

# 'Whitecapping' assault trial a blow to community

**R**obert Miers of Bloomington and Anderson Percifield of Nashville were the attorneys for David Fox, Jacob Kirk, Charles Sylvester and Lovell Bowers for allegedly taking part in the whitecapping assault upon William Vanest of South Bethany in 1907.

Miers told the Bartholomew County Court that some of the defendants were at a festival at the Christian Church in Smithville on the night of the crime. He also stated that they did not even know of Vanest until after the crime and had characters above reproach.

Two of the spectators at the trial were the Rev. James Small and the Rev. William H. Book of Bloomington. According to the *Bloomington Evening World* of Dec. 31, 1907, "Mr. Small said he was interested in the Christian Church members at Smithville, Monroe County, where he had preached and where some of those accused had attended church."

State Attorney General James Bingham and the spectators in the courtroom became impatient with the procession of defense witnesses. "Growing tired of the monotonous testimony, the attorney general told the attorneys for the defense to hold a council and discontinue putting everybody in the county on the stand to swear to one question."



## LOOKING BACK

By Rose McIlveen

He referred to the standard defense in whitecapping trials — the good character of the defendant or defendants. In fact, the defense was doing just that. Miers put former treasurer of Indiana and Bloomington resident Nat U. Hill on the stand. *The Bloomington Telephone* of Jan. 4, 1908, described Hill's testimony and exchange with Bingham. "The witness (Hill) replied that whitecapping was not confined to any one portion of Monroe County, and he also said that he knew of whitecapping in Brown County (where Vanest lived)."

Bingham made an effort to minimize Hill's effectiveness. Continued the *Telephone*, "Mr. Hill admitted that he had testified once before as a character witness to a whitecapping case. Attorney General Bingham said it was generally the case that where one of these Monroe County whitecappers got into court

he would have a lot of prominent men like Mr. Hill and others, come into court and testify to his good reputation and character."

In spite of Bingham's sarcasm, Miers rolled out some more character witnesses for the defense — J.M. Campbell, clerk of Monroe County; and Samuel M. Kerr, auditor of the county.

Miers then called upon Butler University mathematics teacher E.M. Johnson to explain what time the moon rose and set on the day of the crime. This was presumably in relation to visibility as far as witnesses were concerned.

When Sylvester took the stand, he denied that he was one of the strangers who had ridden into Nashville from Helmsburg in a hack and added that he had not met Vanest until the day he (Sylvester) was arrested.

The jury was out for 19½ hours, and the participants expected that the jury would not be able to reach a verdict. Surprisingly, Fox and Kirk were found guilty. The sentence would have been from two to 14 years.

The *Telephone* of Jan. 6, 1908, described the scene in the courtroom. "Rolla Eming, clerk of the court, read the verdict, and Fox and Kirk, whose faces were expressionless during the trial, were seemingly not affected,

although Fox immediately stepped to Judge Hacker's side and asked if he would have to go to jail." Meanwhile, the Bartholomew County prosecutor, Albert W. Philips, attorney Charles S. Remy and the attorney general said they did not see how the jury could consider the two men guilty and the others innocent.

Perhaps the prosecution didn't understand the skill of Miers, who told the court that the intent of the law was to prosecute mob violence. Two men hardly constituted a mob. He managed to get a new trial for Fox and Kirk, and they were released on \$1,000 bond each.

Word of the trial reached Bloomington by phone. The *Telephone* announced the arrival of Kirk and Fox back in Bloomington, and it is not surprising that there were people waiting for them at the station.

The trial had alarmed people in the Smithville area. Explained the *Telephone*, "The news created consternation in the Smithville vicinity, where both Fox and Kirk are prominent farmers. It was a terrible blow to the stricken families and the wives of both men are almost broken down with grief."

*Next week: the end of the story.*

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