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Case

April 5, 1933

THE NEWS-TRIBUNE, PROVIDENCE, R. I., WEDNESDAY,

Jury Takes View in Extortion Case

—Photo by Staff Photograp

Jury hearing evidence in Superior Court against five alleged extortion plotters visits scene at St. Fra Cemetery connected with the alleged plot. Asst. Atty. Gen. DeCiantis is pointing. To left of hi Asst. Atty. Gen. Nolan. At extreme left in soft hat is Atty. Robert P. Beagan of defense counse to right of Beagan is Atty. Edward T. Hogan. To right of DeCiantis and slightly behind him i Benjamin Cianciarulo, also of defense counsel.

Max Seigal - Extortion

FIVE MEN ON TRIAL IN EXTORTION PLOT

Group Accused of Trying to Wring $3000 from Max Siegal, Business Man.

JURY FINALLY IS CHOSEN

Juror Challenging Hints Name of Louis Sackett May Be Involved in Case

Indication that the name of Louis Sackett may be drawn into the trial of five Providence men charged with attempting to extort $3000 from Max Siegal, business man, of 122 Upton avenue, was given by defence counsel yesterday afternoon in questioning one of the jurors selected on the panel in Judge Jeremiah E. O'Connell's room in Superior Court.

After completion of the jury the trial was adjourned to 10 o'clock this morning, on the motion of Assistant Attorney General Michael DeCiantis. At that time, Mr. DeCiantis said, the State will open its case and move for a view. Testimony is not expected to get under way until afternoon.

Defendants in the case are Frank P. Antonucci, 40, of 201 Whittier avenue; Theodore Jackvony, 31, of 635 Charles street; Carmine Volante, 30, of 29 Blaine street; James Imondi, 22, of 350 Hawkins street and James Palmieri, 27, of 40 Ledge street.

Sackett's Name Injected

Sackett's name was injected into the proceedings during close questioning of Simon J. Summer of 150 Irving avenue, one of the jurors, by Edward T. Hogan, counsel for Jackvony. Challenges had been exhausted.

Mr. Hogan's inquiry was interrupted by several conferences between counsel and the court at the bench, but Summer was allowed to remain on the jury after insisting that, although he knows both Siegal and Sackett, his verdict would not be influenced by that fact.

After learning from him that he had never discussed the alleged extortion attempt with Siegal or formed any opinion from reading newspaper accounts, Mr. Hogan asked Summer whether he knew "Louis Sackett, who was involved in trouble last week with Mr. Sinclair of the Outlet Company."

Summer replied he had known Sackett for 10 or 12 years.

"Have you read of the affair he was involved in last week?" the attorney asked. Summer said he read newspaper accounts casually, but reached no conclusion regarding Sackett's interest in the matter.

Mr. Hogan then inquired whether the fact that either Siegel or Sackett might be involved in the trial, or their names mentioned, would keep the juror from giving an impartial verdict. Summer replied in the negative.

No Hard Feelings

Charles R. Babcock, another of the jurors, volunteered the information to the court that he had bought something at Siegal's store and had a "little trouble" adjusting the matter. Judge O'Connell asked him whether this would keep him from reaching a fair verdict and Babcock replied it would not. He was allowed to remain.

Claude E. Pierce of Foster, garage owner, was appointed foreman of the jury. The panel includes Raymond H. Hawksley, 52 Williams avenue, East Providence, teller; Joseph A. Carignan, 70 Park avenue, Woonsocket, unemployed; Charles T. Kimball, 80 Althea street, Providence, caretaker; Frank Maciel, 61 Fourth street, East Providence, grocer; John Walton, 142 Hatfield street, Pawtucket, laborer; Alphonse S. Auclair, 195 Burnside avenue, Woonsocket, painter; Paul Weigner, 81 Dover street, Providence, unemployed; Simon J. Sumner, 150 Irving avenue, Providence, jeweler; Charles R. Babcock, Greenville, weaver; William H. Aylesworth, 28 Winthrop street, Cranston, ice peddler, and Harold A. Dore, 206 Montgomery avenue, Cranston, decorator.

Extortion from Siegal is claimed to have been attempted by the five defendants last summer. Siegal received letters which he turned over to police. A rendezvous was arranged at the entrance of St. Francis Cemetery on Smithfield avenue in Pawtucket. Antonucci was arrested at that point early in the morning of June 17 when he arrived in a public car.

The four other defendants were taken into custody in a machine on Ruel street shortly afterward.

Assistant Attorneys General John H. Nolan and Michael DiCiantis represent the State at the trial. Other defence counsel with Mr. Hogan are Benjamin Cianciarulo for Antonucci, Thomas F. Vance, Jr., for Volante and Palmieri, and Robert P. Beagan for Imondi.

SIEGAL EXTORTION NOTES DISAPPEAR

State Informs Court First Two Threatening Letters Have Been Lost.

April 5, 1923

LATER LETTERS OFFERED

Intended Victim Admits He Knew Louis Sackett, Braverman and Sinclair

Disclosure of the loss of the two letters on which the State bases its case against five men charged with conspiracy to extort $3000 from Max Siegal of 122 Upton avenue was followed yesterday afternoon, at their trial in Superior Court, by the introduction by the State of two other anonymous letters mailed to Siegal after the arrest of the quintet.

The name of Louis Sackett was drawn into testimony in cross-examination of Siegal as to whether he knew Sackett, Mr. Braverman and James Sinclair, and the witness's knowledge of other instances of alleged extortion. Siegal was not permitted by Judge Jeremiah E. O'Connell to name the victim of another similar case in which the man's identity has not been revealed. If that information is wanted, the defence can bring in the man to testify, if it knows who he is, the court held.

In the later demand, in which he was chided for having effected the arrest of the wrong persons, Siegal was called upon for $5000 with the threat of death if he did not comply.

Siegal's Memory Hazy

Siegal, who was on the stand throughout the afternoon narrating the part he played as victim of the alleged extortionists, said under cross-examination by Edward T. Hogan of defence counsel that both of the first two letters he received were writtten in pencil and he thought they also were printed. He couldn't recall whether either of the first two letters was signed with the same symbol used as the signature for the later two.

Both of the later letters are printed in pencil. Each was postmarked Providence, the first at 12 m. last June 23 and the second at 9 p. m., July 18. The five defendants in the case were taken into custody early in the morning of June 17 in Pawtucket.

Following is the first of the later letters:

"Max Siegal—I suppose you think you're quite a hero now after playing along with the dicks. We knew before we called you up at half past seven that you had called in the dicks but we got a kick out of the way you were trying to throw the bluff. By the time the dicks were pulling in five guys who knew no more about the 3000 than did Adam, we were 50 miles away sound asleep.

"So you XX after putting that Buick coupe ad in the Boston Post and the Ford in the Bulletin. Did you ever figger what would happen if after calling in the cops you found they got the wrong guys. Show this to the cops and have those five guys released.

"You will hear from us again."

Text of Second Later Letter

The second of the later letters follows:

"Our price on your head has gone up to $5000. This is your last chance. Your worth 5000 to us dead or alive. If you don't follow instructions this time the publicity you got a few weeks ago, with the headline story of your murder in the papers, will act as an example to what will happen to the guys around New England who don't come across. The fellows have an itching feeling to bump you off for the way you tried to double X us last time.

"There will be no funny stuff this time. We hired a gang from another city that did work for us before, with the agreement that they either collect the 5000 or fill you with lead if you don't come across. In either case they get paid.

"This is a show down. We're not clear-

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Continued from Page 1, Col. 6.

ing out of here until we either get the 5000 or get you. We're giving you plenty of time to get the money together. Have it like this:

3000 in 20's
1800 in 10's
200 in 5's

"The method of collecting the money this time leaves no chance for you to XX us and live. Put the following ad in the morning Journal when you get this note "1931 Buick sport coupe good condition call Br. 4198."

"Repeat this ad in the Journal when you have the money.

"One false move means your life.

"Open your mouth this time and you open your grave and perhaps the grave of that loud mouthed lawyer of yours."

Siegal said he made no move to follow the instructions, but turned the letters over to police.

During his testimony Siegal told of receiving the first two letters and two telephone calls and authorizing Detective Edward McCarroll to impersonate him and go to the rendezvous at 11:30 o'clock the night of June 16 at the entrance of St. Francis Cemetery on Smithfield avenue in Pawtucket with a false package containing three marked bills.

It was there that police took into custody Frank Antonucci, 40, of 201 Whittier avenue, when he arrived driving a taxicab and asked, the State charges, for "Mr. Brown," the pass word arranged. In a car on Ruel street, in the vicinity, police apprehended the other defendants, Theodore Jackvony, 31, of 635 Charles street; Carmine Volante, 30, of 29 Blaine street; James Imondi, 22, of 350 Hawkins street, and James Palmieri, 27, of 40 Ledge street.

Admits Knowing Sackett

Under cross-examination by Robert P. Beagan of defence counsel, Siegal said he had known Sackett four or five years. Sackett never asked him for money or a loan, he said. He said he knows Mr. Braverman and James Sinclair, and knew "something had been tried" on the latter two men.

"I talked to him when I received mine," he said, of the alleged extortion attempt victim, whose identity has not been disclosed, explaining he had knowledge at the time of the other man having received a letter.

Mystery surrounds the disappearance of the first two letters received by Siegal. After Assistant Attorney General Michael DeCiantis had revealed the disappearance, he said they were produced and read by Clifton I. Munroe, Public Safety Board counsel, in the Sixth District Court at the hearing there. Neither he nor Assistant Attorney General John H. Nolan had seen the letters, he said.

Mr. Nolan, disclosing some pictures in the case are also missing, said he was informed the defence had had copies made of the letters.

"Your information is not only incorrect but unfounded," heatedly declared Mr. Hogan. "The letters have been in your possession and if they are lost the State lost them."

Mr. Hogan strongly objected to the introduction of the wording of the letters through secondary testimony on the transcript of the District Court proceed-

McCALL TESTIFIES IN EXTORTION CASE

April 7, 1923

Detective Says Four of Five Men Held Had Been Arrested on Previous Occasions.

SIEGAL WAS TO BE VICTIM

Suspects on Trial Charged with Conspiracy to Extort $3000; Arrested Last June

Four of the five men on trial on a charge of conspiracy to extort $3000 from Max Siegal have been held by police on several previous occasions, Detective William E. McCall told Judge Jeremiah E. O'Connell and a jury in Superior Court yesterday.

McCall said Frank Antonucci alone among the suspects has no police record, but he said Theodore Jackvony, Carmine Volante, James Imondi and James Palmieri had been known to police. Jackvony, he said, has been convicted several times, the last time for robbery about six years ago.

Denies Any Hard Feelings

Pressed by Edward T. Hogan of defence counsel as to whether he had any ill feeling toward Jackvony, or had used vile language or had ever threatened to "get" that defendant, McCall said no.

"Isn't it a fact there is a good deal of feeling between you and Jackvony?" asked Mr. Hogan.

"Not on my part. There is no reason for it," replied McCall.

"Is there any on his?" the attorney asked.

"Not that I know of," said the detective.

"He's never told you?"

"No."

Citing the times four of the defendants had been held on suspicion, McCall noted that several months ago on Charles street he stopped Imondi, who was driving Jackvony's car when the quartet was stopped on Ruel street during investigation of the alleged extortion plot. He asked Imondi on the Charles street occasion where he was going, McCall said, and the reply was, "Just taking a ride."

"Then he went on and took his ride," remarked Robert P. Beagan of defence counsel.

"He did that time, yes," replied McCall.

Picked Them Up Before

Explaining that when he picked up Jackvony, Volante, Imondi and Palmieri as he had done before it was because they "might be involved in anything." McCall said they were "pretty good pickups any time." Anytime they were seen out at night it was all right to pick them up, if they were in a car, he added.

McCall, who was hiding near the entrance to St. Francis Cemetery in Pawtucket near midnight June 16 when Antonucci is claimed to have driven up and asked for "Mr. Brown," the signal prearranged in the letters sent Siegal, gave similar testimony. His car followed that of Antonucci to Morris avenue, where the first car's horn was tooted several times, and then to Grotto avenue, where the other four defendants appeared in their car, he said.

The latter automobile came over the brow of the hill on Grotto avenue about 300 feet before being stopped, reversed up the hill and driven into Ruel street, McCall said.

Ruel street he described as having been under repair and in very bad condition at the time. To enter the street from Grotto avenue a car had to be driven round a wooden horse which had a sign and lantern on it, he said, and the roadbed was "very bad and bumpy."

No Weapons in Auto

No weapons nor masks were found in the car nor on the men, he said. There was a rubber hose with the tools, he said, and he asked Jackvony whether he was stealing gasoline.

Lights on the car driven by Antonucci, in which some of the police had ridden to the supposed rendezvous, were switched on and off several times as the car in which the other four defendants were riding came over the Grotto avenue hill, McCall said.

McCall said that at the cemetery entrance Antonucci, in explaining how he had been directed to go from there to the street next to the first schoolhouse to be paid off after receiving a package from "Mr. Brown," said the money he was to receive for the job was to be on the outside of the package. McCall said he did not hear any specific amount mentioned. A $10 bill was in an outside envelope, under directions given Siegal in the letters.

Inspector Vincent A. Hourigan of Pawtucket had previously testified no sum was mentioned by Antonucci as his payment, while Detective Francis S. Barnes said Antonucci stated he was to receive $10.

How Antonucci drove up to the cemetery entrance to ask for "Mr. Brown" was described by Inspector Hourigan as testimony opened yesterday.

Saw Antonucci Drive Up

Hourigan said he was inside the cemetery wall about 50 feet south of the entrance when he saw Antonucci drive up in a public car, the machine waited there two or three minutes and a group of police ran out and had the driver out of the car and were searching him when he got there, Hourigan said.

Lieut. O'Brien said, "What brought you here?" Hourigan said and Antonucci replied he had received a phone call at the place he works, the Sweeney Cab.

Antonucci said he was asked if he wanted to make some easy money, Hourigan said, and explained that he had answered that he did. According to what the cab driver said, Hourigan continued, he was told to go to the entrance of the cemetery at 11:30 sharp at night, meet a man named Mr. Brown, who would have a package of tickets, and pick up the man and the package and drive down the first street past the first school to the right for a quarter of a mile, where he would be met and paid off.

No Sum Specified

No sum was mentioned by Antonucci as to what he would be paid, Hourigan said, under cross examination by Benjamin Cianciarulo, counsel for that defendant.

Hourigan said that when he followed the other car to Morris avenue where it was first driven, Antonucci said, "I thought this was the street," when the error was pointed out to him. Morris avenue is next to the second school from the cemetery. Hourigan said he got into Antonucci's car to guide it back to Grotto avenue, which is the street beyond the first school.

It was on Grotto avenue that the car appeared in which on Ruel street nearby the police apprehended the other four defendants, Theodore Jackvony, 31, of 635 Charles street; Carmine Volante, 30, of 29 Blaine street; James Imondi, 22, of 350 Hawkins street, and James Palmieri, 27, of 40 Ledge street.

By permission of the court, Mr. Cianciarulo was allowed to introduce brief testimony by John R. Ferguson, principal of the Nathanael Greene junior high school, one of the defence witnesses, who is about to go on a vacation.

Mr. Ferguson testified a social was held for the 9-A grade at the school the night of last June 16. Dinner was held in the cafeteria at 6 and about 8:30 those present went to the gymnasium for dancing and the party probably continued to 10:30 o'clock, the principal said. He said he left the building at nearly 11 o'clock.

McCarroll Describes Details

Edward McCarroll, patrolman in the Providence detective bureau, testified that he was ordered to go to the home of Siegal on Upton avenue and take a package from there to the entrance of St. Francis Cemetery on Smithfield avenue. He went to Siegal's home about 9 o'clock that night. He wore his own clothes but at the cemetery he wore Siegal's hat and also carried Siegal's umbrella, as it was misty and raining. He took a Yellow Cab from the Siegal home at 11:05 and when he reached the entrance to the cemetery he dismissed the cab and took a position behind a pole on the Providence side of the entrance. He had with him, he said, the package that had been made up at Siegal's home by Lieut. O'Brien and himself, the money being furnished by Siegal.

At this juncture McCarroll identified a package shown by Assistant Attorney General Michael DeCiantis as the package he had that night. There was a one dollar bill on each side of the paper and inside of the envelope in the package was a ten dollar bill.

Driver Called Out

"I was standing there about three-quarters of an hour when an automobile drove up and stopped in front of me," McCarroll said. "It stopped possibly four feet from the curbing with the motor running and the driver asked me if I was Mr. Brown. I said 'No.' I was waiting for a man named Mr. Brown. He said he was supposed to come to the entrance and meet Mr. Brown and take him to the first street past the first school house. I thought there was some mix-up in the instructions and finally said I was Mr. Brown."

"'You got the package?'" the driver asked.

"'Yes,' I replied."

"Get in," McCarroll said the driver told him. McCarroll said he would not get in and suggested that the driver come and get the package.

"What are you afraid of, get into the car," McCarroll said the driver remarked.

McCarroll then said he approached the car, covering Antonucci with his gun, and by that time the car was surrounded by detectives. Antonucci was frisked and found not to be armed.

April - 8 - 1933

UPHOLDS REFUSAL TO PRODUCE NOTES

Judge Does Not Force State to Show Statements in Siegal Extortion Trial.

CASE RESUMES ON MONDAY

Defence Manoeuvre Delays Trial of Five Accused of Conspiracy to Extort $3000

Refusal of the State to produce statements made by five defendants on trial in Superior Court for conspiracy to extort $3000 from Max Siegal was upheld by Judge Jeremiah E. O'Connell yesterday.

The manoeuvre of defence attorneys to force the State to produce the statements delayed conclusion of the State's case and the trial will be resumed Monday.

Four of the five men on trial, who were arrested in an automobile on Ruel street, Pawtucket, at 12:35 a. m., June 17 last, told police they were headed for the Lorraine Mills to meet a man named Peter Ricci, who came off duty for half an hour at midnight, and have coffee or beer with him, Lieut. John R. O'Brien of the detective division testified.

Case to Resume Monday

After upholding the State's refusal to produce the statements for Edward T. Hogan of defence counsel, Judge O'Connell gave permission for the defence to continue cross-examination of Lieut. O'Brien Monday. Counsel may renew the effort to place the information before the jury. The defendants denied any part in the alleged conspiracy, it was brought out. They gave an explanation of their activities that night.

Defendants who were in are car on Ruel street are Theodore Jackvony, 31, of 635 Charles street; Carmine Volante, 30, of 29 Blaine street; James Imondi, 22, of 350 Hawkins street, and James Palmieri, 27, of 40 Ledge street. Frank Antonucci, 40, of 201 Whittier avenue, the fifth defendant, says he went to the entrance of St. Francis cemetery in Pawtucket, fixed as the rendezvous in letters to Siegal, because he was instructed to do so as a taxicab driver and knew nothing of any plot, according to police testimony.

Jackvony told police his car, which was the one stopped on Ruel street, was being driven that way to "duck" a red light at Smithfield and Mineral Spring avenues, Lieut. O'Brien said.

He added he was not sure whether the defendants had been asked if they had ever gone that way before. He said a check was made later and he believed a man named Peter Ricci was working at the mill that night.

O'Brien on Witness Stand

Lieut. O'Brien, who was in charge of the investigation of the Siegal case and directed police during and after the trap they laid at St. Francis Cemetery the night of June 16, was on the witness stand most of the day. The only other witness was Inspector Dougald Blue, Jr., of Pawtucket police, who was in the detail.

Testimony was repeated to show how Antonucci drove up to the cemetery and asked for "Mr. Brown," the prearranged signal, and how the driver explained he was to drive Mr. Brown down the first street next to the first school and then be paid. Antonucci drove past the first school to the second and turned into Morris avenue, whereas he should have stopped at Grotto avenue, was repeated.

Lieut. O'Brien accepted the blame for passing the first school, the Nathanael Greene school, by explaining that it was a dark, rainy night, the large building is about 150 feet back from Smithfield avenue and a big "Quiet Zone Sickness" sign led him to believe the place was a hospital.

The letter he saw of the two first ones received by Siegal was printed, the witness said, and was signed with a circle or heart with a dagger through it. He described the paper as grayish white.

Cut in on Phone Call

Lieut. O'Brien said he was in Siegal's office the afternoon of June 16. By rushing to the switchboard in an adjoining room he managed to cut in on the phone call reminding Siegal to be sure to go through with the prearranged plan. The language of the speaker was that of an ordinary persons, the witness said. So much time had elapsed since, however, that he could not be sure whether it was the voice of one of the defendants.

He said he went to [illegible]t, Chief Joh Kelly immediately to report the ca and on order went to the phone co pany to check it. He said he felt sat fied he would be unable to check call, as he had made unsuccessful a tempts to check ca[illegible] previously. I this instance, he fai[illegible]

Samples taken by pol[illegible] fendants' handwriting were [illegible] the State on Mr. Hogan's [illegible] shown to the jury. Lieut. O[illegible] the samples had been turned [illegible] seph H. Clark, handwriting expert. Asked by Mr. Hogan whether the handwriting had been identified as the handwriting on the last letters received by Siegal, the witness said he had never been told so.

SEEKS TO TIE UP EXTORTION CASES

Defence for Five on Trial for Siegal Plot Aims to Prove Methods Like Sackett's.

COURT BLOCKS ATTEMPT

Upholds Objection to Such Evidence in Cross-Examination.

More on Missing Letters

The defence for the five men charged with conspiracy to extort $3000 from Max Siegal will endeavor to prove a similarity between methods claimed employed by Louis Sackett and those used in the case in which the quintet is now on trial in Superior Court, it was revealed yesterday afternoon shortly before adjournment.

Sustaining the State's objection to the defence presenting such evidence through cross-examination of a State witness, Judge Jeremiah E. O'Connell said that while he will allow the presentation of striking similarities with other cases to a certain extent, this must be done at the proper time, inasmuch as it is a matter the defence has initiated.

Assistant Attorney General John H. Nolan raised the objection, insisting such evidence should be put in with the defence case if it were to be allowed as a defence, after Edward T. Hogan of defence counsel had begun to cross-examine Detective Francis S. Barnes regarding the latter's knowledge of Sackett and the Sinclair and Braverman cases.

Objection Raised

Mr. Hogan had just obtained the answer from Barnes that the latter believed Sackett used an auto as a medium of contact, when Mr. Nolan objected to this trend of testimony. After the ensuing argument and the court's ruling, Mr. Hogan withdrew each of his questions on the subject.

Barnes previously had been asked by Mr. Hogan whether he had taken any part in the investigation of Sackett and whether he investigated the Sinclair and Braverman cases. The detective said he had a part in investigating Sackett and the Sinclair case.

Further testimony regarding the two missing letters, on which the State bases its case against the defendants, revealed that the messages disappeared after being introduced in evidence in the Sixth District Court last July 1 at the hearing given the five men there.

Barnes Tells of Trap

Barnes's story of what occurred late at night July 16 and early July 17 was part of police testimony put in by the State during the day to link the five defendants with the alleged extortion plot.

Frank Antonucci, 40, of 201 Whittier avenue, was declared to have driven up to the St. Francis Cemetery entrance in Pawtucket, and later to have driven police to Grotto avenue and then to Ruel street, where the officers took into custody Theodore Jackvony, 31, of 635 Charles street; Carmine Volante, 30, of 29 Blaine street; James Imondi, 22, of 350 Hawkins street, and James Palmieri, 27, of 40 Ledge street.

How Antonucci first drove to Morris avenue and his actions aroused police suspicions that he was "double-crossing" them was described by Barnes, who said he was hiding with Detective Carberry behind the cemetery wall about 75 feet from the entrance when Antonucci drove up in a public car.

After Antonucci had explained to Lieut. O'Brien instructions had been given to drive into the first street beyond the schoolhouse and drive to the dead end and "deliver Siegel, get $10 and my job is done," Barnes said, they set off with Detective Edward McCarroll, impersonating Siegal, in the front seat with the driver. Barnes said he and Carberry were in the rear seat, crouched down so they couldn't be seen. Lieut. O'Brien also accompanied them.

Turned Into Morris Avenue

They missed the first schoolhouse, a big building setting back from the street, Barnes said, and at the second school turned into Morris avenue. There Antonucci, explaining that was the signal he had to give, blew the auto's horn several times so loudly that a window was raised in one of the houses and someone asked what the matter was, he continued.

Lieut. O'Brien remarked, "It doesn't look good," Barnes said, and shortly afterward Inspector Vincent A. Hourigan of Pawtucket drove up and "put us right." Hourigan said to Antonucci, "You knew better than that," Barnes said.

Antonucci then drove them to Grotto avenue and to the foot of the hill there by a soap factory, he continued, and their suspicions of the driver were increased because now he failed to give the horn signal.

Suspicions of Driver

"O'Brien said to me, 'It's no use, he's giving us the runaround,'" Barnes said. "We were suspicious he was trying to play both sides, making believe he was giving us something and taking every precaution he didn't."

The car lights were turned off while they waited, he said, and a police car that had followed them had been parked off the road. When it was decided to leave Antonucci turned his car around and the lights went on, and they waited for the other car to come out on the road, he said. Just as Lieut. McCall, who was with the other car, suggested they look over the old buildings close by, the lights of another car showed over the brow of the hill, he said.

Someone said, "Here they come," Barnes continued, and Antonucci flickered the headlights of his car at least twice and then put them out. The other car immediately came to a stop, Barnes said, and Lieut. O'Brien ordered Antonucci, "Go get that car." It was overtaken on Ruel street and the other four defendants were apprehended, he added.

Jackvony Laughs

When Barnes quoted Jackvony as having told Antonucci at the Pawtucket police station, "They'll give you a few crackers and you'll give them your guts," Jackvony broke into loud laughter. The defendant was also quoted by Barnes as having stated at the station, "I get blamed for everything. There's been something happen in Massachusetts. I suppose I'll be blamed."

The Bay State instance was "some kidnaping," Barnes said.

Loss of the letters after they had been presented in Sixth District Court was brought out in questioning of Detective William F. Burkhardt by Assistant Attorney General Michael DeCiantis.

Burkhardt said the letters were turned over to him June 14 when he was assigned to the case and were delivered on July 1 at the District Court to Clifton A. Munroe, who represented the State

there. He said he didn't recall ever having them in his possession again.

Tells of Search For Letters

At the suggestion of Mr. DeCiantis, he said, he twice went to the District Court looking for them. The first time he was told the letters had probably followed the case to Superior Court, he said, but he and Mr. DeCiantis were unable to locate them there. On the second visit to the District Court, files were searched without avail, he said.

He also went to the law office of Hogan & Hogan, he said, and Edward T. Hogan was in Florida but he took the matter up with Miss Mary C. Hogan and Laurence J. Hogan. The letters could not be found in the firm's files, he said.

Then he went to Mr. Monroe's office, he said, and Mr. Monroe told him that in his opinion the letters had been delivered back to the detective.

"Were they delivered to you?" asked Mr. DeCiantis.

"Not as far as I can recall," said Burkhardt.

"Have you been able to locate those letters?" the prosecutor asked.

"We have not," replied Burkhardt.

Other Police Testimony

Police testimony was also given by Acting Inspector Thomas H. Truesdale of Pawtucket and Detective Leo T. Burns of Providence. Both were posted on Smithfield avenue the night of June 16 to block any attempted escape if the trap should be sprung. Truesdale was at the north end of the cemetery and Burns was near Power road.

Both testified Antonucci's car, P-509, and the automobile in which the other four men were taken, R. I. 68-224, passed them twice that night. The latter car was owned by Jackvony, according to Burns, who said he knew the car because he had stopped it a few weeks before on suspicion when another man was driving it, and checked up on its occupants. None of the defendants was in the machine at that time, he said.

FIVE FOUND GUILTY IN EXTORTION CASE

Continued from Page 1, Col. 3.

their way to the Lorraine Mills on Mineral Spring avenue in Pawtucket to meet Peter Ricci, a friend, during his midnight lunch period.

None of the five defendants was the author of either the first two letters to Siegal, on which the State based its case, or two letters received by Siegal after the quintet was taken into custody, according to testimony by Joseph H. Clark, handwriting expert.

Two Letters Missing

Neither of the first two letters sent Siegal was produced at the trial, and the State revealed these had disappeared after being placed in evidence at the Sixth District Court hearing last July 1. The [illegible] of the missing letters was made avail[illegible]om the record of the district court proceedings.

The trial lasted eight days. Assistant Attorneys General John H. Nolan and Michael DeCiantis represented the State. Defence counsel were Benjamin Cianciarulo, Edward T. Hogan of Hogan & Hogan, Thomas F. Vance, Jr., Robert P. Hogan and Lisimaco Moni.

FIVE FOUND GUILTY IN EXTORTION CASE

Jury Out Five Hours, Convicts All of Conspiracy to Mulct Max Siegal.

April - 13 - 1933

FACE 10 YEARS, OR $5000

Judge Calls Jurors Back After 2½ Hours to Appeal to Them to Reach Verdict

A verdict of guilty against each of five men charged with conspiracy to extort $3000 from Max Siegel of 122 Upton avenue was returned at 8:30 o'clock last night in Judge Jeremiah E. O'Connell's room in Superior Court. The jury was out five hours.

The defendants, Frank P. Antonucci, 40, of 201 Whittier avenue; Theodore Jackvony, 31, of 635 Charles street; Carmine Volante, 30, of 29 Blaine street; James Imondi, 22, of 350 Hawkins street, and James Palmieri, 27, of 40 Ledge street, face a penalty not exceeding 10 years in prison or a fine of $5000. They have seven days in which to file a motion for a new trial.

Surety Increase Asked

After the conviction, Assistant Attorney General John H. Nolan moved to have Antonucci's $5000 surety increased to the $8000 in which the other four men have been held. Antonucci and Imondi have been at liberty under bail. Judge O'Connell continued the motion to this morning. Jackvony, Volante and Palmieri, still without bondsmen, were remanded.

The jurors took the case at 3:30 o'clock in the afternoon. At 6 o'clock Judge O'Connell called them in and advised them that any juror had the right to his own opinion against that of his fellows, but the opinion should be based on the evidence. Citing the expense and inconvenience caused both to the State and defendants by the long trial, he urged the panel to reach an agreement. Lunch was served the jury later.

The five men were caught in a police trap laid at the entrance of St. Francis Cemetery on Smithfield avenue in Pawtucket the night of last June 16 after Siegal had received two extortion letters threatening his life unless he went to the cemetery at 11:30 o'clock that night with a package containing $3000. He was informed he would be met by someone who would ask for "Mr. Brown."

Four Caught After Chase

Antonucci was taken into custody when he drove a taxicab up to the cemetery entrance and asked Detective Edward McCarroll, who was impersonating Siegal, if he were "Mr. Brown." The other four men were apprehended in a car on Ruel street in Pawtucket after police had chased it from Grotto avenue, where they claimed Antonucci signalled a warning by flickering auto lights.

Alibis were presented by the defence to refute the State's case, which was circumstantial. Antonucci contended he had gone to the cemetery only as the result of a phone order for a cab received at the Sweeney Auto Livery, where he was employed as a driver. The other defendants claimed they were merely on

Continued on Page [illegible] Col. [illegible]

REBUTTAL ENDS AT EXTORTION TRIAL OF 5 MEN

April 12, 1933

Case Expected to Go to Jury Late This Afternoon

Rebuttal testimony in the trial of five men, charged with an extortion conspiracy, was completed before Judge O'Connell in Superior Court today and the case was expected to be in the hands of the jury late this afternoon. It was announced that an hour and a quarter would be taken on each side for arguments.

Defendants in the case are: Frank E. Antonucci, 40; Theodore Jackvony, 31; Carmine Volante, 30; James Imondi, 22 and James Palmieri, 27, all of Providence. They are accused of trying to extort $3000 from Max Siegel, Providence hardware merchant, under threat of death.

Antonucci was arrested on the night of June 16, last, at the entrance of St. Francis cemetery, Smithfield avenue, where Siegel had been instructed in two extortion notes to leave the money. He claims he went to the cemetery in response to an anonymous telephone call, using a cab owned by a livery company by which he was employed.

The others were arrested a short time later on Ruel avenue, Pawtucket, where police were taken by Antonucci to make a contact with the alleged senders of the extortion notes.

DEFENSE EVIDENCE

Before the State's rebuttal, Edward F. Hogan, of defense counsel, introduced as evidence statements made by Officer Edward McCarroll of Providence police during a preliminary hearing of the case in Sixth District Court. McCarroll went to the cemetery on June 16 disguised as Siegal. The evidence from Sixth District Court showed at that time McCarroll testified he knew Antonucci was not taking officers of the Providence and Pawtucket police departments to the proper place to meet members of the alleged extortion gang.

Lieut. William H. Laclair, fingerprint expert of the Pawtucket policie department, testified to certain conversations of the defendants in the Pawtucket police department early on the morning following their arrests. Deputy Chief John Kelly of Providence identified a transcript of Antonucci's statement in Providence police headquarters after he was brought from Pawtucket.

Other defense counsel are Benjamin Cianciarulo, Robert T. Beagan and Thomas F. Vance, Jr. The State's case has been presented by Asst. Attys. Gen. Nolan and DiCiantis.

Yesterday the jury viewed an automobile in which Antonucci drove to St. Francis Cemetery in answer to a telephone call, and which was commandeered by police officers after the driver's arrest. The car was driven to Grotto avenue, Pawtucket, to make a contact with the person who called for the cab.

The State claims that at Grotto avenue, Antonucci signalled with the headlights of the automobile to occupants of another automobile on Grotto avenue and that the second car turned into Ruel street in an attempt to escape. When the car was overtaken the other four defendants were found in it and placed under arrest.

The lighting device on the car was the important factor for the jury's inspection, the defence claiming the lights flickered on and off as the switch was thrown. Before taking the view, Edward F. Hogan, counsel for Jackvony, announced the State would rest after introducing testimony presented at a preliminary hearing of the case in Sixth District Court.

CHARACTER TESTIMONY

Most of the evidence yesterday afternoon was in the nature of character testimony for Antonucci. James Sarubi, dealer in barber supplies; John Di Orio, undertaker, and Angelo A. Caldarone, attorney, testified they had known the defendant for many years and that he had an excellent reputation for truth and veracity.

Louis DiNunzio, 17, a pupil at Central high school, testified that with six or seven other pupils, he rode home from a social in the Nathanael Greene school in the automobile driven by Antonucci to the cemetery, shortly before the latter claims to have started on the trip that resulted in his arrest.

Joseph Giarrusso, 201 Atwells avenue, employed by the same taxi concern as Antonucci, testified he drove the car to the Nathanael Greene school after DiNunzio and the other pupils. He said Antonucci took the automobile when he returned from the school trip.

Joseph Bucci, 57 Brayton avenue, and Lisimaco Moni, Providence attorney, testified they played bridge with Antonucci in the latter's home on Bradford street until a few minutes before the taxi driver left on the trip to keep the appointment at the cemetery gate. Under cross-examination by Asst. Atty. Gen. Nolan, they admitted they were close friends of the defendant.

Richard S. Moore

WITNESS DECLARES MOORE TOOK STOCK

Journal May 24 34

Warwick Man's Daughter Asserts Broker Told of Selling It for $200,000.

ASSERTS SHE TRUSTED HIM

Defendant Asked for Securities After Offering to Make Appraisal, Witness Says

During the last illness of the late Franklin P. Marsh of Warwick, Richard S. Moore, Providence investment broker, obtained the dying man's stock from the family with the explanation he would appraise it and make suggestions, and on the day of Mr. Marsh's funeral reported he had sold the securities for $200,000, Miss Susan L. Marsh of Longmeadow, Mr. Marsh's daughter, testified yesterday at Moore's trial on an embezzlement charge.

Moore, who was administrator of Mr. Marsh's estate, is on trial before Judge Alexander L. Churchill in Superior Court, without a jury, on a charge of embezzling $61,126.46 over a six months' period dating from March 2, 1928.

"I trusted Mr. Moore and thought he would return the stock," declared Miss Marsh in testifying that she turned the stock over to the broker Feb. 16, 1928, after he informed her she had better let him examine it because the list she had furnished at his request was incorrect. Mr. Marsh died Feb. 19 and was buried three days later.

Miss Marsh identified as the same stock she delivered to Moore the securities listed in a petition he was shown to have filed March 13 of that year in Warwick Probate Court. This petition, introduced with other records through testimony by Clerk Arthur Burlingame of the Warwick Probate Court, alleged the stock listed had been sold Feb. 13 and requested from the court a certification that the stock was not included in the inventory filed in the estate.

According to the inventory, which was filed by Howard B. Arnold as appraiser and sworn to by Moore before Joseph W. Grimes as notary, the estate totalled $157,123, including $153,585 in cash.

When she, her brother, Ebenezer M. Marsh, and her mother, the late Lavinia Marsh, signed the petition for administration of her father's estate, the paper was "in blank," Miss Marsh said, and Howard B. Arnold, before whom the document purported to have been signed as notary, was not present when she affixed her signature.

Assistant Attorney General Michael DeCiantis sought to introduce testimony that Moore was removed as administrator March 17, 1933, by Judge Wilford S. Budlong of Warwick Probate Court for mal-administration and that this action later was upheld by the Superior Court. After Everett L. Walling, Moore's counsel, objected, Judge Churchill ruled the testimony out at this point, but said it might become material to the case later.

Miss Marsh testified that her father, who had a suite in the Narragansett

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WITNESS DECLARES MOORE TOOK STOCK

Continued from Page 1, Col. 2.

Hotel, became ill Jan. 29, 1928. He was then 75 years old. She knew Moore because her father had bought some stock from him, she said, and Moore called to see her father three times during his illness. She was present each time. Mr. Marsh was "a very sick man," she said, and she and a nurse kept watch over him night and day.

The first time Moore called was about Feb. 10, she said, and he remained only a few moments, a general conversation ensuing. A few days later he called again and offered to transact any business her father might want done, but Mr. Marsh said if there was anything to do she would do it, she added.

Moore last saw her father alive on Feb. 15, she said, and remained only about 10 minutes, Mr. Marsh being quite ill that day. Moore discussed the weather and the market, but her father was too ill to talk, she said.

During her father's illness, Moore phoned to [illegible] and her mother and suggested they make a list of Mr. Marsh's holdings and he would be glad to appraise it and make suggestions, she said. Copying the list from her father's notebook, she gave the list to Moore on the [illegible], she said.

Asked for Stocks

The next day he called at the hotel and told her she had copied some of the stocks incorrectly and had better bring him the stock, she said, so she and her mother went to the safe deposit box and sent the securities to him.

On Feb. 17 she asked him to return the stock, but he explained he had not had time to appraise it all and would give it back in a few days, she said. On the day of her father's funeral, she added, Moore said he had looked up the taxes in the different States the stock was in and the only thing to do was to sell the stock and turn it into cash.

Moore then told her and her mother he had sold the stock, as it was the best thing to do, for $200,000, she said.

Also on the day of the funeral, Moore suggested he be appointed administrator of the estate, and his offer was accepted, being much appreciated by the family, the witness said. He suggested notice be waived, she added, and he explained that if he were appointed immediately the estate could be closed within three months, whereas if they went to a lawyer it would take a year or more. Her father owed only a few bills, and Moore said he would be able to sell the stock in the estate and her mother would have half and she and her brother would divide the other half, she stated.

Investment Suggested

Some time after her father's death, she said, Moore said the estate would have to be left open a year, and suggested that as bank interest was so small the only thing to do was to invest in some capital stock and receive divide[illegible] is for the estate. Securities he recommended were approved by her friends here and in New York, she said, so this step was taken some time in April, 1928.

On the motion of Mr. DeCiantis, the trial was adjourned to 3 o'clock this afternoon, to permit attendance at the consecration of Bishop Keough today.

In his outline of the case, Mr. de Ciantis said the State would show the existence of a relationship between Mr. Marsh and Moore which brought about an acquaintance between the defendant and Mr. Marsh's entire family.

Confidence and trust were imposed in Moore, Mr. De Ciantis said, and by virtue of his office he received and took into his possession money and stock certificates and converted them to his own use.

"The State will show that securities turned over to the defendant were not sold by the defendant as represented by him but that they were placed with certain brokerage houses to secure the defendant's indebtedness. The major portion of such securities was subsequently sold upon order of the defendant. The defendant received for such sale $124,555.69. This sum was applied to his personal account.

"The State will further show that the defendant requested and sought the appointment as administrator of the estate of Franklin P. Marsh. As a result of fraudulent representations made by him to the Marsh family, the latter consented to his appointment.

False Inventory Charged

"As administrator of the estate, he did not make a true inventory, he did not deposit the $200,000, or any part thereof, purported to have been received from the sale of the securities in the estate of Franklin P. Marsh.

"The State will further show that in March, 1928, the defendant was to purchase certain securities with the funds belonging to said estate, that the securities were obtained in an irregular manner, converted to the use of the defendant as collateral to secure his indebtedness, that subsequently said securities were converted into other securities which were also placed as collateral to secure defendant's indebtedness.

"The State will further show that finally all of said securities were sold and the proceeds were never deposited in the account of the estate of Franklin P. Marsh but were applied to the defendant's personal account."

ACCUSES MOORE OF TAKING PAPERS

Miss Marsh Says Broker Got Stock Transfer Powers from Father's Office After Death.

IDENTIFIES HER SIGNATURE

Insists Documents for Use Only If Parent Wished While Alive, at Embezzlement Trial

Two weeks after the death of her father, Franklin P. Marsh of Warwick, Richard S. Moore, Providence investment broker, went to Mr. Marsh's offices and took certain stock transfer powers, Miss Susan L. Marsh of Longmeadow testified yesterday afternoon in Superior Court.

Moore is on trial before Judge Alexander L. Churchill, without a jury on a charge of embezzling $61,126.46 from the Marsh estate. The trial was resumed at 3 o'clock, having been delayed due to the consecration ceremonies at SS. Peter and Paul Cathedral earlier in the day. The defendant is charged with the embezzlement over a six months' period dating from March 2, 1928, while he was administrator of the estate.

A total of 40 stock transfer powers, all in blank and dated Feb. 13, 1928, signed Frank P. Marsh and with Miss Marsh's name as witness, were introduced by Everett L. Walling, counsel for Moore, during cross-examination of Miss Marsh.

"In view of these papers, do you still insist the stock was delivered to Moore solely for purposes of appraisal?" asked Mr. Walling, referring to Mr. Marsh's stock which Miss Marsh on Monday testified was put in Moore's hands for appraisal and, according to an alleged report from him on the day of Mr. Marsh's funeral, sold for $200,000.

"The stock was delivered to Mr. Moore for appraisal, Mr. Walling, and for no other purpose at all," insisted the witness. "Two weeks after my father's death he went to my father's office and took those stock powers."

Identifying her own signature as witness on the papers and saying the name Frank P. Marsh "looked like" her father's signature, Miss Marsh declared that the powers of attorney were for her to use if her father wished it during his lifetime.

Her father was "very ill" from Feb. 4, 1928, until his death on the 19th, she said, and she saw Howard B. Arnold as notary take the acknowledgements in the Marsh living room at the Narragansett Hotel. Her father was sitting "bolstered up" in a chair, she said.

"Don't you know, as a matter of fact, that these stock powers were prepared over a period of days prior to Feb. 13?" Mr. Walling demanded.

"That is an absolute untruth," replied Miss Marsh. She declared that Moore, who had done "quite a little talk-

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ACCUSES MOORE OF TAKING PAPERS

Continued from Page 1, Col. 3.

ing about the advisability of fixing these stock powers," brought them in the day they were signed, and they were left in the possession of the Marsh family. It was Moore's proposal entirely, she said, and he pointed out that if her father was to do any business, they should be in readiness.

List of Stock Introduced

After Mr. Walling had brought up the question of the list of her father's stock Miss Marsh claims to have made at Moore's request, it was introduced in evidence by Assistant Attorney General Michael DeCiantis. Miss Marsh insisted that after Moore asked for the stock to check it, saying the list was incorrect, she and her mother took the securities from Mr. Marsh's safe-deposit box in the Industrial Trust Company and the stock was then delivered to Moore at his office by her brother, Ebenezer M. Marsh.

"Miss Marsh, don't you know that $200,000 was a ridiculous price for those securities on that day?" asked Mr. Walling, referring to Miss Marsh's claim that Moore announced on the day of her father's funeral, April 22, 1928, that he had sold the stock for that amount.

Mr. DeCiantis objected, remarking the State would have someone present to show the price was "not so ridiculous." Mr. Walling contended Miss Marsh had investigated "from beginning to end" and "certainly knows $200,000 was as far from the market quotations of that day as possibly could be." He added he sought to discredit the witness, as he did not believe "a word of it." Judge Churchill ruled that Miss Marsh's present knowledge had nothing to do with the issue.

"We thought he was very serious and very honest at the time," Miss Marsh said, in referring to Moore's appointment as administrator of her father's estate. After his appreciated offer to serve as administrator was accepted by the family following Mr. Marsh's death on Feb. 22, Moore had himself appointed administrator three days later, she said.

"I have seen so many signatures of mine it is impossible to tell without it being examined. It looks like mine," said Miss Marsh when Mr. Walling questioned her regarding an affidavit purportedly signed by her, her brother and Moore, stating it was her father's wish her mother should not share in his estate and that her mother had never laid claim to it. It was dated May 29, 1931.

"You may show me a paper signed and I may find I bought half of the Flatiron building and I didn't know anything about it," Miss Marsh said. "I wouldn't be surprised at anything."

She denied she had signed any paper in the presence of Philip A. Feiner, whose name appeared on the affidavit as being the witness for all signatures.

"I never signed anything before Mr. Feiner in my life," she said. "I never knew Mr. Feiner before 1932."

Her mother, the late Lavinia Marsh, died about a year before the paper was dated, she pointed out.

Journal May 24/34

TESTIFIES MOORE CLAIMED STOCK

Brokerage House Executive Says Broker Asserted He Bought from Marsh.

4000 SHARE DELIVERED

O'Brien Tells of Explanation Given in Asking for Transfer; Miss Marsh Concludes

Richard S. Moore, Providence investment broker, now on trial on an embezzlement charge, told brokers that more than 4000 shares of stock he delivered to them had been bought by him from Franklin P. Marsh of Warwick before Mr. Marsh's death, it was testified at Moore's trial in Superior Court yesterday by Edward M. O'Brien, assistant manager of the Providence office of Hornblower & Weeks, investment brokers.

Miss Susan L. Marsh of Longmeadow, daughter of the late Mr. Marsh, has claimed that Moore obtained the stock from the family allegedly for appraisal purposes shortly before Mr. Marsh's death and then reported he had sold it for $200,000.

Moore's explanation was given when he delivered the stock to the New York office of Hornblower & Weeks for transfer, according to Mr. O'Brien's testimony. Mr. O'Brien appeared as a State witness at Moore's trial before Judge Alexander L. Churchhill on a charge of embezzling $61,126.46 from the Marsh estate, of which he was administrator. The embezzlement is alleged to have extended over a six months' period, dating from March 2, 1928.

Not in Estate Inventory

After the New York office had received a copy of the Warwick Probate Court certification that the stocks were not included in the Marsh estate inventory, they were accepted and deposited as collateral to the credit of the account of Richard S. Moore & Co. on March 20, 1928, Mr. O'Brien testified.

He explained that after the stock was delivered in New York by Moore as his own, the office had notified him of receipt of the securities, which were in the name of Frank Marsh, and he had wired back to hold them up because Mr. Marsh was dead.

Testimony as to the market value of the stock at that time is scheduled to be given by Mr. O'Brien when the trial resumes this morning.

Miss Marsh completed her testimony yesterday after retorting, "I think if you'd lost $2,000,000 from one person you'd do the same," when Everett L. Walling, Mr. Moore's counsel, queried if all she had been doing since 1932 was "chasing Mr. Moore in various ways."

Retort Stricken Out

On Mr. Walling's objection, Judge Churchill ordered Miss Marsh's retort stricken from the record. The attorney then asked whether it were not so that

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TESTIFIES MOORE CLAIMED STOCK

Continued from Page 1, Col. 2.

the only thing she had been doing since 1932 was investigating Mr. Moore's activities in the estate. Miss Marsh referred to "juggling of securities," and said she investigated because she couldn't afford to pay anybody to do it.

Assistant Attorney General Michael DeCiantis asked Miss Marsh how much was entrusted to the defendant, and when Judge Churchill upheld Mr. Walling's objection to this question, the prosecutor asserted, "I want to show she had a perfect right to be after Moore."

Miss Marsh and her mother, the late Mrs. Lavinia Marsh, removed Mr. Marsh's stock from the safe deposit box Feb. 16, 1928, and it was taken to Moore's office by Ebenezer M. Marsh, her brother, according to Miss Marsh's testimony. Mr. Marsh died three days later and was buried Feb. 22. It was on the day of the funeral, according to Miss Marsh, that Moore announced he had sold the stock for $200,000.

It was in the summer of 1931 that she lost all confidence in Moore, Miss Marsh said, going on to testify that she had signed papers in blank at Moore's request.

Denies Knowledge of Affidavit

In January, 1932, she saw in the Warwick Probate Court for the first time the affidavit, containing her signature, stating that her father wanted her mother to have no part of his estate and that her mother claimed none of it, she said. She said she never previously had any knowledge that her signature was placed on any such paper.

She denied having placed her signature on any paper which contained the affidavit as introduced by the defence and an identical affidavit filed in the Probate Court records and introduced by the State.

Relative to her signature on Moore's bond as executor in her mother's estate, Miss Marsh said that at the time she signed the paper at Moore's request, Moore was in a great hurry as he was on the way to play golf, and she thought the paper was an application for a bond.

"Believed His Explanation"

"When he told us it was an application for his bond, I believed him," she said, describing how Moore approached her and her brother at Cape Cod. "I didn't have a chance to read the paper. He always told us he was so heavily bonded that he couldn't invest wrong, as he would be liable."

"Are you in the habit of signing blank promissory notes?" Mr. Walling asked the witness.

"It would be a hard thing for me to do right now," replied the witness, "but I fully trusted Mr. Moore and believed in him implicitly."

On Mr. Walling's motion, after the witness had admitted having no personal knowledge regarding her charge that Moore went to her father's office and took away certain stock transfer powers, Judge Churchill ordered Miss Marsh's previous testimony on this point stricken out.

Called "Man of the Hour"

Moore was described yesterday by Miss Marsh as the "man of the hour" in advising the family to keep away from lawyers and banks and convert securities into cash.

"Income taxes, too?" asked Mr. Walling, as Miss Marsh described how she said Moore advised the family. "He told us inheritance taxes were terrible, and to put the money into cash," replied the witness. One of Moore's strongest admonitions to the family was to keep away from lawyers, she said.

Moore suggested she and her brother get a safety deposit box in their name and put their father's stock in its because there was "so much red tape" at the Industrial Trust Company, where her father's safe deposit box was, that if Moore wanted to sell any of the stock it would be "very hard" for him to get hold of it, she testified.

"I didn't hear much from Mr. Moore after he got those securities," Miss Marsh said. "I had to do the calling to try to get them back into my possession," she insisted." "We had no knowledge the stock had been sold till after my father's death."

Tells of Appointment

Over the objection of Mr. De Ciantis, Mr. Walling brought out from the witness that in the will of her mother, Mrs. Lavinia Marsh, who died in 1930, she and her brother were named executors, but declined to serve and agreed to the appointment of Moore as executor.

Mr. DeCiantis contended that if this testimony were allowed, he would have the right to show "other acts" of the defendant in that estate.

Explaining why Moore had been allowed to serve as executor in her mother's estate, Miss Marsh said that he stood beside her brother and herself at her mother's deathbed and gave assurance that the affairs of her mother, father and grandfather were in "perfect condition."

Moore claimed she could not serve as executor because she was then in New York, and contended it would be impossible for her brother to serve because he was carrying on a business and had no experience in handling estates, so the only thing was for Moore himself to "carry on," the witness said.

"After Mr. Moore explained everything to us we had to decline," she added.

Mr. Walling asked Miss Marsh whether she was "primarily the cause of dissension between her father and mother."

Mr. Walling withdrew the question when Mr. De Ciantis objected. She denied her mother was the "controlling factor" in all business affairs of the Marsh family or that her brother was an "active advisor."

ATTORNEYS ARGUE MOORE CASE ISSUE

Charging Embezzlement Shown, De Ciantis Asks Right to Trac Deals Further.

DEFENCE DENIES CLAIM

Judge A ows Prosecution to Offer Testimony Confined to Bill of Particulars; O'Brien Testifies

The direct charge that embezzlement has been shown by the "conversion" of stocks formerly held by the late Franklin P. Marsh of Warwick was made by Assistant Attorney General Michael DeCiantis yesterday at the trial of Richard S. Moore on an embezzlement charge before Judge Alexander L. Churchill in Superior Court.

Everett L. Walling, counsel for Moore, denied the prosecutor's contention by asserting: "We are fully prepared to show that anything so far produced by the State does not constitute embezzlement."

The statements were made during arguments to the court on questions of whether the State could go outside its bill of particulars furnished to the defence in tracing stock transactions carried on by Moore, an investment broker, with the investment firm of Hornblower & Weeks.

Mr. DeCiantis argued that he should be allowed to trace the stock, fomerly held by Marsh and delivered over to Moore and reported to have been sold by Moore for $200,000. Mr. Walling contended that the prosecutor should be restricted to offering testimony confined to dates outlined in the State's bill of particulars. Judge Churchill allowed the prosecution to offer testimony confined to the bill of particulars, so far as acts of embezzlement are alleged, but restricted the examination where dates were not mentioned therein.

Edward M. O'Brien, assistant manager of the Providence office of Hornblower & Weeks, was on the witness stand all day. He testified that stock had been put up by Moore as a collateral loan for Moore's indebtedness. All of the certificates were made out to Richard S. Moore, he testified, and on the Hornblower & Weeks records there was no entry in the name of Franklin P. Marsh, Frank P. Marsh, the Marsh estate, or in the name of Richard S. Moore as administrator of the estate of Franklin P. Marsh. He said he had been employed by the firm for 30 years and had known Moore 13 years.

On Feb. 16, 1928, stock was delivered by Moore to the firm and it was put up as collateral on March 20, 1928, and remained as a collateral loan on the firm's books until May 24, 1928.

Mr. O'Brien gave a list of the debit balance in the Moore account as follows: Feb. 17, 1928, $298,342.27; March 20, $318,360.71; March 31, $321,018.84; April 30, $270,959.02, and May 24, $244,961.98.

Asked if there was any agreement between Moore and the firm, the witness first said there was no agreement, but later said there was some sort of agreement and he would look it up.

Mr. DeCiantis questioned the witness about 115 shares of Blackstone Valley Gas & Electric stock bought in the Moore account on March 15, 1928. Subsequently, on April 13, 1928, the witness testified, this stock was put up as collateral by Moore and was exchanged into 250 shares of common stock and 375 shares of convertible stock of Eastern Utilities Associates. Receipts for this stock were introduced in evidence, signed in one receipt by Richard S. Moore and in the other by R. S. Moore Co. "by E. F. J." Testimony also was offered that a dividend of $125 on the 250 shares was applied to the Moore account.

"Was the 100 shares of Blackstone Valley Gas stock in the name of Marsh?" asked Mr. DeCiantis of the witness.

"It was in the name of Hornblower & Weeks until we received instructions from Mr. Moore for the exchange," was the reply.

Just before adjournment, the prosecution introduced a photostatic receipt dated June 5, 1928, where 1000 shares of International Utilities stock was received from Hornblower & Weeks "in my name" and the receipt was signed R. S. Moore & Co.

kerage firms' books until March 20 of that year, after receipt of a certification from Warwick Probate Court that the securities were not included in the inventory of the Marsh estate. The stock was in Mr. Marsh's name and "we told Mr. Moore about it and he got us papers to put it in proper shape," Mr. O'Brien explained.

Mr. Walling questioned the witness at length on the mechanics of stock transactions, and asked Mr. O'Brien whether the Moore account from March 20 to May 28, 1928, when Moore paid the brokers $245,000, was in any danger of being closed out. O'Brien said no calls had been sent out, so he assumed the account was all right. He admitted the account was in such condition that Hornblower & Weeks bought 100 shares of Blackstone Valley Gas & Electric stock and paid for it out of the Moore account.

Testimony has been given by Miss Susan L. Marsh of Longmeadow, daughter of the late Mr. Marsh, that she and her mother, the late Mrs. Lavinia Marsh, turned Mr. Marsh's stock over to Moore on Feb. 16, 1928, for appraisal. On the day of Mr. Marsh's funeral, Feb. 22, Moore reported he had sold the stock for $200,000, according to Miss Marsh.

TRACES CASH PAID FOR MARSH STOCK

Broker Says Moore Co. Was Credited $124,555 in Sale of Shares Allegedly Estate's.

DID CONSIDERABLE TRADING

Edward M. O'Brien Testifies That Defendant's Account Was Active During Spring of 1928

Richard S. Moore & Company was credited $124,555.69 by Hornblower & Weeks, investment brokers, following the sale of stock the State contends belonged to the late Franklin P. Marsh of Warwick, but which Richard S. Moore claims was disposed of by Mr. Marsh, according to testimony in Superior Court yesterday.

Moore, a Providence investment broker, is on trial before Judge Alexander L. Churchill, without a jury, on a charge of embezzling $61,126.46 from the Marsh estate, of which he was administrator. The State claims the alleged offence occurred over a six-months period dating from March 2, 1928. Mr. Marsh died Feb. 19 of that year.

Was Margin Account

Edward M. O'Brien, assistant manager of the Providence office of Hornblower & Weeks, said the Moore Company's account was handled as a margin account, and explained it was an account on which Moore was loaned certain amounts of money for the securities he was carrying. He said Moore did considerable trading "in and out," bringing in stock or cash.

Under cross-examination by Everett L. Walling, Moore's counsel, Mr. O'Brien said he would consider Moore's account during the spring of 1928 as "active," and that it was a good-sized account. He said he was unable to say, in reply to Mr. Walling's query, whether Moore's total securties in the account on April 30, 1928, were $650,838.25, or that the collateral was $385,103 in excess of his debt to the firm on that date.

Assistant Attorney General Michael DeCiantis brought out through Mr. O'Brien's testimony that the $124,555.69 credited to the Moore firm represented the sale on different dates of all the so-called Frank P. Marsh stock except 1000 shares of International Utilities Class A, which were later turned over to Richard S. Moore & Company.

These 1000 shares were received from Hornblower & Weeks in New York in the name of Richard S. Moore on June 5, 1928, and delivered to the Moore company, O'Brien said.

"Put in Proper Shape"

According to O'Brien, the rest of the so-called Marsh stock was delivered to Hornblower & Weeks on Feb. 27, 1928, by Moore, but was not entered in the bro-

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PERSSON DETAILS MOORE'S DEALINGS

Testifies Regarding Stock State Charges Was Bought Only to Be Converted.

VALLEY GAS SHARES NAMED

250 Units Purchased and Placed to Account as Collateral; Later, Exchanged, How[illegible]

Testimony regarding certain shares of stock which the State claims Richard S. Moore, Providence investment broker, purchased as administrator of the estate of the late Franklin P Marsh of Warwick and later converted to his own use was given in Superior Court yesterday afternoon at Moore's trial on an embezzlement charge.

Moore is on trial on a charge of embezzlement of $61,126.46 from the Marsh estate over a six months' period dating from March 2, 1928. The case is being heard by Judge Alexander L. Churchill, without a jury.

Former Keech Cashier Testifies

Through Edwin Persson of Clark, Childs & Keech, and former cashier of F. B. Keech & Co., Assistant Attorney General Michael DeCiantis showed that Moore on March 15, 1928, purchased through F. B. Keech & Co. 250 shares of Blackstone Valley Gas and Electric Company stock, which were placed to his account as collateral.

On April 26 of that year, Mr. Persson testified, Eastern Utilities Associates stock was exchanged by Moore for the Blackstone Valley Gas and Electric Company stock, according to the firm's records, and in May Moore withdrew the Eastern Utilities stock which had been used for the exchange.

According to a record of the Warwick Probate Court, previously presented in evidence by the State, Moore secured a court confirmation for the purchase of 700 shares of the Blackstone Valley Gas & Electric Company stock as administrator of the Marsh estate.

Certain stocks which the State contends Moore obtained from the Marsh family allegedly for appraisal purposes three days before Mr. Marsh's death, Feb. 19, 1928, were shown by Mr. Persson's testimony to have been received by F. B. Keech & Company and credited to Moore's account on Feb. 25, 1928, and to have been delivered out of the account to Moore two days later. The Moore account, Persson said, was in the name of Richard S. Moore.

Entrance on Books Delayed

Edward M. O'Brien, assistant manager of the Providence office of Hornblower & Weeks, has previously testified that the larger part of the so-called Frank P. Marsh stocks were delivered to Hornblower & Weeks by Moore on Feb. 27, 1928, but were not entered in the firm's books until March 20 upon receipt of a Warwick Probate Court certification that they were not included in the Marsh estate inventory.

Mr. O'Brien completed his testimony yesterday afternoon, after having spent the greater part of three days on the witness stand.

He identified an agreement signed by Moore and given to Hornblower & Weeks, introduced in evidence by Mr. DeCiantis, stating that all securities in Moore's account or deposited to protect the account might be loaned by the firm or delivered in the usual course of business, or pledged either separately or together with other securities for any sum whatsoever, without regard to the amount of his indebtedness to the firm and without notice to him.

Moore's account with Hornblower & Weeks, it has been shown, was in the name of Richard S. Moore & Company.

Everett L. Walling, Moore's counsel, brought out through cross-examination of the witness that Richard S. Moore & Company had credit balances in its account with Hornblower & Weeks of $191,399.11 on Feb. 17, 1928; $343,429.48 on March 20, $323,358.66 on March 31, and $380,099.98 on April 30, that year.

On May 28 of that year, Mr. Walling showed through the witness, the Moore Company gave Hornblower & Weeks a check for $245,000 after the stock was transferred into Moore's name as of May 24.

Lower Balances Shown

Mr. De Ciantis, in re-direct examination of Mr. O'Brien, had the witness deduct from the balances the stock the State claims belonged to Mr. Marsh, and by this figuring showed the Moore Company's balances ran much lower, and in two cases were less than the 35 per cent. equity O'Brien said was required by the brokers in such an account.

By this figuring, the Moore Company's equity on March 20, 1928, was $171,272.23, on March 31, $177,462.50 and on April 30 $235,594.23.

Whereas the Moore Company paid Hornblower & Weeks $245,000 on May 28 when Moore practically took up all the stock that was in his name, according to O'Brien, Hornblower & Weeks paid the Moore company $11,000 on May 4 and $180,000 on May 7 following stock sales.

O'Brien said, in reply to a query by Mr. De Ciantis, that Hornblower & Weeks did not know whether the stock was owned by Moore. "As far as we were concerned, he was our client," the witness explained.

Moore on Feb. 25, 1928, and delivered back to him from his account two days later.

After the stocks were returned to Moore on Feb. 28, testimony has shown, he delivered them to Hornblower & Weeks on the same day for the Richard S. Moore & Co. account, which was handled as a margin account. They were not accepted by the firm, however, until receipt on March 20 of a Warwick Probate Court certification that the securities were not included in the Marsh estate inventory.

These stocks, the State claims, belonged to Mr. Marsh and were obtained by Moore from other members of the Marsh family allegedly for appraisal purposes, three days be[illegible] Mr. Marsh's death on Feb. 19, 19.

MOORE IS ACCUSED OF PRICE JUGGLING

Journal May 30/1934

Said to Have Bought Stock for $57,750, Then Had Court Confirm Price as $59,[illegible] 2.50.

JUDGE SUSTAINS [illegible]JECTION

Defence Counsel in Embezzlement Case Contends State's Point on Prices Argumentative

Richard S. Moore, Providence investment broker, purchased 350 shares of Blackstone Valley Gas & Electric Company stock for $57,750 and then, as administrator of the estate of the late Franklin P. Marsh of Warwick, had the Warwick Probate Court confirm a price of $59,412.50 for the securities, Assistant Attorney General Michael DeCiantis contended yesterday afternoon at Moore's trial on an embezzlement charge.

Moore is charged with having embezzled $61,126.46 from the Marsh estate in 1928, while administrator. Judge Alexander L. Churchill is hearing the case in Superior Court, without a jury.

On the ground that Mr. DeCiantis's point regarding the comparative prices of the stock was argumentative, Everett L. Walling, Moore's counsel, objected to it and was sustained by Judge Churchill.

In his argument for retention of the testimony in the record, Mr. DeCiantis said that later the State would show circumstances surrounding another 350 shares of the same stock, purchase of which Moore also asked the Warwick Probate Court to confirm.

Former Keech Cashier Testifies

Testimony regarding the stock was brought out by Mr. DeCiantis through Edwin Persson, former cashier of F. B. Keech & Co., with whom Moore had a marginal account in his own name, according to the witness. Showing by records that Moore bought 250 shares of the stock through the Keech Company for $41,250 and another 100 through Hornblower & Weeks for $16,500, or a total of $57,750, the prosecutor then referred to the Warwick Probate Court confirmation.

In the petition for the confirmation, Mr. DeCiantis brought out through the witness, Moore as administrator of the Marsh estate said he had invested a total of $59,412.50 in 350 shares of the stock.

Persson testified that Moore's account was a margin account, and that the stock in it was put up as collateral. Mr. DeCiantis brought out that Moore signed the customary agreement with the Keech firm relating to such an account.

Obtained Photostatic Copies

Under cross-examination by Mr. Walling, Mr. Persson testified that Miss Susan L. Marsh, Mr. Marsh's daughter, in the early part of 1933 obtained photostatic copies of the Keech Company's ledger sheets covering the Moore account. He said he believed she was given the right to look up other information.

