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## OUT OF COURT

### Judge Takes Charge of Foshburgh Case

### ORDERS AN ACQUITTAL

### The Trial Conducted Like a Coroner's Inquest—No Evidence of the Prisoner's Guilt

Pittsfield, Mass., July 26.—By direction of Judge William E. Stevens, the jury this morning acquitted Robert S. Foshburgh of the charge of killing his sister, May, on August 29 last. The verdict was received with applause.

After all the turmoil in the Berkshires, this year-long mystery of a provincial police chief, "more silent than sphinx," and the protracted torture of a family that has at least proved itself to have the Foshburgh case was practically thrown out of court. Judge Stevens, before whom Foshburgh was placed on trial a week ago yesterday on an indictment charging him with manslaughter in causing the death of his sister, granted the motion of the defense and directed the jury to acquit the defendant, and the solid-looking Berkshire farmers, carpenters and merchants who had heard the evidence went cheerfully through the formality of obeying the court's instructions.

When Judge Stevens had ascended to the bench and the court crier had spoken, there was an expectant stillness that emphasized the clear, vibrating voice in which the court delivered its instructions. The judge said:

"Mr. Foreman and Gentlemen—During six days we have listened to the recital of one of the most painful tragedies that was ever presented to a jury. A young and beautiful girl was shot down in her home and her brother was accused of the crime. It was necessary for the government to prove three things—first, that she was not shot down by burglars; second, that she was shot down by the defendant; and third, that the possibility that she was shot by any other member of the family; third, that her death was caused by a criminal act."

"The trial has proceeded somewhat in the form of an inquest and has been tried with great pains on the part of the government and the defense. There has been an evident desire to obtain proofs, and so a great deal of evidence has been introduced and admitted without objection which might have been excluded under the strict rule of the law. I think I ought also to say to you that it is due to the chief of police, who has stood behind this prosecution, that in the view of the court, he has tried to do his duty with a single eye to ascertaining the truth."

"Now, Mr. Foreman and gentlemen, a motion has been made that this case be taken from the jury, and it becomes my duty to say to you that in the opinion of the court the government has not furnished proof sufficient to sustain a verdict of guilty against the defendant, and, therefore, under the direction of the court, in the indictment against Robert S. Foshburgh for killing his sister you will return a verdict of not guilty."

As he took his seat the judge half arose again and rapped for order, the everlasting feminine buzz that had been heard so often in the court room for over a week having broken out again. The court clerk arose, and the jurors, and defendant—a rather pathetic figure who bowed head—stood up, too. The clerk said, in hard, formal, routine tones:

"Gentlemen of the jury, you have heard the court's instructions. How say you? Guilty or not guilty?"

As the foreman replied "Not guilty," and the other jurors nodded, there was a wild burst of handclapping. Judge Stevens was on his feet in an instant.

"Mr. Sheriff," he said, sharply, "you will see that that demonstration does not occur again."

Once more the clerk polled the jurors; then the court thanked them gracefully and they filed out, followed in a minute or so by the Foshburgh family and the intimate friends who had been sitting with them, nearly all of whom were smiling through tears.

The jurors went to their room, and N. B. Baker of Savoy, one of the number, said afterwards: "We had a little talk and we found shortly that we would not have been out fifteen minutes if we had had to consider the evidence. Only one man had any doubt, and he said that he was satisfied that the verdict ordered by the court was the right one. We would have acquitted instantly."

At the grinding of the legal mill this week had produced no more proof than there was a year ago tending to show that the young man accused had held the revolver with which his sister was killed. Not only had that not been shown, but it had not been shown that any other member of the family could have held the weapon, and, moreover, several of the Foshburghs had gone on the stand and sworn stoutly that there were intruders—whitecaps or burglars—who entered the house the night in question, and that the eldest daughter came to her death at the hands of one of them. There was nothing for the court to do under the law but withdraw the case from the jury's consideration.

That the fact that the judge decided so is a tremendous slap in the face of the prosecution was a circumstance not regretted here by a considerable number of persons native and foreign to this exclusive region.

