

COURT VOIDS 2 ACTIONS BY BELDOCK JURY

Judge Taylor Sees Code Violated in Slaps at O'Dwyer's Ex-Office

Two presentments criticizing some operations of the Kings County District Attorney's office during the regime of William O'Dwyer, now Mayor, were expunged from the record today by Judge Franklin Taylor in Kings County Court.

The presentments were handed up by a special grand jury which made the investigation in co-operation with George J. Beldock, who was appointed District Attorney by Governor Dewey.

Judge Taylor stated, in announcing his action, that he expunged the presentments on the ground that they "violate provisions of the penal law and of the code of criminal procedure of this State" in that the presentments disclose actual testimony of witnesses before the grand jury.

The presentments of Oct. 29 and Dec. 20 both were handed up to County Judge Louis Goldstein.

The additional grand jury which returned them was sworn in Sept. 19, 1945, and was discharged, after completing its duties, on Jan. 31. Before being dissolved on that day, the grand jury returned a third presentment which did not criticize any person, individually, but charged that records in a case before the Court of Special Sessions, Brooklyn, had been tampered with.

Judge Taylor's Decision

In his written decision, Judge Taylor said, in part:

"I find that both of said presentments, to wit, the presentment of Oct. 29, 1945, and the presentment of Dec. 20, 1945, violate the penal and criminal statutes of the State of New York in regard to the secrecy of grand jury minutes and procedure. Both presentments reveal the names of witnesses and also, both by epitomization and direct quotation of text, reveal the actual testimony of witnesses before said grand jury. It may indeed be lawful for a grand jury, by presentment, to state its findings of fact and conclusions of law based upon its record, but the actual context of the record may not be revealed nor may the names of witnesses.

"The grand jury minutes are held by the District Attorney and may be released only upon written order of the court in the manner provided by the code of criminal procedure.

"The court is not here discussing the feasibility of prosecuting grand jury members for violation of the penal law. Nevertheless, even a grand juryman may not violate the law.

"However, I am inclined to think that the grand jury meant well and was possibly erroneously uninformed as to the law on that point.

One Presentment Used on Radio

"Both presentments purport to have been prepared by a legal expert. They are on District Attorney's stationery, they bear the District Attorney's signature (which is

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Voids 2 Actions By Beldock Jury

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unusual) and could hardly be the work of a group of laymen such as grand jurors. Copies were distributed to the press by the District Attorney's office simultaneously with delivery to the court. The erstwhile District Attorney was last Fall a candidate for election for the full statutory term. The presentment of Oct. 29, 1945, was used by the candidate in radio broadcasts for his own election and for the defeat of his predecessor in office, Hon. William O'Dwyer, as candidate for Mayor of the city of New York.

"The court does not comment on these matters, but simply states the facts. Any criminal proceedings for violation of the grand jury secrecy statutes, being for misdemeanors only, are for the Court of Special Sessions and not for the County Court. The undersigned trusts, however, that the violation may be sensibly overlooked in view of the apparent good faith of the grand jury members.

"Nevertheless it becomes the duty of this court, on its own motion, to strike the offending documents from the records. Illegality cannot be tolerated in court records."

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