

# SELF DEFENSE TO BE FISHER'S PLEA

## Counsel Outlines Story of Struggle in Fisher's Office Day of Murder.

### PROGRESS SPITE OF DELAY

#### Finch's Attorneys Interpose Objections and Wranglings, and Intention Seems to Be to Make Most of Every Chance for Delay.

Whatever hope James A. Finch may have of cheating the gallows for the murder of Ralph B. Fisher is based on a story which he will tell from the witness stand of the State Circuit Court of a deadly assault on him by the Bar Association prosecutor. This story was outlined before the jury in the case yesterday afternoon by the assassin's lawyers. It is denounced by attorneys for the state as a cunning fabrication, devised by the lawyer murderer in his extremity as the only possible method of saving his neck. The story is said to be as much an assault on the name of the state as an intended vindication of Finch.

That Fisher practically compelled him to shoot will be Finch's declaration from the witness stand, according to the opening statement presented by the defense. He will tell of a peaceful visit to Fisher, wherein he was seeking to build up his lost reputation and regain the good will of the Bar Association. He will tell of Fisher having a sudden and unexplainable fit of wrath during which he attacked Finch with a rotary's seal. Driven into a corner before the elevator boy and a larger man, and finally compelled to shoot to prevent his own brains from being beaten out, that is the lurid picture as drawn by Finch and his lawyers of the scene in Fisher's office at the time of the murder.

#### Much Progress Made.

"We will show that Finch went up in the elevator in the Mohawk building, his hand on his revolver, and that Mr. Fisher was lying a corpse before the elevator boy had time to go to the top of the building and come down again," was the statement of Special Prosecutor Spencer, which disclosed clearly that the state is prepared to meet Finch's weird tale.

Completion of the jury, presentation of opening statements and examination of two witnesses was the unexpected progress made in the case during the day. The state occupied but a few minutes in opening, but the defense consumed 40 minutes in telling of the things that will be developed in behalf of Finch.

Haggling set in when the taking of testimony began. The testimony was of a purely technical and relatively unimportant nature, but all sorts of objections were interposed by Finch and his lawyers. It is more than likely that the case will be greatly drawn out in this fashion, for Finch has admitted realizing that he has a hard fight on his hands and doubtless intends making the most of every opening.

#### Defense Objects to Jury.

It was 11:30 o'clock when the jury was completed, and then Attorney Lord, of Finch's counsel, interposed a technical objection to acceptance of W. H. Musser and Albert Sunderland, who had just been accepted as members of the third special venire issued in the case. Lord called attention to a provision of law whereby all talons on the regular panel must be used up before special venires may be called. Deputy County Clerk Lounsbury was directed to inquire as to the disposition of the regular panel, and he found that all had been used on the various cases excepting one man, who was excused. Objection to the acceptance of Musser and Sunderland was then overruled.

The defense had used 11 of its 12 peremptory challenges by this time. The 11th was used on T. H. Foster, a native of Scotland. There has been a disposition on the part of the defense to rule out even those of Scotch descent, because of the nativity of District Attorney Cameron, who is directing the state's case.

H. F. Yates, the first witness called at the opening of the case, was excused, on account of deafness. William Stead was let out because of physical debility, which he said would prevent him from standing the strain of a murder trial. After Foster had been challenged, Musser and Sunderland were accepted by both sides.

The jury was not sworn until 2 P. M., when the 12 men were taken to Ralph Fisher's law office to view the scene of the murder.

#### Finch to Be Handcuffed.

It was asked of the Court that the Sheriff be instructed to omit handcuffing Finch hereafter.

"He's perfectly harmless and there is no use humiliating him with heavy handcuffs, for he doesn't intend to try to escape," Lord assured the Court. Judge Bronaugh, however, said that this matter was entirely at the discretion of Sheriff Stevens.

Finch accompanied the jury to Fisher's offices in the Mohawk building and showed a great interest in the arrangement of the fixtures. He gave no sign of any feeling as he heard the spot on which he shot Fisher down less than a month ago. After familiarizing themselves with the arrangements of the two rooms, the jurors were returned to the courtroom and the opening statements were taken up at once.

Special Prosecutor Spencer outlined the case without going into the details of testimony to be presented.

