

The Judge charged the jury that the question was simply guilty or not guilty, as to fact; that as a jury they must weigh the testimony and ascertain not who broke open the safe, but who took the candy and peanuts? None of the goods were found on the boys—the mere fact that the boys were in the car is no proof that they took the goods. The Commonwealth must prove the boys took the goods. To convict you must be satisfied beyond a reasonable doubt that the boys stole the goods.

The jury having gone to their room for deliberation, the jury in the case of Commonwealth vs. C. H. Sanford was called into the box. The testimony in this case was published in yesterday's Herald. The argument which had been postponed was opened by the counsel for the defense, after submitting the following points to the court:

1. That there can be no conviction in this case for selling liquor without license, inasmuch as the act of May 1887, provides that druggists and apothecaries shall not be required to have licenses under the revision of this act; and the uncontradicted evidence shows that the defendant was a druggist having a certificate of competency from the State Pharmaceutical Examining Board, the verdict must be not guilty.
2. That as there is no count in the indictment charging the defendant as a druggist with any violation of the statute, the verdict must be not guilty.
3. The court refused to affirm the points and said: "The two points raise a question whether on this indictment the defendant could be convicted. The points are refused, and the question of law will be duly considered on a future motion if necessary."

Mr. Kovats addressed the jury at length saying that under existing laws certain persons are allowed to sell spirits and various liquors under certain restrictions and qualifications. He then took up the evidence of several witnesses claiming that not one of them sustained the charges of the Commonwealth. He was particularly severe in his criticism on the attempt to convict on such testimony as was offered. He held that Holbert's evidence amounted to nothing in view, 1st, of his own admitted condition for the three months specified; 2d, because of his connection with Mr. Benford as his counsel; 3d, because of the personal difficulty now between them involving a suit in court.

Val Hay commented at large on the evidence, ridiculing the idea that the adulterated were bought as medicines—and especially in such quantities as 1 pint, 1 pint, etc. Said "Doctors' prescriptions" was simply a dodge to get whiskey. In commenting on Holbert's evidence which was so severely criticized by opposing counsel, said he was now a reformed man and his evidence was entitled to full credence, and though not on friendly terms with Benford at present it does not follow that he would perjure himself in this or any other case, being an honorable member of this bar.

The jury in the Her and Broderick cases returned a verdict of not guilty. The Court gave the boys some sound advice in regard to stealing railroad ties; told them to try and get honest work and discharged them.

Adjourned to 1:30 p. m.

ATTESTED SESSIONS.

Judges charge in Benford case:

The indictment contains five counts. The act of 1887, 10th section, provides that druggists are not required to procure licenses, but shall not sell liquor except for medicinal or mechanical purposes, and that it shall only be sold for medicine on a physician's prescription and not more than once on the same prescription. If he sold only on such prescription he could not be convicted. If he sold whiskey with medicine, and sold as medicine, he could not be convicted. Second count was thrown out. 3d. Selling to one visibly affected by liquor. If there was any evidence of such sales he could be convicted. 4th. Selling on Sunday: You must determine from all the evidence. 5th count: Prosecuted as a druggist. Thrown out.

The defendant is entitled to the benefit of a reasonable doubt. As to the question of costs, if you acquit the defendant then you must decide who shall pay the costs, the county or the defendant.

A true bill having been found against James M. Boyer for F. & B., on information of Lizzie Kammel, he pleaded guilty and was sentenced to pay a fine of \$25.00, costs of prosecution, \$15 for lying in expenses, and \$0.75 per quarter for a period of three years, and be required to enter into approved bonds. Both these parties hail from Southampton township.

At the close of the Boyer case it was decided to continue the entire civil list down for trial next week.

The Court asked the District Attorney what case he elected to try next, and that officer asked to have the case of Commonwealth vs. Lewis et al, taken up. The Sheriff was notified and promptly brought into Court Charles J. Lewis, Jackson P. Sullivan, Marshall Sullivan, Decatur Tasker, Grant Dean, Wm. Hill, Jerrymanus Thomas, Clarence Anderson. The prisoners were shaved, washed, decently dressed, and presented a passably respectable appearance, without the least evidence of embarrassment, notwithstanding they were the focus of so many hundreds of eyes.

Mr. Holbert objected to this case being taken up at this time on account of the

absence of material witnesses and asked for an attachment for witnesses and a continuance of the case. Attachment awarded for Henry Apel and Nettie Sullivan, and continuance of trial refused.

Messrs. Uhl and Holbert for counsel for defense then filed the following motion for a change of venue.

