

Inside the Jury Room During the Kelly-Lamb Murder Trial (1875)

Introduction

In the night of August 5, 1874, Michael Kelly struck Barney Lamb with a sword and killed him. He was indicted for first degree murder. Nine months later he was tried in Ramsey County District Court.

The editors of the *Minneapolis Tribune* harbored a deep skepticism about the way the jury system was conducted in Minnesota. To enlighten their readers about this flawed system they assigned a reporter to expose how the Kelly-Lamb jury functioned. They directed him to attempt to be selected as a juror. The reporter succeeded and so they now had an “inside” view of the deliberations of a jury in a murder case. This reporter observed the other jurors, encouraged and participated in their antics and repeatedly belittled one juror by name (Alfred Townsend) who had complained about personal threats. His accounts of the jury’s deliberations and the predictable consequences were published over six days in the *Tribune*.

Chapter One.

(*St. Paul Pioneer*, August 6, 1874)

Another Murder.

Last night about 11 o'clock a man named Barney Lamb was killed by a man named Cooper Kelly, under the following circumstances:

A difficulty occurred on Sunday between the women of Kelly's and Lamb's families, residing back of Rice street, near

Viola. After the difficulty Kelly went over to Lamb's house, and high words ensued between Kelly and Lamb, when the latter put Kelly out of the house. Kelly then told Lamb he should have no more water from his well. Last night, Lamb not minding what Kelly said, went over to the well after some water, with a tin pail attached to a rope. While Lamb was at the well, Kelly came out and ordered him away. Words followed, and Lamb struck Kelly over the head with the pail. Kelly then rushed at Lamb with a short sword, the blade of which is about eighteen inches long, running him through the body in five places, besides a stab in the head.

Immediately after the murderous deed was committed Kelly went down to the jail and delivered himself up. Upon reaching the jail Kelly stated that he had a fight with Lamb, and thought he might have killed him. The Sheriff placed him in jail, and started out to the scene of the murder. Upon arriving there he found Lamb laid on the floor with a mosquito bar over him.

Mrs. Lamb was out to some of the neighbors giving the alarm. The corpse presented a ghastly appearance, and a great deal of excitement existed in the neighborhood. The instrument with which the deed was committed was a sort of short bayonet sword a very ugly and deadly instrument.

Lamb leaves a wife and two children. Kelly has a family of four children. Lamb has always born the reputation of a quiet, peaceable man, while Kelly is described as a man of violent temper, and quarrel-some, especially when under the influence of liquor.—Pioneer. ¹

¹ *St. Paul Pioneer*, reprinted in the *Mower County Transcript*, August 6, 1874, at 3.

Chapter Two

(*Minneapolis Daily Tribune*, April 27, 1875)

WHISKY AND MURDER.

Blood in Donnelly's Eye—Cool Murder in His Talk—Daddy Townsend, the Spectacle Peddler, to be Annihilated—"Whisky by the Quart"—The Tin Pail Utilized—The Jury Play a Game of Seven-Up to Decide the Prisoner's Fate—One Conscientious Man, and Eleven Who Thought Him Crazy—Forty-Eight Hours of Spreeing and No Verdict.

In order to enlighten the public upon matters pertaining to the present jury system, The Tribune sent one of its representatives to the Court of Common Pleas with instructions to get upon the jury in the Kelly-Lamb murder case, and report the inside workings of the same. Carefully he worked up his job on a Deputy Sheriff, and succeeded in being sworn without a question upon the matter except one regarding the infliction of the death penalty in capital cases.

It is our intention now to show up the jury system in its proper light.

First let us imagine ourselves seated for four days upon a red-hot stove for a few moments. Four days of this will prepare a man to hang his own father without provocation.

Then comes the Judge's charge. Through respect to the Court, jurors are expected to remain standing while the Judge administers a two hours' dose of law, puts a man in a state of mind that would cause him to bring in a verdict against the Judge, clerk and both attorneys, were it in his power.

Then they are boxed up in a seven by nine room with a stove in it, and that's not all. A vote is taken and sums up as

follows: Guilty of murder in the first degree, death, 4; manslaughter, second degree, 7; not guilty, 1.

