

CITY AND SUBURBAN.

THE GAZETTE is furnished to the city at the rate of 15 cents per week; by mail, \$3 per annum; 3 mos., \$2.

Those who intend spending any time away from home during the summer months, can have the GAZETTE mailed to them by leaving their address at our counting room.

Received.—We have received from Mr. W. A. Selden, No. 45 Fifth avenue, the "Atlantic Monthly" and "Ladies' Friend" for July. Mr. G. is always in advance in these publications.

Constables' Returns.—The constables of the wards of the two cities will be heard on their returns before the Grand Jury on Monday, June 21st, and those of the boroughs and townships on Wednesday, June 23rd.

Outing stolen.—Martha Gordon, a resident of "Hayti," was arrested yesterday on a charge of stealing wearing apparel, valued at \$11.70, from Susanna Maxwell one of her neighbors.

Something New.—A street railway car, with a new patent brake that stops it, starts the car without aid from horses, can be seen on the Citizens' Railway this morning at 6 o'clock. Railway men should examine this invention, as it is a great saving of horses.

Rude Remarks.—Wm. O'Leary was charged before Alderman Taylor yesterday, with entering the store of Dennis McMillen and using very insulting language toward the proprietor, besides threatening to take his life. Warrant issued.

Three hundred and two cars of the Pennsylvania and Allegheny Valley Railroad line, loaded with crude oil, passed over the road from Franklin, Pa. to Philadelphia, one day last week. Twenty-four thousand one hundred and sixty barrels were thus exported.

Orchestra Concert.—Extensive arrangements are being made for a grand instrumental concert by George's Orchestra, to take place at Lafayette Hall, on the evening of July 1st. Prof. J. W. Pope will take part and sing his celebrated song "Allegheny."

A Faithless Benedict.—Francis Sweeney colored, says his husband, Joseph, has abandoned her to the care of the world, first selling off all their household effects, and thus breaking up their home. Alderman Bolster issued a warrant for the arrest of Joseph, for these illegal proceedings.

Slight Fire.—Last evening about ten o'clock a fire broke out in a stable adjoining the residence of Mrs. Kirkpatrick, corner of Webster avenue and Arthur street. The flames were extinguished with buckets of water. The Relief steamer was on the ground, but was not in action.

Would go in.—August Gohn was before Alderman Taylor yesterday on a charge of forcible entry, preferred by Joseph Pearson, of Lawrenceville. It is alleged that, notwithstanding opposition, true to his name and nature, he would go into the stable owned by the proprietor, where he did considerable damage by tearing a portion of the interior. He was held for a hearing.

Death of Mrs. Stewart.—It will be seen in our column that the venerable and estimable Mrs. Jane Stewart, relict of the late Mr. John Stewart, and mother of John H. Stewart, Esq., a member of this county, died on the 15th inst. Her funeral will proceed from her late residence, Highland avenue, on Friday, the 18th inst.

Fights.—The business relations between George Werner and Louis Frank were the subject of an animated dispute between the parties, yesterday, when it struck George a powerful blow in the face. The "compassionate" occurred on Second street. Third ward. Alderman Bolster issued a warrant for the arrest of the pugilist.

Illegal Threats from an Official.—John Geisinger, a resident of Templetonville, made information before Alderman Donaldson yesterday, against John Thompson, Constable of the borough, and Samuel Bryan, for surety of the peace. The accused, in alleged, threatened to enter the house of Geisinger, and, being opposed, used some very vile threats against that individual. He was arrested, and gave bail for a hearing.

The ladies of the new Presbyterian Church, at Wilkesburg, will give, on this and Friday evenings, a strawberry festival in their new edifice. They have taken extraordinary pains to render the festival unusually pleasant and in every way a success, and it will doubtless be everything they anticipate.

In the gutter.—Alderman McMillen yesterday issued a warrant for the arrest of John Armstrong, charged with assault and battery. It is alleged, the son of the accused and a boy named Horner were fighting, when Armstrong came to the relief of his representative, and kicked young Horner into the gutter. The difficulty occurred on Fifth avenue, near Stevenson street. The information was made by the father of the injured lad.

All should remember that the great Strawberry Festival in aid of the Episcopal Church Home, is to come off this afternoon and evening. The entertainment (weather permitting) will be a great variety of fancy articles, and the feast of good things will be overabundant. Tickets may be secured at the book and music stores and at the door. The elegant McKee and Mellor prizes will be awarded to the successful contestants, after the decision of the judges is made up, a ceremony which visitors are invited to watch.

ALLEGHENY DISORDERLY CASE.

