

OSCEOLA MURDER TRIAL ENDED

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District Attorney Runkle opened the case at 9:10 a.m., and closed at 9:25, at which time Mrs. Anna McHugh, widow of Michael McHugh, the deceased, came into court and took her place at the counsel table.

Mr. John Quinn—civil engineer of Hontzdale, was called and produced the draft made by himself, showing the relative position of Moshannon creek, the county line, railroad, tramroad, public road, McHugh house, and the Gregg shanty, together with the place where McHugh's hat was found on the morning of the 12th of April, 1905, and the place where his body was found in the creek, together with a description of the Gregg shanty, and showing that the distance between Gregg's shanty and the McHugh house was about 1101 feet; and further testifies that the McHugh house is West of the Gregg shanty, and that the body of Michael McHugh, as indicated by him, was found East of the Gregg shanty in the creek.

Barney McHugh—sworn; lives in Rush township, is a son of deceased, and aged thirty-three years, and a miner by occupation. Lived in Osceola Mills in April, about one-half mile distant from the place of residence of his father, and last saw him alive on the 10th day of April, not seeing him at any time during the 11th. That on the morning of the 12th he was standing on the street in Osceola, and that Gregg came along and said, "Barney, don't you know your father is lost and you will not find him this time."

That he then called at his father's house, and went with his mother to the place where the hat was found by her, and from thence to the Gregg shanty, which he found locked. That he then looked around for his father, and subsequently went back to Osceola. That he then started to look around different places in and about the immediate neighborhood, and they subsequently met Gregg and went towards the shanty, and that Gregg said to him, "Barney, I am sorry to tell you that you will never find your father alive." That his father was subsequently found in the creek below the bridge, being about an hour and a half after the alleged conversation between the witness and Mr. Gregg; and further stated that Gregg said to him to look East of the shanty, and that Gregg did not offer to help to look for his father. On cross-examination stated that the second conversation he had with this defendant was, that he had gone to Gregg's shanty and had taken a drink of whiskey with him. That his father's body was found about half past four on the 12th of April by John Moston and Pat Foley, and that there were several small marks on his body that looked to him like bruises, being three or four of them.

Anna McHugh—sworn, is the widow of the deceased, and lives in Rush township, was married about thirty-two years ago, and they had five children. Mr. McHugh used to drink when he had money. He was a miner by occupation. The deceased worked in the mines on the 11th of April, coming home about three o'clock in the afternoon, and after he dressed himself went to the blacksmith shop with three picks to have them sharpened, the shop was near Gregg's shanty. Didn't see him after that until he was brought home a corpse in the evening of April the 12th. He never stayed away at nights and didn't start to look for him until five o'clock of the morning of the 12th, and went straight to Gregg's door. At this point the witness was withdrawn.

John Boozer—live at Osceola, and has been an undertaker for about ten years. Knew Michael McHugh when he saw him, and last saw him alive on Monday the 10th. Saw his body lying on a stretcher on the bank of the creek on the evening of April the 12th, and the body was taken to the home of the deceased. His hands were partly open. He embalmed him on the morning of the 13th. Found no water in his lungs. There was a scrape on the right side of his head. One ear had a pierce, and the other had a scratch on the inside. He was buried on the 16th, and knew it was the body of Michael McHugh. Saw no other marks on him.

Dr. R. G. H. Hayes—lives in Bellefonte, a physician, has been practicing for twenty years. Was sent to Osceola on April 25th by the District Attorney to hold a postmortem on the body of Michael McHugh. Saw the body in the cemetery. The coroner, Dr. Huff, and myself, found three or four abrasions on the side of the face, and the lobe of the left ear was pierced, a spot of discoloration over the left eye. There were other discolorations of the body. That he was inclined to think that the blow above the left eye was made before death. There were postmortem discolorations about the hips, his lungs were in a normal condition, but colored from his occupation, being that of a coalminer, but contained no water or air in them. The lung did not bleed when cut, and would have bled if he had drowned, there would be a congestion of the abdomen. From my examination I don't think that Mr. McHugh drowned. The mark above the eye was a round, irregular discoloration. Have examined bodies drowned, and they have congested stomachs. A congested stomach is also an indication of excessive use of alcohol. This case had very little putrefaction.