Then they ask who voted not guilty, and a young gentleman steps to the front and, with a defiant wave of his hand and a stamp of his foot says: "I did! what of it?" They then ask him to state his reason for so doing, and he repeats in substance the speech of the defendant's attorney, thinking perhaps he can gain for himself a reputation as a speech maker.

Then somebody who had voted "manslaughter" tells him he is wrong, and he says, "Am I" and at once changes his vote to manslaughter.

Then the vote stands eight for manslaughter to four for hanging; therefore the newspapers publish it wrong, and say there is no doubt that the eight who are for hanging will coax the other four over to their side, as they should do.

This is the way the jury begin their work. We will now digress from the routine story, and speak of a few incidents as they came to our mind. And right here we desire to call attention to a communication signed by one of the four gentlemen who stood out for hanging at that time, (he afterward came down to life imprisonment.)

HE PEDDLES SPECTACLES AND HIS NAME IS TOWNSEND

This is his communication, and following it is "the whole truth and nothing but the truth."

"I was threatened that I could not live in St. Paul unless I agreed in a verdict of manslaughter in the second degree, and that he would make the place hotter for me than hell, if I did not—by a juryman by the name of Donnelly. Also there was whisky used in that room by the quart.

(Signed) Alfred D. Townsend).

P. S.—Said whisky was drawn up by the use of the same pail said to be used by Lamb in the conflict.

A. Townsend." ²

Now, Mr. Spectacles, ar'n't you ashamed not to tell the entire story? Why don't you add another "P. S." and say that you called Donnelly an "insignificant, insulting puppy"? Our representative did not hear Mr. Donnelly say anything about shutting off Mr. Townsend's life in St. Paul, or anything to that effect. It *might* have been said while The Tribune man had his head out of the window hauling up that pail of whisky, but we doubt it. Again, Mr. goggle vender, why did you not make some temperance demonstration when the question was put, "Is there anyone present (and you was present) who objects to having a bottle of whisky hauled up through one of the windows?" These are questions which you will exhibit good sense to evade. No! Mr. Townsend, don't send any more such communications for publication. Let The Tribune man alone, and he will tell it all.

² This complaint from Townsend was first published in the *Pioneer Press* on April 27th:

STRANGE CONDUCT.

Serious Charges Against Some Members of the Kelly Jury—
Threats and Whiskey Said to Have Been Used.

We have been requested to publish the following card from Mr. Townsend:

I was threatened that I could not live in St. Paul unless I agreed to a verdict of manslaughter in the second degree, and that he would make the place better for me than hell if I did not—by a juryman by the name of Donnelly. Also there was whiskey used in that room by the quart.

Alfred Townsend.

Said whiskey was drawn up by the use of the same pail said to be used by Lamb in the conflict. A. Townsend.

St. Paul Pioneer Press, April 27, 1875, at 4.

"WHISKY BY THE QUART."

"Quart" is a good word, but gallon fits it best in this case. Yes! The air was full of whisky. Bottles were sent in from every direction, and in to-morrow's Tribune, we will say something more about them.

THE TIN PAIL.

Was the most useful article in the room. The rope was just long enough to reach the ground, and the pail was just large enough to hold a drink around.

SEVEN-UP.

A proposition was made to play a game of seven-up for the purpose of deciding whether or not the prisoner should suffer the penalty of death. It was declared a draw, and all bets were off. In another game, however, a few dollars changed hands, and the game broke up when one party "went busted."

A CRAZY JUROR.

One juror displayed a little conscience and even shed a few tears. For this he was adjudged out of his right mind, and not a competent juror. It was subsequently considered a good idea to let him remain provided he changed his vote. This is but a slight inkling of what we intend to say in to-morrow's Tribune. We shall tell of the entire proceedings for forty-eight hours of this "solitary confinement," and feel that we can show up the jury system in its proper light, without varnishing. We shall endeavor to explain how juries disagree and why they do not return verdicts in accordance with popular opinion.

