

HAYES PARDONED.

(Continued from Page 2)

environment, mental and physical causes affect one's handwriting in a thousand different ways and produces in its ramifications a series of departures from the ideal forms. These departures in their differentiations in the handwriting of the different individuals, constitute and make up what is commonly termed "characteristics" of one's handwriting. If it were possible to delineate these departures in chart form, in a case of questioned writing, it would almost seem unnecessary to bring together the known and unknown writing. It would almost seem unnecessary to bring together the known and unknown writing. The indicated departures in a chart of each, when the two charts are brought together, would determine. If they agreed, the writing is by one hand, if not, per contra. Such a plan if time permitted would reduce the comparison of handwritings to almost a mathematical certainty in its results. In our case, however, we do not need to go to such extremes. We have ample material to supply the information we seek when we have learned the idiosyncrasies of the several handwritings—always keeping before us the known fact; when one is writing without thinking of the writing they are drawing from recollections of the ideal, traveling back towards schoolmaster time. The constant diversity indicated in the handwritings of a single individual made at different periods guarantees the truthfulness of this statement.

We are taught conventional forms. No variety is allowed in the small letters except in the "e" and "r" which can be made in two ways. In the making of capital letters their variety becomes more extended and hence it is not remarkable to find that caprice governs them more than in the matter of small letters.

Illustrative of some of these established truths, take the "L. V. C." exhibit testified to as having been written in 1897, and the letter dated October, 1902, both concededly written by the same person. The difference in time means one in five years nearer to the schoolmaster. Observe in the 1897 one, the small "u" employed as a final letter and compare it with a final "u" in the 1902 letter. Does not the earlier one more closely approach the ideal than the latter? Examine the capital letters in both exhibits and note their capricious variety even in their typification of the same forms. So much for identifications by single letters.

As handwriting becomes more and more settled, due largely to the education the hand is receiving, so is its work being affected by environment and physical causes. The hand, not like a machine on a fixed track, often changes its course and performs curious things—these are termed "peculiarities," and while they do not indicate their presence always in the same relative position, deserve much consideration. The other and regular work it accomplishes constitutes the "habit" of the hand and this habit if found to be fairly fixed becomes the most important of all for consideration. Included in "habit" is to be found angle, pen-pressure, relationship of bottoms of letters to a base line, use of initial strokes, length of final strokes, crossing of t's, mechanical layout of writing, spacing between words, proportioning of letters and many more things unnecessary to mention at this time. Their value is to be estimated in about the same order in which they have been given and their application could be made more apparent if the exhibits had been written in ink instead of lead pencil.

For the purpose of addressing your attention to specific things I have marked several exhibits in blue pencil and in red ink numbered the lines, except the disputed note which remains "Exhibit A." This I have attached to a card as it was falling apart and which can be removed without tearing it further. The ink-written exhibits I am not using in my comparisons other than to make certain which I have done, that they verify and confirm the "standards" as having been written by the two persons who are alleged to have made them. This is true in all of them except the "L. V. C." exhibit where the words "Miss Lula" appear

in line 2. These two words were in my opinion not written by the same person who wrote the rest of the writing therein contained. Also it is best when possible to compare pencil writing with pencil writing.

Comparing the B and C exhibits without any reference to Exhibit A in the duplication of the way the pencil must have been held to make the forms of small letters is to be recognized the same school of penmanship (Spencerian). In their form and composition the same master. As an instance they make among other letters the capital "l's" much alike. They use fairly so the same types of letters, but make them differently.

Take the C exhibits; your attention is attracted by the abnormal spacing between most of the words, while in the B specimens such conditions do not obtain (neither do they in exhibit A.)

Take the C exhibits; your attention must be attracted by the accentuation of the initial strokes to first letters where they are constantly used, while in the B exhibits such instances are rare exceptions, most of them when used being light (in exhibit A they are all light.)

hug the ruled line much closer than the C ones and in this respect conforming to the illustrated habit in Exhibit A.

