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TORONTO, JULY 13, 1910.

No. 42.

COURT OF APPEAL.

JUNE 20TH, 1910.

REX v. HENDERSON.

Criminal Law—Murder—Evidence—Judge's Charge—Misdirection—Nondirection—Insanity—Onus—Testimony of Experts—Circumstances Tending to Reduce Crime to Manslaughter—Recalling Jury—Remarks of Judge—Tendency to Hurry Jury—Recommendation to Mercy—Executive Clemency.

Crown case reserved by RIDDELL, J., after a conviction of the prisoner for the murder of Margaret Macpherson, an aged woman.

The case was heard by MOSS, C.J.O., GARROW, MACLAREN, MAGEE, J.J.A., and TEETZEL, J.

F. D. Kerr, for the prisoner.

J. R. Cartwright, K.C., for the Crown.

On the day of the hearing, after a short adjournment, the judgment of the Court was delivered by Moss, C.J.O.:—At the conclusion of the argument before us this morning we intimated our intention to further consider during adjournment the points which Mr. Kerr on behalf of the prisoner argued with much force and ability. Having considered them, we have reached conclusions which we think we should not delay in declaring. Mr. Kerr has left unsaid nothing that could be said on behalf of the prisoner. Throughout this case Mr. Kerr has performed his full duty as counsel, doing his utmost on behalf of the prisoner at the trial, and not relaxing his efforts on his behalf until the last. He has to-day forcibly presented every point that could be brought forward in favour of the prisoner. It is unfortunate for the prisoner that the