Mr. Walling requested the witness to check up whether F. B. Keech & Company listed the so-called Frank P. Marsh stock in the Moore account in the same way as they were listed on a paper Miss Marsh claims to have copied from her father's notebook and to have submitted to Moore on the latter's request.

The defence attorney said he sought to show that the list Miss Marsh claims to have prepared was never delivered to Moore, but was made up from the Keech company list. Mr. DeCiantis countered with the statement that it might well be said that the Keech company made its list from that prepared by Miss Marsh for Moore.

Mr. Walling brought out through Mr. Persson's testimony that in his account with the Keech company Moore had an equity of $245,391 on March 1, 1928, and of $241,794.35 on April 30 of that year, and that the account was never "in danger."

Unable to Explain "N. G."

The witness under direct examination was unable to explain a notation, "N. G.," recorded on the blotter sheet of F. B. Keech & Co. against certain stocks "with detached power" received from

ball.

Journal June 5/34

STATE SHOWS HOW MOORE GOT STOCKS

Details Transfer of Gas & Electric Shares for Eastern Utilities

The State showed yesterday how Richard S. Moore, Providence investment broker, had transferred to his own name securities for which he had exchanged shares of Blackstone Valley Gas & Electric Company stock he had been authorized by the Warwick Probate Court to purchase as administrator of the estate of the late Franklin P. Marsh of Warwick.

Moore is on trial in Superior Court before Judge Alexander L. Churchill, without a jury, on a charge of embezzling $61,126.46 from the Marsh estate in 1928.

Through testimony by John H. Oakes of the Stone & Webster transfer firm in Boston, Michael De Ciantis, Assistant Attorney General, brought out that by letter of June 30, 1928, Moore had transferred to his name on July 6 and 7 of that year Eastern Utilities Associates stock for which 600 shares of the Blackstone Valley stock previously had been exchanged. Moore's check to Stone & Webster for $150.04 to cover the transfer stamps was introduced also.

Accounting for the remaining 100 shares of Blackstone Valley stock in the total of 700, the purchase of which was confirmed by the Warwick Probate Court, testimony previously has been given that these were exchanged for Eastern Utilities Associates stock and on May 24, 1928, put in Moore's name and received by him.

The 100 shares of Blackstone Valley stock were bought through Hornblower & Weeks, according to testimony, while 250 shares were purchased through F. B. Keech & Co. and the remaining 350 were purportedly bought from Moore's wife, Mrs. Margaret A. Moore.

According to the State's testimony, Moore exchanged the 100 shares of Blackstone Valley stock for 250 Eastern Utilities common and 375 convertible, and the 250 Blackstone Valley shares for 625 Eastern Utilities common and 937 convertible, while Mrs. Moore exchanged the other 350 shares of Blackstone Valley stock for 875 Eastern Utilities common and 1312 2-4 convertible.

Moore's letter of June 30, 1928, to Stone & Webster, which Mr. DeCiantis introduced in evidence, requested that new certificates of the Eastern Utilities stock be issued in $100 share denominations, and that all be put in the name of Richard S. Moore.

Journal June 14/1934

MOORE DEFENCE WITNESS QUIZZED

Ex-Secretary to Broker Asked Why She Told State Witness to Say "I Don't Remember."

IDENTIFIES STOCK ORDERS

Miss Johnson Denies Typing in Material on Papers with Signatures Appended "in Blank"

Miss E. Florence Johnson of Princeton avenue, who from 1923 to 1931 was private secretary to Richard S. Moore, Providence investment broker, was asked yesterday afternoon in Superior Court why she had suggested to Miss Celia Gorman, also a former employe of Moore, to answer questions on the witness stand by saying, "I don't remember."

Miss Johnson was the opening defence witness at Moore's trial before Judge Alexander L. Churchill on a charge of embezzling $61,126.46 from the estate of the late Franklin P. Marsh of Warwick in 1928 while administrator. Miss Gorman has previously testified for the State.

Under cross-examination by Assistant Attorney General Michael DeCiantis, Miss Johnson denied she had any particular interest in the case and asserted, "I am trying to remember to the best of my ability."

Silent About Reported Advice

"If you are not interested, why did you tell Miss Gorman, or suggest to her You don't remember anything that happened five years ago and when they call you on the stand just say you don't remember'?" demanded Mr. DeCiantis.

The witness failed to answer. She admitted having called Miss Gorman on the telephone and also having called upon Miss Gorman at home, but insisted Miss Gorman had also telephoned to her and had invited her to call. She explained she and Miss Gorman had worked together, and "being called as witnesses, naturally wanted to talk about it."

Miss Johnson further said that Miss Gorman told her that Miss Susan L. Marsh, daughter of the late Mr. Marsh, had been to her house last summer and asked her to appear as a witness and "Miss Gorman said the reason she did not go down was that Miss Marsh had made some remark she knew was an absolute lie."

Admits Repeating Story

Mr. DeCiantis demanded, "Whom did you tell that to?" and Miss Johnson replied that she repeated the story after Miss Gorman "hung up" the phone on her last week and "I realized Miss Gorman had taken a definite stand." She said she could not remember to whom she had repeated the story.

"Suppose I told you everything you testified to now was asked of Miss Gorman by Mr. Walling (Everett L. Walling, Moore's counsel) in his cross-examination?" asked Mr. DeCiantis. "Where do you suppose Mr. Walling got it?" The witness did not answer.

In her testimony, in which she described close business and personal relations between her employer and Mr. and Mrs. Marsh, Miss Johnson explained that she sat right next to the door of Moore's private office, and the door "was always open." She didn't stop work to listen to conversations, she said, but when she was not busy she could not help hearing what went on.

Told of Going to See Marsh

She asserted that on Feb. 18, 1928, the day before Mr. Marsh's death, when Moore claims to have purchased from Marsh securities the State charges the defendant embezzled, Moore told her he was going to Mr. Marsh's rooms in the Narragansett Hotel. This was "around noon," she said.

She said that on Feb. 23, the day following Mr. Marsh's funeral, Mrs. Marsh came to Moore's office and was "very much upset" and "cried." Mrs. Marsh asked Moore to locate Miss Susan Marsh, the witness said, and Moore succeeded in locating the daughter in New York. She said the effort to locate Miss Marsh had nothing to do with the estate but was a "personal matter" between the mother and daughter.

Mr. Walling had the witness identify five stock purchase orders signed for Moore by Miss Marsh in September and October, 1930, and a similar number of receipts for large blocks of securities signed in October, 1931, by Ebenezer M. Marsh, brother of Miss Marsh. She said Ebenezer visited Moore's office "every day" after Mrs. Marsh's death, and bought and sold securities through through Moore.

Miss Johnson denied ever having typewritten in material on papers after signatures had been appended "in blank," and said she had never seen this occur in the office.

"Did you ever know of that being done?" asked Mr. Walling. "No, sir, I never did," she replied.

Denies Ever Seeing Black Book

Mr. Marsh had been in Moore's office many times, Miss Johnson said, but she never saw the small black book from which Miss Marsh has claimed to have made a copy of her father's list of stocks at Moore's request.

Correspondence between Moore and Mr. Marsh, dating back to 1925, to show the extent of business dealings between the two men relative to the purchase and sale of securities was introduced through the witness by Mr. Walling.

Miss Johnson testified she knew Mr. Marsh well and often saw him in Moore's office, relative to his own business and that of his wife, the late Mrs. Lavinia A. Marsh. Mrs. Marsh closed all transactions relating to her own funds, the witness said, adding she would consider Mrs. Marsh the dominating figure of the family. The couple and Moore were personally very friendly outside of their business relations, she said.

As far as she knew, she asserted, neither Ebenezer M. Marsh nor Miss Susan L. Marsh, children of the couple, was consulted in business transactions. She said it was very seldom that she saw Ebenezer and Susan in Moore's office.

MOORE TESTIFIES IN OWN DEFENCE

Broker Gives Details of Handling of Estates of Marshes and Morgan Trust.

FIFTH WEEK OF TRIAL ENDS

Session This Morning in Effort to Hasten Progress.—Defendant to Conclude Today

Details of his handling of the estates of Franklin P. Marsh and Lavinia A. Marsh and the Ebenezer M. Morgan trust estate were discussed by Richard S. Moore, Providence investment broker, in Superior Court yesterday afternoon.

Moore's trial before Judge Alexander L. Churchill on a charge of embezzling $61,126.46 from Mr. Marsh' s estate in 1928 while administrator will conclude its fifth week today. To hasten the trial's progress, Judge Churchill will sit this morning. Previously the case has been adjourned from Friday afternoon to Monday.

Everett L. Walling, Moore's counsel, announced Moore's direct examination will be completed this morning, and the only other defence witness will be Moore's wife, who will testify but briefly.

Over the objection of Assistant Attorney General Michael DeCiantis, Judge Churchill agreed to allow Moore to testify supporting the defence claim that instead of the defendant having owed the Marsh estate more than $61,000, the three estates and the Marsh children owed him $292,000 which he squared up in 1931 by selling securities.

Asked to Take Charge of Estate

Both Miss Susan L. Marsh and Ebenezer M. Marsh, children of the late Franklin and Lavinia Marsh, asked him following their mother's death June 17, 1930, to take charge of her estate and the Morgan trust, Moore testified. They asked him to "carry on" as he always had with their parents' affairs in buying and selling securities, and he agreed, he said.

He told how he had business transactions with Mrs. Marsh around the first of June, 1930, in his office here, and visited Miss Marsh's apartment in New York on the day of her mother's death there. Mr. Marsh died Feb. 19, 1928. It wasn't until Mrs. Marsh passed away that the children looked to him in the matter of securities, Moore said.

For several weeks during the summer of 1930, Moore said, he was ill at his home on Cape Cod, but had conferences with Susan and Ebenezer there regarding their mother's estate. Both were named executors in Mrs. Marsh's will but declined to serve, he said, and both signed the petition for his appointment as administrator with will annexed.

Signed Petition and Bond

They also signed the petition for his appointment as successor trustee in the Morgan trust, he said, and signed his bond in each instance. Legal details relative to the Morgan trust were attended to in Groton, Conn., on Aug. 19, 1930, he pointed out.

Mr. Walling brought out through the witness that Ebenezer M. Morgan's property went equally to Susan and Ebenezer Marsh upon Mrs. Marsh's death, and they also inherited Mrs. Marsh's estate and that part of their father's estate that their mother had not been entitled to receive.

Securities of the Morgan estate and the estate of Mrs. Marsh were kept in two respective safe deposit boxes in the Industrial Trust Company, Moore said, and he had the boxes transferred over into his name in his official capacity after taking charge of the estates. He turned keys to the boxes over to Ebenezer Marsh, and had the latter given authority to have access to them, he said.

MOORE IS FOUND GUILTY OF LOOTING MARSH ESTATE

Investment Broker Faces Penalty Up to Five Years and Fine of $1000.

APPEAL IS INDICATED

Prosecutor Asks for Increase in Bail; Client Broke, His Counsel Says.

Following a trial that lasted for five weeks, Richard S. Moore, Providence investment broker, today was found guilty by Judge Alexander L. Churchill in Superior Court under an indictment charging Moore with embezzling $61,126.41 from the estate of the late Franklin P. Marsh of Warwick while he was administrator of the estate in 1928. The penalty is up to five years and $1000 fine.

Judge Churchill, who heard the case without a jury, read his typewritten decision of 25 pages from the bench.

Indication that the case would go to the Supreme Court was given after Assistant Attorney General Michael DeCiantis had asked the court to increase Moore's bail of $10,000 and Everett L. Walling moved that the court allow the defence the costs of a transcript of the testimony during the trial, as his client, Mr. Walling said, has no money.

Judge Churchill declared a recess to allow Mr. De Ciantis to determine whether he would oppose Walling's motion. Walling was opposed to an increase in bail.

Overrules Motion

Judge Churchill at the outset in giving his decision overruled a defence motion to quash the indictment.

The court ruled that Moore had not only been found guilty of embezzlement but had also made false entries.

Judge Churchill held that contrary to the defendant's claim that he had bought a large block of securities from the late Mr. Marsh, no such sale took place between Marsh and Moore on Feb. 18, 1928, nor on any other date previous to the death of Marsh.

As between the testimony of Miss Susan Marsh and that of the defendant, the court held that he believed the testimony of Miss Marsh and disbelieved that of the defendant.

The securities claimed to have been embezzled were considered by the court in two classs, those which Moore claimed he bought from Marsh the day before Marsh's death on Feb. 19, 1929, and Blackstone Valley Gas and Electric Company securities which were later converted into Eastern Utilities Association stock and New Bedford Gas and Edison Light Company stock. The court made findings of fact on securities valued at approximately $162,000.

Comments on Testimony

Regarding the alleged sale of $147,000 worth of securities, the court commented in his decision on the testi-

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MOORE IS FOUND GUILTY OF LOOTING MARSH ESTATE

Continued from Page 1.

mony that it took only a few seconds to effect the transfer and that no note was given, no arrangement made as to payment and no bought or sold slip given to Marsh.

"At a later date he attempted to dispose of the securities which he claims he bought and meeting with obstacles in the way of transfer, he signed a petition on March 12, 1928, addressed to the Probate Court of Warwick, asking for a certificate or declaration to the effect that the securities were not assets of the estate of Franklin P. Marsh, and in that petition, which he signed, he alleges the sale to have taken place on Feb. 13, 1928. Defendant attempted to lay the mistake to the door of counsel, Joseph W. Grimes, but Mr. Grimes was not called to the stand on his behalf. Before a master in chancery, William W. Moss, the defendant swore the sale was on the 17th of March, 1928.

"If this court had any lingering doubt on this testimony, it was swept away by the testimony of Miss Susan Marsh, Mrs. Ebenezer Marsh and Dr. Alexander Burgess. Miss Susan Marsh denied that she delivered the securities to Moore on Feb. 18, 1928, or that Moore was at the hotel on that day. Mrs. Ebenezer Marsh, a daughter-in-law of Mr. Franklin P. Marsh, was at the hotel and in the room where Marsh was nearly all the time, as she testified, from 10 o'clock until the evening of the day of the 18th, and she testified that she did not see Moore there at any time. It was fixed in her mind because it was the day before Mr. Marsh died, and the court accepts her testimony. Dr. Burgess testified that he was the attending physician; that he was attending Mr. Marsh on the 18th day of February, 1928, and that he (Marsh) was in an extremely serious condition, very, very ill, taking almost no nourishment, and on the day of the 18th of February, morphine, codeine and whiskey were administered to him," says the decision.

In the middle of the decision, Judge Churchill said: "At this point it is proper to say in respect to the findings of the court adverse to the veracity of the defendant Moore in any portion of this opinion that the court has not taken into consideration as reflecting on his veracity or to impeach him as a witness, any of the testimony respecting the $5000 check of Lavinia Marsh, nor the testimony with respect to the stock transfers to which he affixed the names of Susan Marsh and Ebenezer Marsh, acting, as he said, on powers of attorney. * * *

Acted in Own Name

"It may be pointed out that at no time in the purchase or sale of the securities did the estate figure by name with the concerns with which Moore dealt. He bought and sold these securities in his own name or in the name of Richard S. Moore and Company and pledged the same for his own accounts and debits, and in so far as he did so had the advantage of the credit which these securities gave him. * * *

"It is maintained that Moore acted honestly," Judge Churchill said, "in the belief that he could so act as administrator and so handle the assets of the estate," but the court ruled that he could not and does not believe the defendant's testimony in regard to certain securities.

Charles Iavazzo

May 23, 1933

Florence Avery

7 23, 1933

IAVAZZO, CHARLES ARE FOUND GUILTY

Verdict Returned by Superior Court Jury After Six-Day Trial for Arson.

BAIL IS RAISED TO $10,000

Appeal May Be Filed Within Seven Days.—Cottage Was Burned in East Providence

A verdict of guilty against Tobio Iavazzo, 23, of 76 Pocasset avenue, charged with arson, and Tony Charles, 43, of 418 Benefit street, accused of being an accessory before the fact, in connection with burning a bungalow Jan. 10 at 29 Elder avenue, East Providence, owned by Charles's wife, was returned by a Superior Court jury late yesterday afternoon.

On motion of the Attorney General's department, Judge Jeremiah E. O'Connell, who presided over the six-day trial, increased the $5000 bail of each defendant to $10,000.

Charles at once furnished the additional surety. Because Iavazzo's bondsman was not present, that defendant was given until 11 o'clock this morning to provide the increased bond. The defendants have seven days in which to file a motion for a new trial.

During the trial, testimony involving Iavazzo in the actual burning was given by Anthony Gerardi, 24, of 93 Alto street, Cranston, a third defendant, who had previously pleaded nolo to the arson charge and been held for sentence.

Gerardi said he and Iavazzo spread gasoline in the house and Iavazzo applied the match. He did not involve Charles. Other State witnesses, women neighbors, told of seeing Charles carrying a new five-gallon can in the vicinity of the Elder avenue house Jan. 10, previous to the burning about midnight that night. The can was said to be similar to several found buried in the cellar, and declared to have contained gasoline.

Iavazzo's defence was an alibi that he was not in East Providence that night. Charles maintained his innocence of any knowledge of the crime, and contended the can he was carrying contained kerosene oil for his kitchen range burner.

The jury was out nearly two hours, and came in once to have the stenographer read testimony of witnesses who said they had seen Gerardi's car in the vicinity about the time of the fire.

Assistant Attorneys General John H. Nolan and Michael DeCiantis represented the State. Defence counsel were James H. Kiernan and Frank H. Bellin.

Gets Three Years

Mar. 21, 1933

FLORENCE E. AVERY

WOMAN GIVEN 3-YEAR STATE PRISON TERM

Florence Avery Is Sentenced on Charges Involving Mortgage Fraud

Miss Florence E. Avery, 53, head of the Edward McCabe & Son real estate agency of Providence, today was sentenced by Judge O'Connell, in Superior Court, to three years in prison on each of two charges of obtaining money under false pretenses, the sentences to run concurrently.

Miss Avery had waived grand jury consideration of the charges and pleaded nolo to both. She received the sentences with no show of emotion.

The court, in imposing sentence, said that he sentenced a woman to prison with great reluctance, but that circumstances made that course necessary.

INVOLVED MORTGAGES

The charges involved two real estate transactions in which the defendant put through two mortgages with the understanding that there were no encumbrances on the property involved.

Asst. Atty. Gen. DeCiantis told the court that Miss Avery obtained $3500 from Louisa C. Brinckerhoff of 210 Waterman street, representing that certain property in Wickford was valued at $14,000 and that there were no other mortgages on it at the time. Investigation, he said, revealed that there were two prior mortgages.

The second indictment also involved a $3500 transaction in which Miss Avery obtained that amount from Mr. and Mrs. Edward Byrne for a mortgage on property in Warwick. On the same date, DeCiantis said, she transferred the mortgage to Mrs. Mary A. Grimley of 784 Branch avenue. As was the case in the Wickford transaction, DeCiantis continued, investigation showed that there were two mortgages on the property and also an attachment.

TRUSTED DEFENDANT

"The persons involved in the transaction," DeCiantis said, "did not know much about business and put great trust in the defendant. They thought they were making sound investments and lost their money through fraud."

In asking the court for leniency, Joseph W. Grimes, counsel for the defence, said that while Miss Avery was "technically guilty," she was not guilty of criminal intent. The defendant, he said, lost $50,000, all that she

MISS AVERY GETS THREE-YEAR TERM

Sentenced to Prison for Obtaining Money Under False Pretences.

March 21, 1933.

DID NOT BENEFIT HERSELF

Cash from Illegal Mortgage Deals Wiped Away in Her Efforts to Save Her Clients

Sentences of three years in State Prison on each of two charges of obtaining money under false pretences in connection with mortgage transactions were imposed by Judge Jeremiah E. O'Connell in Superior Court yesterday upon Miss Florence E. Avery, 53, owner of the Edward McCabe and Son real estate agency. The sentences are to run concurrently.

Miss Avery, adjudged probably guilty after trial in district court Feb. 7, was held for the grand jury under $11,000 bail. Unable to raise bail, she had spent the intervening time in the Woman's Reformatory at Howard, where she will serve the sentence imposed yesterday. She waived grand jury action on the two cases, being arraigned yesterday on the bind-over complaints, to which she pleaded nolo through Joseph W. Grimes, her lawyer.

She was charged with obtaining under false pretences $3500 each from Louise C. Brinkerhoff of 210 Waterman street and Mary A. Grimley of 784 Branch avenue.

Judge Condemns Transactions

In imposing sentence, Judge O'Connell declared that the offences were worse in Miss Avery's case than they would have been in the case of a person who didn't understand real estate transactions. He emphasized that in each of the two cases the mortgage was not a first mortgage, but actually a third mortgage, while in one case there also was an attachment acting as a prior lien. He said he knew she realized the difference between mortgages and the need of exactness in real estate instruments.

Judge O'Connell said he doubted that Miss Avery had made money by the transactions, and expressed the opinion that she had lost both her own money and that of other persons as well. He said he had to decide the cases on the facts actually before him and that he could not allow himself to be swayed by popular clamor, prejudice or sympathy, due to newspaper accounts of the case.

Miss Avery yesterday showed no signs of having suffered from her detention since January. She appeared calm throughout the court proceedings and showed no agitation when Judge O'Connell imposed sentence.

Assistant Attorney General Michael DeCiantis told the court in the Brinckerhoff case the facts showed that Miss Avery received on May 27, 1932, $3500 on property at 17 Pleasant street, Wickford, which she represented as valued at $14,000 and free and clear of encumbrances. An investigation has shown, Mr. DeCiantis said, that the proper was taxed only for $3500 and that th were already two prior mortgages on one for $1700 and one for $4500.

Cites Acts of Fraud

In the Grimley case, Mr. DeCiant declared, Miss Avery received a $350 mortgage on Aug. 28, 1929, from Edwar Byrne and his wife on property on Ridge way avenue, Warwick, which she claime to own. This mortgage was transferre on the same day to Mrs. Grimley, onl a few minutes intervening between th recording of the deeds. It was late found, the Attorney General said, tha Miss Avery did not own the property a the time and that Byrnes and his wif did not know what they had signed. H added that while Miss Avery told Mr Grimley that the property was unencum bered, there were already two mortgage on it, one for $1200 and one for $360 together with an attachment represent ing an additional prior lien.

The two clients, knowing little abou business, had trusted Miss Avery an placed everything in her hands, Mr. De Ciantis declared. The defendant, wh knew what she was doing, the prosecu tor said, had violated the trust, with th result that two women had lost every thing, "victims of fraud and misrepre sentation."

Mr. Grimes agreed that his client wa technically guilty and that there ha been a breach of trust, but said she wa guilty in a form quite different fro that of a criminal respondent. He assert ed that Miss Avery had lost more tha $50,000 in an effort to protect the inter ests of the holders of second mortgage whose money she had invested.

Was Caught in Slump

Every cent that was received from an source by Miss Avery for investment o other purposes, the attorney said, wa regularly and orderly entered in cas and check books of the firm and dis bursements were shown in the same or derly fashion, with no money taken ou for herself. He pointed out that amon Miss Avery's customers were numerou investors legitimately investing in sec ond mortgages and said that when th real estate market slumped she spent al she had to save the properties in an at tempt to protect the second mortgages.

Mr. Grimes further asserted that Mis Avery's records, now in possession of th bankruptcy court, show that she ha benefited in no wise herself and all he money was lost in an attempt to tid over real estate for the period of the de pression. He pointed out that last fal she was taxed in her own name in Provi dence, Warwick and Cranston for mor than $50,000 and said this money would have been sufficient to pay back claim against her had she not lost it. Hi client, he summed up, was technically guilty but not in intent.

Dec. 5

Henry D. Bellin
William H. Peacock
Arthur L. Brody
Irving Pollay
Benjamin Saxe
Joseph Golden

SIX PUT ON TRIAL ON FRAUD CHARGE

Accused of Plot to Take More Than $50,000 from R. I. Mortgage Security Corp.

CASE MAY CONSUME WEEKS

Many Witnesses to Be Called. Jury Trial Waived; Deputy Bank Commissioner Testifies

Testimony by Edward J. Littlefield, deputy bank commissioner, regarding records in connection with the Rhode Island Mortgage Security Corp., whose sale of stock in Rhode Island was ordered stopped on Feb. 5, 1930, occupied the opening yesterday of the trial of six defendants on a charge of conspiracy to defraud the corporation and its stockholders of more than $50,000 between Feb. 1, 1928, and Sept. 13, 1929.

The defendants, Henry D. Bellin, a Providence attorney; William H. Peacock, a Pawtucket real estate man; Irving Pollay and Benjamin Saxe, both of Boston, and Joseph Golden and Arthur R. Brody, both of Brookline, Mass., went to trial before Judge Charles A. Walsh in Superior Court after waiving a jury trial.

Long Trial Likely

Because of the number of witnesses scheduled to be called, it is expected the trial will last at least three weeks. Bellin is represented by Frank H. Bellin. James J. McGovern of McGovern & Slattery is counsel for Peacock. The four other defendants are represented by Anthony V. Pettine and Edward L. Godfrey of Pettine, Godfrey & Cambio, and Maurice Jacobs of Boston. Isadore S. Horenstein appears for Arthur L. Conaty, receiver for the corporation.

Mr. Littlefield, who still was under cross-examination by Mr. Pettine at adjournment yesterday afternoon, testified at length under direct examination by Assistant Attorney General Michael DeCiantis, representing the State, regarding records filed in connection with the corporation's activities during the regime of the late George H. Newhall, Bank Commissioner.

Because of defence objections, Mr. DeCiantis was prevented yesterday from having Mr. Littlefield state whether the Bank Commissioner's department had received any notification of a purported special meeting of the corporation's stockholders on June 9, 1928, voting to give 1000 shares of the common stock, valued at $50 a share, to Pollay as a bonus.

Minute Book Presented

Mr. DeCiantis first presented the witness a minute book and asked Mr. Littlefield whether any report had ever been made of the special meeting recorded. Mr. Pettine objected both on the grounds that the book had not been properly identified and also that there was nothing in the bill of particulars that the defendants, in furtherance of the alleged conspiracy, had caused any false reports to be made.

Judge Walsh remarked that Mr. Littlefield had testified that the corporation made application for the sale of stock on April 23, 1928, and received the approval of the Bank Commissioner on May 12, 1928. The court asked what application the question had, and Mr. DeCiantis replied that the State takes the position that the stockholders' meeting was never reported and that what was reported was the incorporators' meeting when the corporation was organized and officers elected.

Declaring the Bank Commissioner had never had notice there were 1000 shares of stock outstanding as a bonus, Mr. DeCiantis added that this was one of the means by which the defendants secured 1000 shares, when it was their duty to report.

After Judge Walsh upheld Mr. Pettine's objection, Mr. DeCiantis asked Mr. Littlefield whether the Bank Commissioner had ever had notice of the issuance of 1000 shares of stock as bonus to any person. Mr. Pettine again objected, saying he knew of no law that required such a report.

Rules Question Out

Mr. DeCiantis argued that the report was required to acquaint the commissioner there was such stock outstanding, as this was one of the means by which the corporation could be deprived of stock by illegal means. Judge Walsh ruled the question was inadmissable unless the State could show an obligation to make the report. This Mr. DeCiantis was unable to do.

Mr. Littlefield testified that according to the corporation's application to be permitted to sell stock, common and preferred stock were each to be sold at $50 a share, only in Rhode Island.

According to a statement filed with the bank commissioner on Jan. 8, 1929, dated Nov. 30, 1928, and signed by Augustus A. Greene as president and Henry D. Bellin as secretary and treasurer, Mr. Littlefield said, there was a negative answer to the question whether there was any change in the nature of form of the corporation's business, the plan adopted for the sale of stock, advertising matter or prospects, the selling price, or the percentage of commission paid on sales.

To a question in the statement whether there were any changes in the articles, amount of capital stock or par value of shares, the answer was "not any of record," the witness said.

Names of Salesmen

Names of salesmen for the stock, Mr. Littlefield said, were given as Benjamin Saxe, 17 Flint street, Dorchester; Arthur R. Brody, Crown Hotel, Providence; M. P. Eisenberg, 50 Brunswick street, Boston; S. L. Landey, 1754 Commonwealth avenue, Brighton, Mass., and J. Golden, Crown Hotel, Providence.

It was brought out from the statement that the commission and other selling costs were not to exceed 25 per cent. of the selling price of the stock. Mr. Littlefield said that according to the records, which showed the corporation's assets as $6362.60 as of April 28, 1928, the total stock subscribed and outstanding up to Nov. 30, 1928, was $224,550. Intangible assets, incorporation, legal fees, advertising and other expenses were listed as $70,951.46, he said.

"Is that in excess of the limitation of 25 per cent. fixed by your department?" inquired Mr. DiCiantis, but Judge Walsh sustained a defence objection, saying that question was up to him and not to the witness.

According to another record read by Mr. Littlefield, the corporation's first meeting was held April 23, 1928, in Room 938, Hospital Trust building, and directly after the meeting of the incorporators there was a meeting of the directors, comprising Augustus A. Greene, William H. Bowker, A. Henry Klein and Henry D. Bellin. Greene was elected president, Bellin treasurer and secretary, and Klein assistant treasurer, according to this record, while Klein, Bellin and Greene were named executive committee members.

One Statement Admitted

Of the directors' statements filed with the bank commissioner under a rule of that department, only that of Bellin was admitted as an exhibit at this time, and allowed to be read. The other three were allowed to be marked for identification when Mr. DeCiantis assured the Court he would connect them up with the defendants later.

In his statement, dated in April, 1928, Mr. Bellin stated he was born in Russia Sept. 5, 1882, and was a lawyer, with his office in Room 938, Hospital Trust building, and his home at 444 Angell street.

He stated he had purchased for $1500 cash 1500 shares of Class A stock of the corporation and 1500 shares of Class B stock, and that he had no written contract for additional stock nor any verbal or secret agreement with any officer regarding more stock.

No salary was paid him by the corporation, he stated, adding that he expected to examine titles for the corporation and charge the usual counsel fee.

Concludes Examination

Mr. DeCiantis concluded his examination of Mr. Littlefield by asking whether Pollay between April 23, 1928, and Sept. 13, 1929, had received permission to act as a broker or salesman for the sale of the corporation's stock. Mr. Littlefield replied he did not find any such record.

Under cross-examination by Mr. Pettine, Mr. Littlefield said he could not say whether conferences were held between Mr. Newhall, Mr. Bellin and Charles P. Sisson, then Attorney General, regarding the incorporation of the mortgage security firm. Mr. Littlefield added that he knew there were several conferences, but he did not know who participated.

"We'll bring Mr. Sisson in if you want. We can't bring Mr. Newhall in, he's dead," said Mr. Pettine, as Mr. DeCiantis remarked that he expected counsel was prepared to show conferences were held.

Mr. Littlefield admitted that whereas a stop order was issued against the sale of the stock on Feb. 5, 1930, this was not during the period covered by the indictment. He also testified that Mr. Newhall gave permission for the sale of the stock, and the license was renewed after the statement was received showing costs of $70,951.46. The license, which was a broker's license, would not have been renewed if the corporation had not complied with the rules, he said.

References Investigated

He admitted that the Bank Commissioner's department had investigated and approved references given by Saxe, Golden and Brody when they applied for permission to sell stock, and added that there were no records to show that they had any other connection with the corporation except as salesmen. Neither was there any official record involving Pollay with the organization of the corporation, he said. He said it was not customary to notify salesmen they could not charge over a certain per cent. in selling stock.

Mr. DeCiantis outlined the State's case in a statement to the court as the trial opened.

What State Charges

The State will show, Mr. DeCiantis said, that as a part of the conspiracy charged in the indictment, Pollay and Bellin schemed together and caused the Rhode Island Mortgage Security Corporation to be formed under the laws of this State on April 23, 1928.

Pollay advanced the moneys necessary to create and organize the corporation, Mr. DeCiantis said, and Pollay and Bellin schemed and reserved to themselves voting control of the corporation and at all times dominated and directed its affairs through its officers and executive committee.

It would further be shown, Mr. DeCiantis continued, that in furtherance of the conspiracy, Pollay was to supervise the sale of the corporation's stock and Bellin was to be its general counsel and general manager.

By various false representations and concealments in its application to sell stock to the Rhode Island public, the corporation induced the State Bank Commissioner to permit the sale of the stock on May 12, 1928, in accordance with the restrictions contained in the application made under oath, Mr. DeCiantis added.

He said it would be shown that the preferred and common stock of the corporation was offered for sale to the public in units, consisting of two shares of preferred and one share of common, at the price of $150 per unit, and that several persons subscribed and paid for stock in the corporation prior to June 9, 1928.

Describes Scheme

On or about the latter date, Mr. DeCiantis said, Pollay and Bellin in furtherance of the conspiracy, schemed to

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deprive the corporation of approximately $50,000, represented by 1000 shares of its common stock, then being sold to the public in Rhode Island at $50 per share, by causing to be recorded in the minutes of a purported special meeting of the corporation's stockholders a resolution giving to Pollay 1000 shares of its common stock as a bonus, and in addition to any fees that might be paid to him.

"We will further show," continued Mr. DeCiantis, "that a vigorous stockselling campaign in this State was planned, conducted and supervised by Pollay with the assistance of the defendants Golden, Brody and Saxe. That in prosecution of this stockselling campaign, the Rhode Island Mortgage Security Corporation was unlawfully deprived of an amount exceeding $25,000, being the excess of the amount permitted by the Bank Commissioner to be incurred as the cost of selling the Rhode Island Mortgage Security Corporation's stock.

"We will further show you that in furtherance of the previous scheme to deprive the Rhode Island Mortgage Security Corporation of 1000 shares of its common stock, Bellin caused the Industrial Trust Company, the registrar and transfer agent of Rhode Island Mortgage Security Corporation, to issue on or about Oct. 30, 1928, in the name of Irving Pollay 1000 shares of common stock of Rhode Island Mortgage Security Corporation.

Accuses Pollay, Bellin

"We will further show you that the defendants, Pollay and Bellin, with the assistance of the defendant, Peacock, conspired to and did abstract from the funds of the Rhode Island Mortgage Security Corporation the sum of $20,000 during the month of November, 1928, for their own use and benefit. That in furtherance of this scheme, two fictitious loan accounts were set up on the books of the Rhode Island Mortgage Security Corporation and that the defendants conspired to and caused false entries to be made to extinguish and eliminate these two fictitious loan accounts to the detriment of the Rhode Island Mortgage Security Corporation.

"We will further show you that the defendants in pursuance of the conspiracy to cheat and defraud the Rhode Island Mortgage Security Corporation unlawfully diverted subscriptions made to it for its stock and the amounts paid therefore by subscribers, amounting to over $52,000."

Mr. DeCiantis concluded his statement by saying it would be shown that all of the defendants participated in the conspiracy by which the corporation and its stockholders were defrauded.

Dec. 6, 1933

THE

PROMINENT NAMES INJECTED AT TRIAL

Ex-Gov. San Souci Among Those Asked to Become Director of R. I. Mortgage Firm.

SIX FACE FRAUD CHARGES

Accused of Conspiracy to Defraud Corporation and Stockholders of More Than $50,000

Names of several prominent Rhode Islanders who accepted invitations to become directors of the Rhode Island Mortgage Security Corporation, and others who refused to accept, were injected yesterday into the trial of six defendants before Judge Charles A. Walsh in Superior Court on a charge of conspiracy to defraud the corporation and its stockholders of more than $50,000 between Feb. 1, 1928, and Sept. 13, 1929.

Among the names entered on the record were those of ex-Governor San Souci, Ezra Dixon, William A. Schofield, Jeremiah E. O'Connell and Augustus A. Greene.

Defendants in the case are Henry D. Bellin, a Providence attorney; William H. Peacock, a Pawtucket real estate man; Irving Pollay and Benjamin Saxe, both of Boston, and Joseph Golden and Arthur R. Brody, both of Brookline, Mass.

Mrs. Horowitz Takes Stand

Introduction of the names of the directors resulted from the testimony of Mrs. Dorothy Horowitz, the former Miss Dorothy Marks, who was employed in Bellin's office from Feb. 1, 1928, to Sept. 13, 1929, and worked for the corporation. She identified carbon copies of correspondence between Bellin and Pollay, representative of the Franklin Mortgage Corporation, Boston, and also office records of Bellin, pertaining to activities leading up to the incorporation.

A copy of a letter dated May 3, 1928, in which Bellin wrote Pollay he would deliver to the latter 1000 shares of class A stock of the corporation "as a bonus for your services," was among the papers introduced.

The State contends that subsequent issuance of this "bonus" stock to Pollay, which, according to testimony, was never reported to the bank commissioner, was part of the alleged plot to defraud.

On March 3, 1928, testimony showed, Bellin wrote Pollay that a banker in the Hospital Trust building had signified his willingness to help organize the board of directors for the corporation, and had suggested "some good names" for the board. A letter March 13 informed Pollay that the "party" helping to get the board had said he would have letters of acceptance from seven men by the end of that week.

Five Directors Lined Up

An office record of March 13 showed, it was brought out, that on that date Bellin conferred with a Mr. Howard in the latter's office, and Howard said he had five directors who would write letters of acceptance.

Bellin's office record for March 29 noted "seeing Mr. San Souci re director," and a subsequent office record dated April 2 included notation of a conference with Jeremiah E. O'Connell, who since has become an associate justice of the Superior Court, and the latter's approval of the proposal that he serve on the board. On April 6, at a conference, Pollay approved of the proposed board of directors, another record noted.

Advancing $400 "reluctantly" for incorporation expenses, Pollay and Golden on April 17, another slip showed, "state they will not advance the remaining $3000 until Schofield and San Souci signify in writing their willingness to serve on the board of directors."

Bellin's office slip of April 23 included the notation "Obtaining letter from Schofield to act as director. Conference G. A. Jepherson and obtaining his approval and promise to send letter as directed."

Announcement of the organization of the corporation and names of several directors was made in a letter to Pollay from Bellin, dated April 23, 1928, as follows:

Corporation Is Organized

"Dear Sir—I beg to report that subsequent to the obtaining of the articles of association, we have this day organized the corporation.

"The following have signified in writing their willingness to serve on the board of directors, viz.:

"William A. Schofield, president of Mortgage Guarantee and Title Company.

Jeremiah E. O'Connell, former Congressman from Rhode Island and proposed Democratic nominee for Governor.

"Augustus A. Greene, retired jewelry manufacturer.

"William H. Bowker, real estate dealer.

"A H. Klein, salvage dealer.

"This afternoon the following named gentleman indicated orally his willingness to serve on the Board and stated that he would send me a letter of acceptance this afternoon, viz:

"George A. Jepherson, lumber dealer, formerly director of Westminster Bank.

"I am now prepared to work on the matter of obtaining Ex-Gov. San Souci's acceptance and shall take that matter up tomorrow morning. If I succeed in that, we will be prepared to begin operations by filing our statement with the Bank Commissioner after which the sale of stock may be started.

Perry's Name Is Mentioned

"Mr. Klein stated yesterday that if we desired him to work further on the acetpance of Mr. Perry of the National Bank of Commerce, he would be glad to do so, and he believes that he can secure his approval."

On April 26, another copy of a letter disclosed, Bellin wrote to Pollay as follows:

"Dear Sir. I am enclosing herewith booklets of the Phoenix National Bank of Providence. I have spoken to some of the officers there with reference to obtaining one of their men to be represented on the board of directors of the Rhode Island Mortgage Security Corporation. They suggested Frederick W. York, assistant cashier, who is a very good man for our purposes, and I believe that he will accept the position and mail me his acceptance.

"Since you stated over the telephone yesterday that you thought we ought to build up our board of directors to 10, I have been working on some other names and with the one referred to, it would bring the number of the personnel up to eight. I also have secured an excellent man to take care of the application for permission to sell stock. I would suggest that no further time be lost in getting the company started as it will be well into the month of May and approaching summer before we are able to get our literature, certificates, office and other matters necessary to begin doing business.

"P. S.—Ex-Governor San Souci. . ."

"P. S.—Ex-Governor San Souci is still confined to his home with illness and I believe I shall be able to see him early next week."

Bellin's office record of April 30 noted that he had held conferences with Pollay and Judge O'Connell, and a record dated May 2 disclosed that Judge O'Connell gave Bellin a check for $1000 for 1000 units of stock.

Bellin recited in this record that Judge O'Connell offered the check for Class A and Class B stock, and insisted upon making the purchase even after being informed by Bellin that buying stock was not required in consideration of being a director. Bellin said he himself would control the voting power, and would increase votes by capitalization, according to the record. He said he also explained that the common stock was subservient to the preferred in the matter of dividend.

A conference with T. J. McGauley, attorney, relative to the Bank Commissioner's report on the corporation, was held by Bellin May 3, according to the office record for that date. Here Bellin noted that he urged the report be sent through by May 12 so selling could start the week of the 14th. In a letter to Pollay May 15, Bellin wrote he had not heard further from Mr. McGauley.

Office To Be Required

In a leter to Pollay May 4, in which he pointed out Mr. San Souci was not at his office that day, Bellin wrote that he had informed Mr. Schofield an office would be required as soon as word came from the Bank Commissioner, and a year's lease would be taken. Schofield informed him, according to the letter, of an attempt to secure the 10th member of the board, and Bellin advised he must be a "very high type" of business man.

"Already there are several applications for mortgages, most of them very good, and I guess there will not be much trouble in placing the money when it comes in," this letter concluded.

Bellin wrote to Pollay on May 8, according to a further copy, that the directors had met the day before, remaining directors had been added to the board, and possibly before the end of the week the Bank Commissioner might grant permission for the sale of stock. In this letter he asked suggestions for a circular, and advised Pollay, "If there are any preparations you think we can take without any risk, I am fairly confident the Bank Commissioner will approve."

On May 15, according to an office record, Bellin conferred with Pollay and a man named Davidson and examined offices for the corporation at 85 Westminster street. Another conference was held with Schofield relative to a lease and a letter for the corporation, and also with Yorke relative to a similar letter, according to this record.

Abandons Hope for San Souci

Bellin on May 16 definitely gave up hope of getting Mr. San Souci as a director, he indicated in another letter to Pollay in which he explained that Mr. San Souci was extremely ill at home and not expected at his office for a number of weeks. "It was hinted he may not return at all," Bellin wrote.

He then referred to "the man I pointed out to you yesterday in a lunch room." Ezra Dixon, and remarked that Mr. Dixon, a director in three large manufacturing companies, the Industrial Trust Company, Industrial Holdings and other firms, was "keen and alert" even though over 70 years of age, and would make a "great addition" to the board.

Two days later, on May 18, an office record showed, Bellin held a conference "with Mr. Plante of the Blackstone Canal Bank and obtained his promise to act as financial counsel and on the finance committee."

Further records introduced showed that Bellin on May 3 received $3000 from Pollay, gave a promissory note "without interest" in return, and paid the debt Nov. 3, that year. In a letter dated May 3, it was brought out, Bellin wrote Pollay he would deliver to him 1000 shares of Class A stock "as a bonus for your services."

Is Skeptical of Charter

A copy of the charter of the Franklin Mortgage Corporation of Boston, which had been submitted to Bellin by Pollay and which had been modified by Bellin and taken up with the Secretary of State, Bank Commissioner and Attorney General in this State, was characterized by the Bank Commissioner as "too broad" and "bordering dangerously on banking powers," according to Mrs. Horowitz.

Statements filed with the Bank Commissioner by three of the directors, Abraham Henry Klein, William H. Bowker and Augustus A. Greene, which previously had been admitted only for identification, were allowed by the court to go in as exhibits for the State yesterday.

Mr. Klein, treasurer, director and chairman of the corporation's executive committee, said in his statement that he had paid $3000 cash for 3000 shares of Class A stock and 3000 shares of Class B stock. He said he was of the firm of Klein & Sons, with his business address at 108 Chalkstone avenue and his home at 331 Elmgrove avenue. He said he received no salary in the mortgage corporation, nor was to be paid any commission on the sale of stock.

Bowker Paid For His Stock

Mr. Bowker, real estate man at 937 Hospital Trust Building, living at 72 Summit avenue, said in his statement that he had paid $500 cash for 500 Class A and 500 Class B shares of stock. He also said he was not to receive any salary or commission, but added he expected to act as one of the corporation's three experts to appraise property.

Mr. Greene, real estate dealer, who gave his business address as 47 Barnes street and his home address as 43 Barnes street, stated he paid $1000 cash for 1000 shares of class A and 1000 shares of class B stock. He was president, director and member of the executive committee, according to the statement. He said he received no salary and was not to get any commissions.

No notification was made to the Bank Commissioner's department of an issuance of 1000 shares of stock to Pollay as a bonus, Deputy Bank Commissioner Edward J. Littlefield testified.

Defence Overruled

Mr. Littlefield's denial that his department had been notified of issuance of bonus stock to Pollay, said to have occurred at a purported special meeting of the stockholders on June 9, 1928, was finally brought out by Assistant Attorney General Michael De Ciantis, after the court had overruled defence objections to the testimony.

Referring to a statement filed by the corporation with the bank commissioner early in January, 1929, Judge Walsh, in overruling objections of Anthony V. Pettine of defence counsel, said that if the corporation in its certificate had failed to divulge information that might or might not influence the bank commissioner, then Mr. De Ciantis's query regarding bonus stock was material.

Assuming the corporation had given 1000 shares of stock to one of its salesmen in addition to salary and the fact didn't appear on the record, then it was an element in the case, Judge Walsh added in allowing the question.

1960 Shares Issued

Mr. Pettine, in cross examination, brought out from the witness that listed in the company's stock in the statement were 5000 shares of common stock with no par value authorized and 1960 shares of this amount issued.

"Then how do you know Pollay's stock was not reported?" Mr. Pettine asked. Mr. Littlefield said that if the bonus stock were issued it should show in the statement.

Mr. De Ciantis then questioned Mr. Littlefield and showed that whereas the statement listed 1960 shares of stock with no par value issued, the common stock outstanding which it was reported was to be sold for $50 per share totaled in value only $48,000.

Mr. Pettine started to question Mr. Littlefield regarding 12 directors listed on the statement and asked whether the records disclosed if the directors each got 50 shares of stock as a bonus.

Mr. De Ciantis objected, and a recess was taken at this point to permit Mr. Pettine to examine the records in Mr. Littlefield's folder.

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Dec. 9

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SPLIT COMMISSIONS REVEALED AT TRIAL

Records of R. I. Mortgage Security Corp. Show How Fees Were Divided for Salesmen.

30 P. C. USUALLY WAS PAID

Mysterious "John A. Anderson" Figures In Dealings; Six Accused in Fraud Case

How commissions of 30 per cent. were split after sales of stock in the Rhode Island Mortgage Security Corporation, which the State claims came from 1000 shares given as a bonus to Irving Pollay of Boston, sales manager, was shown yesterday in records introduced at the trial of six defendants on a charge of conspiracy to defraud the corporation and its stockholders of more than $50,000. Judge Charles A. Walsh is hearing the case in Superior Court without a jury.

Details of more than 20 of 71 stock sales to be introduced were brought out in the trial yesterday afternoon as Assistant Attorney General Michael DeCiantis continued to produce evidence on which the State bases its case against Pollay, Henry D. Bellin, a Providence attorney; William M. Peacock, a Pawtucket real estate man; Benjamin Saxe of Boston and Joseph Golden and Arthur R. Brody, both of Brookline, Mass.

Signature Is Identified

Transactions involving checks of $20,000 to Peacock and $13,000 to Pollay were previously shown by Mr. DeCiantis through the testimony of Mrs. Dorothy Horowitz, former stenographer for Bellin, who identified Bellin's signature.

Checks made out to Peacock, both signed by Bellin as treasurer of the security corporation, were for $15,000, dated Nov. 9, 1928, and for $5000 dated Nov. 1, 1928. Both bore Peacock's indorsement and a further indorsement by Bellin for the Bellin Realty Company. Bank perforations showed the $15,000 check was paid Nov. 13 and the $5000 check Nov. 2.

Pollay, it was shown, received two checks, one for $10,000 and the other for $3000, both dated Nov. 13, 1928, and both signed by Bellin for the Bellin Realty Company and made out payable to Pollay. Both were indorsed by Pollay. Anthony V. Pettine of defence counsel said counsel agreed that a $3000 note made out by Bellin to Pollay on May 3, 1928, was paid with the $3000 check.

"John A. Anderson" Signs

In two instances in which salesmen signed receipts for commissions in which they acknowledged having received the money from "John A. Anderson" the Anderson name was written in and was in Bellin's handwriting, according to Mrs. Horowitz. In several cases the receipt did not signify from whom the money was received. Golden and Brody allegedly split commissions in many of the sales disclosed yesterday.

Before introducing the sales records, Mr. DeCiantis told the court that the subscriptions the State would put in evidence were for common stock of the corporation amounting to more than $52,000, but were not recorded on the records of the corporation. The State contends Pollay's bonus stock was used to fill the orders.

Sales of the common stock at $50 a share, for the number of shares given, were shown to have been made to the following:

Edwin Hodgkiss, 77 Ford street, Providence, 11; John R. Chippendale, 1051 Broad street, Providence, 10; Robert A. McLaughlin, 101 Second street, Woonsocket, 10; Alfred J. and Eliza M. Boutin, 117 Pullen avenue, Pawtucket, 20; Walter H. Jenison, 31 Pettaconsett avenue, Cranston, 20; Archer F. Williams, 14 Bernard street, Providence, 15.

J. W. and Mary L. Coombs, Little Compton, 20; Mrs. Bena Killion, 56 Calla street, Providence, 15; Margaret A. Beckett, 34 Camp street, Providence, 20; Henry N. McClure, 36 Berkley avenue, Newport, 3; Mary L. Betencourt, 11 Sheldon street, Providence, 1; Eleanor and Henry F. Thomas, 29 Hastings street, Providence, 6; Mary Anna McNally, 26 Watson street, Central Falls, 5.

Other Names Entered

Wilfred H. Munro, 115 Butler avenue, Providence, 8; Harriette E. Walker, 59 Warren street, Providence, 12; Lucretia Mott Ball, Block Island, 14; Sam Dolbey, 788 Hartford avenue, Johnston, 150; Ida E. Whitman, 260 Lonsdale avenue, Pawtucket, 20; Howard S. Proctor, 170 Spring street, East Greenwich, 20.

Whereas Charles A. Mann of 166 Doyle avenue, Providence, paid $50 apiece for 30 shares, he paid $75 apiece for 20 other shares of the common, a record showed. Joseph Capaldi of Conimicut was listed as having paid $75 for one share of the common and later buying 10 more shares.

On a receipt signed by Golden in which he acknowledged receiving $165 from "John A. Anderson" as commission on the $550 sale to Mr. Hodgkiss, the Anderson name was in Bellin's handwriting, according to Mrs. Horowitz. She also testified that Bellin wrote the Anderson name in a commission receipt signed by Golden in the transaction with Harriette E. Walker.

In the $500 sale to Mr. Chippendale, Brody signed a receipt for $112.50 commission, the person who paid him not being named, and Golden signed a receipt saying he had received $37.50 from John A. Anderson as a commission on the same transaction. Brody was listed as the salesman in this instance.

Although Brody sold the 20 shares to the Boutins, and receipted a $225 commission, with the name of the person paying it being omitted, Golden received $75 from John A. Anderson as a commission on the same sale, according to the records.

Golden Gets Share in Fees

L. Brusket sold 20 shares to Mr. Jenison, records showed, but Golden received a $300 commission on the $1000 sale from John A. Anderson. Likewise, while Brusket sold 15 shares to Mr. Williams, it was Golden who received the 30 per cent. commission, $225, from John A. Anderson, according to another receipt.

After selling 20 shares for $1000 in the Coombs transaction, Brody received a commission of $212.25 from Golden, who collected $300, or 30 per cent., from John A. Anderson, other receipts showed.

Golden receipted for a $225 commission after Brusket had sold Mrs. Killion 15 shares for $750, according to a receipt naming John A. Anderson as the one who turned over the fee. However, in the $1000 Beckett sale, Brody was paid $225, the receipt not showing by whom, and Golden received $75 from John A. Anderson.

From the $250 paid by the purchaser in the McNally transaction, Brody, who made the sale, received a fee of $56.25, while Golden's was $18.75, receipts showed.

When Mr. Dolbey in the first transaction into which he entered purchased 100 shares from Saxe, records showed, he paid $2500 and gave a $2500 note for the balance. Saxe received a $1000 commission for the sale, while Pollay got $250 "for selling 5000 common stock," according to receipts among the records.

Bellin's Writing Again

In Bellin's handwriting, notes accompanying the record in this sale carried among other notations the remark, "credit on Peacock $5000 note $5000," followed by three question marks, Mr. DeCiantis brought out. There was also a notation, "discount Dolbey $2500 note for $2000," and a further notation, "credit Peacock $5000 note $2500."

When Mr. Dolbey later bought 50 more shares for $2500, a receipt signed by Saxe acknowledged receipt of $500 from the Rhode Island Mortgage Security Corporation "as proceeds on note due Feb. 25." Golden signed a receipt for a $187 fee in this transaction.

Notes in Bellin's handwriting marked "secret," and discussing the payment of commission to the salesmen, accompanied the records in the Mann transaction.

Mr. Pettine yesterday sought to have Mr. DeCiantis agree to have the evidence regarding the numerous transactions introduced in more compact form, to hasten the trial, but after the prosecutor explained it was necessary to take up each matter separately to bring out certain points, Judge Walsh ruled that the State might put in the evidence as it saw fit.

Dec 9, 1933

RECEIPT INDICATES BELLIN GOT STOCK

Paper Introduced in Mortgage Firm Case Also Indicates He Paid Pollay $10,000.

1000 SHARES TRANSFERRED

Many Later Sold to Subscribers at $50, $60 or $75 a Share, According to Testimony

A receipt showing that Irving Pollay of Boston, sales manager of the Rhode Island Mortgage Security Corporation, who was issued 1000 shares of stock as a bonus, received $10,000 for the stock from Henry D. Bellin, general manager, secretary and treasurer, was introduced in Superior Court yesterday. Many of the shares, according to testimony, were later sold to subscribers at $50, $60 or $75 a share and not listed on the corporation's books.

Charged with conspiracy to defraud the corporation and its stockholders of more than $50,000, Pollay, Bellin, a Providence attorney; William M. Peacock, a Pawtucket real estate man; Benjamin Saxe of Boston and Joseph Golden and Arthur R. Brody, both of Brookline, Mass., are on trial before Judge Charles A. Walsh, without a jury.

First Week of Trial Ends

The trial, which is expected to last three weeks or more, ended its first week yesterday afternoon with Mrs. Dorothy Horowitz, former stenographer for Bellin and later for the corporation, still under cross-examination. Proceedings yesterday disclosed many more of the stock sales the State links to the alleged conspiracy. Names of officers, directors and advisory board members of the corporation were read into the record.

In the intensive stock-selling campaign waged throughout Rhode Island by the corporation's sales staff during the spring and summer of 1929, bank books were taken from purchasers in some instances and returned to the owners only after the necessary money had been withdrawn to pay for the shares, evidence yesterday showed.

The Rhode Island Mortgage Security Corp. was absorbed by the Consolidated Mortgage and Investment Corp., of which Arthur L. Conaty is receiver. Mr. Conaty and Meyer Millman, former auditor for the security corporation, with Isadore S. Horenstein as counsel, are assisting Assistant Attorney General Michael DeCiantis in the prosecution.

Before adjournment Judge Walsh complied with the request of Anthony V. Pettine of defence counsel and directed Mr. Conaty to allow Mr. Pettine access over the week-end to books containing the various transactions involved in the case. Judge Walsh declined, however, to permit James J. McGovern of McGovern & Slattery, counsel for Peacock, to see an alleged confession claimed to have been signed by Peacock.

Minutes Approved

Cross-examining Mrs. Horowitz, Mr. Pettine brought out yesterday afternoon that minutes of the corporation showed that stockholders at their annual meeting Jan. 9, 1929, with a quorum present, unanimously approved minutes of a special meeting of stockholders held June 9, 1928, when Pollay was voted 1000 shares of common stock.

Bellin as secretary signed the minutes of this special meeting. Mrs. Horowitz read from the records, and the minutes were approved and signed by Augustus A. Greene, William H. Bowker and A. Henry Klein.

At a directors' meeting June 19, 1928, when Messrs. Eisenberg, Landey, Saxe and Golden were employed as salesmen, it was voted to pay them a commission of 12½ per cent. of the gross amount of sales, and also to pay Pollay 10 per cent. of the gross sales effected under his management, according to further minutes read.

The State has offered testimony in an effort to show that expenses of the corporation exceeded the 25 per cent. that Deputy Bank Commissioner Edward J. Littlefield said was fixed as a regulation of his department, and that whereas the corporation's agreement in the application to the Bank Commissioner was that salesmen should receive 12½ per cent., 30 per cent. commissions were paid in many transactions involving the 1000 shares.

Mrs. Horowitz said the salesmen were paid by check, but Mr. Pettine's request of Mr. DeCiantis for the checks drew the statement from the prosecutor that commissions for sale of the 1000 shares were paid in cash.

Doubts Records on Books

"I don't believe those are listed on the company books," said Mrs. Horowitz when Mr. Pettine further questioned her regarding the transactions the State has introduced involving the 1000 shares. "I believe Mr. Bellin kept those in his personal safe."

Mrs. Horowitz said she believed the executive committee always approved all checks issued, and she did not believe any payments were made in cash. Mr. DeCiantis told Mr. Pettine that the State has the checks in the "legitimate" transactions, and offered to let Mr. Pettine look at them, adding that there were many checks paid to salesmen and the State had no contention regarding them. Judge Walsh directed Mr. Conaty to allow Mr. Pettine to inspect the checks.

Names of officers, directors and advisory board members of the corporation were read into the record by Mr. Pettine from a circular.

Directors included Jeremiah E. O'Connell, who later became an associate justice of Superior Court; Mariano Vervena, president and director of the Columbus Exchange Bank, also a member of the corporation's finance committee; Spencer B. Hopkins, director and trustee of the Citizens' Saving Bank, former building inspector; A. Henry Klein of S. Klein & Sons, also assistant treasurer and chairman of the corporation's executive committee; Frederick W. York, assistant cashier of the Phenix National Bank; William H. Bowker, real estate dealer; former Governor William S. Flynn; Augustus A. Greene, former jewelry manufacturer, also president and executive committee member of the corporation; Thomas H. Doane, appraiser and building expert for the city, and George A. Jepherson, lumber dealer.

On Advisory Board

On the advisory board, Mr. Pettine disclosed, were George E. Bixby, treasurer of the Providence Washington Insurance Co.; Samuel Dolbey of the Dolbey Division, General Ice Cream Co.; James E. Thompson, vice-president, director and cashier of the Phenix National Bank; Albert W. Holmes of the Holmes Co., a member of the City Council; Benjamin Mumford, and Robert E. Cooke, a director of the High Street bank.

Bellin was included in the list as general counsel and secretary-treasurer.

After identifying the minutes of an executive committee meeting, Feb 1, 1929, at which a resolution was passed agreeing that Golden should be sales manager, Pollay having transferred his position to Golden, Mrs. Horowitz testified she did not believe Pollay had anything to do with the business after that. She said she did not recall if he appeared at the office from that time on.

Under further questioning by Mr. Pettine she said none of the salesmen had anything to do with the letters included in the 71 transactions in which the State claims the 1000 shares issued to Pollay were sold. The salesmen had nothing to do with the corporation except obtain subscriptions for stock and sign receipts, she said. Whether Pollay had anything to do with the management she did not know, she said.

Mrs. Horowitz said that records of the stockholders' meetings were dictated to her by Bellin.

Pollay's receipt stating he had received $10,000 from Bellin Nov. 13, 1928, for the 1000 shares of stock previously voted to him, was introduced by Mr. Pettine after he had requested and received it from Mr. DeCiantis. Mr. Pettine then had Mrs. Horowitz read from the certificates how the shares of stock were distributed among various subscribers. The witness said Pollay was not working for the corporation when the shares were split up.

Doesn't Know Anderson

Mr. Pettine asked Mrs. Horowitz whether she knew John A. Anderson, whose name appears on numerous receipts as the person from whom commissions were received by salesmen, and which in two cases, Mrs. Horowitz has testified, was in Bellin's handwriting. She said she didn't know Mr. Anderson, but believed him to be an officer or clerk in the Rhode Island Hospital Trust Company, registrar and transfer agent for the corporation.

As the afternoon session opened, Mrs. Horowitz, who was then under direct examination by Mr. DeCiantis, identified a Bellin Realty Company check for $1500 drawn on the Providence National Bank. Mr. Pettine objected and Mr. DeCiantis stated the State was offering the check to show the money was a part of $3000 given to Bellin by Pollay. Previous testimony has shown Bellin gave Pollay a note in return for $3000.

Mr. DeCiantis said the State would show the $3000 was deposited and Bellin hcecked out $1500, $1000 going to Augustus A. Greene and $500 to Bowker. "It was part of the fraud," added Mr. DeCiantis. "Pollay knew certain stockholders were going to act and furnished the money for them to act."

Mr. Pettine protested giving a "suspicious color to a perfectly legal, honorable transaction." Judge Walsh said he could not permit the check to be introduced at this time, as it had not been connected with the charge.

Mrs. Horowitz then identified two collateral notes, one signed by Mr. Greene and the other by Mr. Bowker. Each carried an indorsement by Pollay under the words, "Indorsed without recourse," which the witness said were in Bellin's handwriting. The Greene note was for $1000, while Bowker's was for $500.

Each note specified a promise to pay Pollay within one month from date, April 23, 1928, or else transfer corporation stock which was deposited with him as collateral security. Greene put up 1000 shares of Class A and 1000 shares of Class B, while Bowker's security was 500 shares of Class A and 500 shares of Class B.

After Mrs. Horowitz then identified a letter of Feb. 1, 1929, from Pollay to Bellin asking the latter to make all commission checks payable to Golden, Mr. DeCiantis asked the witness whether in any of the minutes of the corporation there was a record that Pollay had ever offered 1000 shares of common stock to the corporation for purchase by it.

Mr. Pettine stated the defence agreed Mrs. Horowitz would testify, if she examined the records, that there was no such offer from Pollay listed there.

Following were the transactions in which records were introduced yesterday, with the number of shares purchased listed after each purchaser:

Clarence E. Simmons, 9 Woodward avenue, East Providence, 10; Jeremiah Pasquale, 876 Pocasset avenue, 4; Ethel Ormrod, 58 Laura street, 4; Luther C. Baldwin, 275 Angell street, 50; Clinton E. Colburn, 194 Ohio avenue, 20; Jennie M. Paton, 27 Calla street, 4; Annie E. Cousins, 297 California avenue, 8; [illegible]ter E. Ensign, 45 Boylston avenue, 13; Bertha M. Brayton, Hope, 50; George F. Noonan, 23 Florence street, 10.

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Mary A. Noonan, 23 Florence street, 6; Richard S. Canavan, 50 Wakefield street, West Warwick, 10; Eleanor W. Howarth, 45 Bellevue avenue, Providence, 3; William H. Neary, 41 Parade street, 3; Edwin C. and Mary Hodgkiss, 77 Ford street, 9; George M. Chase, 215 Waterman avenue, East Providence, 7; James A. Tyrrel, 16 Bassett street, 10; Arthur N. Stanley, 57 Spring street, Pawtucket, 15.

Luther C. Baldwin, 275 Angell street, 50; Charles A. Brayton, Hope, 10; Charles T. O'Connell, 87 Vandewater street, 10; Katherine G. Lynch, 605 Academy avenue, 5; Mrs. Lina Stachly, 142 Broad street, 2; Walter H. Jenison, 31 Pettaconsett avenue, Cranston, 20; Agnes Olivo, 14 Loveday street, 8; Frederick L. Foster, 20 Moore street, 20; Mildred T. Moore, 47 Daboll street, 3; Florence E. Moore, 47 Daboll street, 3; Luigi Pucci, 361 Atwells avenue, 3; James S. Curren, 89 Wood street, 3; Joseph H. Sullivan, 108 Huxley avenue, 5; Joseph H. Pugh, 25 Osgood street, Manton, 5; Nellie M. Locke, 577 Prairie avenue, 10; Sarah E. Ross, 160 Wendell street, 10.

John J. and Estelle Fleming, 54 Hammond street, 5; Winifred Nolan, 99 Waltham street, Pawtucket, 2; James S. and Beatrice Dunning, 101 Colonial road, 3; Ada B. Crook and James S. Crook, Attleboro, 9; Charles B. S. Tyas, 95 Grosvenor avenue, Pawtucket, 2; Mildred I. Tyas, same address, 2; Benjamin S. and Mildred I. Tyas, same address, 6; Mary L. Whelan, 62 Forrest street, 1.

Edwin W. R. Erickson, 193 Early street, 4; Camille P. Payette, 604 Broadway, 3; Mary A. Lynch, 142 Harris avenue, Woonsocket, 4; Alfred Bessette, 176 Linwood avenue, 3; Lyman W. and Marion King, 54 Hammond street, 5; Bertha and Leo A. Walsh, 750 Third avenue, Woonsocket, 3; Frederick H. Clark, 22 East Manning street, 6.

Bowker. Dec

SAYS STOCK BONUS WASN'T IN MINUTES

W. H. Bowker Claims He Signed Blank Page as Mortgage Security Corp. Official.

STATES BELLIN SO URGED

Six on Trial for Conspiracy to Defraud Firm, Stockholders of $50,000 or More

Admitting that as an incorporator of the Rhode Island Mortgage Security Corporation he signed in blank the final page of minutes of a special stockholders' meeting he had not attended, William H. Bowker, 44, of 72 Summit avenue, real estate and insurance broker, declared in Superior Court yesterday afternoon that later, without his knowledge, a typewritten resolution voting 1000 shares of stock as a bonus to Irving Pollay of Boston, sales manager, was inserted above the signatures.

