

FIGOCELLI IS FREE

Case of Alleged Murderer Decided by the Court.

EVIDENCE WAS VERY SLIM

And Justice Rich Granted Motion of Attorney Coburn to Discharge the Prisoner.

Giovanna Fiocecell, charged with the murder of John Burke in Chase street on the night of June 18, 1910, was made a free man shortly after the opening of Supreme court this afternoon.

The case was practically finished this morning and this afternoon Attorney Frank S. Coburn renewed his motion for the discharge of the defendant on the ground that the People had failed to establish a case. Justice Rich briefly reviewed the evidence. He called attention to the undisputed fact that the defendant said that he did not know Burke, and there is no proof that the defendant committed this crime.

"There don't appear a scintilla of evidence in this case which tends to connect this defendant with the commission of this horrible crime. I have concluded after listening to the testimony that there is but one thing for me to do and that is to direct a verdict of acquittal. I so direct the verdict," said Justice Rich.

"I also wish to commend the county officials and the police officers. They did their duty and did it well." The jurors registered a verdict of not guilty and court was declared in recess. Fiocecell was joyfully greeted by his father and Italian friends of the city. He was discharged on motion of District Attorney Clark and a similar order was issued for the discharge of the parent woman.

ACCUSED ON THE STAND

Didn't Shoot Burke or Even Know Him, H. Says.

The Fiocecell murder trial moved along at a rapid pace in Supreme court yesterday afternoon. District Attorney Clark called a number of Italians to show that Nick Colletto was in their company all the evening of the tragedy and was with them until after the murder was committed. To facilitate matters Mr. Coburn conceded that Colletto was with the men all evening until after the shooting.

Augustino Agovozio, one of the men, blurted out that John, indicating the defendant, was "a good boy." He was called to order with a bang of Justice Rich's gavel.

Mike Alamo, another Italian, stated that he knew the defendant and worked with him at the No. 2 plant of the I. H. Company. "Did you shoot Burke?" asked District Attorney Clark.

Alamo gave a gasp and managed to ask: "What I shoot him for?" He was much relieved when the attorneys for both sides assured him that they did not consider him as doing the shooting, and it was conceded that he did not.

Rose Parent was then recalled by the prosecution. She testified that Fiocecell had told her that the revolver did not shoot right after the murder.

The people rested at 2:45. Fiocecell to the surprise of the defendant's counsel, who were not expecting to get on with the defense until this morning. Mr. Coburn at once moved for the discharge of the defendant on the ground that the People had failed to furnish evidence sufficient to warrant the jury finding a verdict of guilty. The motion was denied.

In opening the case for the defense Mr. Coburn stated that he was content to present the case on the evidence produced by the prosecution which, he said, failed to connect the defendant, even remotely with the crime. He contended the theory of the district attorney. "Our theory," said Mr. Coburn, "is this: Colletto did not commit the murder, but he did arrange for another to commit it, and that man was Scutiere who was identified by Burke as the man who killed him. We are not here to accuse Scutiere. That is for the district attorney. But we are here to say there is no doubt of the innocence of Fiocecell. Scutiere was such a man as would be apt to commit the crime."

Mr. Coburn laid particular stress upon Burke's identification of Scutiere, and continued: "This defendant was led astray by a dissolute, passionate and beastly woman. He tried to break off the unholy alliance and the woman manufactured the charge against him. We will produce a witness, an old lady, who lived in the same house, to whom Rose said the day after John left: 'I had a dream. The Madonna tells me I must accuse John of murder up at Auburn.' Then it was she conceived the plan to accuse John. A year and a half elapsed before John's attention was called to the crime and he came to Auburn of his own accord."

The first witness for the defense was Dominic Rossig of 18 1/2 Court street, subpoenaed by the People, who testified that he recalled the night of the killing of Burke. He then lived with Fiocecell and Rose. The latter usually went out together.

Bought a few things. Was gone about an hour."

"When did he return?"

"I don't know, when I returned I believe all were inside."

"Ross testified that he learned of the crime on Monday following from an American fellow workman. On cross examination Mr. Clark brought out that there were two statements made before Recorder Stupp by Dominic Rossig. Witness refused to identify the signature on the statements and it developed that there was another Dominic Rossig who made a statement. The two Rossigs lived for a time at No. 9 Cottage street."

