

TALDEBONI FOUND GUILTY OF MANSLAUGHTER, FIRST DEGREE.

Jury in Famous Murder Case Reaches Agreement at 4:15 O'clock After Five Hours' Deliberation

The jury in the Taldeboni case reported at 4:15 o'clock that it had agreed. The prisoner is now on his way from the Jail to the Court House.

The jury found Taldeboni guilty of manslaughter in the first degree. The maximum penalty is twenty years. Mr. Cullin's motion to set aside verdict was denied. Sentence will be pronounced Saturday morning at 10 o'clock.

Five ballots were taken. The court room was crowded this morning when the jury filed in and Justice Wright began the delivery of his charge to the twelve men who were soon to pass judgment on the guilt or innocence of Anthony Taldeboni.

It was precisely 10:05 A. M. when Justice Wright began and he spoke in part as follows: "It is my duty to lay down the rules of law to aid you in forming your verdict. The statutory definition of murder in the first degree is the killing of a human being when the killing is committed with the design to effect the death of the person. A verdict can be rendered in the second degree or manslaughter according to the evidence. Murder in the second degree is when there is no deliberation shown and manslaughter in the first degree when committed without design to effect death, in the heat of passion and with a deadly weapon.

Manslaughter in the second degree when committed in the heat of passion but without a dangerous weapon and without design to effect death. Upon this indictment if you are not convinced that the act complained of was not the actual cause of the death then your verdict may be for assault in some degree.

On the presumption of innocence Justice Wright read the statutes which says that "a criminal is deemed to be innocent until his guilt is proved." "You, gentlemen," said Justice Wright, "ought to commence this case with the presumption that the defendant is innocent and then weigh well each fact and the testimony and apply it to the presumption of innocence. At no stage of your deliberations should this be lost sight of. It is not intended to aid any one to escape who is guilty but it is a humane measure to guard against an innocent person being punished. Every mind should be convinced of every fact and if they have not been established by the prosecution then you should acquit.

By reasonable doubt we mean a doubt founded on reason, not a frivolous but a serious thing. If in your endeavor to solve the problems before you you are honestly and reasonably in doubt, then he is entitled to an acquittal but if you can truthfully say that you have an abiding faith in the truth of the facts established against him then you should convict upon mere possibilities, doubts may be raised but reasonable doubt calls for the exercise of judgment and must be founded not on theory but on reason. It must exclude every reasonable doubt.

Keep Within Reasonable. It may be said that if two or three reliable witnesses testify to facts and there can be no contradiction then there can be no doubt. The jury should not go beyond the evidence to hunt up doubt. It must not resort to fanciful measures. You must confine yourselves to the evidence. If, after careful deliberation you have an honest doubt as to the defendant's guilt you can acquit. You have no right to doubt the reliability of a witness through caprice, his intelligence or lack of it or his general character. If you are convinced that any witness has sworn falsely you are permitted to disregard his testimony unless it has been corroborated.

Neither can a witness be expected to recall details of conversations and the minutest details of incidents. It is proper to consider statements made out of Court by witnesses contrary to their testimony in Court, allowing a reasonable explanation. In murder of

each degree there must be shown a design to kill but in manslaughter the killing must be unintentional. Justice Wright then explained and clearly defined the different degrees of murder and manslaughter. Continuing he said: "Deliberation used in the definition of murder in the first degree according to the Court of Appeals is a prior determination to commit the act in question. If the determination is formed deliberately, the time need not be long before the fatal act is committed. It is established in the first degree no particular time is prescribed for the making up of the mind before the act is committed. If you find from the evidence that the defendant actually killed Roberts with a deadly weapon, your verdict will be murder in the first degree. If you have a reasonable doubt that he killed Roberts without design to kill and without deliberation then the verdict will be murder in the second degree.

Nature of Weapon. You must also consider the provocation, the knowledge of Taldeboni shown by Roberts. We judge of a man's design by his words and acts and the nature of the weapon used is also an important basis for judgment as to intent to kill. Aiming and firing at a vital part of the body is a vital fact to be considered. Firing or striking with a deadly weapon enlarges the basis of your judgment. The testimony regarding the several wounds is also to be carefully considered. Was that intent to kill formed with deliberation or was it formed suddenly or in the heat of passion? If so the crime is not murder in the first degree.