Decision of Judge Stowe on the Appeal from the Judgment of Mayor Drum in Filing Alderman Strain for Disorderly Conduct.—Judge Street Sessions from the Decision.

The circumstances attending the arrest of John A. Strain, Alderman of the Fifth ward of this city, and others, a short time since, in Allegheny, while returning at a late hour of the night from a serenade in the suburbs, the release, second arrest on the day following, and Strain's appeal from the Judgment of Mayor Drum convicting him of disorderly conduct, we need not repeat in announcing the decision of the case, as they are sufficiently recapitulated in the opinion of Judge Stowe, delivered in the Court of Quarter Sessions yesterday morning. It is as follows:

City of Allegheny v. Charge of Disorderly Conduct. By John A. Strain, Plaintiff. In Conduct.

Opinion by Stowe, J. This is an appeal from the judgment of the Mayor of Allegheny city, in a summary proceeding, wherein the defendant is charged with disorderly conduct and fined twenty-five dollars and costs.

The question for us to determine is, whether under the proceedings and the evidence adduced before the Court, this judgment shall be sustained or set aside.

The evidence shows that defendant, with some twenty or twenty-five other persons, from Pittsburgh, had been visiting at the house of a gentleman outside of Allegheny city, and that while returning home, about midnight, through Allegheny city, the defendant, besides being in quite vociferous and unbecomingly singing, and according to the testimony for the plaintiff, in profane and disorderly shouts and cries, calculated to annoy and disturb the people residing along the streets through which they were passing, was passing through the streets, and that the defendant demanded the officers to show by what authority they arrested him, after which he was taken into custody. It would seem, however, that after the arrest had been fully made, the defendant was advised and urged submission to the officers, and stated in substance that he would have them punished should they arrest him.

There was no evidence that defendant was one of those engaged in singing or making a noise, but so far as the defendant was quietly riding home in one of the wagons.

The defendant left a deposit for his appearance the next day, and in the morning was sent for by the Mayor, who issued a warrant for his arrest, early in the morning upon an information made by William Bowden, his Chief of Police. After one witness, Charles Bohoup, was heard, defendant, according to the transcript of the Mayor, waived further proceedings, and the Mayor gave judgment that defendant was guilty of disorderly conduct, and should pay a fine of twenty-five dollars and costs to the City of Allegheny.

Defendant appealed to the Court of Quarter Sessions the same day, and subsequently the record was returned into this Court.

The whole record is insufficient to sustain a judgment of guilty, if the case was before us *en banc*, and would not be clearly established principles in summary proceedings, and we might very well dispose of the case by setting aside the judgment, if it were not that this is an appeal, which makes it our duty also to refer to the merits of the case, as they seem to us under the evidence.

In this proceeding, if the merits were against defendant, under the evidence, and all the preliminary steps up to the swearing of witnesses, regular and set out in the per shape upon the record, we would convict, although the record in regard to the evidence and proceedings, as they are stated, is defective. But unless the preliminary steps were properly taken, the merits of the case for the evidence would not have the force of the proceeding, but the conviction would be quashed.

The first question then is (assuming that we have jurisdiction in this shape, to which we will refer hereafter) were the proceedings regular, as they appear under the evidence, up to the time of hearing? That includes information, issuing of warrant and arrest of defendant.

This makes it necessary to consider somewhat at length the nature of summary proceedings, and the rules which have been established for their regulation.

By the system of the common law, persons charged with the commission of criminal offenses could in general be tried only by indictment or information, in courts of record, according to the established mode of procedure, the right of trial by jury being deemed essential, and the benefit of the security of personal liberty and rights. From an early period, however, in England, it became common to conduct by statute, to certain magistrates, and without a jury for some offenses of a lesser grade, or to try by summary proceedings, and ordinarily the only remedy in such cases was by appeal to the next higher court.

It is an established rule that no summary conviction will stand for a moment without a sufficient record. Indeed a record is an absolute prerequisite to a conviction, and without it not only is the party entitled to his discharge, but the magistrate liable to him in trespass. This must show that the magistrate has strictly pursued his powers, otherwise the common law will break in upon him and level all his proceedings.

In carrying out this principle, very rigid rules of construction have prevailed in courts of justice, and the magistrates have always been kept within the strict letter of the statutes or ordinances creating their authority.

The first step in a summary conviction is the formal record, which is sometimes called a complaint, but more generally an information. There are some cases where no charge is written, but a charge or accusation must in fact have been made, and the magistrate should be careful in writing the substance of the information, in order to avoid writing the substance of the information.

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