

## 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 afternoon session in the Preston case commenced at sharp 2 o'clock yesterday, when Dr. Macrae resumed his argument and cited evidence against the crown. He was not allowed to give evidence for or against others.

The Solicitor General submitted that the crown could compel any person other than the defendant to give evidence and mentioned that Godspeed gave evidence against Higgins in the Bohlert murder case.

Dr. Macrae pointed out that in that case no objection had been made.

The court ruled in favor of the crown and called on Camp to take the witness stand.

HOWARD CAMP.

Howard Camp, sworn, said:  
"I live at Paradise row, St. John. I have lived here all my life. My father has been dead several years. My mother is still alive. I am a core maker by occupation."

"Did you know Edith Clarke?"  
Dr. Macrae objected on the ground that the question here was the death of Miss Clarke, in respect to which Camp was now under arrest.

The court overruled the objection.

"Yes, I knew her."

"Do you remember when Edith Clarke died?"

"Yes."

Dr. Macrae said that since the witness was not present when she died he could not swear of his own knowledge concerning the case.

"Were there any relations between you and Edith Clarke with respect to marriage?"

"I refuse to answer that question."

"Were you engaged to be married to Edith Clarke?"

Dr. Macrae objected to this question. Objection overruled.

"Yes, I was."

"Do you know Dr. Preston?"

"I object," said Dr. Macrae.

Ruled that he should answer.

"Yes, I do."

"How long have you known him?"  
Objected to by Dr. Macrae on the ground that this question was leading towards the connection of the witness with the death of Edith Clarke.

Question allowed.

"Have you ever been in his office?"

"I refuse to answer that question."

Dr. Macrae said that though the witness could not be compelled to answer since Dr. Roberts had failed to answer certain questions and had not been compelled to, Dr. Macrae said he would ask the witness whether he would not ask that one of his attorneys to ask him to answer.

Dr. Roberts was not compelled to answer, Mr. Camp said, and he would not answer either. He should not be discriminated against.

The court said that in the case of Dr. Roberts' evidence he had considered that it was not relevant, and on that ground had not compelled him to answer. The court ruled that the witness should answer this question.

"Yes, I have been in his office."

"Do you remember how many times you had been in Dr. Preston's office during the past year?"

The witness—"I do not."

"Did you call on Miss Clarke when she was sick?"

The witness—"Yes."

"Was it the Sunday before she took to her bed?"

The witness—"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 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.

"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.

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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 Saturday night were you ever in Dr. Preston's office?"

The witness—"Yes."

"How long before?"

The witness—"I do not remember."

"I saw the deceased on Monday, the 13th."

"Were you in Dr. Preston's office on that day?"

Dr. Macrae objected on the ground that the question was not relevant.

The Solicitor General said he thought it was relevant and would connect Dr. Preston with the death of Miss Clarke, as the deceased had said to the nurse, "why do the doctors bother me, Howard would have told them all."

Dr. Macrae thought the conclusion that the deceased referred to an instrument being used on her when she said Howard would tell them all, was very far-fetched.

Dr. Macrae said the doctors had given evidence at the preliminary examination which differed from their statements at the coroner's inquest.

Dr. Roberts at the coroner's inquest said the deceased had told him that her friend had brought her the bottle which other evidence had been given to show was ergot, but said that the name of the friend was not mentioned.

At this examination the same witness had stated that the deceased said it was her "friend, Howard Camp," who had brought the medicine to her.

"This," said Dr. Macrae, "is a marvellous recollection of memory. The testimony of Dr. Roberts and Dr. Scammell also differed on some points. Then again, Mrs. Clarke's memory had undergone a wonderful transformation, since she testified at the coroner's inquest. Why did she not state at the coroner's inquest that her step-daughter had made a disposition of her personal effects in the belief that she was going to die?"

Mr. Morrill also objected to the question on the ground that the answer might implicate Dr. Preston. If it would then he submitted that 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 deceased.

"It was not the only one," said Mr. Morrill.

The witness—"I refuse to answer the question."

The Solicitor General—"I submit your honor, that the question is a proper one and I am entitled to an answer."

Dr. Macrae said Mr. Camp had objected to being a witness and would refuse to answer these questions.

The Solicitor General then said Camp might stand down.

"That is the case for the crown," said the Solicitor General, "and I would ask that the accused be committed for trial."

B. L. Gerow on behalf of the prisoner, Dr. Preston, then argued against his client's commitment, remarking that the accused that he did not intend calling any witnesses. He reiterated his previous contention that the evidence of Dr. Roberts, Dr. Scammell and the nurse as to conversations they had with the deceased should not have been admitted, and asked that his honor disregard such evidence.

