

ARGUMENTS TO-DAY

The Taking of Testimony in the Cotts Barratry Case

ENDED YESTERDAY AFTERNOON.

Mr. Cotts Went on the Stand in his own Behalf and Underwent a Vigorous Cross-examination

The barratry hearing before Justice C. S. Groer, in which W. J. Cotts, J. E. W. McCulley, J. G. Haberfield, George Waite and John Anderson figure as the defendants, is nearing its conclusion.

At yesterday's session the taking of evidence was concluded, and it was decided that the arguments would begin this afternoon at 3:30 o'clock in the circuit court room.

Colonel Arnett will make the argument on behalf of the defense and ex-Congressman John O. Pendleton will speak for the prosecution.

At the morning session, Henry Bayha was the first witness; he had been one of the tax informer defendants and had compromised at the instance of Cotts.

James A. Dunning, justice of the peace, testified regarding the compromise of the Bayha suit. The docket had been received by Cotts as treasurer.

Cotts had also brought four suits in the witness' court against James A. Henry on the Anderson fee claims, and he understood Cotts would enter other such suits.

County Clerk Robertson testified briefly regarding visits made by Cotts to his office during the tax informer period.

Louis Bonenberger said he had received a notice from Cotts of his indebtedness through fees due Anderson, but he had paid nothing, having shown the fees were paid before.

Jerry O'Brien, one of the men sued by the tax informer crowd, testified briefly. Judgment had gone against him for \$20, but the circuit court's decision went against the informer crowd and he paid nothing.

Mr. W. J. Bodley testified to having had a similar experience. During the examination of this witness there was an exchange of courtesies between Messrs. Cotts and Pendleton.

Attorney W. C. Caldwell testified to having been the representative of Jerry O'Brien in the tax informer case. He believed Cotts was interested in that transaction.

"Just as he appears interested now?" asked Mr. Pendleton.

"I demand protection, your honor, as a tax-payer," exclaimed Mr. Cotts to the court, "and if I don't get it I will make it a personal matter between Pendleton and me."

Again the court interfered and the contestants were separated, figuratively speaking.

Dr. B. H. Stillard testified to having settled a claim acquired by Cotts from Anderson that was contracted in 1892, "which was outlawed," said Mr. Pendleton.

Clerk W. H. Hornish, of the board of public works, knew of suits instituted by Cotts against the members of the board. The witness was instructed to bring in the records of the board at the afternoon session.

County Assessor A. Israel testified that he had been served with tax informer informations last summer, and he had given out some of the names for publication in the papers. He knew nothing of Cotts' connection with these cases.

Albert Meyer, bookkeeper of G. E. Stifel & Co., testified to having settled an \$15 Anderson fee claim with Cotts for \$25.

Ex-Street Commissioner Holmes testified to having had Cotts arrested, and that Cotts had sued him for \$5,000 damages.

Charles C. Schmidt said Cotts had given the Wheeling & Elm Grove Railroad Company much trouble about acquiring a right of way at Baker and McCulloch streets, East End.

The company had received a threatening letter from Mr. Cotts.

Chief of Police Clemans testified to having arrested Cotts in 1895, and later Cotts had entered suit against him for damages to the amount of \$5,000. Cotts, he said, had threatened to land Charles Bachmann in the penitentiary.

The Afternoon Session. At the afternoon session, beginning at 2 o'clock, John S. Welty testified that Cotts had said he would enjoin the St. Joseph's Cathedral from maintaining steps on Thirteenth street.

Joseph Green had been served with a notice that he owed Cotts on Anderson fee bills. Cotts had threatened to have him arrested for selling beer on Sunday and make it cost witness ten times as much as the fee bill.

Joseph Leimer, the architect, was the next witness. Cotts wanted to buy his claim against Mrs. Egarter, because he already had one, and with the two he told me he would make it hot for her. Witness did not sell the claim. Cotts' proposition was to give the witness 50 per cent.

To Colonel Arnett, the witness admitted the judgment he held against Mrs. Egarter had been set aside. He did not remember telling Cotts that he needed money, but said "we always need money." Cotts had said to the witness that he would make it hot for Mrs. Egarter; that it was his business to buy and sell claims; that he wanted the claim to make it hot for Mr. Reymann; he wanted to make it hot for Mrs. Egarter because she was a relative of Mr. Reymann." On another occasion Mr. Cotts had told witness he was angry with the Wheeling & Elm Grove Railway Company and Mr. Reymann on account of trouble about his lot at the corner of Baker and McCulloch streets.