True it is that the C writings, in the final "t's" as made illustrate them correctly and incorrectly—the same to be said is respect to the B writings—but compare those imperfectly made in the C exhibits of which "t" in the word "lost" on line 1 in C 1. The word "that," line 8 in C 2 (none being found in C 3 of that kind), are excellent exemplars; and then take any final "t" imperfectly made in the B exhibits of which kind there are none in B 1 and for reasons already set forth. See B 2, the first time it occurs, line 8, word "ought," repeated many times in said exhibit. Exhibit B 3, line 2, word "Rest," repeated dozens of times in same exhibit. Compare the final t's in Exhibit A, word "Hoyt," "but," "let" and "it." There can be no question as to which of the two writings it belongs, viz: to the B ones.

Observe the small "b;" wherever it appears in the C writings, it is always open to the right of its staff, that is to say it is correct in that

The exhibits are herewith returned. I have the honor to remain, Your obedient servant,

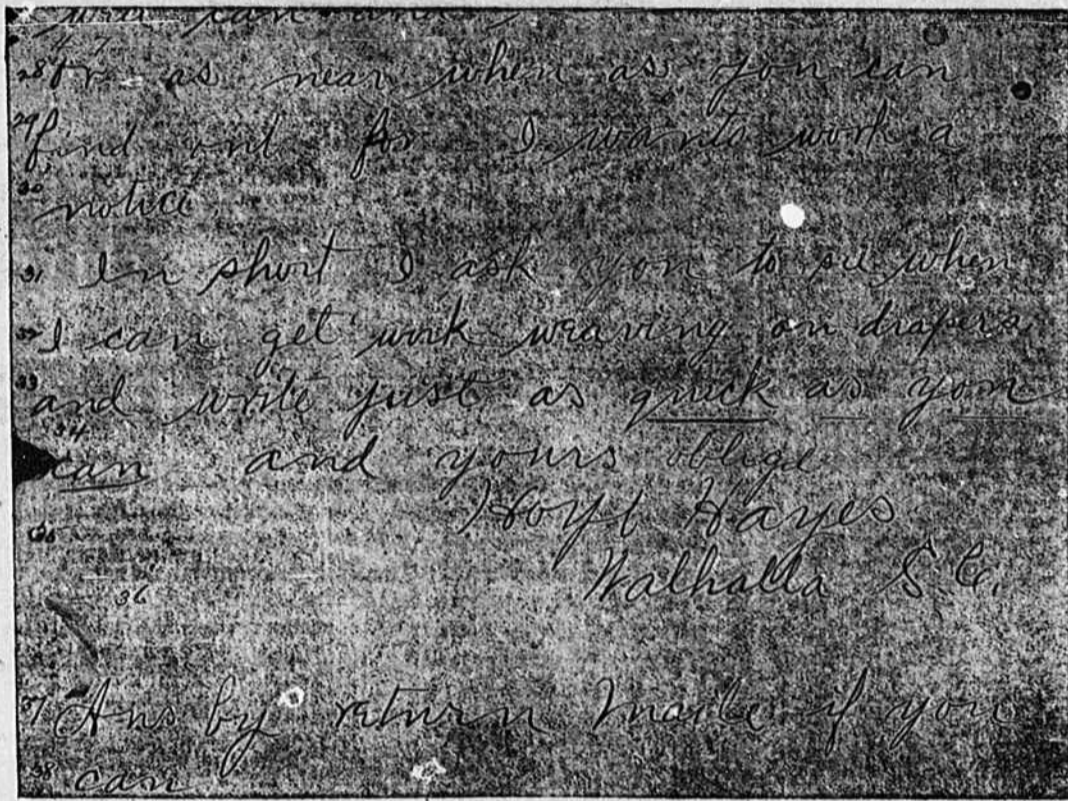
David N. Carvalho.

THE WORK OF D. N. CARVALHO.

Friends of Hoyt Hayes wanted letters of Hoyt and Lula Hayes submitted to an expert on questioned handwriting to be compared with the note which played such a part in the conviction of Hoyt Hayes. David N. Carvalho was selected by Governor Heyward as the most eminent man in the country in this work. Hoyt and Lula Hayes had attended the same school, were the same age and to an untrained eye their writing was very similar. Mr. Carvalho's most conspicuous work was his testimony on which Richard B. Molineux was acquitted.

But suits in the courts of the State of South Carolina have been settled on his testimony, and he was kept on the stand 24 hours in a famous will trial in Newberry. Although employed by the district attorney of New York, he has frequently testified for the defense, showing that he is entirely unprejudiced.