Here Mr. Morrill interposed with a remark which led the magistrate to ask with some asperity, "Do you both intend addressing the court?"

"The doctors told the deceased," resumed Mr. Gerow, "that the only chance there was of saving her life was by an operation, and then her chance of recovery was slight. While they told her that her life was in danger they did not tell her she would die. Your honor seemed to be greatly impressed with Mrs. Clarke's evidence, in the course of which she stated that her step-daughter had told her how she wished her personal effects disposed of. It is a remarkable thing that Mrs. Clarke failed to give this evidence at the coroner's inquest. Admitting, however, that this evidence is true, it is qualified by that of Miss Reynolds, to whom the deceased repeatedly asked the question, 'do you think I am going to die?' showing that at least there was a doubt in her mind as to whether she would die or not. Miss Reynolds assured her that she thought she would get better. It has not, therefore, I contend, been shown that at the time the deceased is alleged to have made these statements, she was without hope of recovery."

"With reference to the ergot alleged to have been prescribed by Dr. Preston, Mr. Gerow contended that this drug was used for a variety of purposes, and that there was nothing of a criminal nature in this."

Evidence had been adduced to show that the deceased had said she had used various instruments with the object of producing a miscarriage, but was not successful. He submitted, however, that there was no evidence before the court to show that she had not been successful. According to the hearsay evidence admitted, the deceased stated that Dr. Preston passed an instrument on her, but there was no evidence to show that it had not been passed for a legitimate purpose. Mr. Gerow also referred to the statement of Dr. Roberts made at the preliminary examination to the effect that the deceased had said to him, "doctor, you may think so, but I am not going to get better." This was another of the doctor's remarkable memory feats, as he did not mention it at the coroner's inquest.

This statement was also qualified by Miss Reynolds' evidence.

"What does your honor think of Miss Reynolds' statement?"

Mr. Gerow also commented on the fact that although Dr. Roberts has been treating the deceased for several days he did not know her true condition until about 11. The doctor should have made 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, as the deceased was unmarried and respectably connected. He was inclined to think that the doctor had done all that could reasonably be asked of him, and his diagnosis had been shown by the post-mortem to be correct as far as the condition of the girl's lungs was concerned.

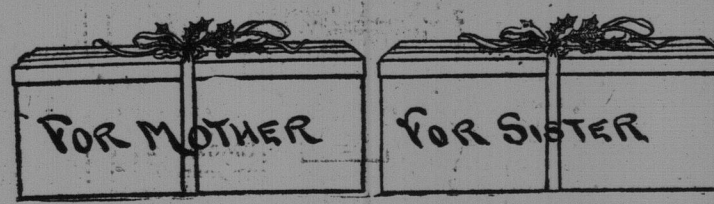
Mr. Gerow also thought if the girl's condition was as grave as the doctors said, the operation should have been performed just as soon as it was found that she was suffering from blood poisoning. In conclusion he submitted that the crown had not made out a case and asked that his client be discharged.

SOLICITOR GENERAL REPLEY.

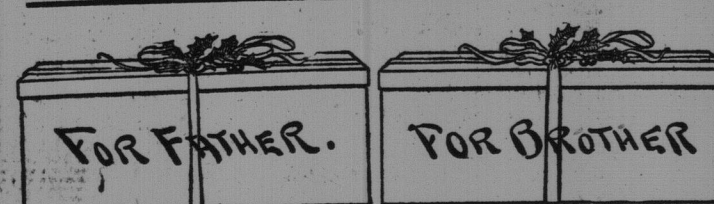
The Solicitor General said that he would take up very little time. He submitted there had been a defense made and therefore the court should send the prisoner up for trial. It has been shown by evidence which your honor has admitted as legal that the accused used an instrument on her for the purpose 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 they had been admitted in evidence by the court they would have to be considered by his honor in deciding the case. He contended that Dr. Roberts had explained his position very fully. He thought the doctor had made a very painstaking manner throughout. Physicians have peculiar circumstances to meet sometimes. The doctors maintained that they were justified in keeping the secrets of their

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patients. He said it was not unusual for witnesses to remember circumstances at one time they could not recall at others. He did not think the imputations 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 more 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 Solicitor General, who again stated that he thought the prisoner should be sent up for trial.

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

The magistrate said that all he had to decide was whether there was enough evidence to place the prisoner on his trial or not. He had ruled that the dying declarations were admissible, and saw no reason for changing his mind. He would therefore, have to commit the prisoner for trial.

Dr. Preston was then requested to stand up. "Do you wish to say anything in your own behalf?" asked the magistrate.

"Not guilty, your honor," was the prisoner's reply. Beyond this he did not say.

Dr. Preston was then taken back to jail to await his trial, which will take place on the second of January before Chief Justice Tuck.

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