

SUNFIELD GUILTY OF MURDER

LAW AS TO COMBINES STATED TO GRAND JURY.

Chief Justice Falconbridge's Charge in Dominion Grocers' Case.

The following very interesting references to the Dominion Grocers' case were made by Chief Justice Falconbridge in his charge to the Grand Jury at the present assizes:

you by the learned counsel for the Crown because the case is so complicated in some respects that it requires to be presented to you in a precise and orderly fashion and, indeed, some of the evidence has to be obtained from witnesses who are, perhaps, not entirely friendly—so that you will need the assistance of counsel, in order to unravel it and understand it. There are many cases in which the Grand Jury can examine the witnesses and find out what the facts are, but this is not one of them. This is a case where you will be rather at a loss—indeed I would—a trained mind would be at a loss—to get at the matter without the assistance of counsel.

which was extended some time ago to our native industries. As an objection to a protective tariff it was urged that combinations might be formed within our own Dominion which would unreasonably enhance the price of commodities, in view of the fact that the foreign goods were, to some extent, at any rate, excluded. As an answer to that argument, this law, under which the Crown is proceeding to-day, was placed upon the statute book, and you will have to determine, when I read the statute to you, whether the evidence which will be presented to you by the learned counsel for the Crown falls within its provisions. I say the evidence will be presented to

To Be Hanged Nov. 29.

After an hour and a half address by J. L. Counsel, for the prisoner, and half an hour by Mr. Blackstock, for the Crown, Judge Falconbridge briefly addressed the Jury. After Being Out Three Hours and Fifty Minutes the Jury Brought In a Verdict of "GUILTY" With a Strong Recommendation to Mercy. The Judge Sentenced Sunfield to Be Hanged on Friday, November 29.

After a trial extending over three days Jacob Tamillo, alias Jake Sunfield, was yesterday found guilty of murder and sentenced to be hanged on Friday, November 29. The verdict was what was expected. Mr. J. L. Counsel received many congratulations for his able defence of the prisoner, but it was clear in the minds of all that Sunfield was the murderer.

Andrew Radzyk killed on July 12. Jake Sunfield arrested on same day, charged with murder. Subsequently committed for trial. Trial began on Wednesday, Oct. 9, and lasted till Friday night at 10 o'clock.

Jury was out nearly four hours, before rendering a verdict of guilty. Sunfield sentenced to be hanged on Friday, Nov. 29.

Sunfield's right name is Jake Tamillo and he is 31 years of age. He has a wife and family in Chicago.

Sunfield blames drink for putting him in the shadow of death. Trial will cost the city and county about \$2,000.

Mr. Counsel's Appeal.

Mr. J. L. Counsel began his address to the jury at 2.30 p.m. yesterday. There is always, he said, in opening, a motive for every crime. Consider the case from beginning to end, and ask yourself what motive could the prisoner have for shooting Radzyk. These men were companions and were drinking at a public bar a few hours before Radzyk was shot. The crown has failed to show that Sunfield had any malice toward Radzyk; the most the crown has shown that in drunken rows Sunfield had made threats not only to kill Radzyk, but to clean up the whole house. These were simply the utterances of a drunken man.

Mr. Counsel then referred to the illicit relationship that had existed between the prisoner and Mrs. Radzyk, and said this kind of thing was common in this house, as in houses of many people in the class of Radzyk and Sunfield. "These people do not hold the same views of morality as you do, and because he is an adulterer is no reason for you for thinking he is a murderer," said Mr. Counsel.

Mr. Counsel pointed out how the most damaging evidence given—that of Wm. Walsh—was not corroborated by the testimony of the witnesses, and that it did not agree with the testimony of two fellow-employees, who were among the first to go into the house, prior to Walsh. He attacked Mrs. Radzyk's evidence, which he referred to as a pack of lies. Her story was not probable, he said. "If this man's story is considered favorably by you, if you think his story is more consistent than that told by Mrs. Radzyk, the Crown's chief witness, you will have a doubt as to his guilt and you must give him the benefit of the doubt," he said.

