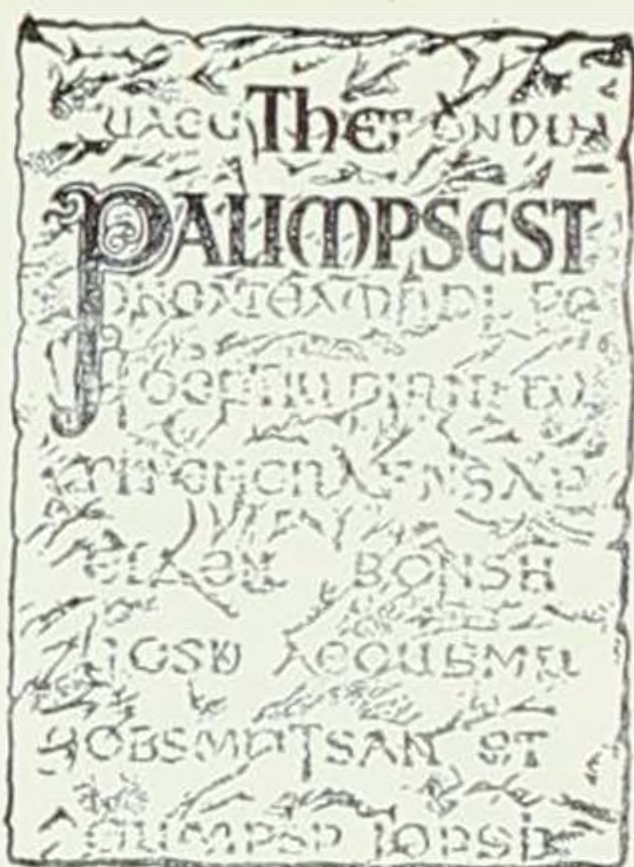


The **PALIMPSEST**



The Benton County Court House in 1915.

Some Benton County Court Cases
Published Monthly by
The State Historical Society of Iowa
Iowa City, Iowa
OCTOBER 1970



The Meaning of Palimpsest

In early times a palimpsest was a parchment or other material from which one or more writings had been erased to give room for later records. But the erasures were not always complete; and so it became the fascinating task of scholars not only to translate the later records but also to reconstruct the original writings by deciphering the dim fragments of letters partly erased and partly covered by subsequent texts.

The history of Iowa may be likened to a palimpsest which holds the record of successive generations. To decipher these records of the past, reconstruct them, and tell the stories which they contain is the task of those who write history.

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SOME BENTON COUNTY COURT CASES

JOHN W. TOBIN

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Illustrations

Pictures of G. W. Burnham, M. J. Tobin, and the reward poster are reproduced from Ransom's *Pioneer Recollections*; cover picture from the *Cedar Valley Daily Times*; all others from *The Cedar Rapids Weekly Gazette*, November, 1897.

Author

John W. Tobin was born in Vinton in 1895, graduated from Tilford Collegiate Academy, and pursued his law degree at the University of Iowa. He was admitted to the Iowa bar in 1917, the same year he entered service in World War I. He joined his father's law firm in 1921 and practiced law until called to the bench in the 17th Iowa Judicial District on January 1, 1955. He retired on his 75th birthday, June 23, 1970.

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THE PALIMPSEST

EDITED BY WILLIAM J. PETERSEN

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Murder: A Persistent Pursuit

[Within the past year Judge Harold Viator of Linn County suggested that County officials should send some of their most important legal cases to the State Historical Society in Iowa City for safekeeping, preservation, and possible use in its publication program. W. Howard Smith, president of the Society, phoned the Superintendent and urged him to contact all 99 Court Houses immediately. About six counties already have indicated they would follow Judge Viator's suggestion when lack of space requires further consolidation of records. The following stories are by Judge John W. Tobin of Vinton, recently retired judge of the 17th Judicial District. The first story, a case tried in November of 1897, appears in Iowa Reports, Volume 109, pp. 717-746, *State of Iowa vs. Frank A. Novak, Apellant*. The Editor]

Frank Novak was genial, respected, and a leader in the small town of Walford in the southeast part of Benton County, Iowa. For several years he had been a partner in a general store which was the center of the community's activities.

Late in the night of February 2nd, 1897, the store burned to the ground. In the basement of the ruins searchers found the badly charred remains of a human body burned beyond recognition. At first it was assumed to be that of the proprietor, Frank Novak, who had disappeared, and the body was claimed by his family.

However, Edward Murray, a heavy drinking bachelor who lived with his sister a couple of miles out of town, and who had been in Novak's store much of the evening of the fire, was also missing, and his family likewise claimed the body. The two men were about the same size. An insurance company announced it was withholding payment of life insurance in the then large sum of \$27,000, which had been taken out by Novak only a short time before.

The county attorney, who had assumed office only the preceding month, ordered a coroner's inquest. In the three-day hearing behind closed doors he presented evidence which satisfied the coroner's jury that the body was not that of Novak and was, in fact, Murray's remains.

The insurance company retained the Thiel Detective Agency of Chicago to try to locate its insured policyholder—Frank Novak—and C. C. Perrin, known among his friends as "Red," was assigned to the task. Perrin had little more than a photograph and physical description of the man he sought—and a record of never giving up.

By interviewing farmers along the route, Perrin was able to trace his man overland from Walford to Iowa City. There railroad records, and the memory of the ticket agent, led Perrin to Omaha. In those days purchasers of long distance tickets were required to autograph stubs retained by the railroad company. By systematically checking

thousands of such stubs, Perrin found that a man who signed as "Frank A. Norris" had purchased a ticket to Portland. Perrin, with the instinct of a bloodhound scenting his prey, gambled that Frank A. Norris and Frank A. Novak were the same person. Clues discovered at Portland led him to embark for Alaska.

Great excitement prevailed in Alaska in 1897 with the report of rich gold finds in the Canadian Klondike. Perrin once more played a hunch that Novak would join in the frantic dash for the gold fields and he headed in that direction. By painstakingly questioning everyone he met along the way, Perrin was able to follow the course "Norris" had taken and doggedly pressed on. Out of Sitka the steam launch which Perrin had rented was swamped. After a thirty-four mile hike in a blinding snowstorm, his Indian guides led Perrin to the summit of the fearsome Chilkoot Pass. A perilous descent brought him to a lake where a raft was built for the hazardous trip to Dawson City—600 miles away. Enroute down a river Perrin was spilled overboard, and, clinging to the raft, was dragged several miles in the icy water. Again, shooting a treacherous rapids (which, according to the Indians had never been navigated) their unwieldy craft capsized. They finally reached the calmer waters of Lake Bennett.

There fate played a mean prank on Perrin. While crossing this lake his sailboat passed a

scow loaded with men who also were bound for the Klondike. Perrin could have been saved 600 miles marked by frequent near-disaster, and weeks of anguished labor and unbelievable danger. Instead he had to undergo sleepless nights tortured by vicious Yukon mosquitoes that made bloody masks out of human faces; whirling between sheer cliffs, floating down a terrific torrent which tore their boat apart at the infamous White Horse Rapids; and finally, a close escape from a forest fire. All this could have been saved had he but known that one of those men on the scow on Lake Bennett was Frank Novak (alias Frank Norris) the man he sought.

But, ignorant of that fact, Perrin pressed on and, after further discouraging experiences on the Yukon River he finally reached Dawson City, Canada, the metropolis of the Klondike. Checking all of the saloons and gambling halls of that wild town soon established that "Norris" had not been there. The fact was that at Lake Bennett "Norris" and the others on his scow had learned of another route and they did not reach Dawson City until more than a week after Perrin.

Unaware that each day brought his quarry closer, the relentless Perrin continued his seemingly hopeless quest of the elusive Novak. His persistent checking of the dives finally paid off.

It was the night of July 12, 1897, in a bawdy dance hall saloon in that remote gold mining camp

in the Canadian Klondike that a heavily bearded man was playing a violin for the dancers. Hearing a voice close by his side the fiddler turned in his chair, the violin still under his chin. Standing at his side were two members of the British Northwest Mounted Police who had just served upon him a requisition for his arrest, issued by the President of the United States. Directly in front of him stood a stern visaged man with an auburn drooping mustache—"Red" Perrin. The bearded man addressed him, "You are mistaken. My name is A. J. Smith. My home is near Cincinnati, Ohio, and I have never been in Iowa." His accuser replied: "You are Frank A. Novak. You are accused of killing a man by the name of Edward Murray in Walford, Iowa, and I am arresting you on the charge of murder." The detective had completed the assignment which he had undertaken back in Iowa the preceding February. "Red" Perrin "got his man."