At this point court adjourned until afternoon session. There were present at the autopsy Dr. Huff and the undertaker, I am not sure whether Dr. Reed was present, and do not recall saying to undertaker, that is what we doctors call an alcoholic stomach, and believes that the abrasions were anti-mortem; found about an ounce of food in the stomach; found no sand in the wind pipe, the heart had been punctured by the undertaker. The lungs were in a normal condition, excepting that they were deeply stained with coal dust from his occupation. There were no abrasions on his hands and no evidence of sand or dirt, and that it would require a much less blow to prove fatal upon an alcoholic person.

Dr. S. M. Huff—live at Milesburg, is coroner of the county. Went with the District Attorney and Dr. Hayes to Osceola to hold an autopsy on the body of Michael McHugh. Mr. Boozer took us to the cemetery, and we found the body in a good state of preservation. Believe that abrasions were ante-mortem, and there was a lack of evidence to indicate drowning. Skull was not fractured and wounds could have taken place in various ways. None of the wounds were of a dangerous character, and do not know the cause of his death. He had no water in his lungs. A person with alcoholic coma might drown in water without drawing water into his lungs, and it does not require the same blow to cause death of a man addicted to alcohol as one that is not.

John Boozer recalled—I took Doctors Hayes and Huff to the cemetery and they viewed the body of Michael McHugh.

Patrick Foley—live in Osceola, and was one of the parties who found the body of Michael McHugh; found it in the bottom of Moshannon Creek. John Moston was with me when we found the body. The hands were in front of the face, and he had nothing in his hands. The body was face downward. James Dugan was with us. The body was in the bottom of the creek. We took the body out with a garden rake, and then floated it to the shore. His eyes were about half open, mouth partly open, didn't see his tongue. We got into the boat above the house, and floated down to where we found the body. The creek was a little higher than usual, depth of the water where we found the body was from four to four and one-half feet. The general depth of the water was from two to three feet, and the water is very low at some places in that creek. We caught hold of his arm with the rake.

Harry Shook—live in Bellefonte, is a photographer. Took a series of views of the surroundings of the McHugh and Gregg homes and the place of finding the body.

Barney McHugh—recalled and identified the pictures offered in evidence, together with Shook's testimony.

John Moston, Jr.—live in Rush township. Helped to take out the body of McHugh, took it out with a rake. The body was found on the Centre county side and Pat Foley caught him by the arm.

Dr. F. B. Reed—live in Osceola, and have been a physician for about forty years. Viewed the body of McHugh at his home in a back room on the morning of the 13th of April. It was a one-story house. Viewed the body about eight o'clock in the morning, and was informed that the body was in the same condition as when brought from the creek. The arms were in a semiflex condition. Had no water in the lungs and no froth in the mouth. The face was placid and the only mark I noticed was in the ear, saw no other marks on the body. The body lay opposite the window, but the room was not well lighted. My examination was just with the eye and finger, and I discovered no indentation or ecchymosis. I do not know the cause of his death. Saw the body in the cemetery about the time that Doctors Hayes and Huff began their postmortem examination.

Anna McHugh recalled—was at Mr. Gregg's house and Gregg stated that he was at my house until ten o'clock.

At this point the defense raised a question, that the Commonwealth had not proven the corpse velicet. After some little argument the Commonwealth was requested by the defense to put their offer in writing and court adjourned at 4:30 to Saturday morning at 8:30 to give counsel for the Commonwealth opportunity to reduce their offer to writing, and counsel for the defendant their objections thereto.

At the convening of court on Saturday morning counsel for the Commonwealth offered to show that at eleven o'clock on April 11th, 1905, certain witnesses, to be called, overheard a conversation between Charles and Howard Stewart and Winfield Scott Gregg, in which Charles Stewart said to Gregg—"you know you hit McHugh and knocked him off the powder keg there, referring to keg standing against the wall; that Charles Stewart said to Gregg—"old man, you are older than I am and you ought to take some advice; that Gregg replied, he didn't want any advice, and said to Charles Stewart, I can read your mind as well as you know it yourself. Both of you are trying to get me into a scrap, that Charles Stewart further said that his brother Howard was present as a witness, to which Gregg replied, that is all right, he is your brother, but he ain't mine. You are both trying to get me into a scrap. I can read Howard's mind too; that when one Irish s. of b. will come

up behind him and hit him in the back with a pick. Howard Stewart then said, that God damned Stancy, or whatever his name is, started it all.

Counsel for the defendant objected to the offer because it did not impute any guilt to the defendant or show any combination of purpose, and that it was incompetent, irrelevant and immaterial.

The Court ruled out the offer because of its ambiguity.

