

Defendant Acquitted.

Special Report for the Cincinnati Gazette.

DAYTON, O., Jan. 30.

On the calling of the case, this morning, the attendance was not quite as large as that of yesterday. The testimony for the State was so thin yesterday that it had deprived the case of most of its interest. I would not present an epitome of the evidence of to-day if it were not that I desire the readers of the GAZETTE, who have read so much that is prejudicial to the defendants, to see how little there was in the case to furnish a pretext for bringing good people into court for the purpose of annoying them and destroying their reputation. It will be remembered by those who have kept the run of this case, that I some time ago indicated the probable termination of this trial. I did not, however, apprehend so complete an overthrow of the prosecution.

The defendant, Sarah Earhart, with her son Michael, and a number of relatives and friends, were in the court room before the hour set for reopening the case, and were represented by Hon. Samuel Craighhead and W. W. Shuey, Esq. The State was represented by Prosecutor Young, assisted by Elibu Thompson, Esq.

Soon after the case was called, Robert W. Schaeffer, the "material witness" for the State whose absence at the former term of court caused the continuance of the case, made his appearance in the court room, and, by reason of his relation to the case, soon became "the observed of all observers." On taking the witness stand, Mr. Schaeffer was asked a question which Mr. Craighhead deemed incompetent and improper. It indicated the purpose of the prosecution to show a conspiracy on the part of Mrs. Earhart and her son to poison the Hannas, without having first offered proof to establish a conspiracy. He submitted that the fact that mother and son were together on the day of the alleged poisoning was no evidence of conspiracy, because they resided together for many years, and were in daily intercourse. The defense did not care anything about the testimony, but deemed it incompetent, and of mischievous tendency. Judge Elliott remarked that, while the testimony was not offered in the proper order, it was a statement of facts, and the jury could decide what weight it was entitled to. The Court was free to say that he couldn't see what relevance the evidence sought to be elicited could have to the case, and thereupon the prosecution did not press the matter further.

Mr. Schaeffer then stated in reply to a question from the State's attorney, that he was a clerk in the drug store of Mr. Roseberry, in Germantown, at the time of the alleged poisoning of the Hanna family. He was not acquainted with Michael Earhart; couldn't positively identify him as the man who purchased poison on the day of the alleged poisoning, but thought he somewhat resembled him. He sold eight drachms of white, powdered arsenic to a man who said the rats were so bad out at his place that they threatened to carry off the house, and he was determined to make way with them. He couldn't say whether this was in the forenoon or afternoon. The man who sat before him, and was designated as Michael Earhart, somewhat resembled the man who got the poison, but he wouldn't say he was the man.

On cross-examination witness said he waited on the man who got the poison, and that no other person was in the store at the time. He noticed nothing unusual in the man's actions, and he only remembered the circumstance from the reference the stranger made to killing rats. Dr. Donnellan got a small quantity of arsenic afterward from the same jar, for experiment, he said. Witness said when he heard of the poisoning the next day and had a description of Earhart, that he believed he was the man who got the poison; he went out to Earhart's with an officer to see if Earhart was really the one who got the poison, but he was not certain about it. He might have told persons that Earhart was the man, and he might have told others that he was not certain about it; he had been asked so much about the matter that he could not remember what he had said. He might have told parties that the man who got the poison was a heavy set man and had a darker complexion than Earhart. The fact was, when he went to Earhart's he expected to find a larger man than Mike Earhart, and he had admitted that he was probably mistaken, and that the man got the poison was heavier than Earhart, to whom he sold poison on the same day.

To the question, "Did you not know that it was a violation of the law to sell poison without making a complete record of the transaction—date, name and description of purchaser, with place of residence, purpose, etc., etc.," witness declined making reply, on the ground that he would criminate himself, Mr. Craighhead remarked that on account of the failure of the witness to observe the law in this very important particular, the defendant had been dragged into court to defend her fair name, and repel an outrageous imputation upon her honor. Had the name and address of the party who procured the arsenic from witness been recorded, as the law requires, this case would never have been brought against defendant. He trusted that druggists and drug clerks will learn an important lesson from the case in hearing, and that hereafter they will realize the necessity of conforming to the law. The court said it was competent for the witness to state whether he made a record in the case in hearing, and Schaeffer answered that he did not; that while he was with Roseberry it was not the rule to make record of the sale of poisons, and he only followed custom.

I have given the substance of Schaeffer's testimony; and when it will be remembered that he was relied upon to convict the defendants in this case, the reader will be prepared for the denouement.

After the brief examination of a witness, the constable who made the arrest of Mrs. Earhart and her son, which failed to throw any light on the case, Mr. Thompson, Assistant Attorney for the State, arose and said the State having failed in making out anything like a case against the defendant, Sarah Earhart, recommended that the Court instruct the jury to render a verdict of not guilty without leaving their box. And a verdict was rendered, accordingly, just as soon as it could be written and signed.

The Prosecuting Attorney then said that, as Michael Earhart had been indicted jointly with his mother, and the case resting on the same testimony, he moved that a *nolle* be entered in his case, and that defendants and their sureties be discharged.

The result was received with gratification by the audience in the court room, and the mother and son were warmly congratulated by the attorneys, relatives, and friends; and none were more earnest in their congratulations than John Hanna and his daughter Katie, two of the three persons whom the defendants were falsely alleged to have poisoned.

No such scene was ever before enacted in the Court House, and it is proper to say that the Earharts stand higher in community than ever before, from the fact that they are more widely known, and their excellent qualities appreciated, by reason of this trial.