Commonwealth of Pa., vs. May T., 1889, O. & T. Chas. J. Lewis, et al. Burglary.

To the Honorable the Judges of the Court of Oyer and Terminer and General Jail Delivery, for the county of Somerset, State of Pennsylvania.

The defendants in the above case by their attorneys, John H. Uhl and A. C. Holbert, come into court, this the 23rd day of May, A. D. 1889, and pray the Court that a change of venue, may be granted in said case for the following reasons:

- 1st. In the county where the crime was committed for which the defendants stand indicted, to wit: The county of Somerset aforesaid, undue excitement prevails against the said defendants; and in consequence of such prevailing excitement, the defendants aforesaid will be unable to secure a fair and impartial trial.
- 2nd. In the county of Somerset aforesaid, to wit: The county in which the offense for which the defendants stand indicted, as aforesaid, was committed, there exists so great a prejudice against the defendants aforesaid, that they cannot obtain a fair trial.
3. In the county in which the offense for which defendants stand indicted was committed, as aforesaid, there exists a combination against said defendants, instigated by influential persons, by reason of which combination the defendants aforesaid cannot obtain a fair trial. They therefore pray that the case may be removed to another county in which such prejudice, etc., do not exist, and they will ever pray, &c.

C. J. LEWIS,
J. P. SULLIVAN,
MARSHALL SULLIVAN,
DECATUR TASKER,
GRANT DEAN,
WM. HILL,
JERRYMANUS T. THOMAS,
CLARENCE B. ANDERSON.

Sworn and subscribed before me, this 23rd day of May, A. D. 1889,
D. J. HOXNER,
Proth'y.

ORDER OF THE COURT.

The application to change venue is refused; the Court is not satisfied from anything appearing that undue excitement exists against the prisoners and that no fair trial can be had in the county.

24 May, 1889. PER CURIAM.

Counsel for the defense then filed the following motion, asking that the prisoners be tried separately:

Commonwealth of Pa., vs. May T., 1889, O. & T. C. J. Lewis and others. Burglary.

To the Honorable, the Judges of the Court of Oyer and Terminer for Somerset County, Pa.

And now to-wit: the 23rd day of May, A. D. 1889. The above named defendants by their attorneys, John H. Uhl and A. C. Holbert, come, and each for himself, pray the Court that he may be severed from the other defendants named, and that a separate trial may be awarded for the following reasons:

- 1st. The defense of the defendant's respectively, rests upon different grounds, to be made out by different witnesses, and no one of them can be tried jointly with another or with the rest without working great damage and injury to him or her.
- 2nd. Every man is presumed innocent until he is proved guilty, and to try any one of your petitioners jointly with another, or with the other Defendants, will be to strengthen in the eyes of the jury, the case of the Commonwealth, and in a still greater degree to weaken the force of the defense of any defendant so joined.
- 3rd. The Commonwealth must make out her case beyond a reasonable doubt, and a joint trial of any one defendant with another, or with the others, will strengthen the hands of the Commonwealth upon whom is placed the burden of proof, and who, in a case of such gravity as this, fraught with such importance to the defendants should be able to make out a case of guilt without the aid of a factious strength lent her by a joinder of defendants or any of them.
- 4th. There are many witnesses testifying to a contrariety of circumstances; these on behalf of one defendant those in favor of another. In case of a joinder of one defendant with another, or with all the others, great harm, injury, hurt and prejudice must be wrought to the defendants. They therefore pray for severance and would ever pray &c.

C. J. Lewis,
J. P. Sullivan,
Marshall Sullivan,
Decatur X. Tasker,
Grant Dean,
his
Jerrymanus X. Thomas,
mark
Clarence B. Anderson,
Wm. Hill.

Sworn and subscribed before me this 23rd day of May, A. D. 1889,
D. J. HOXNER,
Prothonotary.

We the subscribers, the counsel for the defendants named in the within petition, do hereby certify and declare upon our honor as attorneys that in our opinions, after careful examination of the cases of the respective defendants, the justice of the above case requires that the defendants should be tried separately for the reasons that have been put forth, as well as for the additional reason that the defenses clash and if there should be a joinder of defendants, or any of them, there must be matter brought in behalf of the one that will be to the prejudice of the others.

A. C. HOXBURGER,
John H. Uhl,
Attorneys for Defendants.
JAMES OF THE COURT,
May 23rd, 1889.

Messrs. Holbert and Uhl appear for all the defendants. The motion to sever is refused.

