

AFTER BEING OUT OVER AN HOUR JURY RETURNS A VERDICT OF GUILTY

Judge Charges Against Prisoner in Downie Theft Case

Jury Stands 7 to 5 for Conviction at First—Minority Gives Way Sentence to be Imposed Today—Appeal May be Made.

In opening the Downie case for the defense yesterday, Judge Price produced the chief of police's deposition as taken down in the police court, and said the chief's evidence according to it, read: "I said it was a bad job, I said, I warn you what you will be taken down and used against you."

Mr. Price modified his remarks. He said he would show that the defendant had a right to carry the stamps found on him. Mr. Price then produced the defendant's personal diary. He said the contents showed the good manner of living of the defendant and there was no entry intimating that he was going to do anything wrong.

Mr. Hazen interrupted with: "Do you think that a man who is going to commit a crime would write it down in his diary?"

Judge McLeod—"I don't see in the world what use you want to put this evidence for. It isn't evidence but I will allow you to read it all. I frankly tell you it is not good evidence."

Mr. Price—"The Attorney General is afraid to let it in."

Mr. Hazen, laughing—"You ought to be ashamed to make any such suggestion."

The first witness called for the defense was Herbert Walter Downie, father of the defendant, who said he was a general merchant and postmaster at Harvey, Albert county, and told of the different lines in his business. His son, the defendant, did considerable business for him in the city and as a rule he remunerated his son by sending him stamps of all denominations for the business done. About the first of August last his son sent him and said he intended to make a collection of stamps and witness sent him some five, seven, five, a couple of dozen of two and a half denominations. About October witness sent to his son for some goods and on receiving the articles he sent his son about 90 cents worth of stamps and a post office order. At Christmas time his son was home and purchased a sheet of one hundred two cent stamps. Witness had also given his son other stamps. He thought he had sent at least five or six months of stamps in the past six months. At Christmas time when his son was home witness requested him to procure some rubber goods as he had received an order from a customer before Christmas for such articles, and witness said he had a request again shortly after Christmas for them. Witness wrote to his son to procure the goods.

Jacob L. Brown was recalled, and said Downie telephoned on the night of the robbery that he could not keep an engagement Saturday night, as he would have to work.

Herbert Thomas was recalled and said he was five years old at the time of the robbery and he did not see his father but he could swear it was Downie who was his shape and Downie had green armlets on.

To Mr. Hazen—Witness said he was sure it was Downie whom he saw and it was at 12:44 o'clock.

Jacob Brown recalled, said that Downie wore black sleevelets, and he wore armlets, but witness could not tell the color.

Mr. Price again recalled Thomas and Mr. Hazen objected, saying that every latitude had been given Mr. Price and that it was a most improper proceeding. Witnesses are in court and after being examined are approached and brought back again.

Mr. Price remarked that this was on account of the blunders of the police. Judge McLeod stopped the lawyer for the defense and said: "You must not cast reflections on the police. I let you go too far on Saturday and the police have done nothing but their duty."

Ernest Everett was the next witness. He testified that he was a bootmaker for T. McAvity and Sons and handled the pay roll. He got the money from the bank on Friday in the afternoon and saw the reflections on the money and then looked it up in a safe in the vault. He never felt the money without looking the vault.

Charles Stephens called said he remembered on the 18th of Feb. he had been to see his sister, Mrs. Pender, and left there about 12:15 o'clock and reached Union street by way of Westworth, Queen and Carleton streets. When he reached the corner of Carleton and Union streets he saw two men standing at the Jones brewery. They appeared to be having a conversation and looked towards the Simms factory. When witness came towards the men they stopped talking. Witness saw the sister in the afternoon and hearing about the robbery said he believed that the two men he saw were the robbers.

W. HERBERT DOWNIE, Convicted here yesterday of Simms' robbery.

John Kennedy, an employee in the broom department of the Simms Company, was the next witness. He said he was at the factory on the day the robbery and saw Downie on the floor of the office and one of the men said Downie was in a fit. One said that the defendant had been working at night.

To Mr. Hazen—He was sure there were marks, but not sure of the number.

Chief Clark was recalled by Mr. Price, who read the chief's deposition taken in the police court. He said the words "It was a bad job," before he told the defendant that he warned him regarding what he said.