To Mr. Townsend we desire to say, let reticence be your word, and we will tell the whole truth and nothing but the truth even though our own representative be proved a bad boy who will not sit up forty-eight hours without stimulants.³

Chapter Three

(*Minneapolis Daily Tribune*, April 28, 1875)

HEAR YE! HEAR YE! HEAR YE!

Our Juryman Continues His Story—The Jury Room Converted Into a Play House —For Ways That Are Dark the Kelly-Lamb Jury is Peculiar—Why Juries Disagree—Something About Professionals—A Few Things that the Public Should Know.

In fulfillment of our promise made in yesterday's *Tribune*, we proceed with our expose of the inner workings of the Kelly-Lamb murder jury. As stated we had a reporter on hand whose notes, taken as they were on the spot, are not at all at variance with the truth. We have long felt that the present jury system was the most farcical thing extant, and we now stand ready to declare the same aloud and unequivocally.

A DRY SEASON.

As stated yesterday, the Kelly-Lamb jury sat quietly in a corner, on chairs harder than Pharaoh's heart, from Monday noon until four o'clock Thursday afternoon. Then, by way of

³ *Minneapolis Daily Tribune*, April 27, 1875, at 3.

variation, they stood up to receive their charge from the court. This was done to show respect to the court. They did not take into consideration that the court was long-winded, and there they stood. But, alas! How frail is human respect for a fellow being when physical endurance is called to the test. During the first half hour all stood perfectly erect. Before an hour had passed nearly all were leaning against the wall or against each other. Another thirty minutes, and not one of the twelve remained perpendicular, and when the two hours and a quarter had passed, and the Judge requested them to retire to the jury room, a sigh of relief went up which, coming from less sacrilegious lips, might have been interpreted "thank God."

A WET SEASON.

After this extended drouth it can scarcely be expected that men born of women would permit it to exist longer than necessity compelled. Therefore one member of this "noble army of martyrs" disclosed the fact that, in the inmost recesses of his shirt pocket, a bottle snuggled close to his bosom.

"Sh-h-hh," was the word, "Give the sheriff a chance to get out," and, when that worthy officer had departed and barred the entrance, forth came said flask, and down went said whiskey, and out of the window went said empty bottle. All this occupied the space of perhaps two minutes and a half.

NOW TO BUSINESS.

Somebody proposed that the jury form themselves into line of battle and proceed to business. This was done, with George Monfort, at the head as foreman. The Tribune man as scribe, and Fred Shaw as plebian secretary—the man who does the work.

A VOTE.

The first business transacted was the taking of an informal ballot to get the sense of the gang. We gave the result yesterday. Then somebody passed around the cigars, for which he was much blessed. Of course it was necessary next to discuss the weather. They had put this off too long already.

SUPPER FOR TWELVE.

A click of the outer lock announced the coming of the Deputy Sheriff, and a spirited murder discussion was immediately entered into. "Supper," said the Sheriff. "Bully," said the twelve.

The American House was the hashery wherein they were to be *full-filled* and thither they turned their steps. Two or three of the number, not up in the jury business, undertook to stop at Knauft's summer garden, but the Sheriff objected, and they didn't do it.

They now learned (for the first time, *of course*;) that jurors were not allowed to drink whisky. That is why they ordered whisky in tea cups at the supper table. And right here we desire to inform all those who contemplate we desire to inform all those who contemplate serving on juries that whisky looks very much like tea, and, if you can get the waiter girl to bring it in that manner, it is an excellent dodge on the Sheriff.

BACK TO OUR COOP.

Before going back to our coop The Tribune man exercised his vocal organs, while Fred Shaw hammered the American House piano as if he foresaw he should never again see a musical instrument. Then they took up their line of march back to the jury room, and immediately upon the

departure of the Sheriff, Mr. Alfred Townsend, who was then earning two dollars a day and board, stated that he desired the promise of every member of the jury to refrain from making known any of the proceedings or votes cast during the session of said jury. This same Townsend, who was then earning two dollars a day and board, peddles spectacles and declares Beecher innocent. He is the gentleman who first opened his mouth to make public the things that transpired in that jury room. And this same Alfred Townsend, who was then earning two dollars a day and his board, and who makes a living by peddling spectacles (and otherwise), is the same Alfred Townsend who wrote a communication for publication in two newspapers, in which he stated that also there was whisky used in that room by the quart."

