

AN ATTACK ON ACT OF 1899

IT IS ALLEGED TO RUN COUNTER TO THE BILL OF RIGHTS.

When Junk Dealers Were Arraigned Yesterday for Buying from Minors Their Attorneys, O'Brien and Martin, Asked That the Indictment Be Quashed, for the Reason That the Act Is in Restraint of Trade. Mike Kosh Is Found Not Guilty. Other Cases Heard.

When M. Rossinger, Louis Koskovich, Isaac Leber and Ira Leber were arraigned before Judge Newcomb in No. 2 yesterday, charged with buying from minors, their attorneys, O'Brien & Martin, asked that the indictment be quashed for somewhat novel reasons. It was asked that the indictment be quashed because:

- 1. The indictment does not charge any criminal offense known to the law.
2. The act of May 1899, P. L. 217, under which the indictment is drawn, is unconstitutional and void:
(a) Because it is an act in restraint of trade.
(b) Because it denies to persons sui juris the right to make contracts for the acquisition, sale and protection of property.
(c) Because it is in violation of the bill of rights of the Constitution of the United States and of the state of Pennsylvania.
3. The indictment does not charge any violation of the act of May 1899, P. L. 217.
4. The indictment does not charge any criminal offense known to the law.
Judge Newcomb granted a rule to show cause why the indictment should not be quashed and made it returnable at argument court.

The act which it is alleged offends against the constitution and the bill of rights was passed to prevent junk dealers from encouraging boys to steal for them, as many of them throughout the state have for years been engaged in doing by buying stolen goods from them. The act follows:

THE ACT IN QUESTION. Section 1. Be it enacted, etc. That if any person or persons shall, after the passage of this act, buy or receive from minors, knowing them to be such, or from persons unknown to such person or persons so buying or receiving, or from persons pursuing no trade, labor or employment for a livelihood, any junk, rope, scrap, iron, brass, lead, copper or other metals, such person or persons shall be deemed guilty of a misdemeanor, and, on conviction thereof in a court of quarter session of the proper county, shall be sentenced to pay a fine of not more than one hundred dollars (\$100) or to undergo an imprisonment of not more than one year, or both, at the discretion of the court.

Approved—The 5th day of May, A. D. 1899. William A. Stone.

The defendants live at Archbald, where they are engaged in the junk business. Detective Martin of the Delaware and Hudson company, is the prosecutor. That company believes that the defendants have been buying large quantities of iron stolen from the company by boys.

A case consequent upon the trolley strike is being heard by Judge McClure, P. M. Messett, an officer of the Amalgamated Association of Street Railway Employees, Division 188, is the prosecutor. The defendants are John C. and Michael Metzheiser, brothers, who worked during the strike and continued to work after the strike.

According to the story of the prosecution, the defendants and some others of the non-union men committed a vicious and wholly unprovoked assault on Messett.

At 12:50 o'clock on the morning of June 12, Messett and his motorman, John O'Donnell, were housing their car at the Providence road barn. John Metzheiser encountered Messett and asked why he had called him (Metzheiser) a "scab." Messett replied that he had not done so, Metzheiser called him a liar.

WERE ASSAULTED. Messett and O'Donnell started to leave for the central city on their way home, and when about seventy-five feet away from the barn, were set upon by Michael Metzheiser and seven or eight other non-unionists. O'Donnell was felled by a club, and when he was disposed of, Metzheiser, followed by John Metzheiser, proceeded to "do" Messett.

The latter retreated towards the barn, but had gone only fifty feet or so when he was overtaken, overpowered and given a sound drubbing. Michael Metzheiser, so Messett claims, hit him on the head with a club and others of the crowd, including John Metzheiser, struck him with their fists and kicked him, injuring him in the ribs.

He was taken to the office of Dr. John O'Malley for treatment, and later to his home, where he was confined to bed for four or five days. It was several weeks before he was able to resume work.

Dr. O'Malley was the only witness examined. He testified that the blow dealt Messett on the head was, apparently, sufficient to fracture the skull if it had struck on some other part of the head. Court adjourned after Dr. O'Malley had been heard.

Assistant District Attorney Gramer, Hon. John P. Quinnan and Clarence Halentine appeared for the prosecution. The defense was represented by O'Brien & Martin.

KOSH NOT GUILTY. Mike Kosh was yesterday acquitted of having placed obstruction on the Delaware, Lackawanna and Western railroad on November 29 of last year. The commonwealth's case rested entirely on the testimony of Frank Jones, as related in yesterday's issue, and to contradict this the men who were with Kosh on that day testified that nothing of the kind described by Jones occurred and that they did not see Jones at all on that day.

There was also testimony that Jones could not have seen Kosh the next day, as he testified for the reason that it was St. Michael's day, on the calendar of the Greek church, and that Kosh did not go to work.