The following week Perrin and Novak were aboard the next steamer headed south for Seattle. They arrived back in Vinton eight months after the fire which had left a disputed body in the ashes of what had been the general store in Walford.

JOHN W. TOBIN

Murder: Circumstantial Evidence

In the court room in Vinton, Iowa, on November 10, 1897, Frank A. Novak sat beside his attorney. Across the table was the county attorney. The two had not seen each other for a little more than a year, when the younger man was campaigning for election. Then, Novak had actively supported his candidacy and those efforts were a factor in electing M. J. Tobin to the office of County Attorney of Benton County.

Friends then, the situation was now reversed. The roles were prosecutor and accused. At Tobin's side sat Louis Boies, a skillful Waterloo lawyer who had been engaged by the State to assist the young county attorney. Afterwards Tobin often expressed his appreciation for the skillful help of Boies, and his gratitude for Boies' generosity in giving his younger associate all of the favorable opportunities for credit.

Novak's counsel was Tom H. Milner, a fiery lawyer from Belle Plaine, whose stationery bore the colorful inscription. "The red headed legal Napoleon of the Slope" "Fees are the sinews of war." And at his side was J. J. Ney of Iowa City a former district judge, experienced and astute in the practice of criminal law.

In his opening statement, the county attorney informed the jury that the defendant was presumed to be innocent until proven guilty beyond a reasonable doubt, and that the evidence would prove him guilty beyond doubt. The State's evidence would be indirect, Tobin pointed out.

Circumstantial evidence is evidence which shows certain facts, certain acts and certain circumstances, which when linked together, will lead you to find another fact—the guilt of the defendant. The Supreme Court on numerable times has held there are times when circumstantial evidence is as strong and convincing as direct testimony.

And, County Attorney Tobin continued, although no one had seen Novak commit the murder—Murray was dead. The State's evidence would satisfy the jury he had been drugged, killed, and his body burned beyond recognition. The circumstances would so directly connect Novak with the fire, and with Murray's death, that no one except Novak could have committed the crime; his flight corroborated all the other circumstances to show it was Frank Novak who had killed Murray and burned the building to conceal the murder.

The opening statement for the defense was that there was no evidence Novak had committed the crime, that his flight was due to temporary insanity brought about by gas which he inhaled and a shock at being unable to save his friend.

The State's evidence first established the *corpus delicti*—the foundation of the crime—the identifi-

cation of Murray as the dead man. The skull was introduced as an exhibit and a dentist produced his records of gold fillings for Murray's teeth which were identical with those in the exhibit. Around the neck of the corpse had been found a St. Joseph's cord, a religious emblem which, strangely, had not burned. Such a cord had been given to Murray several years before. He had always worn it thereafter. This was in accordance with the practice of persons of the Catholic faith, that after once putting on such a cord it was to be worn throughout life. Other witnesses testified Murray had been wearing a checkered shirt the night of the fire. Under the armpit of the body was found a small piece of checkered cloth. Murray's sister, Mrs. Shea, testified she had made the shirt for her brother as a Christmas present.

The bones of the skull were badly crushed. Expert witnesses testified convincingly the fractures were of such a nature and severity, and at such a part of the head, that they could not have resulted from a fall, nor any other means except a very hard blow from a heavy instrument applied directly to that part of the head, and that the blood clots showed the blow had been received while the man was still alive, and in such a way as to cause his death.

Next came proof that although Novak and Murray had not been intimate friends, they had been together most of the day of the fire. That

evening they had had several drinks at a nearby tavern and upon returning to the store Murray had been quite intoxicated. He continued drinking so much that Novak, in the hearing of others, stated it was unsafe for Murray to try to go home; that he should stay overnight with Novak, whose turn it was to stay in the store to guard against robbers operating in the neighborhood.

Detective Perrin was permitted to testify to admissions volunteered him by Novak on the way back to Iowa. One of the statements made to him by Novak was that Murray had taken several drinks from a bottle of whiskey containing morphine which had been put out in a noticeable location, for would-be robbers; that Murray had become so intoxicated that Novak had carried him to an upstairs room and placed him on a cot having metal springs; when he, Novak, was awakened by the fire, he tried to get upstairs to get Murray out but was unable to get past the flames; he groped his way to the cash register and took out \$160, then got a heavy coat and a shotgun and a lunch which he had put together earlier in the evening planning to go hunting the following morning, and felt his way out of the building. Outside he felt greatly confused from gas he had inhaled, and became frantic because Murray was inside and he would be blamed, "So he decided the best thing he could do was to fall off the earth for awhile."

Next the evidence was introduced that Mur-

ray's body was found in the basement lying on a metal bed springs on top of a layer of coal. Underneath his body was found a pair of scissors and check, both belonging to Novak, and which could not have been there except placed there by design.

Finally the State's evidence proved motive—Novak's desperate financial involvement and his recent purchase of \$27,000 of life insurance.

Reporters from Chicago, St. Louis and other city newspapers were in continuous attendance. The trial lasted thirteen days. The State introduced testimony of thirty-six witnesses and the defense forty witnesses. The Court reporter's transcription of the testimony, 1,600 pages—voluminous for those days—are preserved in the State Historical Society at Iowa City.

Novak did not take the witness stand in his own behalf. His counsel recognized the danger of exposing him to rigorous cross-examination. Instead, they placed their greatest hope on several legal propositions. But the trial judge submitted the case to the jury with instructions which fully and clearly stated the law. The jury returned a verdict of guilty of murder in the second degree and recommended imprisonment for ten years. Judge Burnham disregarded the recommendation and sentenced Novak to imprisonment for life.

After twelve years imprisonment, Novak was pardoned by Governor Albert Baird Cummins, and thereafter led a quiet and uneventful life.

During the trial Perrin became acquainted with Murray's widowed sister, Nellie Shea, courted her, and later married her.

In his book—*Pioneer Recollections*—J. H. Ransom said, "The case was not only a famous case but was a model of legal procedure and is used as an example of brilliant handling of a difficult matter in different law schools." The successful prosecution and conviction started M. J. Tobin upon his career as an eminent trial lawyer.

The case appears to have been the first in Iowa in which a conviction for homicide, based solely upon circumstantial evidence, was sustained.

The Fifth Amendment to the Constitution of the United States, protecting an accused from admissions against his interest, was given careful consideration by the trial judge. The Supreme Court affirmed the instructions of the Trial Court. It further held that the circumstances in which Novak's admissions were voluntarily made by him were such that Perrin's testimony of those admissions was properly received in evidence. The now famous Miranda Rule of "the right to remain silent" was not to be expressly enunciated for another 67 years. But in 1899 the rights of an accused were given the careful protection which the Miranda doctrine now requires.

JOHN W. TOBIN

A Wandering Will

There was nothing unusual about the simple Will of Charles D. Hall. Unmarried, he gave his modest estate to his mother, if she were living, and if not, then to his two sisters. The real interest arises from incidents following its execution and preceding the time the Will was filed for probate in the District Court of Iowa in and for Benton County—a series of extraordinary events which might well be entitled “The Case of the Captive Chaplains.”

Charles D. Hall served in the United States Army at Ft. Mills, Philippine Islands, until his period of enlistment expired and then made application for re-enlistment. Considering that he had certain talents for handling men, his commanding officer induced him to accept an honorable discharge from the Army but remain attached to the Corps of Engineers as a civilian employee. He was serving in that capacity, but under the same discipline as before, on that “day of ignominy,” December 7, 1941. The attack on Pearl Harbor left the armed forces on the Philippines in chaotic confusion. Reorganizing, courageously they maintained a determined resistance against the Japanese invaders, only to be overwhelmed. In May,

1942, Hall, along with many thousand others, became prisoners of war and were subjected to a terrible ordeal of cruelty and near starvation at the Bilibid Military Prison, Manila, Philippine Islands.

In the fall of 1944 the Japanese began removing many prisoners of war from the conquered Philippines. Anticipating that he would be transferred, on October 15, 1944 Hall requested his friend, Chaplain Perry O. Wilcox to prepare a Will, the signing of which was then attested by Wilcox and two other war prisoners, Chaplains John F. Duffy and F. J. McManus, as witnesses.