In concluding his address, Mr. Counsel said the only evidence that the jury could find the prisoner guilty of murder on was that of Mrs. Radzyk, and he asked the jurors if they could honestly believe her story. Mr. Counsel spoke for about an hour and a half. In the course of his address he read a number of extracts from British and U. S. legal authorities.

Crown Counsel's Address.

Mr. Blackstock, in arising to address the jury, took occasion to congratulate the prisoner's counsel on his ability and zeal in his efforts. He predicted for him a bright future in his chosen profession.

He said that the evidence in the case was clear and strong in the main points. Were the case not of such serious nature he wouldn't have availed himself of his right to review the evidence or even address the jury, but as the charge is the most serious in the code, he would point out a few of the matters which might obscure the real points. Mrs. Radzyk's fidelity was not the question before the court; neither is the mode of living of these people the thing that you are to decide. Mrs. Radzyk is no party to this litigation. The party on one side is the Crown—the people—and on the other the prisoner. The prisoner is accused of violating the law, taking the life of a fellow-man, and to decide the simple question, is he guilty of that charge? The Crown prosecutor declared that the prisoner was handicapped in the trial. It was the Crown, he said, that was under a handicap, as many of the Crown's witnesses told their stories in a foreign language, a language that the prisoner understood.

In the first place there is no question but that Radzyk was shot. It is not suggested that he did the shooting himself; suicide theory is thus eliminated. Both sides meet on common ground. Radzyk could have been shot by only two persons—Sunfield or Mrs. Radzyk. The evidence is clear that Mrs. Radzyk ran out of the yard, shouting that she had been shot—by Sunfield. Would that be the demeanor of a woman who had just shot herself? Even the prisoner didn't suggest that on this stand.

Brandow told a very straightforward story of what happened when Sunfield and he went into Radzyk's room and he said Sunfield remarked, "What happened here?" Is Sunfield's statement that he had been in the room a few minutes before and seen that Radzyk was hurt, consistent with that question?

The Crown pointed out that when Sunfield was just spoken to at the scene of the shooting, Sunfield said he hadn't heard any shots. Does that agree with Sunfield's statement this morning on the stand? He also pointed out the testimony of witnesses who said that when the officers walked in, Sunfield said, "I am your man; I am your prisoner." Sunfield's actions proclaimed his guilt stronger than his words.

My learned friend has asked you to disregard the evidence of all the Crown's witnesses, some of whom he has castigated, and believe the story of this prisoner. And what kind of a character has the prisoner? He unblushingly admitted that he was an adulterer and cooly told of his desert not only to the woman, but to the husband. And he tries to believe the story of the prisoner. He asserts he deceived and has tried to blast the reputation of two men who were compelled to testify at the trial. It is a reasonable question for you to ask, "What manner of man is this man, whose story you are asked to believe in preference to the testimony of the Crown's witnesses? When asked who shot Mrs. Radzyk, this man is mute and dumb; he doesn't remember anything. Against this is the teamster's testimony that he heard a shot and saw a man stand by the door and a woman close by, who ran when a second shot was fired. These shots frightened his horses, yet Sunfield said he heard no reports.

In conclusion, Mr. Blackstock said, he, as prosecutor, was not anxious to have an innocent man found guilty; his duty was to see that all the facts are placed before the Judge and jury. Sunfield's story, he said, doesn't explain the presence in the trouser's pocket of his own revolver, the weapon that was used in the killing.

In regard to the question of motive, he said it was nonsense to say that a man cannot be prosecuted for murder when he has killed a man for which no motive can be proven. The man may have a secret motive, a motive that no person knows about. In this case, however, it has been shown that Sunfield had been angry at Radzyk on many occasions, had assaulted him and threatened to kill him. Liquor, no doubt, played a big part in these rows that these people figured in while Radzyk's threats to put Sunfield out of the house, delivered in a forceful and logical dress, his address was listened to most attentively by the large crowd of auditors that filled the court room, as well as the prisoner and jury. Many members of the legal profession were present to hear one of the Canadian masters addressing jurors.

