

The Benders in Kansas

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"Bender Women" at Oswego,
Labette County, in
1889-1890



The Complete Story
Facts, not Fiction



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INTRODUCTORY

The story of the *Benders in Kansas*, and the dreadful murders committed by that family, has often been written, and in many different forms. The horrible details are familiar to the people who lived in Kansas and the West during 1873, and for many years thereafter.

Of their "deeds most terrible," it is said that the first news given to the world, was published May 10, 1873, and that the story of the "devilish" crimes of the Benders was obtained from a passenger conductor on a Southern Kansas railroad, three days after the flight of the criminals. This was quite rapid in those days of limited telegraph facilities.

The story itself, seems like the recital of some dream, in which nightmare mirrors upon the disordered brain, a countless number of monstrous and unusual things. Yet, the story is as true as the sun. Fiction tells of no more horrid, atrocious crimes, than those committed by the Benders. The memory of the offenses of those murderers stands yet, as a crimson blot upon the pages of the history of that part of the West.

Whether the Benders were overtaken and exterminated by a posse, or whether they succeeded in making their escape, have been mooted questions ever since their flight was discovered. Over and over again, has the statement been printed, that the Benders were all shot to death. Another story is told, that they were overtaken in the Indian Territory and speedily lynched. Others just as positively declare that the Benders escaped and were not captured.

On the day that the discoveries were made at the Bender House and the bodies of the victims

were exhumed, a number of well-armed, determined men organized a posse, prepared to follow the fleeing family of murderers and at once started in pursuit. Shortly after the discovery of these Bender murders, in 1873, the *New York Ledger* published the very gratifying narrative that all of the Benders were shot to death. That story so pleased the people, and it seemed such a fitting and just retribution for these crimes, that nearly everybody accepted that statement without questioning its correctness. Papers all over the country published that *Ledger* report of the case, and it was accepted as news, believed by most people. For many years following that report the Benders were permitted to slumber in silent oblivion, in the minds of the people, along with their many victims.

Sixteen years later, in 1889, that repose was disturbed by a clew furnished through a woman, at McPherson, Kansas, which led to the identification of two women, then living in Michigan, as old Mrs. Bender and her daughter, Kate Bender. These two women were arrested in Michigan and with requisition papers an officer took them to Oswego, Kansas, charged with the murder of Dr. William H. York.

From testimony given in court by many former neighbors of the Benders, when that family lived in Kansas, as witnesses at Oswego; from statements of fact made by persons who claimed to have positive knowledge; from Governor Osborn's Proclamation issued at the time of the flight of the Benders; from Court records, official certificates, affidavits, and numerous letters; from manifold articles published in different newspapers at various times, in different localities, and by personal interviews with several members of the posses which pursued the fleeing criminals, has

been obtained the facts which are written here, and it is not fiction.

All the story of the *Benders in Kansas* is presented in this book.

The unreliability of human testimony, the tendency and ease of mistaken identity, the difficulty of establishing an alibi and the abnormal desire for criminal notoriety in some human minds, are lessons to be learned by the perusal of this book.

The general reader will enjoy this story with avidity of fiction; the active lawyer will gather many thoughts of use in trial of cases, while the law student may glean much beneficial knowledge; all will read this book with interest and be glad of its perusal.

The evidence is here presented and the case submitted, upon which the reader may render verdict, as should each juror in a case, from the preponderance of the testimony.

That verdict should answer the question: Whether the Benders were overtaken and exterminated.

THE BENDERS IN KANSAS

CHAPTER I.

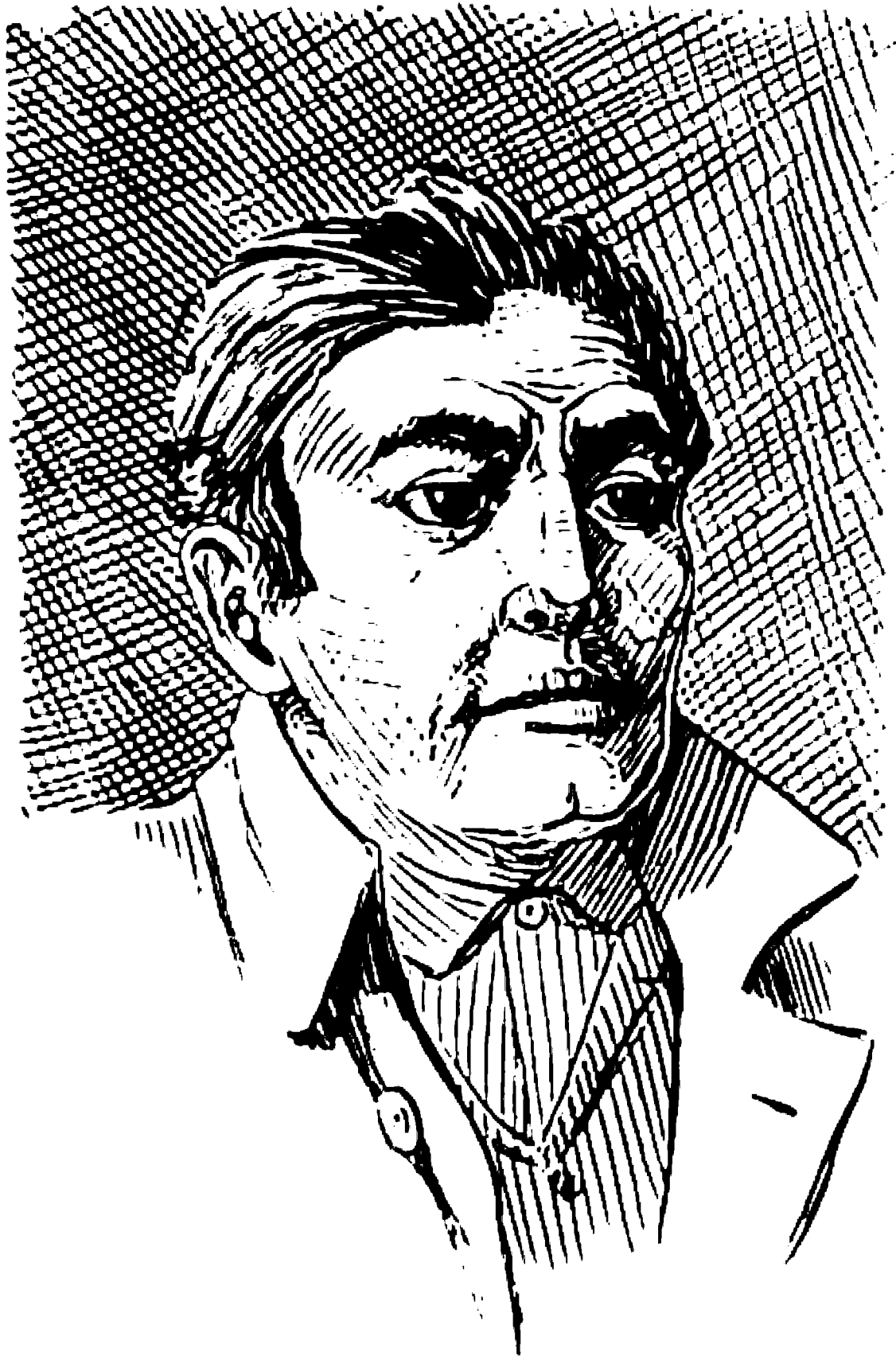
The New Arrivals.

In the latter part of the year 1870, there came into the north-west part of Labette County, Kansas, four persons constituting one family—an old man, an old woman, a young man, and a young woman, who lived together and were known by the name of *Bender*. Each of the men was called John, and each woman was called Kate. The old couple lived together as husband and wife, and the young man and woman were reputed to be the son and daughter of the older people.

The old man, John Bender, Sr., was a Hollander by birth. He had lived in Germany near the French line, where he conducted a bakery. He said he had lived in America for several years prior to 1870. He was about sixty years old, five feet, nine or ten inches in height, square-shouldered, just a little stooped, of spare build, dark complexion, very rough in manner, had no whiskers, spoke very little English, and what he did say was very broken, with a strong German accent.

The wife, Kate Bender, Sr., was about fifty years of age, rather heavy set, had blue eyes set close together—unpleasantly so—and brown hair slightly tinged with grey. Her countenance was uninviting. She was decidedly German and talked the German language. When she attempted to use the English language it was very broken, so much so that most persons could not understand what she said at all.

The younger man, John Bender, Jr., was also known as John Gebhardt. It is a mooted ques-



John Bender, Sr.

tion whether he was the son of the old people. He was five feet, eight or nine inches tall, of slight build, had grey eyes with a brownish tint, brown hair, light moustache, no whiskers, was about twenty-seven years of age and spoke the English language with a German accent. He may have been born in the United States.

The young woman, Kate Bender, Jr., was between eighteen and twenty-four years of age. Her hair was a dark, rich auburn. She had deep, greyish-blue, or dark-grey eyes. She was over medium height, some five feet, six or seven inches tall, slender, well-formed, voluptuous mold, fair skin, white as milk, rose complexion. She was good-looking, a remarkably handsome woman, rather bold and striking in appearance, with a tigerish grace and animal attraction, which but few men could resist. She was a fluent talker, gifted with fine conversational powers, but she did not display any educational advantages of a high order. She used good English with very little, if any, German accent. She was a Spiritualist, occasionally giving seances and lecturing on that subject. Her success in the lecture field was not sufficient to encourage her to continue that work. She claimed to be a Medium. She would go into a trance and call up the spirits of departed loved ones for the neighbors. In her lectures she boldly advocated free love and pleaded justification for murder.

Some people believed that she was a paramour of John, Jr., and that she was not his sister, as was generally supposed by the neighbors. She was a good horseback rider and she danced well. She attended Sunday-school and "meetin's" at the Carpenter school-house often. She served as dining room girl at the Cherryvale Hotel in 1871.

Some of the neighbors called Kate "a she-devil." The light which at times flashed from her hard,

steel-greyish blue or dark-grey eyes was sinister and forbidding. Her rather tall form seemed to lift up, when the spiritualistic influence took possession of her, and to become gigantic in its proportions, while she appeared supernatural. She dealt with incantations, boiling herbs and roots, which she claimed had charms and spells about them for cures.

Her will was indomitable and all of the family feared her, dreaded her, obeyed her, and did the "devilish" work that she required of each of them. She was the ruler of the household and directed the actions of each one, whether that was for good or for evil--most usually for evil. She was qualified for deeds of any nature, even to the taking of human life. She had the disposition to use any means, to go to any extremes of action to accomplish her desires and secure the end of her purpose as she willed.

She had a great desire for notoriety, longed to become a great lecturer, and she possessed an insatiable craving to gain wealth, money and position. With her, any means justified the end to get money.

It was believed by many, after the discovery of the awful crimes which were committed by the Benders, that Kate had struck blows with the hammer to crush the victim's skull, of which act she was clearly capable.

It is very probable that John, Jr., was the son of old Mrs. Bender by a former husband, whose name was Gebhardt. Hence the name John Gebhardt by which John, Jr., was also known. If that be true, John, Jr., and Kate, Jr., were only half brother and sister, if they were at all related.

CHAPTER II.

Location.

During the first ten days after the arrival of the Benders in Labette County, they lived on the claim of Rudolph Brockmann, a German. Within that time they built a small log house on the quarter-section to the south-west of Brockmann. The log house was built on the North-east quarter of Section Twenty-three, in Township Thirty-one South, Range Seventeen, East, which was the claim of Maurice Sparks, who was at that time absent, and had been for nearly a year. This claim cornered with that of Brockmann on the south-west. The Benders moved into that log house when completed, and lived in it through the winter of 1870-1871.

Learning that Sparks had not relinquished his claim, but would return soon to live on it, the Benders made a location. John Bender, Sr., filed on the North-east quarter of Section Thirteen, Township Thirty-one South, Range Seventeen, East, in Labette County, Kansas.

The Brockmann claim was the South-west quarter of Section Thirteen. The Brockmann claim and John Bender, Sr., claim touched at the corners. That made them near neighbors.

John Bender, Jr., *alias* John Gebhardt, filed on on the South-east quarter of Section Twelve, in the same Township and Range, adjoining the claim of John Bender, Sr., on the north.

Upon the claim of John Bender, Sr., while they were living in the log house, the Benders built a frame house. When it was completed they moved into it, and all lived together there. John Bender, Jr., did not live on his claim nor make any improvement upon it. He made his home with the Bender family in the new frame house.

These claims were situated upon high, rolling

GARDEN AND ORCHARD

STABLE

1981: CUP JUNE 22/1981 1981

HOUSE

ROAD



prairie. The new house was built in a slight depression at the foot of a long vale in the prairie. This vale led towards a small stream near the house, along which a heavy growth of wild plums and cottonwood trees, with underbrush, was standing and bordered the stream for some distance.

This new Bender house was about twelve miles west of Parsons, seven miles north-east of Cherryvale, and ten miles south of Thayer. The Neosho County line was two miles north, and the Montgomery County line was four miles west. Osage Township was the north-west Township of Labette County. Oswego, the county-seat, is about twenty-five miles from the Benders. Moorehead station on the Santa Fe railroad is about two miles north-west.

At the time the Benders lived in this house, a well-traveled road crossed the prairie and ran almost east to west past this house. This was the main road from Parsons to Cherryvale. It was also the road principally used by travelers going from Fort Scott and Osage Mission to Independence, and the Indian Territory to the south-west.

Bender House.

The Benders moved into the new house in the Spring of 1871 and lived in it until their sudden departure in the Spring of 1873. This house was a frame, sixteen by twenty feet in size, and it had a shingle roof. A row of studding was set across near the center to divide the house into two rooms. The front room was smaller than the rear room. This front room was used as the living, cooking, and dining room and also as a small store.

To the right of the door in the front room entering from the road were rows of shelves upon which was kept the small stock of canned and other

goods for sale. To the left of this door a table always stood. Along the side of this table next the partition was placed a bench, on which persons sat when eating meals at that table.

The rear room was used as a sleeping room and was scantily furnished. The only partition between the two rooms was the row of studding upon which a curtain or wagon cover about eight feet long was fastened at the top and hung loose to the bottom. At the end of this curtain, near the center of the row of studding, one of the studding was left out or removed to make a doorway through the partition between the two rooms. At the right of this doorway, but close to it, in the floor of the rear room, was a trap door through the floor by which communication was had with the cellar under the house, from the inside. This was a circular cellar about six feet in depth and a little more than six feet in diameter. From this cellar a narrow passage, just wide enough to admit the body of a man along it, led under the rear room floor to the outside at the rear of the house.

A garden and orchard of small trees was located a short distance back from the rear of the house.

The only other building upon the place was a sod stable large enough to accomodate several head of horses. In it were places to hang harness, saddles, and other usual articles belonging to a team when used, or to a horse under saddle.

Ready for Business.

The Bender House, located as it was upon the main travelled road, at the point where the traveler would stop about noon for dinner, or those reaching there late at evening would stop for the night, taking supper, bed and breakfast, began business as soon as the Bender family had moved into it. The store was a very convenient place

for the traveling public, as well as for neighbors, to buy such goods as were kept there for sale.

CHAPTER III.

Life in a New Country.

For daily life, the settler, or claim holder, was occupied in the various ways necessary to make a home in that newly-settled country. They plowed, harrowed, sowed, planted, cultivated, reaped, harvested and gathered, or "shucked" the corn. They cut the prairie grass, cured and stacked it for hay. They made garden, set out fruit trees, took care of stock by herding upon the prairie and, sometimes, feeding hay and grain.

Often they were away from home for days and weeks at a time, to do work by which to earn money to enable them to live until the claim became a farm to afford means of support and require all of their time.

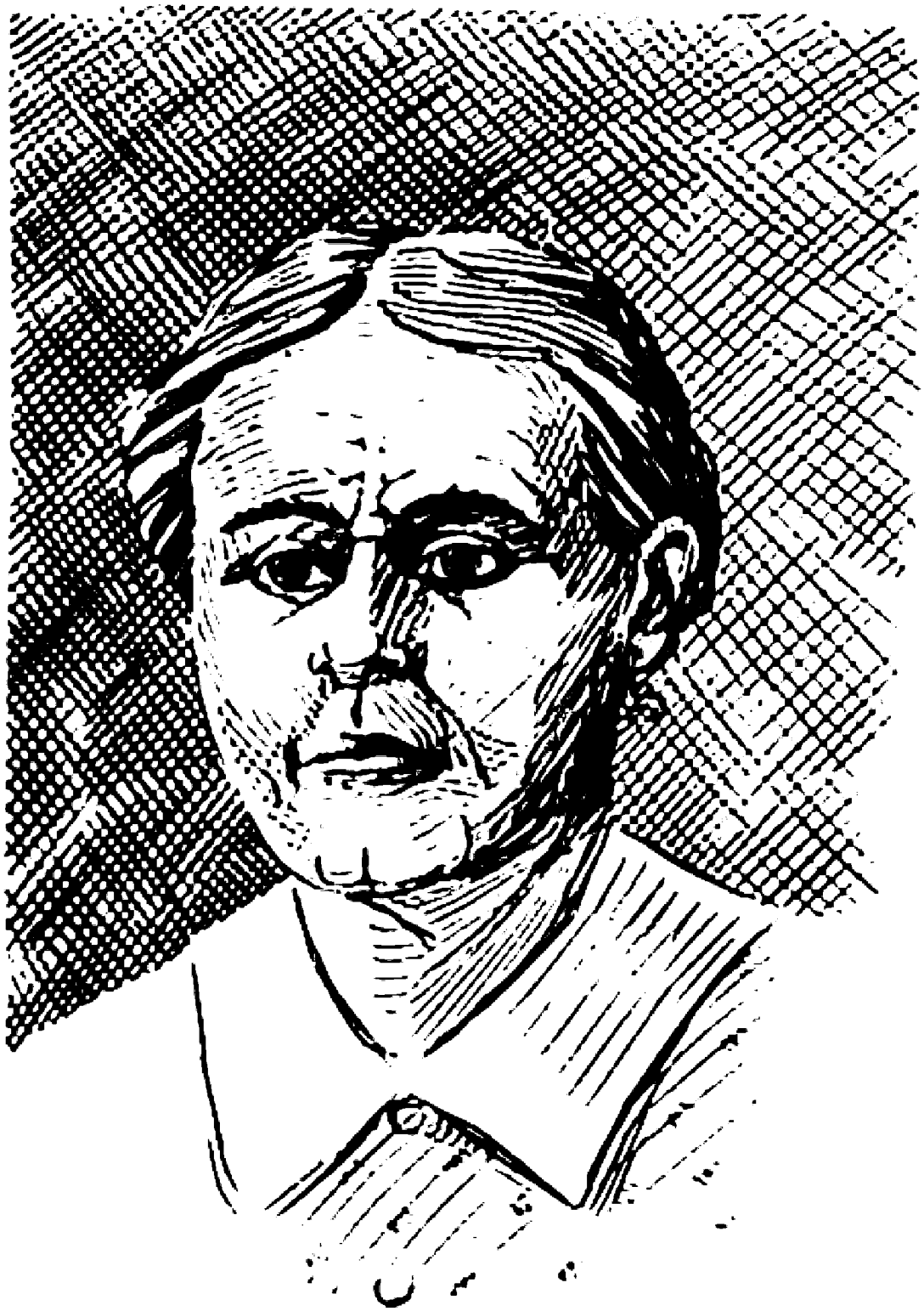
Neighbors.

All who held claims and lived within ten miles of each other were neighbors, taking friendly interest, very social and often visiting with each other, and especially in case of sickness were they ready and only too willing to lend neighborly aid and help.

Life of the Benders.

The Bender family led the usual life of the new settler, adding to it the entertainment of travelers for compensation, and they kept a small stock of goods to sell to those who came to buy, whether it were the traveler or a neighbor.

The old man Bender and his wife were always about the place. John Bender, Jr., was frequent-



Old Mrs. Bender

ly away for days at a time, but that attracted no particular attention as that was usual and a part of the settler life in the new country. Kate was often away, going to nearby towns to give seances, to lecture, and at one time to work as a dining-room girl in Cherryvale. Sometimes John, Jr., and Kate were seen in the neighborhood together, but most often Kate was seen going about alone, to the neighbors' houses, attending Sunday-school and meetings. She also went to dances.

In 1871, Kate worked as a waitress in the dining-room of a hotel in Cherryvale for about six weeks. C. W. Booth was cook at that hotel at that time and he became well acquainted with Kate. He went with her to a dance at Big Hill in 1872 and danced with her. She was a good dancer.

Travelers Entertained.

During the two years the Benders lived in that house, many stopped and had dinner, while many others were there during the night, sleeping in a bed in that rear room.

Some of those went there never to go away, but to mysteriously disappear and not be seen again.

CHAPTER IV.

The Bender Neighbors.

Rudolph Brockmann, a German, lived about a half-mile south-west of the Bender House. He was often at that house, saw all of them, and conversed with them in the German language.

Silas Toles lived about half a mile west. He bought goods of the Benders during the two years they lived there, saw John and Kate often, and in

1872 he walked from campmeeting with Kate and had a long talk.

George Frye lived a half mile south, and frequently bought goods at the store during the two years the Benders lived there.

Thomas Jeans lived a mile south-east, saw them building the new frame house, was often at the Bender House and sold them wood up to the time they left.

Maurice Sparks lived a mile south-west, adjoining Mr. Brockmann, on the claim where the Benders built the log house. He was at the Bender store several times during the two years they lived there, and he knew John, Jr., quite well. Mrs. Bender was always at the store and he saw Kate at home at work, plainly but cheaply dressed. He met Kate along the road and saw her at meetings. There she was well dressed. He said Kate was a sprightly, active girl.

Michael Hill, a near neighbor west, often saw them at home

David Monahan, Mr. Lindsay, and Mr. Linn lived near, south-east, and each had seen the Benders a number of times.

Mrs. Dientz, Mrs. Della Keek, and Mr. Boyd were each near neighbors and often saw the different members of the Bender family.

Dr. G. B. Smith lived two and one-half miles south-east. He met both Mrs. Bender and Kate several times at the houses of neighbors helping care for the sick when he called to treat patients.

William Dick was a Pennsylvania Dutchman, who, with his son, T. C. Dick, lived three miles south-east of the Benders. Both often saw the Benders.

Sunday-school Girl.

Mrs. Della Keek met Kate in a class at Sunday-school during 1872 in the Carpenter school-house,

several different times. Kate was very attentive. She also saw Kate at meetings in the same place, and met Kate twice at Mrs. Dientz's on Sunday afternoons when Kate called there.

Medium.

Kate claimed to be a Spiritualist Medium and was ready to call up the spirit of Mrs. Keck's husband, but Mrs. Keck would not consent. Mrs. Dientz saw Kate twice at her house and once in the wagon with John, Jr., during 1872. Kate told Mrs. Dientz she was willing to call up the spirit of Mrs. Dientz's son, but made no further attempt when told to let all of the Dientz relatives alone, whether dead or alive.

Visitor to the Sick.

Dr. G. W. Gabriel met both Mrs. Bender and Kate at neighbors' during 1872 and 1873 when he was called there to treat patients. Both were at the bedside of the sick aiding in caring for the patient. He met Kate at Parsons, also, when she was there on one of her lecture tours.

William Dick herded cattle on the prairie near the Bender place during the years 1872-1873. He was a Lancaster County, Pennsylvania, Dutchman and had learned to speak German while working for a well educated German. He frequently bought goods at the Bender store and the old man Bender waited on him every time. He saw all of the Benders. Mrs. Bender talked German and could not talk English. Dick talked German to old man Bender and Mrs. Bender understood all that was said. She told Dick in German that she did not think that they could keep or run the place. The old couple were at the store every time Dick was there.

John, Jr., and Kate were often absent when Dick was there. Dick saw Kate riding on horse-

back, met her at Sunday-school and observed her doing the housework at Bender House. He never talked to her. They simply nodded their heads to each other when they met.

John Bender, Sr., talked very broken English. He told Dick that he was a Hollander, had lived in Germany on the French line, and there kept a bakery. John Bender, Jr., told Dick that he was born in the United States.

Township Trustee

Leroy F. Dick was at that time a newly-married man and was also Township Trustee. He lived four miles south-east of the Bender place. He met both John Bender, Sr., and John Bender, Jr., at the elections in 1872 and 1873. He met both of them in the timber and tried to trade horses with them. Mr. Dick saw Kate at Sunday-school and at a singing which he conducted, several times. He saw both Mrs. Bender and Kate at meeting in the Carpenter school-house. He saw all of the members of the Bender family at their house several times and knew them well.

Freighter.

J. A. Handley was hauling freight from Fort Scott to Independence during the years 1871, 1872 and 1873. He passed the Bender House about once each month during that time. He stopped there to buy goods and get water. He saw all of the Benders quite often and knew them well.

"Kranky Kate."

Handley stopped at the Bender House in April, 1873, to get water. Kate was sitting in the doorway. Handley asked her for a bucket to get water. She replied in a very insolent manner, "You ought to have it." Kate sat still. Handly jumped over her lap into the room and asked Mrs. Bender for a bucket and she at once gave it to him.

These neighbors were at the Bender House on different occasions and for different purposes during the years 1871, 1872 and the Spring of 1873. Frequently they met and talked with members of the family. Often they went there to get water and to buy goods at the store. They met John, Jr., or Kate, sometimes both of them, on the road. They saw Kate at Sunday-school, singing, and meetings. Nothing suspicious was seen by any of these neighbors. They not only had no knowledge of any criminal acts on the part of any of the Benders, but no suspicions were aroused during the entire time and they did not suspect them of any deeds, or other conduct of sufficiently bad character to require any investigation.

CHAPTER V.

Incidents at Bender House.

A man by the name of Corlew, who lived at Independence, in passing the Bender House stopped to buy a can of oysters for his noonday lunch. He heard a peculiar struggling and moaning under the house. He asked Kate Bender what it was. She told him that a hog had got into the cellar. He offered to help get it out. Old man Bender fiercely informed Corlew that it was none of his business, and that if he did not like that noise, to "move on." Kate sold the oysters to Corlew. She then asked him to sit on the bench at the table and eat his lunch. Corlew wanted to go a short distance farther on his way where there was some good grass for his horses to graze while he ate his lunch. He declined her invitation and did "move on." Probably Corlew thereby preserved his life and escaped becoming one of the Bender victims.



Kate Bender

"Happy Jack" Reed, as he was familiarly known, of Cherryvale, in passing the Bender House, caught a glimpse of Kate *en deshabille* and was charmed with her appearance. He at once entered the house. Kate engaged him in entertaining conversation and gave him a seat on the bench at the table. He sat but a few minutes when he heard a shrill, peculiar cough, from the door step, as two travelers rode up close to the door and dismounted. He felt a peculiar motion as of something lightly and swiftly swishing past him behind the curtain. That was probably the fatal hammer started on its murderous mission when arrested by that signal which was given by old Mrs. Bender. Reed went away with those two horsemen, having first promised Kate that he would stop as he returned and spend the night.

The next evening he arrived and Kate greeted him gladly and warmly. Soon after his arrival two of his friends came to the door on their way to Independence. Reed said he would send a message home by them. Kate tried every way that she could devise to keep him from sending that message but Reed sent it.

Kate immediately became very sullen and acted cold and distant toward Reed. She did not talk with him as she had done before he sent the message. Things became very monotonous for Reed and he retired to a bed in the rear room to sleep.

Near midnight he heard a wagon drive up to the front door and old man Bender went out to conduct the driver and horses to the stable. In a few minutes Reed heard a heavy blow followed by a scream. Then there was a rain of blows in rapid succession. Kate Bender arose from her bed and walked to the side of the bed in which Reed lay and she stood there. Reed feigned sleep.

At breakfast the next morning, Kate asked Reed



John Bender, Jr.

if he slept well. Reed said that he had not awakened once during the whole night. As he made this reply to Kate, old man Bender came from behind the curtain and joined them at the breakfast, and he sat silently and sullenly through the meal.

At Independence, Reed told this story. He was laughed at so much by his friends for his cowardice as they termed it that he dropped the matter and it was forgotten until after the flight of the Benders, and the discovery of the bodies of their victims, when its revival was convincing that Reed had told a real incident at the Bender House and was not believed.

German Guests.

About the last week in February, 1873, an old German woman, just over from the Old Country, stopped with the Benders for a few days, while her son-in-law was looking for a location. She put in the care of the Benders fifteen hundred dollars in gold coin, two thousand dollars in jewelry and two drafts on banks, each for a large sum of money. When she left they did not return any of her property but made some excuse about having sent it to a bank for safe keeping. The money and jewelry were never returned. Payment was stopped on the drafts and after some time she received the money for them.

The Woman Canvasser.