Dr. J. P. McInerney was called and said a blow in the region of the stomach is liable to cause unconsciousness. The choking of the man might be done to secure him. The blow was given on the stomach. If the fingers were used on the throat efficiently to cause unconsciousness the marks would not quickly appear. Rubbing on the throat would assist in removing the marks. If the young man was limp, pale, cold and unconscious there was very severe threat inflicted.

To Mr. Hazen—if a man was approached from behind and choked into unconsciousness, I would expect to find marks over half an hour afterwards. If a man was choked and there were black and blue marks on the throat they would not disappear without the aid of a doctor. A blow on the stomach could be made from behind. If a number of witnesses said they saw marks and a reputable physician and others there were no marks fifteen minutes later, gives marks that have been seen could have been black and blue marks caused by violence. They would not disappear very quickly.

Mr. Hazen called on George Connolly, who said that on the day of the robbery he was in the factory at 12:15 o'clock, as he was ill and did not return to work until the next day.

After deliberating for one hour and a quarter the jury in the face of the evidence returned a verdict of guilty with a strong plea for mercy.

The court after thanking the jurymen discharged them from attendance until this morning at 10 o'clock, when sentence will be pronounced. The prisoner received the verdict with little emotion, keeping up a steady stream of remarks throughout the entire proceedings.

Out Over an Hour

It was exactly 1:43 o'clock when the case was given to the jury. They were cloaked by the charge of Constable McInerney. At 5:58 o'clock they returned. Hugh Campbell, the foreman, announced their finding. The verdict was accompanied with a strong recommendation for mercy.

Judge McLeod in his charge reviewed the case. His remarks were considered to be against the prisoner.

In his plea, Milton Price, counsel for the defendant, put forth some able arguments for his client.

The attorney general in his address to the jury told them they could not convict him from the evidence given. His address lasted forty minutes. Mr. Price's plea being over an hour's duration.

Neither of the counsel in the case were present to hear the verdict. The crown lawyer, represented by A. Wilson, K. C., who had instructions in case of disagreement to move for a new trial.

Mr. Price's remarks stated it was with the greatest satisfaction that he was called to act as the defendant's lawyer in this case.

He desired to make special note of one thing—An impression had been created upon the public through the police and press, which was absolutely false. He wished the jury to drive all impressions from their minds, because they were irrelevant to the issue altogether.

"This young man," declared Mr. Price, "was a victim. He had been more than one, at least three or four, had the combination of the vault."

Another fact to be taken in consideration was the fact that during the day time the vault door was left wide open, and it seemed to be an ordinary assurance to have only one man in charge of the affairs at the factory.

There was always more than one

man in charge at an up-to-date house. In the present case there was no protection whatever. If in this case two men had come in and held the prisoner up, Mr. Downie was the only man there to tell his story. If the desperadoes had held the revolver in his face until he had put the money under the desk, no one would blame him for doing so.

"Would he not be the victim of circumstances—would he, in themselves, would be impossible to overcome by evidence?" asked the lawyer for the defense.

"Who made the charge?" asked Mr. Price. It was made by a member of the Simms Co. As a matter of law they are not obliged to lay the charge, but they did not desire to. He doubted because they were convinced of Downie's innocence. Mr. Reid had said that he had confidence in the accused, Mr. Simms, the president of the company, had gone to the police court with the evidence, laying the charge. "We were trapped into it," Mr. Simms had said to Mr. Price. This attitude shows they have confidence in the young man.

Found Him Honest

"What do they say of the young man?" asked Mr. Price in referring to the opinions of Messrs. Reid and Simms. "His expenses," said Mr. Reid, "on the road have been most reasonable. In every capacity he had been entirely satisfactory. Messrs. Simms and Reid had also met as an officer on the church and they had found him perfectly honest and trustworthy."

Mr. Price stated the attorney general would no doubt dwell on the fact that the money was found under the accused's desk. The officials had taken no precaution to find out who committed the real robbery. They did not even further search the premises to see if any other persons were in the office. The police, instead of leaving the money under the desk, took it away. They were thus with it, and whether the man who put it there would return.

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"IT WAS A BAD JOB."