Not quite a year after the Will was executed it was filed for probate in the District Court of Benton County, Iowa, and letters were mailed to the three subscribing witnesses preliminary to the issuance of depositions for the taking of their testimony. Then there unfolded the story of a succession of such strange circumstances as to be almost beyond belief.

Chaplain Wilcox promptly replied to the letter sent to him, giving some facts. Others later came to light. When Hall was about to be transferred from Bilibid prison camp, he delivered his Will to Wilcox and asked him to try to get it back to Hall's mother if the opportunity should arise. On December 13, 1944, Charles Hall was placed aboard an unmarked Japanese prison ship, bound for Japan. On December 15th the ship was tor-

pedoed and sunk by an American submarine, under the belief it was a Japanese troop ship. All aboard were killed or drowned, except a very few Americans in the forward hold, who survived.

A few days later Chaplain Wilcox was shipped on an unmarked Japanese prison ship. It, too, was torpedoed and sunk. Wilcox was one of the few who were picked up by an American ship. Though badly injured he survived and was returned to the United States bringing with him the Will which his friend had left in his safekeeping. From his bed in Fitzsimmons General Hospital, Denver, Colorado, Colonel Wilcox gave his deposition concerning the execution of the Will of Charles Hall.

He also provided some facts concerning the other witnesses. Chaplains Duffy and McManus were being transferred to Japan on the same prison ship as Hall when it was torpedoed. However, they were in the forward hold and were uninjured. Another Japanese vessel picked them up and the other survivors and carried them to Japan. At the end of the war Chaplain Duffy was released from a prison in Japan.

Prior to that, however, a final and tragic ordeal remained to be encountered. The war had reached the stage when military installations in Japan were being subjected to terrific bombardments from the air. American bombers, believing the prison camp where Duffy and McManus were held was a sup-

CHRISTMAS EVE IN BILIBID

Where spreads a verdant mango
shade

Beside the prison wall,
In Bilibid a shrine is made

With altar, cross and all;
Where bars and guards and walls

Of stone

Do keep in durance grim

The men who fought for right alone

Whose faith has not grown dim.

Twas Christmas Eve and
candle light

And gathered all around
They stand like shepherds in the

night

To listen to the sound

Of angels as they sing the song

Announcing Jesus' birth

For through the years it rolls along

Proposing peace on earth.

Yes, Christmas Eve in Bilibid
A rustic shrine is there

On gospel side by nipa hid
The Child and mother fair.

The "father" stands in vestments
white

To celebrate the Mass

While Christmas music fills the

Night,

Good will and peace at last.

Dedicated to Father

William T. Cummings

Roman Catholic Chaplain

Bilibid Military Prison

Manila, Philippine Islands

June 1942 to October 1943

He is the "father" in the third

stanza above. He accomplished

the building of the altar

and shelter. After

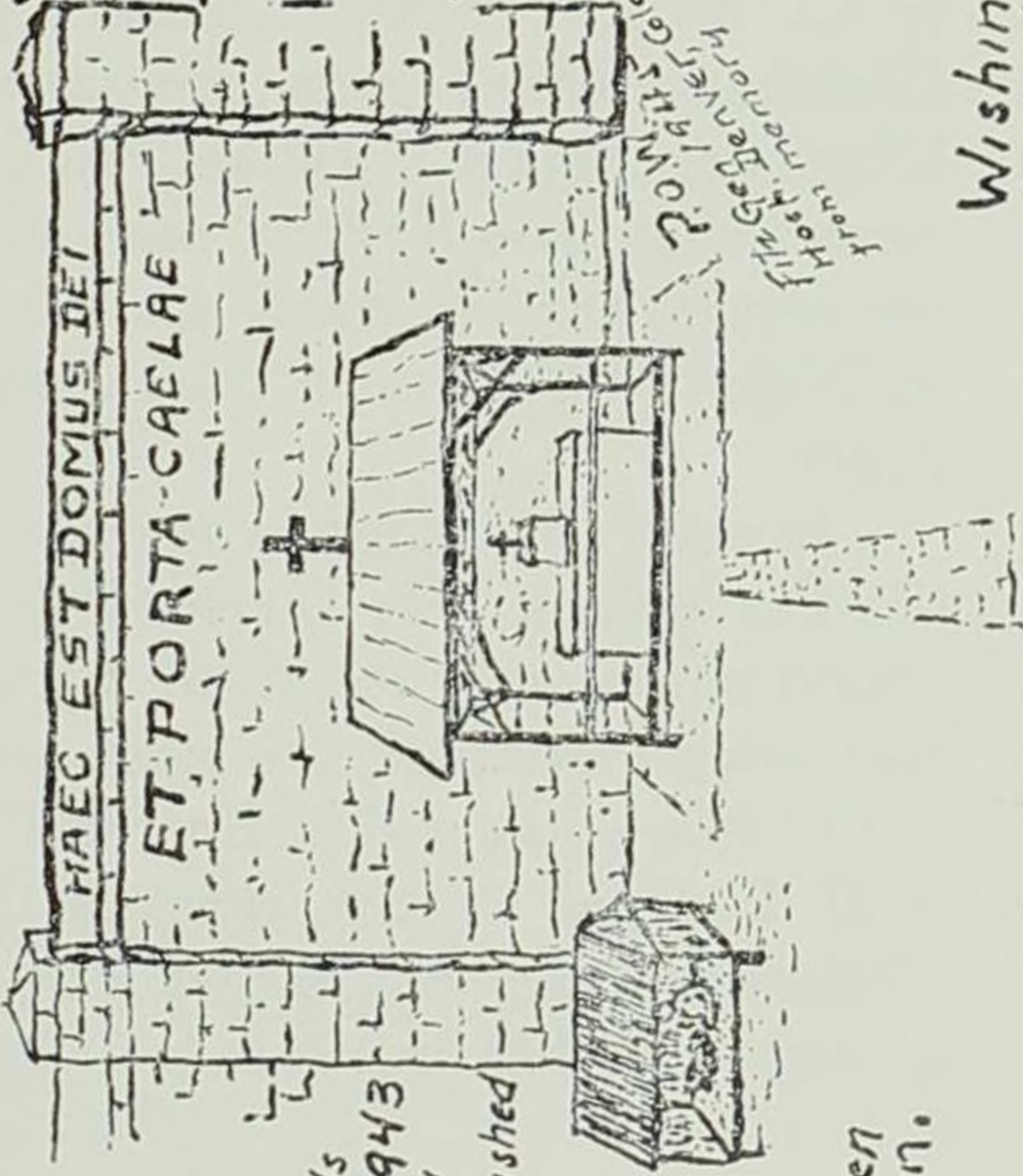
surviving the sinking of

two Japanese prison

ships, he died of starvation

on a third somewhere between

Formosa and Moji, Japan.



This represents typical
Prisoner of War stationery

"Est Domus Dei et Porta Caeli"

Inscribed in Latin tongue,

The House of God and Heaven's Gate

On prison wall is hung

This barrier strong, a prison wall,

Proclaims the soul's release

With joy and liberty for all

Thru God's good will and peace

So gathered all around they stood

These prisoners of war

To dedicate the Shrine to God

And worship as of yore.

Thus consecrating wood to God

The work of human hands

The way to heaven they have trod

These prisoners in bands.

Perry O. Wilcox 1942

Wishing you every Christmas and
New Year blessing

Chaplain and Mrs. Perry O. Wilcox

Three green

leaves of tillium →

OB

ply depot, battered it with a severe attack. Father McManus died in the arms of Reverend Duffy. Thus the letter which had been mailed to Chaplain F. J. McManus, U. S. Navy, was undelivered. It was returned, bearing the fateful notation, "Killed in Action."

* * * *

At Christmas time, 1942, Charles Hall and Perry O. Wilcox were in Bilibid prison camp. A Christmas Mass was conducted by Catholic Chaplain, Father William T. Cummings. Protestant Chaplain Wilcox was so impressed with the service that he wrote a poem "Christmas Eve in Bilibid, 1942" on a rough piece of wrapping paper.

Chaplain Cummings was duly transferred from the Philippines. He survived the sinking of two prison ships, only to die of starvation on a third somewhere between Formosa and Moji, Japan.