#### Spencer Outlines Case.

"Ralph B. Fisher, as we shall show to you, gentlemen, was an ambitious and an esteemed young man, and the good will of all who knew him," said Mr. Spencer. In his capacity of prosecutor of the Bar Association it became his duty to proceed against the unworthy of the profession. It will be shown that it was necessary for him to file three charges against his defendant, Finch— for drunkenness, forging a pension certificate and—

"Hold on, I object," said all four of Finch's lawyers at once. They went on to say that the previous charges had qualifications, the later suggested that nothing to do with this trial and were Fisher was in the room would look and see and as he opened the door to the inner office, Finch brushed past, his hand on his gun, and almost on the instant sustained in their view.

"Well, leaving that aside," proceeded Mr. Spencer, "I will state that on November 24 the Supreme Court disbarred Finch, finding him unworthy of practicing law. On learning this, Finch, who was out of the city on business, came back here at once and began circulating a petition for his reinstatement. He asked Mr. Fisher to sign, but this Fisher declined to do. This request was made or repeated on the morning of November 25 and we will show to you that Finch

left his office at 11:30 A. M., going to the Hudson Arms store, where he bought a cheap revolver and a box of cartridges, getting the clerk to load the revolver.

**Tells Story of Murder.**

"Finch, as we shall show you, then went towards the Mohawk building, where Mr. Fisher had his office. He passed a saloon in the neighborhood to take a couple of drinks or so and then went on into the Mohawk building, his hand on his revolver. And before the elevator boy who took Finch up had time to get to the top of the building and down again, Fisher was lying a corpse beside his chair and dead in his office."

Now will show you that when Finch reached Mr. Fisher's office he inquired of Miss Burkhardt, the stenographer, if she saw a fatal bullet through the door. "We expect to show, beyond any question of a doubt," concluded the Special Prosecutor, "and we will show in the minutest detail to the satisfaction of every man who believes in law and the protection of human life, that this man Finch, with vengeance in his heart and revenge in his mind, went up there as a dastardly and diabolical fiend as any murder was ever committed took away this young husband and father. His wife and child were left behind, and he was shown when he said, 'Hello, Ralph,' and then murdered him in—"

"I object," put in Attorney Lord, "to this unjustified announcement," and the objection was sustained.

#### Defense Goes Into Detail.

"Maybe I was wrong in thinking there was room for another explanation in the name of Mr. Lord," suggested Spencer, and shortly concluded his remarks.

Lord outlined the case of the defense in greater detail.

"It is my duty, and a grave one, to state between the defendant and the malefactor which has just now been shown to you only too well," he said. "In this duty I must ask you to help me, not only as jurors, but as citizens."

"The facts will not be, I fear, quite as delineated by the Special Prosecutor, and I want to ask you as jurors to tell me your own opinions and judgment until you have heard the last word of testimony. Evidence will be presented here and agreed to drop these charges from me, or rather charge, for there was only one."

"Mr. Finch was not disbarred, as has been stated here. He was suspended for one year because of drinking. His friends wanted to see him given a fair chance, and many of them called on Mr. Fisher, among the number being C. M. Ideman. About 11:30 o'clock of the day of the killing Fisher called up Finch on the telephone and asked to see him. It was in response to that message that he went over to the office."

#### Gives Explanation of Gun.

"Now, the night before, we will show that C. H. Pigott, a nephew of the man who is accused in this case, was called by Mrs. Finch, who was occupying his house, and who complained that burglars were trying to get in. She asked him to purchase her a revolver, and so the next day Finch, learning of the incident, went down and bought a gun and went back to his office. It was immediately upon his arrival that he got the telephone message from Fisher to come over."

"When Finch entered the private office of Ralph Fisher, who was alone at the time, he said, 'Hello, Ralph; how are you?' or something of the sort. I don't know his exact words after that, but he began pleading with Fisher for another chance. 'Why can't you give me a show?' he said. 'I'm poor, just married, broke, got a family to support, and for God's sake give me a chance. You can if you want to.'

"That was the nature of Finch's plea, and in some way Fisher became very much incensed and used harsh language and without provocation or excuse seized Finch by the collar and pushed him back against the wall, where he struck Mr. Finch on the head, loosening a bone."

