

Mayor Is Held for Court in Fifth Ward Case; Move to Impeach Him Starts; Called "Principal Malefactor" by Judge Brown

CITY EXECUTIVE MUST FACE TRIAL; ASKS HABEAS CORPUS; BAIL \$10,000

Dramatically he looked at the Mayor. Dramatically he spoke.

OTHERS "MERE AGENTS" Brushing aside the other eight men as "mere agents" of the Mayor, Mr. Gordon laid the responsibility for the political murder at the door of the Mayor. Gordon flayed the Mayor for his "smug hypocrisy." He accused the Mayor of being the prime malefactor in the Fifth Ward conspiracy; he laid the entire criminal guilt at the door of the city's Chief Executive.

Judge Charles L. Brown, sitting in the case, holding the Mayor, called him "the chief and primal factor in this great disgrace." District Attorney Rotan told the court he had never witnessed a clearer case of conspiracy proved.

Joining in the prosecution's demand that the accused city employee be held, District Attorney Rotan pronounced the opportunity golden for Judges and juries to force the police out of politics. Viewing the nine defendants, Mr. Gordon then declared each one of them responsible for the crime as principals and as agents. He cited the law. He said:

"All persons who entered into this conspiracy are responsible for everything that followed afterward; and the same applies to each and every person who had a voice or a hand in this case."

THE OTHER DEFENDANTS Mr. Gordon paused a moment before stinging the Mayor out of the line of accused men sitting before him—Mayor Smith, Executive Director William E. Finley, of the Republican city, a "Vare" leader; Common Councilman Isaac Deutsch, Vice-Smith "foreman" of the "Bloody Fifth"; Police Lieutenant David Steinberg; "Special" Police Sergeant John Bennett; Police Sergeant Joseph Wirtzschauer and Michael Murphy and Policemen Lewis Feldman, Emanuel Uram and Clarence Hayden, a negro. The charges against them grew out of the killing of Acting Detective George A. Egan by the reported New York gunmen and other bloodshed in the "Bloody Fifth" Ward primary election.

POINTS FINGER AT MAYOR Dramatically Judge Gordon pointed his finger at Mayor Smith and accused him of being the prime malefactor of the conspiracy. Turning away from the Mayor, and in a voice that could be heard almost in the corridor, Judge Gordon placed the entire criminal guilt for the Fifth Ward murder at the door of Smith. "The crime in this case was cruel and wicked," he said. "This conspiracy ended in a death. There are many ways of tracing the conspiracy or begin from the time that death occurred."

"I select Thomas E. Smith to begin with. At his door I place the criminal guilt for this crime. The other defendants were mere agents. Smith was the prime malefactor. A way back months ago the Mayor was appealed to and told what his agents were doing. At the end of the last Legislature Senator Vare went to the Mayor and said, 'Let me go after Carey' and the Mayor replied, 'Yes, go ahead, and my Administration is behind you.'"

MAYOR TOLD OF ALL CRIME "We have shown that no crime was committed down there," said Judge Gordon, pointing to the southern part of the city, "of which he wasn't notified, and this makes him a partisan in the crime."

Judge Gordon touched upon the Department of Public Safety, describing how men were transferred from the Third and De Lancy street police station to outlying districts, and policemen friendly to the conspirators were put in their places.

Looking at the Mayor and again pointing his finger at him, Judge Gordon said: "He is really the head of the police department. Look at these other defendants who sit here in silence. Some of these defendants were brought from outlying districts into the Third district, and with revolvers and blackjacks were given a free way to commit crimes."

"The Mayor was begged to act before the murder was committed. He was begged with his family before him; he was told of the coming crime. What did he do? He asked that all information about it be suppressed."

Gordon then launched into a vigorous attack upon what he called the Mayor's "smug affected hypocrisy." The courtroom, rather empty, with only a few people, was crowded by this time by crowds that began to pour in as soon as Mr. Gordon began his speech.

A complete stenographic report of Mr. Gordon's speech, made for the EVENING LEDGER, is printed in full elsewhere in this issue.