A ONE-SIDED DISCUSSION.

After finding that he could not obtain this desired promise, Mr. Townsend (the same who was then earning two dollars a day and board) took the floor, and proceeded to refresh the memories of those present upon the testimony in the case and the charge of the court.

Now, as the jury had only sat four days hearing the same thing, of course it was interesting to them, and they listened complacently for a few hours to the old gentleman's rehashing of it. When he had just fairly begun (he had only been talking about three hours) somebody moved that he be called to order before he talked himself to death. He reluctantly agreed, and in order that nobody else should perpetrate such joke on them, they voted ten minutes to each man for discussion.

But it was no go, the old gentleman had given them an overdose, and they decided to break up the discussion in a game of seven-up for a nickel a corner.

This lasted until the gentleman familiarly known as "Matches" went broke and owed the board a dime, he having lost a dollar and a half, but he was not discouraged, for he knew he was earning two dollars and board, as well as the old gent, Mr. Townsend.

SPELLIN' SKEWL.

After the game of seven-up had broken up in a row, it was decided that they would choose sides and do the spelling school act. The Tribune man appointed himself enunciator and umpire, and thus he began:

"Is there anyone present who objects to having a bottle of whiskey hauled up through one of the windows?"

The yell that greeted the word "whiskey" would have put the blush on a field officer's neck and as nobody objected, not even Alfred Townsend, who was earning two dollars a day and board, the whiskey was forthcoming.

As an enunciator The Tribune man was declared a success, as every man who tipped up that bottle testified, with a toast. It is unnecessary to state that nobody slept that night. Of course it would not be right to sleep when under the pay of the State, and this was a conscientious body of men. Mr. Bickford, who intended going in California that week, tried to sleep a little and thus avoid his duty, but when threatened by several diligent ones that he should be shoved into the stove drum unless he awoke, he decided upon the latter. Then he told a Chinese story, which for want of space, we omit. (The reader may laugh just the same). Thus began stories which occupied nearly the entire remaining portion of the night.

THE MORNING MEAL.

Click went the lock, and in poked the Sheriff's head with a smile eight inches wide, and in a stentorian tone he remarked, "breakfast, gentlemen." The suddenness with which the mob drank in his meaning was astonishing. Entering the American House they were conducted to the wash room where they might cool their brows where they might cool their brows heated by the previous night's enthusiastic discussion of the fearful murder case. No sooner had the Sheriff ducked his head into a bowl of water than half of the dozen jurymen were missing. Soon they returned, however, and the odor that was exuded from their bread traps verified the saying that water was made for navigation and whiskey to drink. When they got it of course no one knows, but as The Tribune man was among the missing it behooves him to state that Knauft's garden is in the same block and he is prepared to recommend Knauft's whiskey *for medicinal purposes*.

That day was passed very much as the preceding night,—plenty of whisky and all that sort of thing—and along toward night somebody asked what the d--l we were there for. This was a conundrum and all gave it up. Finally, however, a stone came against the window and a voice from below cried, "let down that pail and get this bottle." Mention of the tin pail recalled to mind the night of the murder and the conundrum was solved. They were a jury.

WHAT MAKES JURIES DISAGREE.

There are several causes for juries disagreeing. Among the more prominent ones may be mentioned: a consciousness on the part of each side that they are right, personal enmity between two or more jurymen, obstinacy or natural born "pure cussedness" and, last but not least,

two dollars a day and board. It is, of course, essential that the professional juror should disagree as long as there is hope of staying out another day and earning another honest (!) two dollars. We have no reference to Mr. Alfred Townsend, because we do not know that he is a professional juror, even though he did admit to us that he had been on about one hundred and fifty juries during his life. That doesn't prove anything, and we won't mention him as a professional. However, right here we desire to put a question to Mr. Townsend, or anybody who can reply to it. What are a man motives when he declares that he will never change his vote and agree with the nine who oppose him, and then send a communication to the Judge not to discharge the jury yet, as there is a probability of an agreement? Does that man think he can bring over the nine obstinate ones after he has already argued two days, and they become stronger every hour in their conviction, or does he have before his mind's eye visions of two dollars a day and board?