The Judge's Charge.

The Chief Justice followed with the charge to the jury. At the outset he referred to the responsibility of the various persons connected with the trial of a person for murder—the prisoner's counsel, the Crown counsel, the jury and the Judge. My duty is to see that no improper evidence is admitted or that any proper evidence is rejected, and to see that the case is fairly presented to the jurors. While your responsibility is great, it is not so great as counsel's oftentimes try to make out. Therefore, be not too impressed, or oppressed, by the representations of responsibility. This responsibility is not self-imposed; it is imposed by the law.

It is seldom that murder is proved by direct evidence, and any juror who declares that he would not find a man guilty of murder on circumstantial evidence violates the oath he has taken.

His honor then touched on the evidence which dealt with the principals of the tragedy, and said that the theory of suicide could not be entertained. The firing of the fatal shot was by one of two persons, and the deceased was not one of these.

He pointed out the law in regard to statements of dying persons. The law assumes that a man who realizes he is about to die will tell the truth. He then referred to Schwartz's testimony, to the effect that Radzyk said, "The man who shot me has the revolver," and to a part of Walsh's evidence, "Me no cut, Jake shoot." Walsh's evidence was boldly attacked, and as you saw him in the box it is for you to judge it for yourself. What motive could he have to try to swear away the prisoner's life?

His Lordship also spoke of the temptation there is for a man who is on trial for his life to tell what is not true. It is only within recent years that one accused of murder was allowed to testify under oath. It is for you to decide, however, if you can credit his story. He mentioned the prisoner's statement that he had angered the woman he had been unduly intimate with for months by calling her names just prior to the shooting. Was this probable? The prisoner has ascribed as a motive for the wife committing the crime the insurance on the life of her husband. Is that a good motive, under the circumstances? In conclusion, he said there is sure to be conflicting testimony. In a criminal case there must be a stronger preponderance of evidence than in a civil case. A doubt must be a reasonable doubt in the minds of reasonable men. There is no case that can be proven absolutely, for even in a case where there is direct testimony, the witness giving positive testimony may be committing perjury or it may be a case of mistaken identity.

The Jury Retired.

The jury then retired to consider the case. This was at 6.15. His Honor remained on the bench till 7 o'clock, evidently anticipating that a verdict would be reached. At that hour he adjourned court till 8 o'clock. When he returned at 8, there was no word from the jury, but at 8.20 word was sent in that some of the jurors desired the testimony of Hunt to be read to them. The jury returned to the court room, and the official stenographer read the notes of the testimony of the teamster. They then retired. This action of the jurors, in asking to have part of the testimony read over, was taken as a sign of a disagreement by many, and as the time wore on, it was freely predicted that no verdict of guilty would be brought in. A few minutes before 10 o'clock the officers in charge reported that the jury had arrived at a verdict, after having been out three hours and forty-five minutes. The sheriff instructed the police to see that every one in the court room was seated, and the anxious auditors knew at once the jury was ready to come in, and a deathly silence prevailed while the jurors filed and took their seats. The Chief Justice was summoned from the retiring room. After he ascended the throne, the clerk asked the foreman of the jurors if they had agreed on a verdict. "We have," he replied in a voice that was audible only a few feet away. "What is the verdict?" he was asked.

Verdict Was Guilty.

There was an ominous silence for a few seconds—seconds that seemed like minutes, and then the foreman, who was filled with emotion, pronounced the fatal word.

"GUILTY" with a strong recommendation to mercy." The jury was then polled, and all the members confirmed the report of their foreman.

