

WALKER AND LAWRENCE CASE IN DISTRICT COURT

Court Room Is Crowded With Interested Spectators—Defendants Show Little Effects of Imprisonment—At Work Securing a Jury

(From Wednesday's Examiner.)

The case of the state of Utah vs. Fred C. Walker and Edward Lawrence, charged with the murder of Earl S. Beers, was called for trial in the district court before Judge Howell yesterday morning at 10 o'clock. Owing to the prominence the case has attracted in the city and state, every available seat in the court room was taken by the interested spectators. The work of securing a jury promises to last until Thursday afternoon, but there is a possibility that the panel may be completed by tonight. At the adjournment of court yesterday afternoon, eleven talesmen had been passed for cause.

Both Walker and Lawrence wore an earnest and yet confident expression and neither displayed any bad effects from the long weeks of imprisonment in the county jail. Shortly after court opened and the case was called, Miss Walker of Salt Lake, a sister of the accused, and the daughter, little Josephine, arrived and were given seats close to the prisoner.

Occupying seats behind and to the left of Attorneys Hutchins and Horn, for the defense, were Fred C. Walker and Edward Lawrence, and between the two prisoners sat Manager Nicol of the Salt Lake Electric Supply Co., by whom both men were employed.

Mrs. E. S. Beers, widow of the man who met his death as a result of an encounter with Walker, was not present and it is understood feels that she cannot stand the strain of witnessing the trial but will serve as a witness in the case when her presence is deemed necessary.

Frank R. Beers, father of the late Dr. Beers, was present, however, and watched with interest the initial proceedings and listened with apparent avidity to questions propounded the jurors.

Judge Armstrong, or the First district court of Salt Lake City, came in quite early and occupied a seat on the bench with Judge Howell, apparently deeply interested in the proceedings.

District Attorney Halverson announced that Judge Maginnis, associate counsel for the prosecution, had been summoned east by the serious illness of his aged mother and would not be here during the trial of the case, but would be represented by his law partner, Mr. Corn, whose connection with the case was made a matter of record.

After the case was called Judge Howell directed the clerk of court to call the list of jurors summoned and this brought out the absence of W. D. Pickett, Arthur C. Past, S. H. Henderson, E. A. Olsen, Samuel Montgomery, William Bailey and L. J. Taylor, and his honor directed that an attachment for these be issued and placed in the hands of the sheriff.

In a brief statement addressed to all jurors summoned for the term, District Attorney Halverson asked those present if there was any reason, physical or otherwise, why those present should not serve in the present case before the court.

Joseph Myers asked to be excused on account of the serious sickness of his wife and the necessity of his presence at home at this time. After replying to questions submitted by his honor, Mr. Myers was excused.

Mayor Nelson, of Huntsville, summoned as a juror for the term, claimed an exemption on account of his official position as chief executive of Huntsville, and he was excused.

M. E. Fromburg asked to be excused, as he was a little hard of hearing, but acknowledged when questioned by the court that he had served as a juror on several occasions and could understand what was said when he gave evidence his close attention. He was allowed to serve.

The following names were called by Clerk Allison and Otto E. Lund, Frank G. Grant, S. H. Brown, William H. Voorhees, Alex S. Macbeth, Max Davidson, James B. McFarland, Joseph E. Story, Samuel Siler, E. A. Ecklund, John Browning, Jr., and Charles G. Chrisman took seats reserved for the jury.

Up until 2 o'clock in the afternoon Otto E. Lund, Frank E. Grant, S. H. Brown, James B. McFarland, Joseph E. Story and Samuel Silers, were examined and passed, while William H. Voorhees, Alex S. Macbeth, Max Davidson and C. A. Ecklund were excused on various pretext after examination.

Mathew Burnett, W. G. Kind, John Brown, Jr., and Charles G. Chrisman were then called to the jury box to occupy the seats of those excused.

Jurors Questioned.
A. G. Horn, of counsel for the defense, submitted the following list of questions to each juror examined:

Have you ever sat in a case as a juror in which the charge was murder?

Have you ever sat as a juror prior to this year?

How often and how long ago?

Have you ever sat as a juror in a criminal case?

Did you ever sit on a jury where the party made a defense that the party injured had been intimate with his wife?

Were you acquainted with Dr. Beers in his life time?

Or the party calling himself Lopez?

Were you acquainted with what was known in this city during the month of August or September of an institution that were running a medical institute advertising what was known as the Boy Phenomenal?

Did any of your family or any of your intimate friends that you know of take treatment at that place?

You understand the law to be, do you, that the defendant is presumed to be innocent until he is proven guilty?

And that that presumption continues until the case is finally submitted to the jury?

Are you in favor of such a law?

And if you are accepted as a juror in this case would you give the defendant the benefit of that presumption until the case was finally submitted to you and then determine it solely upon the evidence?