When these questions are answered we will proceed with our remarks upon professional jurors.

TOWNSEND REPORTED DRUNK.

From several sources, we have learned that at the time Alfred Townsend wrote the article on Donnelly and whiskey which we published yesterday, he was drunk. We desire to ask the people and the court whether or not Alfred Townsend was drunk on that occasion. We do not know, and therefore ask for a confirmation or denial of the truthfulness of the rumor to that effect.

DONNELLY'S THREAT.

In reply to what Mr. Alfred Townsend (the man who is reported to have been drunk yesterday, and who earned

two dollars a day and board for six weeks on a jury) said regarding Mr. Donnelly's threat, The Tribune representative heard nothing nearer to a threat than the following words: "I have lived in St. Paul a great many years, and I expect to live here a great many more. I never shall forget this jury as long as I live." This the court and the people can construe as they choose, and in order to assist them we will say in Mr. Donnelly's behalf that he is a strict temperance man and during his jury service did not drink a drop of liquor.

We say this, lest Mr. Alfred Townsend's communication of yesterday morning, in which he connects the words "Donnelly" and "whiskey" may lead to the belief that Mr. D. was intoxicated.⁴

Chapter Four

(Pioneer Press, April 30, 1875)

THE JURY ROOM SQUABBLE

An Indignant Jury Man Wants a Thorough
Investigation — Shall It Be Had!

St. Paul, April 29 th.

To the Editors of the Pioneer Press:

Gentlemen—A communication having appeared in this evening's Dispatch, reflecting on the late Kelly and Lamb jury trial, by some insignificant individual who has not the manliness to give his name, I deny his allegations and his whiskey insinuations which are simply made for effect. I believe him to be one of the carpet-baggers, which have cursed this state worse than some of the southern states. If juries for conscientious conversations are to be suppressed by the croaking of thieves and knaves, the sooner it is known to the public the better. Asking a thorough

⁴ *Minneapolis Daily Tribune*, April 28, 1875, at 3.

investigation, fearless of those who shield themselves behind
illgotten wealth. I subscribe my name in full,
William Murphy

Chapter Five

(*Minneapolis Daily Tribune*, April 29, 1875)

THE TRIBUNE IN "COORT."

Our Juror likely to Be Hauled Over the Coals—
The Judge Takes His Articles Under Consider-
ation—More for the Twelve that Wouldn't
Agree.

At the opening of the Court of Common Pleas yesterday, Mr. C. D. O'Brien, County Attorney, desired to call His Honor's attention to two articles published in *The Minneapolis Tribune* purporting to have been written by one of the jurors in the first Kelly trial. He handed the papers, containing the articles, to Judge Simons, who took them under advisement.

The able jurist, in question, will make it warm for the boys that turned the jury deliberations into so many farces. So lookers on aver and whisper around. Simons is no fooler, they say, and he is not to be trifled with, he will go for the evils of the jury system and eradicate them if such a thing is possible.⁵

⁵ *Minneapolis Daily Tribune*, April 29, 1875, at 3. An editorial on the same page:

The second trial of Kelly was continued yesterday with some show of an early termination.

Our jury expose has created a sensation. Judge, lawyers, sheriffs, and hotel keepers are after us.

Chapter Six

(*Minneapolis Daily Tribune*, April 30, 1875)

THE JURY BURLESQUE.

Some Observations in a General Way.

Mr. Mitchell is correct, barring the "majesty and solemnity of the law." If these are found in its administration we fail to behold them in Ramsey county. They have long since passed away, if they ever were here. Its majesty has a prototype in that semi-buffoonery of knight errantry Sancho Panza, and its solemnity in that modern visitor to Adam's tomb, Mark Twain. Locally speaking, these great parts of the law have been undermined, and if we are drifting into anarchy we have not observed it. We are drifting, however, into tomfoolery, and *The Tribune* is engaged in the laudable mission of showing it up. If you want to see majesty, go into the Municipal Court and take notes for half an hour. If you wish to observe solemnity go into the Court of Common Pleas jury room and mark the almost awful and solemn proceedings of that painfully august branch of our Judicial system.

