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Printed on May 23, 2020

THE GALLAGHER TRIAL

THE CLAIMS OF SELF DEFENCE AND ACCIDENT SET UP.

The Defendant on the Stand Tells His Side of the Tragic Story—Hounded by a Howling Mob and Driven to the Wall—The Shooting

The trial of Constable Dennis J. Gallagher, for the murder of Thomas Ryan, on Sept. 28 last, was resumed yesterday morning on the assemblage of court at 9 o'clock. District Attorney Darte opened the case for the Commonwealth with a brief statement of the facts as the prosecutor claimed them. The examination of witnesses for the Commonwealth was then commenced and the story of the tragedy as it has heretofore been detailed in the newspapers and by the same witnesses at the inquest and at the habeas corpus hearing before Esq. Ellis, all goes over again.

Dr. Davis the first witness, testified to the facts of the shooting and also gave a description of the wound and his opinion as to the cause of the death.

Policeman Broadhead, the prosecutor, then took the stand. He testified that he was called to Butler alley shortly after 11 o'clock and there found Gallagher with his prisoner, whom the former wanted locked up. This Broadhead did not do, but released him, taking as security for his appearance a silver watch. Walked over on East Market street, saw Gallagher, saw he had a spectator in his hand, followed him up and asked somebody to help him make the arrest. Ryan stepped forward, Gallagher put the revolver up to Ryan's neck and fired. Witness arrested Gallagher afterward.

"Broadhead, do you swear that the man who was shot never had a hand on Gallagher?" asked the defense in cross examination.

"Yes, sir."

The importance of this question was not apparent until the evidence for the defense was offered later in the day.

Among the other witnesses who testified were Jesse Merril, Merrit Stevenson, J. L. Pfouts, William Griffith, Dr. W. R. Stewart, Charles Tisch, H. A. Kline, Chris Ian Dahle, G. W. Yoren, Edward Lutes, John A. Mackinney, Owen Brady, R. F. Stark, Harry Symons, Lon Hart, Thomas Beason, Fred Stark, Mayor Sutton and Chief of Police Myers.

These witnesses had all been eye witnesses of some portion of the tragedy and the circumstances surrounding it. Not one in his description of the shooting, and there were several who saw it, stated that Ryan had taunted Gallagher when the fatal shot was fired.

There was some difference of testimony as to the size of the crowd that followed Gallagher, the estimates ranging from 25 up to 100 or over, and there was also widely differing statements made as to what the crowd were shouting. Some witnesses heard nothing but jeers and hoots, while others did hear cries of "kill him," "lynch him," as Gallagher was being followed around Public Square and on Market street. The hearing of testimony for the prosecution lasted all the morning session and a short time after court reassembled after noon adjournment.

THE DEFENSE.

It was 2:20 p.m. when the prosecution rested and Senator Illies rose to open the case for the defense. He made a masterly presentation of their side of the case. He stated that they would show that Gallagher was acting in the discharge of his duty when he was assaulted by a mob who surrounded him with yells of "kill him," "lynch him," etc. They actually attacked the defendant and when he sought to escape and fled from them through the streets towards his own home, they pursued him with the same savage cries and finally so blocked him in and surrounded him that he could retreat no further and then he drew his pistol and when assaulted by one drunken ruffian the pistol was discharged and the man who assaulted him received the bullet in the throat.

The hearing of evidence for the defense was then commenced. Frank Dann and John Quinn, employes of the Electric Light Co., testified that Ryan was very drunk that night and prior to the time of the shooting had been seen going about with a half brick in his hand vowing to have vengeance on somebody.

Jacob Faust, barber at the Valley Hotel, also testified that Ryan was drunk on that night.

Then a number of witnesses were called who testified to seeing some part of the time and hearing the crowd calling out "Lynch him," "kill the ——," "mob him."

T. J. Heffernan testified that some days prior to the shooting he examined Gallagher's pistol in Kenny's office and saw that one of the cartridges had been stamped.

Thomas Jones corroborated this statement, having been present at the time.

Mrs. Bonstenne gave important testimony. She was going home with her husband and at the corner of Washington and Market while waiting for her husband who had stopped to speak to some one, the crowd came up. She saw her brother in the mob pressing on towards Gallagher. He was greatly excited and was shouting, "Lynch him," "Get a rope and hang him." He made a rush for Gallagher, but just as he did so Ryan jumped in and pushed him aside. Ryan grabbed Gallagher's right hand and a second after a pistol report—fl ed Ryan fell. Mrs. Bonstenne swore that she was within five feet of Gallagher when the shot was fired, having rushed in to hold her brother back, and was positive that Ryan grabbed Gallagher's hand before the shot went off.

The defendant, Dennis J. Gallagher, was then called to the stand and told his story of the tragedy. He spoke substantially as follows:

"When we reached the alley, that is I and Brady I said to some one there 'Did you see a policeman?' Then I said to Brady 'we shall have to wait till a policeman comes, I have no key to the lock-up.' Brady said 'G—— d—— your soul I won't wait.' I said to him 'I've got you now and you'll have to wait.'