Michele Esposito of Providence, R. I., a workman for a butter maker, testified that Rose Parent said to him in Providence, after John left her: 'I have found a way to punish him. I have this opportunity. I will go to the police where they know me and tell them it was John killed the man at Auburn.'

Witness saw Rose later and she told him she had been to the police who had telegraphed to Auburn. Witness told her she was doing wrong and would be convicted herself, to which she replied: 'I don't care so long as I punish him.'

The cross-examination developed nothing material. Sante Norato of Providence testified to trouble between the pair and to a statement by Rose in which she said: 'John is not coming back. I will fix him. His family has taken him away from me and I will take him away from them. If that won't do I'll kill him and myself.'

On cross examination witness said Fiocecell's father came to see him soon after the change was made against John.

Anthony Pettine, of Providence, attorney for the defendant, took the stand and testified to a proceeding brought by Rose on September 8, 1911. A certified copy of the record was offered in evidence but denied admittance upon objection by Mr. Clark. On cross-examination Mr. Pettine said he knew of an action brought by Rose against her husband which was not prosecuted to final judgment. Mr. Clark said: "She thought she had a decree."

The defense had run out of witnesses at 4:50 and the trial was suspended for the day. Mr. Coburn stated that he expected to finish early today and asked permission to see the defendant in the evening between 8 and 9 o'clock, which was granted.

Some Character Witnesses.

The murder trial was rushed along in Supreme court this morning. Attorney Coburn swore a number of character witnesses who testified to the good reputation of the defendant. They were George H. Phillips, Hurl Mae, Henry D. Baker, Christina Natolo.

James Ray was called and testified to the identification of Scutiere by Burke as his assailant at the hospital after he had been shot. Chief of Police Bell testified along the same line.

Defendant on the Stand.

Giovanni Fiocecell, alias Giovanni Parenti, the defendant, was called to the stand about 11 o'clock. He talked low as he is recovering from tonight. In response to questions by Attorney Coburn the defendant stated that on the night Burke was shot he was home all night; that he never told Rose Parenti that he shot Burke; that he never told Rose that he might be arrested and she would have to go bond for him; that he did not know John Burke; that he was not on Chase street on the afternoon or evening of the day of the murder; that he knew Colletto; and left Colletto's home on account of trouble between the head of the family and Rose; that he never saw Colletto after leaving his home; that he did not know or have anything to do with the killing of John Burke.

On cross examination by Mr. Clark Fiocecell stated that he took the name of parent when he went to Boston. That he did so because he didn't want to disgrace his family by going away with Rose. That he took the name of lives in shipping his household goods from Auburn as they were not entirely paid for. The defendant denied that he had ever been convicted of crime before and said that he had never been convicted in Italy.

Fiocecell admitted that the revolver in evidence was his and that it was in his possession at the time of the murder. That the revolver was in good working condition. He stated that the revolver now was not in the same condition. That it was not rusty when he had it.

Was Arrested in Italy.

Fiocecell said he was arrested in Italy for a fight with a boy and that his father had him sent to a reform school. That the other boy was cut but died from sickness and not from the cut. He denied that he ever told Rose that he killed a boy in Italy.

He was asked many questions regarding his testimony before the police authorities of Providence following his arrest but he could remember very little regarding what he said at that time.

Giuseppe Clazo was the last witness called for the defense, and was not cross examined.

In Rebuttal.

Giuseppe De Stefano of South Division street was sworn by District Attorney Clark in rebuttal. He knew Vincenzo Scutiere and Scutiere was at his home on the night of the Burke murder.

Giovanni Destefano testified along the same lines. Mrs. Mabel Blake, stenographer for the Providence police department, was called by District Attorney Clark to testify regarding her minutes taken at the examination of Fiocecell at Providence. Mr. Coburn objected and the objection was sustained on the ground that the answers were made by the interpreter and she could not understand what Fiocecell said.

The attorneys stated they had one witness each to call and a recess was taken to 2 o'clock.