James Scarlet, ex-Judge Bettler and Colonel Sheldon Potter each made copies of notes on the decisions quoted by Mr. Gordon and on all that the chief prosecutor said.

Gordon virtually asked that William E. Finley be let down easy in the case. "There is less moral guilt," he said, "in his actions than in that of any other defendant." Gordon said that Finley's connection with the case is "slight."

He added that he is receiving no fee for his services in prosecuting the case.

WANTS MAYOR REMOVED At the conclusion of the summing up Judge Gordon demanded that Judge Brown "put in operation the legal machinery to remove Mayor Smith from office."

He demanded that the Mayor be bound over to the Grand Jury on charges of misbehavior in office, violation of the Sherrin law, contempt of court, conspiracy to violate the Sherrin law, assault and battery, aggravated assault and battery and conspiracy to commit murder.

Municipal Court. Just as he had wanted examination of witnesses, so he declined the opportunity to argue the case. "May it please the court," he said, "counsel for the Mayor being friendly to the opinion that this court is without jurisdiction to hear this case or to determine what is termed, I believe, an 'investigation' in these proceedings, they have no reply to the address made to the court at this time."

ROTAN'S OFFICIAL PLEA District Attorney Rotan arose to join in Mr. Gordon's motion that the defendant be held for trial as charged, declaring that he had never heard a conspiracy case so completely proved.

"May it please the court," he said, "the law in this case has been so thoroughly gone over by Judge Gordon that it seems to me it is hardly necessary to touch upon that. The law is so well settled that the act of a conspirator in the line of a conspiracy binds others, and is so well known that I think we must all agree in regard to that."

"As to whether there was a conspiracy established or not, your Honor has been sitting here for over one week listening to the testimony of over one hundred witnesses."

"I have no hesitancy in saying that I have never heard a conspiracy so well proven, so completely proven, as in this case."

"Witnesses in favor of the Administration and witnesses against the Administration in a political way have come here to the witness box and faced the officials of the city, and after you go over the testimony of all of these witnesses, whether favorable to one fact or favorable to another, there really has not been one bit of evidence which is important in any way which differed from the thread of the story throughout this entire case."

"I ask in this case that the six men who were arrested at the instance of the District Attorney's office should be held—should be held for the charges they were charged with in the warrants when the affidavit was made. And the only evidence in regard to these men is whether there is evidence against them in regard to conspiracy."

It seems hardly necessary again to go into that, in regard to Mr. Finley, he has been before the men were brought in from New York. According to the testimony of Mayor Smith and his evidence, there is sufficient to make a prima facie case. He put the money afterward for the payment of the men after the work was done, to these imported gunmen or thugs, whatever they may be, who were brought from New York.

"In regard to the other officers, there are innumerable witnesses in regard to their thuggery, in regard to their actions when they beat up the men at the Finley Club at the time of the election, and upon the streets on election day and a day or two prior to that."

"The evidence more than makes out a prima facie case in regard to the Mayor. I only want to say to your Honor that it seems to me that now is an opportunity for the Judges of this country and for the Juries of this country to establish and to make known to the people here and in the people of this country that for all time the police shall be out of politics, and that a man will be able to go to the polls and vote as he sees fit and at all times be safe upon the streets of the city of Philadelphia. And, furthermore, that a man with a badge of authority and a gun and a blackjock must keep out of politics, and that his one function is to see that the property and the property belonging to the people are safe."

"I ask that these men be bound over for the November term of court."

JUDGE HOLDS DEFENDANT Judge Brown assented to the joint motion to hold the defendants for trial.

"I will hold all of these defendants for the charges made out against them," he said.

"First, I will hold Thomas B. Smith, the Mayor of the city of Philadelphia, for the next term of the Grand Jury, upon the offense described in the Constitution, misbehavior in office."

"I will also hold him for the same term of the Grand Jury upon the charge of contempt of court and failure to produce the records of his office."

"I will also hold him upon these other charges of conspiring and being, as Judge Gordon so properly said, the chief and primal factor in this great disgrace that this country has been obliged to witness and or which I personally feel ashamed of my city."

"I will hold him for aggravated assault and battery and for the other offenses which led up to the commission of murder."