Per Curiam.
W. J. BARR, P. J.

The counsel for the Nicely brothers filed a motion asking that the case against the Nicely's be taken up before the case of Lewis, et al. The Commonwealth opposing this motion was overruled and the Yoder case ordered for trial.

The Prosecuting Attorney then read the indictment to the prisoners who separately and jointly plead "not guilty."

The Clerk was instructed to call a jury. As each juror's name was called he was sworn or affirmed and interrogated as to his eligibility to serve in the case before the court. The following gentlemen were called:

Nelson Baker.—Read the Herald and from what it said had partially made up his mind but thought he could go into the box and decide the case according to the evidence. Challenged by the defense.

Jerome S. Miller.—Read about the case but formed no opinion of the guilt or innocence of the prisoners. Read the Herald. Received no letters in regard to the case and am not related to Mr. Yoder or C. M. Miller. Challenged by defense.

Fred. F. Walker.—Have read and heard about the case but have not made up or expressed an opinion in regard to the guilt or innocence of the prisoners. Challenged by the defense.

Jerome Dickey.—Have read and heard a good bit in regard to this case, and have made up my mind as to the guilt or innocence of the prisoners, but notwithstanding this could go into the jury box and decide the case according to the evidence. Challenged by the defense.

A. Chamberlain called, but did not answer.

Wilson Hawn.—Have read and heard about the case, but have not formed or expressed an opinion. Live about three miles from Mr. Yoder's. There was a good deal of excitement in our neighborhood about the matter. Challenged by the defense.

W. H. Walter.—Live at Centerville; have read about the case and heard a good deal, but could render a verdict in accordance with the evidence; am not related to Yoder. Accepted.

Joseph C. Hoffman.—Opinion formed that could not be shaken.

Francis May.—Have read all about the case, but could go into the jury box and render a verdict in accordance with the evidence. Accepted.

Jonathan Snyder.—Stood aside by the Commonwealth.

Moses Barron.—Have read a good deal about this case but could go into the box and render a verdict in accordance with the evidence in the case. Accepted.

Henry W. Saylor.—Have read and heard very much about this case. Challenged by the defense.

Ephraim D. Miller.—Have heard and read all about the case but could render a verdict according to the evidence. Am related to Mr. Miller. Not accepted.

John Fisher.—Have not read a great deal about the case; have heard a little about it. Could render a verdict in accordance with the evidence. Challenged by defense.

John Shabe.—Read a good deal about the case, but have not made up my mind as to the guilt or innocence of the parties. Stood aside by the Commonwealth.

Wm. Ferner.—Have read and heard all about the case; could form a judgment on the evidence. Challenged by defense.

Cyrus W. Pile.—Have read about the case but have not made up my mind as to the guilt or innocence of the parties. Challenged by defense.

John Marteny.—Have read a good bit about this case and have talked a good deal about it, but have not particularly made up my mind. I don't think I could go into the jury box and render an impartial verdict. Challenged for cause.

Jeremiah J. Livengood.—Have heard a good deal of talk about this case, but notwithstanding this I think I could go into the jury box and render an impartial verdict according to the evidence. No one has written me or visited me in regard to this case since I have been sentenced as a juror. Challenged by the defense.

George Cramer.—Have heard considerable about this case, but don't know that I have expressed an opinion. Stood aside by Commonwealth.

J. H. Lowry.—Read what was published in Meyersdale Commercial and have heard some talk about this case. Could go into the jury box and render an impartial verdict. Stood aside by the Commonwealth.

Henry C. Shaffer.—I have heard about this case, but have not made up or ex-

pressed an opinion. I read the newspapers. I think I could go into the jury box and render a verdict according to the evidence. Accepted and sworn.

John Geisel.—I have heard some of this case, but have not formed an opinion. I stopped my newspaper before this occurred. Accepted and affirmed.

Philip Weibel.—Read nothing, and heard nothing about the case. Stood aside by the Commonwealth.

Luther Hill.—Have read about the case, but have not made up any particular opinion. I think, after hearing the testimony in the case, I could render an impartial verdict. Challenged for cause.

Frederick R. Shaffer.—Have read nothing, but have heard a little about this case. Stood aside by the Commonwealth.

David J. Wolfenbarger.—Have not read very much but have heard a good bit about this case. Have partly made up my mind but could render an impartial verdict. Am a carpenter and live in Rockwood. Challenged by defense.

E. J. Augustine.—Have heard and read a great deal about the case but think I could render an impartial verdict after hearing the evidence. Challenged by defense.