Music Y. M. C. A. Rink tonight.

Muslin Night Robes, 39c. O'Brien's Clean Up Sale.

BLEW TAPS FOR MANY

Death of B. Frank Barney Well Known Civil War Veteran.

B. Frank Barney, the veteran bugler, died at his home No. 26 Capitol street this morning after an illness continuing over several months. The news of his death will come as a shock to many veterans of the war who in the days of '61-'65 as well as at the passing of many of their comrades since have heard him blow the bugle calls.

Mr. Barney was a member of C. H. Stewart Post No. 37. In the record of the Third New York Light Artillery, as compiled by the adjutant general of New York, 1896, the following appears as the record of B. Frank Barney: "Enlisted August 14, 1862, at Auburn, age 25 years. Mustered in as bugler, Battery B, August 16, 1862, to serve three years. Transferred September 20, 1863, as private to Battery I. Mustered out June 16, 1865, at Newbern, N. C."

The funeral will be held at his late home on Friday afternoon, with interment at Fort Hill cemetery. Besides the widow, one daughter, Mrs. Helen Groot and one son, Earl R. Barney of Buffalo, survive.

SECOND BAPTIST ANNUAL

Fine Increase in Membership and Pastor's Salary is Raised

The annual corporate meeting of the Second Baptist church was held last evening. George B. Sweating, chairman of the board of trustees, called the meeting to order at 8 o'clock, and Miss Margaret Lynch was chosen clerk. The pastor, Rev. Edward L. James, was named as chairman of the meeting. Reports from the different societies and organizations of the church were read. They all showed a very satisfactory condition in the activities of the church.

The every-member canvass showed an increase of \$400 in pledges for current expenses over the last year. T. G. O'Brien was selected trustee and Sidney Bigelow was elected trustee in place of W. L. Hankins who declined re-election.

A. R. Wroath was elected financial secretary. Miss Margaret Lynch church clerk, Henry Fell chorister, and Harry Harter chairman of the board of ushers. The society voted an increase of \$260 in the pastor's salary. An increase of 55 new members to the church roll since January 1, 1911, was noted with satisfaction.

DEATH WAS SUDDEN.

Mrs. Grace W. Hoxie of Union Springs Will Be Buried Here.

Grace W. Hoxie of Union Springs, widow of Dr. Frank Hoxie, died suddenly at her home in Center street in that village yesterday morning. Mrs. Hoxie, who was in her 61 year age, passed in the best of spirits yesterday morning early but about 8 o'clock she went upstairs. When she did not return, Miss Anna M. Flynn, a member of the household called to her but on receiving no response, she went in search of her and found her dead in a chair.

Coroner A. J. Forman of this city was called and the cause of her death was pronounced as organic heart disease.

Funeral services will be held at her home in Center street in Union Springs Friday afternoon at 2 o'clock. Burial will be made in Fort Hill cemetery in this city on Saturday morning at about 9:30 o'clock, or on the arrival of the train from Union Springs at about that time.

WILLIAM DUNDON DEAD.

Was First Man to Have a Five and 10 Cent Store in Auburn.

William D. Dundon, many years ago one of Auburn's prominent business men but who of late years had been living in retirement, died shortly before noon today at Cayuga where he had made his home for some years. Mr. Dundon had the first five and 10 cent store in the city and was one of the pioneers in that line of merchandising. He is pleasantly remembered by many of the older business men and former patrons. He was 82 years old. He is survived by his wife and two daughters, Mrs. R. T. Durling and Miss Ruth Dundon of Cayuga. Arrangements for the funeral are incomplete.

Herrick Acceptable to Franco.

Washington, Feb. 7.—President Taft was informed today by Secretary of State Knox that the French government had found former Governor Myron T. Herrick of Ohio acceptable as ambassador to France and it was said that Mr. Herrick's nomination for the Paris post would be sent to the Senate within a few days.

Dentists at Syracuse.