In 1945, while still bedfast in Fitzsimmons Hospital, Colonel Wilcox rewrote from memory the Christmas eve poem he had written, as a prisoner of war, in Bilibid, in 1942.

JOHN W. TOBIN



TOM H. MILNER LAWYER

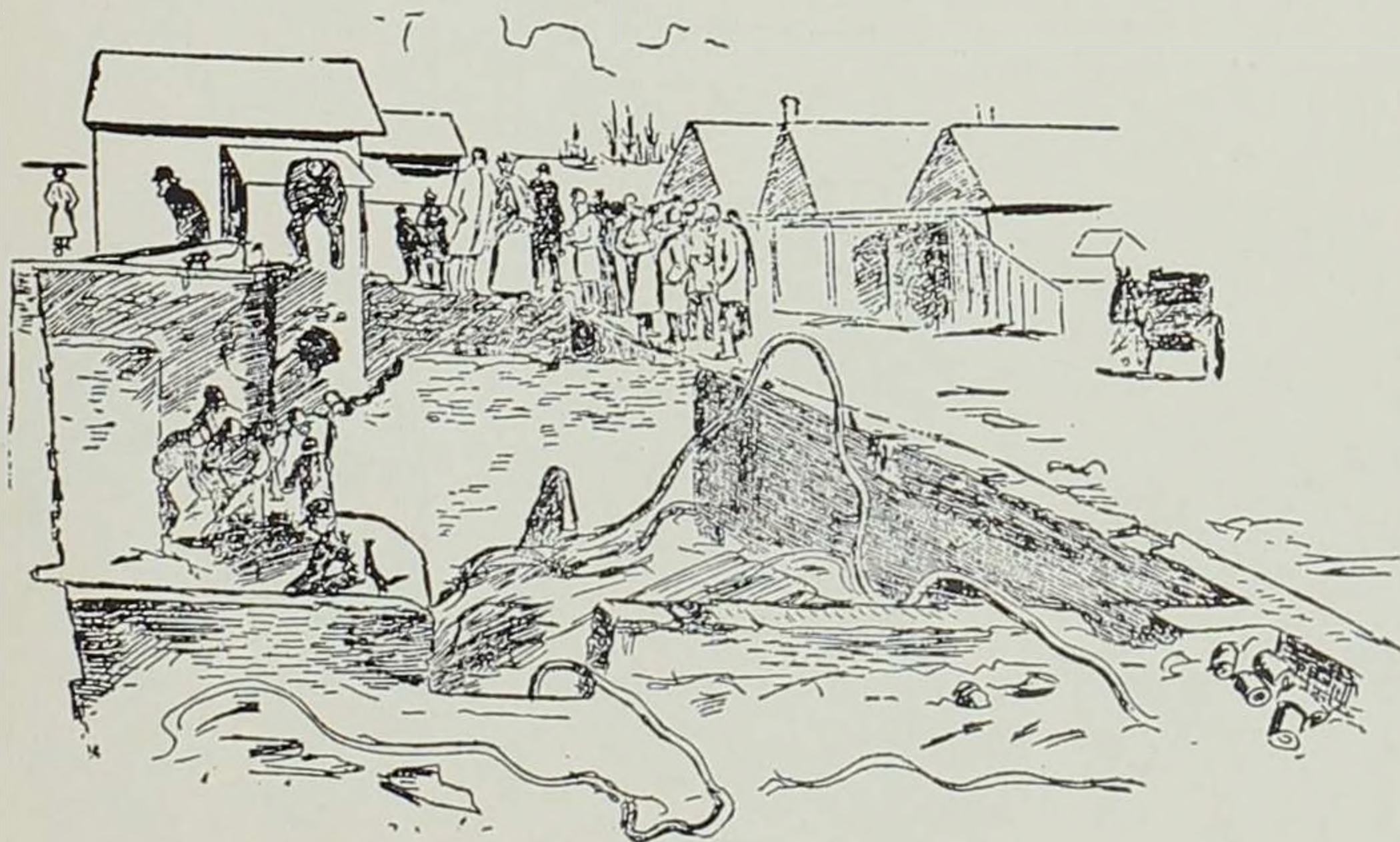
RED HEADED LEGAL NAPOLEON OF THE SLOPE HAPPY BUT
NOT SATISFIED REFERENCES: MY ENEMIES THEY ARE UN-
BIASED FEES ARE THE SINEWS OF WAR

BELLE PLAINE, IOWA

(Above) The letterhead of Tom H. Milner, Belle Plaine lawyer, who represented Novak along with J. J. Ney of Iowa City.

Milner's letterhead brought him lots of publicity over the years. Newspapermen, seeing it for the first time, invariably gave him a story in their paper.

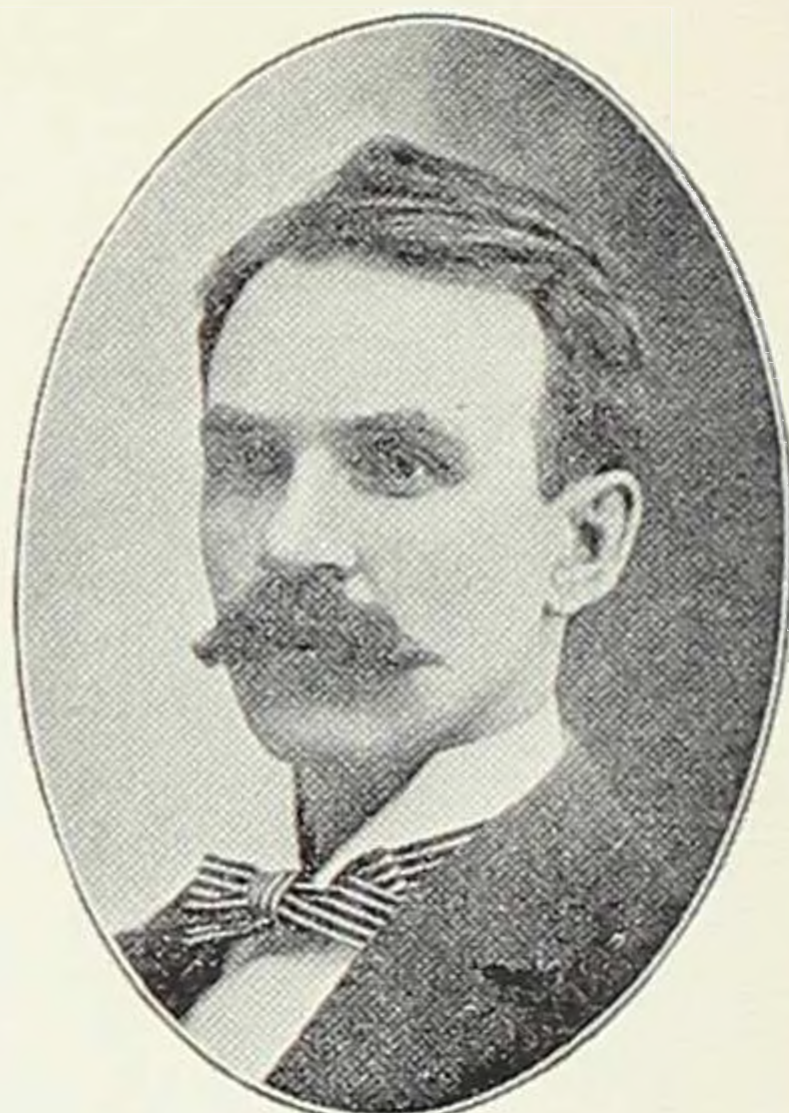
(Left) Frank Novak as he would have appeared if he had gone on the proposed hunting trip the next morning.



SEARCHING FOR THE REMAINS IN THE BASEMENT OF THE BURNED STORE.
SKETCHED AT THE TIME.