J. J. Shaffer.—Had not made up his mind or expressed an opinion. Accepted.

J. F. Kautz.—Have expressed an opinion in regard to the guilt or innocence of the prisoners, but think I could render an impartial verdict after hearing the evidence. Accepted.

John Endsley.—Have heard a good bit, and have made up my mind; could not go into the jury box and render an impartial verdict. Challenged for cause.

Chas. W. Weigle.—Had heard of the case, but had expressed no opinion. Accepted and affirmed.

H. S. Walter.—Have heard and read about the case, but have not made up my mind as to the guilt or innocence of the prisoners. Challenged by defense.

Henry Boeker.—Have not made up my mind in regard to this case. Am a farmer and live four or five miles from Mr. Yoder. Read the accounts in the newspapers of the *Ephebe corpus* hearing. Challenged by defense.

Frank Granger.—Have read about this case, and to some extent, have formed an opinion. Think I could render an impartial verdict, notwithstanding. Challenged by defense.

John R. Turner.—Have not made up or expressed an opinion as to the guilt or innocence of the defendant. Accepted and affirmed as ninth juror.

John G. Bryer.—Have heard and read a good deal about this case, but have not formed any particular opinion. I guess I could render an impartial verdict. Challenged by the defense.

A. J. Boose.—Had read different accounts in different papers, but thought he would be governed by the evidence; was at Meyersdale at the time these gentlemen were in the lockup. Challenged by the defense.

John Frenze.—Read the Herald and Pittsburgh Times, have not made up or expressed an opinion. Accepted and affirmed as tenth juror.

G. W. Bausch, Jr.—Have read about the case, but have not made up an opinion; there is a good bit of talk in regard to this case in our section of the county. Accepted.

Jeremiah Henry.—Have read nothing of the case. Stood aside by the Commonwealth.

L. D. Sine.—Have not made up or expressed an opinion; do not know any of the defendants; have lived in Shade township for about 14 years; am in the lumber business. Challenged by the defense.

Benjamin Blough.—Have read a little about the case but have not made up my mind as to the guilt or innocence of the prisoners. Accepted and sworn as the twelfth juror.

THE JURY

as finally selected consists of Wm. H. Walter, Francis May, Moses Barron, Henry C. Shaffer, John Geisel, J. J. Shaffer, J. F. Kautz, C. W. Weigle, John R. Turner, John Frenze, Geo. W. Bausch, jr., and Benjamin Blough. There were forty-three jurors called and examined before the twelve to try the case were agreed upon.

The case was opened by F. J. Kosser, who said the Commonwealth would ask upon undoubted evidence a conviction of the prisoners for one of the most brutal robberies ever perpetrated within the bounds of Western Pennsylvania. The cruel assault upon Mr. Yoder and upon his aged wife and upon the young lady, a member of the family, were portrayed. He pointed out Lewis, Tasker and the Sullivan's as the criminals who would be clearly identified. He said they would prove that Lewis and Tasker took supper at Yoder's a few days before to acquaint themselves with the house. Will prove when they came to the county, and when and where they left; also will prove when arrested near Condit once they were in possession of various articles taken from Mr. Yoder. When arrested in Fayette county they were associated with the other prisoners now before the court under indictment.

Counsel for the defense asked that the jury be not allowed to separate and officers Theodore Kimmel and W. P. Hinton were ordered to take charge of them until 8:30 o'clock Wednesday morning, at which time court will meet.

HUNTING FOR EVIDENCE.

THE LATEST DEVELOPMENTS IN THE CROGIN ASSASSINATION CASE.

Coughlin and Sullivan Formally Arrested.

Chicago, May 28.—At 11 o'clock last night the status of the investigation into the Crogin assassination was about the same as it was twelve hours before. Very little progress was made during the day. Despite the repeated denials of the police authorities, who with some show of discretion disclaim any knowledge of the whereabouts of McGeehan, the Philadelphia blacksmith who is suspected of being the principal factor in the assassination, is confined in one of the dark cells beneath the detective department in the city jail. No attempt has so far been made to put him "on the rack" or in the event he, the author, is preferring to await further developments before subjecting him to an inquisition. The fact is that they are more than a little in doubt as to the ground they are treading on. More than one prominent official connected with the department has questioned very seriously whether any reasonable ground existed for McGeehan's arrest, and they are not very backward about expressing the opinion that should the above prove a false one it will be an unfortunate for the department and for the interests of justice as it will prove fortuitous for the real criminals, to whom every hour of delay may just now be of infinite value and importance.

