

DR. PRESTON COMMITTED ON CHARGE OF MURDER.

Sent Up for Trial in January Before Chief Justice Tuck---H. D. Camp Refuses to Give Incriminating Evidence.

The preliminary hearing of the case against Dr. Edward A. Preston, indicted for the murder of Edith F. Clarke, was concluded before Magistrate Ritchie in the police court yesterday afternoon, and the prisoner committed for trial.

The case will be tried at the next sitting of the circuit court, which opens on the 2nd of January, before Chief Justice Tuck.

The solicitor general sprang a surprise yesterday morning by asking that Howard D. Camp, who was included in the verdict of the coroner's jury as having been a contributory party to the death of Miss Clarke, be called to testify in the case against Dr. Preston.

Dr. A. W. Macrae, who appeared on behalf of Camp, objected, that his client, who was under arrest charged with complicity in this case, could not be compelled to testify. He supported his position with authorities, but the magistrate ruled that as he was not indicted with Dr. Preston, he could properly be called as a witness.

Camp, however, refused to answer most of the questions put to him by the crown, in which course he acted on the advice of his counsel. He admitted, however, that he had been engaged to Miss Clarke, and said that he knew Dr. Preston, and had been in his office. Beyond these facts his testimony did not go.

The court room was crowded, as on the previous sessions. The solicitor general conducted the prosecution. The prisoner, Dr. Preston, was represented by Scott B. Macrae and B. L. Gerow. Dr. A. W. Macrae appeared on behalf of Howard D. Camp.

Dr. Roberts and Dr. Scammell were recalled and when an attempt was made by the crown to place Howard Camp, (a prisoner in the case) on the stand it was met with a strong objection by Dr. Macrae, Camp's counsel, who, in his remarks, intimated that Dr. Scammell and Dr. Roberts were guilty of concealing a crime.

Dr. Roberts was recalled and Mr. Gerow resumed the cross-examination. The witness told of how he had prepared for the operation using the usual methods and precautions. He first found that septicaemia had set in on Saturday night, about eleven o'clock. The symptoms of pneumonia are similar to those of septicaemia. It was about twelve hours after this discovery that he performed the operation. He thought it safe to go for twelve hours after his discovery of blood poisoning, as at that time of performing the operation, as the patient had to be gotten ready for the operation. The preparatory work was going on all night. The operation could have been performed at once on the discovery of the blood poisoning, but not properly. During the day time it would take about eight hours to get ready. He did not leave town the night before the operation.

Mr. Gerow asked the witness about the death certificate and the solicitor general objected on the grounds that the paper was Doctor Roberts' own paper and that the public have no right to it and that the counsel had no right to ask about it.

Mr. Morrell said that he agreed the death certificate is the property of Dr. Roberts.

Solicitor General Jones said that he did not notice anything unfair in the reports of the papers but the reading in the sun to the effect that Dr. Roberts "had used an instrument and ergo" might have led the public to a wrong inference than what was brought out by the evidence. The evidence has been fairly reported by the reporters, but the headlines of the Sun were misleading.

Dr. Scammell was recalled, and in answer to the solicitor general said that the conversation between the patient and himself was on Sunday, and that she said Howard Camp was responsible for her condition, and that she had endeavored to perform an abortion, but was unsuccessful. He then wrote out the conversation on a piece of paper and read it to her, and she signed it. The paper was again put in evidence and Dr. Scammell recognized it, and also Edith F. Clarke's signature.

The next conversation was on Monday morning, the next day after the operation, when she said that she had been seen by another doctor, but did not want to get any person in trouble. When told that in case she lived she would not get any person in trouble she said it was Dr. Preston who had attended her, he had used an instrument on her and medicine had been brought to her by Dr. Preston. She also made a remark as to the serious nature of the operation.

Mr. Morrell objected to the way the question was being given, and said the witness should give the exact words. Continuing the witness said the patient remarked that Dr. Preston had told her that the operation was a serious one. The operation Dr. Roberts performed was not a serious one, but a difficult operation under any condition, but it depends greatly on the condition of the patient. The recognition of Dr. Roberts and Dr. Scammell were then taken for their appearance at the supreme court on January 2nd.