In response to the request of Governor Heyward, Mr. Carvalho named



PORTION OF LETTER WRITTEN BY HOYT HAYES, SHOWING HIS ACKNOWLEDGED SIGNATURE.

The average angles of the writing of the B exhibits (in this respect Exhibit A more nearly conforms to the B exhibits,) conform to the angles of staff letter. Furthermore the angle of the small "s" in the C exhibits run to the perpendicular or way over to the left of it, while in the B exhibits they retain as they do in exhibit A the angle of the staff letters.

In the making of a small "c" in the C exhibits they are nearly all of them thus (C) while in the B exhibits and which form obtains in the only instances where this letter is used in Exhibit A the word "sickness" it is made thus (c). I call attention to the triangular (of "C" exhibit) mark at its top. Noteworthy illustrations are to be seen in C 1, line 4, word "come," line 7, word "such," line 11, word "comfort," same line, word "cheer," line 14, quite exaggerated word "can," line 16, word "come," same line, word "can," line 20, word "can," C 2, line 5, word "cotton," and so on many times.

In B 2, line 5, word "cousin," it is more like a small "e" with a dot at top. See line 6, word "pencil," line 7, word "which," same line, word "received," etc. In B 3, line 3, word "cousin," line 5, word "pencil," line 6, word "excused," line 8, word "received," line 12, word "pictures," etc., etc.

In the matter of pen pressure surely the B exhibits conform much more closely to Exhibit A than do the C ones.

As to base line: the B writings

respect, while in B writings its final stroke strikes back to the staff and hugs it. In Exhibit A this same habit obtains. For illustration, see C 1, line 12, word "book," line 14, word "bow," etc. C 2, line 6, word "but," line 8, word "bet," etc. C 3, line 4, word "bought," line 11, word "oblige," etc. All open at bottom, B 1, line 5, word "put" or "but," line 22, word "blue," line 28, word "remember," line 30, word "rememberance." B 2, line 14, word "been," line 18, word "better." B 3, line 5, word "be;" line 7, word "be," etc. All of these are closed at the bottom. See word "but" in Exhibit A, closed at bottom exemplifies those in B exhibits.

The above exemplification assist in identifying Exhibit A with the B exhibits.

Comparing the word "Lula" on Exhibit A with the same word in B 2, line 71, and B 3, line 79. Pen pressures, relationship to base line, angle proportioning and composition, actual forms of letters except the final stroke of the small "a" in Exhibit A all assimilates so closely as to make it certain in connection with the other adduced facts that Exhibit A was written by the hand which wrote the B exhibits.

Viewing Exhibit A independently for the purpose of discovering, if possible, whether or not it presents any evidence of simulation or disguise, I have to say that there has been no erasures, there has been no touching of letters and is therefore an undisguised piece of writing.

I could at still greater length present much more material for your observation, but I think that I have stated sufficient to be able to show you that in formulating the opinion that the said Exhibit A was unquestionably written by the same hand which wrote the B exhibits and which, in reading over the testimony, I am informed that the said B exhibits are in the handwriting of the late Mrs. Lula Hayes, that the reasons for formulating such opinion rest on a solid and substantial foundation.

a few of the important cases which were decided by his testimony, and which are here mentioned.

The Fair will case, California; the Davis will case, Montana; the Holt will case, District of Columbia; the Monroe will case, New York city; the Rice will case, New York city; the Dimon will case, New York city; the Tight will case, New York city; the Gordon will case, New Jersey; the Myra Clark Gaines will case, New Orleans. The estates affected by the decisions in these amounted to \$100,000,000. In the late \$50,000,000.

Mr. Carvalho was the government witness in the Carter and Morton courtmartial. And in the Bedell forgeries, the Baker forgeries, Pennsylvania; these amounting to \$500,000. In the late contest decided, Bonyuge vs. Shafforth, he was employed by resolution of Congress, which case involved a contested Colorado seat in the House of Representatives.