To Mr. Pendleton, on re-direct examination, the witness said Cotts told him he was going to build on his McCulloch street property, and then the city would have to buy back the corner lot.

Paul O. Reymann. Paul O. Reymann, vice president of the Wheeling & Elm Grove Railway Company, was the next witness. A letter written by Cotts to Anton Reymann was verified by the witness. It was as follows:

loch and Baker streets, say twenty-five feet of the corner of the streets, and run parallel line down say fifty feet on Baker street. That will give you a strip of ground twenty-five feet in McCulloch, running back fifty feet on Baker street. The price, \$50 per front foot, measuring from Baker street to McCulloch, amounting to \$2,500, and to which you must add \$107.64 for the lumber, mechanics and my time, paint, etc., making \$2,607.64, or I will sell you the corner, measuring twenty-five feet on McCulloch, and twenty-five feet on Baker street, by a parallel line from McCulloch to Baker, and \$167.64 added for the building of the office, etc. Should you reject this offer and put my sister and myself to any further expense I will give and fence up my property at Fulton, W. Va., and through which your motor line runs, and runs without having the right of way, and compel you to move your tracks. I will also do all in my power to prevent you or any park association from selling beer at that place on Sundays. In selling you either of the propositions, you must understand that you are to give to the city a payment eleven or twelve feet wide of the south twenty-five feet line I sell you, and the city will give you the present eleven foot pavement on my present line.

Witness said no response had been made to this letter. To Colonel Arnett, witness said he was sure the letter was written response. There had been a sale of a part of the property mentioned later for \$1,300. He believed the same price per foot had been paid.

Will H. Hornish. Clerk W. H. Hornish testified that Cotts came to him in 1897 and wanted warrants for Bishop Donahue and the Wheeling & Elm Grove Railway Company, but he declined to issue them. He believed Cotts got the warrants out later.

On cross-examination by Colonel Arnett, the witness was asked to produce certain papers relating to matters in connection with the case, but which the prosecution had not brought up. The justice ruled that these matters were not proper on cross-examination.

Alex Bachmann. Alex Bachmann had heard a conversation in which Cotts figured, in which the latter said: "The damned Catholics have no right to obstruct the sidewalks more than anyone else," and he would have them prosecuted, and that he thought the bishop was taking too much authority for a stranger.

Cotts had also threatened to arrest the drugists for selling whisky without a prescription. He said he could, if he desired, have the bishop and the drugists arrested. This conversation occurred within the past two years.

Charles Bachmann. Charles Bachmann knew W. J. Cotts and had heard him threaten to indict Anton Reymann and the Reymann Brewing Company for selling beer at the Wheeling Park on Sunday. Cotts had told witness to buy Kirchessner's property on Baker street, and that he could "make a pot of money by blocking the Wheeling & Elm Grove Railway Company." He also threatened to put Sam Sloan in the penitentiary.

He also said he would put a sign in the track of the Wheeling & Elm Grove Railway company at Fulton; that he would indict all saloonkeepers; that he would have Bishop Donahue arrested.

Charles H. Henning. Circuit Clerk C. H. Henning was the next witness. He had a record of suits against officials instituted by Cotts. He named them, as follows: Officer Holmes, Officer Ingram, Chief of Police Clemans; old board of public works, Thompson, Schenk and McCoy, and one against the city of Wheeling.

John Anderson. Constable John Anderson testified he assigned a number of fee claims to W. J. Cotts; they numbered from sixty to sixty-six. The total amount was over \$100.

"For what consideration did you sell them?" Objection by Colonel Arnett. Mr. Pendleton said it would be shown the claims were of little value. Colonel Arnett still objected.

Mr. Pendleton—You still object to the question being answered? Col. Arnett—I do.

Mr. Pendleton—Well, the question is withdrawn. Witness said Cotts told him he would try to collect the claims.

Squire J. G. Haberfield. Squire J. G. Haberfield testified. He had been a squire nearly two years. He knew of a warrant sworn out against H. E. Bachmann by W. J. Cotts, accusing him of receiving 251 barrels of apples; sworn out in behalf of W. T. Clarke. Cotts had no connection with the warrant. Bachmann was arrested, waived examination and was held for court under \$500 bond. A warrant had been sworn out in his court against Sam Sloan, at instance of Joseph Hasenauer, charging false pretense; he had been released under \$500 bond to appear before the grand jury. He did not know of Cotts' connection with the Sloan case.