A number of the Auburn dentists were guests of the Syracuse Dental Society last night at dinner at the Onodaga. After the banquet, the Free Dental Dispensary was inspected and a meeting of the Syracuse Dental Society attended. Those who were present from Auburn and the vicinity were: R. B. Avery, W. A. Myers, A. P. Burkhardt, S. R. Meaker, H. E. J. Hammond, F. J. Baker, F. C. Sebald and C. D. Van Alstine of Weedsport. The Auburn Dental Society will return the compliment to the Syracuse Dental Society in the near future.

The Ramblers' Banquet.

The members of the Ramblers Social and Athletic club held a most enjoyable banquet at Krause's tavern on the Owasco Pike last night. About 40 members and friends of this regular organization were present and did ample justice to an elaborate "feed" which was followed by an entertainment programme that was liked by every one present. Miles F. Korman, instructor of the club was chairman of the committee of arrangements.

King Frederick III.

Copenhagen, Denmark, Feb. 7.—An official bulletin was issued this morning by the physicians in attendance on King Frederick who was last evening while out walking soiled with a sudden illness. It says: "The King passed a satisfactory night. He slept well but has a little fever arising from slight inflammation of the lungs."

Funeral of Mrs. Eliza Burns.

The funeral of the late Mrs. Eliza Burns, who died at Salamanca, N. Y. last Sunday was held from the home of her niece, Mrs. Catherine Hollan, No. 163 Seymour street, at 9 o'clock this morning with services

ROMANCE OF REAPER

Seen by Big Crowd Last Night—Last Exhibition This Evening.

The second performance of the Romance of the Reaper for Auburn Business Men and employes and officers of the International Harvester Company was held last night in the Burtie Auditorium and probably as large a crowd as ever entered the big structure attended the performance. As on the first night the pictures attracted much interest, and their educational value was a revelation to all citizens, whether employes of the big industry or not.

The meeting was not only devoted to the pictures with lectures on the various developments of agriculture as portrayed, but there were speeches by Mayor Thomas H. O'Neill, President E. C. Alken of the Business Men's Association, Col. E. D. Metcalf and others, and a letter was read from Thomas M. Osborne who was to have been a speaker but is confined to his home with illness. Tonight the third and last performance will be given for the benefit of employes and members of their families.

HOME FOR THE AGED

At Union Springs Incorporated by Residents and Syracuseans.

The certificate of the incorporation of a United States Home for Aged People at Union Springs was filed in the county clerk's office this morning. The Home is formed for the care of aged people and the maintenance of a laundry and the sale of products raised on the Home property. The capital stock is \$60,000 consisting of \$15,000 preferred stock paying 6 per cent, cumulative dividends and \$45,000 common stock. The corporation begins business with \$15,000.

The directors are Frank L. Mallon, Laura Mason, George W. Hull of Syracuse, William H. Miller, Oscar J. Spencer, R. R. McCully and Laverne Doremus of Union Springs.

BRIEF LOCAL MENTION

Shaker Flannel, 4 1/2c. O'Brien's Clean Up Sale.

Mrs. Catherine Lynch and family desire to express their thanks to all neighbors and friends who rendered assistance in any way during their recent bereavement.

Men's Flannel Shirts, 39c. O'Brien's Clean Up Sale.

The State Parole Board will meet tomorrow at Auburn prison to consider the applications of inmates of the men's and women's prisons for release.

38c Lace Trimmed Petticoats, now 50c. O'Brien's Clean Up Sale.

John J. Clark's Thread, 3 spools for 5c. O'Brien's Clean Up Sale.

Thomas Bryant, who is a freshman at Cornell university, is spending a few days with his mother, Mrs. Sarah A. Bryant in East Genesee street.

NEW ACTIONS BEGUN

Right of Civil Service Commission to Transfer Positions to Be Tested.

Albany, Feb. 7.—New actions have been begun to test the right of the State Civil Service Commission to order transferred from the competitive to the exempt classification the positions of transfer tax appraisers and stock transfer tax examiners in the State Comptroller's office. There are 23 appraisers in various counties of the State whose salaries range from \$1,000 to \$4,000 a year and 13 stock transfer tax examiners each of whom receive \$1,700. The courts recently held that the commission was within its powers in ordering the changes.