When court convened at 9:15 o'clock there was the same scene that had been presented every day since the trial began—the scene that has caused friends of the distressed family to say that the Foshburghs had been "hunted to make a Berkshire holiday." There has never been such a court room full of women of such social standing as to be termed "smart set" of any place. At every brief rest in the proceedings there has been a buzz of excited conversation that was suggestive only of teas or matinees or church after church is out. Light laughter at trivial occurrences in the court room has been frequent.

titter has every now and then swept over the crowd for causes which the masculine mind could not understand.

Among the few persons about the court house outside of those engaged in the case, who took things seriously, the talk was all about the court's probable action on the motion to direct acquittal. This motion was made when the commonwealth rested Tuesday, and then the judge replied only by asking the defense if it would rest. The defense was unwilling to do that, but renewed the motion last night before Judge Stevens in chambers. The judge reserved his decision, and no inkling of what was forthcoming had been given before the court opened.

### Lost All in Wheat

New York, July 26.—Samuel S. Cramer, who lives in the village of Implan-dale, in the town of Junction, N. J., and who is a member of the New York Produce Exchange, has lost his fortune and that of his mother and sisters in wheat speculation and has left his home, never to return, according to a letter received from him by his family.

### Fell from a Car

Durham, N. C., July 26.—Special.—This morning there came near being a serious accident near the Southern depot. Mr. J. C. Barbee, section foreman, fell from his car while it was running at full speed. His face was badly lacerated, and while he was not seriously hurt, his bruises were very painful. He will be able to resume work in a few days.

## CHARTER FOR MANILA

### It is Closely Patterned After Government of Washington

Manila, July 26.—The charter for Manila was up before the commission on its third reading today. There was a larger and more representative audience present than at previous hearings. The charter provides for a government which is closely patterned after that of the city of Washington. There is to be a board of three commissioners, appointed by and subject to the authority of the central government, with legislative and executive authority. There will be municipal departments and an advisory board representing various districts. This latter will be appointed by the general board and will act as an intermediary between the main body and the general public.

Romero Salas, the editor representing the Spanish chamber of commerce, opposed the bill generally, claiming that it was a deprivation of popular representation and shocked the public as being un-American. Governor Taft forced the admission from the editor that there was practically no innovation in the proposed charter as compared with the former status of Manila under the Spanish regime.

Judge Taft went on to explain the success of the government of the city of Washington and the relative conditions obtaining there and Manila, and declared that the people would not be shown of any other rights.

The attack of Senor Salas was not surprising, as the Spanish Filipinos, who predominate, naturally desire the control of the municipality and dislike any diversion from their rooted prejudice. The commission evidently wishes to establish an impartial government for a largely cosmopolitan city and to avoid class control. Senor Salas also referred to the proposed high taxation which will probably draw out much discussion.

The charter is practically unchanged from the draft made by General Davis, whom Commissioner Wright thanked.

## ALL GOVERNMENTS AGREE

### Price of China's Uprising Definitely Fixed

Peking, July 26.—A memorable meeting of the ministers was held today, it being announced that all the governments had agreed that the indemnity to be paid by China should be 450,000,000 taels and that the security would be the salt tax, the native customs and an increase in the maritime customs to an effective 5 per cent. The principal of the Chinese loan to pay the indemnity will be payable in 1940. Chinese bonds issued in 1940. Chinese bonds issued in 1940. Chinese bonds issued in 1940.

## Sympathy to President Kruger

Berlin, July 26.—The official North German Gazette announces that upon receiving the news of the death of Mrs. Kruger, Count Von Buelow, the imperial chancellor, conveyed his cordial sympathy to "President" Kruger through the German minister at the Hague. To this message Kruger replied, expressing his hearty thanks, through Dr. Leyds, representative of the Boer republics.

## Whitecaps in Texas

Fort Worth, Tex., July 26.—Whitecaps fired into the home of Edward Alnu, a respectable colored man, near Raleigh, last night, fatally wounding his daughter. The negroes are terrorized and are leaving the county in large numbers.

