announced they would vote for Myers.

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