

IMPORTANT RULING IN N. B. MURDER CASE

Ottawa Paper's Comment on
The Newman Clark Appeal
to Supreme Court.

(Ottawa Journal.)
Newman Clark was, on the 3rd day of December, 1920, at Andover, New Brunswick, found guilty of the murder of one Phoebe Bell, the offence having been committed on the 25th March, 1920. The defence sat up at the accused at the trial was that of insanity. Mr. Justice Chandler, the trial judge, charged the jury that the defence of insanity having been set up, this defence must be proved to the satisfaction of the jury "beyond a reasonable doubt." In charging the jury that insanity must be proved to the satisfaction of the jury "beyond a reasonable doubt," the learned trial judge followed the decision of the Court of Appeal of New Brunswick in a case of the King vs. Kierstead decided in 1918 wherein it was laid down by that court that insanity must be proved to the satisfaction of the jury "beyond a reasonable doubt."

In a case of the King vs. Anderson decided by the Supreme Court of Alberta in 1914 it was laid down that it is a misdirection in a murder trial where the defence of insanity is set up to charge the jury that insanity must be proved to the satisfaction of the jury "beyond a reasonable doubt." In this case the court drew a distinction between proof "to the satisfaction of the jury" and proof "to the satisfaction of the jury beyond a reasonable doubt." The court in this case recognized the existence of two degrees of proof; the first being proof to the satisfaction of the jury, and the second, and stronger, being proof to the satisfaction of the jury "beyond a reasonable doubt."

The court of Appeal for Alberta in the Anderson case laid down the principle that in a murder trial where the defence of insanity is set up it is merely necessary to prove the insanity to the simple degree of proof, namely, to the satisfaction of the jury, and that proof is not required to the satisfaction of the jury "beyond a reasonable doubt." The court consequently laid down the principle that it is a misdirection in such a case to charge the jury that insanity must be proved to the satisfaction of the jury "beyond a reasonable doubt."

The Anderson case decided by the Supreme Court of Alberta was apparently not considered by the Supreme Court of New Brunswick in connection with the Kierstead case. When the present Clark case came on for trial there existed this conflict of jurisprudence, and counsel for Clark applied to the trial judge to reserve a case for the opinion of the Court of Appeal as to whether or not, having in mind the Anderson case, the trial judge had made a misdirection in charging the jury that insanity in the present case should be established to the satisfaction of the jury "beyond a reasonable doubt."

From the trial judge's order refusing the reserve case, counsel for Clark appealed to the Supreme Court for New Brunswick, which court unanimously dismissed the appeal and affirmed the conviction.

Prior to 1920 no appeal could lie to the Supreme Court of Canada from a unanimous decision in a criminal case of a provincial appellate court. By an amendment to the Criminal Code passed in 1920 an appeal now lies to the Supreme Court of Canada from a unanimous judgment of a provincial appellate court in a criminal case where there is a conflict of jurisprudence between such provincial appellate court and a court of appeal of another province.

Upon the basis of this amendment, counsel for Clark appealed to the Supreme Court of Canada from the decision of the Court of Appeal for New Brunswick, upon the ground that the judgment of the Court of Appeal for New Brunswick was in conflict with the Anderson case.

Judgment has now been rendered by the Supreme Court of Canada granting Clark's appeal, setting aside his conviction, and directing a new trial. This judgment of the Supreme Court of Canada confirms the judgment of the Court of Appeal for Alberta in the Anderson case, and now lays it down as law that it is a misdirection for the judge to charge the jury that insanity must be proved to the satisfaction of the jury "beyond a reasonable doubt." As a consequence, in the future in such cases the jury be charged that insanity need only be proved "to the satisfaction of the jury" and that it is not necessary that the insanity need be proved to the greater degree, namely, to the satisfaction of the jury "beyond a reasonable doubt."

**LIBERAL CONSTITUTION
ADOPTED BY POLAND**

Warsaw—The adoption of the Polish constitution last week places the reborn nation on a more stable political foundation than at any time since its re-establishment two and one-half years ago.

The chief points that have been at issue in the discussion over the constitution were the method of selecting the president and the establishment of a second parliamentary body.

As finally adopted there will be a senate and a chamber of deputies, and election of the president will be entrusted to the national assembly, composed of the full membership of both the houses of parliament, who may elect the chief executive for a term of seven years by majority vote.