Early in March, 1873, a woman was canvassing through the County selling goods and went to the Bender House late one afternoon. She sold Kate Bender some of the goods and was invited to spend the evening there which she did. After supper the family all insisted that she remain for the night which she consented to do. Kate was washing the dishes and John, Jr., began to sharpen a very

ugly looking knife. She was certain that she saw sinister glances and evil looks exchanged between members of the Bender family. These things made the woman very nervous and terrified her extremely.

The woman made some excuse to step outside the house and as soon as she was outside of the door she fled to the timber along the creek and hid herself. Some of the Benders soon followed her and hunted for her but did not find her. She made her way to Independence and there told her story to a lawyer. On his demand the Benders promptly returned the goods which the woman had left behind in her flight. That lawyer concluded that there was nothing in his client's story, but that she had an unnecessary fright.

CHAPTER VI.

Mysterious Disappearances.

Sometime during the latter part of the year 1872 people began to mysteriously disappear when they were guests at the Bender House.

First Victim.

A man arrived at the Bender House early in the Fall of 1872, and said that he wanted to stop there a few days while he looked for a location. The Benders consented for him to stop with them. He had with him over fifteen hundred dollars in cash, was well dressed and talked to Kate about his money and plans. He was never seen about the place nor elsewhere again. No one knew when he went away nor anything else about him. He disappeared from sight absolutely.

This man was the first victim of the Benders.

Fifteen hundred dollars cash was secured from him and the old man Bender offered to sell some good clothes in Cherryvale.

The "good luck" attending this first victim, together with the fiendish craving to gain money, no doubt seared the consciences of the Benders and steeled their hearts for the commission of the "hellish" deeds of crime which followed this first one in quick succession.

More Victims.

Shortly after this first one came the second. H. F. McKigzie was a guest at the Bender House. He was looking for a claim and had a sum of money with him. He suddenly disappeared and was seen no more alive.

Following came George Brown and M. R. Boyle, both of whom stopped at the Bender House and they suddenly disappeared and were never again seen alive.

John Greary went to the Bender House while a very sick man. The Benders believed that he had a large sum of money. His death occurred very suddenly. After his death it was found that he had only forty cents.

William F. McCrotty and Benjamin M. Brown became guests at the Bender House. Both were looking for locations. McCrotty had with him over two thousand dollars and Brown carried more than one thousand dollars. All was in cash. Both suddenly disappeared from there.

G. W. Longehr lost his wife. A little daughter was left to his care. He decided to take the little daughter back to Iowa to live. They stopped at the Bender House for the night. Both disappeared and were no more seen alive.

A very handsome young woman between twenty and twenty-two years of age was a guest at the Bender House. Where she came from, who she



George Erans Downer

was and what she was doing at that place were mysteries which were never solved. She suddenly and mysteriously disappeared.

The Last Victim.

Dr. William H. York resided at Independence, Kansas. His brother, Col. A. M. York, lived at Fort Scott, Kansas. Doctor York had been visiting with his brother at Fort Scott for some days from the first week in March, 1873.

On the 9th of March, Doctor York left his brother's home on horse-back intending to go directly to his home in Independence. He rode a good horse, had a fine saddle, nice blanket and splendid bridle. He carried a large sum of money on his person, had a fine watch and he wore good clothes. The first night he stopped at Osage Mission. After breakfast the next morning, **March 10th** he continued his journey on horse-back. Some acquaintances met the doctor riding alone, along the road near the Bender house and talked with him. He told them that he would stop at the Bender House for his dinner and have his horse fed.

That was the last ever seen of Doctor York alive by any of his friends or acquaintances. He reached the Bender House about mid-day on **March 10, 1873.** He did stop there for dinner and never left. Doctor York, the horse, saddle, blanket, bridle, clothes, watch and money all suddenly and entirely disappeared. Neither he nor any of the other things were ever again seen except the remains of Doctor York.

Those remains were afterwards exhumed at the Bender place. y)

CHAPTER VII.

A Dinner at the Bender House.

Within one month after Doctor York had stopped at the Bender House for his dinner, L. T. Stephenson, Treasurer of Montgomery County, with Judge H. G. Webb of the District Court, who lived at Parsons, were going together from Independence to Parsons along that road past the Bender House and they stopped for dinner.

Mr. Stephenson had a splendid team of horses, silver-mounted harness and a good two-horse buggy in which they were riding. The team was in fine condition, high strung and good lookers. He gave explicit instructions to the old man Bender to feed the horses without unhitching them from the buggy, because, as he explained to Bender, he and the Judge were in a great hurry and very anxious to get to Parsons early that afternoon.

Kate Bender took their order for the dinner. While waiting for her to prepare the meal, Mr. Stephenson went out to the stable to see if the horses had been fed as he had directed Bender to do. The horses had been unhitched, put into the stable and the door was locked. He returned to the house and told the Judge what had been done.

Their suspicions were at once aroused and they began looking about the room. They discovered that the partition was a curtain which was fastened on the studding at the top. They saw that the table and bench were placed near that curtain.

Kate came in and placed the dinner on that table and said to them, "Draw up." She at once left the room. Mr. Stephenson and the Judge quietly lifted the table and placed it at the other side of the room, took chairs, sat down facing the curtain and began eating their dinners. The bench was left in its former position near the curtain.

While they were eating, suddenly a quick,

vigorous blow struck the other side of the curtain and glanced down toward the floor. At once they both arose from the table, drew their revolvers and walked rapidly to the stable. Mr. Stephenson broke the lock on the door, led out his horses and hitched them to the buggy, while the Judge stood watching, with revolver in hand, expecting an attack from the house. When Mr. Stephenson finished hitching the team to the buggy both jumped into it and drove rapidly away towards Parsons. As they drove from the Bender place several shots were fired about the place, but both escaped without being harmed.

Upon their arrival at Parsons, Mr. Stephenson left the Judge there and drove alone to Oswego, attended to his business, and from there he went directly to Independence, not passing the Bender House on the return trip. When he arrived at Independence he learned of the disappearance of Doctor York. He then told of their dinner at the Bender House.

Search for Doctor York Begins.

Several days elapsed. Doctor York did not arrive at home, and nothing had been heard from him. Colonel York started out from Fort Scott in a search for him. He followed the trail of Doctor York from that place with the tenacity and skill of an Indian scout. He learned that the doctor had remained all night at Osage Mission, left there in early morning on his journey, had been seen on the road some miles west of Parsons only a few miles east of the Bender House, had there talked with acquaintances and told them that he would stop at the Bender House for dinner.

Colonel York made most careful inquiry as he went along the road. He looked in every direction and manner possible to discover if he could learn something of Doctor York or get some

trace of the horse, saddle, blanket, bridle and other property which the Doctor had with him. Spots fit for ambush were carefully probed foot by foot, lonely places were searched and streams dragged. Not a vestige of anything was discovered and not a shadow of evidence was found to show the fate of the doctor. Thus Colonel York went through to Independence where he first heard the rumors about the Bender incidents.

At once he made plans for a thorough return search and was joined by some men from Independence. At Cherryvale, C. W. Booth and others joined the party, making in all about twelve men. The rumors of the events which had taken place at the Bender House were fully discussed by these men, including the adventure of Mr. Stephenson and Judge Webb. The party decided to go straight to the Bender place and institute a search. As they neared the Bender House they saw a man sitting by the roadside reading a Bible. One of the party recognized that man as John Bender, Jr. Some one in the party made inquiries about Doctor York, in answer to which John, Jr., informed them that he had been attacked by bandits along the creek and he believed the doctor had fallen a victim to those same outlaws. The party, led by Colonel York, rode on to the Bender House, which was the last place that Doctor York was known to have been alive.

As the party rode up to the door, in front of the house, old Mrs. Bender came and stood in the doorway, saying in German, that it was "too bad a peaceable family must be disturbed by such a crowd of men." Kate was standing just inside the house, near the old lady, and the old man Bender stood not far from Kate. John, Jr., had walked along past the stable and came up near the door, and stood outside close to old Mrs. Bender.

In answer to Colonel York's inquiries about

Doctor York having been there, Kate said that she served him with dinner and that he had gone on his way after dinner. John Bender, Jr., again said that he believed that Doctor York had been foully dealt with on Drum Creek, where he had been attacked.

One of the men in Colonel York's party was inclined to Spiritualism and knew that Kate claimed to be a medium. He requested Kate to make an inquiry and ascertain the whereabouts of Doctor York. Kate at once went into a trance, but soon revived and said that the spirits refused to answer her, because there were several unbelievers present. Kate told this man that if he would come alone in five days she would tell him personally where the doctor could be found. He replied to her that he would be there.

Drum Creek Searched.

Old man Bender and John, Jr., proposed to accompany the party to Drum Creek and help them search for Doctor York, and this proposition was acceded to by Colonel York and the searching party. Both of the Bender men went with the party and remained all day, helped drag the creek, and make search for the body of Doctor York. John, Jr., pointed to a supposed human grave, but when it was opened the remains of a hog were found. Again he said that he had been shot at several times along there, and pointed to many bullet holes in the trees to verify his statement.

This was on Thursday, April 24, 1873.

Suspicion Allayed.

The answer given by Kate Bender when questioned at the house, the readiness with which both of the Benders went along and aided in the search on Drum Creek, together with the arrangement between Kate and the Spiritualist of the party

for him to go back to the Bender House and she would tell him where Doctor York could be found, allayed all suspicion at that time, and Colonel York, with this first searching party, leaving Drum Creek and old man and John Bender, Jr., returned to Cherryvale and Independence, going away from the scene of the Bender crimes, with suspicion allayed and knowledge deferred, to return again in eleven days, only with a much larger party of searchers, to then reveal what had transpired there and arouse the people to investigation and discovery, the horridness of which has never been equalled in a civilized community.

1 CHAPTER VIII.

No Suspicion, No Knowledge of Crimes Committed.

The four members of the Bender family had made their home in that house for two years. Many neighbors were going to and from that house, others passing and stopping to get water and buy goods, and many travelers took meals and lodging who did go away.

During most of that time, if not all of it, crimes were committed by the Benders. The neighbors not only had no knowledge of the deeds committed, but did not even suspect the Benders of the foul crimes, until Colonel York and the party came as searchers for absent ones, and made the inquiries which Kate and John, Jr., met in such a manner that it allayed all suspicion, even of the party of searchers.

Another Searching Party Organized

Colonel York was determined to find his brother or secure evidence as to what had become of him. But, what should be done?

Everybody was now aroused by the disappearance of Doctor York. The discussion of the rumors afloat about the suspicious incidents and events which had occurred at the Bender House were rife.

Between twenty-five and thirty determined men from Independence, Cherryvale, and the country around, joined Colonel York, all well armed and ready to go with him for a thorough search. Among the men who joined that party were C. W. Booth, of Cherryvale; Colonel Frank Triplett and his brother, the colonel was visiting his brother, who was then living on a claim in Montgomery County, and they both joined the searching party with Colonel York; Jake Herberger, George Evans Downer and L. T. Stephenson. Both of the last-named men were members of the Vigilance Committee, and they lived at Independence. In the party were several Civil War veterans, who were settlers on claims in that new country.

After a full discussion of the many rumors about the Bender House, it was decided to go directly to that place and make a thorough investigation. Just eleven days after he had been there with the first party, Colonel York returned to the Bender House accompanied by these men. It was Monday, May 5, 1873, when this party reached the Bender House, where they found several of the neighbors of the Benders engaged in searching the house, and later several other neighbors joined them. Among the neighbors present when Colonel York and party arrived, were Silas Toles, Rudolph Brockmann, J. J. Johns, and Leroy F. Dick.

CHAPTER IX.

The Bender Flight Discovered.

Silas Toles, one of the neighbors of the Benders, with his younger brother, were the first to discover that the Benders had left.

On Sunday morning, May 4, 1873, about eight o'clock, they were passing the Bender place, when they heard the plaintive bawl of a hungry calf in its pen, while just outside stood its mother, with swollen and distended udder, lowing piteously in answer to the calf. Evidently she was in great agony from want of attention. Thinking that the family must be ill, Silas Toles went to the house to offer their services in caring for things about the place. He rapped on the door but received no answer. He peered in at a window and beheld a scene of confusion, the evidence of a hurried departure. They at once turned the cow and calf together and hurried away to inform other neighbors and secure assistance to make an investigation.

On Monday morning, May 5, Toles induced two other neighbors to go along with him, and together they went to the Bender House and broke open the door. They found things in a chaotic condition. Clothing of all kinds belonging to both sexes, with babies' garments and expensive articles of wearing apparel for both women and men were scattered about the rooms. Household utensils littered the floor. Lying about was a considerable quantity of manuscript containing Kate Bender's lectures.

Bender Place Searched.

While these neighbors were examining the Bender House and its contents, Colonel York with the second searching party came and joined in the examination of what remained after the Benders

had taken flight. All movable things were taken out of the house and piled on the ground some distance away. The house was then carefully scrutinized, including the partition of studding with the curtain fastened on them.

The trap door was most carefully examined, and when it was lifted the men looked through the opening beneath and saw the cellar. They saw its gloomy, forbidding outlines, cavernous and uninviting. A light was brought and men descended into that abyss, shaped like a well, more than six feet in diameter and fully six feet deep. They found damp looking spots in the bottom, which upon careful examination were pronounced to be human blood. From this cellar they followed a narrow passage, just wide enough to permit a man to go along it under the rear room of the house and came to the outside towards the garden and little orchard.

These men moved about cautiously, carefully looking over things, yet entertaining no suspicion of the true state of affairs. The search was continued in and about the house and cellar for more than an hour, but nothing was discovered which was evidence of the commission of any crime.

The Garden and Orchard.

Back of the house running parallel with the road were several rows of corn fringed with high weeds. Beyond these rows of corn was a small garden and little orchard of young trees. The ground was freshly plowed and nicely harrowed, making it look fresh and clean.

It will be readily observed that this whole arrangement including that trap door, cellar and narrow passage from under the house towards the garden was carefully planned to facilitate and conceal crime. It was also afterwards discovered that every particle of subsoil that was removed

from the garden and orchard to make the holes in which the victims were laid had been taken to the stable lot and carefully covered with manure.

Colonel York and several of the men were outside of the house and in full view of the garden and orchard. Suddenly the Colonel exclaimed, "Boys, I see graves yonder in the orchard." The men laughingly answered him that he had "graves on the brain." But he insisted that he saw graves and pointed to what he thought was a grave. Finally, after some looking about them, other men could see a number of depressions shaped like graves in the freshly plowed and harrowed ground.

Discovery.

Drawing the ramrod from his musket, Colonel York thrust it into the first depression and drew it out. It showed human hair on the end. He pushed the ramrod into the second depression, drew it out and held it up to their view displaying a fragment of clothing on the end. The wildest excitement prevailed among the men gathered about him, and all thought of the escape of the murderers was for the moment entirely forgotten.

Spades and Shovels

Men wildly rushed about looking for spades or shovels. Finding them, they worked in turns with feverish energy and anxiety to uncover that first depression and discover if it were in fact a grave. They dug to the depth of five feet and discovered the body of a man practically nude. It was lying face down and they gently dug around it, tenderly lifted it out with trembling hands and laid it on the ground with the face up that it might be seen by all present.

One single glance into that ghostly face and men cried out with expressions of great horror:

"It Is Doctor York!"

All of the depressions were then rapidly opened by those excited men and each proved to be the grave of a human being. When all were opened and the work finished there were eleven human bodies laid out upon the place. Nine of those bodies were of men, one was that of a young woman and the other was that of a little girl with its long locks of golden hair. Men wept aloud when the body of that little girl was by gentle hands tenderly lifted up from its grave and laid before the view of that crowd of strong men, all of whom instinctively uncovered their heads, realizing that it was an innocent little girl that they beheld.

Voices of Vengeance.

With hands uplifted towards Heaven, terrible vows of vengeance were taken by those men against the murderers.

The body of the young woman was that of a very handsome girl between twenty and twenty-two years of age. Who she was, or where she came from was a mystery to all of those present at that time, and it remains a mystery unsolved to this day. Her description was widely published at that time and every means used to make known the fact of finding her remains, but her body was never identified and no one has ever been found who could give any information about her.

Each body removed from those holes was practically nude. Doctor York's right temple had been crushed by a blow from some blunt instrument. Each of those bodies, except that of the little girl, had the skull crushed in one or more places by a blow from some blunt instrument.

In the rear room of the house was found three hammers of different sizes. Upon examination

of these hammers the men present concluded that all of the blows had been struck with these hammers.

Little Girl Smothered.

Every indication about the remains of the little girl was that she had been smothered. Her body was found in the same hole with that of her father and was lying under his body, so it was the opinion of those present that it must have been put in there first.

Buried Alice.

From the horribly distorted appearance of the features, limbs and body of that little girl, many of those present insisted that it was clearly evident that she had been put into that hole while she was yet alive.

House Pulled Down

Every corner and thing about that place was thoroughly searched and it was completely torn up. The house was pulled from its foundation. Afterwards it was torn in pieces and carried away as souvenirs by the curious who visited the place.

CHAPTER X.

German Neighbor.

Rudolph Brockmann lived on the claim which cornered on the southwest with the Bender claim. He was a German. When the Benders first came to make a location they stopped on his claim for ten days. Brockmann frequently went to the Bender store to buy goods while they lived there. The Benders had been seen to visit Brockmann's place, too. Brockmann talked with the Benders

in German. Brockmann came to the Bender House that Monday morning, as did other neighbors, to make an investigation. He aided Colonel York and party to search the Bender House and premises. He worked as hard and earnestly with spade and shovel as did any of the party in opening those holes containing bodies.

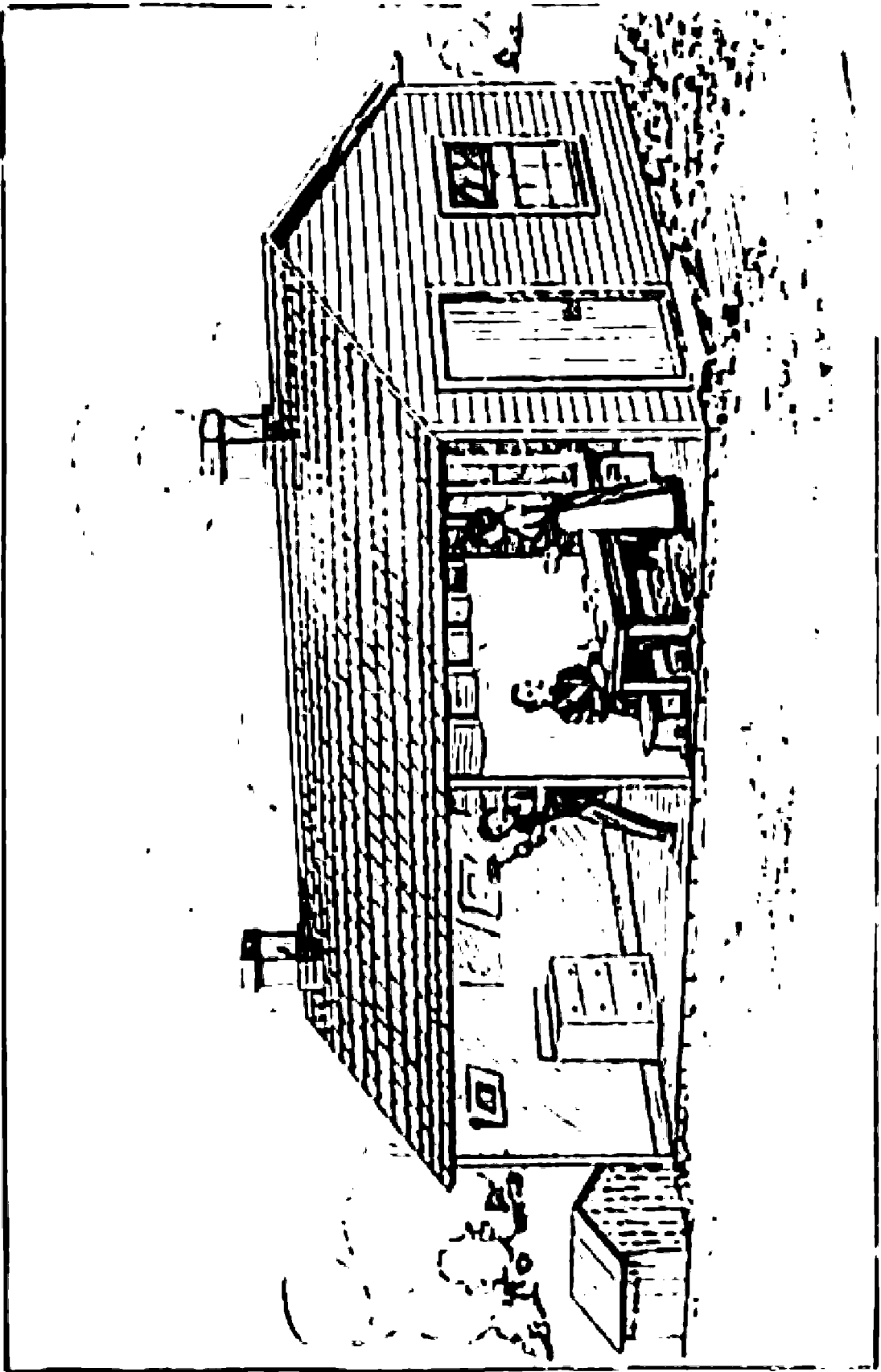
Some one in that party intimated that Brockman knew about the commission of the crimes by the Benders. He was questioned very closely but denied all knowledge of their crimes. He admitted that he had been at the Bender store, had bought goods there, that they did stop on his claim at first and that some of the Benders had visited at his house since. That he always talked in German language with them.

Many of the men in that party were much excited by the day's events and were justly aroused and indignant. They had vowed vengeance on the murderers and they thirsted to avenge the foul murders that had just been discovered.

Some one made the suggestion that Brockmann was an accomplice of the Benders. Suspicion at once seized the minds of that body of men.

A Rope!

Some one cried out, "Get a rope!" Excitement was intense. A rope was brought, a noose made on one end of it and that was put around the neck of Brockmann. The other end was put over a support and several men caught hold of the rope and pulled Brockmann up in the air. He was held there awhile and then let down to confess his guilt. He still protested that he was innocent and knew nothing to tell. He was drawn up and let down several times to make him tell of his supposed complicity in the Bender crimes. To the end he denied all knowledge and vigorously protested that he was innocent. That "hanging" was repeated



several times until Brockmann was more dead than alive, when cooler heads prevailed, and he was set free and permitted to go to his home.

Leroy F. Dick went to the Bender place that Monday while the search was in progress, but he did not remain all day. He made a hasty disposal of the property left behind by the Benders, retaining three hammers and a clock as evidence. The hammers were a six-pound collier, an Alsatian shoe hammer and a common small hammer.

Bodies of Elenen Victims.

The bodies of those victims which were exhumed and identified were: Dr. William H. York, Benjamin M. Brown, John Greary, William F. McCrotty, H. T. McKigzie, George Brown, M. R. Boyle and G. W. Longehr and his little daughter.

Those which were not identified were the bodies of one man and that of the unknown young woman.

Other bodies and some skeletons were afterwards found along the bottom, in the timber, and one some distance from the Bender House, near Cherryvale, in a creek or pond. All of these were very probably victims of the Benders, and from these facts it is known that they did not put all of their victims in the depressions discovered by the party with Colonel York, back of the Bender House in the garden and orchard.

CHAPTER XI.

How The Benders Did It.

When the meal was ready the guest was given a seat on that bench between the table and the curtain. When seated on the bench the back of the person would be toward the partition close to the curtain.

Behind this curtain the "she-devil" Kate, or one of the other members of the family dominated by the evil mind of Kate, would steal quietly and take a standing position, hammer in hand, close to the curtain, and with the foot push the curtain along the floor towards the bench until the outlines of the form of the person seated on the bench were clearly shown. The hammer was held in the hands uplifted, ready to strike the blow at the proper moment. As soon as the outlines of the head were seen, the blow was struck. This blow crushed the skull and the stunned victim fell on the floor.

The trap door was very near, just to the right, inside the opening between the studding of the partition for a doorway. The body was at once dragged to this trap door, it was quickly raised, the head of the victim was placed so as to hang into the opening over the cellar beneath. The throat was cut with a large knife, the body was dropped into the cellar and the trap door quickly closed. In a moment nothing remained visible to tell the tale of the horrible deed which had thus been committed. All evidence of what had been done had disappeared into the cellar and with the trap door closed, things moved along as though nothing had transpired in that room and the Benders were ready to receive and entertain the next guest. At night the body was robbed of money, clothing and valuables. Under cover of darkness the body was taken from the cellar along that narrow passage to the outside and buried in the garden and orchard.

When Mr. Corlew was informed that a hog had fallen into that cellar, it was probably one of the Bender victims, a human being and not a hog, that had just been thrown through that trap door into the cellar. What he heard was the dying moans and struggles of a fellow being. It is not to be wondered that old man Bender so fiercely said

it was none of Mr. Corlew's business, and for him to "move on."

Date The Benders Fled.

Colonel York was at the Bender House with the first party on the 24th day of April, 1873. In answer to the request of the Spiritualist of the party, Kate promised that if he would come alone in five days she would tell him where Doctor York could be found. That would be the 29th of April.

Kate expected to answer that inquiry to that inquirer alone, and she waited expectantly for that opportunity. She looked for him to come, and that alone. The Benders all waited his coming undoubtedly certain of another victim. He did not return and none of the party came again. When he did not come for that answer, and none of that party returned to make any further inquiry, it was ominous. The Benders then took alarm and they hastily prepared for flight. The condition of the house disclosed the fact of the hasty departure.

It was on Sunday morning, the 4th of May that Silas Toles, with his brother, discovered that the Benders had gone. From the condition of the cow and calf it was evident that they had been gone some three or four days, but not more than that. The Benders did not leave before the 29th of April, the day that they expected that Spiritualist to come alone to get the answer from Kate to his inquiry as to the whereabouts of Doctor York. It is evident that they had been gone three or four days only when Mr. Toles found the condition of the cow and calf to be so pitiful and relieved it and went to get neighbors to investigate.

The Benders fled the night of the 29th of April, 1873.

The Direction the Benders Fled.

The Benders knew that country well. They also knew that Colonel York had been at Parsons making inquiries in his search for Doctor York; they knew that at Cherryvale and Independence there were many people who would recognize some of the Benders if they saw them; they would expect that Colonel York had reported the result of the visit to the Bender House and the search on Drum Creek. To go towards either Parsons, Cherryvale or Independence, certain recognition awaited them.

To the South lay the high rolling prairie and mounds about Mound Valley from which a long view could be had, so that would not be a safe direction to travel. North, the timber bordered the streams as far as Thayer, Kansas. The country in that direction was sparsely settled and the roads were but little traveled. In that direction the Benders could travel at night and could easily disappear in the friendly growth of underbrush. They would meet but few persons, if any. That was the best course for their flight.

How The Benders Went Away.

The Benders drove a team attached to a two-horse farm wagon, which they left in the timber about one mile from Thayer. This is evidence of the fact that they left Bender House by driving a team away. The horses had been taken from the wagon and tied with ropes about their necks to the sides of the wagon bed. When found the horses had eaten large notches in the sides of the wagon-bed and were almost famished with hunger and thirst.

Where The Benders Went.

The Benders bought railroad tickets from Thayer to Humboldt, Kansas, a small town about

twenty-five miles north on the M. K. & T. railway. That road runs south from Humboldt to Vinita, Indian Territory, and on through to Denison, Texas. The Benders traveled from Humboldt on that railroad to the South and have never been seen since.

CHAPTER XII

Band of Desperadoes.

Col. Frank Triplett and several others who were present at the Bender House with Colonel York, after careful investigation were of the opinion that the Benders were members of a large and well organized gang of desperadoes, who were at that time operating extensively along the Southern Kansas border, throughout the Indian Territory, and away to the West into the Texas Panhandle and No-Man's-Land.

There was not one of the victims of the Benders but what went there with either a team and wagon, a horse and saddle and other personal property and effects, besides having money with them. None of the horses, wagons, harness, saddles or any of their equipment, nor any of the personal property, was ever disposed of by any of the Benders in that locality, nor was any of it ever heard of afterwards. No one knew of any member of the Bender family being away from the Bender House for any great length of time.

Confederates.

This was conclusive evidence to many that confederates of the Benders ran off all of the stock at once and disposed of it in some place safe from discovery. It was doubtless some of these con-

federates who made possible the escape of the Benders.

Another Abandoned Team.