Crown Attorney Washington, acting for the Crown Prosecutor, then moved that the sentence of the court be passed, but before the Judge commanded the prisoner to stand up, Mr. Counsel asked His Lordship for a reserve case on two points—the admission of Walsh's evidence in regard to the statements made by Radzyk on the ground that Radzyk did not realize that his death was at hand and also on the ground of the admission of evidence of Sunfield's quarrels with others than Radzyk.

His Lordship declined to grant a stated case, as he said he was quite sure of the law on the points. He stated that this would not affect the prisoner's right to appeal; that the position for counsel would not be changed.

Sentenced to Be Hanged.

Sunfield was then commanded to stand up. "Have you anything to say why the sentence of the court should not be passed upon you?" asked the Chief Justice.

"Yes," replied Sunfield, "but only that I am not guilty and I am sorry to die. You will find out later I am not guilty." The declaration was made in a clear voice, with no show of emotion.

The Judge then said in part "It is not my practice to add to the errors of a situation of this kind by saying anything of the enormity of the crime, if you have not yet come to a realization of it, no words of mine would cause you to do so. I am satisfied with the verdict of the jury. I do not see how they could have come to any other verdict. The law provides no alternative for me, and I would not recommend you to hold out any strong hope in that recommendation to mercy. Do not build too strongly on the recommendation of the jury and the time between this night and the day that I fix for the execution you should spend in preparing yourself for the hereafter."

His Lordship then read the sentence of death, with all its terrible legal phraseology, condemning the prisoner to be hanged by the neck till dead on Friday, Nov. 29, and closing with the words: "May God have mercy on your soul."

Toward the end of the short address his Lordship became visibly affected, and the last few words were accompanied by tears. Many in the court room were affected, and Mr. Counsel walked over to the dock, and shook hands with the prisoner, who philosophically said, "Well, I told you." It was some time before the court room was cleared of the throng that had waited for hours to hear the fate of one that most of them had known only by newspaper reputation. Sheriff Middleton also shook hands with the prisoner, who was in charge of High Constable Twiss and Sheriff's Officer Stewart, while the crowd was departing. As soon as possible the prisoner was taken back to the jail.

Mrs. Radzyk Discharged.

After the doctor examined the woman she was told by Interpreter Protich that the judge had ordered her release, and that the pocketbook, containing \$12, found on Sunfield, is to be restored to her at once by the Crown officers.

Mrs. Radzyk, who has been held in custody since the day of the shooting, seemed pleased at getting her freedom, but she remained in the Court House to meet friends who were attending the trial.

Two Held Out.

One of the Jurors Opposed to Hanging on Principle.

That the jury in the Radzyk murder case was out so long—for over three hours—was the subject of a good deal of discussion last night at the Court House. His Lordship expected a verdict in a short time, it is thought, for he remained on the bench from the time the jurors went out till 7 o'clock. Most of the court officials and newspaper men looked for a prompt verdict, as the evidence against the prisoner was considered very strong. The prisoner's counsel, even, had little hope of acquittal. The delay in reaching a verdict, one of the jurors said late last night, was caused by two of the jurors, one of whom was opposed to hanging on principle. The first ballot, taken shortly after the twelve men retired, showed ten for conviction. After the evidence of Teamster Hunt was read by the court stenographer, one of the two voted with the majority, but the other man held out for an hour and a half, agreeing to the verdict with the rider attached—that Sunfield be recommended to mercy. This man, it is said, had no doubt in his mind of the accused's guilt at any stage of the deliberation.

This incident would go to show that in choosing juries for murder trials jurors should be questioned as to their views on capital punishment. This is done in the courts of some of the States to the south.

Death Watch.

Placed on Jake Sunfield at the Jail Last Night.

Jake Sunfield put on a bold front on his arrival at the jail last night after being taken from the Court House, but some of the officials who have studied him say that he is a coward at heart, and will break down before the day of execution. In other quarters it is predicted that he will kill himself to cheat the gallows, if he gets an opportunity, as he always liked to be looked upon by his companions as a daring man. Amongst the Pollocks, with whom he associated a great deal, he acted the part of a bully when in liquor, but when sober he was quite agreeable.

