

MR. JUSTICE CROCKET'S CHARGE TO JURY TOOK UP FOUR HOURS

Most Important Case Said Judge and it War-
ranted Lengthy Explanation—Jury Must
Not Have a Doubt In Minds—Spoke of
Isabel Carr's Statement on Aug. 9th.

Mr. Justice Crocket's charge to the jury took up the better part of four hours yesterday afternoon. It was a most important case, he said, and he felt it his duty to instruct the jury fully as to the different phases of it.

"There is little doubt," he said, "that Mary Clark came to her death on August 7 from head wounds inflicted on her that day by some person."

"If you are satisfied beyond all reasonable doubt that the blows were struck by the accused, whether death ensued immediately or not, she, in the law, would be guilty of murder."

"The prosecution contends that the accused did strike those blows and has adduced a great volume of evidence to prove their contention. The burden of proof rests on the prosecution."

No Direct Evidence

"In this case there is no direct evidence. It is not necessary in order to establish the guilt of one charged with any crime to produce direct evidence," His Lordship continued. "It may be established by circumstantial evidence."

"But, before the accused's guilt can be established you must be convinced that a series of facts which cannot reasonably be explained by any other ground that her guilt has been proven."

The habits of the accused as drawn by the Crown, who contended that she was spending more money than she was making, that she was running around with young men, and that she was guilty of theft, might have an important bearing on the case, Mr. Justice Crocket commented, but he was bound to say that so far as her being guilty of theft was concerned, if she were charged with stealing from Mrs. Clark he would not consider there was enough evidence against her to let the case go to a jury.

The Deposition

Referring to the deposition which Isabel made at the inquest into Mrs. Clark's death, and which was introduced as evidence in her trial, Mr. Justice Crocket said, "I think it is very evident from the statement made by the learned counsel for the Crown that the deposition is not offered as evidence which is true, but evidence which is false, with the view of showing that the accused gave a false account of what happened at the Clark house before she left on August 7."

His Lordship continued, "You

were excluded from this court-room some days ago during an investigation which I made into the admissibility of some evidence. I excluded it on the ground that I was not satisfied as the trial judge that the evidence offered before me was not obtained by virtue of some inducement."

He referred to a statement Isabel was alleged to have made to police on August 9—two days after the murder—in the office of the chief of police.

"Under the law," Mr. Justice Crocket continued, "the court must be satisfied that any statement before it can be admitted as evidence."

Was The Same

"The chief of police testified here that the deposition she made at the inquest was substantially the same as the statement she made in his presence while she was in the city lockup. In considering this false statement she made before the coroner—if you consider it to be a false statement—it is for you to decide whether the motive was to coverup her guilt or whether it was a statement she made in the consequence of her having made it previously to a police officer—a statement, which I judged inadmissible as evidence against her."

"You must decide whether it was not a statement emanating from a frenzied mind, whether it was not a statement made under the influence of fear, or anything of that kind."

Mr. Justice Crocket then touched on the evidence offered on the part of the accused, which, he said, depended largely on the testimony of "the little boy, James Neilson."

"You have seen this child and it is for you to say whether you do or do not believe that his evidence was given in such a way as to be completely discarded. As to it being fabricated, or as to the child being coached. Do you think it possible that such a child could come to this court with such a statement made out of whole cloth and answered the stiff cross-examination of the Crown?"

"Then, if it was a fabrication, who was the fabricator? Was it his mother or was it somebody else, and if it was, who was the somebody else?" His Lordship pointed out that the mother could have given evidence that would have completely corroborated the child's evidence, but that she didn't attempt to bolster up his statement.

Child's Evidence

"He may have been mistaken as to the time he saw the man at the Clark

DIGGING UP ANCESTORS IS DANGEROUS

(New York Sun)

Tracing one's family tree is one of the most vanity appearing pastimes for members of "old families," although often the sport is precarious. The joker, of course, is the family skeleton and no amount of rationalizing can explain a skeleton.

Many of New York's oldest families take great pride in the records of their ancestors in the Revolutionary war. Yet, on the other hand, genealogists say that the Revolution produced more skeleton than in any other event in our history. Many persons, these experts report, do not mind so much to find that their ancestors were Tories, but to have smugglers and outright pacifists crop up is more than many patriots can understand.

An interesting list of pacifists who refused to endorse the Declaration of Independence was compiled some years ago by Henry Collins Brown in his revival of Valentine's Manual. The reason of those ancestors to be pacifists make interesting reading.

For instance there was Isaac Penrose, who "don't sign for reason he don't choose to fight for liberty and never will." The paper he was asked to sign for preliminary petition for the Declaration of Independence. And Ephraim Arnold "don't sign for fear it would fetch him into a scrape."

Likewise Samuel Gallion says "if he should sign, he may fetch on himself that he cannot go through," while one, John Clark "don't sign by no reason he can give."

Then there was Thomas West, who refused to stand for liberty and independence "by reason that it is a mystery to him," and Philip Cummins was of the same mind. Richard Spencer went them one better however, for the list states that Richard "says he cannot write nor read and shall not sign any paper."

Religious principles were given for reasons for staying at home in those days as well as in the last war. Benjamin Herbert Jr., Richard T. Hargrove, William Wilson, (on of John) and Benjamin Harbord all took the roles of conscientious objectors.

Every big-navy man today however, ought to take off his hat to Benjamin Fleetwood, who, although his name crept into this list, his reason for refusing to sign was unique. "He says he will go in a vessel but he will not fight on land."

John Ward took a crack at the politicians of the day and won quite a paragraph in the black list. It said that John "don't sign by reason that Congress don't sign and by reason he thinks that if the English do gain the day then the English and the great people will turn the scale and say the commonality of the people forced them to stand in opposition to the English."

But how the name of Michael Bosed crept into that list is more than a modern historian can understand, for Michael had the best reason of all, it being stated that Michael "don't sign by reason he signed before!"

The only way to avoid dissapointment is never to try to do anything.

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house, as he reported, but is it possible that he never could have been there at all?" Mr. Justice Crocket commented.

"Your duty is to find the truth and to find it according to the evidence that has been adduced in this court and from nothing else," he concluded.

As Mr. Justice Crocket finished, Mr. Hanson declared, "It was a misdirection of Your Honor to point out why you didn't allow the statement I therefore take objection to Your Honor's charge."

His Lordship asked why he had not interjected while he was making his charge, and whether it was fair to wait until the case was going to the jury.

"Once before I went to correct Your Honor and you repulsed me," Mr. Hanson declared.

"Mr Hanson, sit down!" Mr. Justice Crocket ordered. The jury then retired.

His Lordship commenced his charge to the jury at 2.30 and completed it at 6.25, when the jury retired to bring in its verdict.

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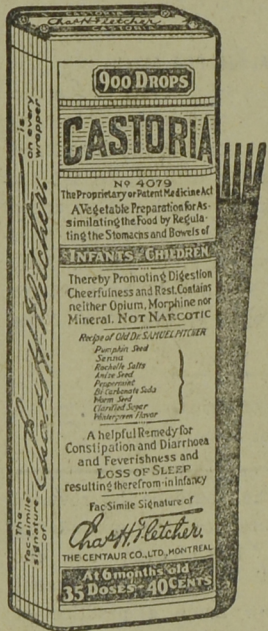
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