## THE SCHLEY COURT OF INQUIRY

### Order Issued to Convene in Washington the 12th of September

### SESSIONS TO BE HELD WITH OPEN DOORS

### Admiral Kimberley Has Not Asked to Be Relieved—Captain Lemly Designated as Judge Advocate—Ten Matters Indicated to Which the Court Will Direct Its Investigations—Disobedience of Orders at Cienfuegos is Taken as Already Proved

Washington, July 26.—The precept which is to govern the court of inquiry in its investigation of the charges against Rear Admiral Schley was made public late this afternoon, and follows: To Admiral Dewey, Washington, D. C.:

Upon the request of Rear Admiral Winfield Schley, U. S. N., in a letter dated July 22, 1901, copy herewith, a court of inquiry, of which you are hereby appointed president, Rear Admirals Lewis A. Kimberly and Andrew E. Benham, U. S. N., members, Capt. S. C. Lemley, U. S. N., judge advocate general, judge advocate, is hereby ordered to convene at the Navy Department, Washington, D. C., at 1 o'clock p. m. on Tuesday the 12th day of September, 1901, or as soon thereafter as may be practicable, for the purpose of inquiring into the conduct of the said Schley, commodore in the navy during the war with Spain and in connection with the events thereof.

The court will thoroughly inquire into all the circumstances bearing upon the subject of the investigation hereby ordered, and to this end, besides examining orally all proper witnesses whose attendance can be secured, will call upon the department for all documentary evidence in relation thereto on its files.

Upon the conclusion of the investigation the court will report its proceedings and the testimony taken, with a full and detailed statement of all the pertinent facts which it may deem to be established, together with its opinion and recommendations in the premises. While the department relies upon the discretion of the court to make its examination into this matter full and complete, as requested by the officer at whose instance it is convened, the report should show the conclusions reached upon certain important points, to which attention is specifically directed, as follows:

First, his conduct in connection with the events of the Santiago campaign.

Second, the circumstances, the reasons controlling, and the propriety of the movements of the "flying squadron" off Cienfuegos in May, 1898.

Third, the circumstances attending the reasons controlling and the propriety of the movements of the said squadron in proceeding from Cienfuegos to Santiago.

Fourth, the circumstances attending the arrival of the "flying squadron" off Santiago, the reasons for its retrograde turn westward and departure from off Santiago, and the propriety thereof.

Fifth, the circumstances attending and the reasons for the disobedience by Commodore Schley of the orders of the department contained in its dispatch dated May 25, 1898, and the propriety of his conduct in the premises.

Sixth, the condition of the coal supply of the "flying squadron" on and about May 27, 1898; its coaling facilities; the necessity, if any, or advisability of the return of the squadron to Key West to coal; and the accuracy and propriety of the official reports made by Commodore Schley with respect to the matter.

Seventh, whether or not every effort incumbent upon the commanding officer of a fleet under such circumstances was made to capture or destroy the Spanish cruiser Colon as she lay at anchor in the entrance to Santiago harbor, May 27 to 31, inclusive, and the necessity, for, or advisability of, engaging the batteries at the entrance to Santiago harbor and the Spanish vessels at anchor within the entrance to said harbor, at the rapids used, and the propriety of Commodore Schley's conduct in the premises.

Eighth, the necessity, if any, for, and advisability of, withdrawing the "flying squadron" from the entrance to Santiago harbor to a distance at sea, if such shall be found to have been the case; the extent and character of such withdrawal; and whether or not a close or adequate blockade of said harbor, to prevent the escape of the enemy's vessels, was therefrom, was established, and the propriety of Commodore Schley's conduct in the premises.

Ninth.—The position of the Brooklyn on the morning of July 3, 1898, at the time of the exit of the Spanish vessels from the harbor of Santiago. The circumstances attending, the reasons for, and the incidents resulting from the turning of the Brooklyn in the direction in which she turned at or about the beginning of the action with said Spanish vessels and the possibility of thereby colliding with or endangering any other of the vessels of the United States fleet and the propriety of Commodore Schley's conduct in the premises.