Bowker explained he signed at the request of Henry D. Bellin, a Providence attorney, who was general manager, secretary and treasurer of the corporation.

"I believed in him. He was a lawyer and I felt he knew more about these things than I did," he added.

Bellin, Pollay, William M. Peacock, a Pawtucket real estate man; Benjamin Saxe of Boston and Joseph Golden and Arthur R. Brody, both of Brookline, Mass., are on trial before Judge Charles A. Walsh, without a jury, on a charge of conspiracy to defraud the corporation and its stockholders of more than $50,000.

Bonus Voted June 9, 1928

Records previously introduced showed that the bonus stock to Pollay, which the State claims was subsequently sold throughout Rhode Island without being listed on the company's books, was voted at a special stockholders' meeting June 9, 1928, and that Bellin signed the minutes as secretary and they were approved and also signed by Augustus A. Greene, president; Bowker and A. Henry Klein.

Bowker was called to the stand by Assistant Attorney General Michael DeCiantis following the testimony of Ralph S. Richards, vice president of the Rhode Island Hospital Trust Company and in charge of its credit and loan department.

Details of an arrangement the trust company had with Bellin in regard to the release of 200 shares of Rhode Island Mortgage Security Corporation stock put up as collateral by Bellin as indorser for a loan to Bellin Brothers, Henry D. and Lewis H. Bellin, were described by Mr. Richards. The arrangement, he said, was for the release of one share of stock for each $35 paid in. When the corporation stock was put up by Bellin he described it as "my property," a letter showed.

Says Bellin Proposed Company

Bowker opened his testimony by stating Bellin had offices next to him at 937 Hospital Trust building, and asked him to go in with him to form a company to secure second mortgages. Bowker said he became interested as one of the incorporators. He was an appraiser on second mortgages and applications, and also a director, he said.

Denying he received any stock, he said that 500 shares of Class A and 500 shares of Class B stock were given him by Bellin, but "taken right back." He said he never took the certificates from Bellin's office. Bellin gave him the shares in April or May, 1928, and "I indorsed them over in blank, to nobody in particular," he said.

"Did you pay for the stock?" asked Mr. DeCiantis.

"Not myself, no," replied Bowker. "The money was given to me by Mr. Bellin."

"Did Bellin tell you where the money was from?"

"Bellin told me Pollay was financing the funds of the corporation," said the witness.

"As a result, did you receive any from anyone?"

Banked, Paid Back the $500

"Mr. Bellin gave me $500 to buy the stock. I put it in the bank and gave Bellin a check for $500 made out to the Rhode Island Mortgage Security Corporation and also a note made out in Pollay's name."

Mr. DeCiantis asked Bowker whether he invested any of his money in the security corporation, but Judge Walsh sustained an objection of Anthony V. Pettine of defence counsel, pointing out the by-laws did not require a director to be a stockholder. Mr. DeCiantis said Bowker appeared as a stockholder at the meeting of June 9, and the State sought to show "this man was nothing more than a figurehead in the corporation."

Bowker then identified his signature to the minutes of the special stockholders' meeting June 9, 1928, and denied he was present, explaining "I signed it at the request of Mr. Bellin."

Bonus Not on Page

Mr DeCiantis referred to the last page of the minutes, which carried the resolution voting Pollay 1000 shares. "Was that resolution on that page when you signed it?" he asked.

"It was not," replied Bowker.

Mr. Pettine opened cross-examination of the witness. "You never met Pollay, never conspired with him to get those 1000 shares, did you?" he asked.

"With Mr. Pollay, no," Bowker as-

serted. "Whatever I did was with Bellin alone."

Bowker explained Bellin used to send the papers in to him to be signed. "I don't think anything was on that page at all when I signed," he said. "Mr. Greene's name generally was ahead of mine in the minutes signatures. Mr. Bellin said I had to sign as an incorporator."

Bowker Repeats Denial

Pressed by Mr. Pettine whether he was at the meeting Bowker reiterated his denial, adding, "I would never authorize to give a man 1000 shares. No."

"You got 550 shares yourself, didn't you?" Mr. Pettine asked. "No," replied Bowker. "You never got 50 shares?" asked Mr. Pettine. "No," was the reply.

Bowker said the names of Greene and Bellin were on the paper when he signed it. He explained that Bellin sent in a loose leaf book to him.

"Did you think your friend Bellin would do such a thing?" Mr. Pettine asked.

"I didn't think so at that time, no," replied Bowker.

"You're a pretty shrewd business man, aren't you?"

"I thought I was," said Bowker.

John A. Anderson, who has previously been brought into the case as the person from whom salesmen by their receipts claimed in many instances to have received 30 per cent. commissions for selling stock, was identified by Mr. Richards in his testimony as assistant manager of the statistical department of the R. I. Hospital Trust Company.

Bellin's Writing

In two instances where the name of Mr. Anderson was written on the receipts, the writing was that of Bellin, according to previous testimony by Mrs. Dorothy Horowitz, former stenographer for Bellin, and later an employe of the mortgage corporation.

Names on the corners of several of the checks identified by Mr. Richards were those of persons who, testimony has shown, bought stock included in the 1000 shares around which the State centres its case. The State says these shares after being issued to Pollay as a bonus for his services as sales supervisor, were sold throughout Rhode Island and never were listed on the company's books.

Opening his testimony, Mr. Richards said Bellin owed money to the R. I. Hospital Trust Company as an indorser and put up 200 shares of common stock of the R. I. Mortgage Security Corporation as collateral. The arrangement was, Mr. Richards said, to release one share of stock on payment of $35 to the Bellin account.

Executive Body Approved

Issuance of 1000 shares of stock of the Rhode Island Mortgage Security Corporation as a bonus to Irving Pollay of Boston for his services in supervising the stock sale was approved by the executive committee of the corporation, Mr. Pettine brought out.

Mrs. Dorothy Horowitz, former stenographer to Bellin and later employe of the mortgage corporation, testified that she believed orders for the stock involved in the case were turned in to Mr. Bellin and did not follow the same routine as other subscriptions.

Messrs. Greene, now dead; Klein and Bellin, all the members of the executive committee, ratified the stockholders' vote of the 1000 shares to Pollay, and their subsequent issuance by the Industrial Trust Company, transfer agent, according to Mrs. Horowitz.

When the trial resumed, Mr. Pettine, who had been given permission over the week-end to examine documents in the case, protested that he called on Assistant Attorney General DeCiantis on Saturday and was refused permission to see particularly the ledger book and also certain checks.

Judge Walsh pointed out that he had ordered the clerk to remain in court Saturday until closing time and was present himself and at 12:45 p. m., the clerk reported Mr. Pettine had not called

to see any of the records. Mr. Pettine then explained that he had gone to Mr. DeCiantis. Judge Walsh instructed Mr. Pettine to file a formal motion for permission to see the papers he wants to examine.

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DESCRIBES ENTRIES IN STOCK DEALINGS

Ethel Levine, Former Bookkeeper for Mortgage Firm, Testifies in Fraud Case Here.

MONEY APPLIED TO LOAN

Cash from Subscriptions Was Split, Some Credited to Salesmen, She Says

Ethel Levine, of 72 Gallatin street, who was bookkeeper for the Rhode Island Mortgage Security Corporation testified yesterday afternoon before Judge Charles A. Walsh in Superior Court at the trial of six defendants charged with defrauding the corporation of more than $50,000. She told how she had made entries of stock transactions at the direction of Henry D. Bellin, treasurer of the corporation, and one of the defendants. Miss Levine was employed by the firm from Oct. 15, 1928, until Aug. 16, 1929.

William M. Peacock, of Pawtucket, Irving Pollay and Benjamin Saxe, of Boston, and Joseph Golden and Arthur R. Brody, of Brookline, Mass., are other defendants with Bellin.

A total of 243 stock transactions was handled during the time she was bookkeeper. Of the subscriptions for stock, only those for preferred stock were entered upon the books of the corporation as being paid for, she said. She related how the money was allotted. So much was entered as subscription, so much was credited on the account of purported loan to Alice T. Peacock, and so much was credited to stock salesmen, she testified.

One transaction, recounted by the witness, referred to the subscription of $1000 by the late Mrs. Ida Whitman. Of the $1000, $600 was credited to the so-called Peacock loan and $400 went to Brody and Golden, stock salesmen, the corporation records showed. The State is charging that the books of the corporation show that the common stock was diverted to the purported Peacock loan. Both Mr. Peacock and his divorced wife, however, have testified that they were not parties to the alleged $20,000 Peacock loan.

"By Roundabout Methods"

Miss Levine testified that money coming in as subscriptions for stock and credited to the Peacock loan did not constitute payments from either Mr. or Mrs. Peacock.

"They came by roundabout methods," she said, "and the entries on the books were made at Mr. Bellin's direction."

Testimony yesterday for the State showed that Bellin's account on May 2, 1928, showed a deposit of $3040. Of that amount $3000 was a check from Pollay to Bellin. The account later showed that Bellin withdrew $1500, the check being cashed by his clerk on May 17, 1928. The prosecution through witnesses, endeavored to show that the remainder of the $3000 went to directors of the corporation, $1000 to the late Augustus A. Greene, and $500 to William H. Bowker. This $3000, the State charges, was advanced to Bellin by Pollay to form the corporation.

Testimony also was introduced regarding two checks, one for $15,000 and one for $5000, payable to William M. Peacock. The $5000 check, paid on Nov. 2, 1928, was deposited in Bellin's account, the State claims. The check for $15,000, according to testimony, was cashed over the counter at the Columbus Exchange Bank by Bellin on Nov. 13 and on that same day $15,000 in bills was deposited in Bellin's personal account. Two days later, two checks, one for $10,000, to Pollay, and one for $3000, also to Pollay, were cleared through Providence out of Bellin's account.

Harry Pooler Testifies

Harry Pooler, supervisor of bookkeeping at the Providence National Bank, was a new witness yesterday. In response to questions put by Assistant Attorney General Michael DeCiantis, Mr. Pooler testified that on May 5, 1928, a deposit of $3040 was made at the bank and credited to the account of the Bellin Realty Company, followed by a $1500 withdrawal May 18, through a check made payable to Bellin and indorsed by him and his former stenographer, Dorothy Markowitz. Also, he testified that on Nov. 1 a deposit of $5000 was made through a check on the Columbus Exchange Bank, and that on Nov. 15 a deposit of $15,000, in bills, was made.

The same date, the witness said, two withdrawals were made. One was, he continued, a check for $10,000 made payable to Pollay and the other a check for $3000 made payable to the same person.

Before Mr. Pooler took the witness stand, Bowker, one of the incorporators of the concern, and Albert F. Newman, assistant cashier of the National Bank of Commerce, were questioned briefly, in the main on their previous testimony.

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STOCK SALESMAN'S BIG FEES REVEALED

Testimony at Fraud Trial Here Indicates Golden Occasionally Took Whole Subscription.

MISS LEVINE ON STAND

Former Bookkeeper for R. I. Mortgage Firm Reveals Workings of "Exchange Account"

Amounts representing what subscribers paid for stock of the Rhode Island Mortgage Security Corporation were turned over from the corporation to Joseph Golden, of Brookline, Mass., salesman, who also got commissions in some of the transactions, it was revealed yesterday in Superior Court, where six defendants are on trial on a conspiracy charge. The checks to Golden were signed by Augustus A. Greene as president and Henry D. Bellin as treasurer.

Indications are that the State may complete presentation of its case today, which marks the end of the second week of the trial. More than 100 exhibits, one of them containing papers in 71 stock transactions, have been introduced in evidence.

Defendants are Bellin, a Providence attorney; William M. Peacock, a Pawtucket real estate man; Irving Pollay and Benjamin Saxe, both of Boston; Arthur R. Brody of Brookline, and Golden. They are charged with conspiring to defraud the corporation and stockholders of more than $50,000. Judge Charles A. Walsh is hearing the case without a jury.

Testimony yesterday by Miss Ethel Levine of 72 Gallatin street, former bookkeeper for the corporation, supported the State's contention that 1000 shares of stock issued to Pollay as a bonus for supervising sales were sold in Rhode Island without being listed on the company's books.

Payments Apply to Peacock Loan

Subscribers' payments in many instances were credited to a purported $20,000 loan to Peacock and at the same time Golden was paid commissions on the sales, her testimony also showed.

Stating that she conducted her work under Bellin's direction, Miss Levine further brought to light a "Golden exchange account" that was maintained. Occasionally money would come in, usually in the form of a check, and would be deposited to the corporation, but a check for the same amount would be issued to Golden, she explained. The transaction was really an exchange for a check that had been deposited, she said.

Payments made by many stock purchasers were credited to the "Golden exchange account," her testimony showed.

Miss Levine testified, under questioning by Assistant Attorney General Michael DeCiantis, that a $1443 corporation check to Golden dated June 29, 1929, and a similar check for $955 dated June 25, both signed by Greene and Bellin, each represented stock payments by subscribers, according to the respective vouchers.

The $1443 check, according to her testimony, represented subscribers' payments for stock as follows: Camille P. Payett, 604 Broadway, $150; Alfred Bessette, 176 Winwood avenue, $150; Edwin W. R. Erickson, 193 Early street, $200; Charles B. S. Tyas, 95 Grosvenor avenue, Pawtucket, $100; Mildred I. Tyas, same address, $100; Benjamin S. and Mildred I. Tyas, same address, $600, and Ada B. and James S. Crook, Attleboro, $443.

$955 Represents Several Payments

Represented in the $955 check according to the voucher, she said, were the following payments: Sarah E. Ross, 160 Wendell street, $500; John J. and Estelle Fleming, 54 Hammond street, $250; Winifred Nolan, 99 Waltham street, Pawtucket, $100, and James S. and Beatrice Dunning, 101 Colonial road, $150.

Mr. DeCiantis brought out that the Ross payment was only $438, according to records showing this amount was drawn from the Citizens Savings Bank to settle for the purchase of 10 shares at $50 each.

When the corporation received $250 from Katherine G. Lynch of 605 Academy avenue, May 29, 1929, Golden got a $75 commission for the sale, the stock payment was credited to "Golden exchange" and on the same day Golden was given a corporation check for $250, signed by Greene and Bellin, records showed. They carried as an explanation for the check to Golden the name "Lynch."

Preceding issuance of the $1443 check to Golden, Mr. DeCiantis brought out, $1000 that came in was credited to "Golden exchange" and $443 to "Crook Golden exchange."

Nellie M. Locke of 577 Prairie avenue on June 12, 1929, paid $500 for 10 shares, other records showed, but two payments of $500 each were credited to "J. Golden exchange account," and on June 13 and again on June 14 a $500 check was issued by the corporation on "J. Golden exchange" and indorsed by Golden. Each was stamped "paid."

Golden Got Commission, Too

Despite the fact that payments of $600 from George F. Noonan of 23 Florence street and $360 from Mary A. Noonan of the same address were wholly credited to the so-called Peacock loan, Golden received $180 commission on the former sale and another commission of $108 on the latter, according to the records

Other stock payments credited in entirety to the so-called Peacock loan and commissions simultaneously paid to Golden, according to the testimony, follow: Walter E. Ensign, 45 Boylston avenue, $650, Golden commission $195; George M. Chase, 215 Waterman avenue, East Providence, $350, Golden commission $105; Edwin and Mary Hodgkiss, 77 Ford street, $441.50, Golden commission $135; Arthur N. Stanley, 57 Spring street, Pawtucket, $750, Golden commission $225.

The disappearance of $500 in one instance was shown. On May 22, 1929, according to Miss Levine, $875 cash was received by the corporation from Annie N. Russell for stock. On May 23, Charles A. Brayton of Hope gave a $500 check. Of the Russell money, $375 was deposited May 24, and on the same day the Brayton check was deposited and entered in the record as "Golden exchange account." A corporation check for $500 to Golden, signed by Greene and Bellin, was deposited the same day to "Golden exhange" and recorded "pay to Golden exchange for Brayton," it was shown.

Money Is Not Accounted For

Brayton's check for $500 was cashed with the $500 Russell cash balance and the money was not received by the corporation and cannot be accounted for, Miss Levine said.

Whereas, Bertha M. Brayton of Hope paid $2500 in cash May 9, 1929, for 50 shares, there is no account for the money in the books, Miss Levine said. She added she could find no entry for an amount anywhere near that sum until May 23, when there was one of $3000 to "Golden exchange."

Although the salesman's name in the Brayton transaction was recorded as Brusket, Golden received a $750 commission, the records showed.

No entry could be found in the books by Miss Levine of a payment by Charles T. O'Connell of 87 Vandewater street for 10 shares at $50 each, although there is a copy of a letter acknowledging payment. Brusket was salesman and Golden got $150 commission, she said.

She further testified that of $4375 included in two checks paid by Luther C. Baldwin of 275 Angell street for stock, $1125 was credited to the so-called Peacock loan, $750 to the "Golden exchange account" and the remaining $2500 was cashed with an indorsement of Bellin for the corporation and not recorded in the books.

Says Proctor Check Not Entered

A $500 check drawn Feb. 21, 1929 by Howard S. Proctor of 170 Spring street, East Greenwich, payable to the corporation for 20 shares of stock for which Mr. Proctor also gave a $500 note was indorsed by Bellin as treasurer, but no entry of any payment on the check could be found by Miss Levine. The other $500 which was paid by check of April 2 was originally entered as a note receivable and was credited to the so-called Peacock loan, she said.

Speaking for the defence, James J. McGovern, counsel for Peacock, suggested after a conference between the attorneys that Miss Levine go through the transactions and prepare a statement showing all the payments made on loan 36-C when defence counsel would probably agree to that. He pointed out this would save many hours in the trial.

Mr. De Ciantis replied this plan would be all right if only Peacock were involved but the State was intending to show four different ways by which money was taken out through common stock subscriptions and that this testimony would tie up the rest of the defendants and was very important.

As a result, the defence offer was temporarily waived by the court.

On the account of Clinton E. Colburn, 194 Ohio avenue, for 20 shares of common stock, for which the corporation received a check for $1200 in payment, the records showed that $760 was applied to the purported Peacock loan and $440 to J. Golden exchange account.

Anthony V. Pettine, of defence counsel, objected to the reading by Assistant Attorney General DeCiantis of a notation, previously identified by Bellin's clerk, showing a commission of $360 to Mr. Golden, the salesman, on the Colburn subscription.

Judge Walsh informed Mr. Pettine that the record showed that $800, comprising the $440 and $360 notations, had been taken from the $1200 paid in by Colburn for his stock, "either in exchange or commission."

"That requires an explanation by Mr. Golden," asserted Judge Walsh.

Dec. 16

ROVIDENCE JOURNAL, SAT

ILLEGAL CAMPAIGN REVEALED IN COURT

Defunct R. I. Mortgage Firm Spent Unlawfully to Lure Stock Buyers, Judge Hears.

6 ACCUSED IN FRAUD CASE

Former Bookkeeper R[illegible]s More Details of Concern's [illegible]ts at Trial Her[illegible]

Despite a regulation [illegible]nk Commissioner limiting selli[illegible]ses to 25 per cent., the sales campaign which induced Rhode Islanders to invest $383,100 in Rhode Island Mortgage Security Corporation stock cost $122,971.55, it was testified yesterday in Superior Court.

The State charges that the corporation never received an additional sum of about $52,900 which was paid for 1000 shares issued as a bonus to Irving Pollay of Boston and later sold without being listed on the books.

Selling expenses for the recorded shares, under the regulation, should not have exceeded $95,775.

Testimony concerning the stock sale, between June, 1928 and September, 1929, was given by Miss Ethel Levene of 72 Gallatin street, former bookkeeper for the corporation, regarded by the State as its most important witness in the trial of six men on a conspiracy charge. Direct examination of Miss Levene was concluded at mid-afternoon. She will resume the witness stand for cross-examination Monday morning.

Defendants are Henry D. Bellin, a Providence attorney; William M. Peacock, a Pawtucket real estate man; Pollay and Benjamin Saxe of Boston and Arthur R. Brody and Joseph Golden, both of Brookline, Mass. They are charged with conspiring to defraud the corporation and its stockholders of more than $50,000. Judge Charles A. Walsh is presiding over the trial, which is being held without a jury.

Wants Expense Record Barred

Anthony V. Pettine of defence counsel objected to introduction of the expense record of the selling campaign by Assistant Attorney General Michael DiCiantis, who explained the State sought to show the corporation spent more than the 25 per cent. permitted by the bank commissioner's regulation.

Contending a violation by the corporation could not be held against the defendants, Mr. Pettine pointed out that after the expenses were filed with the bank commissioner (the late George H. Newhall) that official allowed the stock sale to continue and there was no order against the corporation until February, 1930.

"The Bank Commissioner is not one of the respondents. The court cannot very well put the Bank Commissioner on trial for acts of omission or commission," remarked Judge Walsh. "A company can only act through its agents, and one of its officers is a defendant here."

He said he was inclined to the view that persons employed by the corporation were obligated by the regulation for the sale of stock.

As read from the records by Miss Levene, the corporation between June, 1928, and September, 1929, issued $130,075 in common stock and $247,900 in preferred stock. In addition, she said, 1425 shares of common stock and 3700 shares of preferred were subscribed but not issued. She figured the total at $383,100.

Pollay Stock Not Listed

Declaring that the Pollay stock was not included in the list, Miss Levene pointed out that there was an entry in the corporation's journal to that effect, and read an entry of Dec. 1, 1928, which, she said, was authorized by Meyer Millman, auditor, in preparing the end-of-the-year audit.

"No consideration shown on books to 1000 shares issued to Pollay," the entry stated.

Mr. Millman, former auditor for the corporation, is now auditor for Arthur L. Conaty, receiver for the Consolidated Mortgage and Investment Corporation, which absorbed the Rhode Island Mortgage Security Corporation. Mr. Conaty and Mr. Millman with Isadore S. Horenstein as counsel, are assisting the prosecution in the trial.

In connection with the purchase of 150 shares of stock for $7500 by Sam Dolbey of 788 Hartford avenue, Johnston, Mr. DeCiantis brought out that in the transaction involving 100 shares costing $5000, a pencilled note on the carbon copy of a corporation letter to Dolbey read "credit to Pollay-Peacock $5000 note." Previously this handwriting has been identified by Mrs. Dorothy Horowitz, former stenographer for the corporation, as that of Bellin.

Y 2, 1934

BELLIN IS BLAMED BY COUNSEL FOR 4

Pettine Says His Clients Are Innocent of Conspiracy to Defraud.

More than $50,000 claimed diverted from the Rhode Island Mortgage Security Corporation and its stockholders through the sale of bonus stock issued to Irving Pollay of Boston went into the pocket of Henry D. Bellin, who alone was responsible, Anthony V. Pettine told Judge Charles A. Walsh in Superior Court today in outlining the defence of Pollay, Benjamin Saxe of Boston and Joseph Golden and Arthur R. Brody, both of Brookline, Mass., in the trial of six defendants charged with conspiracy to defraud.

Bellin and William M. Peacock, a Pawtucket real estate man, are on trial with Pollay, Saxe, Golden and Brody. Bellin, who is a Providence attorney, was general manager, secretary and treasurer of the corporation. Pollay was sales manager and Saxe, Golden and Broday were salesmen.

"We are not here to accuse, but to explain," declared Mr. Pettine in maintaining that his four clients did nothing wrong, but only conducted the stock sale at a good commission, which was honestly earned. "We got a good commission," he said, "but we had to fight for everything and we earned it. If that's against the law, we're guilty."

"I don't agree anybody was guilty of embezzlement," Mr. Pettine said. "That's not for me to do. Bank records and private records show checks were cashed and given over to Bellin. What he did with them, we don't know. Every cent, every check beyond an agreed compensation never went to Pollay, Golden, Brody or Saxe."

At that time, Mr. Pettine said, Bellin was pressed by the Rhode Island Hospital Trust Company and also by Pollay for a $3000 loan the latter had made to Bellin.

"That's where the scheme was concocted, if any," Mr. Pettin added. "I don't think it was a criminal scheme, but mismanagement. It was the scheme of one man and not four men, to take this money by inserting the Pollay stock in place of the common stock issued by the company.

Says No Conspiracy

"These men that I represent have done nothing wrong. There was certainly no conspiracy, no advantage was taken of anybody. We were dealing at sword's ends. Bellin was certifying our checks and making charges against us. We were rendering good service, and if we had not been paid in scrip, we would certainly have been paid in money. My defendants are not guilty of any wrong."

Because Mr. Peacock's defence relating to an alleged $20,000 loan involved in the transaction was outlined last week when Judge Walsh denied a motion to dismiss the indictment as to that defendant, James J. McGovern, his counsel, made no opening statement as the defence got under way. Neither did Daniel T. Hagan, of counsel for Bellin, who said Bellin's case would be submitted as the trial proceeded.

In opening his statement to the court, Mr. Pettine pointed out that the only reason a jury trial had been waived was because the matter was so interwoven with law and facts that it would be a difficult case for a jury to understand.

He said that the testimony to be introduced would not only prove the innocence of Pollay, Golden, Saxe and Brody beyond reasonable doubt, but would actually prove their innocence.

"Certain acts of course we did," Mr. Pettine said, "but that we conspired to do them with any malice of heart or thought is beyond the dreams of any reasonable man."

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To Show Pollay-Bellin Meeting

He said it would be shown Pollay became acquainted with Bellin in 1927 or early 1928 with reference to a mortgage the Franklin Mortgage Corporation of Boston, with which Pollay was associated, was going to take on some Pawtucket property. Bellin, he said, it would be shown, had been in the mortgage and building business even more than in the law business.

Pollay was approached on the subject of forming the corporation, Mr. Pettine said, and was reluctant to go into it unless Bellin could get together a board of directors beyond reproach, who could watch the money and see it was properly applied. Not until then, Mr. Pettine added, would Pollay agree to sell the stock as he wanted to sell securities beyond reproach that nobody could question.

Two men named Peckham and Howard were to put money into the corporation, but the deal fell through and Pollay, after seeing a list of the tentative directors, agreed to lend Bellin personally $1500 and Golden agreed to lend another $1500, Mr. Pettine said.

Pollay demanded a bonus because he "had to put the breath of life into the corporation" through the stock sale, Mr. Pettine said. It was agreed, he continued, that Pollay would get 1000 shares when 100,000 shares of common stock and units had been sold.

Pollay knew of no irregularity and had practically to fight with Bellin to get the shares, Mr. Pettine added.

Sold Shares For $10,000

He pointed out that Bellin offered to buy the shares later from Pollay for $2000 or $3000 but Pollay turned the offer down after Golden had told him to keep the shares as it was a good company and the shares were going to be worth money in years to come. Later Bellin offered $10,000 so Pollay sold the shares to him and Bellin gave a personal check for $10,000 and also paid back the $3000 loan, Mr. Pettine said.

"What Bellin did with the shares afterward was none of our concern," he added. "We knew nothing about it. We did not know they were to be substituted and sold for $50,000."

Pollay split the $10,000 and the $3000 with Golden, who had been acting as sort of a partner in the project, Mr. Pettine said. He emphasized that the four clients he represents never got anything beyond their commission as agreed and had "to sweat" for it.

POLLAY DESCRIBES DEALINGS IN STOCK

Denies Any Part in Conspiracy to Defraud Defunct R. I. Mortgage Corporation.

SOLD HIS BONUS TO BELLIN

Says He Got $10,000 for 1000 Shares Given Him; Did Not Know They Later Brought $52,000

Irving Pollay of Boston, who, as sales manager of the Rhode Island Mortgage Security Corporation, received 1000 shares of bonus stock, told in Superior Court yesterday afternoon how he sold his stock for $10,000 to Henry D. Bellin so the latter might gain control of the corporation. He entered a general denial to any complicity in a conspiracy to defraud the corporation.

Responsibility for the alleged diversion of more than $50,000 from the corporation through sale of the bonus stock to subscribers was placed solely upon Bellin by Anthony V. Pettine of defence counsel as the defence of six men charged with conspiracy to defraud the corporation and stockholders opened before Judge Charles A. Walsh, sitting without a jury.

Pollay and Bellin are on trial with Benjamin Saxe of Boston, Joseph Golden and Arthur R. Brody, both of Brookline, Mass., and William M. Peacock, a Pawtucket real estate man. Bellin, a Providence attorney, was general manager, secretary and treasurer for the firm. Saxe, Golden and Brody were salesmen. The State claims the bonus stock was sold in this State at $50, $60 and $75 a share and not listed on the firm's books.

Says Money Went to Bellin

The money allegedly diverted went into the pocket of Bellin, who alone was responsible, Mr. Pettine contended in outlining the defence for Pollay, Saxe, Golden and Brody. He said they were innocent of any wrongdoing.

Because Peacock's defence, relating to an alleged $20,000 loan involved in the case, was outlined last week when Judge Walsh denied a motion to dismiss the indictment as to that defendant, James J. McGovern, his counsel, made no opening statement. Nor did Daniel T. Hagen, of counsel for Bellin. Mr. Hagan said Bellin's case would be submitted as the trial proceeded.

Pollay revealed a mutual agreement he said he had with Golden that they would divide their profits on sales of securities in Rhode Island. He declared that of the $10,000 he received from Bellin, he gave Golden $5000. He denied he and Golden were partners, but said Golden had worked for him in past years.

Pollay said he had a grammar school education, had became a certified public accountant through a correspondence course and had been sales manager for several firms in Massachusetts and New Hampshire. He testified that he and Bellin "talked bonus all through" while the mortgage corporation was being formed at Bellin's suggestion.

Not Aware of Irregularity

He said he knew of no irregularity about the meeting at which the 1000 shares were voted him. The first he knew of William H. Bowker claiming not to have been present was during presentation of the State's case, he said.

Pollay said he was to get the 1000 shares if he sold $100,000 worth of stock within six months. He did so, he added, and asked Bellin for the stock, but Bellin refused to give it to him and its was not until after a controversy lasting four or five weeks that he finally obtained it. About $175,000 in shares had been sold by then, he said.

He denied any understanding with Bellin to defraud the corporation. Pollay told how on Nov. 3, 1928, when Bellin failed to repay $3000 loaned him by Pollay and Golden, he could have automatically obtained control of the corporation by demanding stock held in escrow as security on the loan. He complied with Bellin's request, however, to wait a few weeks for the money, he said.

It was then, he said, that Bellin sought to buy the bonus stock. Bellin was having an argument with this brother-in-law, A. Henry Klein, over control of the corporation, Pollay said, and wanted the bonus stock to give him control. He first offered $2000, Pollay said, but later raised the offer to $10,000, and the sale was negotiated.

"From that date I had nothing further to do with the stock, which I indorsed in blank," Pollay said.

He denied he know Bellin was selling the shares and getting $52,000 for them.

Objection is Sustained

"As a reasonable man, would you have sold the stock for $10,000 if you knew it was to be sold for $52,000?" asked Mr. Pettine.

Assistant Attorney General Michael DeCiantis, representing the State, objected.

"Sustained, argumentative," ruled Judge Walsh.

Pollay also testified regarding a $400 personal loan he said he made to Bellin and a $3000 loan he and Golden made the attorney after Bellin reported "Senator Peckham and Mr. Howard" didn't want to "go through" with the corporation. Bellin was to purchase stock with the $3000, Pollay said.

Identifying two notes he had indorsed to Bellin, one for $500 from William H. Bowker, and the other for $1000 from Augustus A. Greene, Pollay said Bellin had offered these as security on the loan but he requested instead that Bellin give his own note for the full amount.

Pollay said he never had more than five salesmen selling the stock here, "Golden, Brody, Saxe and a few others." They were to receive 12½ per cent., while he was to get 10 per cent., he said, but salesmen in those days were hard to get because of prosperous conditions, so when they insisted they receive 15 per cent. he agreed to give them 2½ per cent. from his own "overwriting" commission.

Under his arrangement with Golden

POLLAY IGNORANT OF BELLIN LETTER

Says He Never Read Document Produced at Trial Involving R. I. Mortgage Firm.

TAKES TIME TO READ IT

Lengthy Missive Shown by State; Defence Counsel Objects to It as Having No Bearing

Confronted by the State in Superior Court yesterday afternoon with a long letter claimed to have been written by Henry D. Bellin after his indictment on a charge of conspiring to defraud the Rhode Island Mortgage Security Corporation and stockholders, Irving Pollay of Boston denied on the witness stand that he had ever read it.

Judge Charles A. Walsh, who is hearing the trial without a jury, instructed the defendant to sit down in the witness box, read the several typewritten pages and take all the time he needed. To whom the lengthy document was addressed was not disclosed.

Producing the letter in court, Assistant Attorney General Michael DeCiantis turned to Pollay and asked:

"Did you ever read a letter that was submitted by Mr. Bellin?"

Pettine Objects to Letter

Anthony V. Pettine of defence counsel objected. Mr. DeCiantis then reframed his question and asked the witness whether he had ever read a letter dated Dec. 1, 1931.

"I've seen some letters that were well engineered," declared Mr. Pettine in objecting that a letter "addressed to the prosecution" after Bellin was indicted by the grand jury had nothing to do with the case and "certainly is very prejudicial."

Pollay glanced at the letter and said he had never seen "anything like this." Pressed by Mr. DeCiantis, the witness expostulated that it would take him an hour to read it.

James J. McGovern, counsel for Peacock, objected to the contents of the letter being brought out if there were anything in it prejudicial to Peacock. Mr. McGovern said he had not seen the letter.

Pollay then said that it was the first time he had seen the letter in whole, although he had read parts of it in correspondence. Mr. DeCiantis dropped this line of questioning.

Bellin, Pollay, Benjamine Saxe of Boston, Joseph Golden and Arthur R. Brody, both of Brookline, Mass., and William M. Peacock of Pawtucket are on trial before Judge Walsh. The six defendants are charged with conspiring to defraud the corporation and stockholders of more than $50,000, between Feb. 1, 1928, and Sept. 13, 1929.

Only Earned $11,500

Before he completed his testimony under cross-examination, Pollay insisted that all he earned while sales manager for the corporation was $11,500, plus $5000 profit out of $10,000 he claims to have received from Bellin for 1000 shares of bonus stock. Previously he has testified he had an agreement to split profits with Golden, so gave him $5000 of the $10,000 paid for the bonus.

Bellin, a Providence attorney, was general manager, secretary and treasurer of the corporation. Pollay was sales manager. Saxe, Golden and Brody were salesmen. The State claims the 1000 shares of bonus stock issued to Pollay were sold to subscribers and not listed on the books.

Pollay's declaration regarding his income from the corporation followed questioning by Mr. DeCiantis concerning what reference Pollay had made in his Federal income tax returns for 1928 in regard to the $10,000 he claims to have received from Bellin for the bonus stock.

At the morning session, after several questions had been objected to by Mr. Pettine, Mr. DeCiantis was allowed by the court to ask Pollay, "After you filed your return for 1928, were you later requested to file a supplementary return which included this $10,000."

Pollay said he didn't remember but would try to refresh his recollection.

he split his remaining 7½ per cent. with the latter, he said, so all he received himself was 3¾ per cent.

Did Not Know of Dolbey Sale

Declaring he never authorized any one to sell any common stock outside of units, Pollay said he didn't know of Saxe's $5000 sale to Sam Dolbey, on which Saxe received $1000 commission, until Saxe boasted about it a few days afterward in the office.

Pollay said he then went into Bellin's office and demanded his 10 per cent. He testified that Bellin said to him: "Look here, Irving, I tell you what I'll do. I'm a sport. After all, you're not getting 10 per cent. Your net is 7½ per cent. I'll give you five per cent. from my own account."

Bellin personally gave him $250 on the transaction, he added, after the commission he asked had been refused.

In January, 1929, Pollay said, he left the corporation to work for the Standard Stores in Boston, and wrote the corporation to make his checks payable to Golden.

"When I was through I was through," he added, in denying he received anything afterward from the mortgage firm.

Asked by Mr. Pettine if he knew Bellin borrowed $20,000 on the so-called Peacock loan and gave Pollay stock as security, Pollay replied "No." Neither did he know Peacock had signed four notes for $20,000, he said.

In the fall of 1929, Pollay said, he understood Bellin wanted to sell control of the corporation, so he brought Leon Goldstein, president and treasurer of the Standard Stores of Boston, as a customer. Mr. Goldstein saw the corporation's financial statement and then asked to look at the mortgage ledger, Pollay said.

Not Interested—Good-Bye.

Bellin said the mortgages were listed on cards, Pollay said, and Mr. Goldstein spent several hours examining these before departing with the statement:

"Mr. Bellin, I'm not interested in the purchase of control of the company. Glad to have met you and good-bye."

Pollay said he asked Mr. Goldstein why he left so abruptly and was told: "Listen. There's no two ways about it. Either Bellin is a fool and doesn't understand mortgages or he's dishonest, because the mortgages are no good." Mr. Goldstein told him, Pollay added, that he had seen third and fourth mortgages.

"I had full confidence, otherwise I wouldn't have brought Mr. Goldstein down," Pollay commented.

He denied knowledge of a $2500 note from Sam Dolbey listed on the books as having been turned in by himself for discounting, or having received the $2000 proceeds recorded as given him. He also claimed he was ignorant regarding a similar transaction listed, and denied knowledge of a so-called "exchange account" in which, it has been shown, proceeds from the sale of the Pollay stock were deposited and later drawn out.

"Many times Miss Levene told me to get out of the office and stay where I belonged. Miss Levene was not only very strict, but very hard in that regard," Pollay said. (Miss Ethel Levene was bookkeeper for the corporation.) Pollay denied he had anything to do with the corporation's activities outside of supervising the stock sale.

Never Met Stockholders

"I never met the stockholders, but acted in good faith with the corporation and in everything I ever did in my life," he declared. He said he had never been convicted of anything.

Under cross-examination, Pollay denied he was working against the interests of the Franklin Mortgage Corporation of Boston, of which he was sales manager, when he and Bellin were discussing formation of the Rhode Island Mortgage Security Corporation, even though the Boston firm was selling stock in Rhode Island. He insisted it was Bellin who proposed formation of the Rhode Island firm.

After Pollay asserted that so far as he could recollect he was not in Rhode Island in December, 1927, Mr. DeCiantis produced a letter, which was admitted over Mr. Pettine's objection, containing a paragraph referring to a contemplated visit by Pollay to this State at that time.

Pollay admitted he made suggestions to Bellin regarding preferred and common stock, and advised him to be sure he was forming the corporation legally. His only interest, he insisted, was in working for a corporation that was above reproach. Otherwise, he said, he wouldn't work for it. He was still under cross-examination at adjournment.

Can't Remember About Tax

Shortly before the cross-examination ended, Mr. DeCiantis again brought up the question, and Pollay said he didn't remember offhand.

"I earned $11,500 with the Rhode Island Mortgage Security Corporation and can prove it by figures," he asserted, adding, "plus my $5000 profit from the stock I sold."

Mr. DeCiantis asked whether he didn't make a return for 1928 stating that as salary, wages, fees and commissions he received $25,752. Pollay replied he didn't think so, and Mr. DeCiantis asked him whether he had been informed by the corporation how much he had made that year.

Pollay replied he was informed he had made in the neighborhood of $25,000, but he wrote to Bellin and told the latter he had filed a return of $11,500, which was the correct figure because he was giving the salesmen 2½ per cent. out of his 10 per cent. commission and splitting the 7½ per cent. remainder with Golden.

Declaring he told Bellin the latter should have taken up the matter with him before notifying the Government, Pollay said he thought Bellin wrote to the Government because he heard no more about it.

"Did you ever file a supplemental statement and file an additional tax?" Mr. DeCiantis asked. Judge Walsh ruled this was immaterial.

"Mr. Bellin wanted to form a corporation because his friends were very successful in the mortgage business and he didn't see why he couldn't do it," Polley declared. He said he never gave Bellin instructions to do anything at any time, but wanted him to be associated "with the right men" so the money would be properly handled.

Talked About Common Stock

Whereas Pollay testified he talked with Bellin only about common stock, 1000 shares of which without par value, he received as a bonus Oct 30, 1928, Mr DeCiantis brought out that in an escrow agreement dated May 3, 1928, in connection with a $3000 loan made by Pollay to Bellin, there was a typewritten statement that Pollay was to receive 1000 shares of Class A common stock.

This Class A stock, Pollay said, was valued at $1 a share and actually worth probably only 50 cents. He denied the common stock he received was worth $50 a share, although he admitted common stock was sold at $50 a share in connection with preferred stock, units of two shares of preferred and one of common bringing $150.

When Pollay insisted he couldn't have sold his 1000 shares "in any brokerage house in America" for $50,000, Mr. DeCiantis pointed out that the 1000 shares were later sold for $52,000, according to evidence introduced by the State.

Pollay said he didn't think he asked the corporation for a contract when he left the Franklin Mortgage Corporation

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Plenty of Money in

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GOLDEN TESTIFIES; BACKS UP POLLAY

Corroborates Testimony of Former Sales Manager for R. I. Mortgage Concern.

SIX ON TRIAL FOR FRAUD

Defendant Explains How He Put Up Money, Later Received Half of Cash from Stock Bonus

Joseph Golden, 59, of 155 Coolidge street, Brookline, Mass., one of six men on trial in Superior Court on a charge of conspiring to defraud the Rhode Island Mortgage Security Corporation and stockholders of more than $50,000, yesterday afternoon corroborated testimony of Irving Pollay of Boston, sales manager, that the latter left the company and had nothing more to do with it about the middle of January, 1929. Golden said he then became sales manager.

Golden, Pollay, Henry D. Bellin, a Providence attorney; William M. Peacock, a Pawtucket real estate man; Benjamin Saxe of Boston, and Arthur R. Brody of Brookline, are the six defendants. Judge Charles A. Walsh is hearing the case without a jury.

Revealing that he received a grammar school education in London, England, where he was born, Golden said he had lived in Boston 45 years and had been a security salesman for 20 years. He was employed by Pollay, who was sales-manager of the Franklin Mortgage Corporation in Boston, when he first heard of the Rhode Island corporation, the witness said.

When Pollay asked him if he wanted to go into the new corporation and asked him to put some money into it, Golden said, he asked why money had to be put in, and Pollay replied that Bellin was going to put in $3000 because his brother-in-law was doing likewise, but didn't have sufficient funds.

Golden said he loaned $1500 to Pollay so Pollay could put the same amount with it and loan $3000 to Bellin. He explained Pollay told him if he would furnish half of the $3000 that he could have half of Pollay's "overwriting" commission of 10 per cent. Also Pollay told him, Golden said, that if he were issued a bonus of 1000 shares, Golden could have half.

"There was no agreement, it was just verbal," Golden added.

He identified checks he received later from Pollay, one for $1500, which he explained was in payment of the loan, and the other for $5000. The latter, he said, represented half of the $10,000 Pollay received from Bellin for the 1000 shares of bonus stock which were issued to Pollay.

The State claims this bonus stock was later sold to subscribers and was not listed on the corporation's books.

Contending that "the motive behind this whole thing might be pertinent to your honor," Anthony V. Pettine of defence counsel started to bring out from the witness that he had never been in District Court on the conspiracy charge, but had been secretly indicted.

As Assistant Attorney General Michael DeCiantis objected to this line of testimony, Mr. Pettine declared that the charge was first brought against Bellin and Peacock only.

"And then, after Bellin is bound over to the grand jury," he said, "we find out for the first time we are brought into this affair. The court ought to know whether the charges are based on actualities or the self-preservation of someone else."

Mr. Pettine represents Pollay, Golden, Saxe and Brody.

Judge Walsh remarked:

"If the processes of the State were used improperly, I think I ought to hear about it," but added that the fact two of the defendants were first charged in the district court and the others were indicted later was immaterial.

"If there were any funny moves made or anything improper in procuring the indictment, I want to hear about it," he said.

Mr. Pettine then resumed his examination of Golden, who said that the mutual agreement between him and Pollay was that each should give the other half of what he earned. Pollay promised the salesman 2½ per cent. out of the sales manger's 10 per cent., "so we got 7½ per cent.," Golden explained.

The first he knew of the 1000 shares being issued to Pollay was when Pollay told him Bellin wanted to buy them for $2000 or $3000, he said. After he advised Pollay to hold on to them because some day they would be valuable, he added, Pollay after some "wrangling" sold them to Bellin for $10,000.

POLLAY BONUS PUT UP AS COLLATERAL

Testimony in Mortgage Concern Fraud Case Reveals Stock Gift Backed $20,000 Notes.

MISS WHARMBY TESTIFIES

Divorced Wife of One Defendant Describes How She Inquired About Transaction

One thousand shares of Rhode Island Mortgage Security Corporation stock, which were issued to Irving Pollay of Boston as a bonus, were used as collateral on notes for $20,000, it was revealed in Superior Court yesterday.

The notes, it is charged, were given to Henry D. Bellin by William M. Peacock in return for two checks which were indorsed by both Bellin and Peacock and cashed.

This information was brought out at the trial of six defendants accused of conspiring to defraud the corporation and its stockholders of $50,000.

Miss Alice T. Wharmby, divorced wife of Peacock, was among witnesses called by the State in the trial. Bellin, Peacock, Pollay, Benjamin Saxe of Boston and Joseph Golden and Arthur R. Brody, both of Brookline, are the defendants. The State claims the shares issued to Pollay were sold to subscribers and never listed on the corporation books. Judge Charles A. Walsh is hearing the case without a jury.

Inquired About Transaction

Miss Wharmby revealed that she had become worried and had asked about the $20,000 transaction. She said she believed her husband signed the notes about the first of November, 1928. The couple was not divorced until Jan. 5, 1932.

The two checks to Peacock, one for $5000 and the other for $15,000, both signed by Bellin as treasurer of the security corporation, were dated Nov. 1, 1928, and Nov. 9, 1928.

Both bore Peacock's indorsement and also that of Bellin, in the first instance for the Bellin Realty Company and in the second personally. Bank perforations showed the $5000 check had been cashed Nov. 2, 1928, and the $15,000 check Nov. 13, 1928.

Through the testimony of William Metcalf, trust officer of the Industrial Trust Company, which was the registrar and transfer agent for the corporation, Assistant Attorney General Michael DeCiantis showed that the 1000 shares of stock to Pollay were delivered on proper authority to the corporation and receipted for by Mrs. Dorothy Horowitz, then Dorothy Marks, stenographer for the corporation, on Oct. 31, 1928.

A receipt dated Nov. 13, 1928, showing that Pollay received $10,000 for the stock from Bellin, has previously been introduced.

Took Out Second Mortgage

Miss Wharmby opened her testimony by describing the transaction in October, 1928, when she obtained a $7500 second mortgage from the Rhode Island Mortgage Security Corporation on some property in East Providence and on Eagle street in this city, and also an additional $800 to repay Bellin $500 Peacock owed him and apply the remaining $300 toward payments on the mortgage account. Bellin had had desk room years before in her husband's office in Pawtucket, she said.

Shortly after obtaining the mortgage, she said, she learned from Peacock he had signed a $20,000 note for Bellin and she was "pretty much upset" and couldn't understand why he had done so. She went to Bellin's office for an explanation.

Bellin tried to convince her everything was all right and there was nothing to worry about, she said, but she told Bellin her husband was having enough difficulties without having any more, and she did not like the way the matter had been handled.

Whereupon, she said, Bellin went to his safe and brought some paper that she believed was the note. The word "collateral" was used, she added, and the Columbus Exchange Bank was brought into the matter.

She said Bellin had led her to believe that her husband had signed a note, and had done so not more than two or three days before. Afterward she learned there were four notes for $5000 each, she testified.

Never Have to Worry About It

"Mr. Bellin told me 'I'd never have to worry about it, that the note would never leave his hands,'" she said, explaining that she was worried about the matter because of her husband's signature.

Stating she could not recall having seen the stock certificates before, when asked whether those were what Bellin produced in his office, Miss Wharmby added, "whatever Mr. Bellin had, he said was to be held as collateral. I can't recall what they were. He had more than one paper. I thought he referred to the $20,000 note."

After it was brought out that 250 shares of the 1000 shares of stock issued to Pollay were listed as collateral on each of the $5000 notes to Bellin, Miss Wharmby pointed out a notation on the $15,000 check to Peacock stating it was "on loan 36."

"I believe that is the number of my mortgage loan," she remarked. "That certainly didn't apply to it."

From all four of the $5000 notes the signature had been torn, but Miss Wharmby identified part of a signature showing on one of the notes as that of Peacock. She was never asked to sign the notes, she said. Peacock to her knowledge never received any reimbursement or gratuity in the matter, she said.

Mr. Metcalf testified the Industrial Trust Company was registrar and transfer agent for the corporation from June 21, 1928, to Dec. 27, 1930, when the arrangement was discontinued. Anthony V. Pettine of defence counsel stated it was agreed the bank acted properly in the matter.

Tells of Shares Outstanding

Up to Sept. 13, 1929, the largest number of voting shares outstanding, as represented by stock, was 17,410 2-10 shares, Mr. Metcalf said, and up to June 13, 1928, the total shares standing in the names of Bellin, Augustus A. Greene, A. Henry Kelin and William H. Bowker were 12,000.

Up to June 23, 1928, there was no record from the corporation authorizing the bank to countersign certificates of stock to John A. Slocum and Jeremiah F. O'Connell, he said in answer to a query from Mr. DeCiantis.

He said he never met Pollay, Saxe, Golden, Brody or Peacock, to his knowledge.

Frederick B. Kimball of the trust department of the Rhode Island Hospital Trust Company, who said he acted for the bank in the administration of the estate of Luther C. Baldwin, produced cancelled checks which the State introduced for later identification.

Albert F. Newman, assistant cashier of the trust department of the National Bank of Commerce, testified regarding the account of the late Augustus A. Greene.

Mr. DeCiantis said that the State claimed a $15,000 check drawn by Mr. Greene April 23, 1928, to the order of the security corporation, came from funds paid by Pollay to Bellin, and that the check was withheld until Mr. Greene received the money. The check was cashed May 19, 1928, according to Mr. Metcalf, whose testimony was halted by a defence objection and not concluded at adjournment.

Admits He Got 100 Shares

Admission that as a director of the Rhode Island Mortgage Security Corporation he received 100 shares of common stock for which he did not have to pay was made yesterday by William H. Bowker, 44, of 72 Summit avenue, real estate and insurance broker, who Monday testified that as in incorporator he had signed in blank the final page of minutes of a special stockholders' meeting he did not attend.

Bowker brought out that the vote authorizing shares of stock to each director appeared on the same page where Bowker testified that a resolution voting 1000 shares of stock to Pollay as a bonus for Pollay's sales had been inserted above the signatures without the witness's knowledge.

"Then you were getting something?" asked Mr. Pettine, referring to the 100 shares.

"Mr. Greene told me the directors had been given or meted out a certain number of shares. I don't know what it was for," Bowker replied, admitting he got the stock "for nothing." He insisted he knew nothing about the 100 shares until Bellin informed him.

During his testimony, in which he was unable to recall whether he attended various meetings despite the fact he had signed the minutes, Bowker told how Bellin had instructed him that when a motion was made and Bellin looked at Bowker and nodded, it was the signal for Bowker to second the motion.

Here as Bowker's signature appeared with those of Augustus A. Greene, A. Henry Klein and Bellin on the minutes of a number of meetings in the spring of 1928, Bowker insisted that he did not attend any meetings until the summer or fall of that year.

"If it says there were four of us at the meeting, I wasn't there," he declared. "We four men never met at any time."

"You've had considerable trouble since then?" asked Mr. Pettine, referring to the early days of the corporation.

"Yes," replied Bowker.

"Your memory might be faulty?" the attorney asked, and the witness answered, "Yes, sir."

"Aren't you pleading ignorance to all of these things and uncertainty so as to shield yourself from responsibility in the equity suit brought against you for Conaty, receiver of the Rhode Island Mortgage Security Corporation," demanded Mr. Pettine.

"I am not," Bowker asserted.

Arthur L. Conaty is receiver for the Consolidated Mortgage and Investment Corporation, which absorbed the Rhode Island Mortgage Security Corporation.

A recess was taken at this point so Mr. Pettine might obtain the papers in the equity suit in which Bowker is named as a respondent.

SURPRISE WITNESS CONTRADICTS POLLAY

Sam Dolbey Takes Stand at Trial of Six on Fraud Charges

Testimony of Sam Dolbey of Johnston, a surprise rebuttal witness, was introduced in Superior Court yesterday by the State to contradict testimony previously given by Irving Pollay, one of six defendants on trial on a conspiracy charge. It resulted in a continuance of the trial to this morning to give defence an opportunity to answer.

Dolbey, called by Assistant Attorney General Michael DeCiantis shortly after the defence had rested, testified he saw Pollay in the office of the Rhode Island Mortgage Security Corporation on March 1, 1929, when he went there to pay a $2500 note on a stock purchase. Pollay had testified he left the employ of the corporation in January, 1929.

The witness said Pollay had asked him to indorse a certificate for 100 shares of what was termed bonus stock. He said that after he left he "thought it was a funny transaction." Mr. Dolbey's check for $2500, dated March 1, 1929, was introduced in evidence by the State, which rested at conclusion of his testimony.

Pollay was recalled to the stand by Anthony V. Pettine of defence counsel and denied being in the office on March 1, reiterating his former testimony that at the time he was employed by the Standard Stores at Boston. He testified he never met Mr. Dolbey in his life "till I saw him in the courthouse in the corridor yesterday." Pollay was excused without cross-examination by the State.

Defendants in the case, which is being heard without a jury, are Pollay, Henry D. Bellin, a Providence attorney; William M. Peacock, a former Pawtucket real estate man; Benjamin Saxe of Boston, and Joseph Golden and Arthur R. Brody, both of Brookline, Mass. They are charged with conspiring to defraud the Rhode Island Mortgage Security Corporation of more than $50,000.

Peacock was the final defence witness yesterday. He said he never saw Pollay, Saxe, Brody or Golden until they appeared in court. He testified in regard to the notes for $20,000 he said he signed for Bellin as a favor.

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THURSDAY, JANUARY 18, 1

FIVE WEEKS' TRIAL BROUGHT TO CLOSE

Decision Expected Next Thursday for Six Men Accused of Mortgage Firm Fraud.

ARGUMENTS ON FINAL DAY

Assistant Attorney General Calls Irving Pollay "Master Mind" of Alleged Conspiracy Here

A decision as to the guilt or innocence of six men, whose trial on a charge of conspiring to defraud the Rhode Island Mortgage Security Corporation and stockholders of more than $50,000 ended in Superior Court yesterday afternoon, is expected to be handed down by Judge Charles A. Walsh a week from today.

Saying he wanted to hand down his decision as speedily as possible, Judge Walsh, who heard the case without a jury, directed the defendants to be present in court at 10:15 o'clock next Thursday morning, when, he said, he hoped to have the decision ready.

Arguments of counsel occupied most of the final day of the five weeks' trial of Henry D. Bellin, a Providence attorney; William M. Peacock, a former Pawtucket real estate man; Irving Pollay and Benjamin Saxe, both of Boston, and Joseph Golden and Arthur R. Brody, both of Brookline, Mass.

Bellin Was General Manager

Bellin was general manager, secretary and treasurer of the corporation. Pollay was sales manager, and Golden, Saxe and Brody were on the sales staff. Golden was claimed by the defence to have succeeded Pollay as sales manager when the latter left the corporation. The State contended 1000 shares of common stock were issued illegally to Pollay as a bonus and were later sold to subscribers for about $52,000 without being listed on the books.

"While the defendants have been parading the streets of Providence in their dress suit, the poor stockholders—some of them—have been going hungry," declared Assistant Attorney General Michael DeCiantis as he concluded his two-hour argument on behalf of the State just before adjournment.

Calling Pollay the "master mind" of the alleged conspiracy, Mr. DeCiantis said Pollay, Golden and Bellin were the "triumvirate" around whom the plot revolved, and Bellin was the "tool." Saxe and Brody, he pointed out, signed receipts in blank throughout the sale of the 1000 shares of stock while "subscription after subscription was stolen."

"They brought in $300,000 and took out $172,000," he asserted, explaining that the cost of selling the stock was $122,771.50, or $27,221 more than allowed by the Bank Commissioner, while $50,000 was taken from the corporation through the sale of the common stock in May, June and July of 1929.

Doesn't Excuse Peacock

Mr. DeCiantis said he was convinced that Peacock, who signed notes for $20,000 for Bellin allegedly only as a favor, knew what was going on and was threatened by Bellin, "but it doesn't excuse him from the crime of conspiracy." So far as the State knew, Peacock did not receive anything, he added, "but he wouldn't have put his name on $20,000 unless he knew something was going on."

Arguing for Peacock, James J. McGovern contended there had been no criminal intent on Peacock's part when he signed the notes, which he did at Bellin's request. Peacock signed under protest and against his better judgment, being persuaded by Bellin, Mr. McGovern said.

Pointing out that Bellin "gathered around him a board of directors that would be creditable to any institution in this land," Mr. McGovern said that "according to all the evidence, Bellin was a most persuasive man." He said the "alluring" prospectus of the corporation was "a child of Bellin," who "fooled them all."

Referring to the directors, he said that "every one of those men fell for Mr. Bellin without exception," and if they were asked why they did so would reply, "I had confidence in Mr. Bellin."

Daniel T. Hagan, counsel for Bellin, in his argument criticised Arthur S. Conaty, receiver for the Consolidated Mortgage & Investment Corporation, and Meyer Millman, former auditor for the Rhode Island Mortgage Security Corporation. The former firm absorbed the latter, and both Mr. Conaty and Mr. Millman assisted the prosecution in the trial.

Sees Not a Cold Fact

"Conaty and Millman engineered this entire thing they call a conspiracy," declared Mr. Hagan. "There is not a cold fact before the court showing a conspiracy. It is time for the court to stop this persecution that has been carried on against this company by this receiver."

Mr. Hagan said he felt justified in not asking Bellin to take the stand, as there was no evidence of any conspiracy or agreement. Issuance of the 1000 shares to Pollay was lawfully done with the knowledge of the stockholders, he said, and it had not been shown that any rule of the corporation was violated. It was true Bellin made some money on the stock sale, but there was nothing unlawful, he added.

"To make a profit is not illegal," he asserted. "There is nothing here that shows where there has been any money taken away from anybody. Every soul in this entire case has received all the money he is entitled to."

Speaking on behalf of Saxe and Brody, Edward L. Godfrey pointed out that they first sold unit stock and then took up the sale of common stock at the request of Bellin and Golden, and while there were "two main suspicious circumstances" in connection with certain commissions, the evidence was too slight to base a judgment of guilty of conspiracy beyond all reasonable doubt.

Bellin Had Charge of Books

Contending that Bellin alone had charge of the books and was the only one who could see the opportunity for putting through the plan for the common stock sale, Maurice Jacobs of Boston, of counsel for Pollay, Golden, Saxe and Brody, insisted there was no evidence to connect them with the alleged conspiracy. It is apparent the directors were lax, Mr. Jacobs said. The evidence, he said, would justify the conviction of Bellin if the latter alone were standing trial, but it did not justify the conviction of anyone else.

Anthony V. Pettine, chief defence counsel for the four Massachusetts men, charged that Mr. Conaty fostered their prosecution "and Millman, who knew the records, sits there aiding and abetting to send his former employer to jail." He referred to Bellin.

An impartial review of the documents could result only in the conviction that there was no conspiracy, because if there had been, no receipts nor checks would have been given nor entries made on the books, Mr. Pettine said.

Claiming the directors of the corporation were lax, Mr. Pettine in referring to the issuance of bonus stock to Pollay pointed out that Col. Lindbergh received $250,000 in stock "for the use of his name." He urged the court not to let suspicion influence his judgment, and pointed out good names, reputations and livelihood of the stock salesmen were at stake.

Feb. 10, 1934

2 Entered as second Office at Providen

BELLIN, POLLAY GET 2 YEARS IN PRISON

Golden Sentenced to One Year; Three Guilty of Conspiracy to Defraud R. I. Firm.

STEPS TAKEN FOR APPEAL

Judge Walsh Cites Past Good Records, Says Judgment Must Be Tempered with Mercy

Henry D. Bellin, 52, of 444 Angell street, an attorney, and Irving Pollay, 42, of 38 Hutchins court, Roxbury, Mass., stock promoter, were each sentenced to two years in State prison by Judge Charles A. Walsh in Superior Court late yesterday on a charge of conspiring to defraud the Rhode Island Mortgage Security Corporation and its stockholders.

Joseph Golden, 59, of 155 Coolidge street, Brookline, Mass., securities salesman, was sentenced to one year in Providence County Jail on the same charge.

Serving of the sentences is stayed as a result of filing of the defendants' intention to prosecute to the Supreme Court a bill of exceptions to Judge Walsh's recent decision finding them guilty.

Three Men Provide Bail

The three men gave bail and were released pending final disposition of the case. Bellin was held in $12,000, and Pollay and Golden in $10,000 each. Mrs. Jessie K. Rothman, of 42 Hidden street, Providence, provided Bellin's surety. William J. Hamilton, of 35 Bates street; Israel and Mrs. Tillie Chernick, of 66 Summit avenue, East Providence, and Mrs. Edna Pettine of 39-41 Harvard avenue went bail for the two other defendants.

Before sentence was imposed it was revealed that Pollay and Golden yesterday afternoon had each turned over $5000 for the benefit of stockholders to Arthur L. Conaty, receiver of the Consolidated Mortgage & Investment Corporation, which absorbed the Rhode Island Mortgage Security Corporation.

Judge Walsh commended Assistant Attorney General Michael DeCiantis, who represented the State, for having conducted the "long and arduous trial in an examplary manner," and said he considered Mr. DeCiantis should be complimented for the way in which he presented the case and carried it through.

Cannot Practice Profession

Whatever sentence Bellin received would prevent him from practicing his profession, Judge Walsh pointed out. It was disclosed that Bellin has lost all his money and that his home was foreclosed a few hours before the court session.

"I know that whatever sentence Bellin receives is going to prevent him from practicing his profession," Judge Walsh said. "I know he has no money. I know the punishment will reflect on his boy, whom I have seen grow up, his faithful wife, who is innocent in this transaction, and his dutiful brother."

Pointing out he had inquired carefully into the background and home conditions of each of the defendants, Judge Walsh said he also had before him the people of Rhode Island, "who look to me to carry out the laws on the statute books."

He said that his judgment must be tempered with mercy, and that he must consider that the three men were all of mature years and there was no previous record of any conviction against them.

"They are not ordinary criminals, but men far above the average in surroundings and training," he added in asserting that a short sentence to a man of refinement and character is often more severe than greater punishment to a more hardened type.

Makes Plea for Leniency

Pleas for leniency were made for Bellin by Daniel T. Hagan of Rosenfeld & Hagan, and for Pollay and Golden by Anthony V. Pettine of Pettine, Godfrey & Cambio.

"Bellin still feels there was nothing wrong in what he did," asserted Mr. Hagan, declaring that the corporation failed because of the depression and not because of any money that was taken from it. "I don't agree with him, yet he feels that all the way through if there were designs of a conspiracy he would not have kept all the details, all the books he did.

"If a real conspiracy had been intended, it would have been handled entirely different, especially with a member of the bar designing it.

"Bellin from the beginning of this thing to today has suffered torment. He is not only broke—he has no money—but his boy has refused or neglected to go to school simply because of his father's trouble, his wife is in very bad condition mentally and physically because of all this trouble, and on top of all that today they foreclosed a mortgage on his home and wiped out all his equity.

"He is broke, back where he started as a youngster. The court knows that no doubt he'll be disbarred. It leaves him practically blank, blank in money, blank in family, blank in the right to practice law."

Cites Past Good Records

Mr. Pettine's plea for Pollay and Golden was centred on their past good records and the fact that a sentence would bar them from obtaining a license to sell stock in the future. He pointed out they still had a civil suit for $400,000 "staring them in the face." Because of the type of the two men, a sentence of one day would be as good as one for two years, five years or 10 years, he contended. Golden broke into tears as Mr. Pettine made his plea.

Mr. Pettine read letters in behalf of Pollay from George A. Morin, president of the Boston Kiwanis Club, and Rabbi Harry Levy of Temple Israel, Boston, as well as a telegram from Victor Levine, professor of law at Syracuse University.

In asking the court to impose sentence, Assistant Attorney General DeCiantis said:

"The defendants stand before Your Honor convicted of the crime of conspiracy. Through their concerted action, scheming and trickery, the Rhode Island Mortgage Security Corporation was cheated and defrauded of 1000 shares of stock, which was later sold by these defendants and netted them $52,000.

Many Lost Their Savings

"Those who were affected by their conspiracy were the stockholders. While these men enjoyed all the comforts and the luxuries of life, many of our citizens who invested their money in this corporation lost all of their life savings and many face starvation.

"Organizations which are organized for the purpose of cheating and defrauding the people are the most dangerous and easiest means by which a crime can be committed and yet hard to detect. The policy of our department is to prevent such bogus organizations or corporations selling stock fraudulently in our State. The victims who are induced to buy generally are women and elderly people.

"In moving for sentence, it is my duty to ask Your Honor that such a sentence be imposed which will make these men realize the wrong that they have done, the sorrow and the poverty which they have brought in many homes and also one which will warn others in our State and other jurisdictions that this 'racket' will not be tolerated but will be vigorously prosecuted by the Attorney General's department."

Bellin, Pollay and Golden were indicted in 1931 with William M. Peacock, a former Pawtucket real estate man; Benjamin Saxe of Boston and Arthur R. Brody of Brookline, Mass., on a charge of conspiring to defraud the corporation and stockholders of more than $50,000 between Feb. 1, 1928, and Sept. 13, 1929.

Trial Opened Last Year

The trial of the case opened late last year before Judge Walsh, sitting without a jury, and lasted five weeks, with voluminous documentary evidence being introduced. Judge Walsh, in his written decision, Jan. 25, found Peacock, Saxe and Brody not guilty. Bellin was the only defendant not to take the witness stand.