At 3:30 p. m. Mr. Pendleton said: "The state rests, your honor." Then Mr. Cotts and his attorneys, Messrs. Arnett and Ryan, retired to a corner and entered into a conference.

Colonel Arnett requested, at the conclusion of the conference, that certain papers held by the clerk of the board of public works be produced. Clerk Hornish appeared with some of the papers desired; others, he said, had been thrown into the waste basket long ago.

W. J. Cotts. W. J. Cotts was placed on the stand. He said he did not arrest Sam Sloan; the warrant was sworn out by Joseph Hasenauer. Orders from Sloan to City Clerk Watkins in favor of Joseph Hasenauer were offered in evidence by Col. Arnett at this stage of the examination of the witness. The witness said \$40 is still due on these orders.

"What connection had you with the tax cases?" "Nothing; only as clerk for Mr. Bird, who was prosecuting them."

Witness denied making any threats against Mrs. Egarter. He did not purchase a Leimer judgment against Mrs. Egarter, and never held one against her. He had no desire to "make it hot" for Mrs. Egarter; he only desired to buy claims that could be collected legally.

"Did you want to block the Elm Grove Railway Company?" "No, sir."

Witness said the Elm Grove road went through a piece of his property at Fulton without condemnation; unfortunately he held several pieces of property the road went through.

The witness then went into details of the trouble with the city relative to the property he owned at the corner of Baker and McCulloch streets. The elevator was worth \$5,000, while the refused and held out for \$1,000; the matter is still in litigation. Witness had been arrested several times by city officials, but eventually the city had to pay the costs. The Wheeling & Elm Grove Railway Company began condemnation proceedings and was beaten; then the railway company acquired a piece of the ground through his attorney, the amount he had received amounted to over \$1,300. Since then, however, the railway company had been running its cars across the sidewalk. On one occasion, September, 1895, he had been searched by Lieutenant Clemans, when he had protested that he was not a murderer or an outlaw, but without effect. Then there had been proceedings in the circuit court and injunctions applied for by the city had been denied by the court. These cases are still on in the circuit court.

The witness then proceeded to read the many letters written by him to the

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cured. I do not think I should have been alive to-day if I had not taken Dr. Greene's Nervura. I am now able to do my own work and enjoy health. I am subject to heart disease, but when I use the Nervura I am entirely free from it. I always recommend Nervura, and in all my life I never saw anything that did me so much good as this wonderful medicine."

You can have perfect and absolute confidence in Dr. Greene's Nervura blood and nerve remedy, and be sure that it will benefit you from the fact that it is prepared by a famous regular physician, Dr. Greene, 35 West 14th St., New York City, our most successful specialist in curing nervous, chronic or lingering diseases, and this grand remedy is therefore perfectly adapted to cure. If you use this remedy, you also have the privilege of consulting Dr. Greene without charge or fee, personally or if you write about your case.

board of public works, which had been produced earlier in the afternoon. This required nearly an hour and brought nothing of particular interest into the case. The suits against the city, said the witness, were forced upon him in the protection of his property interests. He was a traveling man earning over \$2,000 a year; and had to give up this position in order to remain here to protect his property.

He had sworn out the warrant for Bachmann, acting on a power of attorney from W. T. Clarke, of New York. He said he never was instrumental in indicting anybody. He admitted having written the letter to Mr. Reymann already introduced in evidence. He said the letter spoke for itself. He was ready to indict the parks and saloons at any time for Sunday selling. He said the drug stores are Sunday bar rooms.

He never threatened any drug man, excepting an Island drugist who had sold liquor to his wife; this man he had threatened to arrest for Sunday selling. The witness said he had in his possession information on which he could at any time indict the Wheeling Park Association for Sunday selling. As to the Cathedral steps, he affirmed Bishop Donahue had no more rights than any other man or church.

Mr. Cotts next went into the details of the assignment to him of the John Anderson fee bills. The reason he was pushing these claims was that they would become outlawed next July.