The solicitor general then asked that the court give an order for Howard Camp to be brought from the jail to give evidence. When Camp was brought in he was given a seat near his counsel, A. W. Macrae.

Dr. Macrae addressed the court, and said on behalf of the prisoner he objected to his being called as a witness. He was arrested on the same day as Dr. Preston. He claims he is not a competent witness while resting in prison as being connected with the death of Edith Clarke, and is not a compelli-

able witness. He then quoted the law that the statement of one prisoner is not sufficient for or against another prisoner, notwithstanding the fact that his evidence might incriminate himself and that the law protects him.

"Supposing the two doctors in court," he continued, "pointing to Dr. Roberts and Scammell, 'are trying to conceal a crime, and I think the evidence shows they are, they could ask for the protection of the section.'"

Mr. Morrell also said that on behalf of Dr. Preston he objected to the evidence of Camp or any other prisoner. Dr. Macrae said that Camp would desire to give any evidence in the case and refuses to be sworn.

The magistrate said he thought Camp could be called and asked a number of questions.

Hon. Mr. Jones said that as long as he was solicitor general the same proceedings as he was carrying on would be continued. In a matter of this kind, which is so important, it is the crown's duty to get all the information on the case they can as long as it is legal, and he contended that this proceeding was legal. Dr. Preston was arrested on a serious charge, and because of the fact that the man in question is in connection with the affair it is not reasonable that the man arrested in that connection should not give evidence.

The remarks of Dr. Macrae are official as far as the crown is concerned, and it would be a queer proceeding if I came to the court as the crown's prosecuting attorney and found that all possible witnesses were not called. The cause had been arrested and said to the court, I cannot go on with the case because all who should testify have been arrested, and there can be no evidence given and we will have to throw out the case. Because Howard Camp was arrested on suspicion there is no reason that I cannot call on him as a witness.

Here Mr. Morrell interrupted and said there was no more to be said for or against Camp as a witness than there was for the arrest of Dr. Preston on the charge of murder on information of a man who did not know anything about it.

Continuing, Mr. Jones said he was surprised that a barrister of Dr. Macrae's standing should put up such an objection. It was the desire of the crown to get all the evidence it could. He was conducting the case for the crown under the instruction of the attorney general, and he thought Dr. Macrae would admit that at least the attorney general knew something about legal matters. He knew of such proceedings having taken place before and would tell Dr. Macrae of them.

Dr. Macrae then adjourned until two o'clock in the afternoon, owing to the solicitor general having an appointment and to give the lawyers and court a further opportunity to look into the case and make up their minds as to the calling of Camp as a witness.

The afternoon session in the Preston case commenced at sharp 2 o'clock yesterday, when Dr. Macrae resumed the cross-examination of the witness about the death certificate and the solicitor general objected on the grounds that the paper was Doctor Roberts' own paper and that the public have no right to it and that the counsel had no right to ask about it.

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"Yes, I have been in his office." "Do you remember how many times you have been in Dr. Preston's office during the past year?" "The witness--" "Do not." "Did you call on Miss Clarke when she was sick?" "Yes." "Was it the Sunday before she took to her bed?" "Yes." "I saw her on the Saturday evening previous and went over to town with her. I parted from her at the Market Square. I do not know where she went after I left her. I did not watch her at all after she left me. It was about nine o'clock. I went towards Germain street after I left her. I did not see her again that evening. I do not know how far it is from Market Square to Dr. Preston's office."

Dr. Macrae said he could not see the relevancy of the question unless it was "I turned to the right after I left Germain street." "I saw the deceased on Friday night and talked with her for a few moments."

"Did you make arrangements to meet her the next night?" "Dr. Macrae objected to the question. Objection overruled."

"On Saturday night I met the deceased outside her home by appointment, and walked over to King street and left her at Market Square." "Prior to that time shown by the post-mortem to be correct as far as the condition of the girl's lungs was concerned."

Mr. Gerow also thought if the girl's condition was as grave as the doctors said, the operation should have been performed just as soon as it was found that she was suffering from blood poisoning. In conclusion he submitted that the crown had not made out a case against the prisoner and he was discharged.