G. W. BURNHAM
Judge



M. J. TOBIN
County Attorney
Prosecution



EDWARD MURRAY



C. L. BOIES
Prosecution

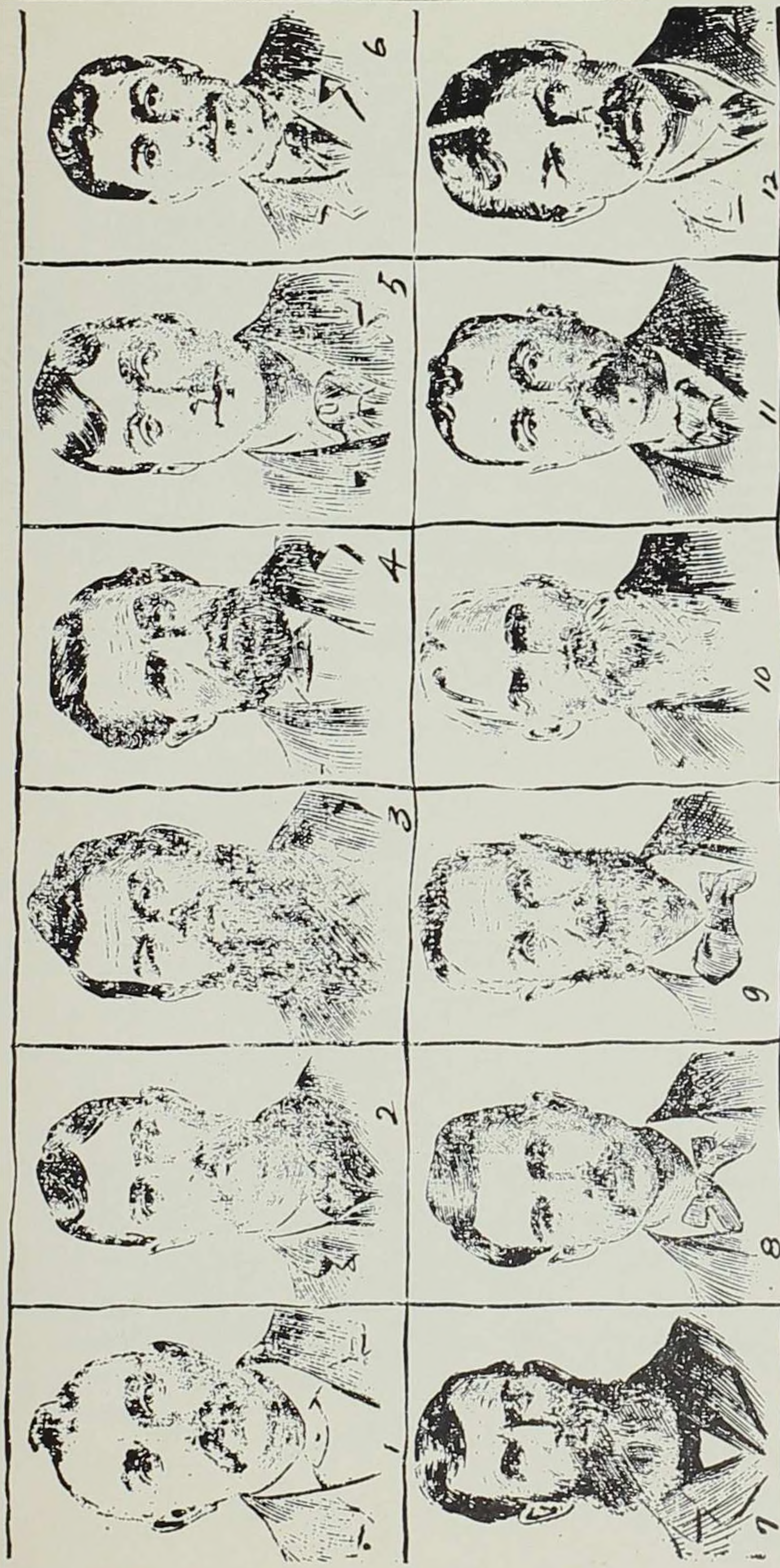


TOM MILNER
Defense



J. J. NEY
Defense

THE JURY IN THE CELEBRATED NOVAK CASE.



GAZETTE CO.

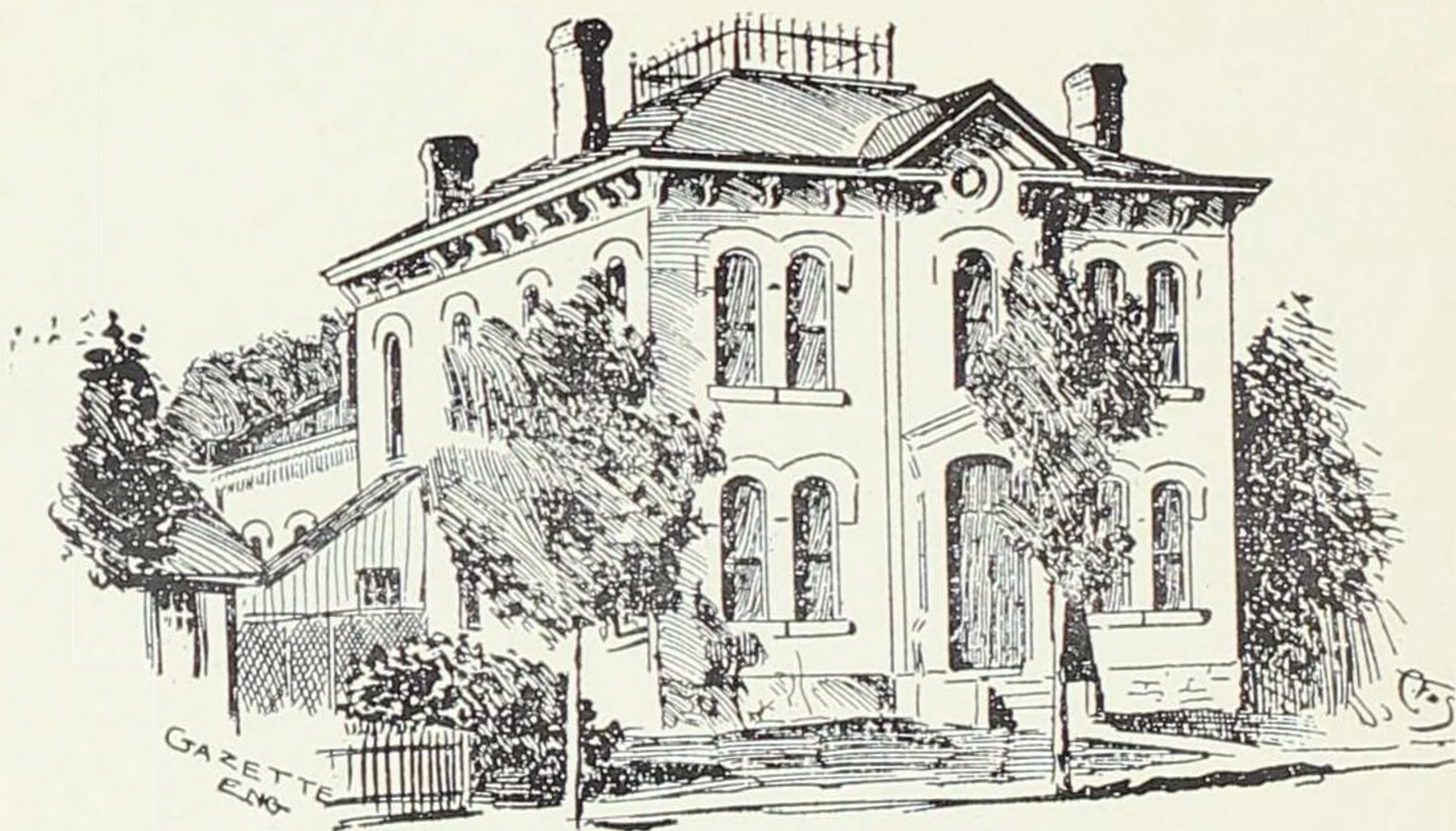
1-NELS DEGN.
5-WM. REICKE.
9-A. B. FORESTER.

2-GRANT HENKLE.
6-JOHN AUMAN.
10-J. T. HEATH.