Continuing, Mr. Price stated the chief went down to the cell the following morning. Mr. Price asked his reason for doing so. Clark did not happen to remember, but he said "It was a bad job."

The opinion of Mr. Price was that Chief Clark stood before the jury a discredited witness. Mr. Price also said by his evidence he had made a mistake. Mr. Reid if it were not for the fact that Downie had been seen by him, he would not have been so sure of his evidence.

Referring to the time register, Mr. Price said that sometimes the numbers were not punched regularly. In fact the employees had been dismissed for punching each other's numbers.

The point to keep in mind was that the robbery took place between 12:40 and 12:58 o'clock.

Mr. Price declared that he did not believe the attorney general would refer to the young man's character, as it had been proven good.

Regarding the stamps which were found on the prisoner, Mr. Price said it was put forth in testimony at the morning session that his father had seen the stamps to the accused.

After the young man had recovered his senses he stated he was almost choked to death. He also told Dr. Reid his throat was sore. Mr. Reid had stated he was dead to the world. Dr. Addy, a witness for the crown, said that these symptoms are consistent with foul play. Dr. McInerney had said the same thing, but had remarked more strongly on the point.

Mr. Price stated he desired to go further in the statements. The evidence of the witnesses are innumerable that there were marks on the man's throat. The choking, however, did not leave such marks as could be removed by massaging. The defense's lawyer said that it was the blow in the stomach that knocked the man out. Both the medical men had wound up by saying that undoubtedly violence had been forced upon this man.

Mr. Price referred to a number of lesser important matters and stated the case of foul play was made out beyond a doubt. He concluded with an earnest plea for acquittal.

MR. HAZEN'S ADDRESS.

Hon. Mr. Hazen remarked to the jury that Mr. Price, who had addressed them, made many incorrect statements as to the testimony. He regretted to say that Mr. Price had made an unjust and unwarranted attack on the chief of police.

The attorney general stated that no man had sympathy with the prisoner charged with crime. However, as justice is meted out in every case, he stated that the evidence of the evidence should not be considered. Then also he laid stress on the fact that the crown prosecutor was not convinced of the prosecution. In his closing remarks Mr. Hazen had taken an unfair ground.

Mr. Hazen asked the jury if there was a particle of evidence in the testimony of the chief. He answered fairly all the questions put to him. Chief Clark stated he warned Downie, that anything he said would be given in evidence against him. It was the chief's duty to go down stairs the following morning. The chief had uttered the words, "I don't know how I came to do it, but I am going to tell all about it."

PRICE INTERRUPTS.

"I will read from the criminal code of Canada on the matters of confession," said Mr. Hazen.

Mr. Price—"I object to that being introduced here."

The bench remarked that if Mr. Price had not received notice of the introduction of the code, it could not be used.

Mr. Price—"If the Attorney-General intends to read law, I will send down to the library and read law myself all afternoon."

Mr. Hazen—"Will you keep quiet, Mr. Price?"

The defense's lawyer wanted to make sure that the code would not be introduced. He said if it were he would certainly send it to the law library.

With the Attorney-General endeavoring to proceed, Mr. Price again ordered it to sit down. Finally Judge McLeod yelled "Take your seat at once, Mr. Price!"

The defense's lawyer then proceeded in his address to the jury. He stated that apart from the confession made to the chief of police, he would have been able to prove the robbery had been perpetrated between 12:44 and 12:58 o'clock. As regards the arrangement of the offense, the Simms company had been fully advised in the office at 12:38, William Grant came into the office, spoke to Mr. Downie and then left. Mr. Downie had stated to Detective Killen that he was a few seconds after Grant passed that he was attacked. At 12:40 Mr. McCarthy entered and Downie was not seen. Mr. Downie was not seen at that time. He was in the vault, said Mr. Hazen. At 12:42 Miss Cunningham came down and tapped, but received no answer. Mr. Downie was in his sleep, said at 12:44 he saw Downie in the enclosure leaning over the desk. Yeomans did not see Downie. The evidence of Yeomans was of the most important character, as fixing the guilt of Downie.