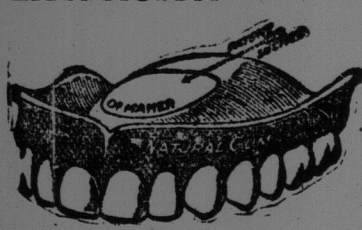
The constitution provides for free, compulsory education in district and municipal schools. Every citizen has the right to the use of his own language, and assurance is given the free development of the minority nationalities living in Poland. The different nationalities are permitted to have their schools and teach their own language under government supervision, and with partial support by the state.

Land reforms provided for restrict the individual ownership of large tracts, and all classes receive equal rights in this respect.

The care of orphans by the state is provided for and night work by women and by children under fifteen years of age is prohibited.

For seal hunting in the summer time off the coast of Washington is restricted to the Quillayute, Ozeite and Makah tribes of Indians, whose rights are guaranteed by a treaty signed ten years ago by the United States, Great Britain, Russia and Japan.

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HALIFAX MERCHANT ON TRADE OUTLOOK

"I am not at all pessimistic about the trade situation," said H. G. Bauld to the Maritime Merchant. "I am expecting a quiet year as compared with the three which have preceded it, but so far as the grocery trade is concerned, I think we shall have enough to do to keep us busy and though we may not make any great amount of money, I believe that if we keep active in pushing for business, we shall come out all right. And why shouldn't we? This country cannot be

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seriously hurt by a few months of hard times. The people generally are too well to do. Most of them have made money since the war began and the majority have saved at least a little of what they have earned. I hear people talk about the low price of fish being the ruin of Lunenburg. Why, bless my heart, the people of Lunenburg could afford to give a two years' catch for nothing and still be the best-off people of any country in Canada in proportion to population. Of course there are some bad spots throughout the country, and losses by traders will have to be made. It is true too that with values of food-stuffs declining, it is harder for the jobber to make profits. But just the same, I think there is no reason for pessimism

'He who laughs last'

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DECLARES MOTOR BUSES COST MORE TO OPERATE

Toronto, April 4—Motor buses are more costly to operate than radial railway cars, according to evidence given here today before the Royal Commission inquiring into the radial railway schemes

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of the Ontario Hydro-Electric Power Commission by Walter Jackson, of Mount Vernon, N. Y., consultant on electric railway and motor bus services. He placed the cost per day of a five-ton truck doing 100 miles per day, including all the costs, investments, amortization, etc., at \$60, and said the cost of a ninety-mile round trip on the Toronto-Hamilton highway would be more than this, rather than less. The cost of a seat mile on a motor bus, he said, was practically double that of a tram car seat mile.

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3 lb. tins 47c.
5 lb. tins 79c.
10 lb. tins \$1.57
- California Sliced Peaches only 25c. tin
4 lb. tin Pure Fruit Jam 75c.
5 lb. tin Corn Syrup 50c.
Strictly Fresh Eggs 35c. doz.
(5c. doz. extra for carrier when delivered.)
- 2 tins Libby's Beans for 25c.
Finest Evaporated Apples 19c. lb.
King Cole and Salada Tea 50c. pound package
Finest Orange Pekoe Tea, lb. 39c.
4 rolls Toilet Paper 25c.
3 cakes Lifebuoy Soap 25c.
2 pkgs. Lux 23c.
2 tins Old Dutch 25c.
2 boxes Matches for 23c.

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80 lb. bags \$1.45
2 cans Pumpkin 25c.
2 lb. New Prunes 25c.
Oatmeal, per pkg. (Ogilvie's) 25c.
Fresh Eggs, per dozen 60c.
2 cans Old Dutch 25c.
2 qts. White Beans 25c.
4 lb. tins Pure Marmalade 98c.
2 tins Libby's Jam 35c.
24 lb. bag Flour, all kinds \$1.65
98 lb. bag Flour, all kinds \$6.25
3 1/2 lb. Oatmeal 25c.
2 Lipton's Jelly 25c.
2 pkgs. Pure Gold Tapioca 25c.
Fine Orange Pekoe Tea, a lb. 40c.
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Half bbl. bag Potatoes \$1.20
Best Pure Lard, a lb. 23c.
Best Shortening, a lb. 17c.
Finest Evaporated Apples, a lb. 18c.
Strictly Fresh Eggs, a dozen 35c.
2 boxes Matches 23c.
Blue Ribbon Peaches, a lb. 27c.
2 lb. pkg. Blue Ribbon Peaches 50c.
Choice Turnips 25c.
5 lb. can Corn Syrup 50c.
6 cans Corn, Peas or Tomatoes \$1.00
Liquid Vener, 50c. size 45c.
Liquid Vener, 25c. size 23c.
Little Beauty Brooms 80c.
8 lbs. Onions 25c.
2 lbs. Boneless Codfish 35c.
98 lb. bag Best Pastry Flour \$5.65
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