Sunfield was placed in the murderers' cell, in the west corridor, on the ground floor, last night, and a death watch placed on him. A county constable was on watch last night. From now till the time of the execution, Sunfield will be watched day and night, as provided by law.

B. B. B. Fine Briar Pipes.

That stamp on a pipe means the best quality of briar, the finest vulcanite and amber, the most careful workmanship and superior finish. They are sold at peace's pipe store, 107 King street east.

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Jake Sunfield, the Murderer.

RECENT MURDERS.

Ten Homicides in the Past Decade in This County.

Besides the murder of Andrew Radzyk, there have been nine cases of homicide in Wentworth County in the past decade as follows

1899, February 9—Ben Parrott a simple minded sort of fellow went to the home of his parents while drunk and struck his mother over the head with an axe, killing her. He was hanged for his crime on June 23 of the same year.

1900, September 24—A terribly revolting murder was committed on the town line when George Arthur Pearson shot and killed Annie Griffin while out driving with her. He told a big story of being attacked by highwaymen at the time and that one of them shot the young lady, but he was proven guilty and executed on December 7 of the same year.

1902—Charles Vosper in the early part of the year shot his wife in her home on Heckler street, and then committed suicide. The cause was jealousy.

1904—Oct. 25—Constable James Barron was shot by unknown assassins in the yard of J. B. Mills, on Catharine street, to which place he had gone in pursuit of house-breakers, who had been heard by some one in the house. This was in the early morning, and his assailants got clear away, and have not been traced to this day, although in some minds it is thought that the murderers were arrested and one killed fighting the police and the other sent to Kingston, where he is now.

1905—June 30—was the date of the next crime. Fred Fieldhouse was found on Bay street north, and was thought to have been murdered, but three local men were acquitted when tried for the alleged offence.

1905—October 9.—This was the date of the celebrated Barton murder, when an unknown woman was shot and killed in Marshall's Bush, and was thought to have been murdered, but three local men were acquitted when tried for the alleged offence.

1905—November.—Taplestown was the scene of the next murder, which took place a short time after the Barton murder, when Philander Burkholder, of that place, killed his wife and child with an axe, and then cut his own throat, leaving a confession pinned to the door.

1907.—May of this year saw the death of Simon Buda, a foreigner, who was supposed to have been murdered. A long drawn out inquest resulted in an open verdict.

On July 12, Andrew Radzyk, a Pole, was shot in the head, and died a few hours later in the City Hospital. It was for this fatal shooting that Jake Tamillo, alias Sunfield, was last night condemned to die on November 29th.

FURNISHING THE HOME.

Large Assortments, Best Values and Qualities at Right House.

When furnishing the home, it is highly essential that everything should be in harmony. It means much saving in time and money to go to the right place first.

The Right House is the right place. Years of serving the Hamilton public have built for the Thomas C. Walkins firm a most enviable reputation for fair dealing, for honesty and for good service and satisfaction-giving qualities in home furnishings.

There you will find immense assortments. You will find, too, superior qualities—many of the world's best manufacturers confine their productions to The Right House for Hamilton—and last, but not least, you will find there in value quantities can produce. Literature and every information may be obtained.

You will make no mistake if you take every home-furnishing need direct to The Right House. Read their big advertisement in this paper.

Christian Science reading room is open each afternoon from 3 to 5 p. m.; a lady always in attendance. Literature and every information may be obtained. The public are welcome to call.

The Man In Overalls

The school book fee will now be just the price of a good cigar.

'Rah and root for the Tigers!

At any rate we can go up to the City Hall and take a look at the assessment roll. That's your legal right.

To be told without warning that cakes will go up in price certainly takes the cake for coolness.

The weather wise tell me that October thunder storms mean a spell of cold weather. How's your furnace?

The Whitney outfit seems powerless in the matter of electric power.

Is my dream of a beautified mountain to be realized at last?