Bellin was general manager, secretary and treasurer of the corporation, Pollay was sales manager and Golden, Saxe and Brody were salesmen. Peacock was involved because of a transaction in which Bellin was claimed to have obtained $20,000 by having Peacock sign notes for that amount and indorse over checks issued on the purported loan.

The case was centred around 1000 shares of bonus stock, issued to Pollay and later sold to subscribers throughout Rhode Island at $50, $60 and $75 per share and shown not to have been listed on the corporation's books.

The Rhode Island Mortgage Security Corporation was later absorbed by the Consolidated Mortgage and Investment Corporation, of which Arthur F. Conaty is receiver. Mr. Conaty assisted the State in the prosecution of the defendants on the conspiracy charge.

22 Dec. 5 1935

HENRY D. BELLIN DENIED NEW TRIAL

Providence Lawyer and Two Boston Stock Salesmen Face Prison Terms.

GUILTY OF FRAUD PLOT

Defence Counsel May File Plea for Reargument of Case Before Supreme Court

The State Supreme Court yesterday denied new trials to Henry D. Bellin, Providence attorney, and Irving Pollay and Joseph Golden, Boston stock salesmen, convicted of conspiracy to defraud the Rhode Island Mortgage Security Corp. of more than $50,000.

The three men now face prison terms—two-year sentences for Bellin and Pollay and a one-year sentence for Golden—imposed by Judge Charles A. Walsh in Superior Court on Feb. 9, 1934. They were found guilty by Judge Walsh after trial without a jury, and they have been free under $10,000 bail pending the Supreme Court's decision, which was written by Justice A. A. Capotosto.

Appeal Heard Twice

The trio's appeal had been heard twice in the Supreme Court, first by the old Supreme Court in December, and because the case was not decided by the old court before it was removed, the appeal again was heard by the present Supreme Court on Feb. 6, 1935.

Assistant Attorney General Michael DeCiantis who conducted the prosecution of the defendants in the trial without jury, before Judge Walsh in Superior Court, when informed of the Supreme Court's decision said he would communicate with counsel for the defendants and ask to have the defendants committed by Judge Walsh later.

He said he would not insist upon this action before the Christmas holidays if the defence counsel requested a delay, he said.

There was a possibility, defence counsel might file a motion for reargument before the Supreme Court.

"The record in this case construed as a whole, fixes the guilt of each defendant beyond a reasonable doubt. There is no error in the decision of the trial justice that finds each of these defendants guilty of conspiracy as charged in the indictment," declared Justice Capotosto in the opinion handed down yesterday.

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Feb. 18, 1936

LAWYER TO BEGIN PRISON SENTENCE

Bellin and Two Salesmen Jailed for Conspiracy to Defraud R. I. Firm.

THEIR APPEALS DENIED

Bellin and Pollay Face Two Years in State Prison; Golden Gets Year in County Jail

Henry D. Bellin, disbarred Providence attorney; Irving Pollay and Joseph Golden, Boston stock salesmen, yesterday began serving sentences imposed two years ago for conspiring to defraud the Rhode Island Mortgage Security Corp. of more than $50,000.

The men were before Judge Charles A. Walsh in Superior Court and were committed on the motion of Michael DeCiantis, Assistant Attorney General, who prosecuted the case.

On Feb. 9, 1934, after a five weeks trial and their conviction, Bellin and Pollay were each sentenced by Judge Walsh to two years in State Prison and Golden to one year in Providence County Jail.

Appeals to the Supreme Court which failed were responsible for the long delay in the men's starting to serve the sentences. Their appeals denied, they subsequently sought permission to re-argue their case but this was also denied them. Bellin was later disbarred by the Supreme Court.

"I hereby move for committment of these three men according to the sentence imposed by your honor," was all Mr. DeCiantis had to say when the trio lined up before the bench.

"The respondents having appeared in court, they are ordered committed," said Judge Walsh, and deputy sheriffs led the three men away.

There was no comment by defence counsel present. Bellin was represented by his brother, Frank H. Bellin and Charles J. McCabe of Rosenfeld & Hagen, appeared for Pollay and Golden.

Bellin, 54, lives at 181 Benefit street. Golden, 62, and Pollay, 44, are both from Brookline, Mass., Golden living at 155 Coolidge street and Pollay at 179 Babcock street, in that city.

BELLIN AND 2 OTHERS BEGIN SERVING TERM

Lose Two Year Fight on Sentences for Conspiracy in Stock Deal

Henry D. Bellin, disbarred Providence attorney, and Irving Pollay and Joseph Golden, Boston stock salesmen, were committed to jail today to begin serving sentences imposed by Judge Walsh in Superior Court two years ago for conspiracy to defraud the Rhode Island Mortgage Security Corp. of more than $50,000.

Before being removed to the prison the trio were brought before Judge Walsh for brief commitment proceedings.

Asst. Atty. Gen. DeCiantis, who prosecuted the trio, moved for their commitment. Judge Walsh, after reading the indictment, so acted.

Bellin was represented today by his brother, Frank Bellin, a Providence attorney. Charles J. McCabe appeared as counsel for Pollay and Golden.

Today's court action about a minute, and after the judge pronounced his order from the bench the trio, heavily loaded with personal belongings, started for jail. Bellin and Pollay will serve two years in the State prison, and Golden one year in the Providence county jail.

Conviction of the three men in Superior Court followed a trial of more than five weeks. The defendants fought conviction in the Supreme Court, but that tribunal, in an opinion handed down last December, upheld Judge Walsh's ruling. Subsequently defendants sought to have their cases reargued before the high court, but were unseccessful.

Bellin's disbarment was a result of the case. Charges against all three involved fraudulent stock transactions.

S. J. McInerney

March – 23, 1933

HIGH COURT RULES PRISONER ESCAPED

Justice Hahn's Opinion Upholds Verdict Against McInerney Who "Left" Jail Pasture.

EXCEPTIONS ARE OVERRULED

Cranston Man Denied He Escaped, Insisting "Custody" Implies Physical Force

In leaving the Providence County Jail's pasture in 1931, Stephen J. McInerney, 32, of 749 Reservoir avenue, Cranston, a "trusty," "did escape" from the jail, the Supreme Court held yesterday afternoon in an opinion prepared by Justice J. Jerome Hahn.

McInerney was in the public eye once before when he endured 45 days in solitary confinement rather than work while serving a sentence. His refusal to work led to an official investigation.

Overrules All Exceptions

The opinion overruled all of McInerney's exceptions taken after his conviction last Dec. 12 by a Superior Court jury on a charge of escaping from the custody of Warden Ralph H. Walker. The case was remitted to the Superior Court for further proceedings.

Sustaining Judge Jeremiah E. O'Connell's refusal to grant McInerney's motion for a new trial, the higher court approved as "correct" Judge O'Connell's ruling that "custody is the detention or the restraint of a person against his will," and held that the defendant's contention that custody requires physical force could not be sustained.

McInerney, who on Feb. 11 finished serving a previous sentence, has been in jail in default of $5000 bail awaiting disposition of the present case.

Sentenced to One Year

On [illegible] he was sentenced to one year in jail [illegible] by Judge Charles A. Walsh in Superior Court for violation of a deferred sentence given him March 17, 1931, on a common drunkenness charge.

His refusal to work, which was not involved in the case, was based on his contention that the sentence was not deferred on his first appearance in Superior Court, but the case was discontinued at that time, and thus when he was sentenced the court's action was illegal.

He escaped on Aug. 7, 1931, while he and 11 other prisoners were guarding a herd of cows from the jail cowbarn to pasture. Recaptured last April 26, he resumed serving his sentence, which expired Feb. 11. Still at the jail, he will now be taken before Judge O'Connell for sentence on the escape charge.

Was Out of Guard's Sight

At the trial Joseph C. Cawley, McInerney's counsel, presented the defence that because the defendant was out of a guard's sight at the time he fled, there was temporarily no custody and thus could not be any escape. He contended the custody must not be implied but actual, and that the guard, by not keeping McInerney constantly in sight, abandoned custody.

Judge O'Connell ruled that relaxation of vigilance would not destroy actual custody, as custody may be defined as detention or restraint of a person against his will, and escape from custody is escape from restraint before being freed by due process of law.

"Failure of the guard to notice the escape for five minutes or a longer period would not constitute an abandonment of his custody, for custody of a prisoner is not abandoned until his sentence is completed or he is pardoned and receives his discharge therefrom," the Supreme Court opinion pointed out.

"Furthermore, it is well settled that whatever may be the conduct of the jailer, the prisoner cannot shield himself therewith from the charge of escaping custody if he leaves the place of his confinement.

"To hold that the warden's authorized act of placing the prisoner at labor outside the jail building interrupts the prisoner's sentence and places him beyond the jurisdiction of the prison authorities would frustrate the purpose of these statutes," the opinion said in citing the law empowering the warden to appoint assistants to exercise his authority and also authorizing him to keep "at labor therein or on the prison lot or in some building thereon * * * all persons imprisoned in the jail. * * *

"Wherever a prisoner is assigned to work, he is, until discharged, still in custody, and if he leaves such custody he becomes guilty of escaping."

The case was argued before the Supreme Court on the defendant's exceptions Feb. 15 by Mr. Cawley for the defendant and Assistant Attorney General Michael DeCiantis for the State.

ALIENIST WILL TEST McINERNEY

March 29, 33

Judge O'Connell Decides on Course in Case of Prisoner Refusing to Work.

A long personal plea for a deferred sentence made by Stephen J. McInerney, 32, of 749 Reservoir avenue, Cranston, who has been in the public limelight for refusing to work while a prisoner in Providence County Jail, and was brought in for sentence today on a charge of escaping from jail, resulted in Judge Jeremiah E. O'Connell in Superior Court deciding to appoint an alienist to examine the defendant and the case was continued for one week.

Judge O'Connell, after listening to McInerney's story, following the statements of counsel, at first continued the case until tomorrow for sentence and directed Assistant Attorney General Michael De Ciantis to have jail authorities and physicians appear to testify so that complete picture of the situation could be obtained.

McInerney was still inclined to continue his story when he was led away and after he had been taken to the cell room his counsel, Joseph C. Cawley, advised the court that he considered it a mental case because if ever a mind was wracked by alcohol it was that of McInerney. Mr. Cawley added that he did not express this view while the defendant was present because he feared a "scene."

Judge O'Connell then conferred with counsel at the bench and announced his decision to appoint an alienist.

McInerney, a former "trusty" at the jail, who has consistently refused to work while serving a sentence and at one time endured 45 days in solitary confinement because of his stand, was up today for sentence on a charge of escaping from jail on which he was convicted after a trial Dec. 12. The Supreme Court, last Friday, overruled his exceptions.

Originally, McInerney was sentenced to one year in May, 1931, by Judge Charles A. Walsh in Superior Court for violating a deferred sentence given him on March 17, 1931, on a common drunkenness charge. His refusal to work was based on his claim that sentence was not deferred on his first appearance but the case was discontinued at that time and that when he was sentenced the Court's action was illegal. He escaped on Aug. 7, 1931, and recaptured last April 26.

His former sentenced expired on Feb. 11.

"This defendant, since he has been in jail, has refused to work and has done everything in his power to break the morale of the inmates in the institution," declared Mr. DeCiantis in asking sentence.

"He has waged the battle of defiance; he has been stubborn and very arrogant; the eyes of the inmates are focussed on the outcome of this defendant's case. It is a case in which an example should be made.

"After his conviction he told the Warden he was not going to work and that they could call out the militia if they wished. There are elements involved in this case, such as breaking the morale of a prison."

JUDGE LECTURES S. J. McINERNEY

Gives Prisoner Two-Year Term, Tells Him He Must Work While Confined.

CULPRIT DEFIANT TO COURT

Condemns Decision, Says "This Could Not Have Happened in Any Other State"

Persistently trying to interrupt the court, Stephen J. McInerney, 32, of 749 Reservoir avenue, Cranston, who entered the limelight by refusing to work while in jail, heard Judge Jeremiah E. O'Connell in Superior Court yesterday advise him after imposing a two-year sentence on a jail escape charge that he must work while confined.

Defiantly, McInerney declared, "It's two years I'll do in solitary confinement," as he was led away.

Judge O'Connell imposed the sentence after Dr. John E. Donley, appointed by the court to examine McInerney, declared the defendant to be of sound mind. A letter was read from Dr. William A. Horan, bone specialist, saying that McInerney's crippled right arm was an old condition to which the man had apparently accommodated himself sufficiently to do ordinary work.

Can Do Some Work

While McInerney should not be asked to do work involving strain and stress, Dr. Donley said, such work as that which McInerney has refused to do in the prison shirt factory is what physicians suggest for his condition. McInerney's right arm is fixed at a right angle, but there is no pain in it and the muscles are not diseased nor paralyzed, the physician said.

Judge O'Connell, remarking that McInerney is defiant and insolent, said his investigation had shown the defendant had received no abuse in jail, but on the other hand had been shown the greatest consideration. He remarked how McInerney had used vile language, refused to wear prison garb or work, and disrupted prison morale.

"He has the wrong attitude toward life and all authority in general," said the court.

As sentence was imposed McInerney, who had been kept silent, received permission to speak. He asked the court to specify how he must serve his sentence.

"Authorities must be able to say at the jail what this man shall do," replied Judge O'Connell. "They must be able to give orders. It is absolutely absurd to say we must have a separate jail for those who commit different offences.

Left to Authorities

feel the authorities will treat him
the utmost consideration. I feel
will try to treat him as fairly as
can. I suggest they give him work
n do. He must work at the jail, and
should see that their orders are car-
ut."

the court concluded by assuring
defendant officials would not stand
he way when he became eligible for
ole if his conduct had been good. Mc-
erney led up to his declaration on soli-
ry confinement by asserting, "This
uld happen in no other State. I'll
ever submit to one wish. It's no de-
ance."

Warden Ralph H. Walker and Deputy
bert Burns were among officials at
proceedings.

nerney originally was sentenced to
ar in May, 1931, by Judge Charles
lsh in Superior Court for violating
rred sentence given him March 17,
on a common drunk charge. He
nsistently insisted the sentence
legal. He escaped from jail Aug.
1, and was recaptured last April
Superior Court conviction on the
cape charge was upheld by the
me Court.

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Stanley Lugiski and David Cowen

BURGLAR ADMITS PART IN ROBBERY

Lugiski Says He Went to Home of Hugh McCall Accompanied by "Two Other Fellers."

WILL NOT REVEAL NAMES

Denies Hanley and Carroll Were the "Fellers" or That They Threatened Him

Denial that fear prevented him from implicating two other men in a burglary for which he is on trial was made in Superior Court yesterday by Stanley Lugiski, 26, of 718 North Main street, Pawtucket.

He admitted he and David Cowen, 24, of 130 Garden street, that city, the other defendant at the present trial, had gone to the house of Hugh McCall, 246 Lonsdale avenue, Pawtucket, where the burglary was committed.

Lugiski said he and Cowen went to the Lonsdale avenue house with two other men on the night of Jan. 26 when McCall was beaten and the house robbed. He insisted their companions were "two fellers" whose names he doesn't know, and not John G. Hanley, 23, of Berndt street, and Thomas F. Carroll, 22, of 28 Blake street, both of Pawtucket. The latter two men, co-defendants with Lugiski and Cowen, are to be tried later.

Fights State's Attempt

Lugiski fought off the State's attempt to make him admit he would not incriminate the two other men because he had been threatened by them.

Lugiski also admitted the truth of his statement to police that Cowen planned the robbery. However, just before adjournment, he told Assistant Attorney General John H. Nolan he couldn't remember having said the statement was true, and then denied Cowen had suggested the visit.

Cowen, according to Lugiski's statements to police and on the witness stand, drove the car and waited on a side street while the trio went to the house.

Assistant Attorney General Michael DeCiantis urged the defendant to "tell the truth about this matter."

Lugiski, in a cross-examination marked by frequent long pauses before replying, insisted he was telling the truth in exonerating Hanley and Carroll from participation in the hold-up.

Names Came to His Mind

He knew the two men who went into the house with him "just by sight to say hullo to," he maintained, and the reason he told Chief Inspector Wilfred H. Wadsworth of Pawtucket that Hanley and Carroll were with him was because "they were the only names that came into my head."

"Has Hanley or Carroll said anything to you about this case?" asked Mr. DeCiantis.

"Out in the prison yard they wanted to know what they were in here for," replied Lugiski. "I told them how I put their names in the confession."

"Won't you admit they threatened you if you should say anything about them in this court room?" asked the prosecution.

"No. The only thing they said was to get up and tell the truth."

"And now you're telling the truth?"

"That's right."

"Because you're afraid?"

"No."

Just Used Names. That's All

Of his statement to police that Cowen suggested going to "a house on Lonsdale avenue where there's lots of money," Lugiski said:

"If it's on there, he must have said it."

The only reason he used the names of Hanley and Carroll in the statement, one of whom he said he met in prison and the other in the "boys' school," was because he didn't know the other men's names, he said.

"So you would mention the names of two innocent men to be held up in a serious case of this kind, would you?" asked Mr. DeCiantis.

"Sure," replied Lugiski in a low voice after a long pause, adding that Chief Wadsworth forced him to make the statement by hitting him.

"Why should you implicate two innocent men?" Mr. DeCiantis asked.

"Suppose you were with two fellers and didn't know them. What would you say?" Lugiski retorted.

"I'd say I didn't know them, that's what I'd say," replied the prosecutor.

Lugiski took the witness stand after Thomas F. Vance, Jr., of defence counsel, opened the defence shortly after mid-afternoon and stated the jury would be given the opportunity to hear the defendants' stories.

Was "Just Fooling"

According to the witness, he accidentally met Cowen, who was driving a car, the night of Jan. 26, and they went to the railroad station. There, he said, he saw Hanley and Carroll and, "just fooling," asked them if they wanted to make some money.

They told him they were not going to do anything crooked, he said. He then went into the men's room and met the "two fellers" he was supposed to meet, he said.

These "two fellers" went with Cowen and him and, leaving Cowen in the parked car, went to the house, he said.

He described one of his companions as having a mustache and wearing a dark suit and dark overcoat. The other, he said, also had dark clothes on.

He told how they gained admittance after knocking twice, and said McCall thought they were fooling when one of the men, who had a gun, told him to "stick 'em up."

Lugiski said he wanted to go out but his companions prevented him, and he obeyed an order to start searching. He took a revolver from a drawer, and gave it, with the other weapon, to Cowen the next night, he said.

Testimony Conflicts

According to previous testimony, the weapons were later disclosed to police by Cowen at his home.

Lugiski said he saw blood on the man in the house, but denied a blackjack was used. It was the gun that was used, he said, although he did not strike the blow nor see it struck.

Only $15 was taken, besides the weapon, he insisted. He got $5, he said, and gave Cowen 18 cents, all his change, to buy some oil. According to Lugiski, McCall, son of Hugh McCall, about $ diamond ring and the weapon were taken.

Near the close of the afternoon Lugiski while under cross-examination by Mr. Nolan stated the "two fellers" had asked him to carry a load of liquor from Pawtucket to Woonsocket, and they were to obtain it at the Lonsdale avenue house. He didn't know till he got in the house that it was a robbery, he said.

"When did you think of this yarn?" demanded Mr. Nolan.

The witness didn't answer, but admitted it was the first time he had offered that explanation.

Inspector Vincent A. Hourigan of Pawtucket, asked by J. Addis O'Reilly of defence counsel whether he had seen Chief Wadsworth "put a gun to the head of Lugiski and say if he wouldn't sign the statement he would "let him have it," retorted, "No such thing happened."

The inspector denied either he or Wadsworth had struck Lugiski, or that the defendant was questioned in a room with the lights off.

"My method has always been brains against brains," declared Chief Wadsworth. "I didn't know what was running through his brain, but the questions I fired at him finally got him."

He admitted questioning Hanley and [illegible] only about five minutes at 1:30 the morning and a similar period afterward.

He wasn't very fussy about questioning them after getting statements signed by Lugiski and Cowen," Wadsworth said, adding the other two men were in a ugly mood." He added, "I had had before and knew what they were."

Lugiski admitted that on Sept. 7, he received a five-year sentence for breaking and entering.

HANLEY TESTIFIES IN OWN DEFENCE

Says Alleged Companions Implicated Him and Carroll in Burglary to Save Selves.

PRESENTS ALIBI TO COURT

Story of Meeting on North Main Street During Time of Crime Corroborated by Two Others

Testifying in his own defence, John G. Hanley, 23, of Berndt street, Pawtucket, who is on trial in Superior Court on a burglary charge with Thomas F. Carroll, 22, of 28 Blake street, that city, declared yesterday that two alleged companions had implicated him and Carroll "to save their own skull."

Hanley and Carroll are charged with burglary the night of Jan. 26 at the home of Hugh McCall, 246 Lonsdale avenue, Pawtucket. David Cowen, 24, of 130 Garden street, and Stanley Lugiski, 26, of 718 North Main street, who were also indicted on the charge and are in the Men's Reformatory, have identified Hanley and Carroll as participants in the crime.

"They figure if they can implicate us two fellers they can make it easy for themselves," Hanley asserted.

Hanley presented an alibi. His testimony and that of two other witnesses placed him and Carroll on North Main street from about 8:10 to about 9 o'clock on the night of Jan. 26. The burglary, according to State testimony, was committed about 8:30. Cowen is expected to take the stand this morning. Hanley concluded his testimony late yesterday.

Tells of Refusal to Join

He said he and Carroll met in the Pawtucket railroad station at 7 o'clock that night and shortly before 8 Lugiski entered by the rear door and asked: "Do you guys want to make some money?" They asked: "How?", Hanley said, and Lugiski replied, "A stick-up."

"Carroll said, 'No, sir, I'm going straight.' I said, 'Let's go,'" continued Hanley, adding that he and Carroll then left the station and walked down Broad and Exchange streets to North Main street, where, at the corner of Main street, about 8:10 or 8:12 o'clock, they met Roland Banville of 88 North Main street and Michael Spano of 78 North Main street. Banville and Spano, it was brought out, live in adjacent houses across the street from the Pawtucket police station.

Hanley said Spano told him, "Johnny, I want to speak to you."

"It was business concerning his wife," the witness explained.

He and Carroll and Banville walked along together and stood downstairs in the doorway of an unoccupied store talking until Spano came downstairs about 8:30 and rejoined them, Hanley said. Banville left them shortly before 9, he added, and shortly after 9 he and Carroll walked to Main street and East avenue and stood outside the bank there until 9:30, when they parted to go to their homes.

John G. Hanley - Thomas F. Carroll

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Describes Police Threats

Describing his arrest, Hanley said that after he had been taken to Pawtucket police headquarters in handcuffs, Inspector Vincent A. Hourigan appeared wearing tan gloves and with his shirtsleeves rolled up, and when asked what the gloves were for, replied, "You'll find out if you don't come clean."

When Lugiski was brought in face to face with him and Carroll, Hanley said, Lugiski asserted, "I don't want to get these fellers in trouble."

Hanley said he was standing with his arms crossed and Chief Inspector Wilfred H. Wadsworth told him, "Raise your hands and I'll knock you down." Wadsworth got Carroll by the neck, put his arm behind him and dragged him from the room, Hanley said, adding that Wadsworth grabbed him and tried to push him downstairs, but he saved himself by holding to the railing.

"He tried to kick me into the cell, but I was too fast for him," he added.

At the jail, Hanley said, he asked Cowen and Lugiski how he and Carroll became implicated in the crime. Cowen denied implicating them, he said, but Lugiski admitted doing so, explaining he was forced to name them.

"Wadsworth put a gun to my head and put out the light. They'd have killed me. I had to say yes," he quoted Lugiski as explaining.

Only Record for Fake Alarm

Hanley said his only record was a 30-day jail sentence for ringing a false alarm, in which five men were implicated. They were under the influence of liquor at the time, he said.

Concluding his direct examination by George A. Saxon, defence counsel, he recalled one day when Mr. Saxon conferred with him, Carroll, Lugiski and Cowen downstairs in the courthouse.

"Lugiski said, 'Listen, Mr. Saxon there's two innocent men on this charge. Them two fellers are innocent,'" said Hanley. "You says, 'Were they on the job with you and Cowen?'"

Lugiski said they were not, Hanley added, and, "You said, 'Stanley, if you're telling the truth, I'll take the case. If there's any lying, I won't take it.'"

Assistant Attorney General Michael DeCiantis opened cross-examination by asking Hanley why he met Carroll in the railroad station.

Says Depot Was Hangout

"The depot was a hangaout. We'd go in there where it was warm," Hanley replied.

"Why did you have to go to the depot?" asked Mr. DeCiantis.

"Would you have a fellow stay home every night?" retorted Hanley.

"Why did you meet there?" Mr. DeCiantis demanded.

"We always meet there, that's all," replied Hanley. "Where do you want us to meet, down on the corner somewhere?"

Hanley admitted he once spent six months in the Sockanosset School for truancy, and said he recognized Lugiski the night the latter approached him and Carroll in the station because Lugiski had been at the school at the same time.

He denied he "hung around" with Lugiski and Cowen in the prison yard, explaining, "I just didn't like their company. I didn't have very much to do with them. I knew they weren't much good."

Trying "To Save Own Skull"

One day a man named Salisbury came to him there and told him Cowen had said he, Hanley, was in the burglary "to save his own skull," the witness added. He said he told Cowen and Lugiski "to go up there and tell the truth," and denied he had threatened them.

Hanley said his brother Tommy was told by Inspector Dougald Blue, Jr., "You tell your brother to look out, if Wadsworth ever gets him or gets anything on him he's going to ride him." Wadsworth had him in three or four times as a suspicious person, Hanley said, and told him, "Johnny, you're a wise guy but I'll get you some day."

"He thought I was a crook, that I was stealing, out doing jobs, pulling stuff, robbing people," Hanley explained, adding he never knew what he was being questioned for when he was held.

Mr. Saxon sought to have Hanley testify regarding a man named John Halloran, who, the witness said, is about his own build, but ended this line of questioning when Judge Jeremiah E. O'Connell, who is presiding over the trial, said it was improper unless the attorney was prepared to show Halloran was implicated in the crime.

Banville Refuses to Answer

Banville twice during cross-examination by Mr. DeC[illegible] refused to answer a question on t[illegible] Fran[illegible] road[illegible] sum[illegible] ed a marital controversy in which testimony would be relevant. Banv[illegible] f Sa[illegible] ad stated he went to Spano's house Forg[illegible] night because he had an appointm[illegible] ith him in Times square at 8:15. [illegible] used to say what the engagement [illegible] U. [illegible] r and would not tell what Spa[illegible] Cottag[illegible] to say to Hanley and Carroll. [illegible] John J[illegible] r of th[illegible]

Asked by Mr[illegible] n is whether he goes by any o[illegible] ame, Banville also refused to answe[illegible] explaining "because it's a nickname." He admitted he had been on probation fo[illegible] breaking and entering, but said he i[illegible] not on probation now.

Banville and Spano [illegible]id they had gone to the drugstore at High street and Main street to get [illegible]dicine for a baby that fell and hurt [illegible]tself in Spano's house, when they met Hanley and Carroll. Spano said he [illegible]oined the other three downstairs outsi[illegible] his house about [illegible]. After Banville [illegible], he talked with Hanley and Carroll ti[illegible]al out 9 o'clock, when they parted, he [illegible]aid. He refused to say what he discussed with Hanley and Carroll.

Spano Gets Excited

Shown by Mr. DeCiantis a card referring to "Roland Banville and Michael Spano and gang" and noting that Spano was charged with larceny Jan. 8, 1932, in Central Falls, and given probation the next day, Spano denied he was on probation and became so excited Judge O'Connell had to admonish him.

"You're not telling the truth," Spano told Mr. DeCiantis. "Who's the gang? Wait a while, wait a while. I want to know where you got that!"

The State rested its case yesterday morning after brief testimony. Harry M. Paine, clerk in the criminal room, was called to testify the two guns and pistol chamber in evidence had been in his custody since the trial of Cowen and Lugiski. John J. McCall, son of Hugh McCall, was recalled for a brief additional cross-examination by Mr. Saxon.

PAWTUCKET PAIR CONVICTED BY JURY

John G. Hanley and Thomas F. Carroll Found Guilty of McCall Burglary.

JURORS OUT SIX HOURS

David Cowen and Stanley Lugiski Already Awaiting Sentence for Same Crime

John G. Hanley, 23, of Berndt street, and Thomas F. Carroll, 22, of 28 Blake street, both of Pawtucket, were found guilty of burglary by a jury in Superior Court that reached its verdict at 8:35 o'clock last night. The jury had been out since 2:26 o'clock.

At 5:30, Judge Jeremiah E. O'Connell had called in the jury and on being informed it had not reached a verdict, ordered supper for the jurymen.

Hanley and Carroll, with David Cowen, 24, of 130 Garden street, and Stanley Lugiski, 26, of 718 North Main street, both of Pawtucket, were charged with burglarizing the home of Hugh McCall, 58, 246 Lonsdale avenue, Pawtucket, the night of Jan. 26. McCall was blackjacked and the house was robbed of $40, a diamond ring and an automatic pistol.

The State contended Hanley, Carroll and Lugiski entered the house, Hanley with a gun, while Cowen waited outside in the car in which he drove the trio.

Lugiski and Cowen previously had been placed on trial but during the proceedings pleaded nolo to the charge, after first exonerating Hanley and Carroll and then implicating them. Lugiski admitted blackjacking McCall, explaining he did so to forestall Hanley from shooting the elderly man. Both Lugiski and Cowen have been held in the Men's Reformatory, awaiting sentence, and were the State's principal witnesses against the other two defendants.

An alibi that they were on North Main street in Pawtucket at the time McCall's home was entered was the defence of Hanley and Carroll.

Assistant Attorneys General John H. Nolan and Michael DeCiantis represented the State. George A. Saxon was defence counsel.

William H Considine

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CONSIDINE TRIAL FOR FRAUD OPENS

Former Jeweler Accused of Getting $20,000 on Bogus Sales Agreements.

D. J. PERRY TAKES STAND

Guaranty Corporation Treasurer Tells of 16 Papers Discounted By His Firm for Defendant

William H. Considine, 51, former Providence jeweler and diamond broker, obtained between $20,000 and $21,000 in loans from the American Guaranty Corporation from July to November in 1931 on fraudulent sales agreements, a jury in Judge Jeremiah E. O'Connell's room in Superior Court was told by Assistant Attorney General Michael DeCiantis yesterday as Considine's trial on a charge of obtaining money under false pretences opened.

Dominick J. Perry, treasurer and general manager of the American Guaranty Corporation, called as the first of several State witnesses to testify regarding the transactions, said his firm discounted about 16 papers for Considine, each transaction being based on an installment note accompanied by a conditional sale or lease.

Perry said the transactions occurred between July 1 and Nov. 15, 1931. Considine in applying for a line of credit said the Considine corporation had about $75,000 paid in and he, as president and manager, had authority to sign papers for his firm, the witness added.

He identified sales agreements and notes made out by various persons to the Considine firm and assigned to the American Guaranty Corporation with the indorsement of "William H. Considine & Co., Inc., by William H. Considine, President." Perry also identified checks which he said had been paid by his firm to the order of the Considine firm and passed, after having been similarly signed by Considine for the company.

In his outline to the jury, Mr. DeCiantis said it would be shown that Considine passed the checks which were made out to his corporation and took the money himself. None of the men who signed the sales agreements, which Considine used as security for the loans, ever received any of the jewelry listed in them, and some of the leases were signed in blank, the prosecutor said.

Some time in December, 1931, when payments on the notes was in default, Considine was found to have left the State, Mr. DeCiantis pointed out, and after the case was reported to police the defendant was later arrested in New York by Sergt. John R. O'Brien of Providence police.

Assistant Attorney General John H. Nolan and Mr. DeCiantis represent the State. Edward T. Hogan and Laurence J. Hogan of Hogan & Hogan are counse for the defendant.

$20,000 NOTE FRAUD LAID TO CONSIDINE

Former Diamond Merchant Goes to Trial for Alleged Bilking of Credit House.

NOTE SIGNERS TAKE STAND

Testify They Lent Signatures to Transactions Without Ever Seeing Gems Involved in Deals

Signers of three of the seven conditional sales agreements and notes with which the State charges William H. Considin, 51, former Providence jeweler and diamond broker, obtained about $20,000 from the American Guaranty Corporation by false pretences, declared on the witness stand yesterday afternoon in Superior Court that they had never seen any of the diamond rings purportedly involved in the transactions.

The State claims there was no delivery of jewelry in any of the seven transactions in 1931 on which it bases its case against the defendant, and that Considine thus was guilty of using false pretences in discounting the paper with the finance firm.

After the notes and sale leases had been indorsed over to the finance firm by Considine as president of William H. Considine & Co., Inc., checks were made out by the finance firm to the Considine firm and cashed after Considine had indorsed them, according to the State, which charges the defendant retained the money for himself.

McCallion On Stand

James H. McCallion, 61, of 30 Beaufort street, first of the three signers called by Assistant Attorney General Michael DeCiantis, testified he signed a $2282 sales agreement and $2800 note at Considine's request on Aug. 4, but did not receive any of the 34 diamond rings listed in the agreement. He said he used to sell jewelry, but was never really in the business.

He said Considine, in asking him to sign, explained he had a chance to make a sale with a man named Herzog on Bridgham street, a previous customer, but that for some reason the finance company wouldn't accept Herzog as security. Considine told him, McCallion said, that if he would go through with the deal Considine could make the sale and profit from it.

McCallion said he then signed, and when Considine offered to turn over the dividends to him to pay to Herzog, who in turn would make the note payments, he told Considine to do the business and be responsible for Herzog, and turn the money over to him (McCallion) to make the payments.

Considine, with whom he had always been very friendly, gave him the money to make the payments and he did so, the witness continued. He said he never got any money from the transaction.

Under cross-examination by Laurence J. Hogan of Hogan & Hogan, Considine's counsel, McCallion denied he received 10 per cent., but admitted that later Considine went to his office and handed him $150, saying he felt he owed him that for signing.

"I accepted it," said the witness.

O. L. Richards Called

O. L. Richards, 38, of 18 Riverdale avenue, West Warwick, a tea and coffee merchant, who said he never had sold jewelry, testified that on Considine's request he signed a salesagreement for $2600 and a $2600 note on July 20, but never received any of the jewelry specified in the agreement. He could not recall whether the agreement was filled in when he signed it, but said he thought the note was blank. The agreement as read in court listed 28 diamond rings.

Considine came to him, Richards said, and claimed to have an opportunity to make a big sale with the Interstate Furniture Company. The jewelry was to be sold on weekly terms, the furniture company collecting the payments and paying Considine, and the latter in turn paying the finance firm, Richards quoted Considine as telling him. Richards said Considine asked him to sign the agreement and note so the transaction could be financed, and he complied.

Richards denied under direct examination that he received any money from Considine, but under cross-examination said he could not remember whether he received 10 per cent. in payment for the signing, or whether he received any amount. While denying under direct examination that he was affiliated with Considine, he admitted he had acted as Considine's agent in 1925 and 1926.

Frank M. Hogan, 53, of 54 Potters avenue, who said he knows Considine "very well," identified his signature on a $5664 lease agreement dated Nov. 14 and a $5500 note of Nov. 16, and when asked whether he ever received any of the 49 diamond rings listed as involved in the transaction, replied, "I did not." The agreement was not filled in when he signed it, he said. He could not recall, he said, whether the note was blank when he signed.

Made One $500 Payment

Hogan said Considine approached him on Armistice Day, 1931, and asked a favor, saying he had a chance to sell some diamonds and could finance the transaction with money from the American Guaranty Corporation if Hogan would make a note. Hogan said he hesitated, but Considine said he would give him the money to make the payments, so he signed. He added he made one payment with $500 Considine gave him for that purpose.

Considine, gave him $180, explaining he knew Hogan was not working and therefore did it for the favor of signing the note, Hogan said. He accepted the money, he said. Under cross-examination he said he was not in the jewelry business at the time, and was thinking of going into the insurance business. He had no reason to purchase jewelry for sale, he said.

The four other transactions involved in the case follow: Sept. 1, lease and note for $2100, signed by Nicholas J. Serror, 1107 Union Trust Company building; Oct. 17, lease, and Oct. 19, note, both for $5680, signed by Henry B. and Ellen S. Scott, 265 Ohio avenue; Sept. 30, lease, and Oct. 1, note, both for $5980; signed by Charles S. Read of Anthony; Oct. 7, note and lease for $5467, signed by James S. Graham, 46 Aborn street.

Partial Payments on All Accounts

Testimony of Domenic J. Perry, treasurer and general manager of the American Guaranty Corporation, brought out that there has been a partial payment on all seven of the accounts involved. Mr. Perry listed a total of $18,290 due the finance firm, divided among the various accounts as follows: Richards, $1300; McCallion, $1400; Serror, $1090; Read, $4000 (after applying $500 from reserve account); Graham, $3500; Scott, $4500; Hogan, $2500 (after applying $2500 from reserve account).

The reserve fund, Mr. Perry explained, is an account to which the finance firm credits amounts that are withheld at the time of discounting notes. Usually, he added, 10 per cent. is withheld and credited to this account.

Checks issued to the Considine firm on the accounts were listed by Mr. Perry as follows: Richards, $2184; McCallion, $2352; Serror, $16.05.50; Hogan, $2550; Scott, $4732.50; Read, $4537.50; Graham, $4150.

Perry said the finance corporation had had a total of 15 accounts with Considine, and the latter had met seven of the notes in full. Balances are due on the seven notes involved in the case and on one other, he said. All of the accounts, with the exception of one, were prior to those included in the indictment, he added.

Under cross-examination by Edward T. Hogan of defence counsel, Mr. Perry said that he never asked Considine for a statement of liabilities and assets or a balance sheet of the corporation as this was not necessary, since the finance firm obtained the information from Bradstreet. This report was read by Mr. Hogan, and Perry admitted statements made to him by Considine concerning the corporation's net worth were substantiated by the report.

Looked Also to Makers

Mr. Perry said Bradstreet and the Mechanics National Bank had the identical statements regarding the Considine firm, so the American Guaranty Corporation relied on them.

"We didn't consider the responsibility of the corporation as our sole security," said the witness. "We regarded that as only security in part. We looked also to the makers of the notes."

He added that his firm also looked to the merchandise itself as security.

"We understood it was in existence," he said. He said the line of credit was extended Considine by the Corporation committee, after considering the application.

Perry said the first transaction with Considine was on July 1, 1931, on a note of which Charles S. Read was the maker and the Considine firm, Considine as president, was the indorser. Jewelry was involved as in the other transactions, and the check issued in this instance was $2137.50, he said.

Over the objection of Mr. DeCiantis, Mr. Hogan drew from Perry the admission that in December, 1931, he had helped Considine discount notes with two other finance companies and in these cases there were no leases, the transactions being wholly note transactions. Mr. Perry said he recommended the applications in these cases on the basis of the satisfactory experience the American Guaranty Corporation had had with Considine up to that time.

Hadn't Troubled About Leases

The first of these two notes was Dec. 4, the note being made out by Charles S. Read and it was discounted with the Republic Discount Corporation, of which Perry said, he was president at that time. The second note, dated Dec. 11 and with James Graham as the maker, was for $5300 and discounted with the Berkshire Acceptance Corporation, which, Mr. Perry said, was then of Pittsfield but is now located in Springfield. He said he thought he was vice president of this firm at that time although it might have been at the following annual meeting that he was elected.

In both of these cases, Mr. Perry said, he understood that there had been some sort of jewelry transaction, but that Considine had not gone to the trouble of getting leases signed.

Perry said that he had seen jewelry in connection with the transactions, but could not connect the merchandise he saw with any particular lease. He said he took the value as it was stated on the lease and didn't have the merchandise appraised before accepting a lease.

Terms of the lease, which were the same in each case, included the provision that the jewelry listed would be released by the finance firm only as it was sold, Mr. Hogan brought out, but Perry said that he intended to waive this release provision although he admitted he had not told this either to Considine or the other persons involved.

When Mr. DeCiantis objected to Mr. Hogan querying the witness on transactions involving other companies, Judge Jeremiah E. O'Connell, who is presiding over the trial, ruled this line of questioning was proper, inasmuch as it tended to show Considine's business relations with Perry and it had been brought out that it was through Perry that Considine did business with the American Guaranty Corporation.

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CONSIDINE ADMITS USING FALSE NAME

Tells of Registering as William Remington in N. Y. to Prevent Being "Bothered."

EXPLAINS SALES PAPERS

Says Agreements with Notes to Secure Loans Were Suggestion of Finance Firm Manager

William H. Considine, 51, former Providence jeweler and diamond broker who is on trial in Superior Court on a charge of obtaining $20,000 by false pretences from the American Guaranty Corporation, admitted under cross-examination yesterday afternoon that after he left Providence he registered under the name of William Remington in the Century Hotel at 11 West 46th street, New York.

The defence rested yesterday afternoon. Rebuttal testimony is expected to be completed so the case can go to the jury Monday.

Considine, who took the stand in his own defence, claimed that conditional sales agreements accompanying notes with which he secured loans from the American Guaranty Corporation were prepared at the suggestion of Domenic J. Perry, treasurer and general manager of the finance firm, and that Perry knew no sales of jewelry were involved.

Perry suggested he get the persons signing notes to sign leases also, to comply with the policy of the finance firm of discounting merchants' contracts, Considine maintained, and he insisted that in each case, when he presented the note and lease, he informed Perry he had filled in the lease with jewelry to compare with the note. This was wholly Perry's idea, he continued.

Used Wife's Maiden Name

Considine's admission of registering in New York under a different name was brought out by Assistant Attorney General John H. Nolan. Considine had previously testified under direct examination that he was married for the second time on Jan. 9, 1932, in New York. His first wife died, he said.

"It was my wife's maiden name and I put it down. I only stopped there a short time," said Considine.

"What was the reason you registered under a false name?" demanded Mr. Nolan.

"There was no particular reason. The only reason was that I didn't want to be bothered by anyone from Providence annoying me," replied Considine, insisting he did not use the registration in order to escape detection. "I was in financial trouble at that time and I wanted to keep by myself till I could get matters fixed up. There was no other reason."

He said he left Providence in January.

Pettine Put on Stand

Considine's direct testimony, which consumed a large part of the day, was interrupted by defence counsel to place Attorney Anthony V. Pettine on the stand to testify regarding a conversation he said he had with Perry in the courtroom during recess the previous afternoon.

Laurence J. Hogan of defence counsel had previously called Perry, who had been a principal witness for the State, and Perry denied he had told Mr. Pettine that insurance would take care of the finance firm's losses on notes and contracts.

Mr. Pettine testified that he had no interest in the case, but had happened to talk with Perry in the courtroom and Perry told him something like, "It doesn't make any difference to us, the insurance company will pay." It was a casual remark, Mr. Pettine said, and he happened to mention it to Considine. The attorney pointed out that all he knew was what Perry had said.

Says He Intended to Repay

Considine while under direct examination insisted that when he received the checks from the American Guaranty Corporation he intended to repay the money, and he pointed out that the payments that had been made had all been made with his money.

He admitted that when he was arrested about July 11, 1932, in New York by Detective Sergt. John R. O'Brien he told O'Brien that he had been advised by his attorney, Patrick P. Curran, to keep out of Rhode Island and he would not be arrested.

"I told him he was straightening the matter out," added Considine, referring to Mr. Curran.

Under cross-examination Considine said he was in Providence for two or three days over July 4 last year, and had been in this city every two weeks, for the week-end. He admitted his affairs had been in a "bad way and needed straightening out."

"Why didn't you stay right here in the city of Providence with the wreck and help straighten things out?" asked Mr. Nolan.

Denies "Running Away"

"I thought I could do better in New York," replied Considine. "I wasn't running away by any means, when I came back every week. The corporation office was running every day," referring to William H. Considine & Co., Inc. He said he was trading in securities in New York.

"I worked tooth and nail right to the finish, and I'm not through yet," he added.

Explaining that part of the money he received on the loans, after discounting other persons' notes and sales leases, was used to purchase jewelry so he could sell it and profit, Considine said the larger part of the money went into his general business, to pay bills coming due.

"I had to pay to keep going," he said. His personal business was involved, and not that of the corporation, he pointed out.

After the defence closed, Miss Grace N. Brady, who said she has charge of the credit and collection end of the business for the American Guaranty Corporation, was called by the State to testify that in each of the instances involved in the case, notices were sent by the finance firm to the signers of the notes and lesses after thay had been discounted and checks issued to the Considine firm.

In each instance, Miss Brady said, the form letter sent carried the notation that the merchandise involved in the sale was jewelry.

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Aug. 19, 1936

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CONSIDINE FINDING UPHELD BY COURT

Opinion by Justice Flynn Rules Jeweler Got $20,000 on False Pretences.

TO BE SENTENCED LATER

Highest R. I. Tribunal Finds Signers of Notes Involved Received no Jewelry

The Rhode Island Supreme Court in an opinion by Chief Justice Edmund W. Flynn yesterday upheld the conviction of William H. Considine, Providence jeweler, on a charge of obtaining $20,000 from the American Guaranty Corporation of Providence by false pretences. Considine will be brought before Presiding Justice Jeremiah E. O'Connell of the Superior Court to be sentenced after Judge O'Connell returns from vacation, it was said yesterday.

Considine had been found guilty by a Superior Court jury and Judge O'Connell had denied motion for a new trial. The higher court sustained the action.

Operations Explained

"The testimony shows that the defendant, who was engaged in the jewelry business in Providence, consulted one Domenic J. Perri, treasurer and general manager of the American Guaranty Corporation, for the purpose of having that company discount some of the installment notes which the defendant took in the course of his business," says the opinion. "Perri subsequently advised the defendant that his company would extend him credit up to $15,000 if the conditional sale agreements for the jewelry, which the defendant sold his customers, were assigned with the notes to which they belonged and which the company accepted for discount. The defendant agreed to this arrangement and the parties began to do business with each other on this basis."

Between July 20 and Nov. 16, 1931, Consodine received about $17,961 from the company on the strength of six notes accompanied by corresponding purported conditional sale agreements of jewelry. Almost all of this sum remained unpaid when the defendant disappeared.

Testimony showed that the notes and conditional sale agreements had been signed in each case by the maker at the request of Considine and "that they were induced by the defendant under one pretence or another to sign these notes and the conditional sale agreements, but they knew nothing about his fraudulent purpose and scheme, and that they received no jewelry whatever from him."

Lloyd G. Knight

Feb. 1, 1936

HAMILTON YOUTH HELD FOR MURDER

Lloyd Knight, 18, Arraigned at Wickford in Death of Joseph Johnson.

HEARING SET FOR FEB. 6

Court Session Held at Barracks of State Police; Defendant Committed to Jail

Lloyd Knight, 18, of Hamilton, said by police to have confessed he shot and killed Joseph Johnson, 30, also of Hamilton, during a scuffle early Thursday morning, was arraigned on a first-degree murder charge yesterday before Judge Stephen J. Casey in Second District Court, Wickford. Knight was committed to Providence County Jail for hearing Feb. 6 at Wickford.

Counsel for Knight, Peter W. McKiernan and Edward H. McElroy, waived reading of the warrant. Knight said nothing during the arraignment. The State was represented by Third Assistant Attorney General Michael DeCiantis.

Police did not make known the nature of the charge until a few minutes before Knight was arraigned. He had been held at the Wickford barracks of the State police since early Thursday. The court session was held in the barracks.

Knight, State police said, signed a confession early yesterday that Johnson and he were in a scuffle in a third-floor bedroom of the Knight home, that he seized a gun and shot Johnson, fatally wounding him.

Johnson's body was released yesterday and removed from South County Hospital, Wakefield, to the Cranston Funeral Home, Wickford, where the funeral will be at 2 o'clock tomorrow afternoon.

Knight was taken to jail shortly after the arraignment by Sheriff William H. Leslie, Jr., of Washington County.

Among those released was Margaret Northup who police said was struck over the head with a hammer at the hands of Johnson. She was taken to the home of relatives in Hamilton. She is suffering slight concussion of the head and forehead, there being five places she was struck. Her condition is not considered serious. Miss Northup is still being treated by Dr. Albert C. Henry of Wickford.

After the arraignment Mr. DeCiantis said that under the peculiar circumstances surrounding the case his department felt a charge of first degree murder was best.

Counsel for Knight obtained permission from the court to inspect the scene of the shooting.

Held for Grand Jury

LLOYD G. KNIGHT

COURT HOLDS YOUNG KNIGHT WITHOUT BAIL

Hamilton Lad Is Found Probably Guilty of Johnson Killing

Lloyd G. Knight, 18, of Hamilton, was found probably guilty of murder by Judge Casey in Second District Court today in the slaying of Joseph Johnson, a roomer in the Knight residence, Jan. 30, and was ordered held without bail for grand jury action.

Judge Casey, in a written decision, pointed out that he does not have jurisdiction for a final decision in the case and said, of a statement by Knight to State police that he shot Johnson accidentally in a struggle, "The weight to be given ultimately to the confession of the defendant to the authorities is something to be determined by a jury, either grand or petit."

Johnson was fatally wounded by a shotgun after he had beaten Miss Margaret Northup, an aunt of young Knight, with a hammer, inflicting severe injury to her head. Knight told State police he had gone to Miss Northup's assistance when he was awakened by her cries, that he escorted her to his mother's bedroom and then went to Johnson's room.

KNIGHT'S STORY

"He was standing there, between the bed and the bureau," the defendant's statement reads. "He stood and looked at me a minute, and then he started toward me. He grabbed me around the chest, and we wrestled around for a few minutes. Then he commenced to get the best of me. We were down on the floor. I commenced to feel around for something to hit him with. I grabbed for the gun by the barrel. When I swung it to hit him, it accidentally went off."

Medical testimony at the hearing before Judge Casey showed that the gun had been pressed close against Johnson's abdomen when he was shot and that the charge coursed upward at an angle of about 45 degrees.

In court, Knight denied the shooting and said he had not even been in Johnson's room. Testimony was introduced that chemical tests of his hands showed the presence of nitrate, such as might have been deposited had he fired a gun. Defense testimony showed that it also might have been left by dyestuffs handled by the youth at his work.

Judge Casey commented that the

Turn to Page Three, Col. One

KNIGHT HELD AS PROBABLE SLAYER

(Continued from Page One)

injury to Miss Northup might easily have caused Knight to go to Johnson's room. "Whether while there, he took the law into his own hands and sought to wreak vengeance upon Mr. Johnson for what happened . . . can not be definitely concluded by this court," Judge Casey said.

A Washington county grand jury will pas son the question of indicting Knight but he was committed to the Providence county jail.

Defence Contention

The defence, which was conducted by James H. Kiernan and James A. McGuirk, contended that the company having received genuine notes from Considine was not deceived by any representations contained in the sale agreements, since its failure to investigate their genuineness showed that the company did not rely upon those representations when the notes were discounted. "This argument, while ingenious, is unsound," says the Supreme Court. "The failure of the company to investigate the genuineness of the representations in the sale agreements indicates, rather, how much it relied on the good faith and representations of the defendant and of those agreements."

In the summer of 1932, Detective John A. O'Brien while on vacation in New York saw Considine at the Statue of Liberty, communicated with the New York police and when the ferry boat returned from the Statue of Liberty, Considine was placed under arrest.

"It appeared then that the defendant had adopted, and registered in New York under an assumed name," says the opinion.

Assistant Attorney General Michael Di Ciantis conducted the prosecution of Considine.

STORIES CONFLICT IN MURDER TRIAL

Feb. 7, 1936

Wickford Court Begins Taking Evidence Into Death of Joseph Johnson, 30.

LLOYD KNIGHT, 18, ACCUSED

Police Testify Wounded Man Found on Jan. 30 in Room Locked on Inside

Evidence that Joseph H. Johnson, 30, of Hamilton, who was fatally wounded by gunshot Jan. 30, was found in a room with the door locked on the inside, and conflicting testimoney as to who shot him was presented yesterday at Wickford during trial of Lloyd G. Knight, 18, of Hamilton, charged with the murder.

The case is being tried before Judge Stephen J. Casey and will be resumed this morning at 9 o'clock.

Knight is the nephew of Miss Margaret Northup, 30, whom police say Johnson struck over the head with a hammer in a jealous argument in Johnson's room early in the morning of Jan. 30. Knight and his parents, Mr. and Mrs. John Knight, have their home on the second floor of the mill tenement house. Police said young Knight confessed shooting Johnson after becoming angered by the beating suffered by his aunt.

The decision to hear the entire case in District Court was reached by agreement of the Attorney General's office and defence counsel, Judge Casey said. He added the only power of the court would be to find Knight either probably guilty and bind the case over to the grand jury, or probably not guilty.

State Trooper Harry A. Holmes testified he was forced to wrench open a door to enter the third floor room where Johnson lay. Evidence revealed that Johnson was alone in the room, mortally wounded, and the door locked on the inside.

First Said He Shot Himself

The statement made on the stand by Corp. John T. Sheehan that Johnson first stated he shot himself and later said Miss Northup shot him was varified by Trooper Holmes.

Dr. Albert C. Henry of Wickford testified Johnson said, "Go away and leave me alone," when police questioned the latter at the scene. Police asked Johnson again who shot him and he told them Miss Northup, Dr. Henry said. Asked a third time, Johnson replied, "I don't know, leave me alone," Dr. Henry testified.

A hammer found at the Knight home by police was introduced. This was the implement, testimony revealed, used to strike Miss Northup five times on the head.

There were no finger prints found on the gun with which Johnson was shot according to testimony of Edward J. McDermott of the State Bureau of Criminal Identification.

An empty shell was found in the gun by police, the court was informed. Sergt. Charles R. Blake of the State police testified he found an

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STORIES CONFLICT IN MURDER TRIAL

Continued from Page 1, Col. 2.

impression on the trigger that fires the barrel which contained the exploded shell.

Sergt. Blake said the other trigger was covered with dust. He added the impression was caused by a matting down of the dust as though some object had touched it.

The hammer was found on the floor of the room, covered with blankets and a hooked rug, according to testimony of Sergt. Blake. A jackknife was nearby, he said.

Trooper Holmes testified Johnson said he shot himself when first questioned. Holmes asked Johnson, "Who loaded the gun?" He said Johnson replied, "I did." Holmes then testified he asked Johnson, "Who pulled the trigger?" Johnson," according to testimony, replied, "I did."

Trooper Holmes then told the court Corp. Sheehan asked Johnson, "Did the woman shoot you?" Johnson replied, "Yes, leave me alone."

Hears Moans, Tries Door

Hearing moans in the room where Johnson was found, Trooper Holmes tried the door and found it locked near the top. Succeeding in prying it open a bit, he wrenched it wide open, Trooper Holmes said.

While Holmes was attempting to gain admittance to the room, Corp. Sheehan found the door to another room tied on the inside. He found Henry Sisson, who had "apparently been asleep," in the room.

The Sisson youth said he tied the door by means of a rope fastened to the bed as "the place was spooky."

Seven more persons are waiting to testify for the State, Third Assistant Attorney General Michael De Cianti said when court adjourned yesterday. Their testimony is expected to take the greater part of today.

During the trial yesterday the small court room in Town Hall was crowded. Witnesses and police occupied most of the room with spectators jammed into the hallway.

Corp. John F. Kennedy of the State police was first to testify. He said a call was received at the police barracks at 2:15 on the morning of the shooting from a party talking for John Knight.

Dr. Henry testified for more than an hour. He said Miss Northup had five wounds, one on the forehead and four others on the back of her skull. Dr. Henry admitted on the stand the wounds could have been caused by a hammer.

Asked where Miss Northup was at present, Dr. Henry said he did not know. Defence counsel offered the information she was at Rhode Island Hospital, Providence.

Dr. Henry Testifies

Dr. Henry testified he was summoned from his home at approximately 2:08 on the morning of the shooting, by a member of the Knight family. Dr. Henry was called a few minutes before police. Testimony revealed he arrived after police were on the scene. He told the court he took about eight minutes to dress and five or ten to drive to the Knight home. He treated Johnson before the latter was removed to South County Hospital, then treated Miss Northup, who was bleeding.

Dr. F. Edward Burke, medical examiner of South Kingstown, testified he officiated at two post mortem examinations. At the first he performed the autopsy on Johnson's body. During the second he searched for pellets from the shotgun shell at the request of police.

George O'Brien of the Bureau of Criminal Identification was called to the stand and identified pictures he had taken at the scene. John J. McGuire of the same department also identified the pictures.

Sergt. Blake testified he found the gun, hammer, and jack knife. He said during the course of his investigation wadding used in shotgun shells was found on the floor of the room where Johnson lay. The officer said he found a box of shotgun shells on a bureau and several lying nearby. The shells would fit the gun introduced as evidence, he said.

Knight was taken to court from Providence County Jail where he had been held since Jan. 31, the day of his arrest. He was seated in court with his defence attorneys, Edward F. McElroy and Peter W. McKiernan.

Knight was silent throughout the session except on a few occasions when his lawyers consulted him.

POWDER TRACES FOUND ON KNIGHT

Feb 8, 1936

Toxicologist Testifies to Gunfire Evidence on Hamilton Youth's Hands.

TRIAL RESUMES TUESDAY

Defence Asserts Nitrate Particles May Have Been Picked Up in Dye Shop

Evidence of nitrogen compounds caused by gunfire was found on the hands of Lloyd G. Knight, 18, of Hamilton, it was testified in district court at Wickford yesterday at Knight's trial for the murder of Joseph H. Johnson, 30, of Hamilton.

The trial will be resumed Tuesday.

Defence counsel sought to show that the nitrate particles might have been picked up in the dye shop of the Hamilton Web Company, where Knight worked.

A coat hanger found near the gun that police believe caused Johnson s death, could have left an impression similar to the one found on the gun's trigger, Sergt. Charles R. Blake of the State police testified under cross-examination.

The significance of this testimony was not made clear.

It had been previously testified that no fingerprints were found on the gun, but that dust on the trigger fired had been pressed down as though some object had touched it. Defence counsel yesterday pointed out a short piece protruding over one end of the wooden hanger, which was said to be equivalent in shape to the impression left on the trigger.

Nitrate tests made on Knight's hands showed evidence of nitrogen compounds caused by gunfire, C. Wallace Bohrer, State toxicologist, testified. He was cross-examined for nearly two hours by defence counsel.

Asked whether it would have made any difference if Knight had been working on a certain type of blue cloth the day previous to the test, Mr. Bohrer said it would not.

Other Tests Negative

Nitrate tests made on the hands of Johnson, on those of other members of the accused youth's family, those of Miss Margaret Northrup, his aunt, and on the hands of two mill employes, referred to as a Mr. Cavanaugh and a Mr. Moon, all had been negative.

When Captain Harwood of the State police asked Knight in Johnson's room who had shot Johnson the question remained unanswered, it was testified by State Trooper Howard A. Maynard, who was standing guard in the room at the time.

Knight is the nephew of Miss Northrup, 30, whom Johnson is said by police to have struck on the head with a hammer in a jealous quarrel in Johnson's room early in the morning of Jan. 30. Knight and his parents, Mr. and Mrs. John Knight, live on the second floor of the mill tenement house where Johnson had a third floor room. Police said young Knight confessed shooting Johnson during a scuffle.

Testimony yesterday tended to

Continued on Page 5, Column 6

POWDER TRACES FOUND ON KNIGHT

Continued from Page 1, Col. 7.

corroborate many points brought out the previous day, at the same time increasing the confusion of incidents surrounding Johnson's death. Testimony by Trooper Maynard confirmed that given the previous day that Johnson gave conflicting answers when questioned as to who had shot him.

Maynard said he asked Johnson who shot him and the man replied: "I did it—oh, my stomach."

He said Johnson's pain eased in about 10 minutes and Maynard again asked him and Johnson again said he shot himself.

"Did she (Miss Northup) shoot you?" Maynard testified he asked.

"Yes, leave me alone," he said Johnson replied.

Maynard testified that Capt. Harwood and Lloyd Knight came to Johnson's room, where Maynard was standing guard and it was then that Capt. Harwood asked Knight who shot Johnson.

"I don't think he answered," Maynard testified.

Two Guns as Evidence

Two shotguns have been produced as evidence by the State and an examination of the guns by the Massachusetts Department of Public Safety showed that the left barrel of each gun had been fired, a report submitted as evidence by Assistant Attorney General Michael DeCiantis revealed yesterday. One of the guns is the one the State claims was the cause of Johnson's death.

Mr. Bohrer testified that no evidence of gun powder was revealed by the nitrate tests on the hands of either Johnson or Miss Northup.

In reply to a question by defence counsel, Mr. Bohrer said he did not take tests of the dye used in the mill shop. He said he had examined scrapings from the shoes and shirts of the two mill employes, Cavanaugh and Moon, whose hands also had reacted negatively to the nitrate test.

Mr. Bohrer explained, in cross-examination, that the nitrate test did not show actual gunpowder on the hands, but nitrogen compounds caused by the burning of powder in gunfire.

Hanger Found Near Gun

The coat hanger figuring in yesterday's testimony was found near the butt of the gun, not far from Johnson, together with a piece of cloth, a basket and a curtain rod, testimony has shown. The curtain rod was under the gun, the cloth and basket over it and the hanger near by, it has been testified.

Other articles found in Johnson's rom and introduced in evidence yesterday included a bureau drawer containing an empty box, believed to have contained shotgun shells previously, an empty cartridge box and other small articles.

The cloth found near the gun, the upper part of a set of men's underclothing, was released by the court and placed in the hands of Dr. Lester A. Round, chief of the laboratory division of the State Department of Health, who has been asked to determine whether stains on the garment were caused by blood. He is expected to testify when court opens on Tuesday.

State Trooper Harry A. Holmes, who was on the stand when court adjourned Thursday, resumed his testimony yesterday. He was questioned further regarding blood stains on the third floor and in regard to the size of the door of Johnson's room.

Mr. Bohrer, called as the next witness, testified that the hammer with which Miss Northup was struck bore presumptive evidence of blood.

A substance that appeared to be skin was found on the muzzle of the gun from which the fatal charge was fired, Mr. Bohrer revealed. This bit of evidence will have some bearing on the case in its later stages, it was indicated.

Mr. Bohrer sthated tests made on Johnson's brain showed no intoxication at the time of his death.

Trooper Holmes was recalled to the stand later and gave another account of his conversation with Johnson. He told the court when he first entered the Knight home Lloyd was in the kitchen. Returning to the kitchen later, h seaid, Lloyd was not there. The youth was present when Trooper Holmes returned to the kitchen a third time, according to testimony.

The trooper said Corp. John T. Sheehan requested any guns in the house be taken. Lloyd produced a shotgun from a first floor room and also two rifles.

Lieut. Daniel G. O'Brien took the stand for a brief period. He said the staple that fits into holes near the door to Johnson's room was on the bureau of the room when he first saw it.

Corp. Sheehan was on the stand near the close of the session. He testified to going to the Johnson room on a night following the shooting with Trooper Maynard. Corp. Sheehan said they went there to determine the amount of light in the room coming from outside sources. He said at the time it was snowing lightly.

Corp. Sheehan said the room was dimly lighted from outside sources.

Feb. 12, 1936

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SLAYING ACCOUNTS CONFLICT AT TRIAL

Wickford Court Hears Knight Version and Johnson Death-bed Statement.

DEFENCE HINTS AT SUICIDE

Prisoner's Statement Says Shooting Occurred Accidentally; State Completes Case

As the State yesterday completed its presentation of evidence in the trial of Lloyd G. Knight, charged with the murder of Joseph H. Johnson of Wickford on Jan. 30, written statements of the victim and the accused, introduced by the State, gave conflicting versions of the killing while defence counsel indicated a third theory.

The trial before Judge Stephen J. Casey in Second District Court, Wickford, will be resumed at 9 o'clock this morning with the defence beginning the presentation of its case.

A death-bed statement of Johnson, read into the record by Assistant Attorney General Michael DeCiantis, declared that he was shot by Miss Margaret Northup. Miss Northup, Knight's aunt, is now in Rhode Island Hospital suffering from wounds alleged to have been inflicted by Johnson in an altercation previous to the shooting.

The statement said to have been made by Knight at the Wickford barracks of the State police, also read into the record by Mr. DeCiantis, declared that Johnson was accidentally shot during a tussle.

Defence Hints Suicide

While questioning Dr. Lester A. Round, State witness, in cross-examination yesterday, defence counsel illustrated methods by which the shotgun could have been fired by the victim in a suicide effort.

At the Rhode Island Hospital last night it was said that Miss Northup's condition was "very good."

The Knight statement said, in part:

"I went into Joe's (Johnson's) room. He was standing between the bed and bureau. He stood and looked at me a minute and then he started to come toward me. He grabbed me around the chest and we wrestled around a few minutes. Then he commenced to get the best of me. We were down on the floor. I commenced to feel around for something to hit him with. I grabbed the gun by the barrel. When I swung to hit him, it accidentally went off."

The Johnson statement, said to have been taken at South County Hospital, Wakefield, less than an hour before the man died, follows:

"I, Joseph Johnson, fully believing that I am going to die soon, make the following statement: Sometime this morning at Mamilton I was shot by Miss Margaret Northup."

Johnson Signs His Name

Johnson affixed his mark, a cross, to the statement, which was witnessed by Corp. Malcolm S. Jaffrey of the State police and nurses at the hospital.

Knight's statement further stated that he went to Johnson's room when Miss Northup appeared on the first floor of the house, badly wuonded. Knight said he went to the room to stop Johnson from coming downstairs and injuring anybody else. In reply to a question whether he was angry when making his way to Johnson's room, Knight said, "Well, a little."

Knight said in the statement that he grabbed the gun with his right hand and at that time he was on top of Johnson. He stated that he held the gun by the barrel just above the stock and expected to hit Johnson with the barrel. In reply to a police question as to whether he hit Johnson with the gun, Knight said, "I think I did."