Coughlin Still in Confinement.

Detective Coughlin is still locked up at the Harrison street station, but he has been provided with non-committal answers of furniture and bedding, which tend to mitigate the discomfort of his confinement. According to the authorities in charge of the station, he has been allowed to converse with him during the day. The report that P. O. Sullivan, the ice man, had been arrested on suspicion turns out to be incorrect, although he is under such surveillance as would make it impossible for him to leave the city. In his case, as in McGeehan's, the authorities are inclined to go slow, and to act upon accumulated facts rather than upon the stories and statements made in hot blood.

A Prolonged Conference.

There was a prolonged conference in the afternoon between Mayor Croger, State's Attorney Langenshler, Corporation Counsel Hutchinson and Attorneys Luther, Luffin, Mills and W. J. Hayes, the two latter representing the friends and adherents of the murdered man. The report was circulated and generally believed that the participants were engaged in an examination of the papers and affidavits which had been collected by Coughlin and which bore on the alleged misappropriation of Cro-Na-Gad funds, and in addition it was stated that wholesale arrests of people named in the papers were imminent. All this was denied when the conference came to an end, the state's attorney making the candid declaration that the only object of the conference was to straighten out the evidence already given and affidavits taken in order that there might be held a fair trial for the opening of the coroner's inquest to-day. Rumor-mongers on the other hand had been examining and that they would under no circumstances figure in the inquest.

The statements printed that Dr. Crogin was removed from a hotel to a secret trial conducted by the Cro-Na-Gad organization, is emphatically denied by members of that organization. Luke Dillon of Philadelphia, who claims to be in this city as the representative of the national body, issued a card to the public emphasizing this fact.

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Mrs. Julia Ward Howe Honored.

Boston, May 28.—Mrs. Julia Ward Howe received many congratulations and evidences of esteem on the 70th anniversary of her birth. Her home was overwhelmed with floral gifts, and many friends called in person, while many others sent letters and telegrams. Among the latter were O. W. Holmes, G. W. Curtis, B. W. Glider and W. W. Story. A reception was held last evening, to which a limited number of friends were invited, Mrs. Howe's acceptance of a larger entertainment.

Meeting of the Phylax Society.

Plymouth, Mass., May 28.—At the annual meeting of the Phylax society yesterday John D. Long was chosen president; Henry Stickney of Baltimore, William Everts, Frederick L. Ames and H. M. Dexter, vice presidents; W. S. Dardforth of Plymouth, secretary, and Isaac N. Stoddard of Plymouth, treasurer.

A Postmaster Short in His Accounts.

Danbury, N. Y., May 28.—Inspector Morris, who has been making an examination of the accounts of Postmaster Whitaker of the village of Fulton, Oswego county, has discovered a shortage of \$200. Deputy Postmaster Morton has been placed in charge of the office. It is understood that the shortage has been made good by Whitaker's bondsmen.

Too Much Mast.

New York, May 28.—In the Bishop inquest Dr. Robertson, the medical examiner's regular physician, testified that he had often seen Bishop in caliche, when he seemed drunk. Witnesses would not have performed an autopsy so hastily as it was done. The hearing will proceed.

Grant said 4 1/2 Cents per 25 cents per yard good, substantial 6 1/2 cents, 10, 12 and 15 cents. Mrs. A. E. Uhl.

THE PPSBY

COMPLAINTS MADE BY THE DIRECTOR OF THE PUBLICATION

A Temperance Revolution

Delaware, but it should Adopt

Vote of 100 to 9

The League T

Adopted.

New York, May 28.—The President of the Temperance Society of New York, who opened with the usual course. After the business of the day, the President of the Temperance Society, Rev. Dr. Chittenden, presided with large attendance. Very little progress was made during the day. Despite the repeated denials of the police authorities, who with some show of discretion disclaim any knowledge of the whereabouts of McGeehan, the Philadelphia blacksmith who is suspected of being the principal factor in the assassination, is confined in one of the dark cells beneath the detective department in the city jail. No attempt has so far been made to put him "on the rack" or in the event he, the author, is preferring to await further developments before subjecting him to an inquisition. The fact is that they are more than a little in doubt as to the ground they are treading on. More than one prominent official connected with the department has questioned very seriously whether any reasonable ground existed for McGeehan's arrest, and they are not very backward about expressing the opinion that should the above prove a false one it will be an unfortunate for the department and for the interests of justice as it will prove fortuitous for the real criminals, to whom every hour of delay may just now be of infinite value and importance.

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