About the time of the flight of the Benders from Bender House, the people at **New Chicago, now Chanute, Kansas**, then a little town, some twenty miles north of the Bender place, discovered a team of horses attached to a wagon which had been tied in one of the streets for two days without food or attention. That team and wagon was never claimed by anyone. It was at once supposed that this was the team by which the Benders made their escape. **This fact was never established**, however, though believed by some, but flatly contradicted by the fact of the abandoned team near Thayer some miles south. The shrewdest heads throughout that part of the country believed that team was driven to Chanute by confederates and left there merely as a blind to throw pursurers off the real trail of the Benders and let them escape.

Posse Organized.

Colonel York took charge of the remains of Doctor York and gave them proper care and interment, while others looked after the remains of the other victims which had been exhumed from the Bender graveyard.

Many of the others in that party at the Bender place who were brave, determined men, lost no time that day, but organized a posse to pursue and, if possible, capture the fleeing Benders. This posse, after it was organized, was divided into four parties, each of which at once started in a different direction in pursuit. Among the members were old veterans who had only a few years before been seasoned by service in the Union army. Naturally they "fall in" and unite for service when duty calls to courageous and hard work of the

character required to pursue violators of the law, especially of the class to which the Benders most clearly belonged. Seven of those old veterans, good and brave men, tried and true, formed one of the four divisions of that posse and they chose for the leader a former Captain of a Company in one of the best Regiments and most serviceable, of a leading Western State.

The Pursuit of the Benders.

The division of the posse led by the Captain started in a Southerly direction, headed for the Indian Territory line, as they believed that was the most probable course the Benders would take to get where they would be safe and find shelter among other outlaws. Within forty-eight hours that posse was "hot on the trail" of the Benders. A second division of the posse went towards Thayer, Kansas. A third division went towards Cherryvale and Independence, a fourth division went toward Parsons, and from there to Oswego. The pursuit of the Benders was begun in that manner from the Bender place that day.

The Captain and his men followed the trail into the Indian Territory for some distance and returned in a few days from pursuit. They said they had given up the hunt, and they at once dropped the subject of the Benders or their pursuit. After their return the whereabouts of the Benders never seemed of any interest nor did it seem to bother any of that group of men.

It was a surprise to their friends and acquaintances how quickly they dropped the whole matter and would not talk about it.

When they returned it was generally understood somehow that they had attended while gone a "lynching bee" somewhere in the Territory. That they disposed of the entire Bender

family has always been suspected by many and and fully believed by some.

Not one single member of the Captain's men has ever peached.

Each of the other divisions of the posse skirmished around all over that part of the country in the direction they first started and the members returned to their homes believing that the Benders escaped.

Since that time there have been numerous Benders located in various parts of the country, but none of them have been fully and satisfactorily identified as members of that notorious family.

Governor's Proclamation.

Under date of May 17, 1873, Governor Osborn of Kansas, issued a proclamation, which read, in part, as follows:

Whereas: Several atrocious murders have been recently committed in Labette County, Kansas, under circumstances which fastens beyond doubt the commission of these crimes upon a family known as the Bender Family.

The reward was offered of Five Hundred Dollars for the capture and delivery of either of the parties to the Sheriff of Labette County, and it also contained the following:

Description of the Benders.

John Bender, about sixty years of age, five feet, eight or nine inches in height, German, speaks but little English, dark complexion, no whiskers and sparely built.

Mrs. Bender, about fifty years of age, rather heavy set, blue eyes, brown hair, German, speaks broken English.

John Bender, Jr., *alias* John Gebhardt, five feet, eight or nine inches in height, slightly built, grey eyes, with brownish tint, brown hair, light mustache, no whiskers, about twenty-seven years of age, speaks English with German accent.

Kate Bender, about twenty-four years of age, dark hair

and eyes, good looking, well formed, rather bold in appearance, fluent talker, speaks English with very little German accent.

All trace of the Benders was lost. The entire family had disappeared. Many believed that they were all exterminated. Others denied that they were dead. What had become of them was an unanswered question.

More than twelve years passed and the question whether the Benders were yet living was not answered. Finally a supposed clew was given by a woman, who had obtained her information from a statement made to her by another woman, at the time washing for the informant. This led to the positive declaration that the Benders were alive and then living in the State of Michigan.

CHAPTER XIII.

The Washerwoman.

A woman, who had lost her husband a short time before, lived at McPherson, Kansas, in the year 1886. She was compelled to do washing, to earn the living for herself and two little girls. She washed for many people at their homes. She had formerly lived in Michigan and came from that State to McPherson in the year 1884. The name of this washerwoman was Sarah Eliza Davis.

A Dream Interpreted.

Among those for whom this woman did washing at their homes was Mrs. Frances McCann, the wife of a hardware merchant of McPherson.

Mrs. McCann had a strange dream during the time that Mrs. Davis was doing washing at her



Mrs. Frances McCann

house. That dream revealed to Mrs. McCann the murder of an old man by an old woman and her daughter. Mrs. McCann told that dream to Mrs. Davis and informed her that she was very much troubled over it. Mrs. Davis interpreted it for her:

There was a murder of an old man. The murdered man was John W. Sanford. It was committed at Windsor, Canada. It was committed by the mother of Mrs. Davis and an elder daughter, who was the wife of the murdered man. It was done when Mrs. Davis was a little girl. Mrs. McCann was the little daughter of that murdered man.

This was the interpretation of that dream by Mrs. Davis, and she then told Mrs. McCann that the wife of the murdered Sanford afterwards married Stokes, of New York, who killed Fisk. This was the story told Mrs. McCann by her washerwoman.

Parent Discovered.

Mrs. McCann did not know her own parentage. She was so impressed with the interpretation of her dream by Mrs. Davis that she made the journey to Kentucky, where she visited the orphan asylum in which she was reared. There she discovered that she had been received at that institution as Frances Sanford.

Her next journey was to Windsor, Canada, where she learned that a man by the name of John W. Sanford had been murdered there many years before.

The Woman Detective.

Mrs. McCann returned to McPherson determined to prosecute her search for the murderer of her father and bring that murderer to a conviction and punishment. She at once began her

work as a detective by shadowing Sarah Eliza Davis, her own washerwoman.

Mrs. Davis being confined at home by sickness Mrs. McCann went to the home of Mrs. Davis to see her and sympathise with her. Mrs. Davis was an ignorant, superstitious woman and believed that Mrs. McCann was a Spiritualist having supernatural powers. Mrs. McCann expressed great sympathy for Mrs. Davis and for several weeks during her sickness made daily visits to see Mrs. Davis, saying that she was doing so "for sweet charity's sake."

She first placed a magnet in Mrs. Davis' hand. The effect was mesmeric and she had Mrs. Davis mesmerized. Then she showed Mrs. Davis an instrument which she said would write the maiden name and birth-place of Mrs. Davis, if she would just hold her hand upon it. Mrs. Davis placed her hand upon it. The instrument wrote: "Sarah Eliza Mark, Cattaraugus County, New York," the maiden name and place of birth of Mrs. Davis. What it meant, Mrs. Davis did not know. It was a deep mystery to her.

From that moment Mrs. McCann could do anything she wished to do with Mrs. Davis. She was absolutely under her control. She would ask a question and Mrs. Davis would answer it just as Mrs. McCann desired her to answer it.

Bender Idea.

Mrs. McCann said that there was one thing which Mrs. Davis had declared that she would never tell to Mrs. McCann. That one thing Mrs. McCann was determined to make Mrs. Davis tell her. She kept thinking about that matter and how to get Mrs. Davis to tell it to her. Suddenly, like a flash of bright light, it came to her mind that Mrs. Davis and her mother, without any doubt, were

The Bender Women.

She asked Mrs. Davis the point blank question, if her mother was Mrs. Bender? Mrs. Davis became very indignant and told Mrs. McCann to never again refer to that subject. On another occasion while Mrs. Davis was busy over the washtub, Mrs. McCann in a careless, off-hand manner, asked Mrs. Davis how many there were in the Bender family.

Mrs. Davis replied, "Well, let me see. 'There was Mother———.'" She stopped for an instant, and then throwing up her hands, exclaimed, "Now you have my secret! I have told you all." She then warned Mrs. McCann to never mention that matter again, either to her or to any one else.

In many other conversations after that Mrs. Davis told of murders committed by her mother and family, and left the impression stronger each time that they were indeed the Benders. Mrs. McCann believed that the rehearsing of the murders was for the sole purpose of convincing her that she was in danger from that family.

That dream, its interpretation and the conversations with Mrs. Davis, as well as the confession which had followed in consecutive order, formed the groundwork of all subsequent investigations, and the result of the whole was the arrest of Mrs. Davis and her mother in Michigan as the Bender women.

CHAPTER XIV.

Intuition-Guided.

Mrs. McCann claimed that she was guided in all of her work solely by intuition, or impressions made upon her mind by some mysterious influence.

She was convinced that Mrs. Davis' statement that her mother had murdered the father of Mrs. McCann was true, and she was determined to establish that fact by evidence and convict and punish the murderer.

The State Would Prosecute.

After getting the confession from Mrs. Davis that her mother was old Mrs. Bender, it was clear to Mrs. McCann that the State of Kansas would prosecute the Benders if located and identified.

If she located and identified these as the Bender women, she would secure the reward which she had been informed was outstanding for them, and she would also obtain a world-wide reputation as a woman detective. Perchance, she would also punish the murderers of her own father, which she so much desired to do.

Mrs. Davis Leaves Kansas.

A short time after the disclosure to Mrs. McCann that her mother was old Mrs. Bender, the washerwoman left McPherson and with her little children moved back to Michigan.

Mrs. McCann Goes to Michigan.

Soon after Mrs. Davis left, Mrs. McCann followed her to Michigan and there constantly shadowed her. Upon her arrival in Michigan, she located the mother of Mrs. Davis who was living at Niles and was known there as Mrs. Almira Griffith. She also learned that these women bore a bad reputation and were said among officers to belong to the criminal classes. To keep a close watch on every movement by Mrs. Davis and her mother, Mrs. McCann would often spend the whole night in the outbuildings upon the premises where they were living.

Mrs. McCann induced the officers at Niles,

Michigan, during the summer of 1889, to advise Mr. John H. Morrison, the Prosecuting Attorney of Labette County, Kansas, living at Oswego, that the two women, Mrs. Davis and Mrs. Griffith, were known to be bad criminals, and that the authorities believed that these women were old Mrs. Bender and her daughter, Kate, members of that notorious family, and formerly of Labette County. After quite a correspondence with the Michigan officers, Mr. Morrison decided to submit the correspondence on the subject to the County Commissioners of Labette County, which he did.

Leroy F. Dick Goes to Michigan.

The County Commissioners carefully considered the matter when submitted to them by Mr. Morrison, and decided to send **Leroy F. Dick**, a former neighbor of the Benders, well acquainted with them when they were living in Labette County, and who took charge and disposed of the property left behind by the Benders, to Michigan to investigate. Mr. Dick had retained the hammers and clock, left by the Benders, as evidence. He had been Sheriff of Labette County and was at this time living in Parsons.

The County Commissioners instructed Mr. Dick to go to Niles, Michigan, and carefully investigate the whole matter, identify the Benders if they were found, and to ascertain if these suspected women were really the Bender women. Mr. Dick had often met both Mrs. Bender and Kate when they lived on the Bender place and would know them if he met them anywhere. He was instructed to go wherever necessary, get all the facts possible and to locate the Benders if they could be found.

Mr. Dick so authorized by the County Commissioners made the trip. Afterwards he re-



Mrs. (Monroe) Griffith

ported that in making this investigation he traveled all over the State of Michigan, then went to Indiana, Ohio, Pennsylvania, New York and Canada. He said that in making investigation he traveled more than eleven thousand miles.

The Benders Found.

Mr. Dick found the old woman Bender, Kate Bender, and two other daughters of old Mrs. Bender, but of the old man Bender and John, Jr., he could not get any trace at all.

He saw and talked with Mrs. Griffith and Mrs. Davis while in Michigan, and he was convinced that these women were the old woman Bender and Kate Bender, whom he knew so well in Labette County, when the Bender family were keeping the Bender House. He conferred with Mrs. McCann and the officials, and he was in daily conference with Mrs. McCann, to determine what was best to be done to prevent these noted criminals, the Bender women, from making their escape, before he could return to Kansas, make his report, secure requisitions necessary to take them to Kansas as the Benders, and again get to Michigan to take charge of these women.

To prevent escape it was decided that Mrs. Griffith and Mrs. Davis must be held by some court process until requisition papers arrived. One or both of them must be arrested and either placed in jail, or be put under bond and the case must be held along until Mr. Dick could go to Kansas and get back with the necessary papers. Mrs. Griffith and one of her daughters were very much incensed and angry towards Mrs. Davis for having told Mrs. McCann that Mrs. Griffith was old Mrs. Bender. That made it easy for the officials at Niles to induce Mrs. Griffith to file a charge of larceny against her daughter, Mrs. Davis. Mrs. Davis had lately moved to

Lansing where she had secured work. That charge was filled at Niles, a warrant was issued and the Sheriff of Berrien County went to Lansing with that warrant, arrested Mrs. Davis and brought her back to Niles as a prisoner where she was arraigned in Court charged with larceny.

After the arraignment and before the preliminary hearing, Mrs. Davis and her mother, Mrs. Griffith became reconciled over their differences and they started on foot together to make their escape in the night time. They were both apprehended, brought back and held.

CHAPTER XV.

Mrs. McCann Keeps Watch.

To be certain that Mrs. Davis and her mother, Mrs. Griffith, did not escape until the papers arrived to take them to Kansas, Mrs. McCann remained in Michigan watching every move they made and waiting for Mr. Dick to come from Kansas with requisition papers.

Dick Returns to Kansas.

In the meantime Mr. Dick went to Oswego and made his report. In his opinion, they were, beyond doubt, the guilty parties. Mrs. Griffith was old Mrs. Bender and Mrs. Davis was Kate Bender. He knew them when they lived in the Bender House in Labette County, he knew them now, and was sure they were the parties.

Upon the strength of Mr. Dick's positive identification, the papers for requisition were prepared, submitted to the Governor of Kansas, by him approved and signed, appointing Leroy F. Dick the agent of the State of Kansas to receive the prisoners from the officials of the State of Michi-

gan and bring them to Kansas as the Bender women. With these papers Mr. Dick again traveled to Michigan, presented them to the Governor of that State and they were approved. He went to Niles where the officials delivered to him Mrs. Griffith as old Mrs. Bender and Mrs. Davis as Kate Bender.

While Mr. Dick was gone to Kansas to get the papers, the officials in Michigan had played the usual game of delay in court proceedings to hold Mrs. Davis and Mrs. Griffith and prevent their escape.

The Larceny Case.

The case against Mrs. Davis on the larceny charge was pending in Justice court and had been continued from time to time with no effort really made to complete the hearing, until the people were wearied with the talk about the case, completely disgusted and were censuring the officials for so much delay.

On the 22nd day of October, 1889, the preliminary in that case was had before a Justice in Niles, Michigan. Mr. Dick had returned from Kansas and both he and Mrs. McCann were present and heard the testimony in the case. Mrs. Davis, in her testimony on her own behalf, stated that she had been threatened by the son-in-law of Mrs. Griffith, and by the Prosecuting Attorney Bridgeman with the penitentiary. She stated her unwillingness to give her testimony, as it would be against her mother, Mrs. Griffith, and would "send her to the pen." She then proceeded to tell a story of much length in which she said that she saw her mother murder an infant, the illegitimate child of another daughter, when Mrs. Davis was a little girl, in 1859; that her mother killed an old woman with an ax-helve and disposed of the body by weighting it and sinking it in a slough,

taking the witness, then a little girl, with her at night; that her mother had been arrested, tried, convicted, sentenced and committed to the Detroit House of Correction and had served a term there for manslaughter.

She stated that she had received letters from her mother written from Kansas, Colorado and Texas from 1872 to 1874. That those letters had lately been stolen from witness; that Elizabeth, an older daughter of Mrs. Griffith, married a Mr. Sanford. He was murdered by that daughter and her mother, Mrs. Griffith, at Windsor, Canada, when witness was a little girl, eight or nine years old. Witness described the killing and her running away. That the same daughter, Elizabeth, married Stokes, the man who killed Fisk in New York; that her mother told her of the killing of her husband, Griffith, and that his body was thrown into a well.

Upon the uncorroborated story of Mrs. Davis, after she gave that testimony, which shows how unreliable were statements made by her, and the uncertain evidence of identity by persons who had not seen old Mrs. Bender for more than sixteen years, it was decided that Mrs. Almira Griffith was really old Mrs. Bender and she must be taken to Kansas to be tried for the murder of Dr. William H. York and other victims of that notorious Bender family.

But more strange than this, and without any evidence except the fact that she was the daughter of Mrs. Griffith, it was determined that Sarah Eliza Davis, who had resided in Kansas several years of late, and had told Mrs. McCann the story upon which the Bender Idea had developed, was the veritable Kate Bender, Jr.; that she must be taken to Kansas with her mother, also charged with the murder of Dr. York and the other Bender victims.

Leroy F. Dick was present and heard all the

testimony in that larceny case as given by Mrs. Griffith, Mrs. Davis and others. He saw and talked with both of these women in Michigan, heard their numerous stories, talked with two other daughters of Mrs. Griffith, and with other people who had known both of these women since the early sixties. He was there as the representative of Labette County, Kansas, with authority to fully investigate and determine whether they were in fact the Bender women. He knew the Benders when he lived near them, and he should have known them when he saw them in Michigan.

It was decided to take these two women to Oswego, Kansas, as the Bender women; separate Mrs. Davis from three little children all dependent on her labor for support, and throw them on the public charge—subjects of charity which they had never been while living with their mother. But more sad than all of this, the youngest child of Mrs. Davis was nursing, and if the mother went to jail, that child must go, too, and go it did with its mother to Oswego, Kansas, and there remained in "durance vile" until its mother was discharged.

The Bender Women in Jail.

Leroy F. Dick, accompanied by Mrs. McCann, took those women from Niles, Michigan, to Oswego charged with the murder of Dr. William H. York, at the Bender House, in Labette County, Kansas. With its mother he took that nursing child along to a prison. He delivered them to the Sheriff, W. P. Wilson, at Oswego, on the 1st day of November, 1889, thereby performing his part in that sad drama, as fully and successfully as he possibly could.

News of the apprehension of such noted criminals was widely published in the newspapers all over the State of Kansas and in the large cities of the West.



Sarah Eliza Davis and Baby

The two women, Mrs. Almira Griffith and Mrs. Sarah Eliza Davis, and the little two-year-old girl languished in "durance vile."

CHAPTER XVI.

The Defendants' Attorneys.

On the second day of November, 1889, Judge H. G. Webb of Parsons, and J. T. James, lately from Minneapolis, Minnesota, became the attorneys for the defense of these two women. The women were far from home, friends and acquaintances; they were without money or ready means to make their defense and they could not pay counsel fees. These two attorneys undertook the defense, well knowing that they would have a long, hard fight and they gave their time, money and legal ability to the service of these defendants.

As lawyers, they were ready and willing to do this work, and thus perform their duty in the defense of the poor, as under the oath taken upon admission to practice, all lawyers are required to do. They trusted in that reward of the future, which will always come to the worthy lawyer, who gains a reputation honorably in the defense of those charged with some great crime, as was that of the Benders.

The Trial of the Alleged Benders.

Under the laws of Kansas, at that time, a preliminary hearing must be given persons charged with the commission of a crime. The hearing of the charge for murder, against these women, as the Benders, was set for Monday, the 18th day of November, 1889, at the hour of 10 o'clock in the forenoon. The specific charge was the murder of Dr. William H. York, on the 5th day of May,

1873, at and within Labette County, Kansas. The Justice record recited that the warrant was returned and filed November, 2, 1889, with Kate Bender, Sr. and Kate Bender, Jr., in court. The hearing was had in the District Court room, in the Court House at Oswego. Justice of the Peace E. D. Kiersey associated with himself for the hearing of this case, Justices C. T. Bridgeman and D. Doyle, under a provision of the Statute of the State of Kansas, which authorized such association to be made, if the Justice considered the case of sufficient importance to require it.

The State was represented by Prosecuting Attorney John. H. Morrison and Judge Frank H. Atchinson. The defense was represented by Judge H. G. Webb and J. T. James.

At 10 o'clock in the forenoon of Monday, the 18th day of November, 1889, the hour set for this hearing, the Court room was filled with a crowded and eager audience, a fair proportion of those present being ladies. The defendants, Mrs. Griffith and Mrs. Davis, with the little girl, were brought into court by Sheriff Wilson and his son, D. H. Wilson, under-sheriff. The defendants took seats as coolly as the most disinterested spectator. After awhile, Mrs. Davis, about whom the little daughter was playing, seemed to become impressed with the seriousness of the charge against her and she shed tears freely. Mrs. Griffith, on the contrary, bore the ordeal with stoic indifference.

That hearing lasted through sessions of two days and evenings. Upon the calling of the case a recess was taken until 1 o'clock in the afternoon.

To accomodate the Attorneys for the State and save the time it would take and the trouble to call witnesses to make the proof of the facts, Judge Webb, of counsel for defense, on behalf of the defendants, admitted that the body of a man,

Identified as that of Dr. William H. York, was found buried on the Bender Place, in Labette County, State of Kansas, on the fifth day of May, 1873, thus waiving the necessity for the State to prove the life and death of Doctor York. With these admissions of record, the only question for the Court to pass upon was the identification of these defendants, Mrs. Almira Griffith as Kate Bender, Sr., and Mrs. Sarah Eliza Davis as Kate Bender, Jr.

Upon request made by Judge Webb, witnesses for the State were called, sworn and excluded from the Court room. Upon a like request by Prosecuting Attorney Morrison the witnesses for the defendants were called, sworn and excluded from the Court room. The reading of the charge against the defendants was waived by Judge Webb, for the defense, and the case proceeded with the introduction of testimony.

The State called as the first witness, C. W. Booth of Cherryvale, Kansas:

Knew the Benders . . . was best acquainted with Kate . . . she worked several weeks as diningroom girl at hotel in Cherryvale during 1871 . . . witness was cook there . . . took Kate to dance at Big Hill in 1872 . . . saw her last time when with Colonel York and party at Bender House in 1873 . . . sufficiently acquainted with Kate to identify her.

Witness' attention was called to Mrs. Davis by Prosecuting Attorney Morrison. He scrutinized her closely, then said, "She bears an awful striking resemblance to Kate Bender." The witness was not able to identify old Mrs. Bender.

The second witness was T. C. Dick of Arcadia, Indiana, about thirty-five miles north of Indianapolis:

Witness lived with his father William Dick, in Labette County during time Benders lived at Bender House . . .

personally acquainted with Bender family . . . frequently at Bender house . . . met Kate at church and Sunday-school . . . knew John, Jr., and Kate well . . . familiar with general form and features of Kate . . . could identify her . . . Leroy F. Dick brother of witness . . . on telegram from him met defendants with him at Indianapolis . . . saw Mrs. Davis step from train at depot . . . said, "She will fill the bill as Kate Bender" . . . from best recollection said "she is Kate Bender" . . . can't identify old Mrs. Bender.

The third witness was John A. Handley of Greenwood County, Kansas:

Freighted from Fort Scott to Independence from 1860 to 1874 . . . knew all of Benders . . . saw Kate and John, Jr., often . . . was at Bender House once a month during those years . . . stopped to get water and buy goods . . . remember distinctly how each looked . . . able to identify them.

When asked to look at the two defendants, he pointed to Mrs. Davis and said:

"That is Kate . . . pointing to Mrs. Griffith, said: "that is old lady Bender." . . . Witness, with his wife and Mr. and Mrs. William Littler, stopped at Bender House in April 1873 to get water . . . asked Kate for bucket . . . she said "You ought to have it" in a very insolent manner . . . from her actions then, and the actions of Mrs. Davis at the trial, witness was able to say that Mrs. Davis was Kate Bender.

The fourth witness was Mrs. Delia Keck:

Lived close to Benders . . . knew old man, John and Kate . . . knew Kate best . . . met her at Sabbath-school and at home of father-in-law of witness . . . saw her often enough to get good impression of her . . . Mrs. Davis' eyes and hair, and high cheek bones resemble strongly those of Kate Bender . . . in witness' judgment she is Kate Bender.

Fifth witness was T. B. Smith:

Mrs. Davis' nose and hair resemble Kate Bender . . . unable to identify Mrs. Bender.

Sixth witness was Rudolph Brockmann of Osage Township, Labette County:

Lived there since 1870 . . . knew Bender family well . . . four members . . . two men and two women . . . old man Bender was six feet high . . . black hair . . . straight broad shoulders . . . about fifty-five years old . . . the old woman had dark hair . . . five feet, six or eight inches tall . . . pretty tall woman . . . medium shouldered . . . walk lively . . . forty to forty-five years old . . . broad head . . . fleshy face . . . Kate had dark hair . . . broad shoulders, a little stooped . . . slight mark or scar under left eye . . . five feet, three or four inches high . . . slower than old lady . . . about eighteen years old when they left . . . not a full girl when they came . . . she talked about supernatural power . . . spiritualism . . . a great deal of talk in neighborhood . . . hair dark as witness' hair . . . very dark . . . full face . . . high cheek bones . . . chin bowed a little over . . . not much . . . big mouth . . . old Mrs. Bender never talked English, that witness heard . . . she talked German to witness . . . Benders came first to witness' place . . . Benders settled on claim north-east . . . were nearest neighbors north-east . . . Hill lived lived north and Frye lived east of witness' place . . . Benders came in Fall of 1870 . . . left Spring 1873 . . . lived as a family on their claim, all together . . . first went southwest of witness place . . . built log house . . . lived in that one winter . . . in Spring moved to the Bender House . . . John and Kate were talked of as brother and sister . . . Benders lived on witness' place ten days when they first came . . . could all talk German language . . . Mrs. Bender was not a Yankee woman.

Judge Webb requested both of the defendants to stand up. He asked the witness, "Are either

of these women the Benders?" Witness said: "They may be, but I will never believe it."

Old Mrs. Bender was a bigger woman than this old lady . . . think Benders came from old country . . . John Jr., might have been born in this country . . . old man Bender said he had lived on the French line and ran a bakery . . . they were not Americans . . . Mrs. Bender was a taller woman than this old lady . . . Mrs. Bender was not so fleshy . . . had higher cheek bones . . . longer face . . . might be mistaken.

The Court took a recess until seven o'clock in the evening. During that recess, those who were so very sure that Mrs. Griffith and Mrs. Davis were the Bender women, were particularly interested in discussing the testimony of Rudolph Brockmann.

With a sneer and an assumed wise look, they attempted to recall those suspicions aroused against Mr. Brockmann by the searching party with Colonel York, at the Bender place, when Mr. Brockmann was repeatedly hanged to make him tell of his supposed complicity in the Bender crimes. By insinuating that he was an accomplice and by numerous innuendoes, it was attempted to revive those suspicions, give them new life and thereby discredit his testimony. Through more than sixteen years, which had elapsed since that eventful day, those suspicions had slumbered.

As a witness in Court, under oath, Mr. Brockmann had told what he knew about the Benders and their doings, just as he did in reply to the inquiries made by the members of that searching party at the Bender place. He testified that he did not believe that the two women under arrest and on trial were the Bender women. Mr. Brockmann had lived on his farm during all these years and nothing had developed to establish any complicity on his part with the Bender crimes, nor to

show that he was not a law abiding citizen. He had been called as a witness by the State, which was sufficient guarantee that he was a truthful and to be believed.

The evening session of the court was commenced promptly at 7 o'clock. The seventh witness was Dr. G. W. Gabriel of Oswego, Kansas:

Forty-seven years of age . . . resided in Labette county since 1871 . . . knew Bender place . . . Bender family composed of old man, old lady, John, Jr., and Kate . . . met all . . . met Mrs. Bender frequently when visiting family that lived near Benders, to treat patients . . . saw Kate at same place a time or two . . . would know them if had met them in this County . . . have seen these defendants in this court room . . . old lady resembles Mrs. Bender . . . she is fleshier and older . . . haven't met Bender women since 1872 or 1873 . . . say there is some resemblance . . . more in old lady than in younger . . . had conversation with Mrs. Bender and Kate . . . heard both talk . . . Mrs. Bender had German accent . . . she was German descent . . . nothing of German accent in voice of Kate . . . heard this old lady defendant talk here to-night . . . she didn't talk as broken as Mrs. Bender . . . only resemblance is in general appearance . . . Mrs. Bender was larger . . . Kate's hair was auburn, neither light nor dark . . . never saw Mrs. Bender except at two houses . . . saw Kate at Boyd's and think at Parsons . . . will not swear positively that the defendants are the Bender women . . . do say, there is a wonderful resemblance . . . never saw these women, only to-day, in the court room . . . Kate Bender claimed she could call up spirits and commune with them.

