

Louisville & Nashville Railroad Company

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Louisville, Ky., June 28, 1917

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Commonwealth v. L&N R Co. - Letcher Circuit Court; Indictment
concerning water closet at Whitesburg, Ky.

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Judge Samuel M. Wilson,
Counsel,
Lexington, Ky.

Dear Sir,

Yours June 27, covering copy of Mr. Harvie's letter
June 25, and of the indictment therein referred to, received.

I do not think the indictment is good on demurrer and
I agree with Mr. Harvie that it should be demurred to. The
gravamen of the indictment seems to be that we kept the water
closet locked. The Court of Appeals of Kentucky has expressly
held that it is right and proper to do this. L&N R Co. v. Com-
monwealth, 45 SW 362, 20 KLR 100. That case ought to be
conclusive of the case at bar on the demurrer.

Again, the indictment seems to entirely misconceive for
whose benefit a railroad company must maintain water closets
at its stations. They are not required for the use of the
public, but only for the use of the railroad company's
passengers. You will observe the statute (section 772)
couples the duty to maintain the water closet with the duty
to maintain a waiting room, and has to do entirely with the
passengers of a railroad company. There is no averment in
the indictment in question that any passenger was ever