If you find that the act of Taldeboni was not the cause of death and that the assault was justifiable then the case comes under those classes as assault.

Shall be Treated. If you find that Taldeboni's act did not cause death but it was because of unskillful treatment your verdict will be assault in the first degree. A person who willfully wounds another without deadly weapon is guilty of assault in the second degree. Homicide is justifiable when there is great personal danger to the slayer shown. Unless the assailed person has reason to fear for his life he has no right to use a deadly weapon in self defense.

Before a life can be taken in self defense the slayer must be convinced that he was in great peril and that there was no way of escape. If you find that the defendant had a chance to escape he should have done so. Taldeboni was obliged to retreat only if he could do so safely, that is, if you find that Roberts was the aggressor.

Regarding the claim of manslaughter on the part of the defense Justice Wright said: "If it is established that the wound was not fatal and the patient would have recovered with skillful treatment then the act of Taldeboni was not the actual cause of Roberts' death and he cannot be convicted of murder in the first degree." Defining the degree of skill required Justice Wright said: "Upon consenting to treat a patient it is the physician's duty to exercise all the skill possible and use his best judgment. The law holds him liable if he does not exercise reasonable care or for his lack of knowledge. The law requires that his skill shall be such as would be expected from those in good standing engaged in the practice of medicine. The law, however, does not require that he possess the greatest knowledge of science pronounced but few men in the field of medicine and surgery. If you are convinced that Roberts' death was due to malpractice, in failing to give a more thorough examination or his failure to operate or to the treatment in other respects then the defendant is not guilty of murder in any degree." Continuing he said: "It is urged that even if good surgery required an operation and it had been performed and he died then the death would have been based on the act of the physician not on the act of the defendant. This is not so according to the law. No presumption arises against the defendant because he was not called to testify in his own behalf. His neglect or refusal does not create any presumption against him. To warrant a conviction in this case the State must establish the guilt without reasonable doubt. You should first determine what facts have been proven beyond a doubt and from them make your deductions. They come to your conclusion and if it is

against the defendant it must be true beyond a reasonable doubt and you must be morally certain of this. This indictment charges murder in the first degree but the law warrants rendering of a verdict on a lesser degree on manslaughter on the evidence warrants your moral certainty. It is your exclusive province to decide whether or not the facts established by the People are convincing. The opinion of the Court has nothing to do with the case. Take the case gentlemen and render judgment. Base your verdict on the undisputed evidence without fear or favor with absolute justice as between the People of the State of New York and Anthony Taldeboni." The jury retired at 11:15 A. M.

Taldeboni's Condition. Just before the jury retired Mr. Morehouse, associate counsel for the defense, made a motion that the jury be charged that the evidence does not warrant a verdict of murder in the first degree. Justice Wright declined to so charge. Mr. Morehouse then made the following request which was granted by Justice Wright: "We ask the Court to charge that if the jury believe that Roberts struck Taldeboni which knocked him down or staggered him and that because of that he was so dazed as to be wholly deprived of the control of his mental faculties then he cannot be held responsible for anything he may have done while in that condition."

District Attorney Baker's Closing Remarks. The Times yesterday carried an extended report of the summing up in the Taldeboni case. Mr. Morehouse arguing for the defendant and District Attorney Baker for the People. Mr. Baker in addition to what was reported in yesterday's Times laid stress on the testimony of the box shop employee who testified that Hollop, the only witness to swear that Roberts threw a sawdust, told them that he (Hollop) did not see it thrown. Continuing Mr. Baker said: "Frank E. Roberts on his dying bed said he did not throw any sawdust. Captain Cullin located this fight quite a distance from all the witnesses.

Lawyers sometimes lay traps for one another. I laid a trap and my friend Morehouse tumbled right into it. That's why I did not swear that the interpreter on which the defense laid so much stress. Mr. Baker exhibited the blood soaked clothes of Frank E. Roberts and asked the jury to say by them exactly where this fight occurred and if this was not a deliberate killing. He then took up Mr. Morehouse's alleged claim that Roberts had not been carved enough, that is that he should have been operated upon.