Superintendent of the Bureau of Pines H. F. Ferber swore that Jones is an

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truthful man and that he would not believe him under oath. Frank Hutchinson and Charles Stetter swore that Jones' reputation for truth and veracity was not good. Thomas Kane was acquitted of attempting to burglarize the home of Martin Platon, in Carbondale, on the evening last June. It appeared that the defendant, while intoxicated, attempted to enter the prosecutor's house through a bedroom window. The noise he made attracted the attention of the inmates, who entered the room and found the defendant trying to enter. The defendant stated that he intended to enter the house of a relative, who lived next door, to sleep, and that he might not disturb the occupants used the window, as he had done on previous occasions. On account of his drunken condition he got into the wrong house. Attorney John J. Murphy was his counsel, and Assistant District Attorney Thomas conducted the case for the commonwealth.

SENT TO PENITENTIARY. Joseph Zima and Stanley Novakoski were convicted of aggravated assault and battery upon Frank Single, and sentenced by Judge Newcomb to one year and six months each in the penitentiary at hard labor and separate and solitary confinement.

A verdict of not guilty, and the prosecutor to pay the costs, was taken in the case against Lottie Smith. The prosecutor failed to appear, and from statements of counsel it appeared that the case had been settled out of court.

Hannah Youngs and Libbie Youngs, mother and daughter, were tried before Judge Newcomb, on the charge of keeping a disorderly house in the suburbs of Carbondale during the past summer. Neighbors testified to the bad character both of the house and of the defendants. They also stated that the defendants' house was nightly frequented by a number of men and that drunken carousals were carried on repeatedly.

The defendants denied absolutely that they kept anything other than a most orderly and respectable house. Judge Newcomb, in charging the jury, took from their consideration the charge against the daughter, on the ground that she was not responsible for what occurred in the house of her mother, who could subject her to duress. L. P. Wedeman and J. J. Manning represented the defendants. Assistant District Attorney Thomas conducted the prosecution.

Peter Gahovitch was tried before Judge Kelly for stealing \$81 from Mrs. Mary Novachichaka, with whom he boarded at Taylor. He denied the charge. The jury was out at adjournment.

VERDICT OF NOT GUILTY.

Mrs. Kate Ruan, an Italian woman, who lives at Jessup, was tried on a charge of adultery, preferred by Deputy Constable Frank Gydron. The evidence showed that Mrs. Ruan conducted a very bad place, but the jury evidently believed that Gydron was actuated by spite and returned a verdict of not guilty.

Rates did not appear to prosper. Emery Rolfs for being the father of her child, and a verdict of not guilty was taken and the costs placed on the prosecutor. A nol. pros., on payment of costs, was entered in the case of M. P. O'Connor, charged with selling rennet, and a verdict of not guilty was taken.

Benjamin Harvey, a young man 18 years of age, was convicted of burglarizing the barn of John Lillbridge, at Blakely, on July 8 last, and stealing a single harness, which he tried to sell for \$10. It was his second conviction, and Judge Kelly gave him six months in the county jail.

A verdict of not guilty was returned yesterday in the case of Catherine Peel, tried Monday for false pretenses. The costs were placed on the prosecutor.

John Doolik plead guilty to two charges of larceny and receiving, and was sentenced to six months in the county jail.

Yesterday's Marriage Licenses. Stewart Space.....Scranton Louis E. Williams.....Scranton Wilfred S. Mohr.....Scranton Fanny Bittenbender.....Scranton William J. Davis.....Scranton Carrie B. Sommer.....Scranton Albert Wessott.....Scranton Maggie Banks.....Carbondale Dennis P. Kane.....Scranton Nellie McInnis.....Scranton George P. Kohl.....Scranton Bridget Kelley.....Scranton Michael Gilroy.....Scranton Samuel Weber.....Scranton Sarah A. Duffy.....Scranton Frank C. Wardell.....Scranton Minnie R. Sanders.....Danmore Joseph N. Tomkins.....Altoona Mary Hower.....Scranton Lutherford Kimbark.....Scranton Josephine Follett.....Scranton

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BLACK GOODS BARGAIN No. 1—12 1/2c Double Fold Serge. For this sale, a yard..... 10c BARGAIN No. 2—25c Figured and plain Black dress goods, 38 inches wide. For this sale, a yard..... 21c BARGAIN No. 3—39c Black Novelty Dress Goods, 38-inch and 42 inches wide, all wool. Priced for this sale..... 33c

SILKS AND VELVETS BARGAIN No. 1—50c All-Silk 18-inch Taffeta and a Cotton Back Satin, newest shades, delicate tints, also cream, white and black. Cut price for this sale, yard..... 44c BARGAIN No. 2—75c Silk Taffeta, 19 inches wide, pure Silk Liberty Satin, in all colors, including black and white. For this sale at a yard..... 67c BARGAIN No. 3—\$1.00 Plain Silk, Tartan effects, also 24-inch Peau de Soie, which is here in the newest shades. Priced for this sale at a yard..... 85c

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Table with 2 columns: Commodity Name and Price. Includes Chicago Grain & Produce, Wheat, Corn, etc.

Table with 2 columns: Commodity Name and Price. Includes Chicago Live Stock Market, Cattle, Hogs, etc.

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