Among the capital cases in which he testified may be named as important: The commonwealth of Massachusetts vs. Trefethen; the State of New York vs. Mary Agnes Flemming; State of New York vs. Albert T. Patriots; State of New York vs. Caesar; State of New York vs. Dougherty; State of New York vs. Molineux. This last case was twice tried. At the first trial the prosecution produced 17 experts, of which Mr. Carvalho was not one; the defense introduced no testimony. Molineux was acquitted. The main point of his appeal was the introduction of false standards of handwriting. A new trial was ordered, in which Mr. Carvalho testified for the defense, and Molineux was acquitted in ten minutes.

He was employed by the State of Delaware against Clark and Gibbons,

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this case being known as the Dupont Powder Mill "White Cap" case.

Case of the State of New York vs. Cody; this was the case of the attempt to palm off a daughter claimed to be that of Jay Gould before his marriage to the mother of Helen Gould. Mrs. Cody was convicted.

Nearer home Mr. Carvalho calls attention to the city of Charleston, case of Dupont vs. Dubose, and at Newberry, the case of the State of South Carolina against Baird. He was also interested in the forged Collier will propounded last year in the city of Atlanta, Ga.

He has had occasion to testify before the grand jury in New York and other cities more than 1,500 times and in open court all over the United States within a few of 900 times.

ANOTHER EXPERT.

Solicitor Boggs, who has stoutly maintained the guilt of Hayes, also submitted the note and other writings of Hoyt and Lula Hayes to a handwriting expert of his own selection, Albert S. Osborne, "examiner of questioned documents," 134 South avenue, Rochester, N. Y. Mr. Osborne's report confirmed Carvalho's opinion and was very pronounced in declaring that from the exhibits submitted the note was unquestionably written by Lula Hayes. Admitting the reliability of Osborne—the solicitor's own witness, as it were—his report is sufficient grounds for a pardon, since it entirely removes the one strong circumstance of Hoyt Hayes' guilt.

Mr. Osborne had 11 enlarged photographs made of specimens of writing by Hoyt and Lula Hayes and the questioned note. It is from these photographs that the accompanying cuts are made.

Osborne's report to Mr. Boggs follows: Report of the examination of the writings in the case of the State vs. Hoyt Hayes:

"I have made a careful study and comparison of the note in question compared with the genuine writings of Hoyt Hayes and Lula Hayes, and have reached the conclusion that the note in question was undoubtedly written by Lula Hayes.

"The inquiry presents some difficulties at the outset, and is of such a character that one inexperienced might be misled, as the standard writings written by schoolmates, and man and wife show numerous similar characteristics, the result of teaching, or conscious or unconscious imitation. These characteristics should, in such an inquiry of course, be properly interpreted and given their proper weight, and alone should, of course, not be sufficient to connect either writer with the writing in question.

"I have used for comparison mainly the freely written letter of Lula Hayes, dated October 24th, 1902, and the freely written letter of Hoyt Hayes to George Gibson, marked C 2. These two letters show significant characteristics of these writers sufficient to show that the writing in

question was written by Lula Hayes and was not written by Hoyt Hayes.

"The standard letters referred to show certain divergent characteristics which naturally are of the most significance in such an inquiry. One such characteristic is the excessive slant of the small 'y' in the writing of Lula Hayes and the normal slant of this letter and sometimes a tendency to bend the lower part to the right, as is shown on photograph 8, in the writing of Hoyt Hayes. On numerous other examples of the writing of Hoyt Hayes, he also crosses the loop higher and usually connects it with the following letter. A study of this letter alone in the two standard writings as compared with the same letter in the note in question very strongly influences my opinion as to the authorship of the writing in question.

"The writing in question shows the capital 'L' made in a peculiar manner above the base line with two finishing loops on a line with each other, and with the beginning loop sometimes made high above the base line. This identical letter, showing these peculiar individual and unconscious characteristics, is shown in numerous instances in the standard writing of Lula Hayes as is illustrated in photographs Nos. 10 and 11.

"The small 'u' in the word Lula is also peculiar, beginning with an upward left curve. The capital 'H' in the writing is a peculiar letter divergent from that of Hoyt Hayes, and identical with that of Lula Hayes. This is peculiarly significant, as it is the letter written by both writers in their signatures, which is also true of the small 'y' referred to above.

"The small 'b' in the writing in question shows in the word 'but' a closing of the letter at the right hand side, and this same tendency in

(Concluded on Page 6)



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