"We believe that had he received more carving it would have killed him. Dr. Stockwell, a skilled physician, also says it would. Dr. Toft was to be made a scapegoat. It was intended to tell you that if Dr. Toft knew his business this tragedy would not have resulted fatally. Dr. Toft is a careful physician, you never hear of him being sued for malpractice and he needs no apology from me.

"Dr. Mansfield told you that if Roberts was opened up within twenty-four hours he would have lived yet in the case he had, he getting on the job in three hours, the mortality was 100 per cent., his patient died." Mr. Baker then proceeded to show that the statements of the Syracuse physicians did not correspond with established facts.

Referring to the testimony of the medical men Mr. Baker said to the jury that they could throw it all out and render a verdict as to whether or not Anthony Taldeboni did or did not kill Frank E. Roberts. In conclusion Mr. Baker said: "I ask you to say if a man who showed no more sympathy for Frank E. Roberts or his family than Anthony Taldeboni did is to have a sympathy that will outweigh, equal and excise justice. A human life has been taken, gentlemen and the law demands that a life shall pay the penalty if deliberation is proved."

Cost of Taldeboni Trial. It is estimated that the Taldeboni case will cost Oswego County between \$8,000 and \$9,000.

BASE BALL. President Powers has been re-elected President of the Eastern League, notwithstanding the attempt to depose him.

Syracuse has signed infielder "Sady" Murray of Indianapolis. Syracuse has two Murrys on the team "White" of this city being the other member.

There will be a meeting of the Empire State League at Syracuse on Saturday next. State League season will open April 18, two weeks from yesterday.

REVOLT SPREADS IN RUSSIAN INTERIOR.

Army Being Raised in Caucasus to Oppose Government Troops.

BERLIN, April 5.—Dispatches from St. Petersburg indicate that despite the official denial of serious trouble, the internal difficulties of Russia are fast approaching a crisis. Preparations for armed resistance are being made in the Caucasus and an army is being raised there to oppose the troops. The rebellion is spreading throughout the entire region. It is reported that 10,000 armed rebels have gathered in the mountains and have elected a king. Eight thousand revolutionary workmen from Batoum, Baku and Poti are on the way to reinforce this force. Six other rebel contingents numbering in all 7,000 are operating in different parts of the Caucasus.

Intend to Unite Forces. The plan is to bring all these revolutionary forces together in the mountains. If this can be accomplished it would give the king an army of over 25,000 men.

The present government cannot spare more than 5,000 men to oppose the revolutionary. Military authorities express the opinion that in view of the spread of the rebellion, it will take a decade to fully pacify the Caucasus again.

Anarchists Locked up. Marseilles, April 5.—As a measure of precaution during the visit of King Edward, the principal known anarchists have been arrested and imprisoned temporarily. Others as well as suspected revolutionaries are being closely watched by detectives.

The British royal yacht, the Victoria and Albert, with Queen Alexandra and her party aboard, arrived here this morning.

Dropping Union Label. NEW YORK, April 5.—There is a tendency among clothing manufacturers of the country to discontinue entirely the use of the union label, according to reports reaching the National Bureau of Clothing Manufacturers yesterday. It was reported from the various markets represented that harmony prevails at present between manufacturers and operatives.

To Define Boundaries. ALBANY, April 5.—A bill to enable the Secretary of State through County Clerks to call on town authorities for a definition of the ward boundaries of the election districts within their jurisdiction was introduced by Senator Hughes to-day, who said that such a law was necessary owing to the operation of the State census law since it had been found that in many counties no record of such boundaries exists. The bill was advanced to third reading and will be passed under an emergency message from the Governor.

Rope Skipping Champion Dead. NEW ROCHELLE, N. Y., April 5.—Louise Rivers, aged 11, won the honor of being champion rope skipper of Westchester County yesterday afternoon. Last night she died in the New Rochelle hospital. Acute appendicitis is given as the cause of death although physicians say the primary cause was over-exertion. The patient died soon after an operation. For a long time 200 consecutive jumps has been considered the record mark, but Louise decided to beat that and she jumped 218 times after which she fell over and complained of a pain in her side.