"I will hold him in the same bail that he is now held in, but require him to enter recognisance in lieu of bail."

"I will hold the other defendants upon the charges upon which they were arrested, and on which there has been sufficient evidence produced here to entitle them to be held for the next term of the Grand Jury on the same day."

"I will hold Isaac Deutsch, Lieutenant Bennett—whatever his name may be—in \$10,000 bail."

"I entirely agree with Judge Gordon, and the feeling expressed by the District Attorney, with reference to Mr. Finley, and I regret that I include him in this, for the action of the Grand Jury at the next session. Let him enter the same amount of bail that he is now held in."

"I held these five officers in the sum of \$5000 bail for the next term of the Grand Jury."

MORE "HIGHER-UPS" TO COME Ex-Judge Gordon announced that from now on the case would be conducted by District Attorney Rotan, but he added that he would assist Rotan in every way he could. He intimated that when the case goes before the Grand Jury other high officials who are not at present defendants may be indicted.

Bail for William E. Finley, Isaac Deutsch and Lieutenant Bennett was fixed at \$10,000, and that for Policemen Wirtzschauer, Murphy, Gram, Feldman and Hayden, the negro, at \$5000.

Michael J. Sullivan, who hired the gunmen in New York, was arraigned before Judge Brown at the conclusion of the hearing and was held for a further hearing. Bail was fixed at \$5000. No date was set for hearing.

As soon as Mayor Smith and the other defendants had been bound over to the Grand Jury, James Scarlet, ex-Judge Abraham M. Bettler, Colonel Sheldon Potter and William Connor, of counsel for the defense, rushed to the office of Congressman John R. K. Scott in the Lincoln Building, where they held a long conference.

MAYOR "WON'T SAY A WORD" A representative of the EVENING LEDGER informed Mayor Smith that any statement he may care to make would be published in full in this paper.

"I won't say a word at this time," replied the Mayor.

Mr. Scarlet, attorney for the Mayor, announced that no bail would be furnished

JUDGE GORDON FLAYS MAYOR



Summing up for the prosecution in the Fifth Ward hearing, he accused the city's Chief Executive of being the prime malefactor in the election conspiracy.

for the Mayor. He was asked what he meant. "I wouldn't say what I mean," he replied. "When I state that no bail will be furnished for the Mayor," "Is that definite?" he was asked. "I won't say that is definite; we may change our minds," he replied. "The Mayor's defense will not be aired in the newspapers, but will be made before the proper tribunal."

Instead of entering bail before Judge Brown, attorneys for the defense applied to have the bail entered before Judge Martin in the Court of Quarter Sessions, on a writ of habeas corpus. This would transfer the bail issue from the Municipal Court to the Court of Common Pleas. The writ would be returnable before Judge Martin.

HEARING ON WRIT OCTOBER 29 Judge Martin, sitting in his chambers, issued a writ of habeas corpus at the request of James Scarlet for the Mayor, which will be argued October 29, at 10:30 o'clock.

The grounds upon which the writ was issued was that the hearing before Judge Brown disclosed no evidence of any kind to warrant Judge Brown in holding the Mayor for the Grand Jury. Another reason advanced by Mr. Scarlet to Judge Martin was that the hearing before Judge Brown was unconstitutional, and that Judge Brown

had no jurisdiction to sit in proceedings just concluded. Similar writs in behalf of Mercantile Appraiser Finley, Isaac Deutsch and the police defendants were also obtained on the same grounds, all of which will be argued on the same day.

Immediately after court was reconvened in the criminal branch of the Municipal Court by President Judge Charles L. Brown, Mayor Smith, through ex-Judge Abraham M. Bettler, admitted service of the subpoena requiring him to produce the Souder report on conditions in the Fifth Ward prior to election day. The admission was made through ex-Judge Gordon, indicating that the counsel for the defense and the prosecution had agreed upon this during the night.

Mayor Smith's \$10,000 bail was provided by the National Surety Company, of New York, for which the Mayor's bonding company in Philadelphia is agent. William B. Joyce, president of the National Surety Company, telegraphed that the company was willing to give bail for the Mayor up to \$5,000.