#### Tells of Desperate Fight.

"Finch didn't want any trouble and he said, 'For God's sake, don't, don't, don't.' He tried to get out, but his positions were such that he had to pass Fisher, who had arisen. Mr. Finch started to go by him, and again the seal came to go by him, and again the seal came to go by him. Half dead by the blow and putting aside the insult, he again tried to escape."

"I dislike to say these things against the dead, but it is my duty to do so. Finch struck Finch again on the back of the head, knocking off his hat and making a slight wound. Then he threw the notarial seal at him. Finch had to protect himself from a man larger than himself. If he had not had the revolver with him it is likely that he would have had his brains beaten out. Half dazed from the blows on the head, he put his hand in his pocket, drew the gun and fired. And the evidence of competent witnesses will show you that he was justified in protecting himself, that you can't have a murder scene without a hero—came rushing heavily up in the person of Chester N. Dolph. He seized the revolver and pursued the assassin until the police arrived and relieved him."

#### Two Witnesses Examined.

Lord concluded by saying all these things would be fully proved and asking that the jurors be attentive and decide purely on the testimony. He attempted an arraignment of The Oregonian for its expressions on the subject of Fisher's assassination, but was interrupted by Deputy District Attorney Fitzgerald. Judge Bronaugh directed him to confine himself to the case.

John G. Wilson, an architect who prepared a diagram of Fisher's offices for use during the trial, was called by the state as the first witness in the case. He explained these maps in detail and was subjected to a long and apparently meaningless cross-examination. It was made very plain that the case is to be a stubbornly fought and that every possible technical point within the law is to be put to use.

J. G. Moreland, clerk of the Supreme Court of Oregon, was the cause of a fresh series of objections and wranglings. He was called by Mr. Fitzgerald to identify the records of the Finch disbarment proceedings. Lengthy arguments against this were made by Attorneys Lord, Holcomb and Campbell. Holcomb was particularly sure that the document could not be admitted.

#### Tilt With Judge.

"You'll make this a mistrial, I'll tell you that," Holcomb advised Judge Bronaugh, who promptly ruled the other way and directed that the case proceed. Moreland was used merely to identify the records in the case and was excused without cross-examination.

"Court was then adjourned until this morning at 9:30 o'clock when the state will proceed to prove the facts of the killing."

Finch was absorbed in the proceedings all day and watched every move that was made. He made frequent suggestions to his lawyers, and was jotting down memoranda while the brief testimony of the day was being taken.

#### Large Crowds Attracted.

No murder trial of past years has attracted so many people. Although the curious multitude was excluded after the seats had all been filled, enough persons claiming to be lawyers got into the room during the afternoon to jam completely every inch of standing room. There were no less than 200 persons in the spacious courtroom and double that number was turned away.

The completed jury in the case is: W. G. Abbott, E. E. Fowler, J. W. Davis, W. E. Charlton, S. I. Ogden, Robert Service, Charles J. Bush, C. H. Thompson, M. L. Lank, F. W. Hanna, W. H. Musser and Albert Sunderland.

# GROGERS OUT OF IT

## State Pure Food Law Must Come From Other Source.

### DEFEATED TWO YEARS AGO

#### Association Spent Time and Money on Measure Which Was Beaten in Last Legislature by the Jobbers.

If legislation enlarging the scope of the pure food laws of the state is presented at the coming session of the Legislature, it will have to originate from less interested sources than those that fought earnestly for such a bill at the 1907 session. Two years ago the Retail Grocers' Association introduced and supported a bill guarding against the introduction of adulterants into the state and requiring true net weight of all packages. Jobbers and manufacturers joined in an assault on this measure, the author of which was D. C. Burns, a Representative from this county. As a result that provision of the bill relating to weights was eliminated.

The Retail Grocers' Association spent considerable time and money preparing the bill, which was modeled after the National pure food law. It passed the House by practically a unanimous vote, having been recommended favorably by the committee, of which Mr. Burns was chairman, and to which the measure in its original form had been referred. The jobbers and manufacturers went before this committee, but could not get the desired concessions, and when the bill reached the Senate, these forces transferred their fight against the measure to the Upper House. After having been reported favorably in that body by the Committee on Horticulture, the bill was referred to the Judiciary Committee, where the net weight clause was eliminated and the measure reported back to the Senate late in the session and passed in its amended form.