Knight said he could see Johnson by the light from the window when he entered the room. Not a word was exchanged between them, according to the statement. Knight said he laid the gun on the floor after it discharged. He then got up and went outside, closing the door and returning to the first floor. He said he had not been drinking.

He said he did not realize when he left the room that Johnson was badly hurt. He said he went to Wickford and summoned Dr. Albert C. Henry to attend the wounds of his aunt. He said he told no member of the household the gun had been discharged, nor about the tussle. A few minutes after arrival of police, Knight said in the statement, he went to Peace Dale to get "my grandmother Northup."

Knight Remains Calm

Knight yesterday remained calm in his seat near his counsel, but appeared to take a keener interest in the proceedings as the statements were being read.

Dr. Round, appearing as a State witness, stated that the gun killing Johnson would have to have been held with the barrel against the ribs and the butt suspended in the air at an angle of 45 degrees to allow the charge to follow the course it took.

He testified that in his opinion the gun was held firmly against the abdomen with considerable pressure downward and sidewise. The charge entered Johnson's body at a point below the seventh rib on the left of the middle line of the body, he said. He described the course of the shot.

Dr. Round said the muzzle of the gun had been pressed directly on Johnson's body, through rips in the shirt and underclothing. He said it was logical to believe that tears in his clothing had been made with the gun and not cut.

Coat Hanger Shown Again

Defence counsel illustrated a possible way for the wounds to have been self-inflicted. Peter W. McKiernan, defence lawyer, placed the butt of the gun on the floor in a corner and leaned on the muzzle. He then produced a coat hanger previously introduced in evidence by the State and showed how a person could push the trigger with a wooden end of the coat hanger.

The defence last week gained admission from a State witness that an impression in dust on the gun trigger could have been made by the coat hanger.

Dr. Round said it would be possible for a man to commit suicide under the circumstances indicated by the wound, but said it did not in his opinion appear to be the likely method.

Corporal Illustrates

Mr. DeCiantis had Corp. John F. Kennedy of the State police lie on the flor to illustrate a possible way that Johnson was shot. Corp Kennedy was placed on his back, with the muzzle of the gun touching at a point comparable to that on Johnson's body where the charge entered it.

Dr. Round, Corp. Jeffrey and Sergt. James Norman were the only witnesses yesterday. Their testimony and reading of the statements took about three hours.

Dr. Round stated on the stand he found on examination an indication of gun powder on both the inside and outside of Johnson's shirt. This was slight. He said there were powder marks on the wound.

The witness said Johnson had two injuries on the right shin. He said although the age of both was not definite they were inflicted at about the same time as other bruises found around the wound. Dr. Round said he assumed two persons were engaged in a scuffle but was unable to come to a definite conclusion who fired the gun, the victim or a second person.

Corp. Jeffrey testified he asked Johnson on two occasions before the latter was taken to the hospital who shot him. On one occasion Johnson said Miss Northup. On the other he said he shot himself.

The corporal went to the hospital, where he asked Johnson again who did the shooting. Johnson replied he had shot himself. Later the dying declaration that Miss Northup did the shooting was obtained, the witness said.

Sergt. Norman said he took Knight's statement at the barracks Jan. 31. The statement was witnessed by Capt. Jonathan Harwood and other members of the State police department present.

Feb. 13, 1935

KNIGHT TESTIFIES AT MURDER TRIAL

Accused Man Denies Entering Johnson's Room Before Arrival of Police.

CONTRADICTS PRIOR CLAIM

Statement Alleged to Have Been Made by Miss Northup on Morning of Shooting Is Read

Denial by Lloyd G. Knight on the witness stand that he had entered Joseph H. Johnson's room before the arrival of police on the morning of Jan. 30, and the reading into the record of a statement alleged to have been made by Miss Margaret Northup on the morning of the shooting of Johnson, were features of the trial of Knight yesterday in Second District Court, Wickford, on a charge of murdering Johnson.

Knight's statements on the stand were in contradiction to a statement alleged to have been made by him the morning of the shooting and read into the record by the prosecution, declaring Johnson had been shot when a gun went off accidentally during a tussle between Knight and Johnson.

Knight's mother, Mrs. Winifred B. Knight, testified yesterday that her son was in her sight all the time until he left to summon a physician to treat Miss Northup, who had been beaten by Johnson, apparently with a hammer. Both Knight and his mother denied knowing, before the arrival of police, how Miss Northup received her injuries.

Chemist Testifies

Franklin N. Strickland, analytical chemist, of Providence, testified that a nitrate had been found in a glove worn daily by Knight at his work in the dye shop of the Hamilton Web Company. He said that he had found evidences of a nitrate in a mixture used in the mill.

Testimony last week by C. Wallace Bohrer, State toxicologist, indicated that tests of Knight's hands revealed nitrate traces on five fingers of one hand and on four fingers of the other.

Knight yesterday admitted having signed the statement introduced by the prosecution and taken by State police. He added, however, that he did so on the morning of Jan. 31, after having been without sleep since the previous morning, when he had been aroused after Miss Northup had been injured.

Knight was the first witness yesterday morning. After his denial that he had entered Johnson's room, Peter W. McKiernan, his attorney, said he wanted the court to understand that Knight was denying statements made in his alleged confession to police.

Questioned by his counsel, Knight recounted his activities on the day and night prior to the shooting. He said he worked in the mill on Jan. 29, went to the movies that night and retired at about 10:30 p. m.

He testified he was awakened later by his mother, who was shouting in the bedroom next to his on the second floor. Entering his mother's room, he said, he found Miss Northup at the foot of the bed. As he pushed the hair back from her forehead, his mother "kind of keeled over" he said, and he caught her with his arm. Testimony has revealed that Miss Northup was bleeding considerably.

Knight testified that he dressed after helping Miss Northup to the first floor. Then, he said, he went to the adjacent mill to summon a doctor. Not finding the night watchman, he returned home and was sent by car to the home of Dr. Albert C. Henry, in Wickford.

Later, Knight said, he went to Peace Dale for his grandmother. He said he heard no shot fired while in the house. He also said he did nothing to determine who injured Miss Northup.

Agree Upon Time

During the taking of Knight's testimony, counsel for both sides agreed that the incidents involved in the case took place about 12:45 a. m. Previously the time had been fixed at about 2 a. m.

The statement of Miss Northup was said to have been taken by police on the morning of the shooting. It was read into the record along with a report on her present condition. She is in Rhode Island Hospital recovering from injuries inflicted by Johnson. Hospital records show she is still suffering from dizzy spells when she attempts to sit up.

The report stated she was admitted to the hospital on Feb. 1. She was quoted as having said at the hospital that she was hit by a man "jealous of me," and that she failed to remember any names, but did know she was taken to the police barracks and the man who hit her was dead. Her condition was reported as more comfortable than when she entered the hospital.

In presenting Miss Northup's statement, defence counsel said she was unable to be present in court without injuring her health.

The statement to police declared that Johnson had told Miss Northup he would do away with her sometime and kill himself. It stated that on the night previous to the shooting she had repelled advances made by Johnson after she had retired.

Miss Northup and Johnson planned to marry this summer, according to the statement. It was revealed she has not received her final decree of divorce granted last September from Carl Rose, whom she married 12 years ago.

Miss Northup went to live with her mother, Mrs. John Knight, six months ago, the statement declared. Other assertions in the statement were that Johnson threw a glass at her four years ago, striking her on the shoulder; that Johnson was quick-tempered and had been, until recently, a heavy drinker and that Johnson once had told her he was looking for a woman who could support him.

The statement declared "no one" (members of the Knight family) dared go up stairs (apparently after the shooting) because they were afraid of "Joe" (Johnson) as he was a fighter.

Mr. Strickland said nitrate of soda was used as an agent in developing coloring matter. He said he had obtained samples of the nitrate salt used in the shop where Knight worked and that tests of the samples revealed an indication of nitrate. He gave the opinion that the same results would have been had from tests of Knight's hands, from contact with the dyes.

He said he took several tests of the lining of the glove examined by him. Fingers of the lining were badly worn, only one or two being in a fairly decent condition, he said.

Knight's mother, Mrs. Winifred B. Knight, took the stand after her son. She told the court she gave Miss Northup use of two rooms on the third floor and a kitchen on the second. Mrs. Knight said Lloyd was in her sight all the time until he left for the mill to summon a doctor to treat Miss Northup.

Mrs. Knight stated she did not ask Miss Northup what had taken place when the latter appeared in her room badly wounded. The witness said she was too excited. She said the idea Johnson had inflicted the injuries to the other woman came to her when she was at the police barracks.

The witness testified she heard no shot fired.

Feb. 16, 1936

ARGUMENTS HEARD IN MURDER TRIAL

Judge Casey to Give Written Decision Next Friday in Knight Case.

DEFENCE CLAIMS SUICIDE

State Presses for Decision That Defendant Is Probably Guilty of Joseph Johnson's Death

Judge Stephen J. Casey yesterday afternoon in district court at Wickford heard arguments in the case of Lloyd G. Knight, charged with the murder Jan. 30 at Hamilton of Joseph Johnson and announced he will present a written opinion next Friday.

The case was unusual in that the State was called upon to present virtually all available testimony in the lower court, with the defence also building up an elaborate case. Judge Casey may discharge the prisoner or bind him over for the grand jury as probably guilty, but there can be no conviction as charged in the district court.

Peter W. McKiernan, summing up for the defence, contended the evidence had shown that Johnson committed suicide with a shotgun, just as he had threatened to do. McKiernan cited the testimony of Margaret Northup, beaten by Johnson, who said on the witness stand that Johnson had threatened to kill her and end his own life.

It was contended by the defence attorney that nitrate found on Knight's hands had been traced by testimony to a dye shop where he was employed, and not to the powder from the shell that killed Johnson.

Johnson was motivated by a desire for vengeance when, in his antemortem statement, he told police Miss Northup had shot him, McKiernan argued.

McKiernan said the alleged "confession" obtained by State police from Knight was discredited by the facts and by the statements of Johnson that he had shot himself and also that Miss Northup had shot him. He pointed out that Knight had recanted the confession on the witness stand.

Michael DeCiantis, third Assistant Attorney General, pressed for a decision of probably guilty of murder. He said Knight did not tell the truth on the witness stand, when he testified he did not ask how Miss Northup received her injuries of the head. He also discounted one of the conflicting dying statements of Johnson that Miss Northup fired the fatal shot. He also admitted that Johnson loaded the shotgun that caused his death. He loaded it because he feared Knight, the Assistant Attorney General contended. After he was shot, Johnson locked the door of the room in which he was found, because he feared someone would come into the room "and finish him," he said.

DeCiantis said he hoped to see the day when all cases would be heard in full in the lower courts, provided indictments had not been returned in the higher courts. He said such procedure would be less expensive to the State and would add dignity to the district courts. A finding of not probably guilty in the district court would mean the end of the case, he said.

Feb. 25, 1936

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KNIGHT RELEASED BY GRAND JURY

Youth Found Not Probably Guilty of Murder of Joseph H. Johnson.

Lloyd C. Knight, 18, of Hamilton, who had been bound over as probably guilty, yesterday was found not probably guilty, by a Washington County Grand Jury, of the shotgun murder Jan. 30 in the Knight home of Joseph H. Johnson.

After James C. Muldowney, foreman of the grand jury, presented the finding and commended Assistant Attorney General De Ciantis and Lieutenant Daniel G. O'Brien of the State police for presenting all the obtainable facts in the fatal shooting, Judge Alberic A. Archambault discharged Knight.

The freed youth embraced relatives before he left the courtroom, and expressed his happiness at the outcome of the grand jury proceedings.

Peter McKiernan, counsel for Knight, said Mr. De Ciantis had made a "very fair prosecution of the case," and added, "It was one occasion in my experience as a lawyer that I felt the Attorney General was presenting every bit of testimony he had, concealing nothing that would be beneficial to the defendant."

Johnson was found in a dying condition in a room—locked from the inside—on the third floor of the Knight home, where Johnson had been a boarder.

Police said Johnson, before he was found shot, had beaten Knight's aunt, Margaret Northup, with a hammer.

The day after the shooting, Knight was arrested. The arrest was made after he had signed an alleged "confession," in which he said that Johnson was shot while the two were tussling over a shotgun. Later, in the six-day district court trial at Wickford before Judge Stephen J. Casey, Johnson recanted the alleged confession.

Johnson, before he died, told conflicting stories as to the manner in which he was wounded. One was that he shot himself, police said.

Despite the conflicting antemortem statements, Judge Casey decided, in a written opinion, that there was evidence leading the court to believe that Knight was probably guilty, and he accordingly was bound over to the grand jury, which yesterday freed him.

Feb. 25, 1936

KNIGHT FREED OF MURDER IN JOHNSON CASE

Grand Jury Refuses to Indict; Court Orders His Release

Lloyd G. Knight, 18, of Hamilton, was at liberty today after 25 days in custody after the fatal shooting of Joseph H. Johnson, a roomer in the home of Knight's parents, Jan. 30. A Washington county jury refused yesterday to return an indictment against Knight and Judge Archambault in Superior Court in Kingston ordered his immediate release.

Knight had been charged with murder on the strength of a written statement he had made to State police that he shot Johnson in a struggle that followed a brutal attack with a hammer by Johnson on Miss Margaret Northup, an aunt of the accused youth. After a district court hearing Judge Stephen J. Casey found Knight probably guilty on that charge, pointing out that decision as the value of his "confession" was a matter properly to be decided by a jury.

At the district court hearing, in which the facts of the shooting were probed more exhaustively than is usual in low court proceedings, Knight repudiated his statement.

James C. Muldowney, foreman of the grand jury, praised State police and Asst. Atty. Gen. DeCiantis for their presentation of all the obtainable facts in the case and Atty. Peter W. McKiernan of defense counsel also lauded them.

"It was one occasion in my experience as a lawyer "McKiernan told the court, "when I believer the attorney general was presenting every bit of testimony he had, concealing nothing that would be beneficial to the defendant."

Fred L. Whitford

16 Nov. 19 1935

NE

WHITFORD TO FACE MURDER CHARGE

South County Grand Jury Indicts Westerly Negro for Alleged Slaying of Wife.

Fred L. Whitford, Westerly Negro, was charged with the murder of his wife, Mary, by a Washington county grand jury yesterday in Washington County Superior Court at West Kingston.

Two other open indictments and one secret indictment were returned by the jury, which had one of the shortest criminal dockets for its consideration in several years.

Whitford was charged with shooting his wife early in the morning of Sept. 27 at their home in Westerly. He had been jailed at the county jail in Kingston and will be arraigned this morning before Judge Alberic A. Archambault by Assistant Attorney General Michael DeCiantis.

Two indictments were returned charging carnal knowledge against Samuel Comforti, 24, and James Perra, 24, both of Westerly. Out on bail, they will be arraigned tomorrow morning.

Three of the grand jurors called were excused after examination by Assistant Attorney General De Ciantis. They were: Lloyd D. Pitcher, farmer, of South Kingstown; Leon N. Tucker, mill employe, of North Kingstown, and Clarence H. Tefft, laborer, of Richmond. Frank D. Champlin, jeweler, of South Kingstown, was not present.

William F. Donovan, inspector, of Hopkinton, was appointed foreman by the court.

Cases on the motion calendar were being heard by the judge this noon.

The grand jurors present were: South Kingstown, Fred J. Lillibridge, George H. Kelley, Martin V. B. Irons, North Kingstown—Earl E. Jocoy, Dolor M. Edmond, George A. Rogers, Raymond M. Fielder, Henry Kellar.

Westerly, Ambrose J. Kenney, Gerald Coates, Charles J. Butler; Hopkinton, LeRoy Sherman, William F. Donovan; Exeter—Alfred C. Soban; Charlestown—Elisha P. Crandall; Narragansett, Charles H. Carr, Jr.

Five divorces were granted by Judge Archambault. They were:

Edith M. Davis vs. Raymond W. Davis. Neglect to provide. Petitioner allowed to resume maiden name.

Edward J. Wilson vs. Loretta D. M. Wilson. Extreme cruelty.

Elizabeth P. DeForge vs. Fred A. DeForge. Neglect to provide.

Mildred E. Colwell vs. George R. Colwell. Extreme cruelty.

Anna M. Hill vs. Frank M. Hill. Custody of minor chid granted petitioner.

2/27/36

16 Feb. 27, 1936

NEWS

South County Jury Chosen for Fred L. Whitford Trial

Westerly Negro Reiterates Plea of Not Guilty to Charge of Murdering His Wife.—Testimony in Case to Start Today

A jury was chosen yesterday in Washington County Superior Court for the trial of Fred L. Whitford, Westerly Negro who has been indicted for the alleged murder of his wife, Mary, in Westerly Sept. 27. Whitford reiterated his plea of not guilty yesterday.

Following the selection in which 21 prospective jurors were examined, Judge Alberic A. Archambault adjourned the court until this morning at 10 o'clock in the Westerly court, where the trial will be held. The jury will be kept together throughout the trial and will live in a hotel.

Whitford was arrested shortly after 2 a. m. on Sept. 27 last, as he walked with three other Negroes on Pierce street near the Dayton street house where Mrs. Whitford, a bride of four weeks, was shot. Lieut. George L. Madison and Patrolman Charles E. Button, called to the district by a report of a "disturbance," arrested the man before they learned that his wife was dead.

Whitford admitted, according to police, that he held the revolver from which the fatal bullet was fired, but said he was "only fooling" with it when it exploded. The bullet struck Mrs. Whitford in the chest, killing her almost instantly.

The following compose the jury: Arthur J. Larson, retired, Harold E. Salisbury, weaver, Harold W. Madison, foreman, all of North Kingstown; Charles L. Bliven, clerk, Charlestown; George F. Baton, mill hand, and Byron A. Lewis, mechanic, both of Hopkinton; William A. Hathaway, proprietor, and Mark R. Tucker, printer, of South Kingstown; William W. Pike, dyer, of Westerly; James A. Woodmansee, farmer, Exeter; Byron W. Williams, farmer, Richmond; and John F. Knowles, foreman, of Narragansett. Larson was appointed foreman of the jury by the court.

Harris W. Taylor of Hopkinton and John P. Ingham of Westerly when called admitted they had opinions about the guilt or innocence of the defendant and were excused by the court. Percy A. Smith, of South Kingstown, said he had talked with others about the case a good deal and was also excused.

The defence counsel A. A. Washton and Marshall Swan, peremptorily challenged the following who were excused: Ernest Romano, producer, and Frank O. Brown, insurance agent, both of North Kingstown; Wayland Saunders, manager, Westerly; William J. Browne, weaver, Charlestown.

Assistant Attorney General Michael DeCiantis, representing the State, challenged Howard P. Sprague, North Kingstown fisherman, and Reuben W. Brown, Exeter farmer. Police Chief Robert Kessel of the Westerly police is assisting Mr. DeCiantis.

NEWS

Whitford Will Take Stand In His Own Behalf Today

Testimony of Harrison Johnson, Eye Witness to Shooting of Wife By Westerly Negro, Closes Case for State—Defence Opens

Fred L. Whitford, 30, Westerly Negro charged with the alleged murder of his wife, Mary, in their home at 26 Dayton street, Westerly, will take the stand in his own defence this morning, his counsel declared yesterday as the second day of the trial closed in Washington County Superior Court at Westerly. Judge Alberic A. Archambault is presiding with a jury.

The defence will complete its case this morning, it was indicated, and the case will go to the jury this afternoon. The jurors chose to sit today rather than remain locked up over the week-end.

Testimony of Harrison Johnson, an eye-witness to the shooting which followed an altercation in the Whitford apartment early on the morning of last Sept. 27, occupied much of the session yesterday and closed the State's case.

Before the day's session ended, Abram A. Washton, chief defence counsel, had presented nine witnesses and had taken the stand himself to testify for his client. In his opening remarks to the jury, he declared that defence makes no denial that Mary Whitford was shot by her husband, but would attempt to prove that the shooting was accidental.

Johnson Tells Events

Under direct examination by Assistant Attorney General Michael DeCiantis, Johnson, a tenant of the house in which the Whitford apartment was located, described events on the night of the fatal shooting. He said he invited his brother, Benjamin Johnson, and Benjamin's wife to the Whitford apartment that night to share a "treat" of liquor he had brought in.

Fred and Mary Whitford, Mr. and Mrs. Johnson and he were sitting in the living room of the apartment drinking, Johnson testified. Fred got up from the sofa upon which he had been sitting with his wife, stepped in front of her, spoke some words and slapped her face.

"Then Fred turned and left the room," Johnson continued. He went into the bedroom and took a gun out of a bureau drawer. He came back into the living room and I asked him what the matter was.

"He replied, 'Look out.' Then he turned to his wife and said, 'I might give it to you.' She said, 'I don't care if you do.'

"Then Fred pulled the trigger and the gun went off. I didn't realize for a minute what had happened. Fred said to me, 'Go ahead out; I don't want to get you into any trouble.'"

Johnson testified that he then gathered up beer bottles from which the group had been drinking. As he started to leave, Fred cautioned him, "Don't say nothing," he declared.

Under cross examination, Johnson declared that it was at the direction of the defendant that he had taken out the beer bottles. He described how he had stepped from the living room to the bedroom and watched the defendant take a revolver from a bureau drawer. He followed Whitford into the parlor and was standing only a short distance behind him when the shot was fired, he said.

Deaf Mute Called

Johnson's brother, Benjamin, a deaf mute, was called to the stand during the morning, but was found by the court not to be of sufficient mentality to be called as a witness. The judge made his ruling after Mr. DeCiantis had attempted to question Johnson in the absence of the jury.

Mr. Washton opened the defence shortly after court reconvened yesterday afternoon. The first witnesses called were Earl W. Whitford and Tryon J. Whitford, brothers of the defendant. Both testified to a conversation they had with Harrison Johnson, in the presence of Mr. Washton, a week after the fatality.

Under cross examination, Mr. DeCiantis introduced police records, taken from the records of Third District Court, for both Earl and Tryon Whitford. Mr. Washton earlier had submitted a court record for Harrison Johnson.

As Tryon Whitford left the stand, Mr. Washton received the permission of the court to assume the role of witness. He was questioned by Marshall Swan, associate defence counsel, and described the same conversation to which the Whitford brothers had testified. At the time of the conversation, Harrison Johnson had said he left the Whitford apartment at about 11 o'clock, or before the shooting took place, Mr. Washton declared.

Girl, 9, Testifies

Lois E. Whitford, 9-year-old niece of the defendant, was called as the next witness. After the oath had been administered by Assistant Clerk John Hogan, Judge Archambault questioned her as to her age and grade in school.

"Do you like your teacher?" the judge asked.

"Oh, she's all right," Lois replied. Judge Archambault appeared amused and the spectators in the courtroom laughed.

"Do you know what it means to tell the truth?" the judge questioned further. He received a reply in the affirmative. "And do you know what it means to tell a falsehood?" he continued. The girl said she did.

"Do you know what happens to people who tell falsehoods?" Judge Archambault queried.

"They are punished," Lois replied.

The judge turned to Mr. Washton and gave him permission to proceed with the questioning. The girl testified she had visited in the Whtford home frequently. She never had seen Mr. and Mrs. Whitford quarrel, she said.

Charles F. Thomas, step-father of the defendant, told the court that Whitford came to his house at about 1:45 a. m. on the morning of the fatality, "crying and pulling his hair."

"I've shot Mary," Thomas quoted the defendant as saying. He went to the house with Whitford, and after seeing the body of the wife on the kitchen floor went to a neighbor's house to summon police, he testified.

Under cross examination by Mr. De Ciantis, Thomas identified blood stained clothing as that worn by Whitford when he first came to the Thomas house. The defendant changed his clothing before leaving to return to his own home, it was testified.

Mother on Stand

The clothing into which he changed belonged to his brother, Tryon, Mrs. Nora Thomas, the defendant's mother, testified. She was visibly moved when she first took the stand, but appeared more calm as questioning progressed. She declared she heard Fred say that he had shot Mary.

Mrs. Celia Perry, a resident of the house at 26 Dayton street, told the court she heard Fred shout "Call a doctor," shortly after she heard the sound of glass being broken.

Character witnesses called by the defence were Oliver C. Andrews, owner of the company where Whitford was employed; Edward B. Leete, an employ of that company; Lieut. George L. Madison, of the Westerly police, and Rev. Daniel A. Jackson, pastor of the Union Bapist Church in Westerly.

Dr. Michael H. Scanlon, Westerly medical examiner, resumed the witness stand yesterday morning. He testified that in his opinion, based on the path of the bullet through the body of Mrs. Whitford as revealed in an autopsy, that the pistol from which the bullet was fired "had to be within a few feet" of the woman.

Police Chief Robert Kessel was on the stand for a short time, identifying clothing worn by Mrs. Whitford on the night of her death and the fatal bullet, taken from a sofa in the Whitford living room.

FRED L. WHITFORD TO BE SENTENCED

Westerly Negro Will Hear Penalty Tomorrow for Slaying of Wife.

Fred L. Whitford, 31, Westerly negro, convicted ten days ago of murder in the second degree, will be sentenced at 10 o'clock tomorrow morning by Judge Alberic A. Archambault in Washington County Superior Court at Westerly. The date was set yesterday at the request of Attorney Abram A. Washton, Whitford's attorney.

Whitford was charged with the murder of his wife, Mary, at their home, 26 Dayton street, Westerly, last September 27.

William H. Noka, a Narragansett Indian of Charlestown, pleaded nolo to a charge of being a disorderly person and sentence was deferred. A charge of being lewd and wanton was reduced after Judge Archambault conferred with attorneys in chambers.

Russian Case Passed

Isaac Russian, of Providence, failed to appear when his trial on a larceny charge was called. After a protracted delay, Assistant Attorney General Michael DeCiantis told the court he had received information that Russian was serving a prison sentence in Massachusetts. The case was passed.

Judge Archambault dismissed the jury for the day, directing them to report at 10 o'clock this morning at the Westerly court room.

Noka had been given a sentence of seven months in prison after being found guilty in Third District Court. He reiterated his plea of not guilty when his appeal was called for trial. A jury was chosen rapidly from the panel sworn in by Clerk Morris M. Wein to replace the jurors who had served since the opening of the session.

Millard K. Weaver, of Charlestown, asked to be excused because he has known the defendant for a long time. The judge permitted him to be excused.

The following jurors were chosen: William Wills, Westerly; Joseph H. Brown, Exeter; Cedric P. Horton, North Kingstown; Samuel R. Parke, North Kingstown; Fred W. Hackett, Narragansett; George A. Carpenter, South Kingstown; Thomas F. Mullen, North Kingstown; Joseph A. Brown, Westerly; Malcolm Rogers, North Kingstown; Jesse A. Thorp, South Kingstown, William F. Tanner, Richmond, and James F. Tulley, South Kingstown. Tulley was named foreman.

The trial had proceeded for less than 15 minutes when Judge Archambault declared a short recess and invited counsel to confer with him. When court reconvened, Mr. DeCiantis asked that the charge against Noka be reduced. On advice of his counsel, Thomas H. Gardiner, the defendant pleaded nolo.

WHITFORD IS SENTENCED TO 24-YEAR TERM

Court Refuses Lenity Plea in Westerly Bride Murder Case

Frederick L. Whitford, 31, Westerly Negro who was convicted Feb. 29 of the second degree murder of his bride, the former Mary Eliza Smart, 30, after a trial in Washington Countly Superior Court in Westerly, was sentenced today to 24 years in State prison by Judge Alberic A. Archambault in Westerly.

The court set forth that there was no question of the justice of the conviction and that the man deserved a long sentence despite the character testimony presented by friends and officials during the trial. In imposing sentence, Justice Archambault declared he was ignoring the appeals of both prosecution and defense counsel for lenity.

About 50 persons were in the court room at 11 o'clock when the sentence was imposed. Whitford, although he seemed to be nervous, showed no emotion when he heard the sentence.

BRIEF TRIAL

The trial was brief, opening in Westerly in the week of Feb. 23 and ending on the following Saturday when the jury returned its sec-

Turn to Page Two, Col. One

WHITFORD GETS 24-YEAR TERM

(Continued from Page One)

ond degree verdict. The State had contended that Whitford with a party of relatives and friends had conducted a drinking bout in his home and that a quarrel with his wife ensued, during which Whitford walked into a bedroom, removed a pistol from a bureau drawer and deliberately shot his bride while she was sitting on a sofa in the living room.

The defense story was that Whitford was toying with the pistol and that it was accidentally discharged, piercing his wife's lung. She was dead upon arrival of police and Medical Examiner Dr. Michael H. Scanlon. Whitford was arrested on the street in front of his home after Lieut. George H. Madison received a telephone call at police headquarters advising him there "was trouble at Whitford's." This was in the early morning of Sept. 27.

Asst. Atty. Gen. Michael DeCiantis prosecuted for the State, while A. A. Washburn was defense counsel. Whitford, who had no previous record, admitted there was drinking in his home prior to the shooting but denied the party had ended in a free-for-all.

WIFE SLAYER GETS 24-YEAR SENTENCE

March 14 1936

Fred L. Whitford Given Term at Westerly Court Session

Judge Alberic A. Archambault in Westerly County Superior Court, at Westerly, yesterday morning sentenced Fred L. Whitford, 31, Westerly Negro, to 24 years in State Prison for the murder of his wife, Mary, at their home, 26 Dayton street, Westerly, last Sept. 27.

A jury found Whitford guilty in the second degree on Feb. 29, after a trial which lasted three days. The State contended that Whitford shot his wife with a revolver as she sat on a sofa in the Whitford living room. The defence maintained that Whitford was "clowning" when the revolver went off.

Providence Journal

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VALLEY and WARWI

PROVIDENCE, WEDNESDAY, MAY 27, 1936

A GRAND JURY'S UNUSUAL REQUEST IS GRANTED

For the First Time in the History of the Superior Court at East Greenwich, the Kent County Grand Jurors, Who Are Investigating the Case of a Warwick Man Charged with Operating an Automobile Which Caused the Death of a 12-Year-Old Boy, Visited the Scene of the Fatality on Strawberry Field Road, East Greenwich, Yesterday. The Jurors are Shown Looking on While Assistant Attorney General Michael De Ciantis Takes Measurements.

Merrill T. Sisson

Hit and Run Driver Is Fined $10; Boy, 11, Killed in Warwick Crash

Mar. 27, 1936

Judge Barry Says He Would Have Made Fine More If He Had All Facts; Same Court Frees Employe of State Liquor Board on Drunken Driving Charge

A driver whose dented car was found in his yard a few hours after an 11-year-old boy had been killed last November was fined $10 and costs by Judge Patrick F. Barry in Fourth District Court at East Greenwich yesterday after the driver had pleaded nolo to a charge of leaving the scene of an accident.

In the same court a former State representative now employed by the Alcoholic Beverage Commission, was freed by Judge Barry after a trial on a drunken driving charge.

The $10 fine was imposed upon Merrill T. Sisson, 41, of Homeland avenue, Warwick, whose automobile was found near his home after Robert Eli Moulton, 11, of Hudson road, Hillsgrove, had been struck and killed on Strawberry Field road, Warwick, on Nov. 15.

Examination of the front right mudguard of the car revealed hair, which C. Wallace Bohrer, State Toxicologist, declared to be human hair and the same as that of the Moulton boy, police said.

Former Representative Charles E. Hart, 36, was the man freed on the drunken driving charge. In adjudging him not guilty, Judge Barry said the witnesses for the State, who included a corporal and trooper of the State police and a physician, had failed to prove beyond a reasonable doubt that Hart was under the influence of liquor at the time of his arrest on March 15.

A charge of driving so as to endanger life and limb, resulting in the death of the Moulton boy, which had been placed against Sisson, was discontinued by Judge Barry on payment of costs, on recommendation of the Warwick police.

This action was taken, the court was told, as the result of a report filed in Kent County Superior Court by Coroner Richard H. Moore of Warwick, who held that the Moulton boy "came to his death in a manner which, though unfortunate, but avoidable, was not by the unlawful act or neglect of any other person or persons other than himself."

Judge Barry last night said that had he been given all the facts in

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OURNAL, FRIDAY, MARCH 27, 1936

WARWICK HIT-RUN DRIVER FINED $10

Continued from Page 1, Col. 8.

connection with the complaint against Sisson charging leaving the scene of an accident, he would have assessed a fine of at least $50 and costs. He said he knew nothing about either complaint against Sisson, as the respondent had originally been arraigned before the clerk of the court, David P. Doyle, after his arrest.

He said he accepted the recommendation of City Solicitor Grimes and the Warwick police to discontinue the charge of driving so as to endanger when it was represented to him that the coroner had in his report held Sisson to be blameless for killing the boy.

The report filed by Coroner Moore said that testimony obtained by him during the inquest showed that five boys, including young Moulton, were walking along the dirt part of the highway, which is not very wide, and were walking with, rather than against, traffic. "A situation which has on many occasions been called to the pedestrians' attention publicly and otherwise as being most dangerous and decidedly wrong if one's safety is to be assured, and particularly on a road which these boys knew from actual experience to be a dark one at night and none too wide and with no sidewalks."

The testimony of four of the boys before the coroner showed that two of them had flashlights which they said were being flashed as they walked along Strawberry Field road and that the automobile which struck Moulton was being operated at an estimated speed of 40 miles an hour. The boys' testimony also showed that after hitting the Moulton boy, the operator of the car turned off his lights and kept going.

Boys on Wrong Side

"The witnesses admit," according to the coroner's report, "being on the wrong side of the road. Also they were using flashlights and while there seems to be no question to the fact that said Sisson did hit the Moulton boy and that he did leave the scene of accident without stopping to ascertain if he had hit someone, a matter which the police should in my opinion press charges on, there is nothing contained in the evidence as submitted, or in the police report, which I have carefully scrutinized, which would show criminal negligence on the part of said Sisson."

"The boys heard the car approaching, its lights were on at the time. The police report shows that Sisson endeavored to turn out and away from the boys and that he had to cut over hard in so doing, so much so, that a roll of building paper which was standing up in the rear of the sedan, fell from the rear seat onto the floor of the sedan with a thump, which led Sisson to believe that he had hit no one, assuming that the thumping noise heard was made by the falling roll of building paper, which in reality, however, was caused by hitting the Moulton boy."

Capt. Jeffrey Testifies

Corporal Malcolm S. Jeffrey of the State police, testifying against Hart, said he had stopped the latter's car after he had observed his car going toward Providence in the third lane. He noticed an odor of alcohol on Hart's breath and observed that Hart's eyes were bloodshot, he said.

He testified that a companion of Hart, sitting in the back seat, became belligerent. The corporal summoned Trooper Clifton Ross and then took Hart to the office of Dr. Rocco Abbate, Warwick avenue, Lakewood, where after examination Hart was pronounced unfit to operate. Under cross-examination Jeffrey admitted that he probably would not have taken Hart into custody had not his companion threatened a fight.

Made Usual Tests

Dr. Abbate testified that he was conivnced that Hart was under the influence of liquor after he had submitted to the usual tests and had so pronounced him.

Hart, testifying in his own defence, said that he had had three glasses of beer between noon and 12:20 a. m. the following morning, when he was arrested. He said that in his capacity as inspector for the State Alcoholic Division, he had examined several liquor establishments, in the course of which alcohol touches his hands and he rubs them close to his face. He denied that he had imbibed any hard liquor. Hart said that he is a World War veteran and that he had been wounded, shellshocked and gassed. He said that he had not examined any liquor just prior to being stopped by police.

Judge Barry, in acquitting the respondent, said that upon the corporal's own statement that if it hadn't been for the action of Hart's belligerent companion he would not have taken Hart off the road, and taking into consideration all the facts of the case as presented, "there is serious doubt in my mind that he is guilty as charged. I therefore find him not guilty."

Ralph H. Briggs was counsel for Hart. Senator Dennis J. Roberts, special prosecuting officer for the Attorney General's department, represented the State.

Taylor Appeals Fine

Leonard E. Taylor of West Kingston appealed a fine of $100 and costs on a charge of operating so as to endanger life and limb yesterday in Second District Court, Wickford. He was found guilty on the charge by Judge Stephen J. Casey. The case was bound over to the Superior Court. Taylor was released under bail of $1000.

A truck allegedly operated by Taylor struck and seriously injured Miss Doris M. Horton, student at Rhode Island State College, Kingston, as she was crossing a road on campus of the school. Miss Horton used crutches when she appeared in court yesterday.

Walter P. Humenczyk, student at the college, who was nearby when Miss Horton was struck, testified he talked with Taylor at the latter's home shortly after the accident. According to police Taylor failed to

halt after apparently striking th girl.

Humenczyk said he asked Taylo if he knew his truck had struck someone. Taylor replied with the question, "Was she badly hurt?" Tak ing the stand in his own defence Taylor denied asking the question.

Humenczyk, an engineering student at the college, estimated the speed of the truck before it struck the girl at 35 miles an hour. Taylor said on the stand the speed of the truck at the time was around 18 or 20 miles an hour.

Asked by defence counsel, William Sweeney, how he was able to estimate the speed, Humenczyk said he had covered the subject in his studies. The witness then proceeded to give the court an illustration of figuring speeds of a moving vehicle and the time necessary to cover a given distance.

The testimony of the witness brought forth praise from Assistant Attorney General Michael DeCiantis, prosecuting for the State. He said the testimony was the best he had ever heard in such a case.

Miss Horton testified she remembered nothing about the accident except reaching the middle of the road before she was struck. Miss Marjorie E. Dunn, another student, who was walking with Miss Horton at the time, told the court she heard the horn of the truck blow as they were crossing the road and then jumped out of the way.

Others testifying were State Trooper Lawrence F. Sullivan, Elisha Taylor, father of Leonard; Phillip E. Tyler, highway supervisor of South Kingstown; George O'Brien and Charles Maguire, both of the Division of Criminal Identification of the State.

May 27, 1936

SISSON INDICTED BY GRAND JURY

Had Been Freed Earlier by Judge Barry, Who Subsequently Resigned.

NO CAPIAS IS SOUGHT

Jury Visits Scene Where 12-Year-Old Robert Moulton Was Killed in Warwick

Merrill Sisson, defendant in a Fourth District Court case that brought about the resignation of Judge Patrick F. Barry, was indicted yesterday afternoon by the Kent county grand jury for driving so as to endanger, resulting in the death of a 12-year-old Warwick boy.

Declaring he had been assured by Edward W. Day, counsel for Sisson, that the defendant would appear in court today for arraignment, Third Assistant Attorney General Michael De Ciantis said he would not ask for a capias for the apprehension of Sisson.

The grand jury's action in indicting Sisson came about two hours after the panel had viewed the scene where on November 15 last Robert C. Moulton, 12-year-old Boy Scout, allegedly was struck down by Sisson's car as he and three other boys were walking home from a Scout meeting. In making the view the grand jury established a precedent, according to the Kent county court attaches, who said that it was the first time tha such a procedure had taken place.

Sisson was charged by Warwick police with driving so as to endanger resulting in the death of the Moulton boy and also with leaving the scene of an accident. On March 26 last, Judge Barry in Fourth District Court discontinued the death driving charge on recommendation of the Warwick police department and City Solicitor Joseph W. Grimes of Warwick and at the same time fined Sisson $10 and costs on the complaint charging him with leaving the scene of an accident.

Judge Barry subsequently submitted his resignation to Governor Theodore Francis Green, who accepted it. In presenting his resignation, former Judge Barry informed the Governor he believed he had been unfairly criticised by the press in connection with the case.

May 28, 1936

THE PROVIDENCE JOURNAL

SISSON TO FACE DRIVING CHARGE

Pleads Not Guilty in Court on Arraignment; Boy, 12, Killed in Hillsgrove.

TRIAL TO OPEN MONDAY

Was Indicted by Grand Jury Tuesday; Fusco Pleads Nolo to Robbery

Trial of Merrill T. Sisson of Homeland avenue, Warwick, on an indictment charging driving so as to endanger, resulting in death, was set for next Monday, when Sisson pleaded not guilty to the indictment yesterday before Judge Herbert L. Carpenter in Kent County Superior Court, East Greenwich.

Sisson, who appeared in court with his attorney, Edward W. Day, was released under bail of $3000, furnished by Benjamin Sisson of Cranston. Third Assistant Attorney General Michael DeCiantis appeared for the State.

Sisson was indicted Tuesday afternoon by the grand jury on the charge resulting from the death of 12-year-old Robert E. Moulton, Hillsgrove, who was killed Nov. 15, 1935, when struck by Sisson's car as he walked along Strawberry Field Road, Hillsgrove, with three other boys.

Nicholas Fusco of Providence and Newark, N. J., pleaded nolo to an indictment for robbery when arraigned before Judge Carpenter yesterday. Sentence was continued until tomorrow at the request of Assistant Attorney General Michael DeCiantis, who informed the court that Fusco is wanted by Newark authorities.

Indicted for Robbery

Fusco was indicted for the robbery in connection with the holdup of Carmine Lautieri in a Natick store on July 30, 1933. He was remanded to Kent County Jail.

Louis Varrin of West Warwick pleaded nolo to an indictment for a statutory charge involving a 15-year-old West Warwick girl. On a recommendation of Assistant Attorney General DeCiantis, he was granted a deferred sentence on condition he keeps out of West Warwick. Adrian Hebert, counsel for the respondent, told the court that Varrin, who is 77, has a home to go to in Ce[illegible]lls. Varrin was promised a [illegible] tence if he is ever seen aga[illegible] Warwick.

Henry Lavoie and [illegible] tois, both of West Warwick, were each sentenced to one year in Providence County Jail by Judge Carpenter after pleading nolo to indictments for assault with intent to rob. The court was informed by Assistant Attorney General DeCiantis that Lavoie and Contois had been drinking on the night of May 10, last, and that they attacked William Gangdon and attempted to rob him. Louis V. Jackvony, counsel for the respondents, characterized the offence as a "rolling drunk proposition" and that the respondents did not obtain any money. He urged a light sentence.

June 2, 1936

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M. T. SISSON CASE TESTIMONY OPENS

Warwick Man Goes to Trial in Death of Hillsgrove Boy, Robert Moulton.

BOY SCOUTS TAKE STAND

Tell of Hearing 'Roaring' Motor Before Their Companion Was Struck

Trial of Merrill T. Sisson, 45, of Homeland avenue, Warwick, charged in an indictment with having caused the death of Robert C. Moulton, 12, of Hillsgrove, when the boy allegedly was struck down by Sisson's automobile on the night of Nov. 15 last, began yesterday before Judge Herbert L. Carpenter and a jury in Kent County Superior Court at East Greenwich.

After a jury had been impanelled and had been taken to Strawberry Field road, Warwick, scene of the fatal accident, testimony was given by Edward Foch, 14; William Shanley, 12; William Crossley, 12, and Leo Bassett, 12, who were returning with young Moulton from a Boy Scout meeting when the boy was killed.

Two of the boys testified that the motor of the car that struck the Moulton boy was "roaring," and one, who estimated that the car was going 40 miles an hour, said it was being driven from one side of the road to the other. The Foch boy testified that after the Moulton boy had been struck, the car swerved to the left and its rear light was turned off.

Found Dent in Auto

Paul J. Robin, investigator for the State Division of Motor Vehicles, testified that as part of his investigation he examined Sisson's automobile and found a dent between the front right fender and headlight. The right headlight, he said, was tilted and he found two human hairs on the right fender.

Mr. Robin testified that he had interviewed the four boys the day after the accident. He said he had noticed blood on the hard-surfaced part of the road, which he described as about 20 feet wide. The shoulder, or dirt portion, of the road was three ...t wide. The blood spots, he tes...d, were 107 feet from pole No. 14, ...h was 20 feet from the spot ...re the Moulton boy ... it, t... boys told him.

Photographs Introduced

Photographs taken by Mr. Robin of the Sisson automobile and the scene of the accident were admitted as evidence.

Cross-examined by Edward W. Day, counsel for Sisson, Inspector Robin said that when he visited the scene the Shanley, Bassett and Crossley boys were with him and that whatever facts he obtained with regard to the accident were received from them. He said he found no attempt had been made to rub any substance from the fender of the Sisson car, and that the brakes were in good condition.

Mr. Robin testified that in his interview with Sisson the respondent told him that he had turned to the left to avoid hitting the boys and that he thought the noise he heard was caused by a roll of roofing paper falling in the rear of the car. Mr. Robin said Sisson told him he saw the boys when he had driven along Strawberry Field road about 600 feet.

Patrolman Thomas Laycock of the Warwick police, testified that he had discovered Sisson's car parked in the driveway alongside his home on Homeland avenue. He said when he first talked with Sisson the latter said he did not see anyone on Strawberry Field road when he drove along. Laycock said that when he examined the car he found the right front fender was bent and the right headlight tilted. He said Sisson had told him that earlier that night he had gone to a hardware store in the Mount Pleasant section of Providence to get a roll of roofing paper and while he parked his car in front of the store a truck backed into it.

Policeman Cross-Examined

Under cross-examination by Mr. Day, Laycock said that later, at police headquarters, Sisson had said he had seen some boys on Strawberry Field road as he drove along. Laycock said there had been a light rain.

Patrolman James E. Gleason, of the Warwick police, testified he had questioned the four boys shortly after the accident and had obtained from one of them the first number of the fleeing car's registration and the fact the car was a Buick.

Acting Inspector Samuel W. Henderson, of the Warwick police, told of going to the scene of the accident. He identified a pair of trousers he said were worn by the Moulton boy when he was struck. The trousers were introduced as State's evidence.

Questioning Sisson after he had been arrested by Patrolman Laycock, Inspector Henderson said he had been told that after leaving the Mount Pleasant hardware store Sisson had driven to Warwick, stopped at the Viking, on Elmwood avenue, Norwood, where he had played cards and had a few beers, and driven home. Henderson testified that Sisson furthermore told him that upon arriving home he spoke to his wife "something about boys walking along the road." Inspector Henderson was still under direct examination when court adjou...ned.

Oscar W. Palmquist of 23 Greenwood avenue, Greenwood, a carpenter, was appointed foreman of the jury. After briefly outlining the State's case, Third Assistant Attor...ey General Michael De Ciantis ...h[ed] the jury be taken to view ... where the Moulton boy ... death. No objection was ...e. Day. Shortly before ... court and jury left for ... Field road.

...embers of the jury are: ...lanchette, E...erton Bloom...age, A...tonio ...ettencourt, ...[d]' of West War...iam ... ...urbery, Wil...llb... ... Smith, ...con Biron and ..., both of Coven...rt Johnson of East ...

... boy testified the five boys were walking together on he dirt shoulder on the right hand side of the road. Foch said he was standing next to "Bobby" Moulton, while Crossley was next and Shanley walked on the extreme inside. Bassett, he said, walked just behind Moulton. He testified that both the Moulton boy and Bassett carried flashlights.

When the five boys had reached a point near a dilapidated house, about 500 feet from the Post road on Strawberry Field road, Foch testified, he saw an auto coming toward them. He said it was being driven from one side of the road to the other and that both headlights were on. He testified that the motor of the car "was roaring" and he estimated its speed to be about 40 miles per hour. When he looked behind a second time, he said, the automobile was very close to the group of boys, and he pulled Bassett out of the way to prevent his being hit.

After the Moulton boy had been struck down, the Foch boy testified, the automobile swerved to the left and its rear light was turned off, he declared. He said he screamed and told one of the boys to try to get the registration number of the machine which did not stop. He said one of the boys was able to get only the first number of the registration which was the figure one, while he said he saw the name "Buick" on a small sign above the rear tail light before the light went out.

Under cross-examination by Mr. Day, the boy witness could not recall whether it had been raining or drizzling the night of the fatality. He admitted he had talked over the case with the police, State's attorney, the three boys who were with him, and Mrs. Moulton.

Story of Accident

When court reconvened shortly before 2:30 o'clock yesterday afternoon, young Foch testified that he did not know whether any of the other boys in the group turned round to see the automobile coming from Post road at the same time he did. He admitted that his memory as to what actually happened at the time of the accident was much better in December when he testified at the coroner's inquest than now. He said that just before the car hit the Moulton boy it was on its left-hand side of the road.

Witness in Tears

The Shanley boy was the second witness called by the State. His testimony was similar in many respects to that of the Foch boy, except that he said he did not notice whether the tail-light had been turned off after the automobile struck the Moulton boy. He said that after the boy had been knocked down, he ran to the home of Jesse Angell, on Strawberry Field road, and told him about the accident. He said that when he first saw the automobile it was some distance from the group and that when his attention was attracted to it by the "roaring motor", he and the four other boys moved further off the road.

Shortly after cross-examination of young Shanley had been begun by Mr. Day, the boy burst into tears and a recess was called.

The Crossley boy testified that the five boys in the group were walking on the dirt part of Strawberry Field road when he heard the sound of the motor of the approaching car. He said he did not notice whether the car turned off its lights when it continued after hitting the Moulton boy. Young Crossley testified the first figure of the registration was one.

The Bassett boy, who said he lived in the same home with Foch, testified that he had left the scout troop meeting in the Hillsgrove school in company with young Moulton and the others shortly after 9 o'clock. He said the group walked along Post road to Strawberry Field road. He said all were walking on the dirt portion of the road and they were discussing who was to be named patrol leader. Under cross-examination, Bassett said he wasn't sure whether he was walking on the dirt part of the road all the time, nor could he state how close together the boys were walking. He testified that he and young Moulton were holding flashlights, both of which were illuminated.

JURY FINDS SISSON GUILTY IN KILLING OF MOULTON BOY

Reaches Verdict in Hour and a Half After Hearing Defendant's Denial.

APPEAL MOTION INDICATED

Conviction Comes Two Months After Prisoner's Acquittal by District Court Judge

Merrill T. Sisson, 42, of Homeland avenue, Warwick, was found guilty by a jury in Kent County Superior Court at East Greenwich late yesterday of driving so as to endanger, resulting in the death of Robert C. Moulton, 12, Hillsgrove Boy Scout, who was killed on the night of Nov. 15, 1935, as he walked along Strawberry Field road, Warwick, with four other boys.

The jury's verdict was reported to Judge Herbert L. Carpenter after an hour and 25 minutes of deliberation. Sisson, who had been on trial for nearly two days, took the stand in his own behalf yesterday and testified that he had no knowledge whatever of having struck anybody on the night of Nov. 15.

The case was given to the jury at 3:15 p. m. after final arguments by Mr. Day and Assistant Attorney General Michael DeCiantis and Judge Carpenter's charge. In his charge, Judge Carpenter, after pointing out that the State must prove the respondent guilty beyond a reasonable doubt, said that what Sisson did after he hit the Moulton boy was not to be considered.

The judge told the jury that they were not to concern themselves with "whether the defendant snapped his lights on or off" because "that happened after the driving so as to endanger with which he is charged in the indictment."

Mentions Boy's Testimony

Referring to the testimony of one of the witnesses, a boy who was with young Moulton the night he was struck down, Judge Carpenter said that "regarding this testimony that the defendant was driving 40 miles an hour, a speed which he judged by the sound of the motor, some of these old Fords which we see coming down the road would appear to be going 100 or 200 miles per hour if we were to judge by the noise of the motors."

Further in his charge, in which he included requests presented by Mr. Day to advise the jury on certain points of law, Judge Carpenter said, "I have no doubt that this defendant is just as sorry that the boy was killed as the parents of the boy, and I don't think any newspaper wants you to send an innocent man to jail."

Conviction on the charge of driving so as to endanger, resulting in death, carries a penalty of not more than three years in prison.

Sisson's conviction came two months and seven days after a judge of the Fourth District Court had discontinued a charge of driving so as to endanger against him and at the same time fined Sisson $10 and costs for leaving the scene of an accident.

Barry Resigned

On March 26, Judge Patrick F. Barry in Fourth District Court, on recommendation of the Warwick police department and City Solicitor Joseph W. Grimes, of Warwick, discontinued the death driving complaint against Sisson. A few days later Judge Barry submitted his resignation to Governor Theodore Francis Green, and it was accepted.

In a letter to the executive former Judge Barry said that "in view of the unfavorable newspaper comments as

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JURY FINDS SISSON GUILTY IN KILLING

Continued from Page 1, Col. 1.

to my action in a case recently before the Fourth District Court, and to relieve your administration from any responsibility for this action, although I feel that my action was justified in the circumstances, I hereby tender my resignation as judge of the Fourth District Court to take effect next April 20."

A few days later Mayor John A. O'Brien announced that he intended to investigate vigorously the action of the police department and City Solicitor Grimes in recommending the discontinuance of the serious charge against Sisson. Later he said he would ask for the resignation of City Solicitor Grimes. The Mayor, however, has taken no action whatsoever to determine why the police and the City Solicitor made the recommendation to the lower court.

Mayor O'Brien conferred with Coroner Richard H. Moore of Warwick, whose finding filed in Superior Court last January absolved Sisson of blame for the death of the Moulton boy, and held that official was not lax in the performance of his duty.

Indicted Last Week

The case was presented to the present term of the Kent county grand jury and Sisson was indicted a week ago Monday. His trial began Monday. Under the law Sisson has seven days in which to file a motion for a new trial. His counsel, Edward W. Day, indicated that he would file such a motion.

Recounts Events

Sission was placed on the stand by his counsel shortly after the State had rested.

After testifying that he was a painter by occupation, Sission traced his movements on the day of the accident and said he had been working on a contracting job at 47 Lowell avenue, Providence. After finishing work, he said, he drove to a hardware store on Chalkstone avenue, where he bought a roll of roofing paper and some paint. He said he placed the roofing paper on the floor of his automobile against the seat. While he was in the store, Sission said, a truck backed into the front of his car, causing a dent in the right front fender.

From the hardware store, Sisson testified, he drove to the Viking on Elmwood avenue, Norwood. He said he met some friends there and had a glass of beer. He said he talked for about two hours with one friend and also played two or three games of poker. Before leaving, Sisson said, he had another glass of beer and some potato chips.

Leaving this establishment, Sisson said, he drove along Elmwood avenue, through Post Road and turned into Strawberry Field road. He said it was raining and misty and that he was driving at about 25 or 28 miles an hour. As he drove along the road toward his home, Sisson testified, he saw four boys walking side by side in the highway. Sisson said he first saw them when he was 35 feet away and that he turned his car to the left.

As he did this, he said, he heard a thud, and, looking around, he saw that the roll of roofing paper had fallen from against the seat onto the floor. Sisson said he continued toward his home, which he said was about 300 yards off Strawberry Field road.

Took Different Route

Continuing his testimony, Sisson said he left his machine in the driveway, had his supper and about a few minutes after 11 o'clock that evening went out with his wife to get some gasoline. He said he drove to the D. and K. service station at the corner of Strawberry Field road and Post road, which is a short distance from the scene where young Moulton was killed.

Sisson said he did not use the same route in going for gasoline, taking a roundabout way from Wilde's Corner, through Main avenue, to the Post road.

Asked by Mr. Day his reason for taking this out-of-the-way route, Sisson replied, "It was just a habit of mine."

When he got to the gasoline station Sission said, he found it closed. He said he was stopped a short distance from the station by a policeman who, after walking around his car and looking it over, told him to go ahead. Later that night, Sisson said, two policemen went to his house and looked over his car, but they left before he could get dressed and go to the door. Sisson said that two policemen later returned and one of them asked him if he had seen some boys walking on the road and how long he had been home. He said he told them he had seen some boys on the road. The policemen questioned him about a dent in his right front fender. Sisson said, and he told them about the truck having struck his car.

Tells of Second Dent

When the police pointed to another dent on the top of the fender, Sisson testified he told them he had not seen that before and that he knew nothing about it. He said he accompanied the policemen to headquarters and he admitted making a statement which he later signed and which was admitted as evidence by the court yesterday.

Sisson denied that he had turned off the lights on his car at any time after he said he swung his automobile to the left to avoid hitting the boys. Sisson said that when he observed the four boys walking in the road they were even with the edge of the macadam, the boy on the inside being close to the centre of the road.

Shortly before noon recess Sisson completed his direct examination. Third Assistant Attorney General Michael DeCiantis immediately took up cross-examination.

When court convened this morning, Jesse Angell of Hillsgrove was called to the stand by the State. He testified that he was among the first to reach the scene where the Moulton boy was killed, having been summoned from his home nearby. He said he took a flashlight from one of the five boys. He said that the Moulton boy lay on the highway, his head being six or eight inches from the edge of the macadam. He fixed the time at about 9:30 or 9:40 and said the weather was cloudy but not rainy. Cross-examined by Mr. Day as to whether he ever had heard that the Moulton boy's eyesight was defective, Mr. Angell replied in the negative.

Tells of Having a Beer

Upon the completion of Mr. Angell's testimony, the State introduced in evidence a statement made by Sisson to Warwick police, the morning after the accident. In this statement he told of the truck having backed into his car while it was parked on Chalkstone avenue on the night of the accident, of his having a couple of beers in an Elmwood avenue drinking place, of his seeing four boys in the road and trying to avoid hitting them.

A certificate from the State Department of Health attesting that samples of hair found by police on the fender of Sisson's car were human hair and similar to that of the Moulton boy's was admitted as the State's exhibit.

Dr. Ralph F. Perkins Lockwood, former Warwick medical examiner, testified to having performed an autopsy on the Moulton boy. He said that death was caused by a dislocated bone at the base of the skull which caused the spinal cord to be severed. He said that there were numerous abrasions, contusions and lacerations on the body but that the chest and abdominal regions were normal. Under cross-examination, Dr. Lockwood said that the fact that the chest and abdomen were found normal satisfied him that no automobile had passed over the body.

Herbert J. Cavacca

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WEATHER

FAIR, SLIGHTLY COLDER MO
SNOW OR RAIN AT NIGHT
TUESDAY AFTERNOON OR NIG
Max. Temp. Yest. ..... 43° at 1:0
Min. Temp. Yest. ..... 36° at 8:0
High Tide Today...5:50 A. M., 6:1
Sun Rises 7:1
Sun Sets 4:2

VOLUME CVIII. NO. 5
Jan. 6, 1933

TROOPERS CATCH "PIRATES," FACE DEATH IN ICE JAM

Two State Policemen, Five Prisoners Locked in Boats in Sakonnet Six Hours.

CAVACA AMONG CAPTIVES

Quintet Accused of Illegal Quahaug Dredging Seized at Gunpoint Through Ruse

Two State troopers and five alleged shellfish pirates they had captured at gunpoint aboard two fishing boats late Saturday night, narrowly escaped death when the two boats with their occupants were caught early yesterday in an ice jam in the Sakonnet river and held for more than six hours.

At the mercy of a gale which nearly sank one of the fishing boats, they lay off Gould Island from 1 a. m. to 7 a. m., waiting for the ice to break and allow them to land.

The five prisoners, among them Herbert J. Cavaca, 34, of Tiverton, whose name was often heard in prohibition days in connection with rum-running activities, were finally brought ashore yesteday morning and locked up at the Portsmouth barracks pending arraignment in First District Court, Newport.

The five men are Manuel J. Ferris, 33, of Portsmouth; John F. Almy, 44, of Little Compton; Robert A. McQueen, 31, of Tiverton; Edson L. Reid, 20, of Tiverton, and Cavaca.

All Plead Not Guilty

They were arraigned before Judge Robert M. Franklin at a special session of First District Court at midnight and all pleaded not guilty to charges of taking quahaugs illegally from a restricted area in the Sakonnet area by means of mechanical dredges. Each furnished $500 bail for appearance Jan. 10.

Cavaca and Reid also each pleaded not guilty to a charge of taking more than 30 bushels of quahaugs in one day in a boat for which they hold a license to operate for dredging. Bail of $500 each also was provided on this charge.

State Senator Joseph J. Kirby, director of the State Division of Fish and Game, appeared as prosectutor of the charges for the division. The office of State Senator William G. Troy of Providence appeared as counsel for the defendants. Representative Ernest Coggeshall of Newport, prominent figure in former "fishtrap wars," was in attendance at the arraignment, apparently acting as unofficial advisor to the defendants.

Bail for Cavaca, Almy and Ferris was furnished by Mrs. Helen Cavaca, mother of Herbert Cavaca. Harold Ingram of Tiverton furnished bail for the others.

Sixth Man Released

A sixth man, Samuel H. Isherwood, 40, of Fall River, was held temporarily on a charge of interfering with the police, but was released last night. He was arrested at Sakonnet Point by a State trooper, who said the man was attempting to signal the fishermen that the police were in the vicinity.

The alleged shellfish pirates were captured by Sergt. Florence J. Harvey and Trooper Harold I. Shippee of the State Police Boat Commodore. The troopers boarded the two boats by deceiving the fishermen through use of their own system of signal lights from the shore.

Only as the two troopers approached the boats in a skiff did the "pirates" become suspicious, but

Continued on Page 9, Column 1

TROOPERS, 'PIRATE' CAPTIVES IN PERIL

Continued from Page 1, Col. 1.

then it was a matter of only a few seconds before the police, with riot guns and revolvers, jumped aboard and placed the men under arrest. Aboard the two boats, which are owned by Cavaca and by Raymond Coleman, of Tiverton, were found 81 bushels of quahaugs, the police reported.

Concentration of Forces

The night's events concluded the most concentrated drive against illegal quahaugs ever made in Newport County, a drive that involved the use of six State troopers, five deputy wardens of the State Division of Fish and Game and the U. S. Coast Guard, called upon later in the night. Director Joseph J. Kirby of the Fish and Game Division was in constant touch with the situation and was at the scene Saturday night and yesterday morning when the men came ashore.

He praised the work of his deputies and the State police, to whom he gave full credit for rounding up and apprehending those whom he termed "shellfish pirates" under the most trying circumstances and at the peril of their lives.

About 9 o'clock Saturday morning, Deputy Warden Walter H. Tallman of the Division of Fish and Game saw the boats of Coleman and Cavaca illegally dredging for quahaugs in the restricted area of the Sakonnet river north of Fogland point.

12-Hour Drive Is On

He called the State police and the Portsmouth barracks as well as Director Kirby, and the 12-hour drive to capture the "shellfish pirates" was on.

The State police boat Commodore was at Wickford. Sergt. Harvey and Trooper Shippee, with Deputy Warden George W. Gadoury of East Greenwich, started aboard the boat for Tiverton. Meanwhile, State troopers from the Portsmouth barracks were told to be ready to patrol the shores.

Early in the afternoon, Deputy Warden Arthur E. Burke of Warren was sent to the scene and, with Deputy Tallman, covered the shores to prevent any landing. They observed the two boats still illegally dredging.

Shortly before 5 o'clock, the Commodore arrived at Stone Bridge, where she was flagged by Tallman and Burke.

Ice Floes Impede Commodore

Proceeding south in the Sakonnet river, her progress was so impeded by ice floes that she was forced to return to a dock in Tiverton.

Meanwhile, Sergt. Harvey, Trooper

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Shippee and the two wardens went ashore and patrolled the banks of the river, seeking to locate the two fishing boats, which had disappeared under cover of darkness. At the same time, troopers from the Portsmouth barracks also were patrolling the shores by automobile from Stone Bridge to Sakonnet Point.

As darkness approached, Sergt. Albert I. Taylor of the Portsmouth barracks called upon the Price's Neck Coast Guard station for aid in trying to locate the two fishing boats. Chief Boatswain's Mate George Lewis and his men in the power boat immediately set out for Sakonnet Point and, picking up Sergt. Taylor there, searched the river in vain from 6:30 to 10 o'clock. The Coast Guard also returned to the scene at dawn yesterday morning to aid the captured boats if necessary.

About 10:30 p. m. Sergt. Harvey and Trooper Shippee finally located the two boats they had been seeking. They were anchored together without lights about 75 yards off-shore south of High Hill, Tiverton.

Signals Exchanged

Having learned the code of light signals the "shellfish pirates" were accustomed to use between the shore and the boats, the two troopers drove down towards the shore and blinked their headlights twice at the boats. The latter returned the signal, whereupon the confirming signal of three flashes was given and returned.

Getting out of their automobile, the two troopers, disguised in fishermen's clothes, walked to the water's edge, where Sergt. Harvey hailed the boat, identifying himself as one of Cavaca's well-known confederates.

"We've been sent down by ——— ———!" shouted the sergeant, this time using the name of another confederate, "and if the coast is clear, you are to pull into Sakonnet Point, where a truck is waiting to get your quahaugs."

The reply came back from the boat that they did not think they could make Sakonnet Point and wanted a skiff to come out where they were anchored.

The sergeant replied that he would try to get a skiff and come out. At this, those aboard the boats noticed the second man and were apparently satisfied when the sergeant identified him as still a third confederate of the poachers.

Although they discovered several skiffs along the shore, the troopers found no oars, so went back to the police boat, obtained oars, returned to the shore, located a skiff and started out.

When they were within 15 yards of the two anchored fishing boats those aboard suddenly became suspicious.

Troopers Defy Cry to Halt

"Halt at once!" came the cry from the fishing boats. "Don't proceed another foot until we identify you."

Instead, the two troopers threw themselves against the oars and with two strokes were alongside. Seizing a riot gun and their service revolvers, each jumped aboard a boat and placed the occupants under arrest.

The sergeant boarded Coleman's boat, on which were McQueen, Reid and 32 bushels of quahaugs, while Shippee boarded the Harold L., Cavaca's boat, where he found Cavaca, Ferris and Almy and 49 bushels of quahaugs.

As the Harold L. was approached, a member of the crew was seen to cut the mooring rope with an axe, while another attempted to start the engine, but Shippee was on deck before the boat could be started.

Aboard both boats were found mechanical dredges, later confiscated by the State police.

Motor Trouble

Immediately the troopers gave orders to the crew to start for Brightman's wharf, some miles away. They had arrived abreast of the west side of Gould Island when motor trouble developed because the ice jam prevented the boat from drawing in enough water to cool the engines.

The Coleman boat's engine stopped completely, and the Harold L., which was in the lead, returned to her assistance, but it was impossible to start her.

Sergt. Harvey decided to leave the Coleman boat at anchor, with McQueen and Reid aboard, and to proceed in the other boat for assistance.