The Thomas B. Smith Company, as the agent which wrote the bond, will receive 30 per cent of the 2 per cent premium, which is \$200. Thirty per cent of \$200 is \$60, which goes to the Smith Company. The Mayor owns 80 per cent of the stock of



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the Smith Company. His personal share of the premium on his bond is \$48. William E. Finley's bail was furnished by State Senator Edwin H. Vare, who gave the property at 1120 Race street as security. It is assessed at \$55,000.

Bail for Lieutenant Bennett and Deutsch, \$5000 for each, was provided by Michael Alexander and Samuel Selzer, manufacturers, of 321 Market street, who pledged their property. The Mayor left the courtroom for his office at 1:15 p. m.

Asked his opinion of Mr. Gordon's speech, the Mayor said, "It was very melodramatic. It would make a fine movie." When it was suggested that a room was awaiting him in Moyamensing, the Mayor replied, "I don't know about that; they are reckoning without the host."

Deutch, asked his opinion of Mr. Gordon's arraignment, said: "It was a honey."

Senator Vare, after entering bail for Councilman Finley, said: "The circus in Judge Brown's court is over and Ringmaster Gordon is through for a while."

Bail was entered for Wirtzschauer, Uram and Feldman by Benjamin and Joseph Salus, brothers of State Senator "Sam" Salus. Vare leader of the Fourth Ward, Benjamin Salus lives at 4415 Baltimore avenue and Joseph in Atlantic City.

The Salus brothers later also furnished bail for Policemen Murphy and Hayden, the negro, thus releasing all of the nine defendants under bond for appearance October 29.

MAYOR'S COUNSEL READY FOR DRASTIC DECISION

Counsel for Mayor Smith today anticipated President Judge Charles L. Brown of the Municipal Court would hold him without bail on the "Bloody Fifth" Ward murder conspiracy and other charges, according to an inference given by the petition for the writ of habeas corpus by means of which the Mayor was released. The petition was prepared before Judge Brown's decision was made.

In the petition for the writ, which is addressed to Judge J. Willis Martin, of the Court of Quarter Sessions, there is a paragraph petitioning the court to allow the Mayor to enter bail. It reads: "Your petitioner therefore prays your Honorable Court, pending the hearing and disposition of the writ of habeas corpus heretofore issued by your Honorable Court, an order be made allowing your petitioner to enter bail in such sum as your Honorable Court deems fit. The move of the defense in taking the

writ to the Court of Quarter Sessions after Judge Brown had fixed the bail at \$10,000 was made public today by the south branch of the Philadelphia Christian Endeavor, in the form of a resolution adopted at the last meeting.

"ENDEAVORERS" WANT "CLEAN FIFTH WARD" The resolution, which deprecates the fact that Fifth Ward conditions are within the borders of the branch, asserts that these conditions are a menace to freedom. Condemning the Mayor's administration, the Christian young people of South Philadelphia, are in thorough sympathy with every movement which our right-thinking Philadelphia citizens will inaugurate against such high-handed political autocracy as has stirred our people to the depths of their hearts. It grieves us to think that those who occupy such responsible positions in our city government should cast such a glaring spectacle of wrong before the eyes of our young people who are citizens in the making. If our young people of today are to shoulder the responsibility of citizenship tomorrow, we plead that a better example be set before them by those occupying official positions in our city government.

Palmer Sees President A. Mitchell Palmer, Democratic National Committeeman for Pennsylvania, was a visitor at the White House today, and after his talk with the President it was freely predicted in official circles that Francis Fisher Kane would be reappointed United States District Attorney for the Philadelphia district, according to dispatches received here from Washington.

Mr. Kane has been diligent in pursuing and prosecuting plotters and draft evaders, according to his friends, who have been urging the President to rename him, and Mr. Palmer to recommend him for re-appointment.

PALMER SEES PRESIDENT

Kane's Reappointment Expected to Follow Visit

Golden Jubilee of Court Crier

Prominent members of the Bench and Bar will attend a dinner to be given tonight in honor of Andrew Jackson Kelly, crier in Common Pleas Court No. 2, who has rounded out fifty years of continuous service.