The eighth witness was Mrs. Dientz who had lived in Osage Township since 1871:

Remember Bender family . . . not acquainted . . . have seen the two younger members, John and Kate . . . she had auburn hair . . . very nice . . . done up in roll

once and braided next time . . . girl of pretty good size . . . weight about one hundred and thirty pounds . . . about nineteen or twenty years old . . . light eyes . . . high cheek bones . . . common-sized nose, bent a little, not much . . . saw her three times . . . twice in house and once with John Jr., in wagon . . . younger defendant. In countenance resembles Kate some but her features are not like Kate . . . Kate had a mark on one of her cheeks up close to the eye . . . not a mole or wart . . . looked like it had been a burn . . . not large . . . Kate claimed she could call up spirits . . . wanted to call up spirit of my son . . . told her to let my folks alone, dead or alive.

The ninth witness was William Dick, who had resided in Labette County since 1870 and was seventy-two years old:

Lived in Oswego Township 1870 to 1873 . . . know Benders well . . . lived three miles from the Bender place . . . been there frequently . . . met two men and two women . . . not much acquainted with women . . . herded cattle on prairie near Bender place . . . would recognize women if met them out from home . . . have seen these defendants . . . older one resembles Mrs. Bender . . . younger one resembles Kate some . . . could not describe Kate so well . . . It is my judgment that this old lady resembles Mrs. Bender some . . . could not swear positively that it is her . . . as to Kate cannot be so positive . . . met Kate on horseback . . . saw her in Sunday-school at school house . . . old man Bender talked very broken English . . . we talked German . . . old lady said in German, she did not think they could run the place . . . did not think old lady could talk English.

Cross-examination by Judge Webb:

Lived three miles south-east of Benders . . . Monahan, Lindsay and Linn lived near neighbors to Benders . . . nearer than witness . . . John, Jr., held claim north of old man Bender . . . no one lived on John's claim . . . West of Bender's Elm claimed the land . . . know the men of

Bender family . . . better than women . . . knew old Mrs. Bender better than Kate . . . never conversed with Kate . . . we nodded heads as we passed . . . men were there all the time but once, John, Jr., was away . . . traded a little at Benders . . . was waited on by old man Bender every time . . . saw Mrs. Bender but one time . . . in a Lancaster County, Pennsylvania, Dutchman . . . learned German when at work for a learned German . . . couldn't decide whether old lady was a foreigner or not . . . old man Bender told me he was a Hollander . . . John, Jr., told me he was born in this country . . . this old lady defendant to-day when she had side view made me think of Mrs. Bender as I saw her stand in the door at Bender place . . . should say Mrs. Bender at that time weighed one hundred and thirty pounds . . . this old lady might not weigh quite so much . . . not much difference . . . Kate was fair complexion . . . fine features . . . saw her once at home going about household duties . . . some girl I saw at Sunday-school . . . noticed no particular things about her . . . Kate was five feet, five inches, or thereabouts . . . weighed one hundred and twenty to one hundred and twenty-five pounds . . . sprightly, good looking lady . . . nicely, well proportioned . . . stood erect and walked lady like, sprightly . . .

On re-direct examination, at the request of the Prosecuting Attorney, the defendant, Mrs. Davis, stood up. Witness said her height was just the same as Kate Bender.

The State recalled C. W. Booth to the stand and he said that the last time he saw Kate Bender was at the party at Big Hill:

First saw these defendants since dinner here to-day . . . was in Oswego last time before to-day at June term of Court . . . have not been here for thirty days.

The tenth witness was Maurice Sparks, who lived in Osage Township at the time of the dis-

covery and exhuming of the bodies on the Bender place:

Not much acquainted with Benders . . . especially women . . . saw women about place . . . remember general appearance . . . old lady Bender seemed to be fifty years old . . . some grey . . . slender of build . . . rather broad across the shoulders . . . hair had been dark . . . some grey . . . medium height . . . Kate was not very tall . . . medium size . . . square, blocky girl . . . stout build . . . round face . . . auburn hair . . . never spoke to her . . . observed these defendants here in court room to-day . . . resemble some parties I have seen . . . don't think Mrs. Bender was so full in face as the older defendant . . . can't form opinion as to Kate . . . If there is any resemblance, younger defendant does look more like Kate, than the older defendant looks like Mrs. Bender . . . older defendant's hair is as I remember Mrs. Bender's hair . . . younger defendant's hair is darker than Kate's hair . . . Kate at home was dressed cheap and plain . . . at church she was well dressed . . . don't remember any particular mark or feature by which I could recognize her . . . was sprightly, active girl . . . hair kind of auburn . . . between light and dark . . . am not posted about hair . . . observation of Kate was general . . . have seen her at Bender House . . . pass along road . . . at church in school-house . . . she was about twenty years of age . . . there was a mark on Kate's face on the cheek . . . a kind of mole . . . cannot locate it . . . was not sunken . . . If anything projected a little . . . think it was on the left cheek . . . could not say that seeing scar on this defendant's eye does enable me to say more definitely where Kate's scar was . . . Benders were there some over a year after my return . . . I lived about one mile south-west from them . . . Brockmann lived between my place and Benders . . . I had been away about one year . . . returned in Spring . . . they were living there when I returned . . . they left in April 1873, or about that time . . . may be I lived by them for two years . . . knew young John better than the

others . . . have seen Mrs. Bender at home twice or three times.

It was nearing midnight when the testimony of Sparks was completed, and the Court took a recess until Tuesday, the 19th of November, 1889, at eight o'clock in the morning. Promptly at that hour the Court convened ready to proceed with hearing witnesses offered by the State.

The second day of this hearing attracted a great deal of attention. The Court room was packed with ladies and gentlemen as an audience. Mrs. Griffith retained her serenity, but would wince a trifle and her mouth would twist, when witnesses pointed at her and were positive in their statements that she was old Mrs. Bender. Mrs. Davis frequently gave vent to her feelings in a flood of tears. Her baby, bright-eyed and flax-haired, was at her side and about her knees constantly, and nursed the mother's breast at regular intervals during the proceedings in full view of the audience.

Mrs. McCann occupied a seat within the bar, close to the Prosecuting Attorney and took careful notes of the proceedings for future use in the prosecution of her search for the murderers of her father. She was a slightly built woman, not weighing over ninety-five pounds, had large, penetrating grey eyes, prominent chin, which showed her to be a woman of determination. During the progress of the hearing her features remained passive, no matter what turn the evidence would take.

The first witness called for the State on Tuesday morning, and the eleventh that the State offered in the hearing, was Leroy F. Dick:

Reside now in Parsons, Kansas . . . resided in Labette County twenty-one years . . . lived in center of Osage Township 1871 to 1874 . . . was a married man at that

time and Township Trustee . . . know Bender place . . . lived four miles from it . . . knew Bender family well . . . better acquainted with men folks . . . met them at elections . . . tried to "swap" horses with them one time in the timber . . . met Kate at Sunday-school . . . old lady Bender came to meeting . . . have seen all of them at home . . . my acquaintance was such that I would recognize them any time . . . remember them now as they were then . . . country was sparsely settled and new . . . all who lived within ten miles of each other were neighbors . . . several things about Kate would attract attention . . . form . . . looks . . . fact that she was a Spiritualist . . . have seen both women at home, twice . . . nothing particular to attract attention . . . was present when bodies at Bender place were exhumed . . . Benders' absence was discovered on Sabbath . . . went there myself Monday morning . . . did not remain all day . . . made a hasty disposition of the stock.

Witness here prepared a pencil diagram of the Bender premises.

Had conversation with Benders . . . not with women . . . have heard them talk to each other . . . old lady talked German and English . . . she had German accent . . . have talked with this old lady defendant in German . . . said to her, "*Kann Ich nicht verkaufen?*" . . . she replied, "*Das kann du nich*" . . . interpreted it means "Can I sell you?" . . . "That you cannot do." . . . Have seen these defendants often . . . saw them at Berrien Springs, Michigan . . . they did not know what I was there for . . . later I asked them to tell me where they lived during 1871 to 1875 . . . they told of several places . . . younger defendant in her testimony in Michigan said this old lady is not her mother . . . that she was the veritable old Mrs. Bender . . . I would recognize the Benders were I to see them . . . defendants are old Mrs. Bender and Kate . . . In private conversation younger defendant told me old lady was old Mrs. Mark . . . that younger defendant was her step-daughter . . . told me history of old lady . . . said she is

old Mrs. Bender . . . told me that in Michigan and on way here . . . Kate Bender had small wart or mole under her eye . . . my recollection it was under left eye . . . saw it at a slaying of mine . . . witness described finding of mutilated bodies of Bender victims and their appearance . . . gave detailed description of Bender House, cellar and garden and orchard where victims were buried . . . heads of all, except little girl, were badly crushed by blows from hammers of different sizes . . . found three hammers . . . a collar weighing six pounds . . . an Alsatian shoe-hammer and common small hammer . . . have all these hammers and a clock.

Cross-examination by Judge Webb:

Kate Bender had Auburn hair . . . between light and dark . . . eyes between hazel and blue . . . was between nineteen and twenty-one years of age . . . shoulders square and thrown back . . . step, quick and sprightly . . . talked freely . . . large mouth . . . heavy lips, slightly pouting . . . perfect teeth . . . very bright . . . height five feet, two to five inches . . . old lady Bender I saw as she and Kate were standing in door . . . saw her twice in 1871 . . . think I saw her at meeting in Spring, 1872 . . . twice after that at Bender House . . . she had German accent . . . have now in my mind how Bender women looked then . . .

Witness was asked to look at defendants, which he did and said: "They are Mrs. Bender and Kate Bender, I have no doubt as to them."

Mrs. Davis told me in Michigan that she is step-daughter of Mrs. Monroe . . . Mrs. Davis told me this is the veritable old lady Bender and that she would always so testify, when permitted to do so . . . Kate had mark or mole under her left eye . . . see Mrs. Davis has one under her left eye . . . Went to Michigan to see the woman alleged to be Bender women . . . picture of women saw on Bender farm that I knew resembled closely women here now . . . from features and countenance would say they were one and same . . . In Michigan old lady defendant said she thought she had

seen me some where . . . Eliza said she had, too . . . old lady gave me a wink and wished to know if I would talk with her privately . . . she said, "Before God, if there was a Kate Bender, Mrs. Davis certainly was." . . . Had been married several times . . . first to Van Alstein . . . afterwards to Mark Aben Bartlett . . . she left him because he killed an illegitimate child drowning it in slop bucket . . . then married Monroe . . . left him . . . married Griffith . . . had a daughter she had not seen for years . . . she thought she had found her in person of Mrs. McCann . . . she had read of Bender outrages . . . how they buried dead in orchard . . . that it occurred near Cherryvale in Southern Kansas . . . Afterwards had long conversation with Mrs. Davis . . . she told me Mrs. Monroe was old Mrs. Bender.

The Prosecuting Attorney, Mr. Morrison, here announced "State rests."

The testimony of Leroy F. Dick was the most important presented by the State, and was most damaging to the defendants.

Mrs. Griffith had the keenest realization of this fact. Several times she rose to her feet, muttered in a low tone her denunciation of what she termed the false statements Dick was making in his testimony. Especially did she give indignant expression when Dick gave the conversation between himself and her in German. She did not understand German and could not speak it. Dick had clearly sworn false about her in that matter and she was furious. To the audience her mutterings were unintelligible, and the uninformed were certain that it was evidence of her guilt.

Once only, and that was when Maurice Sparks gave evidence of the mark under the left eye, did Mrs. Davis show the awful effect the identification had on her. She winced, the color mounted to her cheeks and her eyes filled with tears repeatedly.

Many were sure that this was evidence that she was really Kate Bender.

The little child played around as if nothing was being done. It knew not, fortunately for it, that identification of the mother as Kate Bender, meant prison for life, possibly death on the gallows for the mother, and for this little one a home in an alms-house, where two of the children of Mrs. Davis had been placed in Michigan since she had been arrested and brought to Kansas and placed in jail. Or that, perchance, it meant a life in an orphanage somewhere, and being brought up as had been Mrs. McCann, the cause of all of the trouble for these defendants since the Bender idea hatched.

The testimony of Leroy F. Dick as given in this case will not bear analysis by the trained legal mind. It satisfied the minds of the majority of the people who were in Court and heard it and it was sufficient for the Prosecuting Attorney to convince the minds of three Justices of the Peace and to get the defendants held to the District Court for trial on the charge. The Prosecuting Attorneys in their desire to be successful in a case too often secure such results, not giving evidence the analysis which all trial lawyers, with skilled minds should, and usually do.

The defense was begun by calling as the first witness Thomas Jeans, a resident of Labette County, living in Osage Township during the time that the Benders were at Bender House. He lived less than three-fourths of a mile south-east of the Bender place:

Fifty-six years of age . . . knew Benders when building frame house . . . four in family . . . old man, old lady, John, Jr., and Kate . . . knew all when saw them . . . lived neighbor all time they lived there . . . often at Bender place . . . saw all together one Sunday . . . another time

saw old man, old lady and Kate there . . . sold them wood all time they lived there . . . when they got acquainted with any one they stuck to that one . . . was at Benders perhaps a dozen times . . . saw Kate at old man Hill's . . . would recognize women when met them . . . old man Bender was about sixty years old . . . John, Jr., twenty-five to twenty-eight . . . old lady fifty to sixty . . . Kate about twenty-one or twenty-two . . . very fair . . . fair skin . . . dark-red hair . . . five feet, four or five inches tall . . . believe would know her if see her now . . . believe would know old lady Bender . . . old man Bender was very rough . . . observed these defendants . . . talked with them . . . old lady Bender talked language I could not understand . . . don't recognize the voice of these defendants as of any one I ever knew . . . can understand this old lady defendant . . . old lady Bender was too Dutchy for me . . . never saw either of these defendants before I saw them at Lansing . . . upon my best judgment don't think either of these defendants are the Bender women.

Cross-examination by Prosecuting Attorney Morrison for State:

Kate was medium sized girl . . . stood up straight . . . talked similar to other girls . . . dark-red hair . . . think her eyes were blue . . . fair complexion . . . five feet, four or five inches tall . . . about average height of women . . . old lady Bender was a little old woman . . . under ordinary height . . . quite small.

Re-direct examination:

Never had any conversation with Kate . . . heard her talking with Miss King . . . have used spectacles for fine sight five or six years . . . before that my sight was good.

The second witness for the defense was Silas Toles, of Peru, in Chautauqua County, Kansas:

Lived in Osage Township, Labette County, 1871 to 1870 . . . knew Bender place . . . lived about half mile from Bender House . . . Benders there when I went there to

live . . . was near them eighteen months . . . knew family well . . . never spoke with old lady Bender . . . went to Bender store with my brother for groceries . . . saw John, Jr., . . . Kate and old lady . . . living so close often passed there . . . saw Kate and John as they came from camp-meeting ground in 1872 . . . Saturday afternoon . . . had long conversation . . . frequently saw Kate and old lady as passed house . . . Kate had light blue eyes . . . light hair . . . wandy order . . . slight build . . . five feet two inches tall . . . old lady dark hair and eyes . . . maybe hair little gray . . . she was slender . . . from acquaintance at that time think would recognize them . . . they may have changed some . . . it is my judgment would recognize them . . . have seen and talked with defendants . . . examined them with view to identify them . . . it is my judgment that these defendants are not the Benders.

Cross-examination by Prosecuting Attorney Morrison:

Am forty-nine . . . was present at discovery of bodies . . . with Linn Pierce first discovered condition of Bender premises after they left . . . had not been near for some time before this discovery . . . had only two conversations with Kate.

Court took recess until one o'clock in the afternoon.

When Court convened after recess Silas Toles was on the stand for further cross-examination and the Prosecuting Attorney showed him two letters:

Witness admitted that the handwriting was his . . . had two conversations with Kate Bender . . . can't tell how often saw her when didn't converse with her.

The third witness called for defense was Mrs. Vesta Green:

Reside in Oswego . . . lived in Shiloh Township, Neosho County, Kansas, before came here . . . was acquainted

with a few persons in Oango Township, Labetto County . . . know where the Bender place is located . . . have been at that place . . . was there in 1871 . . . was in house three times . . . took dinner there . . . was perhaps five or six months between my visits . . . was there twice one month . . . four members of the family . . . have conversed with Bender women each time was there . . . never saw them anywhere else . . . two men and two women . . . girl's name Kate . . . boy, John, Jr. . . . think remember how Kate looked . . . was twenty . . . had auburn hair . . . medium height . . . freckled face . . . old lady Bender tried to talk to me . . . could not understand her . . . thought she was German by her talk . . . when bodies were discovered I was in Illinois . . . stopped there two or three years . . . think would be able to recognize the women . . . especially old lady . . . her eyes were close together . . . too close to look nice . . . they were particularly peculiar in appearance . . . It is a long time since I saw them . . . think would know them . . . have seen defendants . . . once before they come into court room . . . have talked with them . . . do not recognize in them either of the Benders . . . think these defendants are not same women I saw as Benders.

Cross-examination by Prosecuting Attorney Morrison:

They do not look like the Benders . . . old lady Bender was German . . . this woman is a Yankee . . . saw defendants next day after they came . . . went on my own responsibility . . . was in DeKalb County, Illinois, at time of publication of Bender crimes . . . had been there only short time . . . went once to Cherryvale . . . twice to Independence when we stopped at Benders . . . old Mrs. Bender tried to talk English but could not understand her she was fifty-five or sixty . . . eyes close together . . . grey hair . . . Kate had auburn hair, between red and brown.

Mr. Morrison asked witness to tell just what she meant by auburn.

Witness pointed to Mr. James, one of the attorneys for defense, and said his mustache was auburn as witness meant by that color.

Kate was of good form . . . round, full face . . . nice looking . . . talked some with defendants at Lawson's house . . . remained ten minutes, told them if they were Benders they must know me . . . said they did not know me.

Re-direct examination:

Only two rooms in Bender House that witness observed . . . canvas partition.

The fourth witness for the defense was Dr. E. W. Wright:

Practising physician . . . reside in Oswego . . . lived in Labette County twenty-two years . . . Oswego been home . . . know geography of the County well . . . was here when bodies of murdered persons were exhumed . . . 1872 lady came to my office to get medicine for chills . . . was told she was Kate Bender . . . she was here ostensibly to lecture . . . was of sandy complexion . . . five feet four or five inches tall . . . high cheek bones . . . in my office in 1872 as near as I can recollect . . . younger defendant is not Kate Bender if woman who came to my office was Kate Bender . . . Kate was taller than this defendant . . . defendant is not the woman who called at my office as I think.

The fifth witness for the defense was H. G. Miller of Cherryvale:

Lived there over a year . . . before that at Oswego ten or twelve years . . . know Bender place . . . have been there several times . . . saw members of family when I stopped to buy things as passed . . . have seen two old people and two young people . . . old man, old woman, young

man and young woman . . . can't say ever heard either talk . . . can't describe either woman . . . can't recognize either of those women in defendants.

The sixth witness for the defense was A. Stewart of Colley County, Kansas:

Was in law business 1871, 1872, 1873 . . . passed through Labette County . . . stopped at Bender House four times . . . met old gentleman, old lady and girl . . . old woman called her daughter . . . think saw enough of old lady to describe her . . . came into court room out of curiosity to see the Benders . . . as to younger woman, can't say . . . old lady is older than Mrs. Bender was then . . . never saw two parties resemble more than this old lady and Mrs. Bender . . . don't know whether was there in 1873 . . . was there in 1872 . . . took dinner . . . thought Benders were out of existence . . . other times just stopped . . . bought some things . . . talked with old woman . . . Mrs. Bender talked considerably broken.

Cross-examination by Judge Atchinson for the State:

Can't swear was there any time in 1873 . . . am very poor on time and names . . . think was there in Fall of 1872 . . . old man Bender looked older than old lady . . . she was about my age . . . German's age hard to tell . . . think if she were living would be about sixty-five or seventy . . . call her German from her talk . . . thought she was German . . . told old lady the girl was not her child as she was not German . . . can't remember that girl was called Kate . . . can't say that I said anything to girl . . . don't think ever passed Bender place before 1872 . . . passed twice . . . was there four times . . . first time stopped and watered horses . . . went to door to go in . . . saw only old lady and gentleman . . . can't say what time in year . . . second time about month later . . . first time was going south-west . . . second time coming back . . . third time coming from Parsons . . . old lady there every time . . . girl once . . . all four once . . . old man talked broken . .

. more so than old lady . . . If old lady was here to-day would be seventy years old . . . was rather heavy set . . . stout woman . . . hair turning . . . didn't think there was such a thing as the Bender women now . . . old lady Bender didn't speak plain English . . . her German tongue was natural . . . It was not put on . . . this woman is more fleshy . . . has whiter hair than Mrs. Bender . . . am not swearing that this old lady is Mrs. Bender.

The old lady defendant was requested to talk with witness which she did in open court for several minutes. After having the conversation with the defendant the witness said, "This woman does not talk as broken as Mrs. Bender did."

Re-examination by Judge Webb:

Having heard this woman talk I think it is different from what it was then . . . this woman has not the broken accent that Mrs. Bender had . . . otherwise there is a similarity.

Re-cross-examination by Prosecuting Attorney Morrison:

Germans talk all English at home with families and learn it thoroughly . . . those without children do not improve.

Mrs. Almira Griffith (Monroe) was called as seventh witness for defense, and on her own behalf she testified as follows:

Name is Almira Griffith . . . maiden name Almira Hill . . . father George Hill . . . he was born on Long Island in 1790 . . . mother Charlotte Hill . . . maiden name Charlotte Marshal . . . was born in Rhode Island in 1800 . . . I was born Saw Mill Run, Little Valley, Cattaraugus County, New York, in 1821 . . . married Simon Mark, a Frenchman, December 21, 1839 . . . at my place of birth . . . had by him twelve children . . . James N., Simon, Charles, Caroline Elizabeth, Sarah Eliza, Mary Ann, William Henry, Rosette, Emmett A, Elsie Adaline, Myron A.



and Myra A . . . Simon Mark died February 13, 1866 . . . had three brothers, John, Marshall and Washington, and four sisters, Cornella, Louisa, Mahala and Dority.

Cross-examination by Prosecuting Attorney Morrison:

Had two names . . . Mark and VanAlstine . . . never had name Fleckinger . . . never knew Peter Fleckinger . . . never testified how many times was married . . . never married Bartlett . . . he boarded with me in 1867 . . . was a widow with family . . . Mark was dead . . . am sixty-eight . . . married VanAlstine when seventeen . . . was divorced from him in Cattaraugus County, New York . . . he had wife living . . . married Simon Mark . . . lived with him until his death at Portland, Michigan, in 1866 . . . Ionia County . . . married Monroe at Carlton, Michigan, in 1872 . . . lived in Michigan from 1866 to 1874 . . . March, 1869, went to National Hotel, Ionia, Michigan . . . remained four weeks . . . April, went to Hardcastle, six miles north of Zilwaukee, Saginaw County, Michigan . . . at once took my mother to Hancock City . . . lived in McFadden's house three months . . . last of July moved to St. Charles, Saginaw County, Michigan . . . lived in Mr. Howe's house one year and five months . . . December, 1870, moved to Grass Lake, Michigan . . . lived in house for which Mr. Nicholson was agent ten months . . . moved to Saginaw in October, 1871 . . . rented Louis Gonslmonger's house in Colton, a suburb . . . lived there until October, 1872 . . . married Josiah Monroe here . . . went with him to Berlin, Michigan . . . remained about four weeks . . . Monroe's first wife appeared . . . left Monroe went to Tekousha, Calhoun County, Michigan . . . lived at Tekousha until April, 1874 . . . went to my sister at Martinsville, Ohio . . . remained until September, 1874 . . . went to Concord, Michigan . . . lived in Mr. Ink's house through corn-husking . . . about November, 1874, moved to Saginaw . . . rented George Munger's house of his nephew, Hiram Yaker, his agent . . . house stands close to Lutheran church . . . lived in that house until April,

1876 . . . moved to Claslin's house on Genesee Street, East Saginaw . . . remained four weeks . . . May, 1876, went to my brother at Hardscrabble, Michigan . . . he was an old man . . . went to take care of him . . . remained until July . . . moved to Dundee, Michigan . . . remained until November . . . moved to Niles, Michigan, and have lived there since . . . married William Stephen Griffith at Howard City, Michigan, Montcalm County, July 3, 1880 . . . lived together until May 1882 . . . he left in search of work . . . he went to Illinois . . . has never returned . . . went to Illinois myself in 1866 . . . to Aurora . . . went to look for my daughter, Rosa . . . never had a Kate in my family . . . can't talk German . . . can't understand it . . . had no conversation with Leroy F. Dick in German . . . never know any of the Dick family . . . never saw any of them until met him in Niles, Michigan . . . never had a Dutch husband . . . had no connection whatever with old man Bender nor with the Bender family . . . you don't dare say that I ever lived in Kansas, and was the wife of old John Bender . . . do not understand the "goose language" that Dick told about . . . was in Detroit House of Correction for committing an abortion . . . the other defendant in this case is my daughter Sarah Eliza Davis . . . she is not Kate Bender.

Sarah Eliza Davis was called as the eighth witness for defense, and on her own behalf testified as follows:

Was born June, 1846 . . . maiden name Mark . . . earliest recollections are of Cattaraugus County, New York . . . married man by name of Japhet at Salmonca in 1868 . . . he worked for Morrison . . . first kept house at Port Crispen in 1871 . . . lived at Salmonca, 1869 . . . then at lumber camp . . . husband worked in mill of Walter Hume . . . went to Wild Fowl Bay, 1872 . . . he worked for same company, Mr. Hume . . . on farm from Spring to 1872 to Fall, 1873 . . . he chopped cord-wood for George Taylor from October, 1873, to April, '74 . . . moved to Caro, Tuscola County . . . was there until May, 1876 . . . went

to Oran, Oakland County, Michigan . . . worked on farm there . . . he changed his name to Hiram Johnson when we came to Michigan . . . remained until Spring, 1876 . . . went to my mother at Dundee . . . was divorced from my husband at Pontiac, Michigan, September, 1876 . . . remained with mother at Dundee until last of October or first of November, 1876 . . . we moved to Niles . . . lived with mother there until Fall, 1877 . . . mother has made her home in Niles ever since we moved there . . . went to Battle Creek, March, 1877 . . . lived in J. H. Waldo's house . . . moved to Bellevue, Eaton County, Michigan, July, 1877 . . . married Levi B. Madison at Belleview, July 23, 1877 . . . by Justice Bouton . . . went to Madison's farm to live . . . was there until Fall . . . he traded for farm in Cedar County, Missouri . . . he went there and remained until Summer 1878 . . . I went to Missouri, June, 1878 . . . stayed on farm there seven months . . . we went to Elmore, Michigan . . . I began washing . . . my husband was sick . . . could do nothing . . . lived at Elmore two years . . . in David Jones' house . . . moved to Jackson, Michigan . . . washed to maintain family . . . worked in Weaver Laundry by the day . . . my husband died in 1882 . . . remained at work until 1884 . . . moved to McPherson, Kansas . . . left Michigan, February, 1884 . . . remained at McPherson two years and five months . . . returned to Michigan, July, 1886 . . . washed by day in McPherson . . . was mother of three living children . . . Gustie May, Lillie Almira and Freddie Adelbert . . . children went with me to Adrian, Michigan . . . remained until February, 1887 . . . went to Emporia, Kansas . . . John Feenay went with me and children to Emporia . . . had married him at McPherson . . . went to Quincy, Illinois, September, 1888 . . . went to Jackson, Michigan, with my four children, February 1889 . . . this child is mine by Feenay . . . was two years old May 12th . . . Feenay was brought home dead while we lived at Emporia . . . went to St. Johns, June, 1889 . . . went to Lansing, July, 1889 . . . was larger place . . . hoped to get more work . . . September, 1889, went to Niles on telegram that mother was about to die . . . re-

turned in four days . . . was arrested on charge of larceny soon after . . . taken before magistrate and discharged . . . then was arrested as Kate Bender . . . have been in jail and custody of officer ever since . . . married James Davis in Mason, Michigan, August 12, 1889 . . . was arrested about middle of September . . . Davis was at Lansing when I came away . . . he is a stonecutter . . . is thirty-nine years old . . . has refused to live with me, or support me, until this charge is cleared up . . . have three living children in Poor House at Berrien County, Michigan . . . they were never a charge upon the public until since my arrest . . . have no knowledge of the German language . . . never had the name Bender . . . my mother, the defendant in this case, is not old Mrs. Bender . . . I am not Kate Bender . . . I never said my mother was old Mrs. Bender . . . I did say that if she would have her daughter arrested, she would be none too good to be old Mrs. Bender . . . In the name of God, I say I never bore the name of Kate Bender and I am not one of the Bender family.