As exponents of the majesty and solemnity of the law these are true samples and we can say they are truly farcial. The court is opened with a burlesque, "hear ye," and followed up with a burlesque administration of oaths, the selection of a burlesque jury, in the presence of a burlesque audience and the trial proceeds in a semi-burlesque view. No business citizen can afford to serve his country \$2 per day, and it is notorious everywhere that he shrinks from the duty—especially in criminal trials.

The prospect of a forty-eight hour residence in a jury room without sleep is not inviting, and many are deterred

because of the unreasonable length of time a jury disagreeing is kept out. Then the thousand and one points that are made against a juror if he happens to know anything or possess an opinion that is only a belief. All these go to make the modern jury trial in this place, at least, a very clever low comedy.⁶

Chapter Seven

(*Minneapolis Daily Tribune*, May 1, 1875)

NEARING THE CLIMAX.

A Fine Opportunity for the Whisky Jurymen to Look Out Through the Bars—The Tribune Man is Indignant Because his Name Does Not Appear in the Title.

Yesterday morning The Tribune jurymen were made the happy recipient of a call from one of Sheriff Grace's deputies, who held in his hand a paper, singular in its make-up, and remarkable for its length.

HERE IT IS.

State of Minnesota—County of Ramsey—
Court of Common Pleas.

In the matter of proceedings against E. C. Bickford, A. Ecker, P. P. Callan, A. Townsend (the man who earned two dollars a day and board) George Mathews, Wm. Murphy, C. K. Stone and J. G. Donnelly for contempt of court.

⁶ *Minneapolis Daily Tribune*, April 30, 1875, at 3. The identity of "Mr. Mitchell" is not known. An editorial on the same page:

The whisky-Kelly jury will be investigated, after the second trial now in progress, is ended.

The Tribune man is totally ignored in the above, for all of which he is unhappy. He, however, expects happiness to return to him about ten o'clock next Monday.

LET US LOOK FURTHER.

Then the paper read on as follows:

State of Minn. } Ct of Com'n Pleas.
Co. of Ramsey}
General Term, April 30th, 1875.

On reading and filing the information on oath of C. D. O'Brien, County Attorney of said county of Ramsey, setting forth, among other things, that on the 19th day of April, 1875, the following named persons were in this court duly impaneled and sworn as jurors to hear and determine the issue stated in a certain indictment then pending in this court, wherein the State of Minnesota was plaintiff and one Michael Kelly was defendant, the said indictment charging him, the said Kelly, with having at the time and place, and in the manner alleged therein, committed the crime of murder upon the person of Bernard Lamb, that the names of the persons comprising said jury were as follows: E. C. Bickford, O. F. Mahler, G. R. Monfort, W. B. Hawkins, A. Ecker, P. J. Callan, A. Townsend (the who earned two dollars a day and board), George Mathews, William Murphy, C. K. Stone and J. G. Donnelly, and that thereafter the said cause was duly proceeded with and duly submitted to said jury, and thereupon they duly retired to consider their verdict, and stating, on his information and belief that during the retirement of said jury as aforesaid some members of said jury whose names were to them unknown caused to be introduced into said jury room a large quantity of spirituous liquor, to-wit: whisky and then and there indulged in the use

of the same in large quantities, and during said retirement at other times and places while at their meals evaded the custody of the officer in whose charge they had been placed and visited public drinking saloons in the city of St. Paul and procured and indulged in other and sundry spirituous liquors. And now comes

THE CARD PLAYING

That certain of said jurors also introduced into said jury room, during their deliberation, playing cards, and inaugurated and took part in divers games of chance, and then and there played with said cards for money and other stakes. That he, said informant, is unable to ascertain the names of the particular jurors who are guilty of the act aforesaid, but that the same and all of them were done and committed by the said jurors between the 22nd and 24th days of April, 1875, inclusive, and that all of said acts were in manifest hindrance of justice and the proceedings of said court in said action, and tended to bring and did bring great scandal and ill-repute upon the administration of justice in this court, and were willful acts of gross misconduct on the part of said jurors, and prayed that an order to show cause might issue to and against all and singular of said jurors, requiring them, at a time and place therein to be named, to show cause before this court, if any there be, why they should not be punished as for contempt because of the matters in said information alleged against them.