Held Oldest Policy in Country. ENGLEWOOD, N. J., April 5.—William E. Shepard, who is said to have held the oldest life insurance policy in this country, died last night. He was born in Wrentham, Mass., on Jan. 25, 1811. His insurance policy, No. 11, in the Mutual Life of New York, was taken out on Feb. 7, 1843, the first week of the Mutual Life's existence, and read originally for \$2,000. Its present value is \$3,882.

The policy has been entirely self-supporting since 1866, no premiums having been paid in cash since then; the dividend accumulations being used for that purpose.

Rural Cemetery The Rural Cemetery Association held their annual meeting at the office of J. C. Churhill Monday.

The reports of the treasurer, Mr. Gilbert B. Dean, Sr., and of the Chairman of the Committee on Superintendence, Mr. B. C. Frost, were received and accepted.

T. P. Kingsford was named as a director to succeed the late George E. Blood, and Dr. J. E. Stockwell to succeed the late Edward Stacy, Sr.

Brooklyn wants to farm some of its players to the Albany team, but wants the pick of two members of the team by August 25. This condition will not be complied with "Black" Osgo is still with Albany.

EXPERT TO APPROVE THE WATER BONDS

Caldwell Says All of Special Election Proceedings Were Legal.

MR. CAHILL'S TELEGRAM

Wired Bond Expert That Litigation Was in Progress, Etc.—Mr. Caldwell Turned the Dispatch Over to Mayor Mansfield.

The United States Mortgage & Trust Company of New York will finance the \$200,000 issue of bonds for the lake water plant. J. H. Caldwell, attorney for the company and a recognized authority in bond transactions, says there is no doubt but that the issue will be perfectly legal, and he gave as his opinion that no Court in New York State would grant an injunction in the matter.

Home from New York.

Mayor Mansfield, City Attorney Tierman and City Chamberlain Dogie made the arrangement for financing the transaction. They spent three days in New York, two of these in the financial district. The party returned last evening and Mayor Mansfield speaking for the party said that the trip was highly satisfactory.

A call was made on Mr. Caldwell at his office, 165 Broadway, on Monday, and all the papers in the case were submitted to him. The entire situation from the inception of the lake water proposition, was carefully gone over and after a complete and exhaustive investigation Mr. Caldwell made the statement attributed to him. He was most positive in his assertion that no legal or court proceeding would stand against the issue of bonds, and that there would be no trouble in securing bids.

Both James and Lizzie were inmates of the institution. Their courtship was a joke with attendants and with their inmates. No one ever imagined their attachment had reached a degree of ardor which would lead them to run away. Just how Smith got out of the building is not known. He helped Miss Burns to descend from an upper window, by a means of a rope ladder.

BIG CORNER IN MAY WHEAT. CHICAGO, April 5.—The bull clique in May wheat supposed to be headed by the Gates people upset the equilibrium of the wheat pit on the Board of Trade at noon to-day when the May option went up in a balloon about four cents over Monday's prices. The option sold at \$1.14 on Monday's closing, and as the pressure was applied the shorts jumped in with a consequent uplift of the figures to 117 1/2, amid much excitement. A reaction to 114 followed, and then back went the price to 116, the shorts all the time yelling for mercy.

According to the wheat sharps, May wheat is "cornered" in all the principal markets of America. The holdings of the bulls are variously estimated at 15,000,000 to 20,000,000 at Chicago, and 5,000,000 to 7,000,000 bushels at Minneapolis, St. Louis, Duluth and New York.

Frederick LaLonde Missing. FULTON, April 5.—Frederick LaLonde, aged about 16, son of Mr. and Mrs. Joseph LaLonde, disappeared from his home in Seneca Street about a week ago and no trace of him has been found. At the time of leaving the young man had about \$7 in money and two suits of clothes with him. The police of this city and the surrounding cities have been notified to look for him.

Neighbors' Banquet. FULTON, April 5.—The annual banquet of the Neighbors of this city, will be held to-morrow evening in Grace Mission Chapel in North First Street. Contributions may be left at O'Leary Brothers' news room to-morrow afternoon. The Y's will have charge of the entertainment.

Is with Empire State League. FULTON, April 6.—William Stauring of this city has received a position with the Empire State Base Ball League. Mr. Stauring has considerable ability as a pitcher and it is believed he can "make good."