The counsel for the Commonwealth then stated to the Court that they had offered all the evidence in their possession; that they had made a fair and firm stand to protect the dignity of the Commonwealth, to enforce its laws and to punish the infraction thereof in this particular case; that as the Court had refused to receive the evidence it was the duty of the Commonwealth's officers to say that they had no further or additional evidence that could affect Mr. Gregg, and therefore were in the position of being compelled to ask for a noll. pros.

Counsel for the defendant strenuously objected to a noll. pros. being granted and insisted that inasmuch as the Commonwealth's counsel had stated they had offered all the evidence in their possession, and had admitted their inability to offer such evidence as would warrant a conviction of the defendant, that the defendant was entitled to a verdict of not guilty and to be discharged from custody, so far as the immediate charge before the Court was concerned.

The Court then said to the jury—The Constitution of Pennsylvania guarantees to the prisoner his speedy trial by jury, and prevents his being placed twice in jeopardy for the same alleged offense. The prisoner at the bar having been arraigned and placed in the custody of this jury, the testimony having proceeded to this point, and no insurmountable reasons being given why the case should be discontinued by the court and a nolle prosequi ordered, we feel that under the constitutional provision referred to, if for no other, the defendant is entitled to a completion of this trial and a verdict by a jury of his country. We will therefore have to deny the request for a nolle prosequi.

The District Attorney then, under the ruling of the Court, moved the Court to instruct the jury to find a verdict of not guilty.

By the Court: GENTLEMEN OF THE JURY:—You have noticed that we have been very indulgent with counsel in the development of this case. It is for the interest, both of the defendant and the Commonwealth, that charges of gravity, involving, perhaps, the life of the accused, should be examined with the greatest care and patience. If there has been a crime committed, such as alleged in this present trial, every opportunity should be afforded within the law to prove that crime, and to bring the guilty person or persons to justice. It is desirable from the standpoint of public policy that any sudden and suspicious death should not be treated lightly in the community. Life, in the eyes of the law, is beyond

price and the humblest citizens is entitled to the fullest protection of the law. It is the duty of courts and juries to throw around the life of each citizen every safeguard and protection. The trial and conviction of men guilty of homicide has not wholly the elements of retribution or punishment, it does not only involve the rights of the accused and the person who has been slain, but there is a higher purpose, and that is to protect the lives of all other persons in being, and to prove that such crimes cannot be committed with impunity in this Commonwealth. So, as we have stated before, we have been very indulgent to the Commonwealth in allowing its representatives to develop their case and to prepare themselves upon the disputed questions of law up to this time.

There has been clearly shown the death of a citizen of this Commonwealth within the county. It was a sudden death. There were some elements of suspicion surrounding it. It is possible to conjecture the foul play. The fact that the accused was with the dead man the same evening his death occurred, and immediately prior thereto, demands a rigid investigation into his conduct and his statements, but having made that investigation the accused is entitled to all his constitutional privileges, the first being that he is presumed to be innocent until he is shown by the Commonwealth to be guilty beyond a reasonable doubt. That presumption is still between him and the Commonwealth and he is entitled to it.

After carefully examining this evidence we fail to see that the Commonwealth has made out any case against the defendant. The best that could be said for it is that by conjecture you might imagine the defendant to have been guilty of something that contributed to the death of the deceased, but that is not such evidence as a court of justice can entertain. The guilt of a defendant cannot be arrived at by conjecture or implication. His guilt must be established by evidence, either direct or circumstantial, of such a character as to remove any reasonable doubt. Under no circumstance has any malice been shown in this case. So the defendant could not be guilty of murder either of the first or second degree. Malice is necessary even to a conviction of murder in the second degree. The difference between murder of the first and second degree is, that in the first degree a manifest intention to kill must be shown to exist, coupled with malice, resulting in death, while in murder of the second degree death follows, perhaps, accidentally, but accompanied with malice against the person killed. But in this case no malice has been shown and it is now admitted by counsel for the Commonwealth that none can be shown against the accused.

So far as this case has developed nothing has been shown that would sustain even a verdict of manslaughter and we are therefore compelled to instruct you to return a verdict "not guilty."

This particular case was thus disposed of, but there are other indictments for conspiracy to commit assault against the defendants and these cases were continued.

Tuesday morning at a short session of court, the following sentences were imposed:

Edw. Stover, implicated in the Eby robbery, was sentenced to \$1 fine, costs of prosecution and 6 months in jail.

Daniel Knauff, for not paying a board bill, sentence suspended until November court; evidently given an opportunity to make good.

Wm. Long, vagrant, who had been in jail for several months, sentence suspended in the hope of him giving this section a wide berth or better deportment.