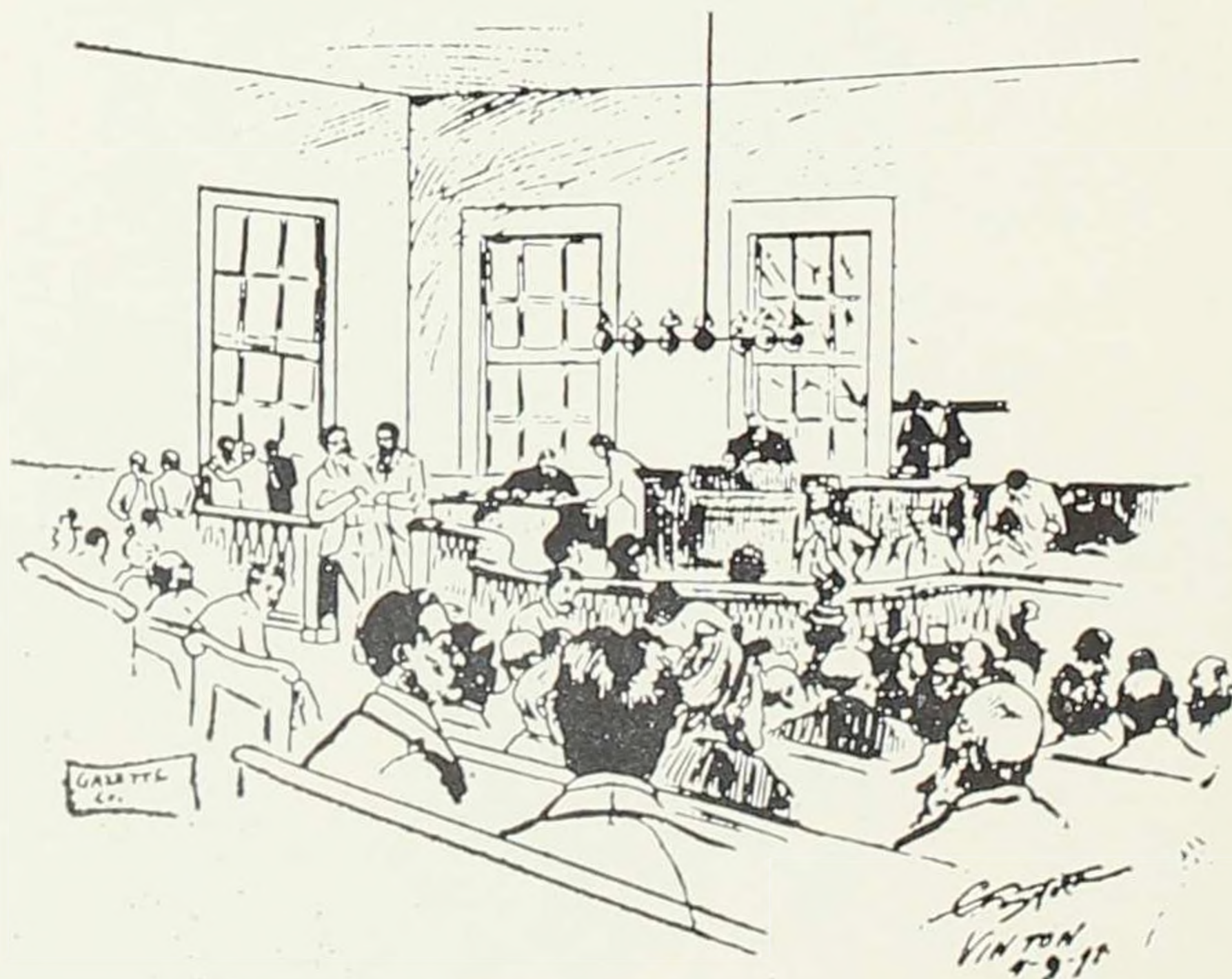
3-J. L. FRY.
7-S. T. SAUNDERS.
11-CHARLES WAHL.

4-JACOB SCHOELERMAN.
8-HARRY MILLER.
12-CARL STRUVE.

GAZETTE CO. DEL.



Jail of Benton County, at Vinton.



OPENING OF THE COURT.

Johnnie—1948-1970

At 2:50 o'clock P.M. on January 22, 1970, the last customer at the branch office of the State Bank of Vinton, at Garrison, Iowa, finished his business and left. The cashier was preparing to lock the door when another visitor appeared—his face masked. Three minutes later the intruder emerged, ran to his nearby car, whose motor had been left running, and speeded out of Garrison leaving a trail of dust. One man, observing the haste, took the car license number.

The robber had no more than reached his car before the astonished banker had telephoned the sheriff and within minutes a deputy sheriff was on the way to Garrison—eight miles away. Within thirty minutes the deputy sheriff, two state highway patrolmen, and a representative of the FBI were at the scene—not to mention a dozen newsmen. But the services of the officers were not needed.

At 3:06 P.M. an employee of Hawk Bilt Mfg. Company in Vinton, happened to look out of the window and saw a man with a bundle in his hand emerging from a car he had just driven into the plant's parking lot. The man ran a few steps, returned to the car, and then started running again,

this time also carrying a gun in the other hand. The employee, Allen Page, recognized the car as belonging to a fellow-employee who was then on duty, and knew something was amiss. Shouting to a couple of his associates, they followed the runner in hot pursuit. The chase ended when the fugitive ran into a private garage. Although knowing the man was armed, Allen Page rushed in and overcame him. Some of the stolen money was scattered on the floor from the struggle when the other pursuers came into the building at Page's call.

At 3:30 o'clock P.M. the bank robber—Johnnie ———, was lodged in the Benton County jail. He readily admitted having committed the crime.

This was not Johnnie's first infraction.

In September, 1959, young Johnnie appeared in the juvenile division of the District Court of Benton County on a charge of delinquency, for having stolen a purse containing \$65.00 from an attendant at the Vinton Swimming Pool, and stealing money from a neighbor's home. He was only eleven years old. A very small boy, he had to stand on his tiptoes to look over the shelf in front of the judge's bench. The presiding judge will never forget the scene of this child, fingers on the ledge, tears streaming down his cheeks, saying "Mr. Judge, do I have to go to jail?" An eleven year old child in jail? The court's entry was "Not committed because of extreme youth. Paroled to

Chief Probation Officer. To remain in parent's custody. Case continued during good conduct."

But Johnnie did not benefit from the experience. Back in juvenile court three years later (1962) for a number of thefts, the fourteen year old was committed to the Boys Training School at Eldora.

Still there was no change in Johnnie's lack of respect for other people's ownership of property. He was back in juvenile court again in 1965, when only seventeen, this time for forging several checks. Because of his past record for the above and other acts of misconduct, the case was transferred to the criminal division of the court and, upon a plea of guilty, he was sentenced to a term of ten years in the Men's Reformatory, a State Penitentiary for younger men for nonviolent offenses.

Johnnie was given an early parole from the Reformatory because he conducted himself well. However, it seemed he could not stay out of trouble, and in December, 1967, he again was placed in jail pending a hearing upon an alleged violation of the terms of his parole. He was given some minor privileges by the sheriff, and one day was permitted to leave the jail proper and sit in the kitchen where the sheriff's wife was working. When she was momentarily called to answer the doorbell, Johnnie disappeared. When he was apprehended his parole was revoked and he was returned to the Reformatory. There he remained

until the latter part of 1969 and was again paroled for good conduct.

The bank robbery at Garrison had been well-planned. Johnnie knew the working hours of some of the Hawk Bilt employees and also where they customarily parked their cars while at work. He knew that occasionally some cars were borrowed by other employees, with the consent of the owner. He also knew how to start cars without the need of keys. He knew the bank usually had no customers the last few minutes before the afternoon closing hour. Johnnie figured he could "borrow" a car, rob the bank, return the car and no one would suspect him. Even the noting of the car number by the Garrison citizen would not have involved him. But Johnnie lost his cool at the last moment. His hurry, when leaving the car which he returned to the parking lot, and his suspicious actions, attracted the attention of one man, Allen Page, who was alert enough to recognize something was wrong and reacted accordingly.

Johnnie was placed in jail the afternoon of January 22, 1970. After breakfast the next morning Johnnie left the open area of the jail and went to his own cell. A few minutes later the sheriff called to him. Johnnie did not respond. He had hanged himself. Johnnie hanged himself in the same cell (although he did not know the fact) that his father, "Bun," had hanged himself in July, 1960, while awaiting trial on a charge of incest.

At the funeral service the woman minister of the church Johnnie had attended sometimes spoke. With deep feeling she recounted her affection for Johnnie and the efforts she and others had given to try to help him. She ended saying, "I wonder just how I failed—what more should I, could I, have done?"

The judge, in a rear seat, asked himself the same question. Johnnie had not been a mean boy. He was pleasant, likeable, and had many friends. He did not want to be bad. Only because of his desire for things which were not his did he come to this end. It was not all his fault. What can society do to avoid such tragedies?