Attorney General Carmody announced today that he intends to contest the new proceedings and probably will ask that they be dismissed or demur to the actions. The new proceedings were instituted by former Assemblyman Charles F. Murphy and John Miller, both of Brooklyn, the former being a transfer tax appraiser and the latter a stock transfer examiner. They have secured from Supreme Court Justice Rudd or Albany alternative writs of mandamus to the State Civil Service Commission, requiring them to show cause why they should not rescind and revoke their resolutions ordering the changes in the classification.

The Court of Appeals in a proceeding brought by Fred L. Herritt, a stock transfer tax examiner, upheld the action of the Civil Service Commission. The Appellate division, third department, recently sustained the commission in ordering the change in the classification of the position of transfer tax appraisers.

Dinner at Philadelphia.

Philadelphia, Feb. 7.—The centennial anniversary of the birth of Charles Dickens will be observed by a dinner here tonight to be given by the Dickens Fellowship Club. Addresses will be made by F. Hopkinson Smith, Leslie M. Shaw, former secretary of the treasury, the Rev. Dr. Floyd W. Tompkins of this city and others on the life of the famous author.

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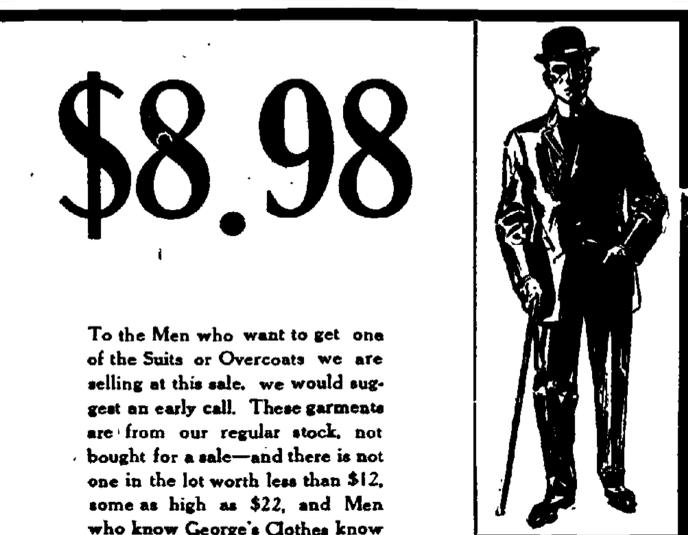
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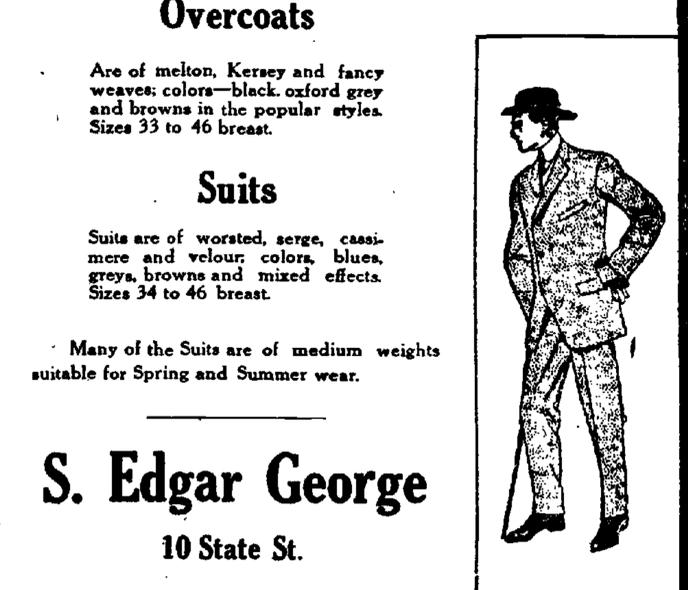
Overcoats \$8.98



Overcoats \$8.98



Overcoats \$8.98



Suits \$8.98

RELATIVES SAW DI PASQUALI

Will Ask Governor to Commute Sentence to Life Imprisonment.

Relatives of Dominick Di Pasquall the Rochester murderer who is to die in the electric chair next month, with Rev. Joan Robotti, formerly of this city and now of Rochester, and Mr. Borzilleri of the firm of Borzilleri & Miceli, Italian attorneys who have been defending Di Pasquall, visited the condemned man in Auburn prison this morning. They talked with the prisoner who while hopeful that executive clemency may be forthcoming is resigned to his predicament.