'There was no cross-examination of Mrs. Davis by counsel for the State. Upon completion of Mrs. Davis' testimony the defense rested.

Prosecuting Attorney Morrison for the State in rebuttal, offered in evidence a letter from Silas Toles to Mrs. McCann about aiding her to identify the Benders, which without objection was read. This closed the case so far as evidence for either party was to be considered. It was five o'clock in the afternoon of November 19, 1889. The arguments of counsel was then begun by Judge Atchinson for the State. He was followed by Judge Webb and J. T. James for the defense. Prosecuting Attorney Morrison closed for the State. Two hours was given to the discussion of the case by respective counsel.

The court room was packed with an eager populace, waiting breathlessly and anxiously for the decision. The three Justices had a long confer-

ence and then Justice Klersey announced the decision, which was that the evidence was sufficient to identify the defendants as the Benders, and to justify their being held for trial in the District Court of Labelle County, Kansas, upon the charge of having murdered Dr. William H. York.

Accordingly they were held without ball for that murder and committed by the Court to the custody and keeping of the Sheriff of Labelle County, Kansas, to await the further action on the case in the District Court.

CHAPTER XVII.

After that preliminary hearing, the paramount inquiry among the people of Labelle County and elsewhere was, "Are those women Mrs. Bender and her daughter, Kate Bender?"

To prove that Doctor York was murdered, and that the Benders were his murderers, was not a hard or difficult thing to do. To prove that Mrs. Almira Griffith was old Mrs. Bender and that Mrs. Sarah Eliza Davis was Kate Bender would be very difficult. Many of the people in Labelle County believed that the Benders were killed by the posse soon after the discovery of their horrible deeds nearly seventeen years before this preliminary hearing. The feeling in favor of the defendants largely prevailed in the community. They were women, and there was that little girl. Labelle County jail afforded very uncomfortable quarters for the defendants who had been committed to the custody of the Sheriff, to be held for trial in the District Court, possibly at the February, 1890, term, which was several months after this commitment. Many people became aroused

and indignant about keeping women and that little girl in such a place as was afforded in that jail. They gave decided expression to that opinion to the Sheriff. He was a very kind-hearted and sympathetic man, and to meet the situation and allay the feelings of the people in this matter, arrangements were made and the prisoners with that little girl were kept at the residence of Thomas Lawson.

Prosecuting Attorney Morrison and his associate in this case, Judge Atchinson, now became confident that these defendants were the Bender women and were determined to prosecute with all their ability notwithstanding the serious difficulty of identification which confronted them.

Judge Webb and J. T. James were certain that their clients were not the Bender women, but they fully realized the danger ahead of them, and the necessity for positive proof that they were not the Benders when the case would come before a jury for trial. With so many reputable and respectable citizens testifying that they were the Bender women, the State might get a verdict convicting their clients of that murder. They at once began to prepare for the hard legal battle now confronting them, and it was one of fact.

Mrs. McCann said that in all of her work bringing these women to Oswego as the Bender women, she had been guided solely by her intuitions, or impressions made on her mind by some mysterious influence. She had not seen her family for six months, but she certainly had followed her theory faithfully. She admitted that the confession which she had obtained from one of the defendants would not convict. She was, however, determined to find out and punish the murderer of her father, Mr. John W. Sanford.

If this little detective had not brought to Oswego old Mrs. Bender and her daughter Kate, she had

surely unearthed a family some of whom were criminals, guilty of crimes almost as atrocious as those which were committed by the Benders, provided the evidence and many statements of Sarah Eliza Davis were to have full credence.

Mrs. McCann had made up her mind that the influence had guided her aright, and if every old settler and former neighbor of the Benders had sworn that these defendants were not the Bender women and looked nothing like them, she would yet insist that she could not be mistaken. It has been said of her that she had more determination concealed about her small body than was usually vouchsafed to a whole community of women.

Leroy F. Dick, the special Deputy Sheriff, who had brought these defendants to Oswego from Michigan, was confident that the Bender women were in custody. He was a neighbor of the Benders when they lived in Labette County, and knew the Bender women personally. He was certain that these were the identical Mrs. Bender and her daughter Kate Bender. He said that their testimony in the preliminary hearing at Oswego did not correspond with the story told on the trial of Mrs. Davis for larceny at Niles, Michigan. He had heard the old lady defendant tell two or three different stories. In making investigation he visited towns where the old lady told him that she had lived during the time the Benders were committing the outrages in Labette county, and he found that she was mistaken. She had lived at those places at other times. He found that wherever she had been, she bore a hard name and he said she had been driven out of several communities.

He said that Mrs. Davis testified in Niles that her mother had committed murders in Michigan. She said that at one time when she was a child of seven, her mother killed an old beggar woman

with an ax-helve, who had made her angry. That in the night her mother hitched an old grey horse to a cart, put the body of that woman in it, drove to a creek a few miles distant, tied a rock to the body and sunk it in a deep hole. Mr. Dick found old residents, in his investigation of these facts, who remembered that old grey horse and that cart.

Mrs. Griffith swore at Niles that she never had a German husband. When asked concerning one Flickinger, deceased, about whom Dick had learned in making his search for evidence to satisfy his mind that she was in fact old Mrs. Bender, she replied, that she "had made a mash on so many in her time, that it was hard to remember them all."

Mr. Dick said that this Flickinger answered every description of old man Bender. That he is supposed to have committed suicide by drowning himself in Lake Michigan in the year 1884. He had followed closely the lives of both Mrs. Griffith and Mrs. Davis, and from his personal acquaintance with the Bender family, he asserted positively that the right parties were under arrest and now held at Oswego as old Mrs. Bender and her daughter, Kate Bender.

The trained legal mind will not be very highly impressed by the work that Mr. Dick had done in this case as a detective and an officer for the State of Kansas.

CHAPTER XVIII.

New Phase in the Bender Case.

A dispatch dated November 20, 1889, at East Saginaw, Michigan, threw some light on the history of Mrs. Davis. It read:

A new phase in the Bender case has been developed. The Sheriff of Oswego, Kansas, wrote a letter to the Sheriff of Huron County, Michigan, in behalf of the woman suspected as Kate Bender. In it he states that she alleges she lived at Wild Fowl Bay, now known as Bayport, with her husband in 1873 and 1874. She gives her husband's name as Hiram Johnson. On investigation the Sheriff found the incidents mentioned by her, including her child's death and burial were corroborated by people now living at Bayport who state such a family did live there at that time.

A Mistake.

During the time that the defendants were in custody at Oswego, one of the papers in that town published the following article:

Mrs. Davis, now in custody in this city as the alleged Kate Bender, may not be the veritable Kate, but she is a "gay deceiver" all the same. Sometime since she informed her custodian that she was about to become a mother and it would be necessary to have an "outfit" suitable for the occasion. The kind hearted Sheriff at once procured an elegant wardrobe for the prospective heir, and everything passed along in the "even tenor of its way" until a few days ago, Dr. Geo. S. Liggett was called in. His interview revealed the fact that Kate has no present need of "baby clothes" and was not likely to have while she remained in "durance vile." This was possibly a little scheme to enlist sympathy in her behalf, but she instituted proceedings a little too soon and it failed. If you mention the matter to Sheriff Wilson, do so at long range.

More Detective Work.

The *Independence Reporter* of Independence, Kansas, published an article entitled "The Benders" while Mrs. Griffith and Mrs. Davis were held awaiting trial in the District Court at Oswego. It read as follows:

A mysterious stranger visited Independence last Friday,

who seemed very much interested in regard to the Benders. He was anxious to talk with any old citizen, who might know the most about the Benders. He had been at work for some time, and had interviewed Rudolph Brockmann, the man who was hung by the Vigilantes on suspicion of being a confederate, and had also spent some time at Cherryvale in search of information. He was very reticent as to his object and could not be induced to tell any more about his business than was necessary.

He was particularly interested in learning everything possible about Shennowaldt, the desperado, who attracted so much attention at Independence in old times by his boldness, stealing Sheriff Brock's horse when Brock was hunting him, and standing off with his gun persons who tried to arrest him. Just why he wanted to learn about this desperado he would not disclose, but intimated very closely that he was one of the Bender gang. He acted a good deal like a detective seeking on his own hook for evidence of the identity of the supposed Benders, with a view to securing a good slice of the large rewards offered for their apprehension.

It is very probable, unless something occurs to show that the suspects now under arrest are not the Benders, that the trial will prove exceedingly interesting. There will be a tremendous effort made by the State to identify and convict, while the defense will be able and determined. Between now and then, a good deal of close detective work will be done, and the occurrences of sixteen and seventeen years ago closely scrutinized.

After the preliminary hearing, and before the February, 1890, term of the District Court to be held at Oswego, the attorneys for both State and defense were making every investigation that could be made to secure evidence about the Benders as well as about these defendants. It was generally believed that large rewards were outstanding for the arrest and conviction of the Benders. The attorneys for the defense had detectives at work gathering evidence. The fore-

going articles show that detectives were at work.

Old settlers who knew the Bender family not only did not identify either of these women as Bender women, but many were outspoken in the belief that they were not the Benders. A prominent physician of Oswego declared that Mrs. Davis bore no resemblance whatever to Kate Bender. He also declared that Mrs. Bender was a German, and that Mrs. Griffith was a typical New York Yankee; that there should be no doubt about it that she was not old Mrs. Bender.

The *Oswego Independent* contained the following:

HOPE GONE

The Alleged Bender Women do Not Greet Any Labette County Acquaintances—Mrs. McCann, the Inspired Detective, Gets Revelations from the Wrong Spirits.

The Benders in town, is a dead topic with Oswego, and it is a lonesome few who entertain any hope that the suspects now under arrest, and held by the strong arm of the law, in Oswego, belong to that notorious Bender family. No old residents have as yet been able to positively identify the prisoners, and a majority think there is no resemblance whatever to the famous family of butchers.

Said a prominent physician of Oswego to an *Independent* reporter: "Kate Bender was a slender woman, with red hair, fair complexion, high cheek bones, and a prominent nose. This woman, alleged to be Kate, is a short, heavy set woman, with regular features, black hair and very dark complexion. She bears no resemblance whatever to the festive Kate. Old Mrs. Bender was a German, could speak only broken English. The woman under arrest has every appearance of being a typical New York Yankee."

Popular sympathy goes for the women under arrest and there is but little doubt, that they will be discharged at their trial.

But few of the old settlers who called to see Mrs. Griffith and Mrs. Davis as the Bender women, could see any resemblance whatever, and the others laughed at the idea that they were the Benders.

CHAPTER XIX.

Prosecuting Attorney Morrison had a very difficult place to fill, and was himself much in doubt about these women being the Benders.

The attorneys for the defense did much hard work to get the case ready for trial, which would probably be held at Oswego during the February, 1890, term of the District Court. The true situation for the defendants and the facts with which the attorneys for the defense were confronted and compelled to cope are fully set forth in the following article which appeared in the *Oswego Independent* at that time:

CONFIDENT OF ACQUITTAL.

In a conversation with Mrs. Almira Griffith and her daughter, Mrs. Eliza Davis, the two prisoners charged with being the Bender women, an *Independent* reporter finds them apparently confident that no semblance of evidence can be produced against them when they come to trial and that they will be cleared without delay. Mrs. Griffith has been ill for a couple of weeks, looks weak and has lost some flesh, but is now convalescing.

Mrs. Davis, the alleged Kate, while elated over her prospective freedom, is considerably depressed over her children, a boy and girl, aged respectively eight and ten years, whom she left behind in Niles, Michigan. She is afraid they will be put in the State Orphan Asylum, and forever taken from her reach. She says that her son, Charles Johnson of Bayport, Michigan, who is now twenty-three, will arrive in the city this week and stay with her until the close

of the trial. He will bring with him affidavits showing his mother's marriage and her place of residence from 1869 to 1874. Also certificate showing date of his birth. These affidavits, she says, will show that Mrs. Davis first lived in Canada, Chautauqua County, New York, afterwards moving to Ft. Crisen and Bayport, Michigan, living in these places up to the time of 1874.

As the witnesses testified on the stand that Kate Bender was from eighteen to twenty years of age, which would make her about thirty-five now, and as Mrs. Davis claims to be forty-five and had a son aged seven at the time Kate lived in this county, she regards this as a strong point to establish her innocence.

The old lady Griffith, while there seems to be some delay in getting important testimony, is still of good cheer, and announces that she will have conclusive evidence to prove she was never west of Illinois until brought here for trial. She denounces Mr. Dick, the special officer, who arrested her on this charge, a scoundrel of the basest kind. She says that at Niles, Michigan, her son-in-law, Henry Hogue, offered to pay the expenses of herself and Dick, to travel around to the places where she had lived during the critical period of 1870 to 1874 but this officer refused to do so, as she claims.

Both women also assert positively that Dick did not visit these places on his own account to satisfy himself of the correctness of their statements, but they are evidently mistaken on this point, as Dick recited in his testimony the different places he had traveled in the hopes of finding something reliable about the careers of the women, his evidence showing that he failed to locate Mrs. Griffith during the time that the Bender outrages were committed in this County, although he claimed to have traced their whereabouts before and after this time.

Mrs. Davis, the alleged Kate Bender, is a good talker and expresses herself well pleased with her treatment in Oswego. She was brought here with only one change of clothes, but this week she was given ten dollars to purchase necessary wearing apparel.

Mrs. Davis showed the reporter a letter from their attor-



ney, J. T. James, in which he tells them that he has secured a great deal of information and is daily getting more and says he will have the evidence necessary to prove they are not the Benders. He also tells Mrs. Davis not to fret about her children as they are being kindly cared for and that while she is being held prisoner the authorities will not permit them to be removed. He suggests that they have no money as yet to secure important evidence so that it will be impossible to secure their release on Habeas Corpus proceedings.

The people were carefully considering the facts about the arrest of these defendants as the Benders, and holding them in custody for so long a time, and insisted upon knowing what was the basis for the action of the authorities in this case. Declarations were made that these defendants were arrested without cause. That the charge made by Mrs. McCann was flimsy, based upon her dreams; that she had told a very weak story, a queer tale, on which to jeopardize the lives and liberty of these defendants. The expressed determination to hang these women if possible, made by this woman detective, convinced people that there was malicious action, and it looked very much like persecution instead of legal and legitimate prosecution.

Mrs. McCann and Leroy F. Dick had been instrumental in having these defendants arrested in Michigan and brought to Oswego as the Bender women, and they were determined that the State should prosecute them as the Benders. Together they were going about Labette County industriously working to arouse a public sentiment against these defendants.

Attorneys for the defense found their task of securing evidence and preparing the defense a very difficult one. Either the defendants were not able or not willing to tell one truth about themselves and their lives. Dates, events and places

when given would almost invariably be found to be erroneous.

It was not difficult to find people in Michigan who could testify as to where and when the defendants were living among them and what events in their lives transpired from 1870 to 1874. But, invariably, it would be found to differ from what the defendants had told their attorneys and that made them double work. These defendants had lived very hard lives, and by some people it was said that they belonged to the criminal classes.

Attorneys in preparing the defense had to sift the prejudice out of the facts presented to them, as obtained, and get to the truth about where they were living and what they were doing during the time the Benders were in Kansas, so as to be able to show that they were not in Kansas at that time and could not be Benders.

Both women had been married several times, had lost marriage certificates, and could not give proper dates, so they could not help the attorneys determine under what name they were known at various times and in different localities. Mrs. Griffith had married a man by the name of Shearer and was convicted and punished for manslaughter under that name. She either forgot that name or would not tell it to her attorneys. However, step by step, these attorneys unravelled the thread of their lives and secured information very much needed for defense.

They secured official information by certified copies of records of the arrest, trial, conviction, sentence and commitment of Mrs. Almira Griffith, under the name of Almira Shearer, to the House of Correction at Detroit, Michigan, in April, 1872, and her receipt at that Institution in May, 1872, and her discharge from it in March, 1873. They also secured the testimony of a witness who saw her in that Institution in October,

1872, and who identified Mrs. Griffith, the defendant alleged to be Mrs. Bender in the case pending at Oswego, as the woman who was committed and served in Detroit House of Correction as Almira Shearer from April, 1872, to March, 1873.

An alibi was thus established for defendant Mrs. Almira Griffith.

CHAPTER XX.

The Statesman published at Oswego gave an account of the situation in the defense of these women at that time as follows:

Mr. J. T. James, one of the counsel for the Benders, the two women alleged to be members of the Bender family, has been in the city this week. He has a pocket full of affidavits to prove that these women were living in Michigan during all the time that the Benders were committing those atrocious murders in this County.

It is reported that the County Attorney is satisfied that it is a "gone case," but he has no power to order the discharge of the defendants until the case is called in the District Court, and no further proceedings will probably be taken until the meeting of that body. The Court will convene on Tuesday, February 4, when the matter will be determined.

The Statesman has believed from the first that this was a false alarm, and all developments so far tend to strengthen its convictions.

To get the depositions of witnesses residing in Michigan would require the expenditure of a large sum of money for both sides. The women had no money or property. All expenditures on their behalf must be paid by their attorneys. The State had been at a very heavy outlay to arrest and bring the defendants from Michigan,

keep them in custody, hold the Preliminary and prepare the case for trial in the District Court.

The taxpayers were complaining of the expense to the State of which the Prosecuting Attorney was informed, so he desired to expend just as little money as possible and faithfully perform his duty in the prosecution of the case.

It was agreed between the Prosecuting Attorney and attorneys for the defense to waive all formalities that could be legally waived and to make the money expenditure as small as possible. The attorneys for the defense were anxious that this should be done for the reason that they were paying hundreds of dollars in preparing the defense and were receiving nothing from any source on behalf of the defendants to meet that outlay.

It was agreed that affidavits should be considered in so far as could be legally done, in lieu of depositions to be used as evidence. All affidavits when procured were first to be submitted to the Prosecuting Attorney, before any use would be made of them by counsel for defendants, and if it was decided that they were to be admitted as evidence, then copies were to be furnished counsel for the State.

Attorneys for defendants submitted some affidavits to the Prosecuting Attorney, but they were not satisfactory to him and his reasons were given to the newspapers, for not permitting them to be used as evidence for the defense. These were published without the knowledge or consent of the attorneys for the defense.

The *Oscego Independent* published the following:

The Bender Women.

J. T. James, of Kansas City, Mo., one of the counsel for the alleged Bender women, was in the city this week. He

presented to Mr. Morrison, the County Attorney, affidavits of parties in Michigan, to prove an alibi for his clients.

Marla Chapman of Berrien County, Michigan, avers that she saw and knew Mrs. Monroe during the Spring and Summer of 1873. That she lived in Michigan at that time.

Myra A. Hogue of Niles, Michigan, alleges that she is the daughter of Mrs. Monroe and in a general way states that her mother lived in Michigan during the years 1870 to 1874, inclusive.

The County Attorney could not dismiss the case upon such a showing, and very promptly informed Mr. James so.

Mr. Morrison desires us to state that the report sent out from this city, to the *Kansas City Times*, that the long confinement and excitement of the trial had affected the mind of Mrs. Monroe, is absolutely untrue. She is perhaps not the most amiable woman in the world and does not get along with her daughter as pleasantly as might be desired, but she is perfectly sane and bears her confinement with Christian (?) fortitude.

The statement also, that this case would be brought before the Grand Jury is not correct. The case is already on the Criminal Docket of the District Court and the State will be ready for trial, unless the defendants should be discharged upon a writ of habeas corpus, which is not at all probable.

Another Oswego paper, the same week, contained the following:

The Bender Women Still In Custody

J. T. James, of Kansas City, Mo., attorney for the women charged with being the Benders, was in the city this week, with affidavits concerning the lives of the Bender women.

Mr. Morrison regards the evidence presented not sufficient to warrant the discharge of the women. Unless evidence more convincing is presented to the County Attorney, the women will be tried at the February Term of the District Court. Mr. Morrison did say to Mr. James that at any time satisfactory proof be made that the prisoners are not the

parties wanted, the State would be glad to discharge them and would not be technical with regard to how the testimony should be made, meaning that matters of form in taking the evidence would be waived.

By their conflicting stories the women do much to injure their case, if innocent, and make search for evidence perplexing and difficult. The chance for Kate's acquittal is good and she has repeatedly said in private conversation that the old woman is as innocent as a new-born babe, and yet the reporter saw a letter this week, she had written to Governor Humphrey, asking him to intercede in her behalf, in which she states that her mother had at one time acknowledged that she was Mrs. Bender. She states in her letter that Mrs. Monroe told her that they escaped to No-Man's-Land in the Indian Territory, where they had a quarrel over the disposition of the money, a stocking full. That at night the old man shot Jane, meaning Kate. That they went to Denver, where the men deserted her, leaving her penniless.

Mrs. Davis, the alleged Kate, says that her mother wrote from this place, asking for money to come home, but that she had none to give her. If this evidence could be relied upon, it would be a strong point against the old lady.

Mr. Morrison is very doubtful whether sufficient evidence can be gathered to prove the women guilty, but he feels it his duty to let a jury decide the question.

The people were informed by a sensational dispatch sent to the *Kansas City Times*, the first of the week, that old Mrs. Monroe had gone crazy, on account of worrying over the confinement and the awful crimes charged against her, but if she is insane the attending physician has failed to discover it. She is a woman of nervous temperament and possessed of a violent temper, and she has occasional "spells" that sometimes last two or three days, but if she loses her reason, it is only temporary.

This case was the most important one that was to be heard at the February, 1890, term of the District Court, and much interest was taken in it,

not only in Labette county, but elsewhere in the State.

The *Star and Kansan* of Independence, Kansas, published the following:

Among the cases that will come before Judge McCue, for trial at his first term of court in Labette County, is that of the State of Kansas against the alleged Benders. If the State makes any sort of a case, this will be one of the most interesting trials that has taken place in Kansas, and will occupy, no doubt, a full month's time. The selection of a jury for this trial will prove no easy matter.

CHAPTER XXI.

Sheriff Wilson retired from office and was succeeded by the newly-elected sheriff, William Cook, on January 8, 1890, to whom was transferred the custody of the alleged Bender women. For some time there had been ill feeling between Mrs. Griffith and Mrs. Davis, while they were held at the house of Tom Lawson. Sheriff Cook decided to get another place in which to keep these prisoners and arranged with Mr. and Mrs. Lawrence to keep and guard them. Mrs. Griffith informed Sheriff Cook that she feared Mrs. Davis would kill her. To make certain that nothing of that kind would be attempted the sheriff had Mr. and Mrs. Lawrence put Mrs. Griffith in one room and Mrs. Davis and her child in another, then to keep careful watch over them and see they did not get together. This was a wise move and insured no trouble with the prisoners.

The Prosecuting Attorney wrote the following letters:



Oswego, Kansas, Jan. 28, 1890.

Mr. J. T. James,
Kansas City.

Dear Sir:—It is my intention now to move in the Bender case at the earliest possible moment when Court convenes. Will have the Clerk send you a copy of Information. Please govern yourself accordingly, as I want to dispose of this matter at the earliest possible moment.

Yours very truly,

J. H. MORRISON.

Oswego, Kansas, Jan. 28, 1890.

Hon. H. G. Webb,
Parsons, Kansas.

Dear Judge:—I desire to move in the "Bender" case at the earliest possible moment after Court convenes. My present impression is we will not want to try the Osborn case again. Will have the Clerk send you copy of Information in Bender case.

Yours very truly,

J. H. MORRISON.

Upon this letter is written in Judge Webb's handwriting the following:

Mr. James: You better come so as to be on hand. I do not wish to act without consulting you.

H. G. WEBB.

These letters and a copy of the Information were received by J. T. James at Kansas City, Mo., January 31, 1890.

The information was in words and figures, as follows:

INFORMATION

State of Kansas, } ss. In the District Court for said
County of Labetto } County.

THE STATE OF KANSAS,
Plaintiff,

vs.

ELMIRA GRIFFITH, *alias*
Kate Bender, Sr., and
SARAH ELIZA DAVIS, *alias*
Kate Bender, Jr.,
Defendants.

INFORMATION

State of Kansas, Labetto County, ss:

I, J. H. Morrison, the undersigned, County Attorney of said County, in the name, and by the authority, and on behalf of the State of Kansas, come now here and give the Court to understand and be informed, that on the 25th, day of April, A. D., 1873, in said County of Labetto and State of Kansas, Elmira Griffith, *alias* Kate Bender, Sr., and Sarah Eliza Davis, *alias* Kate Bender, Jr., did then and there unlawfully, feloniously, with force and arms in and upon one William York, wilfully, deliberately, premeditatedly, and with malice aforethought, make an assault; and said Elmira Griffith *alias* Kate Bender Sr., and the said Sarah E. Davis, *alias* Kate Bender, Jr., did then and there with a certain heavy iron hammer, a deadly weapon, held in the hands of one John Bender, Sr., aided and abetted and assisted by the said Elmira Griffith *alias* Kate Bender, Sr., and the said Sarah E. Davis *alias* Kate Bender, Jr., purposely, wilfully, deliberately, premeditatedly, with malice aforethought, unlawfully and feloniously, with intent to kill and murder the said William York, then and there unlawfully, wilfully, feloniously, purposely and of their deliberate and premeditated malice, did strike, thrust, penetrate and wound with the intent aforesaid, thereby, then and there, giving to the said William York, with the heavy iron hammer aforesaid in and upon the head of him, the said William York, one mortal wound, of which said mortal wound, he, the said William York, then and there instantly died; and the said

Elmira Griffith *alias* Kate Bender, Sr., and the said Sarah E. Davis *alias* Kate Bender Jr., did then and there in the manner aforesaid, unlawfully, feloniously, purposely and of deliberate and premeditated malice kill and murder the said William York.

Contrary to the form of the Statute in such case made and provided, and against the peace and dignity of the State of Kansas.

J. H. MORRISON,

County Attorney.

State of Kansas, County of Labette, ss:

I, J. H. Morrison, being duly sworn on oath, say that I am County Attorney of said Labette County, in the State of Kansas, and that the allegations set forth in the within Information are true, to the best of my knowledge and belief. So help me God.

J. H. MORRISON.

(SEAL)

Subscribed in my presence and sworn to before me by J. H. Morrison, County Attorney, this 30th, day of January, A. D., 1890.

COLIN HODGE,

Clerk of The District Court.

No. 925

State of Kansas, *Plaintiff*,

vs.

Elmira Griffith *alias* Kate Bender, Sr., *et al.*

INFORMATION

A True Bill

Filed January, 1890, Clerk of District Court.

Witnesses: L. F. Dick, William Dick, J. H. Hanley, Della Dick, T. B. Smith, Della Keck, G. W. Gabriel, Joseph Story, C. W. Booth, Morris Sparks, David Monahan, William Clair, Martin Shive, Chris Apeck, J. P. Carpenter, Geo. Frease, Frances McCann, E. D. Klerney.

Upon the back of this copy is written:

Received by mail, June 31, '90, at 10:30 a. m.

Attest:

D. M. GURNEA

J. T. JAMES,

Attorney.

Another letter:

Oswego, Kansas, Jan. 30, 1890.

J. T. James, Esq.
Kansas City.

Dear Sir:

I see I am quoted in the newspapers as agreeing to admit your "affidavits" upon the trial of the alleged Benders.

I do not want any mistake about this. I did not so agree. I said they might go in for what they were worth in a *habeas corpus* proceeding.

You were to get *depositions* of the parties you desired to use upon the trial—I said I would waive application to the Court, and would only ask reasonable notice of the time and place of taking them.

Yours very truly,

J. H. MORRISON.

When the District Court convened at Oswego February, 4, 1890, because the time of Judge McCue would be so taken up with holding Court at different places in his District, and the admission of the Attorneys for State and defense in the Bender case that it would take several weeks to try the case when it was taken up, the Court continued the Bender Case to the May, 1890, term of that Court to be held in Oswego, and the defendants remained in the custody of the Sheriff.

CHAPTER XXII.

During the months of February and March, 1890, the attorneys for the defendant, Almira Griffith, secured certified copies of the Court records of Ionia County, Michigan, showing the arrest, arraignment, trial, conviction, sentence and committal to Detroit House of Correction, of Almira Shearer on a charge of manslaughter.

Also the certified copies of the records of the House of Correction at Detroit, showing that she was received into that Institution on May 13, 1872, and was discharged from there on March 24, 1873. That record also showed that she was sixty-two years old, born in the State of New York and by occupation a housekeeper. Certified copies of the marriage certificates of Almira Mark to Shearer, Griffith and Monroe were also procured as evidence in the case.