By this time it was 1 a. m., and a heavy rainstorm, with wind and lightning, had broken, making progress almost impossible. The ice floes began to jam in around the boats and before long they were held fast.

The Coleman boat, banged by the ice, sprang a leak, and, at the request of Reid, the sergeant gave permission to dump the 32 bushels of quahaugs overboard to lighten the boat. As it was, the two men had to pump all night to keep the boat afloat.

Wait Out Storm Until Dawn

There was nothing to do but wait, and that is what the group did until dawn, when it was found that the storm had broken up the ice so as to enable them to proceed ashore. The two boats had been carried two miles south in the drifting ice.

Shortly after 7 o'clock yesterday morning, they were able to start again for Brightman's Dock with the Harold L. towing the Coleman boat. Arriving at the dock, the boats and defendants were checked by Chief Inspector Edward C. Hayes of the Fish and Game Division and Deputies Tallman, Burke and Gaudrey, with Director Kirby arriving shortly after.

The two troopers and their five prisoners were taken immediately to the boarding house in Portsmouth where the State police eat and sat down to a hot breakfast. They then continued on to the barracks, where the five defendants were locked up pending arringment today.

Later in the day, the State police took the dredges and other evidence from the boats to the barracks, while at the order of Director Kirby, the 49 bushels of quahaugs aboard the Harold L. were returned to the waters off Gould Island by the deputies. Although this area is restricted to mechanical dredging, it is legal for quahauging with bull rakes and is the source of livelihood to many individual fishermen from Portsmouth and Tiverton.

Declare Dredge Stolen

Raymond A. Coleman, owner of the boat in which McQueen and Reid were arrested, declared last night that a dredge had been stolen from his boat while it was in the custody of the police. He said that yesterday morning, while the boats were being guarded by deputies at the dock in Tiverton, pending the arrival of State police, someone stole the dredge from his boat.

Senator Kirby, asked how many dredges State police were holding, said that they had only one, that from Cavaca's boat. He admitted that the dredge on Coleman's boat had disappeared during the morning.

Fourth Arrests By Crew

Saturday's arrests constituted the fourth made by the crew of the Commodore for illegal quahaug dredging in the past month, and the second arrest of McQueen for that offence during this time. The arraignment of the five men today will bring to 14 the total of defendants whose cases are pending in First District Court for this offence.

Cavaca was arrested several times in 1934 and early in 1935 for the offence and was tried before a jury on an appeal in Newport Superior Court last spring, with a disagreement resulting. The case has never been retried.

For the past month, legal fishermen in Portsmouth and Tiverton have made complaints to the authorities against the illegal dredging and the Commodore has been at the scene often.

In the three previous cases during the past month, the State police have preferred the charges, but today the Division of Fish and Game will prosecute. It is the first time that the charge of "overloading with quahaugs" has been used recently. Under the law, dredging for quahaugs is permitted outside the restricted areas, with a limit of 30 bushels a boat a day. The amounts found on the boats over the week-end, namely 32 and 49 bushels, police said, clearly violated the law.

Mar. 21, 1935

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TELL OF DREDGING IN CAVACA TRIAL

State Police and Coast Guardsmen Declare Harold L. Went Through Operations.

BOAT IN RESTRICTED AREA

Trooper Describes How He Watched Craft and Waded Into Water to Recover Quahaugs

Rhode Island State police and United States coast guardsmen took the witness stand in Newport Superior Court yesterday and testified that they had seen Herbert Cavaca's boat, the Harold L. dredging several times in a restricted area north of Fogland point in the Sakonnet river.

The State, represented by Assistant Attorney General Michael DeCiantis, had not completed its case against Herbert Cavaca, his brothers Joseph and George of Tiverton and Lincoln R. Wilbour of Little Compton when court adjourned last night. The four men are being tried before Judge Alberic A. Archambault and a jury on an indictment charging conspiracy to take quahaugs illegally by dredging from a restricted area in the Sakonnet river between Jan. 24, 1934, and February 21, 1935.

While the majority of the State witnesses could only testify that they had seen the Harold L. going through the operations which are involved in dredging, Trooper Malcolm Jeffries of the Portsmouth barracks testified that he saw the boat actually haul stuff from the water and dump it on the deck.

The trooper said that on the afternoon of Feb. 21, 1935, he was detailed to watch the two boats from the Portsmouth shore. From 3 to 3:45 he watched the Harold L. circle around near the shore and twice he saw it stop while a black object was hauled up out of the water, dumped on the deck, and then dropped back into the water.

Recovered Quahaugs

Reporting to the barracks on this, he returned to the shore where he saw Burton L. Church row out to the Harold L., get some filled bags and then row toward shore. When about 30 feet from the shore Church was seen to drop the bags overboard. Jefferies said he later waded out and recovered two bags filled with quahaugs. When Church landed he was met by his brother, and the trooper took both men to the barracks.

Earlier in the day, Burton L. Church testified he had been asked by someone on the Harold L. whom he did not know to take some bags ashore on Jan. 21. He did so and then dumped them overboard. His brother, Vernon F. Church, also testified to being on the shore watching his brother that day.

Trooper Austin L. Duffy, also attached to the Portsmouth barracks, testified that on that same day he was patrolling the Tiverton shore during the afternoon and saw the two boats, the Harold L. and the Clayton S., going through dredging operations in the restricted area where Trooper Jefferies saw them. The next day he went down to the spot where Jefferies had recovered two bags of quahaugs and with the aid of the Church boys recovered eight sacks more. These were dumped back in the river by order of the superintendent of State Police.

Others who testified to seeing the Harold L. dredging several times in the restricted area were Vincent C. Rose, Tiverton farmer and former deputy shellfish commissioner, and Orrington D. Waite of Tiverton.

Coast Guardsman Testifies

Waite admitted that he was a shellfisherman and had been for seven years. He had a license to gather quahaugs by tongs of bullrake north of Fogland Point and usually worked the Portsmouth shore. He knew Cavaca's boat as well as Cavaca, and had often seen the boat in the late afternoon between 3 and 4 o'clock, dredging offshore from where he was tonging, he said.

George P. Lewis, in charge of the Price's Neck Coast Guard station, testified he had seen the Harold L. going through the operations of dredging several times north of Fogland Point. He also told of being with the State police on Nov. 14 when they watched the Harold L. leave Durfee's wharf in the evening and return the next morning.

Earlier in the day Trooper Harold S. Shippee of the State police boat Commodore, and Coast Guardsman Elton W. Kirkpatrick testified in corroboration of statements by Sergt. Florence J. Harvey, skipper of the Commodore, on Tuesday regarding several chases of the Harold L. made by the Commodore.

Kirkpatrick said that as a Coast Guardsman it was his duty to check on violations of the motor boat laws and that the night he was out with the State police he found the Harold L. running without lights. He also saw the Clayton S. running without lights the night it was captured. He went aboard, inspected the ship's papers and found them all right, although he noted several minor irregularities, he said.

Harvey Cross-Examined

As court opened yesterday morning, Sergeant Harvey was recalled to the stand for a detailed cross-examination regarding his knowledge of boats by Robert M. Dannin, counsel for the defence. The latter mentioned several boats by their registration numbers.

These were later identified by the Assistant Attorney General as the Clayton S. and a boat owned by a man named Gray.

As counsel were agreeing to this identity, the Assistant Attorney General suddenly turned to the sergeant and asked:

"Do you know who owns the Wild Knight?"

"Herbert Cavaca," answered Harvey.

"What kind of a boat is it?" queried Mr. DeCiantis looking at the jury, but although Harvey answered, the reply was stricken from the records when the court upheld the objection of the defence.

Meanwhile, the State police boat and the Coast Guard are temporarily without their powerful night glasses, for these were introduced as State exhibits yesterday. Witnesses had testified that they were extra-powerful for seeing at night.

As court adjourned yesterday, Lieut. John E. Baird took the witness stand and began to testify to a conversation he had with Lincoln S. Wilbour at the Portsmouth barracks on March 5, 1935, just after Wilbour had been arrested on a capias issued in connection with the indictment.

Fred A. Otis, Wilbour's counsel, objected and the jury was excused for the day while counsel argued a point of law.

DREDGING CHARGE DENIED BY CAVACA

Mar 22, 1935

Tiverton Man Says He Was Moving Quahaugs from One Dock to Another.

CLAIMS ACTIONS LEGAL

Tells Newport Jury He Was Taking Soundings When Witnesses Said He Was Dredging

Herbert J. Cavaca of Tiverton yesterday denied before Judge Alberic A. Archambault and a jury in Newport Superior Court the various allegations which had been made against him by State police and Coast Guardsmen appearing for the State during the past few days.

Cavaca, who, with his two brothers, George and Joseph, and Lincoln R. Wilbour of Little Compton, are being tried on an indictment charging conspiracy to take quahaugs by dredging from a restricted area in the Sakonnet river, not only specifically denied the conspiracy charge, but testified that he had never dredged for quahaugs in the restricted area.

In fact, when he was twice arrested by State police this year, he claimed he was going about his legal business. On Jan. 11, he said, he was merely transferring 18 bushels of quahaugs from Durfee's wharf to Humphrey's wharf, and on Feb. 21, when State witnesses testified they saw him dredging, he said he was merely sounding the depths off McCorrie's point in order that he might set a fish trap there later.

The State rested its case in the morning after Lieut. John E. Baird of the State police testified to Lincoln R. Wilbour's admitting to him that Cavaca's boat, the Harold L., had been engaged in dredging illegally on Jan. 11.

Fishermen Testify

Headed by Representative Ernest Coggeshall of Newport, champion of the free fishermen, Newport county

Continued on Page 14, Column 4

THE PROVIDENCE JOUR

NAL, FRIDAY, MARCH 22,

Mar 22, 1935

SOUTH

Cavaca Denies Quahaugs in Banned Area

Tiverton Man Declares He Was Merely Transferring Shellfish from One Wharf to Another When Arrested; Claims He Was Taking Soundings, Feb. 21

Continued from Page 1, Col. 6.

fishermen took the stand one after another to testify in behalf of Cavaca.

After Representative Coggeshall had differed with State Police on the distances a boat could be seen at night, and had testified that the waters in the Sakonnet River were also used for trap fishing, Norman Brownell, Newport fisherman who formerly served as navigator on the State police boat, testified that he had seen Cavaca fishing with nets on the Sakonnet River.

Brownell had little use for the State police night glasses, stating that he could see better with the naked eye at night since he could not regulate glasses to his eyes. He also said ropes could not be distinguished at a half mile on a boat and that the Harold L. had a quiet motor.

Cross examination of Brownell led to heated encounters between the witness and Assistant Attorney General Michael DeCiantis, so that the court several times warned the witness to be respectful.

Under the cross-examination Brownell, said he had known Cavaca for 15 years and had done all kinds of business with him including fishing, quahauging and carrying cargo. He could not recall what the cargoes were.

"Have you talked with Cavaca about this case?" asked De Ciantis.

"No, I don't have to. I'm a fisherman and am fighting for my rights," shot back Brownell. He admitted that he had asked Cavaca how the fishing business was.

Shown the night glasses used by the State police, Brownell admitted they were the same as used when he was aboard as far as he knew, but said they were no good, and that he could see better with his eyes.

"Didn't you testify that you did not use them because you could not fit them to your eyes?"

"No."

"Do you want to change that answer?" he was asked, as the records were reviewed.

"No. I can do what I want to do with my eyes. It don't matter," replied Brownell.

Cross-examined further, Brownell could not remember how many times he had been out on the State police boat, but denied that he and Lieut. Baird used to make out boats one to 1½ miles away with the aid of the search light. He admitted that the search light on the State police boat might cast rays two or three miles, but said he could not distingush a boat at more than 50 feet.

John J. Souza, Little Compton fisherman, testified that he had seen Cavaca dredging off Colt's drive, but the past few months had seen him operating three stub traps off Windmill Hill in the Sakonnet river.

John F. Almy, bowling alley proprietor at Sakonnet Point, told of buying fish from Cavaca during the summer two or three times a week, which he resold to lobstermen for bait.

Edgar A. Gray, Tiverton fisherman, who is licensed to dredge for quahaugs south of Fogland Point and off Bristol, testified that he had never seen Cavaca dredging north of Fogland Point, but had seen him dredging to the south of it.

Denies Being Chased

Under cross-examination Gray denied being chased by State police on the night of Jan. 11, or being tied up next to Cavaca's boat in the restricted area. He admitted, however, that Franklin Brown and William Reed were aboard his boat that night.

William Seabury, Little Compton farmer, admitted going for rides on Cavaca's boat, but he never saw it dredging for quahaugs in the Sakonnet river, he said. He said that on Feb. 21 in the afternoon he went with Cavaca to the waters off McCorrie's Point where he helped Cavaca pull some fikes (a kind of fish trap.) There was no dredge aboard and they got six or eight boxes of fish from the traps, he said. He did not see any quahaugs taken from the boat, but did see the State police boat pull alongside at 5:30.

Under cross-examination, he could not remember seeing Burton Church row out in a skiff and he denied being questioned by a State trooper. In fact, he did not recall that any charge had been placed against him at the time until the Attorney General specifically reminded him of the fact.

Cavaca next took the stand where he declared that he was in the fishing business. He identified his various shellfish licenses and told [illegible] he had done all kinds of fishing during the past year from Nantucket to Newport as well as in the Sakonnet river. He had always used the Harold L. in this business, he said.

During the last three weeks he had been setting fikes in the river and from the spring to the fall, he used stub traps, he testified.

His headquarters, he said, are maintained at Almy's wharf near his home, but during the winter he also uses Durfee's wharf north of the Stone Bridge.

He then denied that he had ever dredged for quahaugs in a restricted area.

As to the night of Jan. 11, he testified he sailed the Harold L. down to Durfee's Wharf, where he fished 18 sacks of quahaugs out of the water there where they had been stored. They came from Flaherty's oyster grounds and other places, he said. He gave Wilbour a ride home on the boat as he was taking the sacks up to Humphreys Wharf. To get his bearings he went over to the west side of the channel south of Stone Bridge but was never more than one-eighth of a mile off his course, not two, as State police testified. He said he was arrested that night though he did not know why.

On the afternoon of Feb. 21, he went to the waters off McCorries Point to sound out the water preparatory to setting fish traps as he did not have much to do that day, he testified. He used sweep chains to sound, and also got about a half bushel of fish from two fikes he had placed there. There were no quahaugs aboard his boat to his knowledge, he said.

Did Not See Skiff

He did not see any skiff manned by Burton Church approach his boat, but did see another boat going around in circles. He said he thought perhaps the owner was gassed and went over to it, but found the man, whom he did not know, was all right.

Cavaca also denied that he lost a dory from the Harold L. on the night of December 21 and he did not recall being chased that night. In fact he once had ten dories but only two are left, he said.

He said that his 18-year-old brother George did not work for him, although he sometimes went out in the boat for a ride. His brother Joseph had worked for him since December 28 after Joseph had lost a job in Fall River.

In concluding his direct testimony Cavaca denied that he had ever talked about, arranged or done any acts with regard to dredging for quahaugs north of Fogland Point or that he had ever violated any shellfish laws.

The Assistant Attorney General then began cross-examination and brought out through admission that Cavaca had been fined $20 for taking quahaugs from polluted waters and $50 for taking shellfish from Massachusetts waters in that State last March. Cavaca claimed that through a special agreement between the Attorney General, Eddie Harrington at New Bedford, he had only paid a total of $50.

He admitted that the Harold L. was owned by his brother Joseph, although he had paid for it.

"You know how to read English?" suddenly asked DeCiantis.

"Not so well," replied Cavaca.

"You write English?"

"A little," answered the defendant.

"Don't you write for the papers?" asked the Attorney General.

That's news to me," laughed Cavaca.

"Do you mean to say you never wrote stories for the newspapers?" continued DeCiantis.

"No, I'm positive I never have," was the reply.

The Attorney General then brought out that Cavaca's license to dredge off the Flaherty oyster beds had expired Dec. 31, yet on Jan. 11, Cavaca was transferring quahaugs which came from there.

Cavaca maintained that he had not been on those grounds after Dec. 31. nor had his boat, but that the quahaugs had been taken there previously and kept in the water at Durfees Wharf.

Admitting that he might be 500 bushels out of the way, Cavaca said that he had sold Warren Finn between 1700 and 1800 bushels of quahaugs since October and some to Vincent Brothers in New Bedford. Some of the quahaugs had been gathered by other fishermen but sold under Cavaca's name, he said. He often has 800 to 1000 bushels stored in the waters along the Sakonnet River during the year, awaiting a market, he said.

Cavaca denied having any interest in the Clayton S., although he said his brother had. He also denied that it was off Power street on Feb. 21.

Admits Fines

DeCiantis dug up Cavaca's past, wringing admissions that in 1925 he had paid a $200 fine for bribery; in 1930 a $20 fine for speeeding and a 60-day jail sentence for violation of the prohibition laws and in 1931 paid a $10 fine for possessing a blackjack in his car. Cavaca maintained that it was not a blackjack but a piece of rope.

The witness was excused subject to recall.

As court adjourned for the day, Joseph Cavaca, 25, commenced his testimony, stating that he was a farmer and fisherman and on Jan. 11 was aboard the Harold L. when it transferred the quahaugs from one wharf to another. He also admitted being aboard the Clayton S. on Feb. 21.

Representative Ernest Coggeshall, Newport champion of the free fishermen, took the stand as the first witness for the defence and testified that at different times of the year the waters in the Sakonnet river between McCorrie's Point and Power street are used for auto trawl fishing, sometimes in the channel and sometimes in the shoals. He testified that up to 12 years ago he was a shell fisherman and was acquainted with the various means and apparatus used to obtain quahaugs.

Shown the night glasses used by the State Police, Coggeshall was asked about their use at night.

The State asked to have Coggeshall qualified as an expert on glasses, and Coggeshall replied: "I've been a licensed master for 25 years, operating $60,000 boats from Maine to Florida. We used the best glasses we could get, as on fishing boats coming in at night, it is imperative to pick up channel buoys to avoid grounding."

Coggeshall then testified that in his opinion a boat could only be distinguished on an ordinary dark night at around 200 feet, and even then one would have to be very familiar wtih the boat. Ropes aboard the boat could be seen possibly at 150 feet if lights on the boat were

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reflected on them. Even if the boat were running without lights, gear could not be picked out at more than 200 feet, he said.

Coggeshall maintained that a boat could not be distinguished at one or two miles at night and even with a searchlight, such as used on fishing boats, details on the boat could not be picked up at a distance of from a half to a full mile on the water. In the day time familiar objects could be distinguished at a mile.

Cross-examined by Mr. DeCiantis, Coggeshall maintained that a familiar object could not be distinguished at over 200 feet at night.

"What does 7 by 50 mean on these glasses?" asked the Attorney General showing Coggeshall the binoculars.

"I don't know anything about names or figures on glasses," replied the witness. "I know glasses by using them."

"Ever hear of a one mile night light?"

"There may be such a light," said Coggeshall.

"Suppose I told you there was such a light on the State police boat," said the Attorney General.

"I doubt it," said Coggeshall. "I dare say it might show up an object at that distance at night."

The Attorney General then showed the jury a chart of the questioned waters in the Sakonnet river, where Coggeshall pointed out that the mean low water was 16 feet in the area where the Harold L. is alleged to have been. Coggeshall testified that the Harold L. drew eight feet of water.

As court opened yesterday morning, defence counsel attempted to prevent Lieut. John E. Baird of the State police testifying to certain statements made by Lincoln R. Wilbour on the night of his arrest. After the jury had been taken out twice and counsel and the court retired to chambers for arguments, the court ruled that the testimony could be admitted. He told the jury that such testimony could be used only against Wilbour and not against the other alleged conspirators.

Lieut. Baird testified that on March 5, after Wilbour had been arrested on a capias, he made certain statements at the Portsmouth barracks concerning the events of Jan. 11, when the Harold L. was first picked up by the State police and Cavacas and Wilbour arrested on board

Admitting that he had not told Wilbour that what he said might be used against him, but that all he wanted was the truth, Baird said that Wilbour told of working on Cavaca's automobile the afternoon of Jan. 11.

"Wilbour told me that Cavaca asked him to take a trip on the Harold L., and promised to pay for the automobile work with a portion of the catch the Harold L. might make," said Baird. "He said the boat left the dock without lights and he went below. While there he heard the crew working a dredge which he had previously seen lying on deck. He did not see the dredge actually dropped overboard, however, he only heard the working of the machinery. Later Cavaca called him on deck, where he found the State police boat alongside." The State rested.

Jan. 25, 1936

THE PROVI

THREE TIVERTON DREDGERS FINED

Herbert J. Cavaca Receives Top Penalty for Violation of Quahaug Limit Law.

IS CALLED ON TO PAY $430

Manuel J. Ferris and John F. Almy Each Assessed $50 and Costs on Illegal Dredging Count

Herbert J. Cavaca, 39, Tiverton fisherman, was found guilty on charges of illegal dredging for quahaugs and of commanding a fishing boat carrying more than the legal limit of quahaugs, after trial yesterday in First District Court, Newport. Cavaca was his own counsel.

Cavaca was fined $50 and costs on the illegal dredging charge and $380 and costs on the second charge, the $380 fine being on a basis of $20 a bushel for the 19 bushels beyond the legal limit shown by testimony to have been aboard his boat.

Manuel J. Ferris of Portsmouth and John F. Almy of Tiverton, arrested aboard Cavaca's boat, each admitted sufficient evidence to convict on a charge of illegal dredging and each was fined $50 and costs.

All three men appealed and gave surety of $500 in each case, bail being furnished by Levi Ibbotson.

No Other Witnesses

When Cavaca and his co-defendants appeared in court without counsel, Judge Robert M. Franklin directed Cavaca to take his place at the defence table. The defendant appeared to enjoy his cross-examination of State witnesses, but declined to take the stand in his own defence, or to offer any other witnesses.

At the conclusion of the trial, Edson L. Reid and Robert A. McQueen also charged with illegal dredging, were ordered defaulted when they failed to appear with the calling of their cases. Capiases were issued for their arrest.

A year ago, a jury disagreed on an illegal dredging charge against Cavaca, which had been brought through an indictment charging conspiracy.

For a time the illegal dredging of quahaugs in the restricted area quieted down, but last month, State police aboard the Commodore got busy again and since then nearly a dozen persons have been arrested.

The cases were continued for trial after the defendants had pleaded not guilty and furnished bail, and those against Cavaca, Ferris, Almy, Reid and McQueen were definitely set down for trial yesterday by Assistant Attorney General Michael De Ciantis.

6/30/36

CAVACA APPEAL TRIAL IS BEGUN

Jury Hears Case of Tiverton Fisherman Accused of Illegal Quahauging.

COURT ASSIGNS COUNSEL

Success In Cases Last Week Prompts State to Take Appeal to Court

Herbert J. Cavaca, of Tiverton went to trial before Judge Leonidas Pouliot, Jr., and a jury in Newport Superior Court yesterday on two appeals from fines imposed in the First District Court for allegedly illegal dredging for quahaugs in the restricted area of the Sakonnet river and for having 49 bushels of quahaugs aboard his boat where the law only allows 30.

Both offences occurred on Jan. 4, 1936, according to charges brought by the State Division of Fish and Game.

Both State police and State Division of Fish and Game have preferred charges several times during the past two years for alleged illegal quahauging activities. Appeals are pending in Superior Court.

In March 1935, Cavaca went to trial in Newport Superior Court on a conspiracy charge covering numerous quahauging complaints in 1934-35. The jury, after eight hours deliberation, told the court they could not agree and were discharged.

Since then, no quahaug cases had been tried in Newport Superior Court until last week, when Raymond A. Coleman, James Ruest and Albert Ethier were found guilty by a jury of dredging for quahaugs out of season.

Success in that case, which was by way of a test case, prompted Assistant Attorney General Michael DeCiantis to proceed to trial against Cavaca yesterday.

Coleman, Ruest and Ethier appeared in court yesterday by agreement to have their bonds for an appeal raised from $200 to $500 each. Mrs. Ora Remington, of this city, supplied surety.

DeCiantis Asks Court Act

When the Cavaca case was called yesterday, Cavaca said he had no counsel and wished to try the case without counsel. Mr. DeCiantis objected on the grounds that he understood State Senator William G. Troy was Cavaca's counsel. Troy, reached in this city, sent word that he no longer represented Cavaca.

The Attorney General insisted that Cavaca have counsel and the court appointed Robert M. Dannin, of Newport, who had been Cavaca's counsel in 1935 and who represented Coleman and the others last week.

The Attorney General then asked that the two charges be tried jointly, Cavaca objected, but waived his rights to separate trial when the court ruled that otherwise the cases would be tried one after another at this session of the court.

The jury was impaneled, but before court adjourned for the noon recess, the court at the request of the Attorney General, instructed the jurors to report to him at once if any one approached them regarding the case during the noon hour.

Acquaintance Disqualified

Percy Brownell, Newport fisherman, who admitted he had known Cavaca five years, was the only juror challenged. The challenge was made by the State after questioning and after defence counsel had objected to the latter's request that the juror be excused by the court.

The jury as finally sworn comprised Emil Swanson, Newport, retired naval officer, as foreman; William E. Kirby, Samuel Kerschner, John F. Phelan, all of Newport; Effie Smith, Jamestown; Edith P. Conley and Alvin G. Reise, Middletown; Lillian G. Horton, Portsmouth; Philip F. Charette and George M. Springer, Tiverton, and Nellie F. Lemunyon and Frank B. Rocha of Little Compton. Mrs. Smith, Mrs. Conley, Reise and Rocha were on the Coleman panel last week.

Sergt. Albert L. Taylor of the State police was the first witness called by the State. He told how at 11:30 a. m. on Jan. 4, with Deputy Gadoury, he went to McCorrie's Point in Tiverton, where he saw Cavaca and Coleman dredging for quahaugs in their boats north of Fogland Point in the Sakonnet river.

Tells of Watching Work

The sergeant drew a line on a map showing the restricted area. He told how he recognized Cavaca and two other men on the former's boat and saw them dredge and then sail over to a white boat anchored about 500 feet offshore. At 3 p. m. he saw two men get out of Cavaca's boat and load about 20 bushels of quahaugs aboard the Harold L., Cavaca's dredging boat. Later he went to Sakonnet Point and saw a man named Hershfield wave Cavaca away when the later sailed up to the dock. The sergeant said there was ice in the north part of the river that day.

He was cross-examined at length by Mr. Dannin.

George W. Gadoury, former East Greenwich quahauger and since July, 1935, a deputy in the State Division of Fish and Game, corroborated the testimony of Sergeant Taylor. He said he watched Cavaca dredge for an hour and then approach the white boat, where he either deposited the quahaugs or dropped them overboard. In the afternoon, he said, he saw Cavaca pick up 23 bushels of quahaugs at the white boat.

Qualifying as a former quahauger, Deputy Gadoury said that a bull raker or tonger can get only about three to five bushels of quahaugs in an eight-hour day while a dredge can get between 50 and 60 bushels. He said that the fisherman got $1.25 to $2.00 a bushel depending on the size of the quahaugs and that there was an objection to dredgers, because it threw so many independent fishermen out of work.

"With a bullrake or tonger it takes a man a whole week to get as much as a dredger would in a day," he said.

Troy's Fee Little Large

When court convened, Cavaca appeared and said that he had no counsel, that he had dropped State Senator William G. Troy, because his fee seemed a little large.

DeCiantis told the court that the men had had plenty of time to retain new counsel and that he was determined to go to trial.

"I'm sick of coming down here Friday after Friday and finding these cases continued," said Mr. DeCiantis. "They knew the trial had been set for today and I have eight witnesses ready. I don't intend to let them take the law into their own hands in court or out."

"It's about time the court did something about these men," said DeCiantis." It never has before."

"Not before me in this court," said Judge Franklin.

"What's the excuse for having no attorney?" asked Mr. DeCiantis.

"Probably they haven't the price of one," replied the court.

"So the court will let the case go by?"

"Oh, no," said the court. "Proceed to trial." He directed Cavaca to sit at the defence table.

State Puts on Witnesses

The State then put on its witnesses, who included Deputy Shell Fish Wardens Walter Tallman, Arthur Burke and George Gadoury, as well as Sergt. Florence J. Harvey and Corp. Harold S. Shippee of the State police boat and Chief Inspector Ernest Hayes of the Department of Fish and Game, who preferred the charges against the defendants.

The men told the incidents leading up to Cavaca's arrest on the night of Jan. 4, when he had been seen dredging in the restricted area in the morning and then disappeared and finally had been located by State police at 10:20 that night with 49 bushels of quahaugs aboard his boat. It was that night that police and defendants had a narrow escape when the two boats on which the arrests were made, were held in an ice jam for six hours during a howling gale.

The deputy wardens testified to seeing Cavaca dredging during the day, while the State police told of driving to the shore and communicating with Cavaca by using the quahaugers' system of automobile headlight signalling.

They told how they rowed out to the two boats and jumped aboard with a riot gun, just as one of the men aboard Cavaca's boat cut the anchor rope and attempted to start the engine when the State police were recognized.

Cavaca, in cross-examining the deputies, attempted to show that they did not know the color of his boat and that it was impossible for them to recognize him aboard at a distance. Likewise he questioned the witnesses as to whether they had actually measured the 49 bushels of quahaugs found aboard his boat.

"Blow Your Guts Out"

In cross examining the sergeant and the corporal, he tried to get them to admit that Sergt. Harvey had threatened him when he boarded the boat by saying. "Stick 'em up, Herb, or I'll blow your guts out."

Both officers denied the threat, although the sergeant admitted that he had ordered Cavaca to get into the cabin and to "get away from the wheel before I have to use my gun."

The police admitted that Cavaca had offered no resistance and had treated them hospitably aboard his boat and even assisted in drying out the riot gun, which had become wet in the storm.

Cavaca stressed the point that the sergeant unloaded the gun aboard the boat, to which the sergeant replied in court, "But I had another one all ready here," pointing to where he kept his service revolver when on duty.

The State Police admitted that the Harold L. was registered to Joseph Cavaca, but pointed out that they had always seen Herbert Cavaca at the wheel and in charge.

Under cross-examination, the deputy admitted that some years ago he was an officer in the fishermen's shellfish organization which urged legislative action on restricting quahaug areas and that he had campaigned in Tiverton on the matter. He admitted that the Sakonnet river territory was the only restricted quahauging area in the State.

As the State was about to call Sergt. Frederick J. Harvey, who arrested Cavaca on Jan. 4, court adjourned until 11 a. m. today.

POLICEMAN TALKS AT QUAHAUG TRIAL

ergt. Harvey Says State Police Pursued Fishing Boat Harold L. in Bay.

TELLS OF DUMPING CARGO

Four Men on Trial in Newport for Dredging Illegally in Sakonnet River

State police once engaged in a futile pursuit of the fishing boat Harold L., registered to Joseph Cavaca of Tiverton, and on another occasion dumped 18 bushels of quahaugs found on the deck, Sergt. Florence J. Harvey of the State police testified yesterday in Newport Superior Court. Four men are being tried on charges of conspiracy to take quahaugs illegally by dredging from a restricted area in the Sakonnet river.

The defendants are Herbert, George and Joseph Cavaca of Tiverton, and Lincoln C. Wilbour of Little Compton. Judge Alberic A. Archambault is presiding at the trial.

Fishermen in Courtroom

The courtroom was filled with Newport fishermen who left their boats to listen to the testimony.

Before Sergt. Harvey skipper of the State police boat took the stand, Joseph S. Slinn and Herman F. Round, draw tenders at the Stone bridge, told of seeing the Cavaca boat pass through the draw, often leaving a Tiverton wharf at dusk and returning late at night or just before dawn.

Arthur L. Smith, clerk of the former Shellfish Commission, described restricted areas in the Sakonnet river and the licensing of fishermen.

Had Watched "Dredging"

Sergt. Harvey said he had watched the Harold L. going through operations similar to dredging several times in the restricted area, but under cross-examination by Robert M. Dannin, defence counsel, he could not positively state that at any time dredging was actually being done from the boat [illegible] Derr[illegible]

He added, however, that "I have seen enough to convince me there was dredging done from the boat."

Testifying directly to Assistant Attorney General Michael DeCiantis, Sergt. Harvey told how on the night of Nov. 8, 1934, he and Trooper Harold Shippee hid near Durfee's wharf in Tiverton. About 6 p. m., he said, they saw a truck, later identified as Cavaca's, arrive and a number of men leave it and go out in the Harold L., which was moored nearby. Later they saw the boat running without lights near McCorrie's Point, Portsmouth. The boat returned to the wharf at 5:30 a. m., but no one came ashore, Sergt. Harvey said.

On Nov. 9, finding that the Harold L. had gone out, the two troopers, Harvey testified, got Kirkpatrick, a Coast Guardsman attached to the Price's Neck station, and went by land to McCorrie's Point, where with glasses they saw a boat without lights dredging off the point.

Anchored Near Point

On Dec. 21, the three men went out in a private motorboat and anchored near McCorrie's point, he said. About 7 p. m., the Harold L. approached without lights. The others started their motor and gave chase, but the Harold L. escaped after the two boats played tag around Gould Island. The troopers, however, picked up a dory, which had broken away from its tow on the Harold L.

"On Jan. 11, 1935," Sergt. Harvey said, "we arrived in the State police boat on the Sakonnet river at 8 o'clock. About a half mile away, we saw two boats running without lights. We turned on our flood lights and saw that one was the Harold L. with a line dropped over the stern from the gaff. The boats separated and the Harold L. turned its stern away from us. We followed it inshore and found that the line was no longer hanging over the stern but had been fastened aboard.

"On the boat we found 18 bushels of quahaugs and the deck all wet and mucky. There was no dredging apparatus aboard. We arrested the three Cavacas and Wilbour, all of whom were dressed in old, wet and dirty work clothes.

"Herbert Cavaca told me that he was taking a load of quahaugs from Durfee's wharf to Humphrey's wharf, but when we saw him, if he was making the trip as he said, he was two miles off his course and headed in the wrong direction."

The quahaugs were later dumped off Quonset Point on order of the Superintendent of the State Police.

Describes Last Trip

The last trip Sergt. Harvey described was on Feb. 21, when the State Police boat left Bristol at 4:45 for the Sakonnet River. Passing through Stone Bridge, Sergt. Harvey said, they saw two boats off Gould Island, which they later identified as the Harold L. and the Clayton S. The two boats were reached, Serg. Harvey being placed on one and Kirkpatrick on the other, and the three boats headed for Humphrey's warf where the crews were placed under arrest and taken to the Portsmouth barracks. There were no quahaugs or dredging apparatus aboard, it was testified.

Herbert Cavaca, George Cavaca and a man named Seabury were board the Harold L. and Joseph and Manuel Cavaca and a man named Camara aboard the other boat, according to Sergt. Harvey.

Under cross-examination, Harvey said he had not seen the defendants aboard the boat on Nov. 14 and 21. To Fred A. Otis, counsel for Wilbour, the sergeant said he had seen Wilbour aboard the Cavaca boat on only one night.

Asked if he had expressed surprise to Mrs. Wilbour that Wilbour was named in the conspiracy indictment the night he served the warrant on Wilbour, the sergeant admitted that he had had some conversation with Wilbour's wife at the time.

Mr. De Ciantis in outlining the State's case said it would show that the Cavacas were in the fishing industry and had been quahauging without a license, thus repeatedly and consistantly violating the law. Twice it would be shown that the State police boat attempted to arrest them but they got away, but a third time the police succeeded, he said.

Usually Worked at Night

In an attempt to show that the Cavaca boat, the Harold L, usually worked during the night, Joseph R. Slinn, keeper of the draw at the Stone Bridge testified as to the number of times the draw had been opened from Jan. 24, 1934 to Feb. 21, 1935 to permit the Harold L. to pass. The records showed that on some 30 dates during that period, the Harold L. would pass south after leaving Durfee's wharf in Tiverton, usually around dusk and returning either around midnight or early in the morning. These trips were in January, March, April, June and December, 1934, and in January and February 1935, the majority being during the latter three months.

On several occasions the boat came in early, particularly on Feb. 21, 1935, when it returned at 9 p. m. followed by the State police boat and another fishing boat, the 652.

The Harold L. was identified through a copy of the customs registry as registered to Joseph Cavaca of Tiverton.

Under cross-examination, Slinn admitted that other fishing boats passed through the draw at various hours. The Assistant Attorney General asked him to check up on the hours these other boats went through.

Arthur L Smith, clerk of the former Shellfish Commission, identified a chart of Narragansett bay and pointed out the various restricted areas and leased oyster beds. Two of the latter are: that of Harold Flaherty, near the Kickemuit river, and that of Henry L, Thomas, off Bristol. Smith pointed out both were more than nine miles north of Fogland Point.

Reviews Shellfish Laws

Reviewing the shellfish laws, Smith said that dredging for quahaugs is allowed in the Sakonnet river south of Fogland Point from Dec. 1 to March 31, with a 30-bushel limit, if one has a license, but north of Fogland Point dredging is forbidden. However, in the latter area a license may be obtained to take quahaugs by using tongs or a bullrake. A person duly licensed as a leaseholder or employe may dredge between sunrise and sunset on leased shellfish beds, Smith said.

Smith testified that Herbert Cavaca had licenses to dredge on the oyster beds owned by Flaherty and Thomas up to April 13, 1935; to take quahaugs by tongs and bullrake one year from Sept. 1, 1934 and also a special license to dredge for quahaugs from Dec. 1, 1934, to March 31, 1935 in the Sakonnet river south of Fogland Point.

Joseph Cavaca, Smith testified, had a special dredging license for the Sakonnet river south of Fogland Point, but George Cavaca and Lincoln C. Wilbour, the other defendants, had no shellfish licenses of any kind, Smith said. Under cross-examination, Smith said he had received complaints concerning Herbert Cavaca, but that the commission had not revoked his licenses.

CAVACA CASE JURY UNABLE TO AGREE

Panel Discharged After Considering Conspiracy Evidence Eight Hours.

DI CIANTIS ASKS RETRIAL

Court Refuses to Fix Date; Jurors and State Witnesses Under Surveillance

Unable to agree on a verdict after being locked up for eight hours, the jury that for the past week has listened to testimony in the State's case of conspiracy against Herbert, Joseph and George Cavaca, of Tiverton, and Lincoln R. Wilbour of Little Compton, was discharged at 11 o'clock last night by Judge Alberic A. Archambault in Newport Superior Court.

Assistant Attorney General Michael DiCiantis immediately asked to have the case set down for retrial a week from Monday, but Robert M. Dannin, counsel for the Cavacas, objected, and Judge Archambault said he was not inclined to reassign the case for trial so soon.

The jury retired at 3 o'clock yesterday afternoon. Their supper was sent in at 7 o'clock and an additional supply of food at 8:30. Nothing having been heard from them, the court called them into the courtroom at 9:30.

Instructing the foreman, John J. Lynch, to answer any questions he might ask "yes or no" only, the court asked whether there were any prospect of the jury reaching a verdict.

"I can't a[nswer] yes or no," replied Foreman L[ynch] 'because we have found one [de]ant not guilty."

Judge A[rchambault] interrupted, with the re[mark] "Don't say anything more b[efore] turn to the jury room."

The four men were charged with conspiring together to take quahaugs from the Sakonnet river north of Fogland Point by dredges, rakes and other equipment operated by mechanical power or hauled by power boats.

It was learned last night that, throughout the trial, the members of the jury, as well as State witnesses, have been under surveillance by police officials to prevent any attempts being made to tamper with them.

This surveillance was instituted, it

Continued on Page 14, Column 7

UNTY

Cavaca Jury D[isagrees]

Foreman Reveals, During C[ourt]

One Defendant Was Fo[r]

Refuses to Fix

Continued from Page 1, Col. 7.

was learned, after it was discovered that a witness whom the State had intended to have testify had been approached in connection with the case.

At 11 o'clock last night the jury was called into the court room, where the court, turning to Foreman Lynch, told him, "Just answer my questions, yes or no."

"Have you agreed on a verdict?" asked the court.

"No."

"Is there any prospect of your reaching an agreement?"

"No, I don't think so," answered the foreman, and the jury, which had been in the courthouse since 10:30 o'clock yesterday morning, was discharged and soon afterwards was paid for its services.

Throughout the day and evening a large group of Newport County fishermen milled round the corridors or sat in the courtroom to await the verdict.

Judge Defines Conspiracy

Robert M. Dannin argued for the Cavasas, Fred A. Otis for Wilbour and Assistant Attorney General Michael DeCiantis for the State. DeCiantis repeatedly called Herbert Cavaca an "ex-convict" and "knight of racketeers."

Judge Archambault in his charge declared that conspiracy was a combination or agreement between two or more persons to do a criminal or unlawful act, but there must be at least two or more persons to form a conspiracy.

"Conspiracy does not mean that they sat around a table and entered into or signed an agreement to violate the law," said the Court, "but simply that an agreement was made to violate the laws. You may conclude that an agreement to violate the law was entered into by two or more of the defendants from their actions and the testimony in the case regarding the defendants.

"If three men habitually are found together violating the law, it is not necessary to find an agreement among them, it is enough to find them constantly together violating the law.

"There has been some testimony considering the seriousness of the offence and the maximum penalty involved in this case. You are to disregard it, for it is not within the province of the jury to determine the seriousness of the punishment; it is for the court to decide. Mrs. Wilbour's testimony referring to the penalty is to be considered only in throwing light on the conversations referred to.

"There has also been testimony in the case regarding an admission or confession alleged to have been made by Wilbour," continued the court. "If the jury finds that it was not made voluntarily, they should disregard it. In any event, the jury is not to consider the admission or confession of Lincoln Wilbour as affecting the other three defendants in the case."

Defendants' Privilege

The court further pointed out that it is the privilege of defendants who have been indicted to refrain from testifying in their own behalf.

"If from all evidence submitted, the jury concludes that Wilbour is not guilty of conspiracy, they may acquit him without conclusions as to the others," continued the court, "and also as to the other defendants.

"You may consider the appearance, conduct and demeanor of the witnesses as to their telling the truth; as to their credibility and all the circumstances involving the coming and going of the Harold L. by day or night on the Sakonnet river, as to where it was seen, what it was seen doing, who was aboard, who owned it and as to the articles found aboard.

"You may also consider all the evidence as to the presence or absence of quahaugs, as to the presence or absence of dories and the transportation of quahaugs by boat from one place to another," continued the court. "You should consider the expert testimony in the case as to the ability to see and distinguish certain objects at certain times and at certain distances.

"If only one defendant is found guilty of the charge, then there must be an acquittal, as one person cannot conspire lone."

In concluding his charge, Judge Archambault charged specifically that as far as the rope (a "blackjack" introduced by the State which Cav-

Newport County

Dec. 4, 1934

contradicted the testimony of John Almy, defence witness, that he was laid off as a truck driver for the firm because of lack of work. Stelling said the reason he discharged Almy was because he was arrested for drunken driving in 1933 and had his license suspended in 1934.

Arthur F. Burke, deputy for the Division of Fish and Game, testifd that on Jan. 5, when Cavaca was held at the Portsmouth barracks he admitted to him that he was dri- ing illegally on the day previou

Cross-examined by Dan, Deputy Burke said the conver n that day ran as follows: "Ca told me that he had made a deal h Kirby (Chief of the Division sh and Game) to dredge in the pe waters of the Providence river that Kirby could keep two dies aboard Cavaca's boat at his es .

"Cavaca said Kirby refus nd he said to me, 'If Kirby want he dirty, I will. Sure, I crossed ine yesterday quahauging. I owny- self a gas bill.'"

Defence counsel then reca Cavaca, who denied making such statement to Burke and both sides ted.

CAVACA PROVIDES BONDS ON APPEAL

Tiverton Fisherman to Carry Quahauging Case Before Supreme Court.

July 7, 1936

Hearings on various matters on the docket occupied the full time of Judge Leonidas Pouliot, Jr., in Newport Superior Court yesterday as the July Motion Day was held.

Herbert Cavaca, Tiverton fisherman, who last week a jury found guilty on two counts of illegal quahauging, came into court and furnished the $2000 bonds with Wilfred Carr of Tiverton as surety for appeal to the Supreme Court. At the time of the verdict, Cavaca was unable to furnish the $1000 increase in the original surety demanded by Assistant Attorney General Michael DeCiantis.

Following a lengthy hearing with arguments by W. R. Harvey, counsel for plaintiff, and Harold Andrews, counsel for the respondent, the Court affirmed the final decree of the Probate Court in R. W. Evans vs. the Trustees of the University of Pennsylvania. The Court ruled that Evans, not being a resident of Rhode Island, had no standing in the State

W. P. Sheffield presented on depositions, the divorce petition of Ruth Bailey Reichel vs. Raymond Reichel, but as the marriage certificate was missing, decision was reserved pending its appearance.

The divorce petition of Frederick Brown vs. Ida May Brown was heard in part and continued for further hearing. W. R. Harvey appeared for the petitioner and C. H. Drummey for the respondent.

Final decrees were entered in the divorce cases of Margaret Tetelbaum vs. Jack Tetelbaum and Alice F. Lawton vs. George F. Lawton.

Hearing in Mary L. Murphy vs. Timothy J. Murphy case on petitioner's motion for custody and allowance and respondent's motion for custody of three minor children was heard and decision reserved pending receipt of a report on the two homes of the parties by the court. Both parties testified as did Mr. and Mrs. John F. Bertrand, parents of the petitioner. George Hurley appeared for the petitioner and C. C. Moore for respondent.

Eileen C. Barry testified in her motion for temporary custody and allowance against James F. Barry with J. R. Libby appearing for petitioner. The court granted temporary custody of minor children with $8 a week allowance and $25 counsel fees.

Petitioner's motion for modification of decree orde ng payment of $5 a week to his w was heard in the case of A tone Silvia vs. Bella A. Silvia. P titio testified that he was out of work he decree ordering p nt pended until further the court. M. J. V petitioner, and C. ondent.

SIX INDICTMENTS FOUND IN NEWPORT

Grand Jury Reports to Judge Carpenter as Superior Court Session Opens.

THREE MEN PLEAD NOLO

One Jailed, Two Get Deferred Sentences; Bryer to Be Arraigned for Assault Tomorrow

Six indictm nts were returned by the Newport County grand jury yesterday as the December session of Superior Court opened in Newport. Judge Herbert L. Carpenter presided.

Defendants pleaded nolo to five of the indictments.

Earl G. Bryer of Newport will be arraigned tomorrow on an indictment charging him with assault with intent to murder his wife, Evelyn Marian Bryer. Bryer, who is alleged to have shot his wife as she sat in the living room of her parents' home Oct. 22, recently was adjudged probably guilty of the charge in District Court and gave $5000 bonds for appearance in Superior Court.

Edgar Urquhardt of Newport was sentenced to one year in Newport County Jail when he pleaded nolo to an indictment charging him with breaking and entering in the night time and larceny. He entered similar pleas to two other indictments for breaking and entering which were continued for sentence.

Sentences were deferred for O. W. Butler and John Burns of Newport, each of whom pleaded nolo to indictments charging them with driving off automobiles without the owners' consent.

No indictment was returned against Antone Benevides of Portsmouth, whom State police charged with cutting a man during a quarrel in Portsmouth last month. It was necessary to summon an interpreter to inform the man that he was free. He was warned not to give the police any more trouble.

The cases were presented to the Grand Jury by Assistant Attorney General Michael De Ciantis, who set a new record for recent years by clearing up all but one of the indictments on the same day the Grand Jury reported.

Abner L. Slocum of Newport was foreman of the Grand Jury. All but two members summoned were present. Paul FitzSimons of Newport and Otto F. Erickson of Jamestown were excused.

A lengthy docket was called in the morning and while most of the cases went over to the March term, the following were set down for trial: Furst and Thomas vs. James E. Stewart; A. L. Nichols Co. vs. Georgiana French; Louis H. Janes vs. Mortimer A. Sullivan, admrs.; Isaac B. Dunlop vs. Micah T. Pike; Willis Clarke et al. vs. Jeremiah Flynn; Emma Elizabeth Moriarty vs. Cornelius J. Moriarty; George Koschny vs. Ruth B. Koschny.

Old Case Comes Up

An old case involving two prominent Newporters now dead came up in a motion on the suit of Frank F. Nolan vs. Patrick H. Horgan, filed several years ago to recover counsel fees over a period of several years. The late Judge Nolan was represented by Sheffield and Harvey and the late Mr. Horgan by Mayor Mortimer A. Sullivan. The latter presented a motion that plaintiff file a more detailed itemized account of his claim, which the Court granted. The account is to be filed within a month.

Although J. Russell Haire, of Sheffield and Harvey, stated that a bill of particulars had been filed, Mayor Sullivan said that starting in 1893 it mentioned a trespass and ejectment case and then ocntinued listing various legal services over a peroid of 40 years for a total amount of approxmiately $40,000. He asked that specific fees for each case be itemized to show how the total was reached.

Hearing was held on the petitioner's motion for allowance in the case of Clara A. Harris vs. William H. Harris, Jr., the attorneys being A. Louis Goldberg and Mr. Sullivan respectively. The motion was granted with an allowance of $6 a week, $25 counsel and $5 witness fees. In the same case, the respondent's motion for a bill of particulars was granted in part.

In the case of William P. Sheffield et al. vs. the Rhode Island Hospital Trust Company et al., executors under the will of Fanny Foster, Perley S. Badger was given leave to enter appearance as a party to the more than 30 contestants to the will.

Other motions were granted as follows:

Louise H. Janes vs. Mortimer A. Sullivan, defendant's motion for bill of particulars; Frederick Brown vs. Ida M. Brown, respondent's motion for bill of particulars.

The case of Maria Silva vs. Charles Pierce et al. was announced settled.

The L. P. Larson and Larson Co. vs. Charlotte Craig suits were ordered to Providence to be heard before Judge Frost on defendant's motion for a new trial and for assignment.

On the restraining order sought by Charles E. Williston vs. Emile Morin, a decree and deed were ordered prepared.

Today 14 petitions for naturalization are scheduled for hearing as well as the divorce docket and criminal appeals.

Mar. 6, 1935.

Newport Grand Jurors Report Nine Indictments

Making a partial report to Judge Alberic A. Archambault in Newport Superior Court yesterday afternoon, the March grand jury for Newport County returned five open and four secret indictments.

It was then taken by Assistant Attorney General Michael DeCiantis to view the property of Salvatore Raffa at Poplar and Third streets, Newport, where an explosion early Christmas morning destroyed the Raffa home and rendered eight persons homeless through damage to surrounding buildings.

While the grand jury was out, Judge Archambault granted nine divorce and six naturalization petitions.

The open indictments returned were as follows: Lester C. Marks and Pasquale Corrente of Newport, breaking and entering building in night-time and larceny.

John McFadden, Newport, breaking and entering shop in day-time and larceny. He pleaded guilty and was released in personal recognizance of $1000 until June. At that time, if his behaviour has been good, sentence will be deferred; otherwise he will get five years in State Prison.

Leo Poirer, Newport, driving off automobile without owner's consent. He pleaded nolo. The case was continued to tomorrow for sentence.

Joseph DeM. Carvacha of Tiverton, breaking and entering a building in night-time and larceny.

Assistant Attorney General DeCiantis announced that no indictments had been returned against P. J. Shea, P. J. Collins, Joseph Marshall and A. Contant, all of Newport, who had been bound over to the grand jury in First District Court. They were ordered discharged.

Capiases were asked for persons named in the secret indictments and all defendants now on bail were ordered to report tomorrow when criminal appeals and arraignments will be heard.

The divorce docket was called and petitions heard on depositions were granted as follows:

Eva B. McCarthy vs. Thomas B. McCarthy, neglect to provide; custody of minor child to petitioner. M. Levy for petitioner.

Mildred Bates vs. Fred A. Bates, neglect to provide and petitioner granted right to resume maiden name. H. C. C. Keohne for petitioner.

Georgianna Leary vs. David J. Leary, non-support, custody of minor child to petitioner and allowance of $4 a week. R. M. Dannin for petitioner.

Dorothy C. Holt vs. Norman Holt, neglect to provide and extreme cruelty. Custody of minor child to petitioner, allowance left open. R. M. Dannin for petitioner.

Deborah C. Anthony vs. Perry G. Anthony, neglect to provide; custody of minor child granted petitioner. M. Levy for petitioner. Mrs. Anthony and Mrs. O. Negus testified.

Laura G. W. McElroy vs. Paul C. McElroy, neglect to provide; petitioner to resume maiden name. C. H. Koehne, Jr., for petitioner.

Doris McLeish vs. Frank McLeish, neglect to provide; petitioner to resume maiden name. A. L. Greenberg for petitioner.

Clyde H. Groves vs. Lydia Groves, desertion for less than five years. A. L. Greenberg for petitioner.

Albert J. Gasse vs. Marie A. A. Gasse, desertion for more than three years. A. L. Greenberg for petitioner.

The contempt case of Dennis vs. Dennis was heard in part and continued to June divorce day.

NINE INDICTMENTS ARE RETURNED

The Newport County grand jury which convened Monday about noon to hear evidence presented by Asst. Atty. Gen. Michael DeCiantis made a partial report of their findings late yesterday afternoon, returning nine indictments, five of which were open and against six persons, and four secret.

Those indicted include Lester C. Marks and Pasquale Corrente for breaking and entering a building during the night time and committing larceny.

John McFadden, for breaking and entering during the daytime and committing larceny.

Norman L. Lincourt, for driving off an automobile without the owner's consent.

Joseph DeMello Carvacha, breaking and entering during the night time and committing larceny.

Leo Poirer, charged with driving off an automobile without the owner's consent.

On Thursday, all defendants out on bail were ordered to be in court to plea while capias were issued by Judge Archambault in the secret indictments.

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NINE INDICTMENTS RETURNED BY JURY

Five Open and Four Secret in Partial Report to Newport Superior Court.

EXPLOSION SCENE VIEWED

Blast at Raffa Home Christmas Morning Being Investigated. Nine Divorces Granted

Making a partial report to Judge Alberic A. Archambault in Newport Superior Court yesterday afternoon, the March grand jury for Newport County returned five open and four secret indictments.

It was then taken by Assistant Attorney General Michael DeCiantis to view the property of Salvatore Raffa at Poplar and Third streets, Newport, where an explosion early Christmas morning destroyed the Raffa home and rendered eight persons homeless through damage to surrounding buildings. The jury was then dismissed for the day, to resume deliberations this morning.

While the grand jury was out, Judge Archambault granted nine divorce and six naturalization petitions.

The open indictments returned were as follows: Lester C. Marks and Pasquale Corrente of Newport, breaking and entering building in night-time and larceny.

Pleads Guilty to Break

John McFadden, Newport, breaking and entering shop in day-time and larceny. He pleaded guilty and was released in personal recognizance of $1000 until June. At that time, if his behaviour has been good, sentence will be deferred; otherwise he will get five years in State Prison.

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Capiases were asked for persons named in the secret indictments and all defendants now on bail were ordered to report tomorrow when criminal appeals and arraignments will be heard.

Of the 26 persons who had filed petitions for naturalization, only six appeared in court with their witnesses and were granted citizenship. These were William Parker Fowler of Tiverton; Margaret Murphy, 37 Carey street, Newport; Edmund Gillespie, 72 Spring street, Newport; Elizabeth Neely, Middletown; Manuel Periera Dutra, 42 Simmons street, Newport; and Fran[illegible] Pedro Andrews, Li[illegible]

Lyo[illegible]

The divorce d[illegible] and petitions heard [illegible] re granted as follows.

Eva B. McCarthy [illegible] McCarthy, neglect [illegible] tody of minor child [illegible] Levy for petitioner. [illegible]

Mildred Bates vs. [illegible] neglect to provide a[illegible] granted right to resume [illegible] name. H. C. C. Keohne f[illegible]

Georgianna Leary vs. David [illegible] Leary, non-support, custody of minor child to petitioner and allowance of $4 a week. R. M. Dannin for petitioner.

Dorothy C. Holt vs. Norman Holt, neglect to provide and extreme cruelty. Custody of minor child to petitioner, allowance left open. R. M. Dannin for petitioner.

Deborah C. Anthony vs. Perry G. Anthony, neglect to provide; custody of minor child granted petitioner. M. Levy for petitioner. Mrs. Anthony and Mrs. O. Negus testified.

Laura G. W. McElroy vs. Paul C. McElroy, neglect to provide; petitioner to resume maiden name. C. H. Koehne, Jr., for petitioner.

Doris McLeish vs. Frank McLeish, neglect to provide; petitioner to resume maiden name. A. L. Greenberg for petitioner.

Clyde H. Groves vs. Lydia Groves, desertion for less than five years. A. L. Greenberg for petitioner.

Albert J. Gasse vs. Marie A. A. Gasse, desertion for more than three years. A. L. Greenberg for petitioner.

The contempt case of Dennis vs. Dennis was heard in part and continued to June divorce day.

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NOT GUILTY PLEAS MADE AT NEWPORT

Entered for Tiverton Woman in Perjury-Fraud Case and for Salvatore Roffa.

DIVORCES ARE GRANTED

Court Also Hears Plea Changed to Nolo in Car Theft; Petit Jurors Are Sworn

Pleas of not guilty to three secret indictments returned by the March grand jury were entered for two defendants before Judge Alberic A. Archambault in Newport Superior Court yesterday.

Several divorce petitions were granted. The petit jur[illegible] to serve the next two weeks were [illegible]iled. The docket was called.

Florence Morin of Tiverton arrested on [illegible] by Sheriff Alfred A. Cla[illegible] in [illegible]ver Friday night, [illegible] indictments c[illegible] and obtaining m[illegible]se pretences. She [illegible] $3000 and $4000, resp[illegible] appearance for tria[illegible]

T[illegible]re an outcome of the [illegible] E. Williston, 70-yea[illegible] of the Tiverton Boa[illegible]essors, against Miss Mo[illegible]m Ne[illegible]ort Superior Court last [illegible]l. He sought to recover m[illegible] which [illegible]e lent her at various tim[illegible]s and a jury returned a verdict of $400 in his favor.

Assistant Attorney General Michael told the court yesterday that the justice hearing the civil case declared it "to be so outrageous that an indictment should be brought." The case was heard before Judge G. Frederick Frost in Newport Superior Court.

Salvatore Raffa, owner of the house at 27 Third street, Newport, which was destroyed by fire originating in a mysterious explosion last Christmas morning, pleaded not guilty to an indictment charging him with setting fire to a dwelling. He gave $5000 bonds for appearance later. His counsel, Robert M. Dannin, reserved the right to change his plea or enter a special plea within one week.

Norman E. Lincourt, of Newport, now serving two years for violation of a deferred sentence, retracted a former plea of not guilty to an indictment charging him with driving off an automobile without the owner's consent. He pleaded nolo and the case was continued for sentence.

NEWPORT MEN JAILED FOR THREE YEARS IN ASSAULT

Oct. 15 1935

Two Enter Plea of Nolo in Attack on Woman, in Superior Court.

James E. Copeland, 30, and George R. Costa, 27, both of Newport, were each sentenced to three years in State prison when they pleaded nolo to the charge of assault with intent to rape before Judge A. A. Archambeault, in Newport Superior Court yesterday.

The two men were indicted by a Newport County grand jury a week ago on a charge of rape to which they pleaded not guilty. Yesterday morning, following a ocnference between their attorneys, C. C. Moore and Assistant Attorney General Michael de Ciantis, the indictment was amended to the lesser charge.

Oct. 10, 1935

FIVE FACE CHARGES IN NEWPORT COURT

Richards Divorce Granted; Connerton Sentenced To State Prison

Several criminal cases and one divorce case came before Judge Alberic A. Archambault in Newport Superior Court yesterday.

Although it was only the third day of the session, there was no other business ready and court adjourned at 11:30 until this morning.

Fannie Richards was granted a divorce from David Richards on grounds of neglect to provide with petitioner given right to resume her maiden name. Alimony was permanently waived. The petition was heard on depositions with Robinson and Robinson appearing for the petitioner and A. L. Greenberg for respondent.

Pleading nolo to an indictment charging breaking and entering in the night time and larceny, M. J. Connerton, 40, of Newport, was sentenced to 18 months in State Prison by Judge Archambault.

Oct. 10 1935

Lee Burke pleaded nolo to the same indictment and as he had no previous record was given a deferred sentence.

John P. Furtaeo, 17, and Louis Cabral, 18, both of Fall River, pleaded guilty to two indictments charging breaking and entering in the night time and larceny. As it was their first offense and they had made restitution sentence was deferred.

Mabel Holmes pleaded nolo to an appeal from a conviction in District Court of keeping a house of ill fame and sentence was deferred with the understanding that she return to her parents in Lynchburg, Va., by Nov. 1. Ernest De Andrea, Newport, appealing a $2 fine imposed on a charge of speeding in District Court, was fined the same amount and paid.

NINE INDICTMENTS FOUND IN NEWPORT

10/7/35

Grand Jury Returns Charges Against 13 Defendants in Superior Court.

WILFRED J. BINDON FREED

Released When No Bill is Returned in Case Involving Death of Petty Officer McDonald

The Newport County Grand Jury of which Francis I. Greene is foreman, returned nine indictments involving 13 defendants, before Judge Alberic A. Archambault in Newport Superior Court as the October session opened yesterday.

Assistant Attorney General Michael DeCiantis informed the court that the no bill was returned against Wilfred J. Bindon, of Newport, who in First District Court had been found probably guilty of assault with intent to murder in connection with the death of Chief Petty Officer Thomas McDonald on Long Wharf last August. Bindon was ordered released. No bills were returned against Robert Munro and R. J. Hayes, who also were ordered released.

Divorce Petitions Today

The motion docket was heard during the morning. When court convenes at 10:30 o'clock today, the naturalization and divorce petitions will be heard. Defendants against whom indictments were returned yesterday and who are new in Newport County Jail will be arraigned today and those who are out on bail will be arraigned tomorrow.

Joseph H. Thomas, who appealed a fine for drunken driving in District Court, appeared with his attorney, John C. Burke and pleaded nolo. The case was continued to the first jury day in December for sentence.

Indictments returned by the Grand Jury were: Lester E. Moody, breaking and entering in the nighttime the unoccupied dwelling of Arthur Curtiss James with intent to commit larceny; George H. Smith, Jr., driving off a motor vehicle; Louis Cabral and John Perry Furtado, two indictments, breaking and entering in the night time in the drugstore of Perry Sherman and larceny and also the cobbler shop of Urban Machado andd larceny. William Genass and Daniel P. Donnelly, driving off a motor vehicle.

Lee Burke and Michael J. Connerton, breaking and entering in the night time the unoccupied dwelling of Margaret L. Wood, and larceny; Ernest H. Lagasse and Manuel Aguiar, Jr., breaking and entering in the night time the garage of the Tiverton Motor Sales Co. with intent to commit larceny. The indictment also charges Aguiar with being an accessory before the fact.

Accused of Killing Cow

Frank Peckham, unlawful killing of a cow owned by Manuel Borges; James L. Copeland and George M. Costa, criminal assault.

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22 Nov. 30, 1935

NEWPORT COUNTY COURT TO BE BUSY

Heavy Docket Posted for December Sitting of Superior Tribunal at Newport.

SESSION OPENS MONDAY

Judge Carpenter Will Preside 14 Actions at Law, 13 Criminal Appeals Listed

The December session of the Newport County Superior Court, which opens at Newport Monday with Justice Herbert L. Carpenter presiding, will have considerable business, according to the docket posted yesterday.

The docket includes 14 actions at law for assignment, 13 criminal appeals, 18 motions, one demurrer and three restraining orders for hearing and 20 divorce petitions.

The docket:

Actions at law—Newport National Bank vs. Apostolos B. Cascambas; Alma O'Keefe vs. Lawrence E. O'Keefe; Francis Ormond French vs. J. D. E. Jones et al.; Thomas P. Cassity vs. Mack A. Augustus, alias; Samuel Bennett et al. vs. William P. Eudenbach et al.; Manuel DeCosta vs. Bertha Reagan, alias; Albany Insurance Co. et al. vs. William B. Houlihan; Portsmouth American Citizen's Club vs. William Thomas, alias; Bella Dapeer vs. John Corrigan; Nut Electric Frier, Inc., vs. Palace of Sweets, Inc.; Louis Horvitz & Co. vs. Joseph Roderick, alias; George W. Wheeler vs. Harry C. Wilcox, alias; Manuel V. Souza vs. Lawrence Peckham, alias; Norman Hall d. b. as Quaker Hill Garage vs. Adelino Sonres, alias.

Criminal Appeals—State, Attorney General, vs. Samuel J. Ruest, alias (taking quahaugs); State, Attorney General, vs. Raymond A. Coleman, alias (taking quahaugs); State, Attorney General, vs. Albert Either, alias; State, Attorney General, vs. John F. O'Connor, alias (common drunkard); State, Attorney General, vs. Benjamin DeMello, alias (operating motor vehicle so as to endanger life, limb and property); State, Attorney General, vs. David Webster, Jr., alias (assault on officer); State, Attorney General, vs. Anthony Barclay Rives, alias.

State Attorney General vs. Joseph H. Thomas, alias. (Operating motor vehicle while under the influence of intoxicating liquor).

State Attorney General vs. William T. Magill, alias. (Operating motor vehicle while under the influence of intoxicating liquor).

State Attorney General vs. Anthony Barclay Rives, alias. (Operating motor vehicle without license).

State Attorney General vs. Edgar Joseph Savard, alias. (Taking scallops).

State Attorney General vs. Stewart V. Leary, alias. (Operating motor vehicle while under the influence of intoxicating liquor).

State Attorney General vs. Daniel P. Donnelly, alias. (Indecent intoxication).

NEWPORT COUNTY INDICTS SEVEN

Grand Jury Returns Five Indictments; Capiases Asked by De Ciantis.

