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Should the Evidence in a Criminal Case be Given to the Public in Advance of the Trial Before a Jury?

Murray Briggs

tration of justice, a physician or surgeon may be called to testify in response to the same sort of process, and in the same manner and extent as to facts, as ordinary witnesses. But in the capacity of an expert, he may bargain and dictate his own terms before engaging in consultation, diagnosis or treatment.

WILLIAM S. JOHN.

SHOULD THE EVIDENCE IN A CRIMINAL CASE BE GIVEN TO THE PUBLIC IN ADVANCE OF THE TRIAL BEFORE A JURY?

The slogan carried on the first page of one of the country's leading newspapers, *viz*: "All the News That's Fit to Print", suggests some comments upon the growing practice among newspapers all over the country when a major crime has been committed, of sensational proportions, printing, for the general public to read, every clue and every item of evidence in detail, with the names and addresses of the witnesses, as rapidly as gathered by investigating officers, in advance of the trial of the case by a jury—a practice, in my humble opinion, highly detrimental to the public interest.

There are some reasons supporting this view. In the first place, let us suppose that no one has been arrested and charged with the crime. The result is to acquaint the guilty party, whoever he may be, with all the clues and evidence gathered by detectives and law enforcement officers, with the names and addresses of the witnesses who are expected to testify in court for the State.

It must be assumed that the guilty party will see and read the newspapers and so become fully informed of the progress made towards his detection and arrest. He is thus fully prepared, either to disappear, entailing great expense and delay in his ultimate arrest, and seriously jeopardizing the chances of his ultimate conviction, by the delay, or he may conclude to stand his ground and set about the business of destroying the State's case, by threatening or bribing material witnesses and so causing them to disappear, or develop at the trial such lapses of memory as to destroy the value of their testimony; or, if all other means fail, a very material witness may be "taken for a ride." All that has been said above, applies with equal force to one who has been arrested and indicted and who has been able to procure bail.

Are the demands of the reading public so great that the State must lay all its cards on the table in advance of the trial and so enable the accused to avail himself of all the opportunities thus afforded him to escape conviction?

Such conditions are by no means fanciful, for we read of material witnesses in criminal cases failing to appear at the trial, as well as some who do appear and yet have suffered in the meantime such impairment of memory upon material points as to practically destroy the State's case.

In the second place, one who may know material facts bearing upon a crime and who committed it, if inclined to give information to the police, knows quite well that as soon as he does so, the next issue of the newspapers will carry to the guilty party, not only his entire statement, but his name and address as well. Is it any wonder, therefore, that many who would be material witnesses, discreetly keep their mouths closed, instead of promptly coming forward, as they otherwise would, and disclosing to investigating officers all they may know?

And is it not obvious that this condition is a serious stumbling block in the detection of criminals, from which the public interest is suffering?

In the third place, the practice of thus broadcasting the evidence in criminal investigations, tends to increase the difficulty in selecting a jury for the ultimate trial of the case, since almost every one who can, will read all that is published in the papers relative to a sensational crime, and thus many who would otherwise be competent jurors, having read in detail all the State's evidence, have reached a conclusion as to the guilt or innocence of the accused and thereby have disqualified themselves as jurors. Of those who do not read the papers, it may be truly said, they are apt to be of such low mentality as to be unsuitable to serve on a jury.

The newspapers may say that the law enforcement officers give the information to the reporters for the newspapers and it must be presumed they are willing to have it published, otherwise they would not disclose it, but is it right and proper for them to do so? Why it is that detectives, police, sheriffs and prosecuting attorneys should feel called upon to make these disclosures in advance of the trial of one accused of a crime is beyond my comprehension. Every consideration of reason, discretion and public policy, demands that all such matters should be kept secret, except of course, that where an arrest is made and preliminary exami-

nation becomes necessary, the evidence submitted before the examining magistrate, has to be made public. But has anyone ever heard of one accused of crime, publishing in the newspapers all he expects to prove to establish his innocence, with the names and place of residence of his witnesses? If not, why should the State do so?

Two things have conspired to bring about this condition. One is that newspapers and their reporters, in the effort to fill their columns with matter which will make the papers sell, lose sight of the question of the public interest, or at least allow their private interest to overcome every other consideration.

Another is, that District and States' Attorneys, police chiefs and the whole force of detectives and crime investigators, yield to a desire to advertise their efforts and progress, under the mistaken idea that the public must be informed of all they are doing. Otherwise, the public may think they are not "on their job." This consideration becomes to them, of more importance than the ultimate conviction of the accused. Hence it frequently happens that by the time the trial takes place, the reading public has lost interest and few know or care that the State has failed to secure a conviction. The public is then engaged in reading the details of the evidence of some later sensational crime.

The writer suggests that in the present national movement towards more vigorous enforcement of the criminal laws, it might be well to consider, in the same connection, this feature of the problem.

—MURRAY BRIGGS.