Tenth.—The circumstances leading to, and the incidents and results of, a controversy with Lieut. Albion C. Hodges, U. S. N., who, on July 3, 1898, during the battle of Santiago, was navigator of the Brooklyn in relation to the turning of the Brooklyn; also the colloquy

of the Wells-Fargo Express Company, has committed suicide. A rubber tube leading from the gas jet to the bed where the body was found told the story of his death.

Despondency, due to nervous trouble from which the young man had suffered for years, led to the suicide. He had just passed his twenty-third birthday. He was the son of the eldest daughter of the late Lloyd Tevis, now Mrs. Frederick W. Sharon. His mother is in Paris with her daughter, Miss Florence Breckinridge.

## Trouble Ahead for Banks

Washington, July 26.—Charles D. Daves, comptroller of the currency, today said that the failure of Congress to pass a law early in the coming session authorizing the extension of national bank charters, will cause serious embarrassments to a great many financial institutions operating under national charters. If the law making the extension is not passed before July 12, 1902, according to Mr. Daves, a great number of national banks will be forced into liquidation.

## Drowned at Nag's Head

Petersburg, Va., July 26.—W. P. McRae, representative from Petersburg in the State legislature, and one of the most prominent lawyers in Virginia, has been drowned at Nag's Head. This is the intelligence contained in a telegram received by the Petersburg Club this afternoon. The telegram gave no details.

## Kitchener Will Go to India

London, July 26.—The Manchester Guardian hears that General Lord Kitchener will leave South Africa for India in December, whether the war is ended or not, and that he will be succeeded as commander in chief of the South African forces by General Neville Lytton.

## NO SILVER TALK HEARD IN GEORGIA

### Congressman Livingstone on the Political Outlook

Washington, July 26.—Congressman Livingstone, of Georgia, said today: "I do not see that much fault is to be found with the Ohio Democratic platform. It was a local convention and national issues were not properly before it."

"I believe that less and less will be said about silver in the future. In fact, in my opinion, the next national platform of the Democratic party will be notable for the absence of some of the planks of the Chicago and Kansas City platforms."

"Imperialism, I think, will not be dwelt upon so strongly by the Democrats in their next national convention. People are not very much worried by imperialism. We will insist upon economical, just and honest administration of affairs in the insular possessions and will demand that justice and liberality shall be dealt to the inhabitants in those lands. I do not say that the government should confer upon the Filipinos all the rights of full citizenship, but give them the rights of citizens of a territory belonging to the United States. Governor Taft's position is a good one to my mind."

"Trusts and the tariff, closely allied according to our view, will be made issues by the Democrats. I do not hear any silver talk in Georgia. There are six candidates for Governor and thus far no one has put a silver plank in his platform."

## INTERNAL REVENUE

### Collections Show a Large Increase Over Previous Year

Washington, July 26.—The commissioner of internal revenue has made a preliminary report to the Secretary of the Treasury regarding the collection of internal revenue and the general condition of the service during the fiscal year ended June 30 last. The receipts from all sources of internal revenue for the year aggregated \$306,871,069.42, which amount included \$680,487.64, tax on money orders turned over by the postmaster general to the collector for the district of Maryland and for which no expense for collection was incurred, making an increase of \$11,555,561.85 over the receipts for the fiscal year which ended June 30, 1900.

The expenses of the bureau for the fiscal year ended June 30, 1900 will approximate \$4,737,492.34, and the percentage of cost of collection predicated on these figures, less tax on money orders, as above stated, will be 1.55 a reduction of .03 in the percentage of cost of collection as compared with the preceding fiscal year, when the percentage of cost was 1.58.

## The Drought in Missouri

St. Louis, July 26.—Mr. Ellis, secretary of the Missouri board of agriculture, has made an estimate on the losses of the farmers of this State will sustain on account of the present drought. He says: "I think a conservative estimate of the loss to farmers up to date is \$100,000,000."