COME AND SEE US.

It is ordered that each of the said jurors, E. C. Bickford, C. F. Mahler, G. R. Montfort, W. B. Hawkins, A. Ecker, P. J. Callan, A. Townsend, George Mathews, Frederick Shaw, William Murphy, C. H. Stone and J. G. Donnelly, do

personally appear before said court, at this general term thereof, at the Court House in the City of St. Paul, in said county and State, on the 3d day of May, 1875, at 10 o'clock in the forenoon, and show cause, if any he has, why he should not be punished for contempt of court because of the matters alleged in said information against him. And it is further ordered that this order be personally served upon each of the said jurors, E. C. Bickford, C. F. Mahler, G. R. Montfort, W. B. Hawkins, A. Ecker, P. J. Callan, A. Townsend (the man who earned two dollars a day and board), Geo. Mathews, Frederick Shaw, William Murphy, C. K. Stone and J. G. Donnelly, by the Sheriff of said county of Ramsey, in the same manner as a summons is served a civil action, twenty-four hours before the time above named for the hearing upon this order.

Orlando Simons,
Judge of said Court.

Dated April 30th, 1875. ⁷

Chapter Eight

(Minneapolis Daily Tribune, May 4, 1875)

THE CLIMAX.

One Person Fined \$20 and Fine Remitted —All the Others Discharged—A Mysterious Individual Circulates in the Case—Who Bought the Whisky —A Strange Temptation—To Whom Shaw Yielded The "Card" Item Not Investigated—The Threats Not Touched Upon.

⁷ *Minneapolis Daily Tribune*, May 1, 1875, at 3.

The climax was reached yesterday and the investigation of the noisy Kelly jury had. It was not very disastrous, but it had capital effect. The boys will not go into another jury room and pass through similar experiences. They will particularly eschew all rum and ropes for drawing it up.

The only victim was Frederick Shaw, who was not so much of a victim after all. He was an honest witness, convicting himself of the offence of drawing the whisky by means of the Kelly tin bucket. He thought maybe he was doing wrong but he kept on just the same, and brought the cargo into harbor.

THE CROWD.

was the largest that has visited the court room since its erection. The temptation of seeing twelve jurors drawn over the coals was too great for the curious public to resist.

Even the Bar, including the Hon. Wm. Lochren, of Minneapolis, was present in large numbers, and witnessed the conduct of the contempt case with a great deal of interest. Hon. James Smith, Jr., and J. V. D. Heard, appeared for Messrs, Stone and Murphy, and put in a demurrer to the complaint of the County Attorney, alleging that there was no offence charged, and the court could not take cognizance of the movements of the jury or their actions when not in court. After considerable argument the Judge rendered a decision overruling the demurrer. If he sustained the demurrer he would have to hold the doctrine that a jury impaneled for the trial of a man charged with murder, could drink liquor, connive at its introduction into the jury room, get intoxicated, and become unfit to discharge the duty imposed and interfere with the progress of judicial proceedings—and all without the Court's ability or right to interpose an objection. The proposition seemed to His Honor a very startling one, to say the least. If tolerated it

would destroy the right of trial by jury, and in our next capital case, that will soon be called, would result illy enough. He held that a juror was a judicial officer under the statute, and is punishable for misbehavior or violation of duty. The jury room conduct is a part of the proceedings of the court. In overruling this demurrer his Honor considered that he was protecting and upholding the jury and not interfering with its rights. His Honor made a very line and dignified argument. The exceptions taken proved of no use.

CLEARING THEMSELVES.

George Monfort was the first man to submit an affidavit that he didn't "indulge," introduce the article in any shape, manner or form; didn't play cards and wasn't guilty of anything "naughty" during the forty-eight hours that the jury sat on Kelly.