The charge of murder against the three men from Osceola is practically dropped by the result of the trial. They still are indicted for conspiracy and assault and battery on Barney McHugh, and their bail was fixed at \$500 each for appearance at November term of court.

During this session Jno. G. Love, Esq., decorated the District Attorney with some compliments as to the manner in which he conducted his office; that induced Wm. Groh Runkle to pick a few daisies and return the courtesy with a snap that made the hearers relish the engagement. There were no fatalities.

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RAILROAD SCHEDULE.

PENNSYLVANIA RAILROAD. Schedule in effect May 28, 1905.

Trains arrive and depart from BELLEFONTE as follows:—

VIA TYRONE—WESTWARD. Leave Bellefonte 9:55 a. m., Harrisburg 1:50 p. m., Pottsville 5:50 p. m., Leave Bellefonte 1:05 p. m. week days, arrive at Tyrone 2:10 p. m., Altoona 5:55 p. m., Pottsville 9:55 p. m.

VIA TYRONE—EASTWARD. Leave Bellefonte 9:55 a. m. week-days arrive at Tyrone 11:55 a. m., Harrisburg 2:55 p. m., Philadelphia 5:47 p. m. Leave Bellefonte 1:05 p. m. week-days, arrive at Tyrone 2:10 p. m., Harrisburg 6:55 p. m., Philadelphia 9:47 p. m.

VIA LOCK HAVEN—WESTWARD. Leave Bellefonte 1:25 p. m. week-days, arrive at Lock Haven 2:10 p. m., Buffalo 7:55 p. m. Leave Bellefonte 9:32 a. m. week days, arrive at Lock Haven 10:30 a. m.; leave Williamsport 12:55 p. m., arrive at Harrisburg 3:20 p. m., Philadelphia 6:22 p. m.

VIA LOCK HAVEN—EASTWARD. Leave Bellefonte 1:25 p. m. week-days, arrive at Lock Haven 2:10 p. m.; leave Williamsport 4:25 p. m., arrive at Harrisburg 6:50 p. m., Philadelphia 9:52 p. m. Leave Bellefonte 8:16 p. m. week days, arrive at Lock Haven 9:15 p. m.; leave Williamsport 1:35 a. m., arrive at Harrisburg 4:15 a. m., Philadelphia 7:17 a. m.

VIA LEWISBURG. Leave Bellefonte 6:50 a. m. week days, arrive at Lewisburg 9:05 a. m., Montandon 9:55 a. m., Harrisburg 11:30 a. m., Philadelphia 3:17 p. m. Leave Bellefonte 2:00 p. m. week-days, arrive at Lewisburg 4:30 p. m., Montandon 4:45 p. m., Harrisburg 7:00 p. m., Philadelphia 10:47 p. m.

For full information time tables, etc., call on ticket agent, or address Thos. E. Watt, Passenger Agent Western District, No. 360 Fifth Avenue, Pittsburg.

W. W. ATTERBURY, J. R. WOOD, General Manager, Pass'r Traffic Manager, GEO. W. BOYD, General Passenger Agent.

BALD EAGLE VALLEY.

Table with columns for WESTWARD and EASTWARD, showing times for stations like Tyrone, Bald Eagle, Unionville, Milesburg, etc.

LEWISBURG & TYRONE RAILROAD.

In effect May 24, 1905.

Table with columns for WESTWARD and EASTWARD, showing times for stations like Tyrone, Lewisburg, etc.

THE CENTRAL RAILROAD OF PENNA.

Time Table effective Nov. 28, 1904.

Table with columns for READ DOWN and READ UP, showing times for stations like Jersey Shore, Lve, etc.

(New York Central & Hudson River R. R.)

Table with columns for stations and times, including Jersey Shore, Lve, etc.

BELLEFONTE CENTRAL RAILROAD

To take effect May 29, 1905.

Table with columns for WESTWARD and EASTWARD, showing times for stations like Harrisburg, etc.

BELLEFONTE & SNOW SHOES BRANCH.

In effect Nov. 20, 1904.

Table with columns for stations and times, including Harrisburg, etc.

Trains from Montandon, Lewisburg, Williamsport, Lock Haven and Tyrone, connect with train No. 5 for State College.

Trains from State College connect with Penna. Railroad at Bellefonte for points east and west.

F. H. THOMAS Supt.

BELLEFONTE & SNOW SHOES BRANCH.

In effect Nov. 20, 1904.

Table with columns for stations and times, including Harrisburg, etc.

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