After the closing prayer the funeral service was concluded. As Johnnie's mother left the mortuary, by her side walked a nice looking girl—obviously a nice girl—who lived a hundred miles away. She and Johnnie were to have been married that day. Johnnie robbed the bank to get money for a wedding trip and to set up housekeeping.

JOHN W. TOBIN

Deceits, Grafts and Swindles

In one of O. Henry's most popular books entitled *The Gentle Grafters*, he portrayed the escapades of a pair of roving rogues—impish, fun-loving, but ready, able, and willing always to pluck a gullible bumpkin when the opportunity presented itself.

But aside from fiction, most swindles occur as a result of plan and design, cleverly calculated to appeal to the allure for quick and easy money to which most people sooner or later yield, when tempted. These real life tricksters, ingenious and ingratiating though they are, are far from being gentle grafters. In fact, most of them are too greedy even to give their dupes a run for their money. Of such type were many nimble-witted schemers who invaded Iowa during the prosperous days following World War I. They subscribed to the old philosophy "If the world will be gulled, let it be gulled" (Burton's *Anatomy of Melancholy*) and quite willing they were, to do their part of the "gulling." Some of the swindles perpetrated on residents of Benton County, doubtless, were typical of the various devious devices by which many other Iowans were overreached.

In our more sophisticated society one may won-

der how people could be so gullible. Only the mechanics of swindling has changed from those employed in the earlier days.

Bonds and Hope

One such victim was the farmer who one day withdrew eighty thousand dollars worth of Liberty Bonds, the war bonds of that era, from his bank box. He boarded the midnight train for Kansas City with his suitcase full of bonds, and his heart full of high hopes. He returned in a few days without exuberance, and with an empty suitcase. Crestfallen, he finally divulged, confidentially, that the "gold certificates" of a much greater amount, which he had received in the exchange, were of no value. It actually happened!

A Gypsy Faith Healer!

A group of gypsies, Indians they called themselves, stopped at a farm home, ostensibly for a supply of water, but actually for whatever they might be able to get. They got more than water. During the conversation they learned the housewife and mother was suffering from a serious chronic illness. The "Indians" feigned woeful commiseration. Their concern seemed so genuine the desperate husband gratefully accepted their proffered offers of help. But how could they help his wife? They pointed to their master healer. He could help, if he but would. After due consideration the educated "doctor" of the group, not

only consented, but confidentially assured the family his powers could cure the afflicted woman, that is, he could if, but only if, all of the members of the family would give him essential assistance and support. Thus the trap was set.

The assistance which he required, it soon developed, consisted of two things—first an abiding faith in him, and equally important, patience. No long period of patience would be required, only eleven days, a small time considering how long she had been sick. His fee was to be a mere one hundred eleven dollars, and not payable until the invalid was cured and again doing her own housework. But faith in him, that was the prime contribution they must make. He must have their constant and devoted thoughts, to keep his powers strong. The family assured him of their complete confidence.

Ah, yes, for now, but what if one of them faltered. No, there must be more than their present expression of faith—there must be positive proof that, as greater power was needed by him day after day, their faith would sustain him up to that magic moment on the eleventh day when mother would arise again—whole and strong and smiling. What proof did he demand? He pondered some moments then nodded—yes, that would do it—they would place money—a great sum, to prove their great faith, in a package under the mother's pillow, and one of them must feel the

package, through the pillow, each morning and each night, to renew the faith of the whole family.

The next morning when the bank opened, the husband was waiting at the door. He borrowed eight thousand dollars and hurried back to the farm. The master healer returned. He assembled the family and had the father wrap the money in a magical cloth, and place it on a table where it remained until eleven minutes after eleven o'clock. Then, at his direction the youngest child picked up the package and placed it under mother's pillow.

For three days and nights, with only short intermissions for rest and renewal of strength, the "Indian doctor" sat in the now darkened sick room, frequently mumbling unintelligible incantations. On the fourth day he announced the power was working. From then on he must be alone, away from any distracting influence, to keep up his deep concentration. He retired to the haymow of the nearby barn, stating he would come down on the eleventh hour of the eleventh day. Until then they must remain outside of the mother's room in order not to disturb the thought waves, except to bring food and care for her needs, and then one of them must continue, each morning and night to feel the faith package through the pillow, to keep strong the faith of all until his return. If any should fail, the result—oh, it was unthinkable.

Faithfully they carried out his instructions. The

eleventh day came but the "doctor" did not, and the invalid did not arise from her sick bed. It was then that faith wavered. The magic package was opened. It contained only pieces of paper. The money was gone and so were the gypsies—long gone and untraceable.

Hog Remedy for Profits

A racket which was worked successfully throughout Iowa in the early 1920's involved the manufacture and sale of a hog remedy, allegedly having wondrous powers. A personable young man selected Newton as the site for his operations and had footings or foundation poured there for a proposed building of large dimensions. Then he went forth armed with the building plans for his projected factory, a few bags of a proven hog remedy which had been resacked by him into his own labeled bags, and an immense amount of self-assurance.

Soon many farmers were intrigued with the miraculous results promised by his remedy—*Santo*. Those who accompanied him to the factory location were impressed by the size of the foundation. They envisioned a flow of the wonderful remedy which farmers would clamor for, for their "mortgage lifters" hogs. And they wanted a part of the profits that would soon be rolling in. The lucky ones, who were accepted as qualified to be associates, placed advance orders for the large quantities which they assuredly could sell.

It was all quite simple to get in on the ground floor. No cash was required. They would merely sign promissory notes, not to be paid until several years later, from the sales they would make. Using these notes as collateral the organizer, Ray B. Gibford, would obtain money for completion of the factory, and in a few months they would be reaping profits from their sales of *Santo*, long before the notes were due.

Typical was one Benton County farmer who gave fifty such notes, for \$1,050 each, a total of \$52,500 for a large quantity of the remedy which he believed he could readily sell, while a hired man was doing the arduous work on his farm. No estimate could be made of the total amount of notes thus obtained by Gibford. The known advance orders of *Santo* would have filled a very long freight train.

But no deliveries were made. In fact, no factory was completed. Nor were the notes pledged as collateral to build the factory as promised. To the contrary many of the notes were sold to banks, which upon investigation found the financial condition of the makers to be good. Although it was not considered sound banking practice to buy the notes of strangers living at a distance, it was not illegal. And some banks did buy such notes—at a good discount. They became innocent purchasers for value—before maturity. To the unhappy surprise of the makers of the notes, the fact

that fraud had been perpetrated upon them in the inception of the notes was not available as a defense (See *Mt. Hammill Savings Bank vs. Hughes* 196 Ia. 861; 195 NW 589). Consequently many of the notes were paid without suit.

Fortunately, Gibford did not succeed in selling most of the notes. They never reappeared, and no demand for payment was made. Those "investors" were the fortunate ones. The wondrous *Santo* and the dreams of quick profits from its sale are long since forgotten, except by those gullibles who paid for something they never received.

The Doctor Talks Oil

One swindle, successfully perpetrated, backfired upon the con man. It was what the Iowa Supreme Court described as "a word picture of a 'blue sky proposition' done in oil" (*Newton vs. Young* 197 Ia. 1143; 198 NW 515, and *Heineman vs. Young* 197 NW 1001).

Doctor O. A. Young, a physician, who later was discovered to have been less than successful in his profession, returned to his boyhood domicile, Benton County, Iowa, with a glowing story. Other members of his family still living there were highly respected, and by capitalizing upon this family connection he had the benefit of an undeserved entree as a man of dependability and financial substance. His oil well proposition proved alluring to several trusting individuals with a supply

of restless money, so alluring that two of them eagerly accepted his proposal to accompany him, expenses paid of course, to Marion County, Kansas, to see for themselves, and for others.

He first whetted their appetites for an investment by walking them through a part of the Peabody Pool and watching the liquid gold flowing from many wells. Their enthusiasm thus stimulated, he took them to the land he claimed he owned. Standing on the 40 acre tract he pointed out how the derricks of the Peabody lined up directly with his land. Then turning to look in another direction he showed another field with a number of other derricks also coming directly toward where they stood. Obviously, the two producing fields converged on this very spot. The nearest well, less than a mile away, was producing three thousand barrels of oil each day. And here was the middle of the basin beyond doubt. His tract was, he represented, the most promising oil land in the country—and who, standing there, could doubt it?