C. R. Stone followed with a like affidavit.

J. G. Donnelly swore he didn't use liquor and was altogether innocent of the charges alleged in the complaint. (Nothing being said about his threat that Townsend spoke of in print.)

All three of these men were discharged on motion of O'Brien.

Mr. O'Brien waived the charge of playing cards, as he was satisfied that the jury only indulged in "a nickel a corner," and that after they couldn't agree.

E. C. Bickford swore a similar "swore," and was discharged. Mr. A. Ecker ditto. A. Townsend, P. J. Callan, Mr. Moehler drank nothing, and were let off.

ONE SWALLOW.

G. G. Mathews took one swallow on Saturday at 3 p. m. It was whisky straight. He didn't introduce it into the jury

room, and was guilty of nothing mean besides. The offense was not sufficient and he was discharged of any contempt to the court.

ONE BOTTLE ACCOUNTED FOR.

Wm. Murphy accounted for one bottle of whisky being introduced in the jury room. He was going into the country the day he was caught on the jury, and had provided himself with a half-pint flask for the journey. When taken as juryman in the case he had the whisky for medicinal purposes and retained it, drinking, with others, the bottle dry. He didn't mean to introduce the whisky, and there was no evidence that he did. He was discharged.

FRED. SHAW'S TRIAL.

Shaw was then tried, and the upshot of the investigation into his behavior was that he draw (sic) the whisky up. His Honor was gentle with Mr. S., but could not overlook the drawing up of the whisky. He didn't know who brought the whisky to the outside and placed it in the bucket. He was a stranger to Shaw and everybody else that saw him. He was probably a good Samaritan from Illinois. The fine was \$20, and was remitted on motion of County Attorney O'Brien.

THE TRIBUNE MAN.

W. B. Hawkins was tried and acquitted. The Tribune figured extensively in the examination of this witness. The articles published in that journal were read to his honor and their authorship, by Hawkins, proven by J. A. Rea. There was some merriment created by the burlesque account of the jury's experiences, printed in The Tribune.

The Tribune's attorneys were Col. Kerr, Capt. Castle and Morris Lamprey.

Hawkins drank some of the stimulant, but did not have his hand on the rope when the bottle was drawn up. This nice point got him off.

The Judge was very just in the trial of this contempt case, and showed himself far above bias or individual feeling in the matter. Mr. C. D. O'Brien, County Attorney, was evidently after Mr. Hawkins, but not to an extent that showed any malice whatever. The common supposition that Mr. H. would "go for" Mr. O'Brien in this issue of Tribune is dismissed with the statement that this journal is not the vehicle for individual grievances, and that Hawkins is a gentleman. Mr. O'Brien has been our ablest and most efficient County Attorney. The Tribune, highly esteems him, and if he had secured the just incarceration of a member of this staff there would have been no complaint against him. We thank him for this investigation, as it will raise the tone of our juries and be a standing monition to all future patriots. It is plain that Judge Simons is not a trifler. Neither is O'Brien.

The boisterous discussions were not taken into consideration. Neither was the threat of Donnelly against Townsend.⁸

Chapter 9

(*Minneapolis Daily Tribune*, May 2, 1875)

Verdict, "For Life."

The Kelly jury brought in a verdict "For Life," which means a residence in Stillwater for the rest of his natural life. The jury was at first five for manslaughter and five to hang

⁸ *Minneapolis Daily Tribune*, May 4, 1875, at 3. The *Pioneer Press* had a much longer report of the contempt proceedings. *Pioneer Press*, May 4, 1875, at 4.

the prisoner. Then eight to four, and ten to two. The manslaughter jurors then agreed to come up a peg and send the defendant to jail for life. The hanging men agreed to this and the jury was a unit.⁹

Conclusion

The story of what happened inside the jury room during the first Kelly-Lamb murder trial will both appall and amuse lawyers and journalists today. For legal historians, however, it raises a far more difficult question, one that is beyond their ability to research: how common was a Kelly-Lamb jury?

Related Article

Douglas A. Hedin, “The Professional Juror in Minnesota” (MLHP, 2020-2021).



⁹ *Minneapolis Sunday Tribune*, May 2, 1875, at 2.