There was a good big crowd around and some of them seemed mad with excitement, they called out 'Let's take him away,' and one man said 'ain't we d—— fools to let one man scare us all, let's take him away,' they made a rush and got hold of me and then I drew my pistol and said 'stand back or some one will get hurt.' They stopped then and Broadhead came up. He asked what was the matter and I told him I ... cted the man locked up. We went down the alley and Brady tried to get away. I pulled him back and Broadhead said 'G—— d—— you are your prisoner right.' Broadhead opened the door of the lock-up and I put Brady inside. Some one in the crowd shouted, 'Lock up the constable,' and I didn't go in because I was afraid Broadhead would lock me up. Broadhead then asked if any man would go Brady's security and a man pulled out a watch and Broadhead took it and let Brady go. Some one again shouted, 'Lock up the constable,' and Broadhead said, 'I've got a d—— good notion to,' I said to him 'I've done nothing for you to lock me up and you ought not to have released the prisoner.' Then I started to go home. Two fellows came up to me and wanted to fight, One said 'it's a good job you have that pistol or I would lick you.' I said he could not do it, but that I could not fight the whole crowd. As I was going out of the alley one fellow got hold of me but I broke away. At Market I crossed over and went on the side by Lohnstein's. There I met John Crenhan and I stopped and asked him if had seen a policeman. As we were talking Broadhead came up followed by the mob. As Broadhead came up he said 'You'll see me fix him,' and he drew his club. Two men were with him a little ahead of the crowd, I went backwards, facing the crowd, and drew my pistol to keep them back I said, 'Let me alone I have done nothing.' The crowd began to close around shouting out 'kill him' 'lynch him' and so on. At the corner of Washington the crowd was all roped and I had to run down Washington. I was still backing with the pistol in my hand, Broadhead was took in the crowd. About the third post from the corner the crowd closed around me. As I swept the pistol round to keep them away Ryan jumped in and grabbed my hand and the pistol went off."

The defendant then stepped down and showed the jury just how he held the pistol with his fingers on the trigger. It was a self cocking revolver. Under a severe cross examination Gallagher's testimony was not shaken. The fact that he had once before drawn a pistol on a man in Alderman Dorrance's office was brought out, and Gallagher explained how it happened. He also explained how it was that one of the cartridges in the pistol was snapped, he having tried to shoot a bird a few days before while going over to Kingston.

Following this a great number of witnesses were called who testified to the good character which the defendant had always borne prior to the time of the shooting.

Just before closing their testimony the defense brought in an important point. Broadhead was called to the stand.

"Did you say, while passing the Exchange Hotel, 'I'll fix him,' referring to Gallagher?" was asked him.

"No, sh-I did not," replied Broadhead, emphatically.

Will Vaughan was then called to the stand and testified that he was standing in front of the hotel when Broadhead went by. A man who was with him said, "I know him, his name is Gallagher," and Broadhead replied, "I know it and I'll fix him."

This closed the evidence for the defense and in rebuttal Dr Darte, George Yost and Broadhead were called and all swore that they did not see Mrs. Bonstenne or any other woman there at all.

Then the Commonwealth rested and the argument of counsel was commenced. Senator Illies opened with a brief address in which he went over the law and the facts, urging that under the law Gallagher had been guilty of no offense

John T. Lenahan then made the closing address for the defense, and he made what was undoubtedly one of the ablest efforts of his career as a criminal lawyer. It was eloquent, logical and convincing, and certainly made as favorable a presentation of Gallagher's case as was within the limits of possibility. Ex-policeman Broadhead came in for a terrible roasting, and though he was not present during the address, Mr. Lenahan soon the jury gave him a fearful raking over, and exposed the contradictions of his statements.

At the conclusion of his address court adjourned until this morning.

Orphan's Court.

Before Judge Rhone:

Est. John Gregory: Citation granted as prayed for.

Est. John Gordon: E. A. Lynch appointed trustee to make sale of real estate. Same day sale authorized and bond in $3000 approved.

PITTSTON NEWS.

The Events of the Day Briefly Told.

The NEWS-DEALER, Pittston scribe enjoyed a trip behind Chas. Stegmaier's 2:40 nag from Pleasant Valley to Moosic and return yesterday afternoon.

Detective George Brown has recovered the horse that was stolen from Liveryman Daily, of Wilkes-Barre, on Friday night last. Mr. Brown was at Wilkes-Barre yesterday and being informed by Mr. Daily that one of his horses had been purloined, on his return home he instituted a search among the Pittston livery stables. The animal was found at last in the barn of Liveryman Rosecrans who informed the detective that the horse had been left in his charge early last Friday morning by the young man who stole him and who informed the liveryman he would call for it after breakfast; but he failed to return and the horse has been in his care ever since. Detective Brown immediately telegraphed Mr. Daily who came to Pittston on the 5 o'clock train and took his horse back to Wilkes-Barre. The detective hopes to ferret out the thief before many days who is wanted for stealing, besides the horse, some $450 worth of goods from C. W. Travar, a Wilkes-Barre installment man.

Thieves are operating at Pleasant Valley on quite an extensive scale. Several attempts have been made to enter many residences there. Chicken coops are also being visited by the thieves with considerable success.

A tramp was arrested at Pleasant Valley yesterday on suspicion of being implicated in the murder of Policeman Ellis, of Scranton, but was released after proving his identity.

Thieves entered the saloon of Jack Newton on South Main street early yesterday morning and stole from the bar room a quantity of whisky and gold cigars.

William Fay has returned from Shenandoah, where he has been visiting the past few weeks.

The Democratic caucus of the First and Second ward will be held to-morrow evening, the 7th inst. On Friday evening the 8th there will be a joint caucus of the Democrats of the two wards in the school house to nominate a candidate for Justice of the Peace.

Bergen Mullin is confined to his residence with illness.

Dr. Hutchins was a visitor to Wilkes-Barre last evening.

John Everhart was calling on Wilkes-Barre friends last night.

Efforts are being made to nominate a citizens ticket, the movement being managed by Patrick Battin and H. B. Cluster. The borough convention is announced to meet on the evening of February 11 at Town Hall.

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