The testimony of Mrs. John Garden, residing at Saginaw, Michigan, a daughter of Mrs. Griffith, was procured showing that while Mrs. Griffith was in the House of Correction at Detroit in 1872, during the month of October, Mrs. Garden visited her, that the Mrs. Shearer then in that institution and visited by Mrs. Garden, was the identical Mrs. Almira Griffith held at Oswego, Kansas, as Kate Bender, Sr., and that she was not old Mrs. Bender, nor a member of the Bender family.

A writ of Habeas Corpus was taken out for her and upon its return the District Judge was absent from Labette County and a hearing was had before the Judge of the Probate Court of that County, in April, 1890. At that hearing the certified copies of the records, testimony of Mrs. Garden, and the evidence of Mrs. Griffith and Mrs. Davis were presented for the consideration of the Court. Attorneys for both the State and defense made arguments.

The Judge fully considered the evidence and arguments in the case and upon the showing made was convinced, as was the Prosecuting Attorney, Mr. Morrison, that this defendant was not old Mrs. Bender. He made the order discharging Mrs. Almira Griffith from the custody of the sheriff as being held without warrant and as the wrong person. After more than five months of

prison life at Oswego, this old woman was now free, but without any means, far from friends and acquaintances, and there was no redress for her against any reliable or responsible source.

Prosecuting Attorney Morrison was now convinced that these women were not the Bender women. In the District Court he dismissed the case against both of the defendants, and Sarah Eliza Davis, held as Kate Bender, Jr., was also discharged from custody.

The abnormal desire to be known as a notorious criminal and the unbridled tongue of Sarah Eliza Davis, whom one of the attorneys for the defense in his address to the Court said was the "collossal liar" of his experience in criminal practice, had caused these defendants all of this trouble and laid the base for the enormous expense which had been made to arrest and prosecute them as the alleged Benders.

Having been held in Labette County as prisoners for more than five months, at an expense of many thousands of dollars to taxpayers, these women were set free, paupers in a land of strangers, far from home, relatives, friends or acquaintances, unable to compensate their attorneys and without any means of support. The Labette County authorities instructed Sheriff Cook to purchase railroad tickets for them from Oswego to Niles, Michigan, which he did, and sent them over the M. K. & T. railroad via Parsons.

Mrs. Griffith told Sheriff Cook that she was afraid to travel with Mrs. Davis, because she believed Mrs. Davis would kill her. They would change trains at Parsons. Sheriff Cook arranged to have Mrs. Griffith taken secretly to a hotel at Parsons and kept until next train. Mrs. Davis and her child went on the first train and Mrs. Griffith followed on the next train. They were thus separated and a tragedy avoided.



The people of Labette County were glad indeed when these defendants had departed from Oswego and the expense to taxpayers stopped.

A few weeks after Sheriff Cook had sent them away from Oswego, Mrs. Davis returned with three children and rented a house near the Lawrence residence. They lived there for some months. Mrs. Davis did washing to support them. They then left Oswego and have not been seen since.

At the time of their discharge from custody, Mrs. Griffith was nearly seventy years and Mrs. Davis almost forty-six years of age. Both have since become deceased.

Many Benders have been located at different times in many places. Mrs. Griffith and Mrs. Davis were the only persons placed under arrest, by officers, identified by former neighbors and taken to Labette County for trial.

CHAPTER XXIII.

Colonel Frank Triplett, in an interview at the time these women were in custody at Oswego, said:

The Benders Were Spirited Away

Perhaps singly, by confederates, through the Indian Nation, into Texas. That the family drifted to Leadville and started their "murder mill" there. In the early days of Leadville, it is a well known fact that many men were disappearing almost daily.

Many of those so mysteriously spirited away were strangers from the East, staid business men, whose habits and associations were not such as to subject them to the ordinary claims of midnight assassination. The work looked very like that of the Benders, and Leadville was for a time, at least, their refuge.

No man could have so exalted himself in the minds of the people of Kansas at that time, as by killing the Benders. They never met their fate in that way.

Colonel Triplett believed the Benders were probably living at the time he gave this interview in 1889.

All of the Benders Returned to Michigan.

Leroy F. Dick said:

The Benders drove their team into the timber and left it tied to the wagon; that the team had eaten the wagon-bed nearly up and were almost perished when found; that the Benders bought tickets to Humboldt and went Southward, divided into two parties and rounded up and came together at Denison, Texas. From thence into New Mexico, or the unpopulated country in Western Texas. They were followed, every turn they made was discovered, but always too late to apprehend them. When they reached the Western wilds, all trace of them disappeared, and for several years it was lost. Finally, a clue given by a lady, led to the suspicion that they had returned to Michigan.

The Benders Were Not Captured.

J. J. Johns located in Osage township during the year 1869, and lived there for twenty years. He was a neighbor of the Benders and a frequent visitor at the Bender House. Once when he called there he was refused admittance. This aroused suspicion.

Mr. Johns was with Colonel York and the searching party on May 5, 1873, when the bodies were exhumed. He was a member of the Vigilance Committee. He joined the posse and went in pursuit of the Benders. He said: "They did not capture nor kill the Benders."

The Benders Were Killed.

George Evans Downer, a member of the Vigi-

lance Committee, who lived at Independence, became one of the posse in pursuit of the Benders. On his death-bed at Downer's Grove, Illinois, he made the statement that he was present, gun in hand, when father, mother, son and daughter of the Bender family were sent to death by the posse. He said an oath was taken which has made the fate of the Benders a mystery during all of the years since they were killed. The Vigilance Committee of which Mr. Downer was a member was organized at Independence.

In those days of lawlessness in that country, such organization was the only means of keeping order and protecting life and property.

Several members of the Vigilance Committee besides Mr. Downer, were with Colonel York at Bender House that day when the discoveries were made and the bodies of the victims exhumed.

The Benders Captured and Shot.

In the Fall of 1876, only three and a half years after the Bender House discoveries and disclosures, in a camp in New Mexico, near the Arizona line, a man on his death-bed made the following statement:

I was living in the State of Kansas, near the town of Cherryvale, at the time the Bender family escaped from their claim and the officers of the law. Forty-eight hours after they started for the South, I and six others, well mounted and armed, started at midnight in pursuit. We found that they had abandoned their team, which they first started with, and had taken up with a freighter going to the Sac and Fox Agency. We overtook the outfit one evening, at dusk, encamped on the bank of a small stream, a few miles from the Sac and Fox Agency. The freighter was made acquainted with the circumstances. The Benders were taken one mile south-west of the ford and laid under the ground.

Among their effects was found seven thousand dollars,

which was divided into eight parts. The amount was a great surprise to all of us, and considering that we had done a great service to the country and community, we, each of us, there took a solemn oath, never to divulge any part or parcel of the night's work. Never give away any names of the parties that I now give to you.

That dying man then directed that his effects be sent to his sister at Independence. His grave was made in a beautiful valley in the south-western part of New Mexico. There he sleeps his last long sleep. The names of those who formed that posse, which he gave, have never been made known by publication.

At the time the alleged Bender women were in custody at Oswego in 1889, the statement was published that four of that posse were dead, one then lived in Seattle, and another was a prominent business and stockman at Sherman, Texas. The other one was still following the business of furnishing supplies to Indians and emigrants in the Southwest territory.

The following dispatch was published as sent from Little Rock, Arkansas, November 4, 1889:

A gentleman who arrived here from New Mexico, stated that he was in possession of evidence to show that the notorious Bender family had all been killed and buried in the west end of the Cherokee Strip, their executioners being the party who started in pursuit immediately after the butcheries were discovered. The entire family was exterminated.

L. T. Stephenson, a resident of Independence and a member of the Vigilance Committee, became one of the posse which pursued and killed the Benders.

He helped dig the graves in which the Benders were buried.

CHAPTER XXIV.

When Judge Webb and J. T. James had their first conference as the attorneys for the alleged Bender women, Judge Webb, said: "They are not the Benders. We will have a long, hard fight, but we are defending innocent clients, in this case." Judge Webb was a stranger to Mr. James, but the manner of his saying that they were not the Benders, indicated that he knew. Mr. James had left Minneapolis in the month of May, previous, and had been looking after some business in the Indian Territory, keeping a temporary office at Fort Smith, Arkansas. Upon a telegram received at Wagoner, he went direct to Oswego over the M. K. & T. Railway. It was the first time that he had seen either of the defendants, or had met Judge Webb and he had never heard of either of the defendants until the receipt of that telegram which was sent him by a former client.

Mr. James in his law practice up to that date had refused to defend any person on a murder charge, and before he would enter this case as one of the attorneys, he wanted to be sure that the women were not the Bender women. Colonel York, who was then living at Fort Scott, Kansas, not very far from Oswego, was not pushing the prosecution of this case and seemed to take no interest in it whatever. This was significant.

After a talk with some members of the posse, including the Captain, Mr. James became convinced that these were not the Bender women. With Judge Webb, he entered into the defense and the record tells of the faithful, hard work done by these attorneys in that case. To make this defense, secure better detective service and be near the place of trial, Mr. James changed his office from Fort Smith to Kansas City, where he had an office in the Sheidley Building.

Levi B. Madison, a former husband of the defendant, Mrs. Davis, had owned 320 acres of land in Cedar County, Missouri. This land he left to her at his death in Michigan, in the year 1882. Mrs. Davis now agreed to convey that land to Attorney James to be used to obtain money with which to secure evidence and conduct the defense of both Mrs. Davis and her mother, Mrs. Griffith. Investigation of the title to this land at Stockton, Missouri, disclosed the fact that a mortgage had been foreclosed, the land sold, and Judge Stratton, living at Nevada, Missouri, had bought the land in the year 1882, the very year that Madison died. Judge Stratton sold this land to Rookins R. Moore, who was living on it in 1889.

Under date of December 14, Judge Stratton wrote as follows:

Nevada, Mo. Dec. 14, '88.

J. T. James, Esq.

Dear Sir: I am requested by an old friend of mine to write you regarding certain land in Cedar County, Mo., formerly owned by one Levi B. Madison. The land was mortgaged to one John Vanderburg and sold under the same in 1882 — bought by me and sold to Rookins R. Moore who is now in possession and at whose request I write this.

Yours truly,

D. P. STRATTON,
Judge 25th Judicial Cir., Mo.

The envelope bears the following:

Return to D. P. Stratton, Box No. 134, Nevada, Mo. If not delivered within 10 days. *Postmarked* Nevada, Mo. Dec. 14, 1889. *Addressed*, J. T. James, Esq. Ft. Smith, Ark.

On the back of this envelope in Mr. James' handwriting appears:

Ans. Jan'y 6, '90.

That farm was not available for the defense.

CHAPTER XXV.

Reminiscences of H. L. McCune, of Kansas City, Mo., Formerly a Resident of Oswego.

In the spring of 1872, Dr. William York of Independence, Kan., while returning on horseback from a visit to his brother at Fort Scott, stopped at a store in Parsons to make some purchases and then continued on his journey.

Failing to reach his destination, his brother, Col. A. M. York, organized a searching party and started on the road from Parsons to Independence; not far from Cherryvale they found a man sitting by the road reading a Bible. In answer to their inquiries he informed them that he himself had been attacked by bandits and believed that York had fallen a victim to the same outlaws.

York went on in pursuit and the Bible student, who proved to be John Bender, Jr., of the notorious Bender family, returned to his home and gave the alarm and the Benders disappeared.

Whether they were overtaken and exterminated by a posse under command of Colonel York, or whether they succeeded in making their escape is still a mooted question in Southeastern Kansas.

A few days later the body of Doctor York was found buried in the orchard on the Bender place, naked, face down, throat cut and skull broken. Further search disclosed seven other bodies buried in the garden and another body was found near Cherryvale.

An examination of the house proved it to be a veritable slaughter pen. It was a small frame structure about sixteen by twenty feet in dimensions with a door at either end and was divided into two rooms by a canvass partition drawn tightly over upright standards. Under the house was a small, deep cellar.

In the floor of the east room over this cellar was a trap

door. It was the custom of the Benders to decoy into the house the unwary traveler who had stopped to drink at the well or to buy at the little store. He would be seated in a chair with the back of his head against the canvas partition. At a given signal some member of the family, generally believed to be Kate Bender, would strike the victim from behind the screen with a large hammer. The drop was then sprung and the body fell, chair and all, into the cellar, where the work of robbery and mutilation took place at leisure.

The details of these horrible butcheries were published everywhere and were still familiar to the public. Naturally they created intense excitement and indignation in the locality where they were committed, and every effort was made to apprehend the guilty ones and bring them to justice, but without avail, and to this day all attempts to locate them have proven fruitless and their fate is unknown, unless it be to the surviving members of Colonel York's band, who many believe overtook and slew the fugitives as they fled into the Indian Territory, and who have ever since guarded their secret well.

In the fall of 1886, having obtained a diploma from a law school and desiring to make myself eligible to distinction, I decided to locate in Kansas. An old friend was practicing at Oswego, Labette County, and by invitation I went there and formed a partnership with him. Soon after my partner was elected Prosecuting Attorney of the County and entered on the duties of that office.

In the summer of 1889 he received information from the town of Niles, Michigan, that two women were living in that vicinity who were known to be criminals and who were believed by the authorities there to be Mrs. Bender and her daughter, Kate.

After some correspondence with the Michigan officers, the County Commissioners of Labette County, to whom the matter was referred, decided to send Mr. Leroy Dick of Parsons, formerly Sheriff of the County, and in earlier days a neighbor and acquaintance of the Benders, to Niles to investigate the matter.

Mr. Dick went to Michigan and saw the women, and on his return reported that they were, beyond question in his opinion, the guilty parties, and upon the strength of his identification the necessary steps were taken and in November, 1889, the two women were brought to Oswego charged with the murder of Dr. York.

News of the apprehension of these noted criminals was widely published in the newspapers. The Kansas City snitch, I believe, had not come into existence at that time.

However, the second day after the arrival of the women a Kansas City lawyer appeared on the scene and called at the hotel where the women were being kept temporarily and volunteered to defend them.

They had no money and he asked no compensation and was therefore no snitch, but a worthy young lawyer who saw an opportunity to gain a reputation honorably in the defence of two women charged with a great crime. And it may not be out of place to say that he received ample reward for so well did he acquit himself that one of the most estimable young ladies of the town fell in love with him and they were married soon after and I am sure have lived happily ever since.

The legal battle took place at the preliminary examination. The complaint charged John Bender, Sr., Kate Bender, Sr., Kate Bender, Jr., and John Bender, Jr., with having on the 5th day of June, 1872, in the County of Labette and State of Kansas, murdered one William York, and the records of the Justice of the Peace recite that the warrant was returned and filed November 2, 1889, with Kate Bender, Sr., and Kate Bender, Jr., in court.

The examination took place in the circuit court room beginning on November 18 and continuing two days. The venerable Justice of the Peace who had issued the warrant associated with him two other Justices, and these three sat together and heard the evidence.

The trial, as I recall it, was remarkable and at times exceedingly dramatic. The court room was crowded with people from all parts of Labette and adjoining Counties.

Friends of the victims were present and interest in the proceedings was intense.

Seventeen years had passed since the commission of the crime, but the lapse of time had not blotted out the memory of the bloody deeds that had been committed nor dulled the desire for vengeance.

The only question in the case was, of course, that of the identity of the prisoners, an exceedingly difficult matter owing to the time that had intervened since the commission of the crime, and especially difficult in the case of the younger woman, who had in the interval passed from girlhood to middle age.

The State produced fifteen witnesses who had known the Bender family and who identified the prisoners, with more or less certainty, as the female Benders, while the defence put eleven witnesses on the stand equally credible and equally positive that they were not the supposed criminals. The case was tried with ability on both sides.

The Prosecuting Attorney was a shrewd and resourceful trial lawyer, but he succeeded in discrediting one witness in a wholly unexpected manner. The witness had proven a valuable one for the defence. He had known Kate Bender and he remembered her face, height, and general appearance distinctly, and was positive that the woman on trial could never have been the girl he had known.

In the course of his direct examination he stated that Kate Bender's hair was red. On cross examination the prosecutor said, "You say that Kate Bender had red hair—when did you last see her?" The witness answered, "Seventeen or eighteen years ago."

The Prosecutor—"Now, please close your eyes—now what color is this woman's hair?" The witness answered that it was brown.

The woman's hair was in reality of a dark shade, but with a decided tendency to red.

"Now, please state to the Court the color of my hair?" The witness answered without hesitation, "Your hair is gray."

The prosecutor was possessed of a luxuriant growth of sandy

hair and the answer of the witness provoked a laugh in the court room.

"Now, please state to the Court, please open your eyes and look at my hair and tell the Court what color it is?" All eyes were centered on the witness to see his discomfiture, but he calmly looked at the lawyer's head and said, "Your hair is gray, sir."

Thereupon it developed that the witness was color-blind and wholly incompetent to distinguish colors, and that the defect was in his eye rather than in his memory, but he was effectively discredited, nevertheless.

When the examination was closed the Justices put their heads together for a time and then announced their finding that the crime charged had been committed and that there was probable cause for believing the defendants guilty of its commission. The bond of the prisoners was fixed at \$10,000, and as they were minus over 999 per cent of that amount, they went to jail.

The county bastille was, however, unfit for women prisoners, and they were soon after placed under guard at the home of a Deputy Sheriff to await trial.

One morning on arriving at my office I found the Deputy Sheriff awaiting me. He stated that Mrs. Bender, Sr., had taken violently ill during the preceding night, and believing herself about to die she had sent for the Prosecuting Attorney to whom she desired to make a confession. The deputy informed me that the Prosecuting Attorney was away from home and he desired me to go with him and take the old woman's statement.

You can imagine with what feelings I gathered up paper, pen and ink and followed the officer. I was about to hear from the lips of this dying woman the true story of these great crimes—possibly to learn the whereabouts of the other members of the family. Truly, it promised to be an unusual experience and I commented to myself on the circumstances which had resulted in placing me for the moment in the place of the Prosecuting Attorney.

I found the woman apparently in a dying condition. She seemed to breathe with difficulty, her voice was scarcely

incoherent, at times her mind wandered, and her speech became incoherent. She urged me to make haste and take down her statement before it was too late.

Then with great difficulty and frequently interrupted by paroxysms of pain she made a statement which I took down in writing and which was in substance as follows:

A few years before she had met and married a widower in the state of Michigan. He had a daughter by a former wife. After their marriage he confessed to her that he was living under an assumed name. That he was old man Bender and his daughter was the notorious Kate. That after the murder of Doctor York, the family fled south into the Indian Territory. That John Bender, Jr., had the money that had been taken from their various victims.

One morning as they were camped beside a little stream, the father and son quarreled and the old man brained the younger man with a neck-yoke. The remainder of the family then worked their way north until they reached Michigan, where Mrs. Bender died.

My informant further stated that her husband had been drowned shortly after their marriage and that she and her step-daughter, Kate Bender, had lived together thereafter until they were arrested and brought to Kansas. That the young woman downstairs was undoubtedly Kate Bender, the only surviving member of that family. That she, my informant, was a Bender only by marriage and an innocent and much abused old lady.

She signed this statement, using the name under which she had been living in Michigan. She then asked me if I did not think this confession sufficient to clear her if she should recover and she appeared much disappointed and also much stronger physically when I informed her that I did not think a dying statement would be competent evidence for that purpose.

As I was leaving the house, Kate Bender requested an interview and informed me that she would like to turn State's evidence, as she could tell some very damaging things about the old woman upstairs. But I had enough for

one day. The old lady decided not to die and was as well as ever in a few days.

During the next few weeks, the Prosecuting Attorney began a careful investigation of the history of our prisoners, which ultimately disclosed that the older woman had served a term in the penitentiary at Jackson, Michigan, and on examination the records of that institution it was found that in 1872, when the Bender murders were committed in Kansas, this woman was in the Michigan prison serving a sentence for manslaughter, she having struck one of her daughters in the abdomen with a stick of stove wood.

Here was conclusive proof that the prisoners were not members of the Bender family, but undoubtedly they were just as bad. Mother and daughter, and yet either would have sent the other to prison or the gallows to save herself.

And now like the man who caught the bear, we endeavored to let loose. By suggestion of the Prosecuting Attorney, *habeas corpus* proceedings were instituted before the Probate Judge, and the prisoners were released on condition that they would return to Michigan at once.

Through tickets were furnished them and they were placed on a train for St. Louis. At Columbus, Kansas, the first stop, they got off, sold their tickets and the next day were back in Oswego, saying that they liked Kansas better than Michigan and intended to remain with us, and here we will leave them and here the reminiscence ends.

I have told the story as accurately as I can recall the facts. If there are any lessons to be drawn from it you must find them yourselves. I believe that no further attempt has been made by Labette County to catch the Bender family.

Travelers who visit the locality where they formerly lived say a curse seems to rest upon what was once the Bender farm. No one will live upon the place. The house and barn have been carried away in pieces by rattle hunters. The fences have disappeared. Weeds and thistles cover the ground, and the traveler hurries on to gaze on more attractive landscapes; for all about are cultivated and attractive farms and comfortable homes, transforming what

was once a flat and treeless waste into a rich and attractive farming country.

CHAPTER XXVI.

Bender Gossip

(Interesting stories told on the witness stand in Niles, Mich., by Mrs. Davis against her mother.)

The Alleged Mrs. Bender.

During the examination of the larceny case at Niles, where Mrs. Monroe had become enraged at the actions of her daughter, Mrs. Davis, she had her charged with burglary and arraigned in court.

The Sheriff went to Lansing with a warrant to bring Mrs. Davis back. This made her so mad that she began to charge her mother with crimes, murder, and almost every crime known.

It finally developed to the suspicion that Mrs. Monroe was the real old Bender devil that was connected with the terrible murders in this County a few years ago. No stolen goods were found in her possession, and the prisoner alleged that it was a trumped-up charge by her mother to get her in State Prison so she could not testify as to the various crimes committed by her mother.

After the conclusion of the testimony of Mrs. Monroe and her daughter, Mrs. Hogue, Mrs. Davis took the stand and was proceeding to give a history of her mother, of her various murders, etc., when the Public Prosecutor, M. Bridgeman, called for a pause, alleging that the testimony of Mrs. Monroe must first be signed. This was considered by some bad policy, for Mrs. Davis appeared to be in the right mood to make rich developments.

In the meantime, the mother and daughter became reconciled to each other and started on foot to escape. They

were arrested, and finally brought to Oswego charged with being old Mrs. Bender and her daughter Kate.

"Bender Gossip" was published by a paper at Oswego, Kansas, from which is obtained the account of the trial at Niles, Michigan.

Larceny Case.

A preliminary hearing was given, in this case, in Michigan.

The *Daily Star*, published at Niles, in the issue of October 22, 1889, gave a review of Mrs. Davis' testimony, as follows:

The case against Mrs. Ellen Davis has been postponed so often that the people are very tired in waiting for results. Yesterday afternoon the trial was resumed before Squire Barron, at his office in the American Block, a little room twenty by fifteen feet. People crowded into the place and packed it on short notice. The air became stifling and people gasped for fresh air. In due time the examination commenced.

Mrs. Davis commenced her testimony by stating that there were various reasons why she could not give further testimony against her own mother. She had been convinced now that she was her own mother.

"If I told all that I know it would imprison her, and I do not wish to do it."

Attorney Hamilton: "Have you been threatened if you proceeded?"

Ans. "Yes: threats have been made. Henry Howe called me out and said if I continued to testify as I did he would fill me full of holes. There were other reasons. It was pretty hard to testify against my own mother."

Bridgmen: "Then she is your own mother?"

Witness: "She has convinced me that she is my own mother. All I swore to when I was on the stand before was absolutely true, but I do not want to give further testimony against my mother. If I would give a true statement it would send her to the penitentiary and I do not wish to do it.

"We lived a mile and a half from Portland in '02. I have never been welcome at home. I was a little girl at home sleeping up stairs. I heard in the night a baby cry; I jumped up, and looked down between the cracks and saw my mother roll the back-log forward and throw the child behind it and burn it up. This was 1860, at North Shade, in Gratiot County, Michigan.

"My oldest sister, Elizabeth, had a mishap and this was done to save disgrace."

"Saw her kill a woman who asked her for something to eat. She did not give men's away. A dispute arose and she struck her with an ax-helve on the back of the neck and killed her. It was afternoon. She took the body to a manure pile and buried it until evening, when she took it to a slough hole and sunk it. I was made to go with her. Her husband was in town to sell ax-helves.

"I don't think Mother ever lived in Canada; she got into trouble with brother George's wife and was arrested in 1868 and sent to the Detroit House of Correction one year.

"I have lived in McPherson, Kansas; then at Emporia. I received letters with Mother's name signed, from Kansas, Colorado and Texas; she wrote me for money. I sent her some to Colorado; she has told me at different times that she was in Kansas and had seen all that country she wanted to see; she never mentioned any names.

"In 1872 I think she was in Howard city; had a letter from her in 1872 from Kansas; all these were stolen from me on my late visit to Niles, as I can prove by my daughter.

"November 16, I had a letter from her in Texas; 1874, in the latter part of the year; all were stolen from me; it was dated at Dover or Dohiver—some such name.

"She said: 'My Dear Daughter: Send me some money. Ten dollars if no more; I am deserted.'

"I do not know who was with her in Kansas; never heard her tell what business she was in; she took up land and was farming, but didn't like the country; had a letter from Hutchinson and Florence, Kansas; her name was on the letters.

"Ed Stokes, the fellow who went to prison for killing a man in New York, married Mrs. Monroe's daughter;

she then married a man in Canada named Wm. Sanford; he was killed at Windsor; I was in the house when it happened, and was between eight and nine years old when it happened. It was a large two-story brown house just outside of the city. There was Mary Gordon, a little girl five or six years old; he was roped down cellar and his throat cut with a razor; Mary was down cellar.

I was so abused and pounded by Mother that I ran away and stayed in Detroit two or three weeks, when I was taken to Portland, insensible; don't know how I came so; the killing was done at three or four o'clock in the morning.

"Mother told me what became of Griffith at Dowagio; Myron Monroe and Griffith got into a fuss; Myron cut him on the back of the neck until he was dead, and he was thrown in a well.

"I heard Mother talk about the Benders seven or eight years ago, telling what crimes they had committed, killing so many people and burying one child alive; told how they were killed by being struck with a hatchet or hammer, spring a trap door and then carry them through the window, and the the whole thing."

Bridgman: "Did you go down to Kansas to get married?"

Witness: "That is none of your business. I will get married again sometime.

"The Bible containing records of birth sent with Mother's trunk to Muskegon, and those matters of importance are in the trunk."

Bridgman: "Do you think your mother crazy?"

Witness: "Crazy with the devil. She lied about me and has owned up to it, and has the goods she charged me with stealing. She praises God when she don't praise the devil."

Bridgman: "Mrs. Monroe, can you sing?"

Mrs. Monroe: "Yes, I can sing to Mr. Hamilton, lull-a-by-baby, on the tree top."

Witness: "Lived in Lansing when my mother broke me up. Don't know which of us wakes up the spirits."

(Mrs. Monroe raps under the table.)

Witness: "Bring in the battery. I have been told that Mr. Bridgman has threatened me with the penitentiary."

Bridgman: "For telling the truth?"

(This garrulous child is an innocent nuisance.)

"My mother said she was in Kansas since we separated. In 1860 she went to Kansas. Hardacrabble and dozens of other places.

"I have received letters from her and they were taken from me only lately by my mother; they were lost in my valise at her house; one was asking for money; it was from Texas, asking me for ten dollars. I did not send it; I feel sure it was from D; it commenced with a D; I'm sure; there was one from Denver asking me for money; I sent her three dollars; this was in July, 1874; I sent it from Cairo.

"She never described her farming in Kansas, nor never told me who was farming with her; it was at Hutchinson—prairie land.

"I was with her when she was here."

Here Stokes, who murdered Fisk, is sworn to have married a daughter of Mrs. Monroe, and Mrs. Davis still swears she heard he was "sent up" in New York. This was Elizabeth who married Stokes.

Mrs. Davis then says her sister Mary murdered her husband in the cellar.

"This made me run away from my mother; after this man was killed I became insensible to all and everything; this murder occurred at four in the morning; I can't remember the husband's name.

"Mrs. Monroe frequently told me of the murders by the Benders in Kansas. I am either forty-four, or thirty-eight, or thirty-seven; my mother has three different ages for me.

"I believe my mother is devilish crazy and is always doing something against her children."

(Mrs. Davis insinuates Mrs. Monroe dare not get up and deny before God she is anything but a liar. Here Mrs. M. does get up amid the roars of laughter of spectators. She put up her two hands and declared she was innocent.)

"My name has been Davis since July last—Mrs. James Davis; I was married at Lansing; my husband is not there, I don't know where he is; I lived at Jackson, this State, three years ago."