Will Begin Oil Investigation. WASHINGTON, April 5.—Commissioner Gardfield, of the Bureau of Corporations, left to-day for Topeka, Kan., to begin the investigation of the Standard Oil Company's methods in the Kansas oil fields. He said it would be impossible to state the time necessary to complete the inquiry because it is to be very thorough.

Safe Blowers at Romulus. GENEVA, N. Y., April 5.—Safe blowers operated at the village of Romulus, near here at an early hour this morning. They blew the safe open in the Postoffice and secured \$140 and then blew the safe in the store of O. V. Crane, securing \$50. They made their escape on a hand car.

SCORES OF LIVES LOST IN EARTHQUAKE IN INDIA.

More than Seventy Have Perished in Lahore Alone, and Many Dead in Other Towns—Details Slow in Coming In—Great Property Damage.

STAY OF EXECUTION FOR MRS. CHADWICK

Sentence of Ten Years Is Suspended until Further Orders.

CINCINNATI, O., April 5.—A decision handed down by Judge Lurton in the United States Court of Appeals to-day, sustained the contention of Federal Judge Wieg, of Cleveland, that the filing of the writ of error in the case of Mrs. Cassie L. Chadwick, of itself suspends execution of the year sentence in the case, and that no formal application for a writ of superseas of motion for a stay of judgment is necessary.

The court stated that the writ of error having been filed within sixty days, Mrs. Chadwick was entitled to the stay of execution of the sentence, and suspension of it was directed until further orders.

Mrs. Chadwick will be kept in the Cleveland Jail pending disposition of her case in the Circuit Court of Appeals instead of being sent to the Penitentiary at Columbus.

CUPID IN A POORHOUSE. POTTSVILLE, Pa., April 5.—Prompted by the spring malady of which the poet sang, and a desire to set up house keeping on their own hook James Smith and Lizzie Burns escaped from the Schuylkill County Poorhouse last night and eloped. They went to Michigan, it is believed. In some way the man had obtained a pass to Detroit.

Both James and Lizzie were inmates of the institution. Their courtship was a joke with attendants and with their inmates. No one ever imagined their attachment had reached a degree of ardor which would lead them to run away. Just how Smith got out of the building is not known. He helped Miss Burns to descend from an upper window, by a means of a rope ladder.

HOOVER INQUIRY RESUMED TO-DAY. ALBANY, April 5.—Albert Colburn, of Fredonia, upon the stand in the Hoover investigation to-day, corroborated George E. Tiffany and William E. Hudson, who denied the statement made by Frank P. Bell that Tiffany had offered him a \$2,500 bribe to "give up something" that would cause Hoover's removal from the bench.

Melvin E. Taylor, former Postmaster of Fredonia admitted that he had been appointed to that position through the influence of Justice Hoover. He received his appointment in Nov. 1899, he said, and served till April 1, 1904. He was a lifelong friend of Justice Hoover, personally and politically.

The first appointment Taylor made after assuming the Postoffice was Chaucey D. Seston, a clerk Taylor said Justice Hoover had not influenced this appointment but admitted that Seston was a nephew of Hoover's wife.

ROOSEVELT IN KANSAS TO-DAY. PARSONS, Kan., April 5.—President Roosevelt and party arrived in this city at 7:36 o'clock this morning four minutes ahead of time and made the only stop in Kansas here, while the engine was changed. Fully 5,000 people had gathered at the station. Two minutes after the train stopped the President appeared on his private car and was greeted with cheers. The President continuously bowed and spoke briefly.

Attacks President Roosevelt. ST. PETERSBURG, April 5.—The Novoe Vremya, in an inspired article attacks the attempts of President Roosevelt at mediation and says that peace at the present time is impossible.

DYNAMITE FOUND ON THE TRACKS. Discovered Yesterday on Rails Over Which Presidential Train Passed Early To-day. SEDALIA, Mo., April 5.—Several sticks of dynamite were found near Montrose, Mo., yesterday, on the tracks over which the Presidential special passed early to-day. Track walkers picked up three sticks of the explosive between the rails. A short distance away some boys found more of the dynamite.

The greatest precautions are exercised now. Efforts are being made to hush the matter up. After 7 o'clock yesterday no one was allowed on the right of way. About 150 men were on duty at the switches and along the tracks during the night.