Do you understand the law of the State of Utah to be that a homicide is justifiable when committed by any

person in either of the following cases: When committed in a sudden heat of passion caused by the attempt of the deceased to commit rape upon or to defile the wife, sister, mother or other female relative or dependant of the accused and when the defilement has actually been committed?

Do you think it was a wise subject of legislation?

Are you in favor of such a law or against it?

Are you in favor of the enforcement of that law to the letter?

If the court should declare that to be the law, I will ask you whether or not you are in favor of such a law or whether you are opposed to it?

And if the defendant should make a defense under the provisions of that statute would you give him the benefit of the provisions of the statute and acquit him?

Were you ever treated by Dr. Beers, sometimes known as Dr. Lopez?

Or his partner, Dr. Daley, otherwise known as the "Boy Phenomenal"?

Or the Boy Phenomenal Medical Company?

Were any of your friends or relatives that you know of treated by him?

I take it that you have been reading the papers ever since this matter occurred with relation to the matter?

And have discussed the matter and talked the matter over?

Did the parties with whom you discussed it profess to know the evidence?

I will ask you then from what you read and from what you heard whether or not you formed or expressed any opinion as to the merits of the matter and who was right and who was wrong?

And have you that opinion at the present time?

Is that a fixed and unqualified opinion?

Is that such an opinion as would require evidence to remove?

Could you, despite your opinion, act fairly and impartially in this case and decide the case solely upon the evidence given to you by the witnesses here and by the charge of the Court as to the law?

Have you ever discussed the merits of this matter at home with your wife?

Have you ever discussed it at any gathering where the ladies were present?

Now, I'll ask you whether you are conscious of any bias or prejudice for or against the defendant in this action?

Then I will ask you if you were on trial in a case like this and Mr. Walker should be called as a juror and he should be in the same frame of mind that you are at this time, whether or not you would be satisfied to let him try your case?

Do you think the bias or prejudice which you have would prevent your giving the defendant a fair and impartial trial?

Have you ever acted as a juror in a case where the crime resulted from the fact that the party had been intimate with the defendant's wife? Or any of his female relations?

And you also recognize the law to be in a criminal case the State is required to prove its charge by a greater weight of evidence and that the rule in a criminal case is that the charge must be proven beyond every reasonable doubt, instead of a preponderance of the evidence?

Do you favor such a rule or law?

By whom were you summoned as a juror?

Did you have any conversation about the case at that time?

What papers have you read about this case?

Supposing the defendant should go on the witness stand in this case, would you give credence to his testimony as readily as you would to any other witness?

Do you think simply because a man is charged with a public crime that that is any evidence of his guilt?

And the mere fact that he should be the defendant and should go on the witness stand would you weigh his testimony the same as you would any other witness in the case?

And test it as to its probability or improbability and truthfulness and all those matters which go to make up the truthfulness of the witness; you would apply the same rules to him the same as you would any other witness and give weight and credence to his testimony the same as any other witness in the case?

I will ask you if Mr. Halverson, Maginnis or Corn or Mr. Nathan J. Harris are attorneys for you

(From Thursday's Examiner.)

It will probably be two days before the jury is secured in the case of Walker and Lawrence who are charged with the murder of Earl S. Beers. Little headway was made in the case yesterday and there are now in the box five prospective jurors and seven to be examined. The state has exercised four of its fifteen peremptory challenges while the defense has used three. Already about twenty talesmen have been called to the jury box in the case.

The court room is well filled each day by spectators who seem to get a great deal of interest out of the proceedings of the work of examining jurors. It is estimated that when the taking of testimony begins that the seating capacity of the court room will be taxed by the spectators. Once or twice during the sessions of the court a few women have occupied seats in the court room but have not stayed very long.

The accused was accompanied again by Lawrence and Manager Nicol of Salt Lake and occupied the seat given him Tuesday. Close to him sat his little daughter Josephine and his sister from Salt Lake.

The work of examining jurors was proceeded with by Associate Counsel Horn, for the defense, and the first man in the box examined was B. M. Anderson, a farmer by occupation, who resides on East Patterson avenue in this city. Replying to questions submitted to him, Mr. Anderson said he was a married man and had children; had never sat on a murder case before; understood fully that a man on trial for murder should be regarded as innocent until proven guilty; would give the prisoner the benefit of a doubt at all times, and knew that the burden of proof rested with the state, had never applied to the late Dr. Beers for treatment; understood and believed that homicide was justifiable in certain cases; favored the law covering that subject; believed that a man in the heat of passion, when learning his wife had been defiled, was not responsible for his actions in assaulting the man guilty of the crime, and would not hesitate to acquit him; would accept testimony of defendant in this case quite as quickly as he would another witness; had read the story of Dr. Beers' death in the Ogden Standard and had expressed an opinion at the time.