Bridgman: "Do you know Jud Crouch?"

Mrs. Davis: "You ask questions when your mouth should be shut."

(Boisterous laughter, which Judge Barron was obliged to subdue with stern voice and countenance.)

"This is a larceny case, and my knowing or not knowing Jud Crouch has nothing to do with the case," said Mrs. Davis, "and I tell you, Mr. Bridgman, the way to get along with women is to mind your own business and leave theirs alone."

Mrs. Davis continuing, said: "I have another witness; my eldest daughter knows my mother had possession of the very property which she charges as having been stolen by me."

Mrs. Davis thought her mother had got her into a scrape, and she should punish her for it in the courts.

Adjourned until Tuesday, Oct. 29.

CHAPTER XXVII.

The *Kansas City Star* reporter gave the following account of his visit to Oswego:

Old settlers who were expected to identify Mrs. Almira Monroe and Mrs. Sarah E. Davis as Mrs. John and Kate Bender have seen the women since their arrival here. Two say the right people have been captured, but others laugh at the idea and the Prosecuting Attorney is in great doubt now.

Public opinion is fast molding itself in favor of the two women. The attempt at identification has proved a dismal failure. The witnesses on whose opinions the most reliance has been placed by Prosecuting Attorney Morrison have declared in a few words that the wrong parties have been arrested.

Silas Toles, now of Chautauqua County, and his younger brother were the first to discover the fact that the Benders had fled the country. He was sent for by the Prosecuting Attorney and arrived in Oswego Saturday afternoon.

"If Toles does not identify Mrs. Davis as Kate Bender," remarked Prosecuting Attorney Morrison, "I shall believe we have the wrong parties. He knew her intimately and lived on an adjoining farm to the Benders, the two houses being not more than a quarter of a mile apart."

Toles was admitted in the room in which the prisoners are being kept and talked with them half an hour. On his return to the Prosecuting Attorney's office he said, "You have the wrong parties. Kate Bender and Mrs. Davis correspond fairly in height, but there the similarity ends. Kate Bender's hair was lighter and her face much thinner than Mrs. Davis'. In the color of the eyes a great difference can also be noticed. The old woman does not resemble Mrs. Bender."

Thomas Jeans, a resident of this County, who owned a farm adjoining that of the Benders, declared that Mrs. Monroe did not look like Mrs. Bender and that Mrs. Davis bore no resemblance whatever to Kate.

The Prosecuting Attorney Blue.

Joseph Story, a policeman of Parsons, was the only person who saw the prisoners to-day and discovered any resemblance between them and the criminals for whom they were taken.

He said that there was no doubt whatever in his mind, that Mrs. Davis and Kate Bender were identical. He claims to have seen Kate Bender only half a dozen times, but tells a long-winded story to show that he would never forget her face.

The Prosecuting Attorney admits that he is badly discouraged, but declares that he will probe the mystery to the bottom.

It is very different with Mrs. McCann. She has made up her mind that the influences guided her aright, and if every old settler in Labette County would swear that the two women looked no more like the persons for whom they were arrested than they do like Queen Victoria, she would still insist that she could not be mistaken.

They do not look like criminals, and, as their history

shows, have devoted most of their lives to getting married and raising children.

Mrs. Monroe claims to have been married three times and to have been the mother of twelve children.

Mrs. Davis acknowledges having been married three times and having partially raised seven children.

Mrs. McCann says she can prove that Mrs. Monroe has been married eleven times, and Mrs. Monroe charges Mrs. McCann with having stolen her marriage certificates.

Mrs. Davis Tells Her Story.

With her two-year-old babe in her arms, Mrs. Davis told the story of the persecution of Mrs. McCann. The influence exerted by Mrs. McCann over the ignorant woman is the most remarkable feature of this most remarkable case. Mrs. McCann believes she has a mission to perform, and that mission is to discover the whereabouts of her father's murderers and bring them to justice. She thinks impressions lead her in the right direction, and Mrs. Davis is ignorant and superstitious and believes that the alleged detective is a Spiritualist who has absolute control over her.

"Mrs. McCann first came to my home in McPherson about six years ago. I was sick from child-birth and Mrs. McCann followed my little girl home. She professed great sympathy for us and for several weeks made frequent trips to our house claiming it was being done for charity's sake. I was sick for three weeks and as soon as I could sit up in bed she began talking to me.

"One day she brought an instrument to the house which she said would write my name and place of birth. I took it and sure enough it wrote Sarah Eliza Mark, Chittaraugus County, New York.

"I did not know what it all meant, but from that time Mrs. McCann could do anything with me she pleased. She would ask me questions and I would answer them just as she wanted me to.

"Finally I fell sick again and remained in this condition for three weeks until Dr. Smith of McPherson was called to

see me. During all this time I was sick Mrs. McCann would ask me questions."

Mrs. McCann's Queer Doings.

Mrs. Davis told several other stories, showing that Mrs. McCann had mesmeric influence over her. She said she did not remember having sworn in Michigan that her mother was Mrs. Bender but said that she testified just as Mrs. McCann wanted her to and could not help it.

Neither of the woman have any means with which to make a defense.

They claim that they will be able to prove that Mrs. McCann offered one of their relatives twenty-five dollars to swear that they are Mrs. John and Kate Bender.

Mrs. Davis claims that Mrs. McCann offered her fifty dollars to swear that Mrs. Monroe was Mrs. John Bender, and Mrs. Monroe said that she was offered fifty dollars to swear that her daughter was Kate Bender.

Mr. James, attorney for the defense, expects to prove that Mrs. Almira Griffith, or Monroe, is sixty-eight years of age. Her maiden name was Almira Hill and she was born in Cattaraugus County, New York. She was married three times and was the mother of twelve children, six of whom are living.

In 1839 she was married to Simon Mark, a Frenchman living in Cattaraugus County, who was the father of all of her children. He died in 1866 and in 1872 she was married to Joseph Monroe, and in 1880 married William Stephen Griffith of Howard City, Michigan, who now lives at Muncie, Indiana. She lived with her last husband only a few months, and was known in the community as Mrs. Monroe.

Mrs. Sarah E. Davis claims to have been born in Cattaraugus County, New York, in 1844 and moved to Michigan in 1862.

She was married to Levi B. Madison in 1863. In 1879 he died, and in February, 1884, she went to McPherson, Kansas, a widow with three children, all of whom are now in the poor

house. Within three months after arriving in McPherson she was married to John Thompson, who died in 1886.

She went to Niles, Michigan, where she remained until 1886 when she returned to Emporia, Kansas. She remained in Emporia six months, returning to Niles, Michigan, where she remained until her arrest.

CHAPTER XXVIII.

The *Kansas City Journal* contained the following:

THE TWO ALLEGED BENDERS

**A Journal Representative Interviews the Prisoners—
The Prosecution Seems to Have Been Made at
the Instance of Spooks. Three Men Fail to
Identify Them, While the Fourth Man Is
Positive the Younger Woman Is Kate Bender.**

Oswego, Kansas. — To-day's developments go far toward establishing the innocence of the alleged Benders. Three men at least, J. W. Jeans of Montana, Dr. McKennle of Oswego, and another man, all of whom knew the Benders, have failed to identify them.

Public opinion as moulded by reports that come from interviews is that these are innocent parties, and that the authorities have been misled by the delusive chatter of Mrs. McCann, the "detective." Even the County Attorney has fears of establishing their identity.

Mr. James, their attorney, has ordered the women defendants not to talk to reporters, but the *Journal* correspondent had an interview with them this morning at the residence of Tom Lawson, within a stone's throw of the hotel where Mrs. McCann is stopping.

The reporter was taken upstairs into a low room and upon the bed sat Almira Griffith and near her on a chair sat Sarah Ella Davis, the alleged "Kate Bender," holding upon her

lap a curly-headed little girl about two years of age. They stoutly protested innocence. In response to a question of her life the older woman said:

"I was born in Cattaraugus County, New York, in 1821. My maiden name was Almira Hill. I was married there in Sawmill Run in 1830 to a Frenchman named Simon Mark and twelve children were born to us. He died in 1866 and I married a Scotchman by the name of Josiah Monroe, in 1872, in Michigan. I had my marriage certificate until Mrs. McCann stole it from me.

"We moved to Niles, Michigan, in November, 1874. I was divorced from Monroe and married a third time to William Steven Griffith, at Howard City, Michigan. He deserted me in 1887 and is now in Muncie, Indiana.

"I have never lived in Kansas and know nothing about the Benders. I have made a living peddling, washing and anything I could find to do."

Mrs. Griffith is rather fleshy and is sprightly for her age, and joked about the writer seeing the famous Benders.

Sarah Eliza Davis was then interviewed. She is about five feet, two inches tall, has brown hair and is minus an upper incisor. She was poorly clad and was nursing her little girl at the breast and bears the marks of age, that maternity of seven children would naturally occasion.

Almost the first thing she said was, "That woman," meaning Mrs. McCann, the detective, "has power to do anything with me. Why, she brought a magnet shaped like a harp, which had a frame on it. When I would grasp it my hand would write anything Mrs. McCann wanted it to write. When she came into the house I was completely under the influence. She mesmerized me. One time I was under her influence two weeks. I am afraid of her. Every where I go she follows me."

"When were you first married, Mrs. Davis?" was asked.

"I was first married to Levi B. Madison in Michigan in 1863. He died in 1879.

"In 1884 I moved to McPherson, Kansas. There I married John Thompson. He lived eighteen months. About this time I made the acquaintance of Mrs. McCann and in a

short time she had me under her influence. I lived in McPherson two years.

"If I ever made a confession to Mrs. McCann, I don't know it, but all the time she was trying to surprise me and coax me into a confession.

"I moved back to Niles, Michigan, in 1887, and lived there one year. I went to Emporia, Kansas, in 1888 and Mrs. McCann came there and watched me. I moved back to Niles in six months.

"I have three children, Gertrude, aged sixteen, Lillie aged thirteen and Freddie aged eleven. The two youngest were put in the poor house, and the oldest went to work."

When asked about her marriage certificates she claimed that Mrs. McCann had stolen them and other papers from her.

When interrogated as to her mother's career, she admitted that she had served a term in the Michigan penitentiary for infanticide.

Mrs. McCann was seen by the *Journal* reporter this evening and she said that in all of her work in this matter she had been guided solely by her intuitions or impressions made upon her by some mysterious influence.

She says she will go to McPherson and visit her family whom she has not seen for six months.

She certainly has followed her theory faithfully, though she admits that the confession she has obtained will not convict them.

Uncle Joseph Storey of Parsons, who knew the Bender family, will come down this evening and says that if the younger woman is not Kate Bender, she is her exact counterpart.

CHAPTER XXIX.

The *Kansas City Times* contained an article entitled:

BASED ON DREAMS

Mrs. McCann's Charge Illusory. The Alleged Benders Arrested Almost Without Cause. Decidedly Weak Story Told by Female Detective. The Big Sensation Very Much Like a Persecution Now. Determination to Hang the Two Women, If Possible, Expressed by the Accuser. Queer Tale on Which to Jeopardize Lives.

Oswego, Kansas, Nov. 2.—Mrs. Frances E. McCann left Oswego on the evening train for Parsons, where she will remain for several days, the guest of Deputy Sheriff Dick, who brought Mrs. Monroe and Mrs. Davis from Niles, Michigan.

Mrs. McCann and Mr. Dick are about the only persons who think that Mrs. John and Kate Bender have been captured.

In an interview at the depot this morning the lady said: "If I have not captured Mrs. Bender, I have succeeded in bringing from Michigan the ugliest woman ever seen in Kansas."

Then the little woman shrugged her shoulders and laughed heartily in her attempt at a joke.

"I did not expect," Mrs. McCann continued, "that many persons in this part of Oswego would be able to identify the prisoners, for few of them knew the Bender family, by sight. I cannot say that I will be satisfied even if at the trial they are turned loose. It depends altogether on how the investigation is conducted. If they are turned loose on this charge, the murder of my father, John W. Sanford, at Windsor, Canada, remains to be disposed of.

"Mrs. Davis swore on the witness stand at Niles, Michigan, that her mother was instrumental in the murder of John W. Sanford.

"It is a matter of public record, and whether it is competent evidence in the preliminary hearing or not, it will furnish grounds for another investigation. I propose to see that

the investigation is conducted by the State in such a manner that the whole truth will be arrived at."

Based Entirely on a Dream.

This second charge is based on a dream. Supplementing the dream are confessions of Mrs. Davis made, she claims, while under a mesmeric influence.

Hobgoblins and ghosts figure even more prominently in the Stanford murder investigation than they do in the Bender fiasco.

Mrs. McCann had a dream which revealed the murder of an old man, by an old woman and her daughter. The little daughter of the murdered man was spared. The story preyed on her mind and she told it to Mrs. Davis at McPherson.

Mrs. Davis interpreted the dream.

"Yes, there was a murder," said Mrs. Davis; "the murdered man was John W. Sanford, of Windsor, Canada, and you are the daughter who escaped. My mother was the murderer."

Mrs. McCann did not know her parentage, and so impressed was she with the interpretation that she made a pilgrimage to Kentucky, where she visited an orphan asylum in which she was raised.

There she discovered that she had been received as Emily Sanford.

Her next visit was to Windsor, Canada, where she discovered that a man by the name of John W. Sanford had been murdered.

Mrs. McCann returned to McPherson, determined to prosecute her search for the murderer of her father. She began by shadowing Mrs. Davis.

How the Bender Idea Began.

"There was one thing," said Mrs. McCann in relating her story, "which Mrs. Davis said she would never tell me. I kept thinking the matter over and these words came to my mind, 'these people are the Benders.'"

"One day I asked Mrs. Davis point-blank if her mother

was not Mrs. Bender. She became indignant at once and fiercely told me never to refer to that subject again.

"On the following day she was busily engaged in washing over a washtub. 'How many were there in the Bender family?' I asked in an off-hand way and she was caught napping. 'Well, let me see,' she said, 'there was Mother—.' She stopped in an instant and throwing her hands up exclaimed 'Now you have the secret. I have told you all!'

"She warned me on fear of death never to refer to the subject again, and I believe that only the reason she had in telling me further of the many murders committed by her family, was to intimidate me."

The dream and the confession which followed it, form the ground-work of all subsequent investigations.

No attempts at identification were made to-day and the curfews were refused admittance to the room in which Mrs. Monroe and Mrs. Davis were guarded.

The attorneys for the two are collecting evidence to establish the identity of their clients.

A dispatch from Portland, Michigan, states that a deputy sheriff of that County had received a letter from Mrs. Monroe requesting him to procure affidavits from prominent citizens regarding the manner of her husband's (Mark's) death.

A dispatch from Portland published in the *Detroit Free Press* corroborates, in part, the story told by Mrs. Monroe, in regard to her Michigan life.

The dispatch says: 'Mr. and Mrs. Monroe came to Portland in 1870, shortly after the Windsor tragedy, and occupied the old block house on the west side of Grand river. They were generally regarded as a quarrelsome, dangerous set and were seldom molested by the townsfolk. The facts connected with the death of Mark cannot now be recalled, but the husband and wife were certainly disagreeing. The family had some trouble here over the alleged drowning of a babe, but no arrests were made.'

CHAPTER XXX.

State of Michigan, County of Berrien:

Marian Chapman being duly sworn says: That in the early Spring of 1873, she became acquainted with Mrs. Almira Monroe, now under arrest on suspicion of being one of the Bender family and connected with the murders of that family in the State of Kansas. That she worked for my next neighbor in planting corn and other work in the house, that Spring and Summer.

This woman lived a mile from me and worked for a Mr. Lankston on an adjoining farm.

She fixes the date at which she first knew Mrs. Monroe by the birth of her child, the child born in the Spring of 1872. She saw and knew this Mrs. Monroe during the Spring and Summer of 1873 and more or less often each year to the present time.

MARIAN CHAPMAN.

Sworn and subscribed before me this 16th day of November, 1889.

(SEAL)

DAVID BACON, *Notary Public.*

State of Michigan, County of Berrien, ss:

Myra A. Hogue, being duly sworn, says: That she is a resident of Niles, Michigan, and she has been for fourteen years last past. That she has been a resident of the State of Michigan for twenty-five years. That during the years 1870, 1871, 1872, and 1873, she was well and intimately acquainted with Almira Griffith, formerly Almira Mark, now under arrest and held at Oswego, Kansas, as the noted Mrs. Bender, and charged with the murder of Doctor York, and others in Labette County, Kansas. That said Myra A. Hogue is a daughter of said Mrs. Mark. That during the year 1870 Mrs. Mark lived in David Perry's house, in Concord Township, in Jackson County, Michigan. That in the year 1872, she lived in Carlton, a suburb and adjoining South Saginaw, Michigan, in a house owned by one Louis Gonsalvinger. That in 1873 and 1874, Mrs. Mark, then known as Mrs. Monroe, lived at Tekouska, Calhoun County, Michigan.

That affiant was well acquainted with Mrs. Griffith during said time and of her own knowledge says that she was living during said years at the places above set forth.

Her

MYRA -|- A. HOGUE.

Mark

Sworn and subscribed before me this 13th day of January, 1900.

(SEAL)

DAVID BACON, *Notary Public.*

One of the Oswego weekly papers contained the following:

J. J. Johns of Oswego Township spent Saturday with his mother-in-law, Mrs. I. W. Patrick. In 1869 Mr. Johns located in Labetto County and was a neighbor of the notorious Bender family. When asked his opinion regarding the fate of this family, he stated positively that they were not captured and killed by a vigilance committee, as he was a member of that organization. He was a frequent visitor at the house and one time was refused admittance, which aroused his suspicions.

CHAPTER XXXI.

The *Parsons Palladium*, dated June 12, 1907, contained an article which read as follows:

Following close upon a story recently published that Kate Bender had been discovered in Oklahoma and had been denounced by a man who wanted to marry her daughter and had been refused; now comes a story from a Kansas City woman who formerly lived in Montgomery County and who claims her father-in-law was a member of the avenging party that slaughtered the Benders after finding of the evidence of the murders.

She mentions Judge Webb, formerly of this County as one of the party who discovered the notorious trap door

through which the victims of the Benders were thrown after being struck on the head.

(This article then quoted part of an article which was published in the *Kansas City Star* dated June Second 1907, and was as follows:)

HELPED SLAY THE BENDERS

A County Treasurer Is Said to Have Aided Avengers.

Apropos of an article in last Sunday's *Star*, in which John Keepers related the story of what many persons believe to have been the tragic end of the notorious Bender family of Kansas, Mrs. E. L. Stephenson of Kansas City offers some testimony tending to corroborate Mr. Keeper's theory.

Mrs. Stephenson declares that her father-in-law, L. T. Stephenson, at one time Treasurer of Montgomery County, Kansas, was one of a party of men who pursued and killed the Benders, in the manner described by a Cherokee Indian, who witnessed the execution.

In the party of avengers, she says, were many prominent citizens of Montgomery County, nearly all of whom are now dead.

"After the disappearance of Doctor York and his little daughter," said Mrs. Stephenson, "a search was made for them, which resulted in locating them finally in a grave on the Bender farm, together with some sixteen other bodies all of whom had been killed on the same manner.

"Doctor York had been killed by being struck in the back of the head, but the little daughter, from all appearances, had been buried alive in her father's grave.

"Everything indicated that the premises had been but lately vacated, scouts having evidently gotten wind of the fact that the avengers of Doctor York were headed that way and the trail was taken up and followed three days.

"At the end of that time the wagons, which had broken down and been abandoned, were found, and soon after the entire party was overtaken and dispatched without mercy.

"Kate Bender, who seemed to be the leading spirit of the party, is said to have fought for her life viciously.

"At a time when reports were being circulated that the Benders had been found and arrested, knowing that my father-in-law had been living in the country at that time I asked him if he thought it was true, and his reply, quietly given, was that he knew it was not, for he had helped to dig their graves.

"Later he told me of an experience he had himself had with the Benders.

"In the early days of Montgomery County, Kansas, he had held the position of County Treasurer, banking funds at Oswego, some sixty-five miles away, to which place he made trips overland by private conveyance.

"On the occasion spoken of he was accompanied by H. G. Webb, the District Judge of the County, who was going to Oswego to hold his regular term of court.

"Father owned the finest team of horses in the County of Arabian and Hambletonian stock, with harness silver-mounted and a fine covered buggy.

"On the way they stopped for dinner at the Bender farm, which was the only inn along the route. Driving into the barnyard, they ordered the horses fed without unhitching as they were in haste.

"Being ushered into the front room of the house, carrying with them the valise containing the funds, they were confronted by Kate Bender, who came to take their orders.

"They were forcibly struck by her evil face, the Judge remarking after she left that he wouldn't care to be compelled to face her in close quarters without weapons of defence.

"While waiting for their meal to be brought, Father walked out to see that the horses had been attended to and discovered that his orders to feed without unhitching had been disregarded, the horses having been taken from the buggy and locked in the barn.

"Returning to the house he told this to the Judge. Both regarded it as a suspicious circumstance and they began to look about them.

"The room in which they sat was divided from a rear

room by a thick curtain, and on closer examination, it was found that this curtain and the table covered a long, closely fitting trap door.

"In a short time, Kate Bender reappeared with their meal, and placing it on the table, drew two chairs to one side of the table, with backs to the curtain, and invited them to 'draw up,' immediately leaving the room.

"Quietly lifting the table over to the other side of the room, they took their places at it, facing the curtain.

"Scarcely had they done so, when a vigorous blow was struck on the other side of the curtain in such a way that had they been sitting in front of the curtain one of them must have been killed.

"Simultaneously with this blow the trap door in the floor flew open downward, revealing a hole large enough to have taken in table, chairs and their occupants.

"Realizing that they would probably be outnumbered, Father and the Judge drew their revolvers, rushed out of the house to the barn, broke in the door and while one stood on the defensive, the other hitched the horses to the buggy.

"They drove out of the place as fast as they could, followed by several shots from the house.

"On returning to Independence a few days afterward, carefully avoiding the Bender farm on his way, Father learned of the disappearance of Doctor York and his little daughter, who had left Independence some days previous.

"It was the information given by him of his adventure at the Bender farm which led the avenging party to make straight for that place."

CHAPTER XXXII.

He Knew the Bender Family.

On May, 1907 the *Kansas City Star*, in its Sunday edition contained the following:

John Keepers Aided in the Search for the Murderers

Periodically the report goes over the country that the

notorious Bender family has been found. But always the rumor is found to be false.

"They will never be found," said John Keepers, an ex-Kansan, now living at 2113 Bellefontaine avenue. "When the Benders left their farm in Crawford county, Kansas, in 1873, after their crimes had been committed and discovered, they are supposed to have gone into the Indian Territory.

"It is almost an absolute certainty that the Benders were all killed and buried by outlaws like themselves.

"The Benders knew too much—that's why they were killed.

"I was one of the party of men that went to the Bender home when a search was being made for Doctor York of Independence, a brother of Col. A. M. York of Fort Scott.

"We met old man Bender at the gate and told him our errand.

"He said he had been shot at by highwaymen a few days before on the Verdigris river, six miles distant. That led us off on a false scent.

"When we came back ten days later the Benders had disappeared.

"The discovery of their flight was made by a neighbor named Pierce. He told others and a search of the premises was begun.

"First we went through the house. We found a trap door in the floor, and below it in the cellar, the gravel flooring was stained with blood.

"In the garden we found several places where the earth had sunk.

"The most recent appearing of these we dug into and found there the body of Doctor York.

"We sounded all the other depressions with an iron rod and found in that way sixteen bodies.

"If I remember rightly, a total of 104 persons were reported missing in that neighborhood.

"Of course we never knew whether the Benders had killed them all, for the bodies were not found.

"But I believe if we had made closer search at the time we could have found many more graves.

"All of the murders occurred in the Fall of 1872 and the Winter and Spring of 1873.

"The Benders kept a store and hotel for travelers, though I don't believe they ever had more than ten dollars worth of goods in the store at any one time.

"And I don't believe any traveler who stopped there ever lived to continue his journey. If he wasn't murdered in his sleep he was killed at the dining table."

Mr. Keeper does not credit the story that the Benders were killed by a lynching party not far from their home.

"If they had been," he said "I would have known about it. There was a large reward for each member of the family, dead or alive, and if they had been killed someone would have claimed the reward.

"There is more probability in the story of a Cherokee Indian, who while fishing along the tributary of the Verdigris, about twenty-five miles south of the Kansas line, witnessed what many people believe to have been the finish of the Benders.

"The Indian said he saw an old man and an old woman, with a younger couple, camped around a covered wagon.

"A band of twenty men came upon them suddenly and killed everyone, burned the wagon and outfit and then left."

Another paper published in Kansas, near the Bender farm, contained among other things the following:

The question as to what became of the Benders has been revived. Most people for years have believed that the Benders escaped from Kansas and are still living somewhere.

Kansas has had many revolting crimes within her borders, but none ever equalled the Bender crimes, except possibly the sacking of Lawrence.

The Benders lived on the main road about half-way between Thayer and Cherryvale. That was in the early 'seventies. There were four in the family. Old man Bender and his wife and a son and his wife. The son's wife

claimed to be a Medium and had great influence over other members of the family. They ran a sort of a country tavern. They sold refreshments and fed travelers who happened along about meal time.

Their house consisted of two rooms and the partition consisted of a calico curtain.

In the early spring of '73 people began to suddenly disappear around that section of the country. They would start out on the Thayer-Cherryvale road and that would be the last seen of them. They would drop completely out of sight.

In March of that year William York, a brother of Senator York, who played an important role in the Pomeroy Senatorial scandal, started from Fort Scott to Independence. He also dropped out of sight. Shortly afterwards the Bender family disappeared. The first time they were missed was when a neighbor found a calf tied to a tree in the yard dead. The calf had died of starvation.

The people then became curious and an investigation followed. They found a trap-door in the house and it opened to a pit about six feet in diameter. The ground floor of it was soaked with blood. It smelled of decayed human flesh.

Out in the garden some sunken holes were discovered. A neighbor thought he would dig down and see what would turn up. He discovered a human corpse. When it was removed it was discovered to be that of William York. The investigation then continued and seven more bodies were afterwards discovered. They were all identified with the exception of one.

Those identified were; George W. Longcohr and daughter; three months old. Longcohr had lost his wife and was taking the little girl back to Iowa to live; George Brown, of Cherryvale; William McCrothy, of Howard County, who left home with two thousand dollars in his possession; H. T. McKenzie, of Indlann, who had come West with a little money to locate; M. R. Boyle, of Montgomery County, and an unknown man.

It was afterwards brought out that all of these people

were killed in the Bender home at different times, with the exception of Longcohr and his daughter.

The victim would stop for a meal. He would be seated at the table with his back near the calico curtain. Then one of the Benders would slip up and hit him on the head with a hammer, crushing his skull. His body would drop through the trap into the hole and to make sure of his death one of the Benders would then cut his throat from ear to ear.

Every victim was treated in this fashion. Their heads were all crushed and their throats cut. In due time the body would be taken to the garden and buried.

On April 7, 1873, the four Benders drove away. They left their team about a mile from Thayer and took the train for Humboldt. At least that is the story. They have never been seen since.

A posse was after them about this time. After skirmishing all around, the members of the posse returned home, saying they had given up the hunt. They dropped the subject quickly.

The whereabouts of the Benders never seemed to bother them after that. But other people were curious and are curious to this day.

The posse never peached.

That they got rid of the Benders has always been suspected by many.

CHAPTER XXXIII.

Story of The Benders.

It was our rare good fortune to have as our guest over night, with the *Banner* folks, recently, Mr. Leroy F. Dick, of Parsons, who was a near neighbor of the Benders at the time of their murders here; who was Township Trustee of that Township at that time; who exhumed those corpses in the Bender graveyard, who had charge of those corpses after they were exhumed; had charge of the Bender premises after the Benders left, and participated in all the leading scenes

and incidents connected with the discovery of the crimes.

He it was who first pointed out the correct clue to the missing Doctor York, had charge of the posse in the search, and who was afterward Deputy Sheriff in the efforts that were made to track, follow and apprehend the Benders.

It was last Thursday night at nine o'clock, after we had finished printing and addressing the *Banner* while sitting around the fire in company with Brother Dick that a casual remark made by one of the family relative to the Bender murder, which happened after we came to Jewel county, Kansas, sprung the subject and turned his attention to it.

From nine o'clock to one o'clock in the morning we sat entranced with that thrilling story—thrilling in its horridness—thrilling in the manner in which it was told—thrilling in its minutae and incidents and all the details of which Bro. Dick is so fully cognizant, and to which he was an eye witness, and in which he was compelled to be a participant at that time.