SNOW--ROSS

Auburnians Wed Today Will Spend Honeymonth in Cuba.

Mrs. Edith Snow and Elmore N. Ross were united in marriage at noon today at the home of the groom's mother, Mrs. Jeannette Stanley Ross in Genesee street, Dr. A. M. Dulles, pastor of the Second Presbyterian church, officiating.

The wedding was unostentatious in the extreme and was attended only by immediate relatives. The bride was bountifully remembered by her many friends. One of her gifts from Mr. Ross was a handsome 45 h. p. 1913 model Overland roadster for her private use.

Mr. and Mrs. Ross left on the 2:28 train for New York, from which place they will embark for an extended trip to Havana and the West Indies. Upon their return they will be at home to their friends at 229 Genesee street.

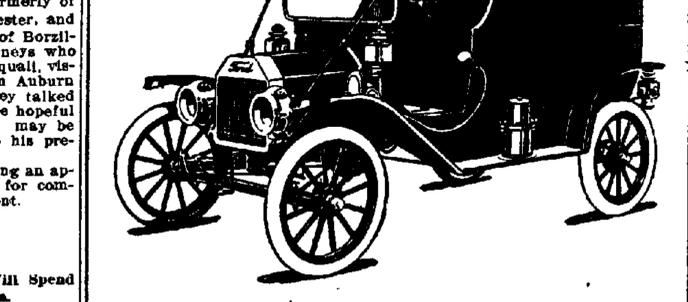
FOR BIGGER POSTOFFICE

One Little Sign That It Will Come in Due Time.

Laborers are digging four holes in the rear of the Government building today for the purpose of securing samples of the different earth strata to be sent on to Washington for use in preparing plans and estimates of the cost of construction of an addition to the post office to provide more work room for the clerks and carriers.

Proposed Addition to Post Office.

The proposed addition is to be one story in height. The proposed plans will include a remodeling of the present basement and provide for many conveniences that are badly needed by the force of employes at the Federal building.



\$700 F. O. B. Detroit

YOU are asked to buy a FORD Model T not because it is a cheaper car, but because it is a better car. Better because it has the lowest purchase price and running cost per mile per passenger of any five passenger touring car in the world. Better because of Vanadium Steel construction. Better because it is the simplest motor car in design; the easiest and most reliable in control. Immediate delivery.

Ford Model T Touring Car, 4 cylinders, 5 passengers, fully equipped, f. o. b. Detroit \$700.00
Ford Model T Touring Car, 4 cylinders, 5 passengers, fully equipped, f. o. b. Detroit \$700.00
Ford Model T Commercial Roadster, 4 cylinders, 2 passengers, fully equipped, f. o. b. Detroit \$500.00
Ford Model T Town Car (Landaulet), 4 cylinders, 2 passengers, fully equipped, f. o. b. Detroit \$500.00
Ford Model T Delivery Car, capacity 750 pounds, merchandise, fully equipped, f. o. b. Detroit \$700.00

Send for the booklet with "Six Talks by the Jolly Fat Chauffeurs with the Double Chin".

LINZY & SELOVER

19-21 Water St. Auburn, N. Y.

at St. Mary's church at 9:30. Many of the former friends of the deceased in this city were present at the house and at the church. Rev. Patrick Smyth read a requiem high mass and also conducted the burial service. The remains were laid to rest in the family plot in St. Joseph's cemetery. The bearers were James Byrne, Michael O'Byrne, John Guilfoyle and Edward Burns.

Shoe Store Changes Hands. D. A. Hyne who has conducted a shoe store in Genesee street for several years has disposed of his business to Dusenbury & Cuniff, shoe dealers, of Geneva, who will continue the business at the present stand, No. 95 Genesee street. The new proprietors have had considerable experience in the trade and are capable of meeting the wants of Auburn shoe buyers.

Towelings 3 1/2c. O'Brien's Clean Up Sale. Howell—Edison says that we sleep too much. Powell—Well, it isn't his fault; he has invented enough things to keep us awake.