20 DIVORCE PETITIONS

Naturalization Petitions Are Filed by 13; Estner Ordered to Pay $3 a Week Alimony

Seven persons were named in five indictments returned by a Newport county grand jury before Judge Herbert L. Carpenter in Newport Superior Court yesterday.

Assistant Attorney General Michael DeCiantis presented the cases to the grand jury of which Daniel F. Murphy, Newport storekeeper, was foreman, and asked that capiases be issued for defendants to appear tomorrow morning for arraignment.

The indictments returned were:

William Greene and William F. Young of Newport, breaking and entering a junk yard in the nighttime and larceny.

Charles Maderios of Tiverton, breaking and entering a shop in the nighttime and larceny.

Samuel G. DeLancey of Middletown, carnal knowledge.

George Henry Pickup, Earl Barker and Frank Raposa, all of Fall River, breaking and entering a hen inclosure in the nighttime and larceny and also breaking and entering a hen inclosure in the nighttime with intent to steal.

13 Seek Citizenship

Today the naturalization and divorce dockets will be called, there being 13 naturalization petitions and 20 divorce petitions.

Morris Estner, who was jailed Nov. 15 for failure to pay an allowance to his wife as ordered by the court last March, was released from custody and ordered to pay his wife $3 a week out of the $13 wages he will receive if he gets his WPA job back. John C. Burke appeared for Mrs. Estner and Joseph R. Libby for Estner.

Estner, taking the stand, testified that he has not a cent to his name and owes several hundred dollars in bills. From March 18 to June 27 he received $390 from the New England Steamship repair shops where he worked; from July 25 to Aug. 22 he received a total of $20 under the FERA and from Aug. 20 to Nov. 15 $182 under the WPA. Cross examined, he denied loaning $600 to Jacob Bernstein last winter, but admitted that he did not pay his wife $5 a week all of the time he was employed at the repair shops.

$3 Weekly Alimony

Counsel for Estner's wife sought to have arrangement made for payment of arrears, but the Court declared that he could not force the man to pay more than $3 a week. It was arranged that should Estner get his old job at the repair shops back after Jan. 1, a new arrangement would be made by the court.

The suit of Francis Ormond French vs. J. D. E. Jones et al. was announced settled by stipulation.

Upon testimony of John F. Driscoll, agent for proof of claim a judgment for plaintiff for $4644.06 was entered in the case of Albany Insurance Co. vs. William B. Houlihan, with H. M. Boss appearing for plaintiff.

Dec. 10, 1935

MIDDLETOWN MAN GETS FIVE YEARS

Samuel De Lancey Sentenced to State's Prison on Statutory Charge.

PRISONER PLEADS NOLO

Judge Herbert T. Carpenter Pronounces Jail Sentence in Newport Superior Court

Judge Herbert L. Carpenter yesterday in Newport Superior Court sentenced Samuel G. DeLancey, of Middletown, to five years in State's Prison after DeLancey had pleaded nolo to an indictment charging a statutory offence involving a nine-year-old girl.

DeLancey was represented by Robert M. Dannin, but neither had anythingto say except to plead and Assistant Attorney General Michael DeCiantis asked for a substantial sentence.

Sentence was deferred on Frank Peckham, of Middletown, who pleaded nolo to an indictment returned in October, charging him with maliciously killing a cow belonging to Manuel Borgas on Aug. 3. A. L. Greenberg, counsel for Peckham, told the court Peckham had made restitution to the owner for the cow.

Benjamin De Mello of Portsmouth, who a year ago pleaded nolo to a district court appeal charging him with reckless driving and was given 12 months to pay a $25 fine and costs, appeared before the court, and had his time extended six months.

The district court appear of Joseph H. Thomas was called and defaulted.

Appeals of John Donnelly and William Magill were set down for Dec. 16.

A. L. Greenberg presented on depositions, the divorce petition of Merrit C. Davis vs. Marguerite Davis which was granted on grounds of desertion and gross misbehavior.

The first drawing of petit jurors for this session were sworn; Marjorie Wilson, Frank J. Morgan and Peter Murphy of Newport and Olive A. J. Michaud of Portsmouth were excused.

The docket was called, and although nine Superior Court actions and 19 District Court appeals were marked ready, none of the lawyers were prepared to go to trial immediately.

It was announced that the suit for damages of William P. Sheffield vs. Anthony B. Rives had been settled and a stipulation would be filed today.

The case of Antonio Cassetta vs. Marco A. Russo was set down for jury trial today and those of Edward and Antonie Neves vs. Morris Nemtzow for Wednesday.

The case of Alfred J. Bullock against the Rhode Island Hospital Trust Company, executors, was set down for Dec. 18.

OTIS B. SPICER, 19, GETS TERM IN JAIL

Newport Youth Pleads Nolo to Breaking, Entering and Larceny

Otis B. Spicer, 19, of Newport, was sentenced to one year in Newport County Jail when he pleaded nolo to an indictment charging breaking and entering and larceny before Judge Mortimer A. Sullivan in Newport Superior Court yesterday.

He was sentenced on the indictment charging him with breaking into the home of Chairman William A. Peckham of the Representative Council on Feb. 18 and stealing clothes and jewelry valued at $803. Sentence was deferred on a second indictment involving a break at the City Market.

Spicer was one of three Newport youths who waived their rights to a grand jury indictment and pleaded in Superior Court to breaking and entering charges. The two others, Oliver Murphy and Julian D. Hayes, received a similar sentence in Newport Superior Court on Monday.

MAN PLEADS NOLO; INVOKES NEW LAW

Newport Sailor Charged With Larceny Given Deferred Sentence

The amended law of 1931 that gives a criminal defendant the right to waive his rights to possible Grand Jury action and plead at once before a Superior Court justice was invoked in First District Court, Newport, yesterday for the first time.

Tony Popishel, 27, a sailor at the Naval Torpedo Station, was arraigned before Judge Robert M. Franklin in District Court by Newport police on a charge of breaking and entering in the night time and larceny.

Under the new law Judge Franklin allowed the man to waive his rights and two hours later Assistant Attorney General Michael De Ciantis arraigned him before Judge Mortimer A. Sullivan in Newport Superior Court.

Popishel pleaded nolo and was given a deferred sentence on condition that he leave Rhode Island and stay out of the State.

Police said Popishel came ashore last Thursday night, visited a saloon, a movie and a dine-and-dance place, after which he broke into the Mt. Hope Restaurant at 117 Thames street, where he stole two boxes of cigars, some candy and chewing gum. He then returned to the Torpedo Station.

Monday night he again came ashore and was arrested by Newport police for drunkenness. Subsequent investigation revealed responsibility for the break.

June 9, 1936 THE

NEWPORT COUNTY JURORS RECALLED

DeCiantis Asks Judge Pouliot to Recall Grand Jury. Reason Not Given.

CRIMINAL CASES HEARD

Two Get State Prison Terms, Five and Seven Years, on Robbery Indictments

The Newport County Grand Jury, which was excused last Monday after returning 13 indictments, will be reconvened tomorrow morning.

Assistant Attorney General Michael DeCiantis, who had presented several criminal defendants yesterday morning, suddenly asked Judge Leonidas Pouliot, Jr., who is presiding at the June session of the Newport County Superior Court, to recall the Grand Jury members. He gave no intimation of the reason.

After the impanelling of 31 petit jurors, four being absent, and the reading of the assignment docket yesterday morning, a number of criminal defendants were arraigned.

Alan Richardson, 17, of Newport, pleaded nolo to an indictment charging armed robbery and was sentenced to seven years in State Prison. He also pleaded nolo to three indictments charging breaking and entering and larceny and sentence was continued.

Arthur J. Halliday, 19, of Newport, pleaded nolo to a robbery indictment and was sentenced to five years in State Prison. Two indictments of breaking and entering with intent to commit larceny, to which he pleaded nolo, were continued for sentence.

Sentence Withheld

Sentence was deferred on Edward C. Moriarty, alias Edmund S. Estrella 34, of Newport, who pleaded guilty to a five-year-old indictment charging breaking and entering the Standard Wholesale Grocery Co. When the indictment was returned in 1931, the man was beginning a five-year sentence in Massachusetts. He was released from prison yesterday.

John J. Freeda, 29, of Jamestown, was sentenced to three months in Newport County Jail when he pleaded nolo to an indictment charging him with breaking and entering a dwelling house without the consent of the owner. He entered his plea after the State had presented its case before a jury, and defence motion for acquittal was denied.

The case of John J. Halliday, 17, of Newport, who was indicted with his brother and Richardson on the robbery charge, was continued to Thursday.

In moving for sentence on the robbery charge against Richardson and Arthur Halliday, the Attorney General read the statement made by Harry Jaffe to the police the day after the robbery.

Slugging Recounted

The statement told how Jaffe went home on the morning of March 15, put his car in his garage, and as he came out was struck on the head several times, knocked down, and held by three men, who took his billfold and nearly $200 in checks and cash. He said he recognized the voice of one as that of Richardson or his brother. As the trio left, one told him not to move or they'd put a bullet through him. He fainted, and when he recovered consciousness, he went to the Newport Hospital, where seven stitches were taken in his head.

The Attorney General said the arrest of the three men solved a number of breaks in the city since June, 1935, and he complimented the Newport police on their work in clearing up the breaks.

Richardson, the Attorney General said, had a probation record and was implicated in 32 breaks as well as the robbery and also admitted sounding a number of false alarms, one of which last November resulted in the police patrol being smashed and seven patrolmen injured, two seriously. John J. Halliday, he said, was implicated in 10 breaks, and while Arthur was involved in several, he had no record.

Charles E. Drummey, counsel for Halliday, and Joseph R. Libbey, counsel for Richardson, stressed the youth of their clients and said the boys "had co-operated with the police" when arrested by making complete confessions.

Sentence Imposed

The court, in declaring sentence, said the boys have got to be turned for their own good from the life of a criminal. Because it was a first offence for Halliday he gave the minimum sentence, but increased the sentence for Richardson.

Freeda, through his counsel, Joseph R. Libbey, chose to fight his case and as court convened for the afternoon, a jury was drawn as follows: Ralph P. Emerson, Middletown, foreman; Fannie E. Campbell, Helen A. Healy, Catherine E. Hicken, Bridget E. McSparren, Mollie A. Northup and Philip F. Robinson, all of Newport; William S. Venan, Middletown; Ethel D. Sherman, Portsmouth; Oscar Campbell, Tiverton; LeRoy C. Wilbur, Little Compton; and Louise T. Mitchell, Block Island. Benjamin E. Hull, the only Jamestown juror drawn, was challenged by the defence.

The State called Police Chief Chester J. Greene of Jamestown, who told of being called to arrest Freeda on the morning of May 24, 1936, and finding him in a friend's home with a discharged shotgun.

Harrison Simmons testified that Freeda fired a shotgun under his window that morning and then broke into the kitchen of his house. He said the house belonged to the Prudence Hall estate, to which no heirs had yet been found. He lived at the place as caretaker and paid taxes at the direction of the Jamestown Town Council.

When the State rested, defence counsel moved acquittal on the grounds that Simmons not being the owner of the place, the indictment could not charge Freeda with entering without the consent of the owner, as no owner had been shown.

The court in denying the motion ruled that Simmons was acting as the agent for the owner.

When the jury was brought in, the defence offered no defence, but instead pleaded nolo to the indictment and sentence was imposed.

WEDNESDAY, JULY 8, 1936

NEWPORT COURT FREES SALESMAN

Roger Burger Gets Deferred Term; Has Offer of Job in Connecticut.

DOCTOR TO HELP HIM

Victims Receive Restitution on Allegedly Fraudulent Security Purchases

Roger Burger, 45, of Winthrop, Mass., who was brought back from New Jersey by Newport police last month to answer four-year-old charges for illegal selling of securities in Rhode Island, was given a deferred sentence by Judge Leonidas Pouliot, Jr., in Newport Superior Court yesterday.

Burger, who recently completed a four-year-sentence in Connecticut on a similar charge, was wanted in Newport in 1932 on a charge of selling securities without a license, as well as selling fraudulent securities. Yesterday Assistant Attorney General Michael DeCiantis said that he had learned that many of the former "victims" had received restitution in the form of money and that a Connecticut physician, who had taken an interest in Burger, had promised him a job in that State.

In deferring sentence, the court warned Burger that if he violated the deferred sentence he would receive the maximum jail sentence and a substantial fine.

Philip Ring of Newport was given a deferred sentence on a common drunkard charge.

Anthony B. Rives of Cobham, Va., pleaded nolo to two appealed charges from the District Court and the court sustained the fine of $25 on a charge of driving so as to endanger property and life and $10 for operating without a license. C. C. Moore appeared as his counsel.

Decisions were given in three divorce cases heard Monday and reserved for decision as follows: Ida May Brown vs. Frederick Brown, granted on grounds of extreme cruelty; Ruth B. Reichel vs. Raymond Reichel, granted on grounds of neglect to provide and petitioner given right to resume maiden name; and Eileen C. Barry vs. James T. Barry (hearing for allowance) petitioner granted allowance of $8 a week and custody of minor child.

The remainder of the day was given to the resumed hearing on the contested divorce of Maria Anna Gardner vs. George P. Gardner. William MacLeod for petitioner and Max Levy for respondent. Mrs. Gardner took the stand for cross-examination and was followed by Mrs. Lillian Wright, who was still testifying when court adjourned until 2 o'clock this afternoon.

DIVORCES GRANTED TO 11 IN NEWPORT

Britons Lead in Admission to U. S. Citizenship as 33 Get Final Papers.

MOODY SENT TO PRISON

Five Defendants Arraigned in Court Before Judge Archambault; Defers Two Sentences

Eleven uncontested petitions, six heard on oral testimony and five on depositions, were granted by Judge A. Archambault in Newport Superior Court yesterday afternoon as the divorce docket was called.

During the morning 33 Newport County persons were admitted to citizenship, 16 from Great Britain, 14 from Portugal and one each from Greece, Germany and Italy.

Lester Moody, 29, was sentenced to 18 months in State Prison when he pleaded nolo to an indictment charging breaking into the unoccupied dwelling owned by Arthur Curtiss James with intent to commit larceny. Police told the court that he admitted being a common gambler and had a record for assault with intent to rob in New York.

Sentence was deferred on George H. Smith, 17, of Newport, who pleaded nolo through his counsel, J. P. Mahoney, to an indictment charging driving off an automobile without the owner's consent; also on Edward S. Estrella, who pleaded nolo to an old indictment returned in 1931 charging him with breaking and entering and larceny. He was ordered to keep out of the State.

Defendants Arraigned

Defendants named in indictments returned Monday, who were in Newport County Jail, were arraigned and pleas entered as follows:

William Ganasse pleaded nolo to an indictment charging driving off an auto and the case was continued for sentence. Daniel P. Donnelly, named in the same indictment, pleaded not guilty through his attorney, C. C. Moore, and was held in $1000 bonds.

Frank Peckham, through his attorney, A. L. Greenberg, pleaded not guilty to unlawfully killing a cow and gave $1000 bonds.

M. J. Connerton, through his attorney, R. M. Dannin, pleaded not guilty to an indictment charging breaking and entering in the night time and larceny and was held in $3000 bonds for trial.

James L. Copeland and George M. Costa, through their attorney, C. C. Moore, pleaded not guilty to an indictment charging rape and were held without bail.

Ernest H. Lagasse and Manuel Aguiar, Jr., each pleaded not guilty to an indictment charging breaking and entering in the night time with intent to commit larceny. Aguiar was represented by C. C. Moore and Lagasse had Joseph Libby of Newport assigned by the Court as his counsel.

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NEWPORT YOUTHS WIN CLEMENCY

Three Get Deferred Terms for Taking Car; Turner Sent to Sockanosset.

THREE INDICTMENTS GIVEN

McGowan to Face Forging Charge; Tiverton Man Accused by County Grand Jury

Three indictments were returned by the Newport County Grand Jury, of which Louis A. Biastre, Newport mechanic, was foreman before Judge Mortimer A. Sullivan as the first day of the March session of Newport County Superior Court came to a close at Newport yesterday afternoon.

The indictments were returned as follows: Stuart M. McGowan, forging and uttering; Alvin Medeiros, Tiverton, entering a dwelling house with intent to commit larceny, and John H. Samuel, 16, Alfred J. Dorey, 16, William R. Rice, 19, and George M. Turner, 17, all of Newport, breaking and entering a garage in the night time and larceny of an automobile.

Samuel, Dorey and Rice were subsequently arraigned and upon pleading nolo were given deferred sentences upon the recommendation of Assistant Attorney General Michael DeCiantis, Turner, when the arrests were made last month was returned to Sockanosset school for his minority.

No Bills Against Drivers

The Assistant Attorney General informed the court that the grand jury had returned no bills against Charles E. Gray of Newport and Raymond A. Laroque, of Tiverton, both of whom were drivers of automobiles that accidentally struck and fatally injured two pedestrians in Portsmouth and Tiverton last month.

Today divorce and naturalization petitions will be heard and criminal appeals and arraignments will be in order tomorrow.

As the docket was called yesterday morning following the swearing of the grand jury, from which William P. Noonan of Newport was excused because of jury duty within two years, the bill in equity of the city of Newport vs. the New Water Corporation was called.

Delayed to March 12

By agreement of counsel, according to the statement made by Clark Burdick, special counsel for the city, the case originally set for hearing yesterday was put over to March 12.

Burdick said that counsel realized that Judge Sullivan, because of his former connections with the case as mayor of Newport, could not sit on the case and the presiding justice of the Superior Court had been asked to assign a special justice to hear the case at Newport.

"This case and several that I have noticed on the docket in which I was formerly interested as counsel," the court informed the Newport attorneys, "cause me to inform you that I do not wish to sit on any cases in which I have previously been interested in either as counsel or otherwise. Should any of these cases come up at this session I would suggest that hearing on them be continued to the next session at which another judge will preside. I personally do not wish to sit on these cases and I believe you will all realize that it would be unfair for me to do so."

Actions at Law

Actions at law, where not continued were assigned to jury trials this session as follows: Charles A. Edenbach vs. Charles H. Koehne, Jr., Adr.; Cornelius Murphy vs. Harry Spicer; Cornelius Murphy vs. Margaret Murphy; Willis H. Crowe vs. Arthur B. Rose; Joseph P. Connolly vs. Metropolitan Life Insurance Co.; Annie Almeida vs. Aquidneck Ice Cream Co., Inc.

The equity case of Sema Berman vs. Edward E. Champlin and the miscellaneous petition of Mary L. H. Ashton vs. Jamestown Tax Assessors were marked ready for hearing at this session. All other matters were passed or continued to later sessions.

On the motion docket, the following motions were granted: John P. Quinn vs. Samuel Feigleman, defendant's motion for surety for costs and for bill of particulars, the latter in part; Agnes A. Roloff vs. William M. Friend, defendant's motion for surety for costs and for bill of particulars; Manuel DeCosta, Jr., vs. Bertha Reagan, defendant's motion for surety for costs.

De Souza Hearing

Hearing was held on the motion of Judge Max Levy in the case of Mary De Souza vs. Antone deSouza, that the petitioner be judged in contempt of court. R. M. Dannin appeared for Mrs. De Souza.

De Souza, through his attorney, testified that despite an order from Judge A. A. Archambault that his wife should not take the two children in her custody out of the State, she had taken them to her mother's in Fall River on Thanksgiving and Christmas.

This, according to Judge Levy, his counsel, was cause for contempt.

Mrs. De Souza testified that there was no food or wood at her home in Little Compton, hence she had taken the children to her mother's, since she understood that the order meant not to take the children to live permanently outside the State. Under cross-examination she identified receipts she had given her husband for weekly allowances he had paid her.

The Court denied the petition, but amended the Court's order to provide that the children could not be taken out of the State without permission of the Court or of counsel.

The divorce action in the case was set down for hearing when the contested divorce petitions are taken up.

Court adjourned until 11 a. m. today.

May 7, 1936

NEWPORT YOUTH'S TERM DEFERRED

George B. Turner Pleads Nolo to Charge of Breaking and Entering Garage.

JURY TRIALS ON MONDAY

List of Petit Jurors Summoned to Report for Duty Includes Eleven Women

George B. Turner, 17-year-old Newport youth, who was indicted with three others last Monday on a charge of breaking and entering a garage in the night time and larceny was given a deferred sentence by Judge Mortimer A. Sullivan, when he pleaded nolo in Newport Superior Court yesterday.

Similar action had already been taken with the three other defendants. Turner, who is at Sockanosset School, was taken to Newport for arraignment yesterday.

Grace B. Sullivan of Little Compton was granted a divorce from William P. Sullivan on grounds of neglect to provide. She was also given the right to resume her maiden name of McDonough. The petitioner testified, as did her mother, Mrs. Marion McDonough, and Mrs. Genevieve Gifford. Peter McKiernan appeared as her attorney.

TIVERTON MAN GETS DEFERRED SENTENCE ON BREAK CHARGE

Alvin Medeiros, 27, of Tiverton, was given a deferred sentence in Newport County Superior Court late yesterday after a jury had found him guilty on an indictment charging him with breaking and entering and larceny of a stove. The sentence was given by Judge Mortimer A. Sullivan, after the jury had recommended leniency.

The proceedings of the trial of Medeiros were unusual. It took only 15 minutes for a jury to be selected and remain unchallenged. The time for presentation of evidence and arguments by William Williams for the defense and Assistant Attorney General Michael DeCiantis for the State, took but one hour and a half.

The jury in its deliberations arrived at a verdict also in one hour and a half. Another unusual feature was the jurors returning to the court room after an hour's deliberation and asking the court for instructions. Allyn H. Barrett of Newport, the foreman, asked the court what sentence the defendant would receive if found guilty under the indictment.

Judge Sullivan quickly informed the jury that the sentence was not of their concern but a matter of law. "It is your duty to determine whehter the defendant is guilty or not guilty," Judge Sullivan said. "You can, however, recommend leniency should you find him guilty." The court added that the Attorney General previously told him that the defendant was offered a deferred sentence. Attorney Williams took exceptions to Judge Sullivan's remarks.

The jury after hearing the court's instructions deliberated for 15 minutes longer and then returned their verdict.

The witnesses yesterday at the trial were Chief Thomas A. Hill of the Tiverton police and Daniel Leary, a special police officer Robert McAndrews and Edward Walsh, owner of the stove. Medeiros testified in his own behalf.

William Foster, 35, of Newport, received a sentence of three years in State prison for violating the terms of a deferred sentence given in October, 1934, when he pleaded nolo to an indictment charging him with carrying a concealed weapon.

Foster was arrested by Newport police on Saturday evening for committing an assault with a lead pipe on Mrs. Theresa Rogers. Asst. Atty. Gen. DeCiantis read the long record of Foster to the court, showing that he had been in the arms of the police at least 25 times, since 1912.

Florence L. Clough, who appealed a District Court conviction on a disorderly conduct charge, was given a deferred sentence with the understanding that she leave the State within a week.

Kent County

DOCTORS AID DEFENDANT IN LUBOSKY CASE

Testify He Was Sober When Arrested in Hoxsie as Tipsy Driver

Two doctors told Judge Curry and a Superior Court today that from the report of Dr. Rocco Abbate, Warwick physician, they would say that Samuel Lubosky, 45, of 17 Common street, Providence, on trial in East Greenwich for alleged drunken driving, was sober when he was arrested on Warwick avenue, Hoxsie, July 28 last.

Dr. Abbate was the physician who examined Lubosky after State police took him into custody that day.

Dr. Samuel I. Kennison of Providence said that some of the tests applied by Dr. Abbate and the defendant's reaction to them would indicate clearly that Lubosky was not under the influence of liquor.

CAUSES OF STAGGERING

"A man staggering might be coming down with some illness or just recovering," Dr. Kennison said. "A nervous disease, some organic disease, an acute condition, such as imminent shock, might cause such reaction. Or it might be alcoholism."

Dr. Kennison said eating certain foods might cause an alcoholic odor on a man's breath.

Dr. Joseph E. Wittig of West Warwick said he saw Dr. Abbate's report concerning Lubosky shortly before the defendant's trial in district court. Lubosky was found guilty in the lower court and appealed a $200 fine imposed there. From the report, Dr. Wittig said, he reached a conclusion that the defendant was not drunk.

Dr. Kennison said he has known

Turn to Page Two, Col. Eight

DOCTORS AID LUBOSKY CASE

(Continued from Page One)

the defendant for about 10 years and once examined him physically. On that occasion, he said, Lubosky's eyes were bloodshot. On request of defense counsel both Dr. Kennison and Dr. Wittig examined Lubosky's eyes in court today an d said they were bloodshot.

DOCTON ON STAND

Dr. Rocco Abbate of Lakewood, who examined Lubosky at the request of State police at the time of his arrest and pronounced him unfit to drive, but who later signed a statement to the effect it was a "borderline case," testified yesterday. The physician said he had signed the statement for Raoul Archambault, Lubosky's lawyer, and was paid $5 by Archambault.

Dr. Abbate said the lawyer went to his office a few days after Lubosky's arrest and told him the case could be settled out of court if he would say the defendant's condition was on theb order between drunkenness and sobriety.

The doctor said he told Archambault he did not want to persecute anybody and would sign a statement to the effect requested bv the lawyer. Dr. Abbate said Archambault represented that the statement would make it possible for influentiol friends of Lubosky to "fix" the charge against him.

David P. Doyle, clerk of the Fourth District Court, and Sen. Denis J. Roberts of Providence, prosecutor for State police, were called to the stand to testify concerning disappearance from the lower court records, of the original warrant for Lubosky's arrest. They said they had last seen it in an anteroom of the East Greenwich court house on Aug. 29.

Subsequently, Dr. Doyle testified Archambault moved for dismissal of the complaint because the warrant could not be found by Judge Patrick F. Barry denied that motion and a new warrant was issued.

Asst. Atty. Gen. DeCiantis is prosecuting the present trial.

HOUSE TRAILER BURNS

CURRY ADMITS ERROR, VACATES REHEARING ORDER

Acts on Motion of De Ciantis in Drunken Driving Case.

Judge Walter Curry, stating that he felt he had originally been in error in granting to Samuel Lubosky, on May 8 a rehearing of a motion for a new trial on a charge of driving while drunk, yesterday vacated the order.

His action was made on motion of Third Assistant Attorney General Michael DeCiantis, who argued before the court that the court was without power to rehear the

Lubosky was found guilty May 16 by a Superior Court jury but his attorney, Raoul Archambault, moved for a new trial, which Judge Curry denied. Within seven days Mr. Archambault moved for vacating this denial, and on May 8 Judge Curry granted the defence motion and allowed a rehearing on the motion for a new trial.

In admitting his error yesterday, and vacating his May 8 decision, Judge Curry said he felt the error should be corrected at the earliest possible moment. If the case goes to Supreme Court on the defendant's exception, it will be on the question of the right of Judge Curry to rehear the case.

JURORS DECLARE LUBOSKY GUILTY

Providence Man Convicted of Drunken Driving by Court at East Greenwich.

JURY IS OUT HALF-HOUR

$200 Fine for Second Offence Had Been Appealed by Defendant in Lower Court

Samuel Lubosky, 45, of 17 Common street, Providence, was found guilty of driving while under the influence of intoxicating liquor by a jury yesterday afternoon after trial before Jud. Walter Curry in Kent County Superior Court, East Greenwich.

The jurors deliberated about 35 minutes before reaching the verdict. After the foreman, Walter E. Andrews of Coventry, had announced the verdict, Raoul Archambault moved that the jurors be polled. As the names of the jurors were called each responded "guilty" to the question of Clerk Francis J. McCabe.

Lubosky had appealed a fine of $200 and costs imposed by the Fourth District Court last January on a second offence drunken driving charge. It was brought out in court by the State that Lubosky had paid a fine of $100 and costs in 1932 upon conviction in the Eighth District Court on a drunken driving charge.

During the course of the trial which opened on Wednesday testimony was introduced by the State to show that the original warrant brought by State police against Lubosky following his arrest on July 28, 1935, on Warwick avenue, Hoxsie, disappeared mysteriously from the files of the Fourth District Court, and it never has been found.

A second warrant was later sworn out and Lubosky was arrested on Dec. 26, 1935. Two members of the Division of State Police and a Warwick policeman testified to Lubosky's condition when he was stopped on Warwick avenue after his automobile had been observed being operated in a "weavy" manner, that his breath was alcoholic and that he staggered when ordered out of his car.

Dr. Rocco Abbate of Lakewood also testified to having pronounced the respondent under the influence of intoxicating liquor and unfit to operate car upon examination. During Dr. Abbate's testimony it was brought out by counsel for the respondent that the physician had signed a statement addressed to City Solicitor Joseph W. Grimes of Warwick in which he said it was a "border line case," but that he had been "tricked" into signing the statement which he said was prepared by Mr Archambault.

Lubosky did not take the witness stand, his defence resting on the medical testimony of two physicians, Dr. Samuel I. Kennison of Providence and Dr. Joseph E. Wittig of West Warwick, both of whom testified that, based on the information contained in the State police report of Dr. Abbate's examination. Lubosby could not have been under the influence of intoxicating liquor at the time of his arrest.

During his charge to the jury Judge Curry referred to Mr. Archambault as "an eminent member of the Rhode Island Bar," and that everything he had done in behalf of his client in the case was perfectly proper and beyond reproach and that no inference was to be taken from the testimony introduced that he had done otherwise.

Third Assistant Attorney General Michael DeCiantis prosecuted the complaint for the State.

George Griffiths, 31, of 23 Palm street, Pawtucket, was fined $100 and costs by Judge William M. Connell in Tenth District Court, Pawtucket, yesterday after he retracted a not guilty plea and pleaded guilty to a charge of driving while drunk in that city on March 28. A warrant charging him with leaving the scene of an accident in connection with the same case was discontinued on the payment of costs on recommendation of City Solicitor John A. O'Neill. The car operated by Griffiths struck the automobile of Harry Gardner of 56 Carver street, Pawtucket, at Lonsdale avenue and Weeden street. Griffiths was pronounced unfit to drive by Dr.

lbert L. Vandale, superintendent of ealth.

Alexander Conti, 36, 20 Steere avenue, charged by Johnston police with driving while under the influence of liquor, pleaded guilty before Clerk Charles A. Kelley, in Eighth District Court, Cranston, yesterday and was sentenced to 15 days in jail. Conti was the driver of a small coach, which hit a parked sedan with trailer at Killingly street and Greenville avenue, Johnston, at 8:30 'lock Wednesday night.

Physician Says He Was Tricked In Signing Drunken Driving Plea

Dr. Rocco Abbate, Warwick, Testifies in East Greenwich; Original Complaint Against Samuel Lubosky Mysteriously Disappears from Court

Testimony by a physician that he was tricked into signing a statement purporting to show that the drunken driving complaint brought by the State police against Samuel Lubosky, 45 of 17 Common street, this city, "was a border line case" and that the original warrant sworn out against Lubosky mysteriously disappeared from the files of the Fourth District Court and never has been found was introduced yesterday afternoon at Lubosky's trial before Judge Walter Curry and a jury in Kent County Superior Court, East Greenwich.

Dr. Rocco Abbate, Warwick avenue, Lakewood, testified that upon examination he had pronounced Lubosky under the influence of intoxicating liquor and unfit to operate an automobile. Subsequently, the witness said, Raoul Archambault, counsel for the respondent, called at his office and represented Lubosky had "influential friends" who could "fix" the case if the physician said it "was a border line case."

Cross-examined by Mr. Archambault, Dr. Abbate testified that the respondent's attorney came to his office early in August, 1935, a few days after Lubosky's arrest on Warwick avenue, Hoxsie, on July 28, ostensibly to discuss another matter and "then switched to the Lubosky case."

The witness quoted Mr. Archambault as telling him at that time that "the case would be taken care of quietly out of court, if I gave a letter to the effect that it was a border line case." Dr. Abbate testified he told Mr. Archambault that he "was not out to persecute anyone" and would be willing to sign such a statement. He said he later signed the statement after Mr. Archambault had added to it at his request the fact that "there was an odor of alcohol on his breath."

Dr. Abbate at one time during his replies to some of Mr. Archambault's questions said "it's the first time a lawyer ever pulled a trick like that on me." He admitted that Mr. Archambault told him he did not have to sign the statement, but that he had done so when the attorney assured him the case would be settled outside of court. Dr. Abbate identified a receipt signed by him for $5 which he admitted having received from Mr. Archambault for the signed certificate, although he said he had not sent a bill to the attorney.

To try to explain the strange disappearance of the original warrant against Lubosky from the files of the Fourth District Court, Third Assistant Attorney General Michael DeCiantis placed David P. Doyle, clerk of that tribunal and Senator Dennis J. Roberts, of Providence, who prose-

Continued on Page 13, Col. 4.

WARWICK CHIEF OFFERS STATE $106

Broken Slot Machines Seized During Raids Yield Coins

The State treasury is expected to be enriched to the extent of $106.94 as the result of the destruction on Monday by Warwick police of 112 slot machines seized over a period of 10 years, Chief Henry J. Ledoux announced last night.

Besides the coins found in the machines, which were destroyed by several policemen with sledge hammers, 4391 tokens of varied descriptions were obtained. Chief Ledoux with Patrolman John Taylor and Manuel Cooney, former sanitary inspector, counted the coins which had been placed in five metal boxes during the destroying process last Monday in city hall basement.

Chief Ledoux said the total amount found on Monday should be increased as two emissaries of Mayor John A. O'Brien, after examining the machines in the hen-wire enclosure in the city hall basement on Nov. 15, 1935, took away a large preserve jar full of coins.

Counting of the coins obtained Monday, Chief Ledoux said, revealed $27.34 in pennies, $20.50 in quarter dollars, $5 in dimes and $54.10 in nickels. All the coins have been rolled in coin paper and sealed by Chief Ledoux, who had planned to take them to General Treasurer Antonio Prince's office in the State House today.

The chief said that upon phoning Mr. Prince yesterday he was advised that he would not take the money until he had conferred with the Attorney General's Department. Later,

Nov 25, 1935

Chief Ledoux said he telephoned to Third Assistant Attorney General Michael DeCiantis, who advised him to hold the money, which, under the law, according to the chief, is forfeited to the State.

May 8. 1936

KETTLEBAND FREE IN 'PHONE THEFT

Judge Leighton Dismisses Charges of Warwick Police Against Coventry Man.

FINDS REASONABLE DOUBT

Suspect Taken Day Before Gambling Raid in Which Three Were Held, Equipment Seized

Charges brought by Warwick police against Albert F. Kettleband, 25, of Black Rock road, Coventry, were dismissed by Judge Jarvis Leighton in Fourth District Court yesterday after the court had found that the State had failed to prove beyond reasonable doubt that Kettleband had stolen equipment from the New England Telephone & Telegraph Co., or had received stolen equipment.

Kettleband was arrested on April 17, the day before Warwick police took Cameron O'Connor and two other men in a raid on two houses in Warwick Downs, where they seized 14 telephones and a large quantity of alleged gambling equipment.

Judge Makes Comment

In granting the motion to dismiss the complaint, made by Peter W. McKiernan, of counsel for the respondent, Judge Leighton said that while he was satisfied that the property belonged to "someone other than the man in whose possession it was found, it is apparent that the employes of the New England Telephone and Telegraph Co. summoned here as witnesses have not been willing to testify that the telephone equipment belonged to that company."

Five witnesses were placed on the stand by Assistant Attorney General Michael DiCiantis in presenting his case to the court. They included Acting Inspector John F. McKnight, of the Warwick police, Chief Henry J. Ledoux, John Loveless, an installation foreman of the telephone company; Wallace A. Hopkins, special agent for the same company, and Edwin W. Ray, manager of the company in the Washington and Kent counties area.

Mr. McKiernan, in moving for dismissal declared that there was no evidence that the equipment had been stolen from the telephone company or that it was the property of the company. Referring to the five porcelain insulators on which the letters "N. E. T. & T. Co." were stamped Mr. McKiernan said that there no evidence that these had stolen.

In dismissing the complain Leighton, referred to the testimony of the N. E. Telephone and Telegraph Company employes and said that he believed sufficient time had elapsed since April 17 for the company to check up to determine whether the equipment placed in evidence before the court was its property.

PHYSICIAN SAYS HE WAS TRICKED

Continued from Page 1, Col. 5.

cuted the case in the lower court, on the stand.

Mr. Doyle testified the last he saw of the warrant was when he laid it on a table in the ante room at the rear of the judge's bench in the Fourth District Court room in East Greenwich on Aug. 29, 1935. In the room at the time, among others, were Corp. Sheehan and Trooper Ross of the State police and Mr. Archambault, according to the witness, who said he thought he handed the warrant, together with other papers in the case, to Mr. Archambault.

Mr. Doyle testified that when Judge Patrick F. Barry was advised the warrant had disappeared he agreed to a two weeks' continuance. He said he called the Wickford barracks of the State police to ascertain whether the papers in the case were there, but eventually learned that the State police had only their own reports of the case. At a subsequent session of the court, Mr. Doyle said Judge Barry refused to hear a motion to dismiss the complaint because he did not have the warrant before him. Present at this hearing, he said, were City Solicitor Joseph W. Grimes, of Warwick, Senator Roberts and State police.

Senator Roberts testified the last he recalled of the original warrant was when Mr. Doyle was showing it to Mr. Archambault and it was left on the table in the East Greenwich district court house ante room. He said later Mr. Archambault at a subsequent hearing of the court made on oral motion to have the complainant dismissed because of the loss of the warrant.

This the court refused to do, according to Senator Roberts, who said that upon his request the State police swore out a new warrant against Lubrosky.

Senator Roberts testified that City Solicitor Grimes, with whom Mr. Archambault had had correspondence

16, 1936

regarding disposition of the case, had nothing to do with the matter as it was not a Warwick police complaint.

Acting Inspector John F. McKnight of the Warwick police identified the statement reported to have been signed by Dr. Abbate and a letter sent by Mr. Archambault to City Solicitor Grimes in which the attorney stated he thought Dr. Abbate's statement it "was a border line case" was "ample justification for discontinuance of the charge against Lubrosky." McKnight said Mr. Grimes had handed the papers to him and requested him to check the Warwick police records to see if such a case was on file. McKnight said he found it was a State police case and so advised Mr. Grimes. Subsequently, McKnight said he handed the two papers to Corp. Sheehan of the State police the day after he received them from Mr. Grimes.

Dr. Kennison Testifies

Dr. Samuel I. Kennison, of Providence, the first witness for the defence, testified that he would not say Lubrosky was under the influenc of intoxicating liquor based on th information contained on the exam ining card filled out by Dr. Abbat after he had examined the respond ent. Under cross examination D Kennison said he has known Lubr sky for about 10 years and he e pected to get paid $25 for giving his testimony in the case. The court adjourned when Dr. Kennison's cross examination was completed.

Lubosky is charged with operating an automobile on Warwick avenue in Warwick on July 28 while under the influence of liquor. Patrolman William Pearson of the Warwick police, the first witness for the State, testified that while driving on Warwick avenue he observed the automobile operated by Lubosky proceeding in an erratic manner. Pearson said he was not on duty at the time and that when he reached Hoxsie Corners he notified Corporal John Sheehan of the State police that he had observed the Lubosky car. He said that Sheehan stopped the car and arrested Lubosky.

Corporal Sheehan, the second witness, testified that he observed the Lubosky car being operated in a "weavy" manner and when he stopped it he told the driver to get out of the car. He said he detected an odor of alcohol on Lubosky and the latter staggered as he guided him to the other side of the road [illegible] the wife or husband of any mem[illegible]er of the bridal party must be inc[illegible]ed. Otherwise those sea[illegible] at the [illegible]dal table include none [illegible] and groom, maid of hon[illegible] desmaids, best man [illegible] there is also one other [illegible] When the bridesmaid[illegible] mobile.

95248 Isabelle [illegible]

Oct. 29, 1935

SUPERIOR COURT, KENT COUNTY

East Greenwich, Oct. 28, 1935.
(Before Carpenter, J.)

The court meets according to law and the grand jury is impanelled. The grand jury returns into court and reports three indictments. Announcement is made by Third Assistant Attorney General Michael DeCiantis that no indictments had been found against A. Studley Hart, charged with assault with a dangerous weapon in three cases.

The indictments were returned against the following: Gerard Joseph Laramee, driving off motor vehicle without owner's consent; Stanley Brownstein, statutory charge, and Almus DeBeau, bigamy.

The court hears uncontested petitions for divorce.

State vs. Herbert Bennett, Joseph Charbonneau and Albert Adam. The respondents waive grand jury action, each pleads nolo to charge of driving off motor vehicle without owner's consent and sentence is deferred on payment of costs. Third Assistant Attorney General Michael DeCiantis for the State. Joseph R. McKanna for the respondents.

The court makes assignments of civil cases for jury trials and hears miscellaneous motions.

Oct. 30, 1935

SUPERIOR COURT, KENT COUNTY

(Before Carpenter, J.)

State vs. Almus Daveau. Indictment for bigamy. The respondent pleads nolo and sentence is deferred on payment of costs. Third Assistant Attorney General Michael DeCiantis for the State. Roland Meunier for the respondent.

State, Gertrude E. Menard, vs. Edward J. Menard. Non-support. Discontinued on payment of costs. Third Assistant Attorney General Michael DeCiantis for the State. Roland Meunier for the respondent.

State, Blanche A. Lague vs. Vincenzo DiPadua. Assault. Discontinued on payment of costs. Third Assistant Attorney General Michael DeCiantis for the State. Roland Meunier for the complainant.

The court hears uncontested petitions for divorce.

Oct. 29, 1935 THE I

KENT JURORS FIND THREE TRUE BILLS

Charges Returned as October Term of Superior Court Begins in East Greenwich.

A. STUDLEY HART FREED

Grand Jury Refuses to Indict on Allegations He Threatened Four Youths with Gun

The grand jury returned three indictments as the October term of Kent County Superior Court opened yesterday in East Greenwich. Judge Herbert L. Carpenter presided.

Several divorce petitions were heard and various miscellaneous motions considered and civil cases assigned for jury trial.

No indictments were returned against A. Studley Hart of Wickaboxet Farms, West Greenwich, on three charges of assault with a dangerous weapon.

The charges against Hart arose out of an encounter he had with four Providence youths who stopped at the Wickaboxet Farms on the night of Aug. 4 when, they said, they were seeking directions to the CCC camp near by.

Denied Threat With Gun

At a trial in the Fourth District Court in September, when Hart was found probably guilty and held for the grand jury, the youths testified that Hart had threatened them with a gun. He denied this, but admitted that he had a gun in his hand. The gun was not loaded. Hart said he had at first believed the youths were poachers.

Among the indictments returned was one against Gerard Joseph Laramee charged with driving off an auto without the owner's consent.

Another indictment charges Stanley Brownstein with an act of carnal knowledge in Warwick, and the third was against Almus DeBeau charging bigamy in West Warwick.

Announcement was made by Assistant Attorney General Michael DeCiantis that indicted defendants on bail and those who have appealed to the Fourth District Court sentences will plead tomorrow morning. Judge Carpenter announced that all uncontested divorce petitions may be heard each day on which counsel appears in court, while contested cases will be considered by agreement of at-

BROWNSTEIN FREED

Nov. 1, 1935

Stanley Brownstein, 17, of Warwick, pleaded nolo to an indictment for a statutory charge when arraigned yesterday before Judge Herbert L. Carpenter in Kent County Superior Court, East Greenwich. The charge against Brownstein involved a 16-year-old Warwick girl, according to Third Assistant Attorney General Michael DeCiantis who in recommending a deferred sentence, said that the respondent had never been in serious trouble before. Sentence was deferred on payment of costs.

William J. Young, member of the Board of Trustees of the Oakland Beach Fire District, pleaded nolo to a charge of assault on Elmer V. Cobb, former district fire chief, and paid a fine of $10 and costs. Young was arrested on complaint of Cobb following an argument after the annual meeting of the fire district in July when the "No Tax" ticket was elected over the regular slate.

William Partridge of West Warwick pleaded not guilty to a charge of reveling, and the case was continued for trial. Bail of $100 was furnished by Israel Chernick.

A. STUDLEY HART 'PROBABLY GUILTY'

Judge Barry Holds Wickaboxet Farms Manager for Action of Kent Grand Jury.

FOUR YOUTHS TAKE STAND

Tell Court Defendant Threatened to Kill Them While They Were Innocently on Property

A. Studley Hart, West Greenwich, was adjudged probably guilty of three charges of assault with a dangerous weapon by Judge Patrick F. Barry after a long trial yesterday in Fourth District Court, West Warwick. Hart was released in $500 bail on each charge to await action of [illegible] county grand [illegible]. Bail was provided by William [illegible] Longridge, [illegible]t Greenwich.

The charges against Hart grew out of an incident at the Wickaboxet Farms, of which he is treasurer and general manager. Four Providence youths, who said they were lost on their way to take one of their group to the CCC camp in West Greenwich, stopped at the farm on the night of Aug. 4, to seek direction.

The youths, Harry A. Cesario, Americo E. Cianci, Americo Cesario and Pasco Cianci, testified that Hart and an employe on the farm, William Taylor, ordered them at gun point to leave their car and go into the lodge on the farm. Hart and Taylor denied the use of a gun by Hart at this point but admitted that Hart "played" with a gun while the boys were in the house.

Harry and Americo Cesario, the latter on deferred sentence and since the event committed to jail in violation of those terms on a charge of being a disorderly person, and Americo E. Cianci, are the persons Hart allegedly assaulted.

The young men testified that Hart threatened "to kill them one by one" when they were kept "prisoners" the lodge. During their det[ention] there, Americo Cesario escaped made his way to the CCC camp a[fter] tramping through the woods a night.

The three other young men were taken by Hart and Taylor to West Greenwich-Covntry town line where they were freed. Hart kept custody of their automobile, he told the court, because the driver, Americo Cesario, had fled, and no one else had a license to drive.

In connection with the keeping of the auto and moving it to a place on the farm, Hart was charged with driving off a vehicle without the consent of the owner. Judge Barry found Hart not guilty on that charge but Assistant Attorney General Michael DiCiantis, who prosecuted for the State, discontinued the charge after the court's decision, in order to "keep Mr. Hart's name off the record," he said.

Harry Cesario, 17, was the first witness for the prosecution. He admitted he had been at Sockanosset Reform School for three months for absence from school.

The story he told was corroborated by the others. All testified that they were in fear of bodily harm and that they believed Hart would "kill us one by one."

Hart told the court that he had been annoyed by poachers, trespassers and CCC workers who trespassed on the farm. He complained that boats on his property were damaged and other nuisances perpetrated. He thought the boys were poachers, he said. Admitting he had a gun while the boys were in the house Hart denied he threatened the young men, and said he merely played with it—"breaking it down and clicking it."

Feared Youths at First

Hart said he feared the young men when he first ordered them into the house, but about 20 seconds after they were in the house, he "knew they were all right," and decided to let them go. They didn't know what they wanted to do, he said, because the driver of the car had fled and Hart wouldn't release the car to an unlicensed driver.

Hart, at the boys' request, took them to the State highway, he said. Hart and Taylor testified that Hart offered to give the boys money for passage to Providence or to take them to West Warwick police station. They refused and decided to walk or hitch-hike, Hart testified.

The day after, when Americo Cesario visited the farm for his hat and other belongings, he was told by Hart that the others had taken the articles with them. Later that same day, Chief John H. Potter of West Greenwich and Sergt. Frank W. Pierce went to the farms to investigate.

Hart greeted them with a gun in his possession, testimony showed and Sergt. Pierce entered the house with his service revolver drawn. Chief Potter took the unloaded revolver from Hart. At no time during the events was the gun loaded.

FATHER HELD FOR DEATH OF CHILD WHO STARVED

Oct. 2, 1935

Baby Died With Mother in Hospital After Bearing Another.

Charged with manslaughter, in connection with the death of his one-year-old daughter, Joseph M. McPhillips, 36, of 1 Linden street, Conimicut, was arraigned yesterday afternoon before Clerk David P. Doyle at a special session of the Fourth District Court in Apponaug.

He pleaded not guilty and was held under $10,000 bail for trial Oct. 17. In default of bail, McPhillips was committed to the Kent County Jail.

McPhillips was arrested by Warwick police following an investigation of the circumstances surrounding the death of his one-year-old daughter, Rita Louise, Sept. 22, in the McPhillips home in Conimicut. The investigation was ordered by the Attorney General's department after an autopsy by Medical Examiner Dr. Ralph F. P. Lockwood disclosed the baby had died from malnutrition.

McPhillips, employed as a linotype machinist by a Fall River newspaper, was arrested following the investigation, which was conducted by the Rhode Island Society for the Prevention of Cruelty to Children in co-operation with Warwick police. During the investigation officials of the Warwick Public Aid Department were questioned by the investigators. Police said a complaint charging non-support of his family was preferred against McPhillips some time ago, but was dropped at the request of Director of Public Aid John H. Fletcher.

Warwick police said that at the time the one-year-old baby died, McPhillips's wife was in a Providence hospital where another child was born. McPhillips, according to police, is the father of eight children.

EAST GREENWICH.

Oct. 31, 1935

East Greenwich Office, The Providence Journal, Pickles Building, Apponaug. Tels. Greenwood 1000 Greenwood 1586

SENTENCE DEFERRED

Gerard Joseph Laramee pleaded nolo to an indictment for driving off an automobile without consent of the owner, when arraigned yesterday before Judge Herbert L. Carpenter in Kent County Superior Court, East Greenwich. On recommendation of Assistant Attorney General Michael DeCiantis sentence was deferred on payment of costs. Laramee was indicted by the Grand Jury Monday for driving off an automobile owned by Harold E. T. A. Burns of East Greenwich on Aug. 11.

Paul Thomas, 22, of Warwick Neck avenue, Warwick, who was held by the Grand Jury action, pleaded nolo to a charge of driving off an automobile without consent of the owner, and he was given a deferred sentence. Thomas was charged with driving off the automobile of Lawrence Alberetto of Natick, Sept. 7.

SUPERIOR COURT, KENT COUNTY.

Nov. 1, 1935

East Greenwich, Oct. 31, 1935.
(Before Carpenter, J.)

State vs. Stabley Brownstein. Indictment for carnal knowledge. The respondent pleads nolo and sentence is deferred on payment of costs. Third Assistant Attorney General Michael DeCiantis for the State. James H. Kiernan for the respondent.

State vs. William J. Young. The respondent pleads nolo to charge of assault and is fined $10 and costs. Third Assistant Attorney General Michael DeCiantis for the State.

State vs. William Partridge. The respondent pleads not guilty to charge of revelling and is held under $100 bail for trial. Third Assistant Attorney General Michael DeCiantis for the State.

The court hears uncontested petitions for divorce.

SIXTH DISTRICT COURT—

73

Nov. 5, 1935

RECKLESS DRIVING TRIAL IS STARTED

Witnesses Tell of Warwick Police Car's Speed Before Crash

Joseph I. Cousineau, of Rangely avenue, Conimicut, went on trial before Judge Herbert L. Carpenter and a jury in Kent County Superior Court, East Greenwich, yesterday afternoon, on a charge of driving an automobile recklessly. Testimony presented by the State showed Cousineau was the driver of an automobile which collided with a Warwick police car, operated by Patrolman William H. Pearson, at Horseneck and Cross roads, Warwick, Sept. 11.

Patrolman Pearson testified that Cousineau was driving at an estimated speed of 35 to 40 miles an hour and struck the police car in the right centre turning it on its side. He said the police car was travelling not more than 10 miles an hour at the time of the collision. Pearson said Cousineau admitted he was at fault while both were being taken to the Rhode Island Hospital.

A statement alleged to have been made by Cousineau to Chief Henry J. Ledoux, in which he said the collision was caused when his foot slipped off the foot brake pedal, was denied by Cousineau while testifying in his own behalf. Cousineau, cross-examined by Third Assistant Attorney General Michael DeCiantis said he could not recall telling Patrolman Pearson that "I was at fault in the accident."

Elodia Parenteau, who lives on Horse Neck road, testified that the police car drove by her home, 300 feet from the point of collision, at an estimated speed of between 45 and 50 miles an hour. She said she was sitting at her kitchen window sewing stockings when the car driven by Pearson passed. When she reached her piazza, Mrs. Parenteau testified, the police car and Cousineau's car had collided.

Eva May Cousineau, sister of the respondent, testified that she heard Patrolman Pearson say after the crash, "Here's where I lose my job." She further testified that Pearson asked her brother to say that "it was your fault." Miss Cousineau corroborated her brother's testimony that the police car pulled in front of the Cousineau car "like a black flash." Others who corroborated Cousineau's testimony that the police car pulled suddenly in front of his car were Robert Joseph Coffey and Annette Cousineau. Pearson was the only witness for the State.

The trial will be resumed today. Edward H. Ziegler, counsel for the respondent, said he will place three additional witnesses on the stand.

COUSINEAU CLEARED OF RECKLESSNESS

Nov. 6, 1935

Jury Acquits Conimicut Youth in Collision With Police Car

A jury in Kent County Superior Court, East Greenwich, yesterday afternoon acquitted Joseph I. Cousineau, 18, of Conimicut, of a reckless driving charge after deliberating less than an hour. Cousineau was arrested by Warwick police on Sept. 11, last, after his automobile had become involved in a collision at Horseneck and Cross roads, Warwick, with a city police car operated by Patrolman William H. Pearson. Four persons, including Cousineau and Pearson, were injured.

Testimony by the State sought to prove that Cousineau drove into the intersection of the two roads without slowing down. Witnesses for the defence, however, testified that the police car was being operated at an estimated speed of from 45 to 50 miles an hour as it came out of Horseneck road.

Cousineau had appealed a fine of $20 and costs imposed by the Fourth District Court upon being adjudged guilty of reckless driving.

A woman resident of Horseneck road testifying for the defence, said the police car was driven by her home, 300 feet from the scene of the collision, at high speed, while a sister of the respondent quoted Patrolman Pearson as having said after the crash: "Here's where I lose my job," and urging Cousineau to assume blame for the collision.

Edward H. Ziegler, counsel for the respondent, in arguing for acquittal, declared the police preferred the charge against Cousineau to protect the driver of the police car from loss of his job. He referred to the testimony of defence witnesses, three of them children passengers in the car, who corroborated the story of Cousineau that the police car pulled suddenly in front of him.

Third Assistant Attorney General Michael DeCiantis urged the jury not to be swayed by "any sympathy which the defence has tried to introduce here by presenting mere children as witnesses." He warned that "there is something behind the attempt of the defence to have this respondent acquitted," and inferred that the city of Warwick might have some lawsuits on its hands.

EAST GREENWICH.

Jan. 12, 1936

East Greenwich Office, The Providence Journal, Pickles Building, Apponaug — Tels. Greenwood 1000, Greenwood 1596

HELD FOR GRAND JURY

Alberto Di Quattro, 33, of Old Mill boulevard, Shawomet, was adjudged to be probably guilty of setting fire to a dwelling and bound over to the Kent county grand jury after a trial before Judge Patrick F. Barry in Fourth District Court, East Greenwich, yesterday. Testimony introduced by the State showed that Di Quattro was seen running away from the two-family dwelling at 195 Old Mill boulevard on Nov. 20, last, shortly after an explosion occurred.

Witnesses for the State included Lieut. John E. Baird of the Division of State Police and Brendan H. Scanlan, a member of the Conimicut Fire Company, who assisted in capturing Di Quattro after he allegedly fled from the scene of the fire. Testimony was presented to show that a mattress in the building, said to be owned by Josephine Di Simone of Conimicut Point, was soaked with kerosene.

Jan. 12, 1936

C. F. HOYT PLEADS GUILTY TO POSSESSION OF PISTOL

Bound Over to Washington County Grand Jury in $5000.

Charles F. Hoyt, 21, of Wickford was bound over to the Washington county grand jury under $5000 bonds yesterday in Second District Court, Wickford, when he pleaded guilty to a charge of unlawful possession of a pistol. He was committed to Providence County Jail in default of bail.

Judge Stephen J. Casey was told that Hoyt had been a patient at South County Hospital due to an overdose of a drug. State police said he was wanted on a New Hampshire indictment charging forgery and also had a previous police record. The pistol was found in his automobile in a Wickford garage, the court was told.

Jan. 4, 1936

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ARCTIC MAN HELD FOR GRAND JURY

Charles L. Ethier Pleads Not Guilty to Breaking and Entering Charge.

Pawtuxet Valley Office, The Providence Journal, 15 Washington Street. — Tels. Valley 570, Valley 181

Charles Leo Ethier, 25, of 93 First street, Arctic, pleaded guilty and Joseph Bouchard, of Main street, that village, pleaded not guilty to charges of breaking and entering in the night time and larceny when arraigned before Judge Patrick F. Barry at a special session of the Fourth District Court at West Warwick last night.

Ethier was bound over to the Kent County grand jury in $3000 bail which he failed to produce. He was committed to Kent County Jail.

Bouchard was held in $1500 bail for trial in Fourth District Court at West Warwick Jan. 17. He was released with his mother, Mrs. Delia Bouchard, as surety.

The charges were preferred by Deputy Chief Louis Peltier, of the West Warwick police. Ethier is charged with breaking and entering in the night time the store of Joseph Vandale, Main street, Arctic, and larceny of a suede jacket valued at $5.95 and a pair of high cut shoes valued at $4.95.

He also was charged with breaking and entering the New Main Street Market Nov. 1, 1935, and larceny.

According to Deputy Chief Peltier he was given a deferred sentence on a breaking and entering charge five years ago.

Bouchard was charged with breaking and entering the New Main Street Market, Arctic, Nov. 1, 1935, and larceny of $12.

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ARWICK

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Jan. 25, 1936

Kent County Superior Court January Term Is Opened

Judge Mortimer A. Sullivan Presides at Sessio

Grand Jury Returns Seven Indictments.—Six Divorce Petitions, Several Motions Heard

Judge Mortimer A. Sullivan presided at the opening of the January session of Kent County Superior Court, East Greenwich, yesterday, which was marked by returning of seven indictments by the grand jury, hearing of six divorce petitions, consideration of the motion calendar and assignment of cases on the civil docket.

The following uncontested petitions for divorce were heard:

Mary G. Capwell vs. William D. Capwell. Heard on oral testimony. Decision for the petitioner on the

Jan. 25, 1936

20 SUMMONED FOR GRAND JURY DUTY

Judge Sullivan to Preside at Kent County Supreme Court Session.

Warwick Office, The Providence Journal, Pickles Bldg., Apponaug — Tels. Greenwood 1000, Greenwood 1596

Twenty grand jurors from Warwick, West Warwick, Coventry, East Greenwich and West Greenwich have been summoned for service on Monday at the Kent County Superior Court in East Greenwich, when the court's session will begin with Judge Mortimer A. Sullivan presiding.

wick, Coventry, East Greenwich and West Greenwich have been summoned for service on Monday at the Kent County Superior Court in East Greenwich, when the court's session will begin with Judge Mortimer A. Sullivan presiding.

The jurors scheduled to report Monday to hear evidence in criminal cases prosecuted by the Attorney General's Department, include the following:

Warwick—Charles A. Burley, Rocky Point road; Daniel A. Phillips, Elmwood avenue, Norwood; Philip E. Amison, Sea View drive; Herbert H. Briggs, 71 Natick avenue; Edward H. Potter, Holmes road; Cornelius Drew, Irma avenue; John M. Coulthurst, Church avenue.

West Warwick—William Cook, 20 Wyman street; Louis Mobert, 1518 Main street; Arthur Tailon, 361 Washington street; Cesar F. Archambault, East Grenewich road; Walter C. Larocque, Cowesett avenue, and Edgar Cloutier, 28 Pond street.

Coventry—Louis St. Jean, Anthony; Theodore LaBranche, High street; Frank Biros, 79 South street; Frank N. Lamb, 16 Ames street.

East Greenwich — William R. Thompson, 15 Court street, and Harris H. Fiske, 162 Main street.

West Greenwich—John T. Andrews, Kitt's Corner.

PROVIDENCE, WEDNESDA

COVENTRY MAN SENT TO PRISON

Jan. 29, 1936

Two and One-half-Year Term Given After Nolo Plea to Statutory Offence.

Pawtuxet Valley Office, The Providence Journal, 15 Washington Street. — Tels. Valley 570, Valley 181

Stanley J. Zommer, 31 of Coventry was sentenced to two and one-half years in State Prison by Judge Mortimer A. Sullivan in Kent County Superior Court, East Greenwich, yesterday, after pleading nolo to an indictment for a statutory offence involving a 16-year-old girl. Assistant Attorney General Michael De Ciantis informed the court that Zommer had been in trouble before and had served two years in State Prison on a breaking and entering charge.

Charles Leo Ethier, 24, of West Warwick was sentenced to 18 months in State Prison after pleading nolo to an indictment for breaking and entering the store of the New Market Company of West Warwick on Nov. 1, last. Ethier also pleaded nolo to another indictment charging him with breaking and entering the shop of Joseph A. Vandale of West Warwick on Jan. 2. Sentence was continued in this case. Ethier was given a deferred sentence about a year ago, according to Assistant Attorney General De Ciantis after pleading nolo to a breaking and entering indictment.

Frank W. Burdett, 39, of East Greenwich was given a deferred sentence after pleading nolo to an indictment for driving off a motor vehicle without the consent of the owner, John L. Petrunt, also of East Greenwich, on Oct. 5.

Joseph Piasczyk, 19, of East Greenwich, who last Nov. 10 pulled a shotgun on State Police when they attempted to enter his shack in Frenchtown during an investigation of poultry thefts, pleaded nolo to a charge of being a disorderly person. He was fined $25 and costs. Piasczyk had appealed a sentence of 18 months in prison imposed by the Fourth District Court.

Harry Zourier of Fall River, pleaded nolo to two indictments for procuring the burning of a building in Warwick on March 20, 1935, and for conspiracy when arraigned early this afternoon before Judge Sullivan. He was given a deferred sentence on each charge, on recommendation of Assistant Attorney General De Ciantis.

Zourier was indicted last May by the grand jury with Antone De Mello, John Raymundo, alias John Raymond, and Israel Davis, of New Bedford, Mass., following investigation of the mysterious explosion which wrecked a building known as "The Bottle" at Hoxsie Four Corners, Warwick. Raymundo subsequently was sentenced to 12 months in Providence County Jail for his part in the conspiracy while Davis last November was given a deferred sentence. DeMello pleaded not guilty and is at liberty under $2500 bail.

Feb. 4, 1936

DEFENDANT GETS DEFERRED TERM

Joseph Bouchard of West Warwick Pleads Nolo in Larceny Case.

Joseph Bouchard, 25, of West Warwick, retracted a previous plea of not guilty and pleaded nolo to an indictment for breaking and entering and larceny, when arraigned before Judge Mortimer A. Sullivan in Kent County Superior Court in East Greenwich yesterday. On recommendation of Third Assistant Attorney General Michael De Ciantis, he was given a deferred sentence on payment of costs.

Bouchard was indicted a week ago with Charles Ethier, also of West Warwick, for breaking and entering the store of the New Market, Inc., in West Warwick, and larceny of $10 in cash. Ethier was sentenced to 18 months in State Prison for violation of a deferred sentence imposed in a previous case.

Charles Sheldon of West Warwick pleaded not guilty to a statutory charge involving his sister. He was ordered committed to Providence County Jail without bail for examination.

George Levesque of West Warwick went on trial before Judge Sullivan and a jury on a statutory charge. James W. Leighton is prosecuting the complaint which was preferred by Director of Public Aid John A. Anderson of West Warwick. Levesque is represented by Frank H. Wildes.

SUPERIOR COURT, KENT COUNTY

East Greenwich, Nov. 4, 1935.
(Before Carpenter, J.)

State vs. Israel Davis. Indictments for conspiracy to burn building, and for procuring the burning of a building. The respondent pleads nolo to each count and sentence is deferred on payment of costs. Third Assistant Attorney General Michael DeCiantis for the State. Charles Robinson of Robinson & Robinson for the respondent.

State vs. Joseph I. Cousineau. The respondent pleads not guilty to charge of reckless driving and a jury is impanelled to try the issue. Testimony is pending for the respondent. Third Assistant Attorney General Michael DeCiantis for the State. Edward H. Ziegler for the respondent.

P. I. Perkins vs. Joseph I. Lombardi, doing business as the Warwick Brewing Company. Plaintiff's motion to amend amount of addamnum laid in writ of replevin is granted. James Henry Hagan of Rosenfeld & Hagan for the plaintiff. George Roche for the defendant.

PENALTY DEFERRED

Charles A. Decelles, 19, of East Greenwich, who is serving a three-year term in State Prison, was taken before Judge Mortimer A. Sullivan on a writ of habeas corpus in Kent County Superior Court and pleaded nolo to a breaking and entering indictment. On recommendation of Third Assistant Attorney General Michael DeCiantis, who informed the court that Decelles would soon be eligible for parole, Judge Sullivan granted the respondent a deferred sentence. Decelles was remanded to State Prison.

Decelles was indicted with Roland A. Brown, 21, also of East Greenwich, in October, 1934, for breaking and entering the East Greenwich Yacht Club. Previously they had been indicted and granted deferred sentences after pleading nolo to breaking and entering the [illegible] of Joseph H. Gorman on [illegible] East Greenwich.

GET DEFERRED SENTENCES

Mary Thewlis, 52; August Theriault, 39, and Grace Cahoon, 29, all of West Warwick, were arraigned before Judge Walter Curry in Kent County Superior Court, East Greenwich, yesterday on statutory charges. Mrs. Thewlis and Theriault pleaded nolo to an indictment for harboring for prostitution, and to a complaint of maintaining a common nuisance at a Arthur street house in [illegible]st Warwick. Miss Cahoon pleaded nolo to an indictment of being lewd and wanton. On recommendation of Assistant Attorney General John H. Nolan, deferred sentences were granted to all of the respondents by Judge Curry after he had severely reprimanded the trio and warned them that if they ever came before the court again they would be sentenced to jail for a considerable period of time.