The witness was cross-examined by Mr. Pendleton, and said he became acquainted with W. T. Clarke by correspondence. He first saw him within the last ten days. He entered into correspondence with Clarke after having learned of the Bachmann claim through Attorney McLaughlin, who is now in Cuba. The witness would not say he had authorized Colonel Arnett to write a letter to H. E. Bachmann for the collection of the Clarke claim. He evaded a direct "yes" or "no" answer, but said Colonel Arnett was his attorney and he sanctioned anything he did in his behalf. After a wordy war between

the justice, witness and lawyer, the witness consented to answer "yes."

"Were the statements true?" "Whatever the colonel said was all right," said the witness.

"If he said you owned the claim, is it true?" "No, sir."

"That's what we want." "Well, you'll get the truth." "You didn't buy the claim?" "The colonel's a liar if he says so," was the response of the witness.

The witness said he was to get 10 per cent on the claim when collected. "You are Mr. Bird's clerk?" "Yes," said the witness, and said he was employed a week and a half at a salary of \$18 a week. He first met Bird (of tax informer fame) last summer. With McCulley, and Bird he went over the records in the county clerk's office. "If the thing had gone through I would have got a pretty good slice."

"What did you pay for the Anderson claims?" "That's none of your business," said Mr. Cotts.

Witness said he didn't stir up the tax suits "much."

George Waite. George Waite, a special constable, testified he collected the collection of Anderson fee bills. He brought no suits and made no levies. Mr. Cotts paid a commission for his work. There was no cross-examination. Constable Creighton testified in a similar manner. The defense here rested its case. Colonel Arnett wanted to cite some authorities in his argument and desired the arguments postponed. Mr. Pendleton was ready to submit without argument or argue forthwith. Finally the arguments were set for 2:30 p. m. to-day.

MUSICAL WHEELING.

The Banda Rossa, which plays in this city this afternoon and evening at the Opera House, is a body of musicians brought together in 1883 at San Severo, a town in southern Italy, distinguished by that intensity of devotion to music which made the country the home of the art for so many years and in two years' time gave the first concert, March 14th, 1885, the birthday of King Humbert. Later the direction was placed in the hands of Signor Eugenio Sorrentino, of the Royal Conservatory of Naples, and it was not long before the fame of the Banda Rossa was spread far beyond the confines of San Severo, and when at the Columbus celebration in Genoa, in 1892, sixty-four bands entered into a competition for a gold medal and banner, it was Banda Rossa that carried off the prizes. Since, the band has played during the season of 1896 in Germany and Holland, causing amazement and delight by the quality of tone produced, the precision of its playing and the peculiar eloquence of its expression. Its passionate warmth of sentiment, the life-blood of music flows in melody and Italy has always been the land of song, and with a leader who feels with his men, yet makes their pulses keep time with his own, they can fill their music with fire without destroying the balance and quality of tone, and for these reasons the larger part of their programmes are made up of the fantasies and arrangements of operatic works in which they make their greatest success. Accompanying the band is Mrs. Marshall Pease, the celebrated contralto, and other soloists. The arrangement of programmes for two performances here will be entirely different, yet they will embrace classical and popular selections. The matinee programme is as follows:

Matinee Programme. PART I. Overture—"Raymond".....Thomas Trombone Solo.....Sis. Febro. Alma-Judgment Scene—Final Duet, Verdi Trumpet, Sig. Messina. Trombone, Sig. Febro. Inflammatus—"Stabat Mater".....Rossini Trumpet Solo.....Sig. Tavan. Songs—Selected—Mrs. Marshall Pease. "Lucia"—Grand Finale Act 2.....Donketti March—"Liberty".....Sorrentino Meistefele.....Bolto Introduction, Tenor Air, Duet, Finale. The evening programme:

Evening Programme. PART I. Overture—"Fra Diavolo".....Auber "Love's Dream After the Ball".....Czibulka Fantasia on Verdi's Traviata.....Lorelio Clarinet Solo.....Sig. De Carli. Gioconda—Grand Finale Act 3.....Ponchelli PART II. Songs—Selected—Mrs. Marshall Pease. "Trovatore"—Act 4.....Verdi Waltz—Tres Jolie.....Waldfuefel Carmen—Grand Fantasia.....Bizet

This evening at the Y. M. C. A. hall, the concert by the Standard Male Quartette will attract a large audience. The concert is under the direction of Prof. T. Llewellyn Williams, late of Trinity College, London. The following attractive programme will be rendered:

PART I. Duet—Piano and Organ.....Miss Shaw and Prof. Williams. Quartette—"What Were Life".....Petrie

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Storage Sale. Beginning Thursday, March 16, We Will Commence Our . . . Annual Sale of Unclaimed Storage Goods. These goods consist of all kinds of Household Goods, such as Carpets, Rugs, Chinaware, Lace Curtains, Chamber Suites, Wardrobes, Stoves, Stands, Tables, Chairs, Rockers, Sideboards and thousands of other articles. 1,000 YARDS OF SECOND-HAND CARPET. SALE PRIVATE. TERMS CASH. WHITE, HANDLEY & FOSTER. 2247 and 2249 Market Street.