SOLICITOR GENERAL REPLIED.

The solicitor general said that he would take up very little time. He submitted there had been a defense made and therefore the court should decide the prisoner up for trial. It has been shown by evidence which your honor has admitted as legal that the accused used an instrument on her for the purpose of bringing on an abortion, and also that the accused had prescribed ergot.

With reference to Mr. Gerow's argument as to the admissibility of the dying declarations, the solicitor general said that since the evidence by the court they would have to be considered by his honor in deciding the case. He thought that Dr. Roberts had thought his position very faulty. He thought the doctor had acted in a very painstaking manner throughout. Physicians have peculiar circumstances to meet sometimes. The witnesses maintained that they were justified in keeping the secrets of the patients. He said it was not unusual for witnesses to remember circumstances at one time that they could not recall at others. He did not think the instructions made against the doctors were justified. It was not unusual for witnesses to remember more details at one trial than another. If they came into court with a parrot story every time, he would think their evidence would then be open to suspicion.

"As the case is still very fresh in your honor's mind, I will not go into the evidence at any greater length," said the witness, who brought a bottle of ergot to the stand. "The prisoner should be sent up for trial."

Mr. Morrell also objected to the question on the ground that the answer might implicate Dr. Preston. If it were the case that the doctor had such a question was improper.

The solicitor general said the evidence already heard had shown that the witness had brought a bottle of ergot to the stand. The prisoner should be sent up for trial.

Mr. Morrell said he regretted that Dr. Roberts' name had been introduced so frequently, as he had the greatest respect for him. He concluded they were not the slightest evidence to justify the commitment of Dr. Preston on the charge of murder.

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Dear Mother

Your little ones are a constant care in Fall and Winter weather. They will catch cold, and show about Shingles, Consumption Cures, the Lung Tonic, and what it has done for so many? It is said to be the only reliable remedy for all ailments that have passed in children. It is absolutely harmless and pleasant to take. It is guaranteed to cure or your money is returned. The price is 25c. per bottle, and all dealers in medicine sell.

SHILOH

This remedy should be in every household.

Mr. Gerow also commented on the fact that although Dr. Roberts had been treating the deceased for several days he did not know her true condition until told about it. The doctor should have had a thorough examination of the patient when he was first called in.

The magistrate at this juncture interrupted Mr. Gerow to say that Dr. Roberts had no reason to suspect that an abortion had been produced, and he was not to be held responsible for the death of the deceased. He was unmannered and respectfully connected. He was inclined to think that the doctor had done all that could reasonably be asked of him, and his diagnosis had been produced, and the post-mortem to be correct as far as the condition of the girl's lungs was concerned.

Mr. Gerow also thought if the girl's condition was as grave as the doctors said, the operation should have been performed just as soon as it was found that she was suffering from blood poisoning. In conclusion he submitted that the crown had not made out a case against the prisoner and he was discharged.

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THE DROWNING OF CAPT LEVI ATKINS

Norfolk Paper Gives Particulars of the Tragedy.

Launch Was Sunk by Collision With a Steamer--The Search for the Body.

The following account taken from the Norfolk Public Ledger, gives the particulars of the sad drowning of Capt. Levi Atkins of the Parrsboro schooner "Myrtle Leaf." Capt. Levi Atkins, commander of the British whaler, Myrtle Leaf, was drowned last night in collision off the Bay Line dock, foot of Main street, between the Old Dominion Line str. Mobjack and a gasolene launch in which he with three others were at the time. The others were rescued by the crews of Clark's tug Protector and Pioneer, the Protector, Capt. Tatem, commanding, taking the leading part in the life saving.