After a brief examination by the state's attorney, Anderson was challenged for cause and excused.

The second juror examined by Attorney Horn was L. J. Taylor, who had sat before in a murder case, but not of a similar character; was not biased against defendant and had read of the case in the Ogden Standard; had not discussed the case and had formed no fixed opinion; would allow defendant to act as juror if he were on trial for some act charged against prisoner; would treat defendant's testimony as any other witness; believed a man under a strong passion in cases of this kind might be unable to control himself, and did not believe a man ought to try to control himself very hard when his wife had been defiled, but could render a verdict in accordance with the evidence and law and the instructions of the court.

At this juncture several jurors were challenged and excused. George McFarland by the state, and B. M. Anderson by the defense; F. E. Grant by the state, and Matthew Burnett by the defense; J. McFarland by the state, and John H. Smith by the defense, and Otto E. Lund by the state.

This left but five of the twelve men in the jury box, and, after Associate Counsel Horn and District Attorney Halverson expressed themselves as satisfied with these, they were sworn in, and David I. Tracy, John H. Brown, Wm. Wheeler, Jr., Charles D. Hayes, J. J. Hutchins, Henry Wessler and Daniel Farnland were called to the jury box and sworn.

When examined by Counsel Horn, Juror David I. Tracy said he had resided at Huntsville all his life; had sat in a criminal case at Ogden in October last; was married; had formed a fixed opinion and could not be swerved from it; could not try the case impartially, and was challenged for cause by defense and excused, Isaac Beltman being called to his seat in the box.

Juror John H. Brown said he was a farmer and resided at Liberty; believed it was possible for a man to be aroused by anger and not able to control his actions; but thought he would know if he was doing right or wrong at the time; had formed an unqualified opinion, and was challenged for cause and excused, Stephen Nye being called to occupy his seat in the box.

Wm. Wheeler, Jr., was engaged in the dairy business at Slaterville, and had read of the case in the Ogden Standard. He answered the various questions asked him satisfactorily and was passed.

C. D. Hays was a single man, conducted a shooting gallery in Ogden, has expressed and formed a fixed opinion that could not be changed at this time. He was excused and John C. Carr called to a seat in the box.

J. J. Hutchins said he was a farmer; married and lived near Slaterville; had formed no opinion and, after answering interrogations by Attorney Horn satisfactorily, was passed.

Henry Wessler said he was a cigar-maker and resided at Ogden; he was married; had fixed opinion; could not give the case a fair hearing, but was not challenged.

Daniel Farnland, replying to questions, said he was engaged in the grocery business at Ogden; was married; had not formed or expressed an opinion, and was passed.

Isaac Beltman said he was a single man; a cigar manufacturer of Ogden; had a fixed opinion at this time that could not be easily changed and was challenged for cause.

At this stage in the proceedings, which had been without incident of more than ordinary importance all

morning, District Attorney Halverson arose and said that Mr. Wessler had made practically the same answers to the questions that Mr. Beltman had, and that counsel for defense had either purposely or inadvertently failed to challenge him. He, the district attorney, did not think it was fair and he wanted to call the attention of the court to the omission.

Attorney Horn replied rather sharply that he was not asking advice or counsel from the district attorney and was handling the case for defendant in the manner he thought best for his client. He added that if he failed to challenge any of the jurors during examination the district attorney wanted challenged, the district attorney might exercise that right when he took his turn at examination of the jurors.

Judge Howell advised the district attorney to challenge the juror if he objected to him serving.

A. L. Scoville and Robert Hull were then called to the jury box to fill the seats occupied by Messrs. Beltman and Wessler, who wandered out into the lobby of the court house with a satisfied smile illuminating each face.

At this point court adjourned, after instructing the jurors in the box now to discuss the case with each other or any one at this time.

Mr. Frank Beers, the father of the late Dr. Beers, is in the city awaiting the outcome of the trial. To an Examiner reporter last evening at the Broom Hotel, Mr. Beers said all he wanted in the matter is that justice be done and that a fair and impartial trial be had. "My boy was not a bad boy, as some of the newspapers have reported him to be. He was never shot at in Colorado and he was never in trouble before in his life until this affair came. He handled my business in Mitchell, Nebraska, for a number of years and he was a good, honest business man. I never met his wife until I came out here, so I don't know anything about her."

In answer to the question whether he would be a witness in the trial, he said that he would not. Mr. Beers expressed a regret that Judge Maginnis could not be here to aid the prosecuting attorney in the case inasmuch as he is so thoroughly familiar with the details connected with homicide.

Mr. Beers is a well-to-do business man of Mitchell, Nebraska. He is a dealer in lumber and farm implements aside from farming on quite an extensive scale.