FIVE MEN ACCUSED IN BAFF CASE TRY TO WIN DISMISSAL

Appeal to Supreme Court on Ground Simon Indictment Was Dropped.

Because Judge Mulqueen in General Sessions dismissed the indictment for murder in the first degree growing out of the murder of Barnet Baff against William Simon, a chicken dealer of No. 70 Sixth Street, on the ground of insufficient evidence, attorneys for the five other men indicted with Simon, Abraham Graff of No. 916 Bryant Avenue, the Bronx; David Jacobs of No. 604 Howard Avenue, Brooklyn; Joseph Cohen of No. 121 Penn Street, Brooklyn; Jacob Cohen of No. 10 Division Avenue, Brooklyn, and Moses Rosenstein, asked Justice Tompkins in the Criminal Branch of the Supreme Court to-day to grant them the minutes of the Grand Jury on which to base a motion to dismiss the indictments against their clients.

Frank Moss, attorney for the Cohens, and Harry Kopp, attorney for Graff, told Justice Tompkins that in the Simon case Judge Mulqueen had decided nearly all of the witnesses who testified before the Grand Jury, including Antonio Cardinalle, the informer brought from Italy last fall by District Attorney Swann, were accomplices. Mr. Moss stated that the District Attorney had consented to the dismissal of the indictment against Simon and that an inspection of the minutes of the Grand Jury would show there was no more evidence against the Cohens than there was against Simon.

"As a matter of fact," Mr. Moss stated to Justice Tompkins, "the Cohens were friends of Baff and worked for him before Baff was killed. After Baff's death they continued working for his son."

In opposing the application Assistant District Attorney O'Malley, who presented the cases to the Grand Jury, admitted that he had consented to the dismissal of the indictment against Simon, saying that he did so in order to prevent the rest of the defendants from obtaining the minutes of the Grand Jury.

"The interest of justice," Mr. O'Malley told Justice Tompkins, "demands that the minutes be kept secret. They contain much information that would be of value to persons concerned in the murder of Baff but who have not been arrested."

Mr. Moss at the conclusion of Mr. O'Malley's argument stated in open court that District Attorney Swann had secretly transferred the cases against the defendants from Judge Mulqueen's court in General Sessions to the Supreme Court in order to prevent a dismissal of the indictments.

"I think you are mistaken in that," Justice Tompkins told Mr. Moss, "for in the assignment of myself to this court these cases were noted for trial. That was at least two or three weeks ago."

Justice Tompkins reserved decision, asking both the District Attorney and counsel for the defendants to submit briefs.

FIVE COAL MEN PLEAD.

All Say "Not Guilty," and Bail Is Given at Once.

Five of the sixty-four indicted coal men pleaded not guilty yesterday before Judge A. N. Hand in the Federal District Court and gave bail. They were Isaac T. Mann, President of the Elk Ridge, Greenbrier, Louisville, Pocahontas Consolidated Collieries, Pocahontas Fuel and Roanoke Companies; Thomas F. Farrell, General Manager of the Pocahontas Fuel Company; Frank Ellison, General Manager of the C. G. Blake Company; W. Del. Wainbridge, President of the American Coal Company, and J. H. Parrott, Mine Superintendent of the Algonquin and General Manager of the American Company.

Several more men will plead to-day, it is expected.

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An antacid, such as Bisurated Magnesia, which can be obtained from any druggist in either powder or tablet form, enables the stomach to do its work properly without the aid of dangerous artificial digestants. Magnesia comes in several forms, so be certain to ask for and take only Bisurated Magnesia, which is especially prepared for the above purpose.—Advt.

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