

also had on a black shirt with white stripes, and a dark coat. Prisoner had been seen in the vicinity of the murder, within 1,000 feet of the place, some 20 or 30 minutes previously. His dress corresponded with the shirt, coat and trousers mentioned. A knife, sworn to as having been in the prisoner's possession three days before, was found on the afternoon of the murder, still wet with blood, a few feet from the murdered woman's body. When arrested, three days later, prisoner was without the dark shirt.

*Held*, refusing an application for a new trial, that the jury were justified, on the evidence, in coupling the prisoner with the crime.

In a criminal, as in a civil case, on an application for a new trial on the ground that the verdict is against the weight of evidence, the court will be governed by the fact whether the evidence was such that the jury, viewing the whole of the evidence, reasonably could not properly find a verdict of guilty.

While, under the criminal law, the accused person is not called upon to explain suspicious circumstances, there may yet come a time when, circumstantial evidence having enveloped him in a strong network of inculpatory facts, he is bound to make some explanation or stand condemned.

*McQuarrie*, for the prisoner. *Cassidy*, K.C., for the Crown.

Morrison, J.]                      JAMIESON v. JAMIESON.                      [Nov. 26, 1908.

*Husband and wife—Judicial separation—Residence within jurisdiction at commencement of suit—Cruelty committed outside of jurisdiction—Continuation of, within jurisdiction—Apprehension of future—Jurisdiction.*

The petitioner, owing to acts of cruelty and misconduct, left her husband in Montreal, when the parties were domiciled and came to British Columbia, bringing her child of the marriage, a girl of eight years, with her. The husband followed, and commenced proceedings in British Columbia for the custody of the child. While in British Columbia he renewed the acts of cruelty, and, apprehensive of further cruelty, the wife commenced proceedings for judicial separation. He opposed the suit on the ground that there was not jurisdiction in the court, inasmuch as he was not domiciled in British Columbia.

*Held*, that he had established sufficient domicile to give jurisdiction to entertain the suit.

*Cassidy*, K.C., and *Senkler*, K.C., for the petitioner. *Sir C. H. Tupper*, K.C., and *Donaghy*, for the respondent.