

What Is The Law?

This column is prepared as a public service by the College of Law, Willamette University, Salem, to explain basic legal principles, not to provide legal advice. The reader is cautioned not to apply these cases to his own problems without an attorney's advice, for differing facts may change the outcome.

Burglary, Day or Night, Is Crime in Oregon

Sam was opposed to working for a living, and law-abiding conduct was not one of his strong points. While loitering in a tavern one evening, Sam overheard John tell a friend that John and his family were leaving on their vacation at 4 a.m. the next day. Sam hid behind some bushes until John and his family drove away. It was broad daylight, but the sun had not risen, and did not rise that morning until 4:21. As soon as John's car turned the corner Sam looked around to be sure that the coast was clear and then broke the lock on the back door of John's house and walked into the house.

It was then 4:05. As luck would have it, John had forgotten his camera. He thought of the camera when he was a few blocks away. In the meantime Sam was intent on stealing the family silver, and was busily ransacking the dining room, looking for the box with the silver in it. Just as Sam found the box of silver, and before he actually had his hands on it, John returned to the house to get the camera and the jig was up for him. John tied Sam up, and John's wife called the police. Sam was indicted for burglary.

Sam Was Wrong

Sam protested that he was not guilty of burglary. "How can I be guilty of burglary," said Sam. "It was broad daylight, and burglary is a crime that can only be committed in the night time."

Was Sam correct? No, Sam was wrong again. The usual definition of common law burglary is the breaking into the dwelling house of another, in the night time, with intent to commit a crime. Sam had certainly broken into a dwelling, and he certainly intended to commit the crime of larceny. But had Sam committed the breaking and entering in the night time?

Law Definition Changed

The ancient rule seems to have been that from sunset until sunrise it was night for purposes of burglary, but the later common law held that it was not night, even after sunset and before sunrise, if there was enough daylight to allow the face of a person to be seen. Sam would have been correct, except for the fact that the common law definition of burglary has been changed by statute in Oregon. Since 1951 under the Oregon statute breaking and entering a dwelling house with intent to commit a crime therein is burglary, regardless of whether it be done in the night time or the daytime. Burglary with explosives is limited to nighttime, however, and in that connection the Oregon statute provides that "nighttime" includes the period between sunset and sunrise.

Touring Russians Don't Like Tour

Chicago (UPI)—A party of Russian officials Saturday threatened to break off a tour of Chicago unless they were shown steel mills, factories and "more of the economy."

Only a last-minute change in plans by hurried tour officials stayed the threatened Russian departure to their hotel rooms. And matters were not helped by a cold war among rival tour leaders.

The threat came from Premier D. S. Polyansky, chairman of the council of ministers of the Russian Soviet Federated Socialist Republics, after the group had shown little interest in the hatching of baby chicks at a museum. Polyanski, head of about 25 upper echelon Communists, many of them roughly comparable to U.S. governors, called a halt to a tour of the Museum of Science and Industry and told tour officials: "We want to see more of the economy. We want to see steel mills, factories at work."

Norfolk, Va.—(UPI)—The skipper of a Navy destroyer which lost six men on its final voyage said Saturday his ship was slammed with what appeared to be a combination of two waves which hit with a "one-two punch."

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