OFFICIAL EXPLAINS EXPORT LICENSES

Director of Bureau Tells How to Make Application and Attend to Other Details

Proper making out of application forms for licenses, the avoidance of belated shipments and the guarding of national interests through co-operation with the work of the bureau were among the problems explained in the address by C. A. Richards, director of the Bureau of Export Licenses, before 200 business men and one woman in the ballroom of the Bellevue-Stratford last afternoon.

While 80 per cent of the applications received are granted without any difficulty, much delay is often caused by ignorance on the part of the applicants, he said.

"The conservation list as it now stands consists of nearly seventy general headings," Mr. Richards said. "You may easily be very carefully scrutinized to select those covering articles on the conservation list, as these applications are especially considered."

"Not only must we confer with the shipping board with regard to plates, the food administration with regard to food and feeds, but we must confer with the war industries board regarding other items on the conservation list, with the War Department, with the various other Government departments interested."

"Tin plate, for example, which is on the conservation list, is being very carefully watched. First, because it is difficult to procure abroad; second, because we must conserve the tin plate manufactured in this country to be sure that it is to be used for purposes which will directly or indirectly contribute to the success of the war. Application for tin plate, therefore, are submitted to special scrutiny."

Columbia Records advertisement featuring a man playing a gramophone. Text includes: Mid-Month Specials, We call these records "specials" because they're too good to hold until the regular Columbia list of November records appears on the 20th. Any Columbia Dealer will be glad to play them for you. Send me away with a smile. Columbia Record A2355-75c. The test of a new song is, "Do the soldiers sing it?" And those thousands of boys out there in the training-camps—encouraged to sing, urged to sing—do certainly sing "Send me away with a smile." They bear down lustily on the old favorites, as they should, but none of the new ones is as often called for, or as readily given, as this splendid expression of what the American soldier of to-day is thinking and feeling. It's a hit. Hear it. I've Got the Nicest Little Home in D-i-x-i-e Record A2356-75c. When they aren't singing it, they're spelling it. Listen to it once, and you'll say, "That's a GOOD quartette song." On the other side is "In San Domingo," by Samuel Ash. The Secret of Home, Sweet Home Columbia Record A2344-75c. Charles Harrison carries you back to old familiar scenes and loving faces in this song about the "dearest spot on earth." And George Wilson sings on the other side, "You Can Always Come Back to Me." O, Sole Mio (O, Sun I Love) Columbia Record A2350-75c. Every one knows "O, Sole Mio"—one of the best of all Neapolitan folk songs. There's a riot of melody and color in it—and in the equally popular "Maria! Mari!" on the other side. Two splendid tenor selections, these. Departure of the American Troops for France Record A2354-75c. And a royal send-off it is! Quartette harmony with lots of bells, whistles, drums—everything you'd naturally expect on such an occasion. On the other side is "Arrival of the American Troops in France"—a companion piece. Levinsky at the Wedding Columbia Record A2310-75c. Levinsky behaves as though he were a twin brother of Cohen—of telephone fame. There's a gale of merriment in this monologue by Julian Rose. Castle Valse Classique Columbia Record A5989-12-inch, \$1.25. An exquisite waltz arrangement of the Humoresque—by Earl Fuller's Rector Novelty Orchestra. It makes you glad the waltz is coming back. Tramp, Tramp, Tramp, the Boys are Marching Record A2357-75c. The famous war song, sung by Charles Harrison and Columbia Quartette.

SUNDAY OUTINGS FROM MARKET STREET WHARF \$1.00 Atlantic City, Wildwood, Cape May, Ocean City, Sea Isle City, Stone Harbor Avalon, Asbury Park. Sundays until Oct. 28, Inc. Wildwood, Asbury Park and Cape May 12:30 A. M. - 12:30 P. M. \$1.25 Barren Point, Egg Head, Point Pleasant, Manasquan \$1.50 Asbury Park, Ocean City, Avalon, Stone Harbor, Seaside, Spring Lake, Inlet, and other places. Inlet and other places. Inlet and other places. Inlet and other places.