In contending for this law, the Grocers' Association was opposed not alone by the jobbers and manufacturers. Resolutions were adopted by the Consumers' League protesting against the bill. The same action was taken by the Board of Governors of the Portland Commercial Club, with the result that the Judiciary Committee concluded that if such a bill is to be presented for legislative consideration this winter it must come from some other source.

"We spent both our time and our money two years ago trying to have this law passed which would insure for consumers full-weight packages," said Charles B. Merrick, secretary of the Retail Grocers' Association yesterday, "but we received opposition from very unexpected sources. Principal among the opponents to the bill was the Consumers' League, the very organization that should not only have been directly interested in the proposed bill, but should have joined with us in our fight. Among the 90 members of the Legislature, at least eight are members of our organization from different parts of the state. So far as I am advised, none of them expects to father any such measure, although if such a bill should be introduced they would not only support it, but do everything in their power to bring about its enactment."

Mr. Merrick said that the grocers of the state are making elaborate plans for the third annual convention of the Oregon Retail Grocers' and Merchants' Association, which will be held in this city January 6 and 7. It is expected that 100 delegates will be in attendance. The purpose in holding this convention just prior to the meeting of the State Legislature is to give the members an opportunity to consider subjects of needed legislation in connection with their routine deliberations. The grocers believe that this organization may take the initiative in seeking to extend the provisions of the pure food laws of the state.

# CHICAGO PARENTS ANXIOUS

## Send Many Letters Urging That Their Children Come West.

### THE WHITE IS KING

The proud parents of promising children in Chicago have swamped the publicity department of the Commercial Club with applications inquiring for information as to the qualifications that will be required of the 50 Chicago school children whom Tom Richardson, manager of the club, proposed to bring to Oregon next year as a novelty advertising departure. No less than a dozen communications on this subject reached the desk of Assistant Secretary Crissey yesterday. More are expected today and daily hereafter.

One mother, residing in one of the suburbs of Chicago, wrote to inquire if the list to be selected would be confined to children residing in the city proper, also to inquire that her 17-year-old lad had been considered an applicant for the transcontinental trip.

Another of the letters came from a proud father who described the many virtues of his 16-year-old offspring, who, he wrote, neither drank nor chewed nor smoked the "nasty cigarette." Possessed of these exceptional qualifications the father suggested that his boy was about the proper type to be recognized in selecting a party of 50.

Of the many letters received only one presumed to disapprove of the plan to have the party consist of 50 school children. The author of this one was a woman who formerly resided in the West. She contended that a better plan would be to choose 20 progressive women, believing that from an advertising viewpoint, better results could be expected.

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#### RULES GOVERNING THE CONTEST

Any person living in the United States can enter this contest. No employee of this firm or of any firm in the same business will be allowed to enter contest. It is conditional upon entering contest that contestants shall abide by the decisions of the judges, who will be three representatives of the daily papers of Portland.

Take a piece of paper the size of a Government postal card, write the following sentence, "The White is King of Sewing Machines," as many times as you can, and on the other side of paper answer the following questions: Have you a sewing machine? Old or new? What make have you? How many times did you write the sentence? Write your name and address plainly. The prizes will be awarded as follows:

**FIRST PRIZE**—The one writing the sentence the greatest number of times will receive free of charge a beautiful \$80.00, style 35, drop-head, automatic-lift White Sewing Machine, with a complete set of the latest improved ease-hardened steel attachments. There will be 100 other prizes awarded, ranging in value from \$15.00 to \$25.00.

**The Contest Closes December 29 at 10 P. M. Address Letters**  
**H. D. JONES, (Contest Dept.) 420 WASHINGTON STREET PORTLAND, OREGON**



to be given away absolutely free to the one writing the sentence the greatest number of times. It is yours for the mere trying. The White Sewing Machine Company has placed at our disposal 100 of their latest improved drop-head automatic-lift machines for advertising purposes. One to be given away free. There are 100 other valuable prizes to be given away. If you are not successful in winning the first prize, you can easily win one of the other 100 prizes. These prizes are valuable to the winners. Do it now.

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