Clement Cote, 24, of West Warwick, pleaded nolo to an indictment for larceny of cloth from the B. B. & R. Knight Corp., and on recommendation of Third Assistant Attorney General Michael Deciantis was given a deferred sentence on payment of costs. Mr. Deciantis informed the court that Cote, who was indicted in May, 1935, with three others, had made full restitution to the Knight concern. Judge Patrick F. Barry appeared as counsel for Cote.

NOTES

YOUTHS GET LENIENCY

Joseph Lenehan, 21, and Francis S. Huntoon, 18, both of Providence, pleaded guilty to an indictment for conspiracy to obtain, embezzle and convert to their own uses a sawmill and other equipment when they were arraigned yesterday before Judge Walter Curry in Kent County Superior Court, East Greenwich. Sentence was deferred on payment of costs in each instance.

The youths were indicted Monday by the grand jury along with Alphonso Delmonico, Charles T. Robbins and Wayne D. Murphy, also of [illegible] they were charged with [illegible]ng a sawmill, shaft and pulley, a planer and lathe, valued at $1100, the property of Ormond Elmer Tarbox and Ella May Hopkins at West Greenwich on Jan. 17 last.

Joseph R. McKenna, counsel for the respondents, in pleading for a deferred sentence, read a letter from Rev. James V. Claypool, pastor of the Haven M. E. Church, East Providence, in which the clergyman urged leniency for Huntoon. Mr. McKenna also said that Lieut. Joseph McGurl of the Providence police department had informed him that Lenehan has had no previous record. In granting deferred sentences Judge Curry warned the youths that if they were ever brought before the court again they would be given long prison terms.

ischarged; After 8 Hours

Questioning by Judge, That ound Not Guilty; Court Date for Retrial

aca claimed was only a piece of rope) is concerned, it is to be considered only so far as it affects the credibility of Herbert Cavaca.

"You are not trying him on anything he may have done in the past; previous convictions are to be considered only as to witness's credibility," Judge Archambault declared.

To defence counsel the court said that he had granted one motion for a special charge, but denied three others except as far as he had covered them in his general charge.

Rebuttal Witnesses

The State rested shortly after noon after putting on several witnesses in rebuttal. These included Lieut. Commander Beckwith Jordan of the U. S. Coast Guard, who testified as to visibility over the water at night; Everett Trask, Massachusetts shellfish deputy warden, who testified that he had never seen Cavaca dredging off the Flaherty oyster beds, and Lieut. John E. Baird of the State police.

The latter stated that Norman Brownell had been discharged from the State police service in 1931 and that the glasses which Brownell claimed Thursday were the same as those he used when navigator aboard the State police boat had not been purchased by the department until April, 1933.

Lieut. Baird related the conversation between himself and Brownell Thursday which the latter had refused to disclose. It was merely that Brownell admitted that he had been summoned as a witness for the defence.

Referring to the testimony given by Mrs. Wilbour, Lieut. Baird denied that he or any trooper had sworn at Wilbour or used the language she testified to. He further said he had done what he could that night to assist her in getting bail for her husband.

"Did she say anything about her husband's guilt or innocence that evening?" asked Mr. DeCiantis.

"She said she was sorry her husband got mixed up in the racket he was in," Baird replied.

In conclusion, Baird identified the "blackjack" which the State had claimed Cavaca had been carrying. Cavaca had said it was merely a piece of rope. It was shown to be a piece of rope wound with electrician's tape and entered as evidence.

As court opened yesterday morning, Joseph Cavaca testified to being a part owner of the Harold L., but denied that the boat had ever towed a dory, particularly on the night of Jan. 11. He denied having been fined $5 and costs on a charge of driving without a license, but admitted paying a $10 fine for stealing electricity.

Jan. 4, 1936

COURT RESERVES DREDGE DECISION

Hearing Is Held on State's Move to Retain Equipment as Evidence.

DE CIANTIS ARGUES RIGHT

Attorneys for Tiverton Quahaug Fisherman Contend State Has No Right of Appeal

Decision was reserved yesterday by the Supreme Court after hearing on the State's move to retain as evidence a dredge owned by Raymond Coleman in Tiverton, until disposition of the charge against him of illegally dredging quahaugs from the Sakonnet river.

Under a Supreme Court order, the order for return of the dredge issued by Judge Robert M. Franklin of the First District Court, Newport, where the charge against Coleman and two other defendants is pending, has been suspended. Yesterday's hearing was on a certiorari petition brought by Assistant Attorney General Michael DeCiantis seeking to have quashed the record of Judge Franklin's order.

Argues Right of State

Mr. DeCiantis argued the State has the right to hold the dredge until the case is disposed of, because the owner's right to get back the equipment is subject to determination of his guilt or innocence of the charge.

In [illegible] cases, jurors appear to feel the [illegible] should have the thing with whi[illegible] law is violated, Mr. DeCi[illegible], so he had directed State pol[illegible]eize whatever enabled violation by [illegible] the law in order that the St[illegible]ight have a strong case.

Judge Joseph C. Cawley, appearing with Senator William G. Troy as counsel for Coleman, contended it was fundamental that the State has no right of appeal, and certiorari proceedings were nothing else but a common law appeal.

Mr. Troy told of being refused the return of the dredge Dec. 27 after Judge Franklin had issued the order. State police at the Portsmouth barracks told him Capt. Harwood and the Attorney General had advised not obeying the order, he said, even while the papers had been served by the sheriff.

Replies to Claim

Mr. DeCiantis maintained there was no order of the court at that time. When notified of Judge Franklin's decision ordering return of the dredge, Mr. DeCiantis said, he took an appeal, which in his opinion, stayed all proceedings.

In reply to the claim the State was depriving Coleman of his means of livelihood by retaining the dredge, Mr. DeCiantis said the prosecution was not concerned with that issue. He said the situation was no different than if a carpenter, for instance, had used his tools to commit a robbery, and the tools had been seized upon the arrest.

CAVACA DENIES POLICE TESTIMONY ON QUAHAUGING

7/1/36

Tiverton Man Takes Stand in Newport Trial.

Herbert J. Cavaca of Tiverton, who is being tried before Judge Leonidas Pouliot, Jr., and a jury in Newport Superior Court on charges of illegal dredging and illegal possession of quahaugs on January 4 last, yesterday took the witness stand in his own defence.

The State had rested its case early in the afternoon after taking the jury outside the Courthouse to view the dredge taken from Cavaca's boat.

Denying the testimony of State police who claimed to have seen him quahauging on the morning of Jan. 4, Cavaca said that on that morning he had sent his boat, the Harold L., out with John Almy, George Brown and Joseph Cavaca at 7:30 and had spent the morning himself helping Manuel Ferris repair a boat engine at Brightman's Dock.

After lunch, he said, he and Ferris left by machine for Almy's wharf and rowed out in a skiff to an old wreck where they salvaged some quahaugs Ferris had stored in the water. They then met the Harold L. and went to the white boat off Fogland Point from which they transferred approximately 20 bushels of quahaugs to the Harold L.

At this point Court adjourned for the day.

CAVACA CONVICTED IN QUAHAUG CASE

7/2/36

State Wins Second Victory Against Illegal Dredging in Newport Waters.

FISHERMAN TO APPEAL

Found Guilty of Taking Shellfish in Restricted Area and Having More Than Limit

Deliberating slightly more than an hour a Newport County jury yesterday afternoon found Herbert J. Cavaca, Tiverton fisherman, guilty on two counts in connection with his quahauging on the Sakonnet river last Jan. 4. The verdict was returned before Judge Leonidas Pouliot, Jr., in Newport Superior Court.

Not only was Cavaca found guilty of dredging in the restricted area north of Fogland Point, but also of having more than the legal limit of quahaugs aboard his boat when arrested.

Cavaca, through his counsel, Robert M. Dannin, announced that he would carry the cases to the Supreme Court, he already having appealed the $50 fines imposed in the District Court.

Assistant Attorney General Michael De Ciantis asked that the original bonds of $500 on each case be increased to $500 on the illegal dredging and $1500 on the overloading.

Jacob Aronson, Newport professional bondsman, appeared to go bail for Cavaca and to the Attorney General admitted that he was a professional bondsman and was getting $50 for going surety for Cavaca.

Refuses Bondsman

"I am against professional bondsmen," Mr. DeCiantis told the court, "for I oppose their fattening their purses at the expense of unfortunates. If it were not for professional bondsmen, criminals would adhere more to the law. And I refuse to accept Mr. Aronson."

When Cavaca said he could not get any other bail at the time, as the persons he expected from Tiverton had not arrived, the Attorney General agreed to the defendant being released on the old bail of $500 on each case imposed in the district court, provided Cavaca would come in next Monday and furnish the extra bail.

Although it was the first time Cavaca had been found guilty on quahauging charges by a Newport County jury, a year ago in March, he was tried on a conspiracy charge involving a number of illegal quahauging arrests and the jury disagreed and was discharged.

Second Victory for State

The verdict marked the second [in] tory in Mr. DeCiantis's war on [off] illegal quahaugers. A jury fo[und] Raymond A. Coleman and two oth[ers] guilty of illegal dredging last wee[k].

Both sides rested at noon, ar[d] arguments were given early in th[e] afternoon by Dannin and DeCiantis. The Court charged briefly, pointing out that two cases were to be considered and that regardless of what had been said in the testimony, the truth should be sought and personal feelings disregarded. The jury went out at 3:15 and returned at 4:25.

When Court convened yesterday morning, Cavaca resumed the stand and told how the State police boarded his boat the night of the arrest and told them that they were taking him for the shell fish department. He described in detail the operations of dredging and said that a dredge on being hauled up might raise one-half peck to a bushel and one-half of quahaugs, but never six bushels. He specifically denied dredging at all on Jan. 4.

Under cross-examination, Cavaca

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CAVACA CONVICTED IN QUAHAUG CASE

Continued from Page 1, Col. 3.

admitted that he was afraid of the State police and also that he attempted to bribe State police in 1926.

"They came to my home looking for me," he said, "and if pleading nolo to an indictment is conviction, then I was convicted of bribery and fined $200 and costs."

Cavaca likewise admitted to the Attorney General that he was fined $25 and costs for possession and transportation of liquor in 1924; fined $750 and costs as well as given a two-year suspended sentence for possession of liquor in 1928 in Federal Court, and served 60 days in jail in 1930 for violation of the liquor law.

He refused to give figures in connection with his quahauging activities, stating that he did not keep books.

"I'm running into debt every day," he said, "and if you want to find out, go see my creditors."

In redirect examination, Cavaca said he estimated he netted about 60 cents a bushel on his quahaugs.

Gilbert Manchester, Tiverton quahaug dealer, was recalled and listed some 19 New York markets to which he delivered quahaugs. He also listed the Tiverton fishermen from whom he purchased quahaugs, including Cavaca and Coleman.

Under cross-examination, he denied purchasing directly from Coleman and said that he had only bought from Cavaca in March. The Attorney General went over his vouchers and pointed out that he had sold more quahaugs than he had reported to the State.

The defence rested.

In rebuttal, the State recalled Sergt. Albert L. Taylor of the State police, who said that all the time he watched Cavaca's boat on Jan. 4, he saw no one approach it in a skiff.

Madeline Barr, clerk in the office of the State Division of Fish and Game, identified the reports made by Manchester on quahaugs purchased in April and May but said she received no report for March.

William A. Stelling of the Providence Textile Machine Company,

KENT COUNTY JURY FINDS INDICTMENT

Returns Seven Charges Before Judge Sullivan as Court January Term Opens.

FIVE WAIVE JURY ACTION

Two Youths Plead Nolo to Breaking and Entering and to Larceny

The Kent County grand jury yesterday afternoon returned seven indictments before Judge Mortimer A. Sullivan at the opening of the January term of Superior Court in East Greenwich.

At the same time five respondents who had been bound over by the lower court waived grand jury action to charges involving breaking and entering and larceny and driving off a motor vehicle without the owner's consent. Those named in indictments will plead tomorrow morning.

William Francis Cunha, 17, of 99 Columbia avenue, Gaspee Plateau, Warwick, and Harold George Dibble, 20, of 107 Marine avenue, Warwick Downs, waived grand jury action on two charges of breaking and entering and larceny and entered pleas of nolo to each count. On recommendation of Third Assistant Attorney General Michael DeCiantis, both youths received deferred sentences on payment of costs.

Two Homes Entered

Cunha was charged with breaking and entering the homes of Mrs. Marie Berggren and Earl A. McClure, both of Warwick, on Dec. 15, last, and larceny of jewelry and $13 in cash. Dibble was charged with breaking and entering the home of Mr. McClure and also that of W. C. Crowe and larceny of $13 in cash and a revolver and other household effects and clothing. Anthony Cianciarulo represented Dibble, while John A. Bennett appeared for Cunha.

Henry Joseph O'Donahue, 21, Anthony Charles Meizis, 16, and Samuel Alexander Liggett, 20, all of Dorchester, Mass., waived grand jury action on charges of driving off a motor vehicle on Nov. 17 last in Warwick. All received deferred sentences on recommendation of Assistant Attorney General DeCiantis, who informed the Court that O'Donahue and Liggett are wanted by Massachusetts police for committing a similar offence in that State.

Indictments Returned

Indictments were returned by the grand jury against the following: Frank W. Burdett, East Greenwich, driving off a motor vehicle without the consent of the owner, John L. Petrunt, on Oct. 5 last; Mary Thewlis, alias Dora Thewlis, and August Theriault, harboring for prostitution; Stanley J. Zommer, Coventry, statutory offence involving 16-year-old girl; Joseph Bouchard and Charles Ethier, breaking and entering shop of New Market, Inc., West Warwick, and larceny on Nov. 1 last; Charles Sheldon, West Warwick, statutory charge; Charles Leo Ethier, breaking and entering shop of Joseph H. Vandale in night time Jan. 2, and larceny; Alberto D'Quattro, Warwick, statutory burning of unoccupied dwelling of Josephine Dinone, Old Mill boulevard, Shawomet Beach.

'Specialist in Widows' is Indicted For Embezzlement From No. 2

Mar. 27, 1936

Kent County Grand Jury Accuses Former Convict of Bilking Oakland Beach Woman Out of $640; Fled Bride Only to Marry Another, Police Say

Richard Darling Mayo, Jr., of Buffalo, former convict and triple-threat travelling husband of the matrimonial agencies, whose specialty was widows, yesterday was indicted by the Kent county grand jury at East Greenwich on a charge of embezzling $640 from one of his wives.

The Superior Court, which received the indictment, then granted a divorce from Mayo to the former Bertha Dimes, a widow, of Oakland Beach, Warwick, the second wife in Mayo's scheme, and the particular wife from whom he is alleged to have embezzled the $640.

According to testimony of Inspector Samuel W. Henderson before Judge Walter Curry, whose decree cut down the numerical strength of Mayo's wives to two, Mayo arrived in Oakland Beach the first week in October, 1935, with a modest story of how he was a rich man in his own right, but that, best of all, his father and mother had just died at Denver, Col., leaving their vast estates to him. There was only one drawback, he told Mrs. Dimes—the wills of the parents stipulated that he must be married before the could claim the estate.

That he already was married to Maymie A. Murphy of Orchard Park, Buffalo, was no part of Mayo's story. Nor had the Rose Marie matrimonial agency of New Haven indicated for Mrs. Dimes's benefit that Mayo had one wife.

Mayo worked fast. Mrs. Dimes left with him Oct. 10 for New York. Arriving there, Mayo discovered he had forgotten his bill fold. Mrs. Dimes had $5[illegible] in her pocketbook. So they were married at the Municipal building by a deputy city clerk.

Mrs. Dimes testified that when he discovered he had forgotten his billfold, she "felt there was something wrong." They spent the $50 her money and then returned to Oakland Beach, where, it was testified, Mayo influenced his then current bride to sell her Oakland each home at a sacrifice of $750. Mayo, according to Inspector Henderson, said he would repay her a thousandfold when he reached Denver and proved by his marriage certificate he had a right to the estates of his parents.

Henderson testified that Mayo then persuaded his Warwick wife to let him take the money to Providence to buy two tickets for Denver and use the rest of the money to buy travelers' checks. She let him take the money.

Instead of buying two tickets for Denver, he bought one ticket for Charlotte, Mich., where last Dec. 24 he married a Mrs. Call Farrah, also a widow, of Vermontville, Mich. Henderson testified Mayo admitted to him that he could only get $100 from the former Mrs. Farrah before he deserted her.

Mayo was arrested in Buffalo in January by Henderson. The inspector said that until he took up multiple marriage as a career, Mayo had devoted himself—according to his record—to forgery, for which he served two and one-half years at Auburn, N. Y.; petty larceny, in Buffalo, for which he served five months, and vagrancy in the same city, for which he served six months.

HELD FOR GRAND JURY

Joseph Bouchard of Main street, Arctic, was found probably guilty on a charge of breaking and entering in the night time and larceny following trial before Judge Patrick F. Barry in Fourth District Court at West Warwick yesterday. He was bound over to the Kent County Grand Jury Jan. 27 in $1500. He was released with his mother, Delia Bouchard, as surety.

The charge was preferred by the West Warwick police. No defence was offered. The warrant charges Bouchard with breaking and entering an Arctic market Nov. 1 last and larceny of $12.

John Brosseau pleaded not guilty to a charge of non-support of his wife and child. The case was assigned for trial Jan. 24. Brosseau was released on his own recognizance.

WIFE EMBEZZLER GETS FIVE YEARS

Mayo Pleads Guilty; Bilked Mrs. Dimes of $640 Savings

Richard Darling Mayo, Jr., 51, of Buffalo, was sentenced to five years in State Prison by Judge Walter Curry in Kent County Superior Court, East Greenwich, early yesterday afternoon, after he pleaded guilty to an indictment for embezzlement of $640 from his former wife, Mrs. Bertha Dimes of Oakland Beach.

Mayo earlier had been arraigned and had pleaded not guilty to the indictment and was committed to Providence County Jail in default of $5000 bail to await trial next Monday. As he was being led from the court house, however, Mayo changed his mind and again was brought before Judge Curry.

Branding Mayo as a "matrimonial agency racketeer," Third Assistant Attorney General Michael De Ciantis informed the court that the respondent had married Mrs. Dimes last October after she had advertised for a husband through the matrimonial agency in New Haven. After the ceremony the couple went to New York, where Mrs. Dimes discovered her husband to be without funds and she gave him $50.

Subsequently Mayo, according to the State's attorney, got his latest wife to sell her home which represented her life savings at Oakland Beach at a loss of $750, and he decamped for Buffalo with $640 belonging to the then Mrs. Mayo. Mrs. Mayo obtained a divorce from Mayo last Monday in Kent County Superior Court, a short time after he had been indicted by the grand jury. The grounds for the divorce were that the marriage was originally void because Mayo, according to testimony, was previously married to Maymie Murphy of Buffalo.

The court was further advised by Mr. De Ciantis that Mayo after taking his second wife's money went to Michigan where on last Dec. 24, he married a Mrs. Call Farrah of Vermontville.

The State's attorney asked for the maximum penalty. Questioned by the court as to his previous record, Mayo admitted having served prison sentences for forgery and petty larceny and vagrancy in Buffalo and New York.

JAMES SCOTTI, 45, TO BE DEPORTED

Alien in This Country 20 Years Illegally to Be Sent to Italy Today.

SERVED SIX YEARS IN JAIL

Arraigned in West Kingston on Attempted Extortion Charge; Sentence Is Deferred

James Scotti, 45, spent 20 years illegally in the United States, six of those years in jail, but today he will be deported to Italy.

He pleaded nolo in Washington County Superior Court at West Kingston yesterday to charges of conspiracy and attempted extortion, and Judge Herbert L. Carpenter deferred sentence to grease the ways for the deportation.

Scotti was turned over to Immigration Inspector William H. Clark, of Providence.

Scotti was arrested May 18 in the yard of Antonio Di Biasio, 71, of Peace Dale, from whom the alien sought to extort money. Di Biasio testified later in Second District Court at Wakefield that Scotti came to his Peace Dale home May 13 shoved a pistol against his throat and demanded $100. De Biasio said he gave Scotti $5. The alien returned May 18 and demanded more money, Di Biasio testified. The victim then summoned police.

Conspiracy is Revealed

When investigation was made of Di Biasio's story, authorities learned, according to a statement by Assistant Attorney General Michael DiCiantis in court yesterday, that Di Biasio and Lawrence Di Dinato, 38, of 25 Lee street, Johnston, had been involved in a conspiracy with Scotti.

He said Di Biasio sought revenge upon Luigi Sassi, of Peace Dale, for a beating. He hired Scotti and Di Dinato to assault Sassi, the Assistant Attorney General stated. The plot fell through, Mr. DiCiantis said, but Scotti used the conspiracy against Sassi as a basis for his extortion operations against Di Biasio.

Di Biasio and Di Dinato also were arraigned yesterday, pleaded nolo to the charge of conspiracy, and also received deferred sentences.

It was Scotti's arrest on the conspiracy and attempted extortion charges that attracted the attention of immigration officials. Inspector Clark visited Scotti at Washington County Jail, questioned him, and then, by consulting the records, discovered he was the fireman who had jumped ship from an Italian vessel at Norfolk, Va., in 1915. Deportation proceedings then were instituted.

Scotti in 1919 was sentenced to eight years in prison for assault with attempt to rob, and served six years.

Other Cases Heard

Arthur Hazard of Johnston and Joseph Oliver of Providence were sentenced to three years each in Providence County Jail for breaking into a West Kingston henhouse and larceny of chickens. Alfred Oliver, 16, brother of Joseph, received a deferred sentence. They were arraigned, after waiving grand jury action, and pleaded guilty.

Mr. DiCiantis revealed to the court that Hazard had served jail sentences for larceny and assault and that Oliver had served time in a Federal reformatory for passing counterfeit money. He recommended severe penalties. Judge Carpenter deferred sentence in Alfred's case because of his age, but warned him about getting into further trouble. Alfred, it was revealed, had been in Sockanosset School.

Indicted for breaking and entering and larceny, Phillip J. Lennon, who associated with Mrs. Mabel E. Haywood, now awaiting trial on charges of having received the goods stolen from Wickford places by Lennon,

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April 16, 1935

Washington County

GRAND JURY FINDS ELEVEN TRUE BILLS

One Secret and Ten Open Indictments Returned in Kingston Court.

APRIL SESSION BEGINS

Judge Leonidas Pouliot, Jr., Presides; Testimony in Three Pleas for Divorce is Heard

One secret indictment and 10 open indictments were returned by the grand jury in Washington county Superior Court at Kingston yesterday when the April session was opened before Judge Leonidas Pouliot, Jr.

No indictment was returned against J. P. Tully, of North Kingstown, who had been arrested by State police during investigation into a break Feb. 26 and larceny of whiskey at the Old Mill Cafe, Wickford.

Three of the indictments were against Frank Funadle, charged with breaking and entering in the daytime and larceny at the house of George Greenwood in Exeter (two indictments, Feb. 21 and Feb. 25), and breaking and entering in the nighttime and larceny, Feb. 23, from the shop of John Kenyon in Hopkinton.

Sentence Continued

Funadle was immediately arraigned on the daytime break charges and pleaded nolo. Sentence was continued to April 17.

Arthur Richards, of Westerly, indicted on a charge of breaking and entering in the nighttime and larceny from the garage of Angelo Gingerella, at Westerly, March 22, pleaded nolo and received a deferred sentence. It was his first offence. Costs were paid.

Also a first offender, Alvin Leroy Stanton of South Kingstown, was indicted on a burglary count which was reduced to breaking and entering, at the recommendation of Assistant Attorney General Michael DiCiantis. Deputy Police Chief Peter Costanza of South Kingstown informed the court Stanton ransacked the home of a neighbor, Andrew H. Weeden, in Peace Dale, but stole nothing. He was given a deferred sentence with a warning from Judge Pouliot that he would be jailed for three years if brought in again.

Mervin Alton Bennett of Charlestown and Clarence Earle Knight were indicted on breaking and entering in the night and larceny counts at the poultry houses of Russell Kenyon in Richmond, March 14. Bennett received a deferred sentence upon pleading nolo. Knight, who denied the charge, will have a trial April 22.

On condition that he make restitution of $50 to Elmer Maycomber, at whose shop he was charged with having forced entrance and committed larceny, Albert Carpenter, after pleading nolo, was given deferred sentence. He was ordered to stay in Connecticut.

Other Indictments

Other indictments were against Luigi Sassi of South Kingstown, assault with a dangerous weapon, and Richard A. Rathbone of Charlestown, statutory count. Both are free under bonds and will be tried tomorrow.

PISTOL WIELDER FREED BY COURT

South Kingstown Man's Wife Refuses to Prosecute Complaint

Although he is alleged to have threatened to kill her with a pistol, James Washington Fayerweather, of South Kingstown, was saved from a jail sentence yesterday in Washington County Superior Court by his wife's refusal to testify against him.

Two weeks ago, after a violent quarrel, Fayerweather brought hostilities to a climax by drawing out a pistol and threatening his wife, Carrie. She brought a complaint which resulted in a grand jury indictment against her husband. Yesterday she steadfastly refused to press the charge.

The State had planned to use her testimony to convict Fayerweather of the chareg of assault with intent to kill. But Assistant Attorney General Michael DiCiantis admitted to Judge Herbert L. Carpenter that the State's case would amount to nothing in the face of Mrs. Fayerweather's refusal to testify.

"If I give you another chance with a deferred sentence," Judge Carpenter told Fayerweather, "it will be all due to your wife's attitude." He further advised that the defendant's pistol be taken away from him.

With both husband and wife in an obviously penitent mood, Fayerweather told th ecourt that "the gun was empty anyway."

JAMES SCOTTI, 45, TO BE DEPORTED

Continued from Page 1, Col. 3.

was sentenced to one year in Providence County Jail on one count and sentence was continued on another. He is at present serving a 30-day sentence for another larceny charge.

Herbert J. Dyer, indicted for driving so as to endanger, causing death, pleaded not guilty on arraignment and was released in $1000 bail for trial later.

Thomas H. Gardiner was counsel for the indigent defendants.

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Sept 24, 1933

DUBOIS RECEIVES JAIL SENTENCE

South County Superior Court Gives Him Six Months on Disorderly Person Charge.

Pleading nolo to a charge of being a disorderly person, Alcide Dubois was sentenced to six months in Providence County Jail by Judge Herbert L. Carpenter in Washington County Superior Court yesterday. Dubois had appealed a conviction in the District Court where he received a year sentence.

Sergt. Frank W. Pierce of the State Police told the court that Dubois with three other men were arrested on the Nooseneck Hill road last September after their automobiles had crashed. All were drunk, the sergeant said, and fought with the arresting officers.

Thomas H. Gardiner, appearing as Dubois's counsel, pleaded for a deferred sentence, saying that Dubois had never been in trouble before and had not realized the seriousness of his offence. Assistant Attorney General Michael De Ciantis said he could not agree to a deferred sentence, pointing to the District Court sentence which must have been based on the facts presented.

Judge Carpenter expressed reluctance to give a deferred sentence in view of Mr. De Ciantis's stand.

The only other court business yesterday was the entering of a decree setting the value of a mortgage at $1200 and enjoining any foreclosure action for three months in the case of L. H. Rogers vs. Starkweather & Williams, Inc. James O. Watts represented the petitioner and Swan, Keeney & Smith the respondent.

STATE RESTS CASE OF MRS. HAYWOOD

Prosecution of Woman Accused of Receiving Stolen Goods Moves Swiftly.

TRIAL TO RESUME TODAY

Grand Jury at Washington Recesses Without Reporting After Five Days of Deliberation

The State rested its case against Mrs. Mabel E. Haywood of Wickford, charged with receiving stolen goods, after a day's trial before a jury yesterday in Washington County Superior Court. Judge Herbert L. Carpenter presided.

Mrs. Haywood had pleaded not guilty to a grand jury indictment charging that she received the goods stolen by Philip J. Lennon of Valley Falls, now serving a year jail sentence for the theft. Thomas H. Gardiner was her counsel. The trial will be resumed this morning.

Meanwhile the grand jury entered its fifth day of deliberation and adjourned late yesterday to today without reporting.

Stored Goods Across Street

Testimony revealed that Lennon stole the dry goods, valued at $600, from the Cold Spring House in Wickford, last January, and packed them in boxes, which he stored at Mrs. Haywood's house across the street, with her permission. The goods remained there until last summer, when Lennon took them to a Providence warehouse for storage. Police later seized the goods at the warehouse and arrested Lennon, Mrs. Haywood and Albert O'Neil of Providence.

The issue was whether Mrs. Haywood actually knew the goods were stolen. Lennon testified he revealed the theft to Mrs. Haywood a week after committing it. Mrs. Haywood testified he did not tell her until last summer, about six months later. She added that when Lennon first stored the boxes in her home he said the contents, which she "never saw," were "gifts" from a friend.

"When Lennon told you about the stolen property in your house," why didn't you go right to the police and report it?" Assistant Attorney General Michael DeCiantis asked.

"Because I wanted to work through my attorney and get the stuff out of my house and restore it to its rightful owner," Mrs. Haywood declared, adding that she was "ignorant of the law" about stolen property.

Mrs. Haywood later admitted that she had been given two blankets by Lennon after the theft. Mr. DeCiantis asked whether she had ever noticed the initials "C. S. H." (for Cold Spring House) on the edge of the blankets.

"I don't recall that I did," Mrs. Haywood said.

Mrs. Haywood's son, Theodore, later testified that she was worried about Lennon's revelations about the stolen property and talked with him (Theodore) about seeing a lawyer for advice.

Maintaining steadily that Mrs. Haywood did not know where the goods came from, or that they were stolen, until he told her, Lennon denied the truth of statements in an alleged signed confession to State police. He is alleged to have admitted telling Mrs. Haywood about the stolen property the night of the theft, but he denied that this was true when questioned by Mr. DeCiantis.

"Then you're changing your story?" the Assistant Attorney General asked.

"I said those things at the police barracks because I was willing to say anything at all to stop the abuse by State police. Five or six of the State police hit me with their elbows and fists," Lennon answered.

Lieut. Daniel G. O'Brien and Corp. John F. Kennedy of the Wickford barracks of State police both denied on the stand that Lennon had been abused or struck at the barracks. Corp. Kennedy, who took Lennon's confession, said Lennon gave it voluntarily.

Albert O'Neil testified that during last summer, he, Lennon, Mrs. Haywood, and a young girl travelled through New England. Mrs. Haywood had a certifiacte showing that she was blind in one eye and partially blind in the other, he said, and she played musical instruments at hotels and fairs for a living. She wore dark glasses when she played and the girl collected the donations, he said.

Accused of Faking

Mrs. Haywood, who was not wearing the glasses yesterday, declared she had taken them off because "narrow" people in Wickford ridiculed her and said she was faking. Her doctor had advised her to wear the glasses to protect her eyes, she told Mr. DeCiantis.

Other witnesses included Willard H. Payne of North Kingstown, Sarah Hay, an employe of the Providence warehouse where the stolen property was seized, and Henry Carpenter, Jr., son of the proprietor of the Cold Spring House.

The jury chosen for the trial comprised Henry O. Grills, Harry Potter and George F. McLaughlin of Westerly; Willis G. Nichols, John H. Zendzian and Walter L. Perrin of Hopkinton; Elmer Sweet, Roland G. Albro, Richard H. Murray and Samuel E. Tucker of South Kingstown; John W. Burton of Narragansett and Hiram Kimball of North Kingstown.

GRAND JURY LISTS 20 INDICTMENTS

Washington County Body Will Resume Today Before Judge Carpenter.

MORE TRUE BILLS DUE

Frank Algiero of Westerly Wins Deferred Sentence as First Offender in Larceny Case

After deliberating two days, the Washington County grand jury yesterday found 20 true bills, which were returned before Judge Herbert L. Carpenter in the Superior Court at West Kingston.

Foreman Gorton T. Lippitt reported that the 20 bills were only part of the final list and the jury again retired to resume deliberations. It is expected that other bills will be reported today.

Frank M. Algiero of Westerly, indicted for breaking and entering in the night and larceny, pleaded nolo when arraigned before Judge Carpenter. Pointing out that it was the defendant's first offence, Assistant Attorney General Michael DiCiantis recommended a deferred sentence, which was given. Algiero is alleged to have broken into the Otto Seidner, Inc., factory at Westerly.

True bills on statutory charges were found against Howard Cooke and Gerald T. Frigon of West Warwick. They pleaded nolo on arraignment. Although Mr. DiCiantis recommended jail sentences, Judge Carpenter gave deferred sentences on both defendants.

Other True Bills Found

Other true bills found follow:

Perry Davis of Hopkinton, assault with a dangerous weapon with intent to kill; Mabel E. Haywood of North Kingstown, two indictments on receiving stolen goods; Philip J. Lennon of North Kingstown, two indictments on breaking and entering an unoccupied dwelling at night and larceny; Antonio DiBiasio, James Scotti and Lawrence DiDinato of South Kingstown, conspiracy to commit assault; Maurice D. Bilby of South Kingstown, breaking and entering in the day an unoccupied dwelling and larceny.

James W. Fayerweather, of South Kingstown, assault with intent to kill; Herbert G. Dyer, driving so as to endanger, causing death; Charles F. Skuce of North Kingstown, breaking and entering a shop at night and larceny (two indictments), breaking and entering a building at night and larceny.

William T. Stedman of Richmond, breaking and entering an unoccupied dwelling in the day and larceny, breaking and entering a shop at night and larceny; Aldore Vachon of South Kingstown, breaking and entering a building at night and larceny; James Scotti, attempted extortion; Charles A. Sherman and Anthony Cekala, breaking and entering a shop at night and larceny.

Feidler Sentence Deferred

On an appeal from a district court conviction, Thomas Feidler, charged with maintaining a nuisance, pleaded nolo. Sentence was deferred, although Mr. DiCiantis recommended a jail sentence.

Feidler was also charged with being lewd and wanton and pleaded nolo in his appeal, as did Arthur H. Quinley, charged with the same offence. Sentence was deferred in both cases. Feidler was represented by John J. Dunn and Quinley by William M. P. Bowen.

Three divorces were granted: William N. Baton from Marguerite L. Baton on grounds of desertion; Margaret Rose from Carl Rose on grounds of desertion and neglect to provide; and Everett E. Tillinghast, Jr., from Clara L. Tillinghast on grounds of desertion.

The court entered a decree appointing Thomas M. Curry of North Kingstown temporary receiver for the Ashaway Manufacturing Company until hearing at the November session on the appointment of a permanent receiver. An inventory of the property will be filed with Jacob S. Temkin and Vincent L. McElroy, of Providence, and Arthur O'Leary, of North Kingstown, as appraisers, according to the decree.

EIGHT INDICTED IN SOUTH COUNTY

Washington Superior Court Defers Three Sentences Before Adjourning.

JUDGE CARPENTER SITS

Grand Jury Reconvenes on Monday; Two Defendants Face Trial After "Not Guilty" Pleas

Eight defendants, indicted by the grand jury for a variety of crimes, were arraigned before Judge Herbert L. Carpenter in Washington County Superior Court at Kingston yesterday.

Deferred sentences were given in three cases on recommendation of prosecuting officers, sentence was continued in three other cases, while two defendants pleaded not guilty and their trials were set for next Monday.

Meanwhile, the grand jury which has been deliberating since Monday, adjourned until next Monday without making further return of indictments.

Mrs. Mabel E. Haywood, who is alleged to have made a practice of soliciting alms throughout New England as an alleged blind person, pleaded not guilty to two charges of receiving stolen goods, valued at $1200. Her trial was set down for next Monday when the petit jurors report for duty.

Stolen Goods Charge

The charges specified that Mrs. Haywood received the goods stolen from the home of John Lister and the Cold Spring House, both in Wickford. Philip J. Lennon of Valley Falls has been indicted for breaking and entering the places and the larceny of the goods, but has not yet been arraigned. He has been sentenced to 30 days in jail on another larceny charge. Mrs. Haywood, Lennon and Albert A. O'Neil were arrested several weeks ago after Providence police raided an Allens avenue warehouse and seized furniture said to have been stolen from the Cold Spring House, the Breechwood Inn, the Lister home and another dwelling.

Unable to furnish $4000 bail, Mrs. Haywood has been in Washington County Jail since her arrest.

James W. Fayerweather of South Kingstown, indicted for assaulting his wife with intent to kill on Sept. 6, also pleaded not guilty and his trial will follow that of Mrs. Haywood.

Charged with assaulting State Trooper Kenneth B. Goff with a shotgun with intent to kill, Perry Davis pleaded nolo and was given a deferred sentence on the condition that he leave the State. Sergt. Frank W. Pierce of the State Police recomended the deferred sentence with that provision, adding that Davis had relatives in Virginia, his home, who would take charge of him.

Threatened with Gun

Assistant Attorney General Michael DeCiantis told the court that on July 5 Trooper Goff had investigated a disturbance caused by Davis and that the latter had threatened him with a loaded shotgun, but was later overpowered by Goff. A jail sentence should ordinarily be imposed in such a serious crime, he said, but he added that the Attorney General's department wished to follow the recommendations of the State Police.

William T. Stedman, 17, who has been on parole from Sockanosset School, pleaded nolo to two charges of breaking and entering and larceny. Mr. DeCiantis recommended that the case be continued for sentence and that the youth be sent back to Sockanosset for violation of his parole. Stedman was charged with larceny at the store of Michael Randall in West Kingston and at the home of Rev. William M. Bradner in Richmond.

Indicted on three counts of breaking and entering and larceny, Charles F. Skuce pleaded nolo to all three on arraignment and his case was continued one week for sentence. He is charged with larceny at the A. & P. Store in Wickford, Randall's store and the garage of Harrison Cooke in South Kingstown.

James Scotti, an alien, who was indicted for attempted extortion and conspiracy, pleaded nolo and his sentence was continued. He is alleged to have verbally threatened to shoot Antonio Di Biasio, 71, of Peace Dale unless the latter gave him a certain sum of money. The second indictment charged him with conspiring with Di Biasio and Lawrence Di Dinato to assault Luigi Sassi of Peace Dale.

Charged with breaking and entering and larceny at the Buick Sales and Service Company of Wakefield, Aldore Vachon pleaded nolo and was given a deferred sentence on recommendation of Mr. Di Ciantis, who said that the defendant had no previous criminal record.

A district court fine of $50 and costs against Francis L. Hoffman of Hope Valley for driving an auto so as to endanger and without registration was upheld by Judge Carpenter when the defendant appealed the district court decision. Mr. Di Ciantis continued the case to November with the understanding that Hoffman would pay the fine. He was placed in charge of the probation officer.

Charles A. Sherman of Hopkinton, indicted for breaking and entering and larceny, pleaded nolo and was given a deferred sentence after pleas for leniency had been made.

Chief of Police William L. Kay of Hopkinton told the court that public sentiment of the town favored leniency for the youth. Assistant Attorney General Michael Di Ciantis told the court that it was Sherman's first offence and that he had probably been influenced by Anthony Cekala, who was also indicted for the same crime.

Cekala, who will be arraigned later, and Sherman, is said by police to have broken into the store of Joseph Bookataub in Hopkinton last May and stole a number of articles o merchandise.

Dec. 7 1935

BOY RECOMMITTED FOR OBSERVATION

Judge Archambault Admits He is Puzzled by Case of Frank Algiere, 19, of Westerly.

FACTORY WAS SET AFIRE

Youth Said to Have Confessed Deed and Re-enacted Events; Now He Denies All

Judge Alberic A. Archambault, admitting he was puzzled by the case, yesterday recommitted Frank M. Algiere, 19, of Westerly, to the State Hospital for Mental Diseases for further observation after the youth had denied on the stand in Washington County Superior Court that he had confessed setting a fire in the Otto Seidner, Inc., factory at Westerly despite police evidence to the contrary.

"This boy is either mentally unsound or else he is a vicious, deceitful fellow," Judge Archambault said.

Otto Seidner, owner of the factory, testified that he had seen Algiere reenact for the police the setting of the fire which did $5200 damage on the night of Oct. 3. But Algiere denied he had done so, insisting he was in bed at the time.

The youth was indicted for breaking and entering the factory last September but received a deferred sentence. After the Oct. 3 fire, police accused him of setting it and he was brought into court on a charge of violating his deferred sentence. He was committed to the State Hospital for Mental Diseases for observation.

Yesterday Judge Archambault read a report from the hospital indicating that Algiere had the intellectual development of the average adult and showed no signs of mental unsoundness.

Asked Attorney General

Seidner testified that he had asked the Attorney General to investigate the fire and that he was present when Algiere was questioned by police at the factory. The youth showed how he broke into the factory office, rifled the files, took some money and finally dropped matches to set the fire, Seidner testified.

State police corroborated this testimony. Those present at the investigation were Seidner, Lieut. John E. Baird, Corp. Edward Parker, Corp. Fred Newton and Fred T. Mitchell, watchman at the plant.

On the stand, Algiere declared that he had worked at the Seidner factory for four years. The night of the fire he had slept at home, he declared, and did not leave the house during the night. He was questioned by Westerly police that night, however, he said, and released. The next day, he testified, he was taken to the Hope Valley barracks and questioned 18 hours continuously, being held at the barracks over the week-end until taken into Superior Court.

Denies Being Taken to Plant

He denied he had been taken to the factory for re-enactment of the crime when questioned by his counsel, Judge John J. Dunn. When Judge Archambault questioned him on this point, he said he "didn't remember" going to the factory with the police.

Assistant Attorney General Michael DeCiantis told the court that he understood the parents' feelings, but that the youth had been deceiving them. Algiere did go to bed that night at his home but sneaked out a window later and broke into the factory, he said.

"I was inclined not to ask a substantial sentence for this boy, but his attempt to make liars out of everyone makes me recommend a very substantial sentence for him now," Mr. DeCiantis said.

Judge Dunn made a strong plea for leniency, asking a deferred sentence. He spoke of the suffering of the parents and said the youth had no record previous to the breaking and entering charge. Algiere's mother was visibly moved in court.

"Court is Puzzled"

"The court is puzzled by this case," Judge Archambault said. "Either the boy is crazy or else he's a crook. His parents are fine people and I will say that many friends of the family have sought to intercede with the Court. Mr. Dunn has repeatedly seen the Court and asked for leniency.

"But I cannot understand how the boy denies in spite of the testimony that he did not go to the plant with the police and re-enact the crime. He says he 'doesn't remember.' I think that he has been deceiving his parents for a long time."

Adding that he did not wish to do the youth an injustice, Judge Archambault finally ordered that he be recommitted for observation and that the Attorney General employ as many experts as necessary to find out about Algiere's mental condition.

The report will be made to Judge Archambault next February and Algiere's case disposed of then.

WAKEFIELD DOCTOR HALTS CASE AGAINST CARPENTER

Mar. 5 1936

Refuses to Prosecute Matunuck Man for Assault.

Because Dr. Park H. Davis of Wakefield, alleged victim of an asault Sept. 29 last by Arthur B. Carpenter, Jr., of Matunuck, refused to prosecute the case further, Carpenter's appeal from a District Court decision was discontinued yesterday in Washington County Superior Court at Westerly by Judge Alberic A. Archambault.

It was reported yesterday that Police Chief Walter L. McNulty, of South Kingstown, had refused to prosecute the case further. Chief McNulty had nothing to do with the action by Dr. Davis.

Assistant Attorney General Michael DeCiantis presented an affidavit on Davis's refusal to prosecute yesterday before Judge Archambault. Mr. DeCiantis later explained that the State laws allow a complainant in an assault case to discontinue the case if desired and the Attorney General can do nothing about it.

Carpenter was fined $50 and costs by Clerk Rowland Hazard, in a written decision, after his trial in district court. Carpenter, on the witness stand, then was asked by Town Solicitor Thomas H. Gardiner: "Did you assault Dr. Davis?" Carpenter answered: "Yes."

The assault was alleged to have been made Sept. 29 at the class B liquor establishment operated by Carpenter at Matunuck.

A doctor and a dentist both testified as to their treatment for Davis's injuries.

No witnesses appeared at yesterday's hearing on the appeal.

LYMAN F. SLOCUM DEAD AT AGE OF 66

Providence Journal Employe, Veteran Circulation Man, Victim of Shock.

Lyman F. Slocum, for 50 years a circulation man on Providence newspapers, and lately assistant circulation manager for the Evening Bulletin, died last night at his home, 85 Niagara street He was in his 67th year.

Mr. Slocum was the victim of a shock last Friday. Until that time he had enjoyed good health. He was a prominent Mason and was known to many business men in southeastern New England.

Born in Pawtucket, the son of William H. and Hannah (Follette) Slocum, he received his education in the Pawtucket public schools and at the Pawtucket high school. For several years after his graduation from high school, he sold newspapers on the trains.

Later he went to work with the old Providence Telegram, and was foreman of the mailing room and later circulation manager for 25 years. During this time he built up contacts with newsdealers throughout New England.

In 1904, Mr. Slocum went to work with the Evening Bulletin, and was for 15 years foreman of the mailing room and a "road man." During the past 10 years he was assistant circulation manager. Handling of newspapers being sent out of town by train gave Mr Slocum a knowledge of traffic problems which placed him in the fore among circulation men, and brought him in close touch with railroad and transportation company officials.

LYMAN F. SLOCUM.

Mr. Slocum was a well-known baseball player in amateur and semi-pro leagues in his youth, and Tim O'Neill, king of sandlot ball, boasts that he was "Lyman's bat-boy" in the old days. Playing either as a catcher or as a shortstop, Mr. Slocum won considerable fame with the old Pawtucket Athletics, and in the "little world series" held in Providence.

He was a prominent member of St. Johns Lodge of Masons, the Providence Royal Arch Chapter, the Council of Select Masters, Knights Templar of St. Johns Commandery and of Palestine Shrine.

He was married to Ida Francis Hill of Pawtucket, who died May 20, 1907. Their son, William H. Slocum, employed in the composing room of the Evening Bulletin, and their daughter, Mrs. Winfred G. Clough of this city, survive.

On Aug. 18, 1913, Mr. Slocum married Louise Sarah Brown, who survives.

1936 Apr. 2, 1936

GRAY LINE DRIVER RELEASED IN $3000

Bus Operator Pleads Not Guilty in Nooseneck Hill Crash; One Dead, Six Hurt.

TRIAL SET FOR APRIL 10

Fatally Injured Clergyman Was to Have Sailed to Mission Post in Africa This Week

Emerson P. Conrad, 29, of 84 Daniels street, Malden, Mass., driver of the New York bound bus that hit a disabled truck on the Nooseneck Hill road near Hopkinton City early yesterday causing one death and injuries to six persons, pleaded not guilty at a special session of Third District Court at Westerly last night to a charge of driving so as to endanger, resulting in death.

Judge M. Walter Flynn fixed bail at $3000 and the trial was set for April 10. David Chernick of 66 Summit street, East Providence, provided bail.

Rev. George Noble Bell, 42, of Vista Cottage, Lowland drive, Nyack, N Y., who died while being taken to Westerly Hospital, suffered a fracture at the base of the skull and multiple internal injuries, Dr. Michael H. Scanlon, Westerly medical examiner, announced after an autopsy yesterday.

BUS STRUCK TRUCK

The crash took place when the Grey Line bus driven by Conrad struck the side of a New England Transportation Company truck and trailer that had been stopped on the shoulder of the road when ignition trouble developed. Part of the truck was still on the concrete, State police found.

The injured:

ARTHUR W. FISHER, 32, of 145 Greenwich avenue, New Haven, Conn., driver of the truck. Fractured pelvis, extensive contusions of the legs; sprained right ankle and second degree burns of both hands. Condition reported improved last night.

GAETANO AMORA, 43, of either 63 Anna or 65 Alles street, Boston. Multiple contusions and abrasions of body and severe contusion of the left hip.

LOUIS PICCOLO, 26, of 334 Admiral street, this city. Fractured right ankle, multiple contusions and abrasions of the scalp and face, lacerated right ear and lacerations of right side of neck. Cut by flying glass.

MRS. MARY MEDEIROS, 52, of 5 Main street, Taunton, Mass. Contusions and lacerations of scalp and contusion of right knee.

DAVID DAVENPORT, 35, of Warwick Downs, Warwick. Lacerations of right side of face; bruised right knee. Weak from loss of blood.

EMERSON CONRAD, 376 Cross street, Malden, Mass., operator of the bus. Treated for minor injuries at the scene.

Bus Ripped Open

Rev. Mr. Dell was seated in the right front seat of the bus and was hurled forward beneath the dashboard. The bus was ripped open along the right side for a distance of three rows of seats. The second seat at the right was vacant and Amora was in the third. Besides the dead and injured, there were eight other persons in the bus, police said.

The dead clergyman, a missionary of the Christian and Missionary Alliance, was to have sailed for French West Africa this week, and would not have been in New England had not his belongings missed the steamer on which they were to have been sent to France. He was completing a six months furlough in this country after 10 years in Africa.

Was Returning Home

He was returning to his home from Manchester, N. H. Last week he had been a speaker at a conference of the alliance at Attleboro, where he had been guest of Rev. M. J. Rupp, formerly a classmate at the headquarters of the organization at Nyack. He had gone to Manchester to fill a speaking engagement. He was married and the father of two children.

Fisher found a fire in the wiring under the dashboard, he told police, and put it out with an extinguisher. He then reached under the dash and pulled the wiring out, burning his hands, the police said.

The police said Fisher then placed a flare at the front of the truck and stepped back into the cab to get another. He left the cab and started toward the rear of the truck with the flare he told police, when he saw the bus approaching around a bend, about 200 feet away.

Fearing he would be struck, he said, he stepped in between the cab and trailer body of the 10-ton vehicle. The bus, according to Conrad's story to the police, struck the left rear of the truck in avoiding an on-coming automobile.

The terrific impact forced the heavy truck forward, knocking Fisher down. The double wheels came to rest across his body. Other truck drivers and motorists, reaching the scene within a few minutes, jacked up the truck and extricated Fisher, who was taken to the hospital in an ambulance.

After the crash, police said the bus continued about 100 feet and stopped in the driveway of a garage on the right side of the highway.

Rev. Mr. Bell and Piccolo were placed in an automobile by Ray Dean, electrician's mate on U. S. S. Tarpon, New London; Edward O. Shepard, machinist's mate, U. S. S. Tillman, Charlestown Navy Yard; and Oscar Cook, a Navy enlisted man. Mr. Bell died while being taken to the hospital.

Alfred H. Chapman of 12 Hillside avenue, Pawcatuck, the first to arrive at the scene of the crash, took Mrs. Medeiros, Davenport and Amora to the hospital.

When word of the accident was flashed to the Hope Valley barracks, Sergt. Ralph Bonat and several troopers hurried to the scene. Other troopers, under Lieut. Daniel G. O'Brien of the Wickford barracks, also were called. Police Chief William L. Kay of Hopkinton and Frank C. Fish, investigator for the State Bureau of Motor Vehicles, also assisted in the investigation

Piccolo pleaded with physicians at the hospital to be permitted to return to his home here. He said his father died last week and he feared the news of the accident might seriously affect his mother's condition. After being treated, he was taken home by Chief Kay.

The other passengers in the bus were: Mrs. Mable White, 143 West 116th street, New York City; Mrs. Mary Rehmas, 37 Sea View avenue, Edgewood; Harold White, 143 West

April 29, 1936

TRIAL OF ALGIERO CASE WILL OPEN

ury Hearing Charge of Break to Visit Westerly This Morning.

South Kingston Office } Tel.
The Providence Journal, } Narra.
49 Pond street, Wakefield } 313

The breaking and entering case against Frank M. Algiero, 20, of 19 Pleasant street, was adjourned to Westerly at 10:30 o'clock this morning after a jury had been impanelled yesterday in Washington County Superior Court before Judge Herbert L. Carpenter at West Kingston.

The jury will take a view before hearing evidence. Algerio pleaded not guilty to a charge of breaking and entering in the nighttime with intent to commit larceny, as the case was opened by Assistant Attorney General Michael DiCiantis. Judge John J. Dunn of Westerly and Louis V. Jackvony of Providence will appear for the youth.

Judge Carpenter dismissed spare jurors until 10:30 o'clock tomorrow morning in Westerly. The court announced that the Westerly docket will be taken up before returning to Kingston Court House.

Grace M. Cullen was granted a divorce from William F. Cullen on the grounds of neglect to provide. Mr. Cullen entered a nominal contest. Custody of two minor children was granted to the petitioner and the respondent was given the right to see them at any time. Petitioner was awarded $4 for support of both. Judge James O. Watts appeared for Mrs. Cullen, and Judge John J. Dunn represented the respondent.

Apr. 30, 1936

COURT SENTENCES YOUTH

Frank M. Algiero, 19, of 19 Pleasant street, Westerly was sentenced to one year in the State reformatory on each of two charges of breaking and entering to commit larceny, to which he pleaded nolo yesterday in Washington County Superior Court at Westerly. Judge Herbert L. Carpenter ruled that the sentences will run concurrently.

Sentence on an indictment charging statutory burning to which Algiero pleaded nolo was deferred at the request of Assistant Attorney General Michael DeCiantis.

The indictments charged that on Sept. 25 and Oct. 3 last year, Algiero broke into the Friendship Drive plant of the Seidner Mayonnaise Company. A fire was started after the break on Oct. 3. Algiero was represented by Judge John J. Dunn and former Asst. Attorney General Louis V. Jackvony.

WOMAN ACCUSED IN LARCENY CASE

Mrs. Hayward, of Wickford, Found Probably Guilty of Receiving Stolen Goods.

BOUND OVER UNDER $4000

"Blind" Woman and Two Men Arrested After Seizure of Load of Furniture

Mrs. Mabel Edna Hayward of Beach street, Wickford, who is alleged to have made a practice of travelling through New England with her hands held out for alms, while a sign suspended from her neck advertised her alleged blindness, yesterday was found probably guilty on two charges of receiving stolen goods.

The charges, arising when Providence police seized a load of furniture allegedly stolen from two hotels and two private homes in Wickford, were heard by Judge Stephen J. Casey, in Second District Court, Wickford. Judge Casey bound over Mrs. Hayward to this month's session of the grand jury at Kingston. Unable to furnish bail of $4000, the woman was lodged in Washington County Jail.

Philip J. Lennon of Valley Falls, one of two persons arrested with Mrs. Hayward on information given to police by an unnamed young woman, testified that Mrs. Hayward, who he said does have poor sight in both eyes and does not see well at night, admitted breaking into the Cold Spring House and the home of John Lister, both on Beach street, Wickford, and stealing furniture and other articles.

Lennon, who said he slept in a barn at the Theodore Lawton place, on Beach street, Wickford, when Mrs. Hayward made her home there for several weeks, testified that when he learned Rhode Island State police were seeking him, Mrs. Hayward gave him $5 in Massachusetts and told him to "lay quiet."

Lennon said he drove for Mrs. Hayward when she travelled.

Mrs. Hayward did not take the stand.

Mrs. Hayward, Lennon, and Albert A. O'Neil were arrested after Providence police raided an Allens avenue warehouse last month and seized furniture said to have been stolen from the Cold Spring House, Beechwood Inn, the Lister house, and another dwelling.

O'Neil is serving 30 days in jail on a larceny conviction. Lennon was fined $25 and costs for larceny, and sentenced to 30 days in jail on a breaking and entering charge. He is to go before Superior Court at Kingston, on two other charges.

May 6, 1936

JNTY

Westerly Jury Frees Abate on Charge of Leaving Scene

Panel Not Convinced That State Proved Defendant Was Driving His Car on Night Hindle Boy Was Struck by an Auto

After deliberating an hour and 12 minutes, a Washington County Superior Court jury at Westerly yesterday afternoon freed Joseph Abate, 33, of West Broad street, Pawcatuck, of a charge of leaving the scene of an accident. Convicted in Third District Court, Abate had appealed a sentence of 30 days in jail.

In a surprise move, Michael Addeo, attorney for Abate, rested the defence without offering any witnesses. Judge Herbert L. Carpenter charged the jury at 2 o'clock. Returning for instructions at 3:07 o'clock, the jury retired 10 minutes longer before returning its verdict of not guilty.

Charge Against Abate

Abate was charged with being the operator of a car which struck and seriously injured John Hindle, 10, of 25 East avenue, on Feb. 15, then driving on without stopping. Third Assistant Attorney General Michael DeCiantis prosecuted the case for the State.

John Hindle's twin brother, Thomas, had testified that he saw the number "15" on the registration plate of the car involved. Another witness of the accident, Miss Vondo Molin, of 31 East avenue, testified that she thought the car was registered in Connecticut. Mr. Addeo admitted for the record that Abate's car bore the registration number "LA-15."

In his charge to the jury, Judge Carpenter said, "If you gentlemen believe the story of the boy, who appeared to be telling what he thought was the truth, that he saw the number 15 in all the excitement, with his brother lying their injured, then your verdict will be guilty. It also will be guilty if you believe the story of Miss Molin that on a dark night and 500 or 600 feet from the accident she could tell the color of the car."

A State witnesses testified that the accident occurred beneath a street light. Testimony showed that Abate denied having been in Westerly on the night of the accident but later admitted to police that he had driven on Granite street to the corner of East avenue. He had not driven on East avenue, however.

Recalled to Stand

Sergt. LeRoy H. Norman was recalled to the stand in rebuttal as trial was resumed yesterday morning. He attempted to testify to a conversation he had with Abate's sister in the presence of the defendant at Westerly police headquarters, but Judge Carpenter ruled the testimony out.

When the jury returned to the courtroom for instructions, Frederick D. Arnold, the foreman, announced that the panel was not convinced that the State had proved Abate was driving his car on the night of the accident.

"Unless you are convinced beyond a reasonable doubt," Judge Carpenter declared, "you must return a verdict of not guilty. It is better that 100 guilty men go free than that one innocent man be sent to jail."

Earlier he had warned the jury that the case would be reviewed if they returned a verdict of guilty. He ordered them to base their judgment solely on the testimony and not on anything they might think happened.

"The case will be reviewed on the record," he said, pointing to the stenographer's desk. "It is on that there and I stand or fall."

Judge Carpenter ordered the jury, in its deliberations, not to be prejudiced against Abate because he did not take the stand in his own defence.

DRIVER OF TRUCK FINED $50 IN WESTERLY COURT

5/6/36

Accused of Operating Vehicle Which Hit State College Student.

Leonard E. Taylor of West Kingston, pleaded nolo to a charge of driving so as to endanger and was fined $50 by Judge Herbert L. Carpenter in Washington County Superior Court at Westerly yesterday. The costs of the case were remitted.

Third Assistant Attorney General Michael DeCiantis told the court that Taylor was the driver of a truck that struck a Rhode Island State College student on Hendricks road, near the college, last Dec. 13. William B. Sweeney represented the defendant.

July 21, 1936 T

PA

O'CONNOR 'BOAST' RETOLD AT TRIAL

Two Warwick Police Officers Tell of Money Claim Made After Gaming Raid.

COUNSEL HITS EVIDENCE

Blocks Use of Alleged Betting Slips at Trial of Cameron, O'Connor, Rutter and Osterman

"Don't forget, money will buy most anything—and I have plenty of it."

That's what Cameron O'Connor said to two Warwick police officers as they were taking him to police headquarters in Apponaug April 18 after raids on his home and that of John Rutter, both Warwick Downs, it was testified yesterday at trial of O'Connor, Rutter and Leonard Osterman, of Oakland Meach, on conspiracy and gambling charges. The trial was before Judge James W. Leighton in Fourth District Court.

Acting Inspector John F. McKnight of Warwick police testified as to O'Connor's statement concerning his wealth and the power of money. Patrolman Merwin Gallup also testified as to the statement, although he did not quote the exact phaseology of the statement.

Peter W. McKiernan, defence counsel, succeeded, temporarily at least, in blocking attempts of the prosecution to introduce alleged betting slips, which raiding police found in wastebaskets in the cellar of Rutter's home and in the sunroom of the O'Connor home. The slips bore dates and numbers. Judge Leighton said he would give the prosecution an opportunity to present authority for admitting the slips as evidence. Efforts to have police testify as to orders that came over the telephone in the course of the raid last April also were unsuccessful.

Tells of Finding Cable

The court adjourned until 2 o'clock tomorrow afternoon, after Corp. Harold E. Shippee of the State police testified that he had gone with the police division's patrol boat, Commodore, to Pawtuxet on April 18 to meet Acting Inspector McKnight, and that he was present when a cable leading from the Rutter house into the bay was found. He said the cable was broken off about six or eight feet from shore.

O'Connor, Rutter and Osterman are charged in one complaint with conspiracy to operate horse racing and number pools. O'Connor is also charged with being a common gambler on two counts, and he and Rutter are charged with unlawfully tampering with wires and equipment of the New England Telephone and Telegraph Company.

Tells of Conversation.

Under cross-examination by Mr. McKiernan, defence counsel, McKnight admitted he didn't make any memorandum of the conversation he had with O'Connor on the way to police headquarters after the raids, but insisted the defendant had made the statement about having "plenty" of money. Gallup also said he could not recall O'Connor's exact words, but he declared he remembered the defendant said something about having "plenty of money" and that money "could buy most anything."

After several witnesses had testified for the State, court was adjourned until 2 o'clock tomorrow afternoon.

McKnight also testified that six telephone calls were received by him during a space of 10 minutes in O'Connor's home during the raid.

McKnight First

Acting Inspector McKnight was the first witness placed on the stand by Second Assistant Attorney General Michael DeCiantis. He testified that the O'Connor and Rutter houses had been under observation by the Warwick police department during December in 1935 and January of this year. He said he had been watching both houses and gave a number of dates during both months on which he had observed from four to six automobiles parked adjacent to the building.

Acting Inspector McKnight, after describing the raid on April 18 on the O'Connor and Rutter homes, identified a number of telephones that were attached to boards, together with an amplifying set, plug strips, 15 cartons containing small pads, boxes of pencils, and carbon paper, two stitchers, a board containing a series of wire connections, most of which he said were found by the raiding officers in the cellar of Rutter's home.

Patrolman Charles Greaves gave corroborative testimony concerning the actual raids, and said that he saw O'Connor dash across lots from Rutter's home to the O'Connor house after police had left O'Connor standing with Rutter and Osterman in the kitchen of the Rutter place.

LEVESQUE HELD GUILTY

George Levesque, 21, of West Warwick, who two weeks ago was found guilty by a jury of a statutory complaint brought by Director of Public Aid John A. Anderson of West Warwick, was committed to jail yesterday afternoon by Judge Mortimer A. Sullivan in Kent County Superior Court, East Greenwich, when he failed to provide bond of $1500 satisfactory to the court. Levesque was ordered to pay $4 weekly to Director of Public Aid Anderson for the support of a child, of whom the jury had declared him to be the putative father. Town Solicitor James W. Leighton of West Warwick represented the complainant. Frank H.

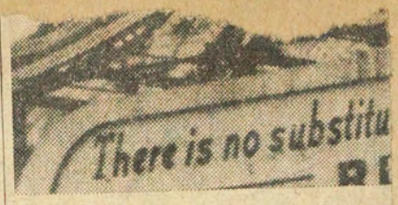
ROCHE MAINTAINS LEAD IN RECOUNT

George Roche, Democratic candidate for Senator in Coventry, maintained his two-vote lead today over Senator W. Roscoe Potetr, Republican opponent, as the State Board of Elections opened the voting machines used in that town and verified election returns.

Joseph C. Scuncio, a member of the board, called off the figures from the 10 machines while Secretary Harry Hopkins, Jr., compared them with tabulations made by clerks in the voting districts. Party watchers and counsel for the candidates stood by.

The official result, without counting six absentee ballots cast by out-of-State Coventry residents and protested in Roche's behalf by Michael DiCiantis, now stands as:

For Senator: Roche, Dem., 1771; Potter, Rep., 1769; Hill, Ind., 104.



RAIN AND COLDER

district. The pressure gradient is still steep and strong winds and

May 11

PAWTUXET VALLEY

WARWICK EAGLES HONOR MOTHERS

Hold Exercises in St. John's Hall, Arctic; Michael Di Ciantys Gives Oration.

JOHN O'NEIL, JR., PRESIDES

Gladys Mignault, Edward McShane, Mrs. Mary Tobin O'Rourke, and Rose Hebert Also Take Part in Programme

Persons in all walks of life in the Pawtuxet Valley joined wholeheartedly in the observance of Mother's Day yesterday. Special services were held in many of the churches, several pastors took "Mother" as the theme of their sermons and a high tribute to those who rock the cradle and rule the world was paid at the exercises held under the auspices of Warwick Aerie Fraternal Order of Eagles. Almost every-

which is caused by a son or daughter. To my mind, there isn't a worse crime than this. Shame on him who is guilty of such acts. A man of this type is worse than any murderer, scundrel or hypocrite.

"Yet the poor mother is always ready to forgive and forget, no matter how much injury is inflicted upon her. Isn't this wonderful? Is there anyone else in this world who would forgive and forget under these circumstances? Is there anyone who would bear the abuses the mothers do? No, it is always the gray-haired mother who waits with her arms extended to embrace and caress him as she did in his baby days.

"So let every day be 'Mother's Day.' Live your life as your mother would have you. Accomplish things which will make her proud. If you are away from her, write her a letter of praise and gratitude. Make her life as happy as you can. No one is so busy or so poor that he cannot send his mother a letter.

"Let no day pass without some acknowledgment of your indebtedness to her. Study her unspoken wishes, receive her opinion with respect, yield your will to hers with perfect sweetness. In all she allows you to do for her, show by your zeal and cheerfulness that for her sake the employment is delightful.

"If she is not living, place on her grave the white flower of love and fidelity in recognition that she was the best mother who ever lived."

The committee in charge of arrangements included John O'Neil, Jr., John F. Fearns, Michael Di Ciantys, Lionel Camerdin, William B. Cummings and Gibbie Smith.

"CRUSADER" SPEAKS