The Board of Works hasn't a penny to his name. Worse than that, it's in a deep financial hole.

Toronto is now busy getting ready for its annual harvest home.

Now if the Y. W. C. A. building fund campaign was completed it would be out of the way of the Y. M. C. A. one. How does it stand?

Mr. Budda's prescription for getting rid of a tiresome husband is not half bad. Doubtless there are husbands who would like nothing better than to die such a death.

No Hamilton Liberal should be without the Times. It should be his guide, philosopher and friend. No other paper just as good.

This attack of Beattie Nesbitt on Hanna discloses the fact that the barnacle has begun to bite the good ship Whitney.

It's now up to Sheriff Middleton.

THE YOUNG FELLOWS.

The long evenings are here again, and the young men without any object, ambition or hobby have to do quite a lot of thinking as to how best to kill time. Some, after a clean up and supper, parade the streets; others frequent the pool-rooms or take in the shows. Some have hang-outs where cards and dice help to cut into the evening, and some just smoke and read the papers until it is time to go to bed. Now any or all of these plans to pass the time just means stagnation. Besides they become monotonous and tiresome, and those who indulge themselves in any of these ways do not improve—they deteriorate. Young men of this stamp may not go to what you would call the bad. But they never amount to a great deal. They stay in the rack, in the scramble, at the foot of the ladder. The young fellow, however, who has some get-up-and-get about him will not be contented to waste his valuable evenings in such a way as that. He will want at the least to so employ a part of his time that he may improve himself materially. He will want to perfect himself in his trade or business. If he is a mechanic, he will not rest satisfied until he has mastered the higher branches. Whatever he is, he

will want to be an expert at the business. He will want to be first class.

Or he may want to cultivate his faculties and improve his education. He will go to night school or art school and get posted and experience. His bent may be in the direction of the young men's unions, Y. M. C. A. or church work, or his hobby may be athletics. Whatever it is, he will find a means, not to kill time, but to make the most of it both for himself and for others. The chap I mean won't be a lazy, loafing, can't-bether sort of a lad, but a manly, pushing, straightforward, honest, ready-for anything young man. To be such may require a little sacrifice. Can you make it?

R. R. SWITCHMEN.

Preparing to Make Demand for Increase in Pay.

Chicago, Oct. 12.—The Chairman of the Grievance Committee of all yards under the jurisdiction of the Switchmen's Union of North America last night completed a demand for an increase in pay equal to that granted to the men in the Northwest.

The conclusions of the gathering will go before the local unions for concurrence. It is the purpose to ask for an increase of 6 cents per hour, time and one-half for over-time, and double pay for Sunday. The demand will affect all yards from New York west, controlled by the Union. President Holly said there was little likelihood of a strike.

CAR IN FLAMES.

Passengers in New York Trolley Had Close Call.

New York, Oct. 12.—Crowded with theatre-goers returning from New York, and half way across a high trestle, a Hoboken trolley car suddenly burst into flames shortly before midnight last night. At this point on the trestle the car was seventy feet above the ground. Many of the passengers were women, and it was with difficulty that a panic was quelled.

The conductor and the motorman assured them that all would escape in safety. As soon as the car was stopped the passengers streamed out and made their way to a narrow plank pathway, made slippery by the rain. On this dangerous footing, surrounded by live feed wires, they walked for some distance in the dark before reaching solid ground. All got off the trestle, which is 150 feet high at its highest point, without accident. The car was entirely consumed.

SAFETY DEPOSIT BOXES.

To rent at \$2 a year and upwards, for the storing of deeds, bonds, stocks, wills, silver and other valuables, at the TRADERS BANK OF CANADA.

Riding Belts

And other belts for lame backs. We are selling a gray flannel and some other belts, regular \$1.75 and \$2, for \$1.50 each. Canvas belts, regular 75c and \$1, for 60c each. We sell also abdominal supporters of various kinds, trusses. Ask for catalogue, which will be supplied free. Parke & Parke, druggists.