From him we learned that the *New York Ledger* story that old man and old woman Bender and Kate and John were overtaken by Colonel York and his party and all shot to death, down on Cow Creek (or some other creek) was the veriest fiction.

They had been gone seventeen days before they were missed from the premises. A calf that they had left tied up at the stable had perished for water or starved to death, and their team that they had driven into the timber and left tied to the wagon had eaten the wagon bed nearly up and were almost perished when found.

They therefore did not drive off, according to the *Ledger's* beautiful legend, but bought tickets to Humboldt on the railroad, went Southward, divided into two parties, rounded up and came together at Denison, Texas, and from thence to New Mexico, or the, then, unpopulated country in Western Texas.

They were followed. Every turn they made was discovered, but always too late to apprehend them; and when they reached the western wilds all trace of them disappeared and for several years, was lost.

Finally a clew, given by a lady, led to the suspicion that they had returned to Michigan. Bro. Dick was appointed Deputy Sheriff to track this clue. He traveled over eleven thousand miles, found the old lady, found Kate and found two other daughters of Mrs. Bender, but John and the old man he could not get track of.

Old Mrs. Bender had been married thirteen times, the other two daughters were each living with their eighth or ninth husband and Kate had a baby in her arms and had been muchly married, but was at that time without a husband.

He brought Kate and the baby and old Mrs. Bender back to Oswego and lodged them in jail, thereby performing his part in the drama as fully and successfully as possible.

This was in 1889, seventeen years after the murders were committed. Kate from a trim, well proportioned girl had grown corpulent. The old woman had become haggard, wrinkled and skinny.

Identification here was not complete. The necessary evidence and witnesses from Michigan, and other places, would have cost the State a large sum.

A lawyer appeared on the scene from their old haunts to defend them, presumably the father of Kate's child.

The difficulty of fastening the crimes upon these two women in the absence of John and old man Bender--the improbability that a jury would do so, and various other considerations, led the County Attorney to doubt the propriety of prosecuting the case, and adding the expense to an over-burdened and, at that time, debt-ridden County.

This decision to dismiss the case has led many to doubt the real identity of the parties apprehended; but the facts as given by Mr. Dick must forever dispel any doubt of that kind in the mind of any one who should hear the evidence; and this decision of the County Attorney, and dismissal of these wretches from justice, is by far the most unavowry and unsatisfactory part of this great Bender episode.

Bro. Dick has in his possession the hammer and other implements of death which the Benders used to dispatch their victims. He has kept track of the history of his prisoners since they were released from custody here. He has

also been enabled to get some information with regard to the other members of the Bender family.

Kato Bender is now dead. Old man Bender is also dead—went mad and committed suicide by drowning himself in Lake Michigan.

He was kept for a time in a private asylum. The old lady went to see him, and at sight of her he became raving and frantic. His real name was not Bender, but Fleckinger.

John is still, at last accounts, living, somewhere in the plineries of Northern Michigan. The old woman is still alive.

None of them ever went by the name Bender after they left Lubette County, but Mr. Diek is well acquainted with their assumed and often changed names, or was until recently.

All this may not read so prettily as the published romance of the fate of the Benders, but it is a great deal more correct.

Crime sometimes becomes so great and appalling in its magnitude as to defy justice. This seems to be the case with the Bender murders here.

Eight bodies were exhumed from the Bender orchard; one a little child that was laid in the hole alive, with its murdered father, and so buried up, alive. The bodies were buried seven feet deep. Their heads were mashed with a hammer and their throats cut to bleed them well.

There was a prepared receptacle under the house to catch the blood. Every vestige of the subsoil was removed from where the bodies were buried, and hauled to the barnyard and carefully covered over by manure. The ground was kept nicely harrowed over, and was set in apple trees.

Other bodies and skeletons were afterwards found along the bottoms and in the timber that were no doubt also Bender victims. In fact one was discovered at some distance from their home, in a creek, or pond, that first gave a clue to foul play going on in that vicinity. From this it is known that they did not put all of their victims into their private grave-yard at home.

They secured several thousand dollars from their victims. An old German lady just from the old country whom they did

not murder was robbed of fifteen hundred dollars in gold, two thousand dollars in jewelry, and had two checks on the bank for large sums taken from her while stopping a few days at their house while her son-in-law was looking for a home. The money and jewelry were never recovered but payment was stopped on the checks and that money she afterward received.

From two others of their victims they received over three thousand dollars. One young man who died and was buried with the rest only had forty cents, although they expected to get a large sum from him. From their first victim they obtained over fifteen hundred dollars, and it was no doubt this good luck, and the feverish thirst for gain that followed, that scared their consciences and steeled their hearts to the enormity of their crimes.

The bodies were stripped naked before being buried and the men were mutilated by having the private parts cut off.

CHAPTER XXXIV.

Old Man Bender.

The theory of L. F. Dick of Parsons, who went to Michigan and brought back two women as old Mrs. Bender and Kate, that old man Bender is dead, having committed suicide in Michigan, is not accepted by everybody, and there are many who believe the old man is yet alive, despite Dick's belief that he suicided and the belief of others that he and the remainder of the infamous family were disposed of years ago by the vigilantes.

A Columbus, Ohio, paper of last Saturday printed a sensational story that old man Bender is still alive and was recently paroled from the Ohio penitentiary.

Photographs are given of the man recently paroled from the penitentiary, and old man Bender as he looked when he disappeared. As the story goes this suspect was received at the penitentiary from Cincinnati under the name of C. S.

Miller, July 12, 1886, on a seven years' sentence for grand larceny.

He drifted into Cincinnati from where, no one knows, shortly prior to his arrest, and absolutely refused to divulge any portion of his past history or give his place of residence.

While in the prison at Columbus, Miller claimed to be worth a considerable sum of money but would never tell how he came in possession of it.

Although repeated efforts were made by the officials at the State Prison to learn something of Miller's past life, not one syllable of his history was ever given by him.

Previous to the date of his release he met the requirements of the parole law by securing employment from a farmer in Morgan County, Ohio.

Miller however, only remained with his employer two days, leaving one night for parts unknown after the farmer and his family had retired, and no clue to his whereabouts has since been learned.

This action of the prisoner constitutes a violation of his parole and fifty dollars reward has been offered by the penitentiary authorities for information that will lead to his capture.

Miller is now seventy-two years old, and his mysterious disappearance from Morgan County certainly bears some significance, for it is hardly reasonable that a man of his age would care to expose himself to a return to the penitentiary by violating the condition of his release unless there was a fear that he would be taken up on some graver charge.

And to forge another link in the chain of circumstances which seem to reasonably establish the claim that old man Bender and Miller are one and the same man, and also account for Miller's strange disappearance since his release from the penitentiary, it is said that since this investigation has been instituted it has been learned that some of the officials at that institution accused Miller of being old man Bender.

Philpps, the member of the board of managers from Cincinnati, was heard to remark that there was a great many people in his city who had seen Miller, and who were also familiar with the newspaper cuts of old man Bender, that

thought there was a remarkable resemblance between the two.

It is also said that there are many persons who have come in contact with Miller who agree with the foregoing opinions, yet their confidence in the resemblance was not sufficiently strong to arouse suspicion, thinking, as many others yet think, that all the Dender family were killed by the posse of armed men who pursued them some sixteen years ago.

CHAPTER XXXV.

Mrs. Garden's Correspondence.

Mrs. John Garden of Saginaw, Michigan, was a daughter of Mrs. Griffith. The following letters were received and written by her.

DETROIT HOUSE OF CORRECTION

Office of the Superintendent

Detroit, Dec. 27, 1880.

Mrs. John Garden,

200 Hermanlon R. Saginaw, Mich.

Madam:

In reply to yours of 24th Inst., would any upon referring to our records, we find that no person by the name of Almira Marks or Bartlett was committed here between January 1st, 1870 and January 1st, 1874.

We do find, however, a record of one Almira Shearer having been sentenced to one year's imprisonment here on May 13th, 1872, from Ionia Co., Michigan, for the crime of manslaughter. She was discharged from here March 24th, 1873.

When received here, she stated she was sixty-two years of age, was born in New York, and her occupation as house-keeper.

This is all the information we can find in this case.

Yours truly,

JOS. NICHOLSON, Supt.

Saginaw, Jan. 26, 1899.

Mr. J. T. James,

Dear Sir:—Your letter is just received so hasten to answer. This is the first straight account I have had on the whole case. Mother is wrong as to dates in the time she was sent to prison for you can see by the letter I send you that it was in '72 she was in Detroit.

I shall go Monday to Jackson to get her marriage certificate if it is there. I am almost a stranger to my mother and her doings for I left home in '62 at the age of ten years and have not been home only three or four times since, and then not to stay only a few hours so you see I know less about them than you do. I think if you write to Detroit workhouse they will make out a regular certificate of her imprisonment and discharge. If you think I ought to go there I will go and get it myself. I do not know what name mother was married under to Mr. Shenrer. I wrote her to send me her name and she does not answer my letter. After my father died in '66 I was not home for over ten years so I do not know any of my step-fathers' names or which was first or last only Griffith. I know him. I have been to Carlton and find out it was in '74 she lived there so that will do her no good but I can swear she was in Detroit in '72 for I went there to see her myself and I think that will be all that is needed. Please write me if you think that will be all right. Mr. James, I will be truthful with you. I have not got the money or I would not be idle as I have been but will do all I can.

Yours respectfully,

MRS. MARY GARDEN,
200 Hermanson R., Saginaw Mich.

Saginaw, Jan. 31, 1890

Mr. James,

Dear Sir:—I sent you to-day a copy of the marriage of my mother to Monroe. Also will send you a letter I just received from Jackson. I will send the money to-day to get a copy and I will send to you just as soon as possible. I think all will be well with her for I know she is innocent.

Please excuse this short letter for I am so tired I can hardly stand up. I have traveled all day on foot to find Mr. Robinson and found him sick in bed with LaGrippe. Give mother my best wishes and love. Write if there is more to do.

Yours truly,

MRS. MARY GARDEN,

200 Hermunson R.

Saginaw, Feb. 10, 1890.

Mr. James,

Dear Sir:—Your letter is just now received so I hasten to answer. Do you think there is any justice in holding my mother there when you know she is not Old Mrs. Bender? Is there any way by which we can make the State pay her for all this? There ought to be. It is not possible for me to get the fifty dollars nor is it possible for me to be there at court, although I should like to be. But you can speak some words of cheer to my mother for me. Did you get the paper from Detroit? And do they still hold Mrs. Davis? Or have they let her go? God only knows what punishment to put on her for the terrible lies she has told. Sometimes I think she is in some way connected with those Benders. Do you know what has been done with her little children that were left in Michigan? Mother wrote me they was sent to Cold Water school. I wrote to Mother this morning before I got your letter and gave her good cheer and I know it was no use. If it was possible to send you the money I would but I cannot. My husband will not let me have it not even one-tenth part of it for he says they bring it on themselves. But if there is anything I can do please me let know and I will do it if in my power. I remain yours to command,

MRS. MARY GARDEN,

200 Hermunson R. Saginaw, Mich.

CHAPTER XXXVI.

The Benders Bound Over.

**A Difference of Opinion Still as to Their Identity.—
Seven Witnesses Declare That the Two Michigan
Women Are the Benders, While Seven Others
Equally as Reliable Declare They are Not.—
The Trial Court Gives Justice the Benefit of
the Doubt and Holds the Prisoners Without
Bail.**

Oswego, Kansas, Nov. 10.—(Special.)—After the examination of sixteen witnesses, seven of whom declare the prisoners are the Benders and seven of whom say they are not, and two having no opinion, the three justices decide that there is probable cause for holding them for trial in the District Court without bail.

The court room has been packed with citizens of Labette County for two days, and never was such interest manifested in a trial in Labette County. The decision was given at ten o'clock to-night.

One witness for the State and six for the defense were on the stand to-day, besides the prisoners who were placed on the stand in their own defense.

Mrs. McCann thinks now that she will reap her reward, while County Attorney Morrison believes he will convict them.

Judge Webb and Mr. James, the attorneys for the defense, laugh at the idea of their ever being convicted, while the great crowd of people are about equally divided in opinion. The prisoners accept the situation and seem not to be affected.

Leroy Diek was the last and most important witness for the State and testified as follows: 'I have lived in this County for twenty-one years; lived from 1869 to 1878 two miles south and two miles east of the Bender farm. I knew the Benders, all of them; saw the young people at Sunday-school and singing; saw the men in the timber; tried to swap horses with them. I was with York when his brother's

body was found. I have the hammers and the clock in my possession. One of the hammers is a six-pound collar's hammer, another an Alaskan hammer and the third a small hammer. I was the Township Trustee at the time. The election was at my house. The Bender men came there to vote; was at Niles, Mich.; heard preliminary examination. The younger woman testified that her mother was the veritable Mrs. Bender and was not her mother, but her step-mother.

"She admitted to me several times that her mother was Mrs. Bender. Kate Bender had a small wart or mole under her left eye. I believe these women are the Bender women. I conversed with Mrs. Bender in 1872 in English. I spoke to the elder prisoner in Berrian Springs, Mich., in German. She replied in German."

Cross-examination elicited the following testimony: "I went to Michigan to bring back the prisoners, if I identified them. I first saw them in the Berrian Springs jail. The old lady asked me to talk to her privately in an inner room of the jail. She asked me to intercede with the authorities to have her and her daughter separated, as her daughter had threatened her life. She said that she believed her daughter was Kate Bender. She said that she believed Mrs. McCann was her long-lost daughter Rosa, and didn't know what she was doing."

Question by Mr. James—"What was your exact language to her in German?"

He replied: "I asked her, '*Kann Ich nicht verkaufen in Deutsch?*' She replied '*Das kannst du nicht.*'"

Q. "Can you interpret?"

A. "Yes; it is 'Can I sell you in Dutch?' 'That you can't,' she replied."

Mr. Dick was on the stand all forenoon, and as he detailed the conversation with the women in Michigan, and the charges they had made against each other, the prisoners became very much excited and muttered constantly; "Oh, what lies; did you ever hear such stuff?"

Mr. Dick replied to repeated questioning that he was still satisfied that these are the Bender women.

His evidence showed that by their own testimony these women are hard cases, if they are not the Benders.

Witnesses for the Defense.

(As the testimony of each of these witnesses has been given fully in the Chapter which rehearses the calling of witnesses and evidence given as called, in this report of that case as given in the paper, all evidence is omitted except particular points made in the trial. The State rested and the defense called as their first witness, Thomas Jeans.)

Question by Judge Webb. "On your best judgment are either of these women old Mrs. Bender or Kate?"

A. "I don't think that either one of them is Mrs. Bender or Kate."

On cross-examination the witness was considerably confused. He said "That Mrs. Bender was a very small woman weighing about one hundred and ten pounds." He was confused and failed to describe the prisoners with his eyes shut.

Silas Toles of Peru, Chautauqua County, Kansas, was called.

In closing he said: "My judgment is that these are not the Bender women."

Mrs. Vesta Green was called as a witness by the defense.

Question by Judge Webb; "Are either of these women the Benders?"

A. "I believe they are not. They don't look like them at all. Mrs. Bender had a peculiar look out of her eyes. Her eyes were very close together."

On cross-examination witness said: "I have seen these people before to-day, and I saw as quick as I looked at them that they were not the Benders. I can't see that Ellza Davis has the first look like her."

The old lady, whom several people have said was Mrs. Bender, went on the stand in her own behalf and all eyes were strained to get a look at her. She had the story of her life down pat, and gave it glibly.

"My father's name was Hill. I had three brothers and four sisters. I married three other men beside Griffith. One by name of Mark and one by name of VanAlstine and

one by the name of Monroe. I am sixty-eight years old, I was married at seventeen to Van Alstine. At twenty-one I married Mark, a Frenchman. Mark died in 1866. I was in Michigan from 1866 to 1872. I was in Detroit in the House of Correction for committing an abortion. I got out in 1869."

She then enumerated six or eight places where she went.

"In 1869," she said, "I lived at St. Charles a year and a half, or until 1871. Then I went to Charleton, and married Mr. Monroe, in 1872."

The witness than enumerated about ten places where she lived from 1872 to 1876. She said she went to Niles in 1876, and had been there since. She said she had her daughter arrested for larceny.

A labored and odious cross-examination followed, in which the old lady questioned the County Attorney several times, causing laughter.

Sarah Eliza Davis was then sworn and gave the straightest story the writer has ever heard, in all instances giving exact dates and names of places where she had lived from 1860 to 1889. She had married four men, Gilbert Japhet, *alias* Hiram Johnson, at Lansing; James Madison at Bellview; John Feenay at McPherson, and Mr. Davis at Mason, and had lived in several places in Illinois, Michigan and Kansas. She told of her four children and broke down crying while giving their names. She said: "In the name of God, I am not a Bender."

On cross-examination she said; "I did not know where my mother lived from 1869 to 1871. In my examination at Niles I did not say that my mother was Mrs. Bender, but I said that she was none too good to be Mrs. Bender."

The cross-examination failed to shake her, and in it she gave the names of parties in Wild Fowl Bay and other places in Michigan, where she had lived from 1860.

Her story was one that showed a life of hardships and trouble, of marrying and bearing children, and of the many removals she had made in order that the wolf might be kept from the door.

This in the *Kansas City Journal* report of the Case Made on the night that the case was closed and the decision of the Justices made to hold the defendants without bail, and the same night the following was sent from Oswego and appeared in the *Journal* with the foregoing report of the case:

Description of the Benders.

Oswego, Kas. Nov. 19. (Special)—The *Journal* correspondent was shown by J. A. Wells, of Erie, Kas., a very interesting relic which he has kept for sixteen years, in the shape of one of the original proclamations of Ex-Governor Osborne, of Kansas, dated May 17, 1873, or twelve days after the bodies were found, which after reciting that "Whereas, several atrocious murders have been recently committed in Labetto county, Kas., under circumstances which sustains beyond doubt the commission of these crimes upon a family known as the Bender family," offers a reward of five hundred dollars for the capture and delivery of either of the parties to the Sheriff of Labetto County.

The chief interest attached to this handbill is the fact that in it are given descriptions of the Benders as obtained from the best sources at the time. They are as follows:

John Bender, about sixty years of age, five feet eight inches in height, German, speaks but little English, dark complexion, no whiskers and squarely built.

Mrs. Bender, about fifty years of age, rather heavy set, blue eyes, brown hair; German, speaks broken English.

John Bender, Jr., alias John Gebhardt, five feet, eight or nine inches in height, slightly built, grey eyes with brownish tint, brown hair, light moustache, no whiskers, about twenty-seven years of age; speaks English with German accent.

Kate Bender, about twenty-four years of age, dark hair and eyes, good looking, well formed, rather bold in appearance, fluent talker, speaks good English with very little German accent.

One of the strange things shown by the testimony in the trial is the idea people have of what is auburn hair.

They all swear that Kate Bender had between a light and

a dark auburn hair, and then say that what they mean by auburn hair is that of the color of the younger prisoner, who has a dark brown hair.

The descriptions given above of the two women are strikingly similar to the prisoners, with no exception, unless it is the lack of German accent in the old woman.

CHAPTER XXXVII.

Thinks he Has Benders Located.

THINKS THE BENDERS LOCATED

Near Echo, Montana. -- Discoverer Lived in Kansas Once Upon a Time. -- Will Bet his Ranch That It is Kate. Gives Minute Directions How He Can be Found. -- Is Living in a Log Cabin with Tar Paper Roof.

Every once in awhile some one writes to the Labette County authorities that they have discovered the whereabouts of John and Kate Bender, members of Labette County's famous family of murderers.

Each informant is positive that he has the right parties. Already the County has spent hundreds of dollars in trying suspects and in following up alleged clues. No longer than last year the people were excited over their reported discovery in Colorado and some money was spent by the County to make an unsuccessful investigation.

The following is the latest communication. It will not be acted upon.

To the Sheriff of Labette Co., Kansas,

Dear Sir:—There is a party here that we have strong suspicions of being the Benders. And I am a Kansas man myself having lived in Kansas at the time the Benders done their work there it cause me to believe these are the Benders. This woman is forty-six to fifty-six years old, weigh about one hundred and eighty pounds, is about five feet ten in-

ches high. She claims her folks live in Missouri. She has lived in Michigan and moved from there to Iowa and from Iowa to here. As I hear it she was run out of Iowa as a fire-bug. She has six children (all blonds) and a husband. He is about six feet two inches high and not very fleshy. If this is Kate Bender her eyes are steel blue with light brown hair.

It has been over a year since I read in the *Kansas City Star* about the Benders. There has been something here very mysterious, and I have been a year deciding what to do. She has threatened people here. They are talking of going to Canada. If you think of sending a man send one that knows them for sure. If not send me a description of Kate and John Bender and a photograph if you have them. Write to box (B) six, Echo, Montana, and if you send a man, tell him to come to Echo and go about one-half mile south on the main road and very near one mile east and he will find the writer of this on the right of the road in a little log house with tar paper roof, or inquire of the post-master at Echo about box six.

I have a ranch here and if these are not the parties I suspect, would like to have it kept quiet after. Write and let me have a good description of the Benders if you don't send a man here right away. If you send a man here let him pretend to be wanting to buy a farm. We surmise this woman colors her hair. We think it is white and curly. You had better be careful as these people are on the lookout. The post-master will tell you my wife and I are all right, but it would be better to inquire as it might cause suspicion by these parties if they are the Benders. I will bet my ranch on it.

July 18th, 1902.

CHAPTER XXXVIII.

*Frank Ayers Dead.***Man Who Claimed to be Kate Bender's Husband,
Murdered.**

Fort Collins, Col. April 4—Frank Ayers, who about two years ago, gained considerable notoriety by charging his wife with being a member of the notorious Bender family, of Kansas, was found shot through the head and mortally wounded near his home in Owl Canon, twenty miles north-east of here. A ranch hand who reported the case to the authorities said that he was riding by and heard the shots.

Upon investigation he found Ayres lying on the ground with a rifle and revolver beside him. He has been detained pending investigation by the coroner.

Ayers led the authorities of Kansas on a long wild goose chase in 1901, when he claimed the standing reward offered for the arrest of the Benders. He said he had married Kate Bender and she had tried to kill him after she had confessed that she was really Kate Bender.

The officers went to Fort Collins to arrest the woman and then found that Ayers was totally irresponsible and that the woman was not Kate Bender.

Further concerning this case the *Kansas City Journal* of April 3, says:

The coroner left for Owl Canyon to-night and will hold an inquest. It has not been learned whether the shooting was done by Ayres or not.

Frank Ayres, about two years ago, acquired some notoriety by appearing in Kansas City dressed in woman's clothes. He gave his name and address, and was released by the police.

He later caused the arrest of his wife, charging her with being a member of the notorious Bender family, of Kansas.

A couple of years ago Ayres created a sensation in this County, the scene of the notorious Bender murders, and was given much publicity at the time.

He clothed himself with mystery and was evasive in statements. However, he succeeded in enlisting the Commissioners in his tale and as a result a trip was made to Fort Collins by E. L. Burton, representing the County, and V. Monyhan, Frank Dienst and M. E. Sparks, the three latter were residents formerly of Orange township, and acquainted with the Benders at the time the crimes were committed.

The trip was fruitless as investigation revealed that the parties suspected were not the ones wanted, and that Ayres' statements were not to be relied upon.

CHAPTER XXXIX.

Story of the Fate of the Bender Family Told by Man Who Helped Pursue Them.

Special Dispatch to the *Globe-Democrat*.

Chicago, Ill., July 12—George Evans Downer, of Downer's Grove, who on his death bed has lifted the veil of secrecy from the fate of the infamous Bender family of Kansas, as was told exclusively in Sunday's *Globe-Democrat*, is a grandson of Pierce Downer, who founded the settlement of Downer's Grove in 1833, and for over thirty years has lived the life of a respected and honored business man of the Chicago suburb.

Hundreds of stories of the fate of the Bender family have been told, and at frequent intervals men and women have been accused of being members of the murderers. Several confessed that the charge was true, and two were tried on it, but in every case it was proved conclusively that the persons were either unjustly accused, insane, or notoriety-seeking cranks.

Downer's wonderful story, however, is not from hearsay,

not from rumor or "reasoning," but is the recital of an eye-witness who watched the fiends at work, who helped to organize the posse which pursued the flying murderers, and who was present with gun in hand when father, mother, son and daughter were sent to death.

And then an oath was taken that has made the fate of the Benders a mystery all these years.

Wife Was to Reveal Story.

To his wife Downer has told the story a hundred times since their marriage twenty years ago, and it was understood that she, who knew the story by heart, should give it to the world after his death.

But for many months he has been lying on a sick bed waiting for the end brooding over his wild Western life in the 'sixties and early 'seventies. The weight of his secret has been an ever greater burden to him, and at last he expressed the desire to have the matter settled before his death.

After this decision he became rapidly weaker, and when the time came to take down the story it was only possible for his wife to tell it in his presence, in his words as she remembered them, with occasional corrections and additions by the dying man.

While living in Independence, Kansas, he became a member of the vigilance committee, as in those lawless days such organizations were the only means of keeping order and protecting life. He had considerable success in several criminal cases, and when people began to disappear on the road from Oage Mission to Independence he had a desire to solve the mystery. This desire was increased when Dr. W. H. York disappeared, and he with several other members of the vigilance committee, set themselves about to find the murderers.

How Clue was Secured.

His first clue came from a woman canvasser who had appealed to a lawyer to recover some goods in the possession of the Benders.

She had reached the Bender house in the afternoon and

after selling some goods to Kate she was invited to spend the evening with them, and after supper the family insisted that she remain for the night.

While Kate was washing the dishes her brother John came into the room and started to sharpen an ugly looking knife. This was too much for the woman, who was already terrified by the evil looks exchanged by the family, and insistence that she stay all night.

She fled to the woods and hid in a creek while the Benders hunted for her. Later she made her way to Independence. The lawyer thought there was nothing to the story, as the goods were returned, but it proved the clue that led to the end of the family of butchers.

CHAPTER XL.

Kate Bender Reported Dead.

The *Globe-Democrat* published the following dispatches:

Californian Says Woman Known as Mrs. Peters Confessed to Him.

Rio Vista, Cal., May 5—Kate Bender, of the notorious family of Kansas murderers, is dead here, according to an statement made to-day by John Collins. The woman was known as Mrs. Gavin and later as Mrs. Peters. Collins declares the woman gave him a detailed account of many murders which she and her brother committed in the Bender home at Cherryvale, Kansas, in the 'seventies.

Many Crimes Committed.

Kansas City, Mo., May 5.—It is not known how many murders the notorious Bender family committed while living in Kansas.

The family consisted of Wm. Bender, aged 60; his wife, aged 55; Kate, aged 25, and John, aged 23 years. Kate and John were children of Wm. Bender by a former wife.

The Benders kept a little store, which is believed, however, to have been maintained only as a decoy for travelers.

Kate Bender professed to be a magnetic healer. Her role was to make love to the unfortunate wayfarers who sought shelter at the Bender house and lure them to a corner of a room where her brother concealed behind a curtain, would crush their skulls with heavy clubs. Robbery was the motive of the crimes. After the family fled, the bodies of nine victims were found on the Bender place.

The foregoing was published May 8, 1910.

The *San Francisco Examiner*, dated May 6, 1910, published the following dispatch:

NINE BODIES FOUND IN BENDER CELLAR

How many Persons the Family Slew Never Known;
Gang's Fate a Mystery.

Kansas City (Mo.,) May 6.—It is not known how many murders the notorious Bender family committed while living the early '70s in Labette County Kansas. The family consisted of William Bender, sixty years old; his wife, aged fifty-five years; Kate twenty-five years old, and John, twenty-three. Kate and John were children of William Bender by a former wife.

Kate Bender professed to be a magnetic healer. The Bender house was situated on the main highway between Independence, Kansas, and the Osage Mission. The Benders kept a little store supplied with food for men and beast, but it was said to have been a decoy for weary travelers rather than anything else.

The Benders lived in a frame house, about twenty feet long and sixteen feet wide. The one room was divided by a canvas partition drawn tightly over upright scantlings. This partition was the death trap.

The victim was decoyed to a seat near the canvas. Kate, behind the canvas, would render the victim senseless with a hammer. If the blow was not fatal, the old man followed

with blows on the temple. Then the throat was cut. After the body was robbed, it was thrown into the cellar through a "blind door."

After the family fled, nine bodies were found on the place.

The murder of Doctor York, of Independence, led to the undoing of the murderers. His brother, A. M. York, of Fort Scott, instituted a search and found nine bodies on the Bender place, including that of his brother.

The fate of the Bender family has never been definitely known. At various times persons who have claimed to have been members of a posse that pursued the family have given out statements. Some have said that the entire family was killed. Others have stated that Kate escaped.