## Strike Affects Price of Tin

Philadelphia, July 26.—The strike of steel workers has raised the price of tin plate in this city from 20 to 30 per cent. Before the strike, tin plate sold at \$4 a box in the mill and \$4.17 in Philadelphia. Prices today average \$5 and \$5.25.

## Took Gas and Died

San Francisco, July 26.—Lloyd Tevis Breckinridge, grandson, on the paternal side, of the late Vice-President Breckinridge, and grandson, on the maternal side, of the late Lloyd Tevis, president

## FIXING TO STAY

### Russians Will Build Forts in Manchuria

## GUNBOATS ON RIVER

### Kuei Chun Not Acceptable as Military Governor of Peking—Students to Be Sent to California

Pekin, July 26.—Information has been received here to the effect that the Russians are building two gunboats to patrol the river north of Niuchwang for the protection of natives passing. The Russians will also fortify certain central places in Manchuria, and there is no indication of their withdrawal. The Chinese authorities alone are incapable of suppressing disorder. The Russians are utilizing certain Chinese troops, but they prove incompetent.

On account of the objections to his appointment made by the British and Germans, Kuei Chun will not be able to assume office as one of the military governors of Peking. Kuei Chun, who was formerly viceroy of Szechuen, was a strong supporter of the anti-foreign leaders. He is now scheming to get his appointment as Chinese minister to Russia, a place he was designated for early last year, with the approval of Russia. It is uncertain if this approval still holds good, or if Russia will accept him in view of subsequent developments. Kuei Chun is strongly pro-Russian and anti-English.

Prince Nonore, of Japan, president of the Japanese House of Peers, who is investigating conditions here, had a long interview with Li Hung Chang yesterday, in which the friendly relations of the two countries were discussed.

The Chinese government will appropriate 10,000 taels annually to send ten Chinese students to the university of California. Their education will be under the direction of Dr. Fryer, who has been in the employ of the government for forty years.

## BROOKLYN BRIDGE

### Heat Expansion Theory is Not Swallowed Whole

New York, July 26.—Traffic was resumed on the Brooklyn bridge this morning, but the mere running of cars will not end the agitation that has been started by the sudden snapping Wednesday of a dozen suspension rods. That breaking came as a sudden revelation to the public of the condition into which the bridge has fallen because of neglect. The efforts of the head man in the department of bridges to explain the rotting away of the suspension rods—for rot they did—has revealed to the public a looseness in methods of inspection.

This whole bridge was open to traffic again this morning the broken suspension rods having been replaced. But today the theory, advanced yesterday by Chief Engineer Probasco of the department of bridges, that heat caused the rods to break, is scouted by the other bridge engineers. C. C. Martin, the superintendent and chief engineer of the bridge, does not take any stock in it. Furthermore, he said this morning that the structure is carrying every bit of weight it can stand. He will today send a report to Commissioner Shea, on the condition of the structure.

## ORDERED TO LEAVE

### George Kennan's Presence Undesirable in Russia

St. Petersburg, July 26.—A high Russian police officer called upon George Kennan, the American author and lecturer, at his office Thursday evening, and informed him that he must leave the country by ten o'clock this (Friday) evening. Mr. Kennan was not allowed to leave his room in the interim, but he was courteously treated.

This action of the Russian authorities is taken under the law giving the minister of the interior authority to expel undesirable foreigners. The notice served upon Mr. Kennan characterized him as untrustworthy politically.

Mr. Kennan has informed the United States minister to Russia, Charlemagne Tower, of this action of the Russian authorities, but has not asked Mr. Tower to intervene in the matter.

## Largest Ship Afloat

London, July 26.—The new White Star steamship Celtic, the largest ship in the world, sailed from Liverpool for New York today on her maiden voyage. The White Star people assert that she is also the most comfortable vessel afloat. She displayed wonderful steadiness in the Irish Sea. The Celtic is so large that she is not affected by ordinary waves, and her speed exceeds expectations. She will probably average 17 knots per hour. Her passengers include Foxhall Keene, Reginald Ward, Donald Mackay, George Leslie and B. F. Griscom.