

Trial of 2 Cops Hears Fairwell

By BILL VOGLER

Rufus Fairwell, 30, of 234 Jefferson Ave., testified in U.S. District Court yesterday that he was beaten repeatedly by Patrolmen Louis A. Donofrio and Charles Schafer when he was arrested Aug. 22, 1962.

Judge Harold P. Burke is presiding at the trial, which began yesterday with the selection of a jury of eight men and four women. Thomas G. Presutti is representing Schafer and Donofrio, U.S. Attorney John Curtin is prosecuting.

Under the one count indictment, Donofrio and Schafer are accused of "wilfully" hitting Fairwell with their fists and nightsticks on Aug. 22, 1962 "with the intent and

purpose of imposing summary punishment and thereby wilfully deprive him of the rights secured by the Constitution . . . to wit, the right not to be deprived of liberty without due process of law."

Fairwell testified that he was employed as an attendant in Schiano's Atlantic Gas Station, 743 Plymouth Ave. S., on Aug. 22, 1962 and was closing up for the night when the incident occurred.

As he was leaving the station building, Fairwell said, Donofrio, sitting with Schafer in their patrol car in the station area, asked him what he was doing. Fairwell said he was an employe closing up and offered Donofrio the building key so he could call Fairwell's employer to verify his story.

Donofrio, Fairwell said, began cursing him and left the car and began striking him with his nightstick. Schafer did not hit him, Fairwell said, until he and the two patrolmen had run across Columbia Avenue.

Fairwell said that as he ran he shouted, asking the owner of Barney's Bar, 719 Plymouth Ave. S., to tell the policeman he worked in the gas station.

Inside the tavern, the owner told police, Fairwell worked in the station. Fairwell testified. Detective Lt. George Reiss, who had arrived as Fairwell was running toward the bar, told Schafer and Donofrio to take him to the hospital. Fairwell said. Fairwell said he asked Reiss

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CMA Proposal Accepted by Union Board

The 10-man executive board of Local 66, American Federation of Musicians, AFL-CIO, last night voted to accept a new two-year agreement with the Civic Music Association.

The agreement means that the CMA will have a 1964-65 orchestra season. Last week the Civic Orchestra voted 28 to 9 to accept the same offer. No action is required by the general membership, according to Joseph T. De Vitt, president of the local.

Major provisions of the two-year proposal include extension of the season from 30 to 32 weeks; a reduction of services from nine to eight per week in the first year, and a non-contributory pension plan that goes into effect July 1, 1965. A service is rehearsal or performance attended by a musician.

Agreement on a contract is understood to mean resumption of the CMA fund drive, canceled Feb. 5 after an impasse in negotiations between CMA and the Civic Orchestra.

Last week O. Cedric Rowntree, CMA president, said the drive probably would be a combination of mail and direct solicitation. The mail solicitation probably will begin the end of this month, to be followed by a direct drive in June, he said.

The 1964-65 season has been in doubt since CMA canceled its drive. Spokesmen said then that the CMA could not conduct a drive without first having a contract with the orchestra which forms a nucleus for the larger Philharmonic Orchestra.

Talks resumed in March and a committee, headed by Very Rev. Charles J. Lavery, C.S.B., president of St. John Fisher College, was set up to study the long-range music situation in Rochester. Its re-

Prisoner Escapes While Gardening

Police last night were searching for a man who escaped from the Monroe County Penitentiary grounds about 10:45 a.m. yesterday.

Nazarene DeFrancesco, 34, of 30 Buchanan Park, had been working in a small garden behind the penitentiary building at 1360 South Ave. and asked permission to return to the building to use a rest room. He fled on foot before reaching the building.

A man believed to be DeFrancesco was seen in Mt. Hope Cemetery shortly after noon. Police searched the area but failed to find the man.

DeFrancesco had served a few days of a 90-day term for petit larceny. He was arrested earlier this month in the theft of a brief case from McCurdy & Co. downtown store.

When DeFrancesco escaped, he was wearing grey penitentiary coveralls with white letters "MCP" on the back.

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agencies as recommended e budget committee and yved by directors.

D&C May 19, 1964 #

Beaten by 2 Cops, Fairwell Testifies

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to accompany him but Reiss said he couldn't.

When Fairwell and the two policemen returned to the patrol car, Fairwell said, he was handcuffed and put into the rear seat. On the way to the old police headquarters on Exchange Street, Donofrio and Schafer struck him several times with their nightsticks, he testified.

'I Should Shoot You'

Schafer, Fairwell testified, at one point placed his gun against his head and said: "I should shoot you, you Negro."

Donofrio, Schafer and other policemen, whom Fairwell said he could not identify because he did not have his glasses at that time, continued to beat him at police headquarters. He was then taken to Strong Memorial Hospital for treatment and later returned to headquarters.

Fairwell said he reported to Strong as an outpatient for two months and did not return to work until Oct. 27, 1962. He added that he still had headaches and dizzy spells in 1963.

Under cross-examination by Presutti, Fairwell said he did not recall swinging at Donofrio and Schafer in the station or seeing the policemen knocked to the ground in the station. Fairwell also insisted he had not cut his face by falling through the glass part of the bar door. He said Schafer broke the glass when

he swung his nightstick at him.

William J. Irvin said he saw the incident while standing in front of Barney's Bar with Leonard Lofton, 317 Frost Ave. Irvin testified that one of the policemen told Fairwell he was under arrest in the station and that he heard Fairwell say, "I'm not going anywhere; I haven't done anything."

After having been hit by both policemen, Fairwell, in "self defense," according to Irvin, struck back at Schafer and Donofrio.

Questioned by Presutti, Irvin said Fairwell had been told he was arrested before he was hit in the station.

Lofton testified that as Fairwell was approaching the tavern, Detective Reiss advised him "You can't win, so don't fight them back." He also said that inside the bar he noticed only that Fairwell had a cut on the head and that Reiss told the other policemen that Fairwell was prepared to go "peacefully."

Troup Street House Damaged by Blaze

Vagrants living in a vacant house at 171 Troup St. may have started a fire which damaged the three-story dwelling about 2 a.m. yesterday. Battalion Chief Charles Zimber said the fire started in the basement and burned up through partitions to the first and second floors. There was heavy damage, investigators said.

GOP Girds For Fight In Primary

Republican leaders of the 24 city wards and 19 towns met yesterday to plan their party's first countywide primary fight since 1936 and, in many cases, the first such intra-party battle for most of the leaders.

The men and women leaders pledged an all-out effort for their candidate, John P. DeCesare, it was reported.

DeCesare, the organization candidate for the nomination for county Family Court judge, is being opposed by Mrs. Caroline Branch in the June 2 primary election which will decide which shall be the party's candidate in the November election. Mrs. Branch has been endorsed by the Monroe County Bar Association while DeCesare has not.

County Republican Chairman Donald H. Foote described yesterday's meeting as "instructional." He said he stressed the importance of "getting out the vote." He told the leaders how they will have to work without the benefit of advertising or funds from party headquarters because the election law prohibits such use of party funds in an intra-party fight. He warned them they must not "take anything for granted" and assume DeCesare will win without their work.

The Irondequoit Men's Republican Club last night adopted a resolution in support of DeCesare.

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