Capt. Atkins was never seen after the collision and the conviction has forced itself upon all familiar with the details of the tragedy, which has since attracted the marine district more than any such within the recent years, are particularly harrowing. Many incorrect reports gained currency, but those immediately concerned give this version of the affair:

The launch, which belongs to L. B. Thomas, whose shop is in Division street, was under charter to Mack & Baim, ship chandlers, foot of Commerce street. She left the pier there at about 6.05 yesterday evening for Lambert's Point, having aboard Capt. Robert Macdonald, master of the str. Dorothy; Capt. Levi Atkins and Wm. White, a very intelligent young man, employed by the ship chandlers as an engineer. The design was to put Capt. Macdonald and Atkins, who were old friends, aboard their respective vessels, which lay off Lambert's Point. When passing the Bay Line pier the Mobjack, bound for her regular and nightly run in the bay, backed into the launch, wrecking and sinking her.

CLINGING TO THE RUDDER.

White was subsequently found clinging to the Mobjack's rudder, while Captains Mackie and Macdonald were taken from the water by the rescuers. The former was first thrown a rope, but did not catch it, appearing to have been rendered semi-conscious by a blow on the top of his head. This rescue in the collision, it is not known how the danger was great for two or three days, how it passed over so quietly, but perhaps another would answer that the purpose was accomplished, as the news went broadcast that the launch was found, and that they had to go to the railroad station.

On Saturday, the 25th of November, Dr. T. J. O. Earle came in to see me, and said he was notified that I had smallpox, and I said, "Doctor, you must examine me, and see for yourself." He had me stripped from my waist to my neck, and as I was quite poorly that day I cannot remember just what he did say, but he said, "I am going to Gagetown today and I will tell them (the doctors) that you have no smallpox."

On the 27th of November my son, Edith T. Kennedy, was going to his school at Cumberland Bay, and Dr. Caswell took him and told him that he was going over to close his school, and the doctor asked my son how I was. He said I was better, and the doctor said he would be to see me. I heard that he and another doctor were at Young's Cove corner, a little over half a mile from my place, on Monday evening. I expected them to come in on Tuesday morning, but they did not come, and I heard that Dr. Caswell had gone home. On Tuesday afternoon Mr. Locket and another man drove up past my place as I was out walking about my yard. I saw it was a stranger, and I said, "Doctor, you must examine me, and see for yourself." He had me stripped from my waist to my neck, and as I was quite poorly that day I cannot remember just what he did say, but he said, "I am going to Gagetown today and I will tell them (the doctors) that you have no smallpox."

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SURPRISE SOAP

A PURE HARD SOAP

Says He Had Not Smallpox, But Was Placed in Quarantine

Waterborough Man Put to Great Inconvenience During the Recent Scare--He Complains of Unfair Treatment.

WATERBOROUGH, Dec. 14, 1905.

Sir--About the last of October I was in St. John and caught a heavy cold and a bad cough. I took some patent medicines to try to stop the cough, but it got worse, and about the 15th of November I took a bad pain in my side. On the 17th my son went for Dr. McDonald of Cambridge and he came on the 18th of November and examined me and said I was suffering with pleurisy and a light attack of inflammation. He cupped me where the pain was and gave me medicine for the cough, which gave me relief in a short time.

On the next Tuesday a man came in to see me and said, "Baldy is going to have you quarantined. He says you have smallpox."

I answered it would be better for the public if Baldy would mind his own business, and I said, "I suppose he is trying to help Dr. Hay out."

On November 23rd Dr. G. W. Fleming of Pictou came to Young's Cove to the funeral of his brother-in-law, W. J. Irons, who had been sick, came in to see me. As I had been thinking about what my neighbors said about the quarantine, I told Dr. Fleming about it, and he looked over and said, "You have no more to fear from smallpox than I have."

But Dr. Fleming did not know that that he would have to bear a part of the scourge. Next morning he found the danger was greater for he heard the train at Young's Cove road station, but had to go in company with Mr. and Mrs. Christy Irons of St. John up the line to Partridge Valley, over a mile and stand about the track in the cold for nearly an hour to get on board of the train from Chipman to Norton. And I understand that A. L. Fleming and his wife, my sister, and Rev. Dr. McIntyre had to bear the same exposure to get on board the train at Young's Cove road station, but had to go in company with Mr. and Mrs. Christy Irons of St. John up the line to Partridge Valley, over a mile and stand about the track in the cold for nearly an hour to get on board of the train from Chipman to Norton. And I understand that A. L. Fleming and his wife, my sister, and Rev. 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