"Doc" told them he had purchased the land for \$38,000; he was a man of great wealth, without desire for more, and now merely wanted the return of the capital which he had invested in this land; he would sell them one-eighth share each, for \$5,000 and thereby each would own one-eighth of the land and the oil and gas rights.

He further informed them an experienced and

successful oil driller had agreed to enter upon the tract and immediately commence drilling oil wells at a cost to himself of \$50,000 to \$75,000 because of his confidence in a sure strike, and thereafter he would operate on a 50-50 basis of the oil produced, all without any additional expense to them; and within twenty or thirty days they would have wells producing large quantities of oil. The two feverishly accepted his proposition.

Returning to Benton County with the first two converts to innocently corroborate him, Young quickly found other would-be investors, each of whom, upon hearing the fabulous opportunity, eagerly purchased what, in each instance, was represented to be the last one-eighth share. Satisfied with the \$40,000.00 already garnered, Young departed while the picture was still rosy, leaving several individuals disappointed because they had not learned of the deal until it was too late for them also to get in on it.

Curbing their impatience the lucky investors waited, scarcely restraining themselves from purchasing finer automobiles and the like with the riches which would soon be forthcoming. Thirty days. Sixty days. Ninety days. No dividend checks arrived. No word explaining the delay. Letters to the alleged well driller were returned—"Unknown Here." Letters to "Doc," at the address he had given, remained unanswered. He was elsewhere, enjoying the fruits of his deception.

But "Doc" overlooked a couple of important factors. He was too miserly to spend a few thousand dollars of his ill-gotten gains to move an oil drilling rig onto the land and go through the pretense of starting to dig the first well, and then have a stuck drill or some other plausible explanation. Had he made even such a token effort, his victims would have had little legal grounds for complaint. As it was, they had paid for a chance to drill but he did not even give them that chance.

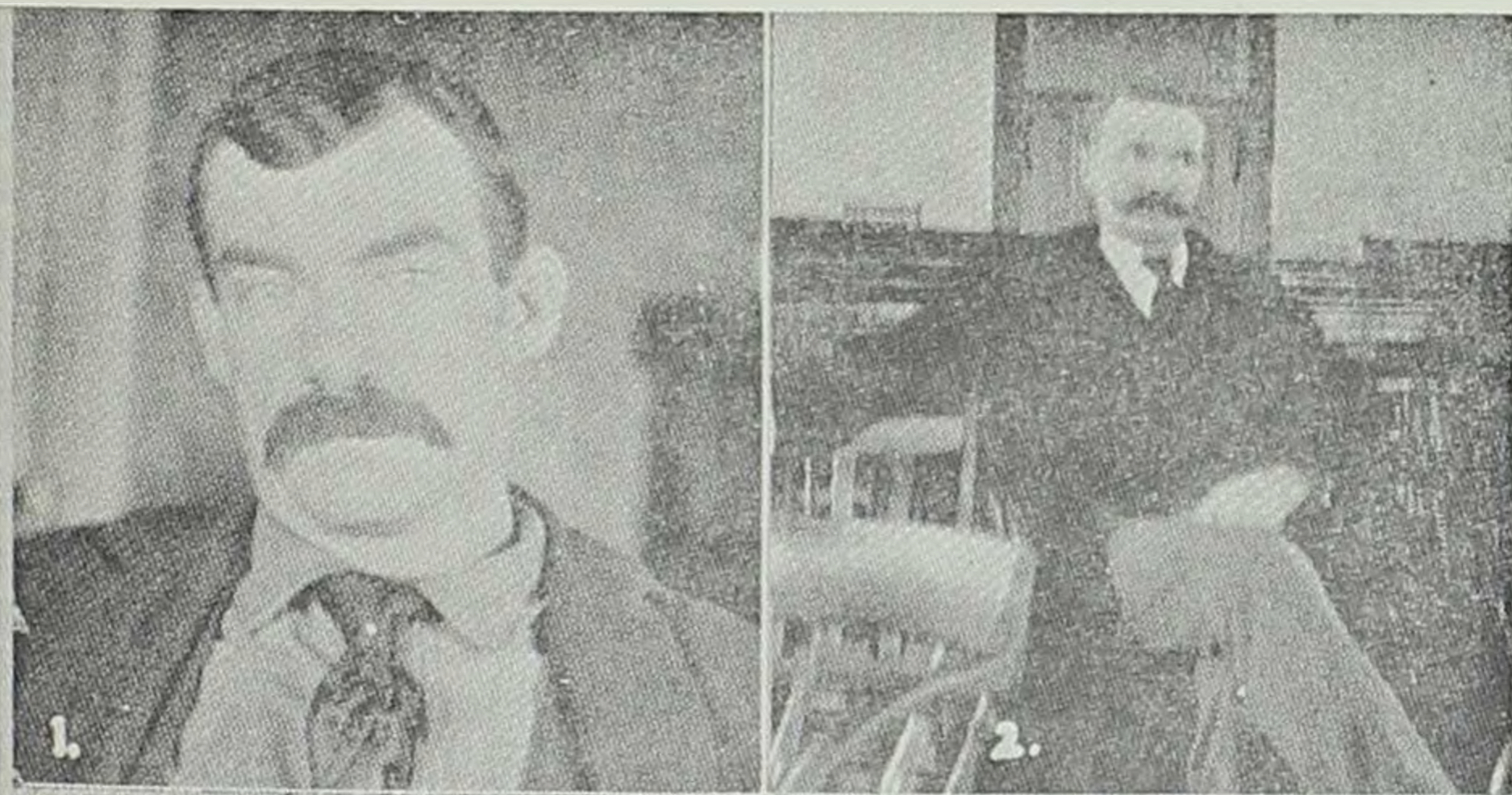
His greed was his undoing, for "Doc" also overlooked something else which caused his plans to go awry. He assumed he could disappear, and that his victims, left without recourse, would take their losses quietly. But "Doc" did not know that the one hundred sixty acre farm he had inherited from his respected father could be attached even though he was beyond the reach of the Iowa laws. The investors instituted suits, aided by attachments of the farm.

The oil fraud cases comprise the most famous civil proceedings in the District Court of Benton County. Evidence given by oil geologists conclusively proved that, although from the surface it appeared the center of the oil pool must be on Young's land, the fact was that there was an underground "fault," a slippage of the underlying rock whereby oil had been cut off from this land. No experienced driller had agreed, or would agree, to drill there at his own expense because

the "fault" was well-known. Even Young knew it when he obtained the oil lease from the owner for a trifling sum. And he also knew several unproductive wells, dry holes, had been sunk in the vicinity and that this parcel was worthless as a prospective oil producing property. Evidence further disclosed his license to practice medicine in Missouri had been suspended. Verdicts were returned by the juries in favor of the men he had overreached.

Upon appeals to the Supreme Court of Iowa the trial court was affirmed, with the finding that "The scheme was conceived in fraud and born in iniquity." The attached land was sold on execution sales. Sheriff's deeds duly issued to the victims of the swindle. This swindler had overreached himself. By virtue of legal process he was compelled to make an involuntary expiation.

JOHN W. TOBIN



\$200 REWARD!



FRANK NOVAK is wanted at Vinton, Iowa, being charged with Murder and Arson. He is a Bohemian; about 32 years old; weight about 175-lbs; height 5 feet 8 inches; has seal brown hair; large brown eyes; short mustache, slightly sandy; broad forehead. When last seen was wearing a hunting jacket under an overcoat; wore German socks. Carried a double barrel shot gun. Wore a diamond ring on right hand.

The above reward will be paid by the undersigned in addition to what the Governor of the state may offer for his arrest and delivery.

Wire all information to
I. S. S. A.

S. H. METCALF, Sheriff.

Vinton, Iowa.



Novak Murder Case

No. 1, Detective "Red" Perrin. No. 2, Frank Novak. No. 3, Court room scene. Identified in this scene are C. H. Moon, H. F. Hall, A. Miller, A. E. St. Clair, Millard Smock, Alec Harper, Mr. Schoonover, B. Stephenson, D. Ely, Geo. Ridge, James Bates, D. Markham, Sherm Richart.

The reward poster. (Reproduced from Harley Ransom's "Pioneer Recollections.")