BRIEF MENTIONINGS. Events in and About the City Given in a Nutshell. The board of education meets this evening. Council health committee meets this evening. Grand to-night—Charles Mortimer company. Judge Hervey will hold a special term of the circuit court in Part II to-day. Arguments will be made in the Court barratry case this afternoon at 12 o'clock. The Riverside stockholders meet this evening to hear the tube combine's proposition. This evening the special free bridge committee meets to take up the matter of free bridges for foot passage. Paul, the nine year old son of Joseph Winesdorffer, the South Side talk, was bitten by a dog yesterday. Medical aid was necessary. To-night, at the Fourth street M. E. church, State Treasurer M. A. Reilly lectures under the auspices of the E. worth League on "Where Are We At?" In the criminal court yesterday, Judge Hugas, the demurrer to the indictment of Marshall Carrington, breaking was overruled. The case will come up March 22. John St. Myers was arraigned before Squire Fitzpatrick yesterday as in charge of creating a disturbance at the boarding house. He gave security for his appearance this morning. Theodore Cass, a Martin's Ferry man who limbed too much of the arduous was gathered in last night by Officer Marshall. Another drunk, Mary Weston, was arrested by Officer McClelland. The Majestic club, a social organization of young men that is coming to be quite a factor in the city's social life, has moved its quarters to the Hookbrook block, on Main street, and will entertain its friends next Monday evening. Master Charles Dunberger, of the Eighth ward, entertained a number of his little friends Tuesday evening at the home of his grandfather, W. R. C. Fullerton, South Chapline street. The occasion was the fourth anniversary of his birth. There was a slight blaze at the home of Frank Schroeder, the undertaker, of South Chapline street last night about 7:30 o'clock. Mr. Schroeder lives on the floor above his undertaking establishment, and the curtains in one room caught fire from a gas jet, and the flames extended to a sofa. The Niagara engine boys extinguished the blaze with a few buckets of water. The damage was slight. At a meeting of the Moundsville council last night, Attorney J. A. Ewins appeared and gave notice of contest at the home of W. T. Kimberly, in the Democratic candidate for marshal, who was defeated by G. W. Miller, Republican, by thirty-seven votes. Notice of contest on council in the First and Third wards was also given. Slight irregularities but nothing dishonest charged. The account will be laid this evening before council. Friday evening an entertainment and social will be given at the First Baptist church, corner Twelfth and Byrd streets, under the auspices of the Young People's Union. The programme will include vocal and instrumental music, and a lecture by the Pastor on "The Life and Character of Patrick, the Apostle of Ireland." After the programme light refreshments will be served at reasonable cost and opportunity afforded for social intercourse and a pleasant time guaranteed. Exercises begin at 7:30. PERSONAL NOTES. Going and Coming of Wheeling People and Visitors. A. M. Crow, of Littleton, is at the Howell. Mrs. William Frater, of Romney's Point is visiting her sister Mrs. Barr, of the Island. Mrs. Catherine Barr, of the Island, is seriously ill at her home, with a severe attack of the grip. W. G. Johnston, of St. Mary's, and C. E. Bartlett, of Monongah, registered at the Stamm last night. John M. Cook, of Stensenville, and S. Bruce Hall, of New Martinsville, were registered at the Windsor yesterday. ATTEND the Storage Sale of Household Goods to-day. WHITE, HANDLEY & FOSTER. CROUP instantly relieved by Thomas' Electric Oil. Perfectly safe. Never fails. At any drug store.

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The Electric Neither becomes hard, nor moulds nor dries out. Makes less dirt or litter on the floor than any other cleaner, as it absorbs the dirt in cleaning. Cleans easily and perfectly; any person can use it successfully. Is a thorough disinfectant, destroys all germs and leaves the room clean and healthy. Is economical; one package will clean a room 14 feet square, and retails at 25 cents per package. Can be kept from season to season without injury to the goods.

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