The other witnesses, the perpetrator of the deed, was someone familiar with the office. The finger of a suspicion pointed to no one but Downie. There was clearly the intention in the first place for Downie to say "It was a bad job." There was no evidence that there were marks on his throat. Mr. Clark would not have said that if he had not seen the marks. Mr. Addy, Sgt. Campbell, Chief Clerk, Detective Killen and G. P. Black had examined the man's throat, but found no marks. Mr. Hazen asked the jury if they believed the marks would disappear so soon. The evidence of the doctors with the other evidence, also have much weight with the jury.

Mr. Hazen referred to the complaint of the prisoner that he had been in the hospital for some time. This was not made for some time after he had stated he was choked.

COULD PUT UP FIGHT.

The attorney general stated that when the accused attacked the man, the prisoner's arms would be free and he would be able to put up a fight. It was incredible that a young active fellow like Downie would not have made a fight. The defense had no theory as to who committed the deed. The man who stole the money had been an outsider, would certainly have carried it away from the vault instead of putting it under the box at the prisoner's desk. The prisoner's only chance was to conceal the money and he could find a better place than the prisoner's desk.

Mr. Hazen produced the register of the punching machine and stated it would be utterly impossible for robbery to have gone into the place between 12:44 and 12:58 o'clock. The register showed the following punches: 12:51, 12:43, 12:50, 12:28, 12:49, 12:56, 12:57, 12:45. Almost every minute or two some one had entered, declared Mr. Hazen.

Mr. Hazen stated that the jury must discard all sympathy for the prisoner. They were sworn to be guided by the evidence. Through the chief's evidence, alone of the confession the prisoner should be found guilty.

Mr. Hazen also spoke of the stamps found on the prisoner and again told the jury to consider the facts without any prejudice.

THE JUDGE'S CHARGE.

Judge McLeod in his charge to the jury referred to the remarks made regarding the manner in which the Simms company kept the money.

Judge McLeod stated that the police were led to believe the prisoner committed the theft. It was their duty to lay the information.

Judge McLeod referred to the Simms company and said that if the company and men were constantly employed in the enclosure—Foster, Brown and the defendant. The defendant had been kept alone on the premises. As far as his honor could gather from the evidence, a man named Grant saw the accused at 12:38 o'clock. Mr. Carthy came in two minutes later, but did not see Downie. The enclosure was built up about five feet. On top there was a six inch beam of wood. This gave the objects within a different appearance. Miss Cunningham came to the window two minutes later; but did not see Downie. Then McCarthy entered.

Mr. Hazen—"Two minutes later."

Mr. Price—"Two minutes before."

Mr. Hazen—"Here it is at 12:42."

Mr. Price—"I think you're wrong."

At 12:44 o'clock Yeomans entered and saw the prisoner.

Mr. Price—"Four hours. Mr. Yeomans did not see Downie's face."

His honor did not put much weight in the evidence of Stevens concerning the two suspects.

"Within the 16 or 18 minutes some one opened the vault," said his honor. It had to be some one who understood it was said by McCarthy, who was aware of the position of the cash."

Much would depend whether some one from the outside choked the prisoner and stole the money, or whether he really fled. In the evidence of some of the witnesses, Dr. McInerney and Addy, the marks would remain for some time. Others say they saw marks and they disappeared very shortly. The evidence of both doctors was clear that if the man was choked the marks would remain.

The court stated a good deal had been made of the facts that the place was not searched by the officers. This had not much bearing on the case. It had been said the prisoner was in the vault. It would appear to his honor that he would first refer to this fact on coming to the verdict.

Judge McLeod stated it was seemingly difficult for a man to put himself into insensibility. He was feeling he came round soon. The burglar would not be apt to put the money under the desk. He would take it and they disappeared very shortly.

His honor stated also, they should consider the alleged confession, as it had been admitted by the court. He looked upon the confession as one of their best consideration and urged them to comply with their duties as jurymen.

VERDICT OF GUILTY.

It was just 5:58 when the jurymen filed into their seats again. They answered to their names, and on being asked if they had reached a verdict Foreman Hugh Campbell responded: "We find the prisoner guilty with a strong recommendation to mercy."

All was still in anticipation of the sentence being pronounced. The many having applied for a divorce.

Judge McLeod asked Downie if he desired to have his counsel present. He replied that he did not. "I do not think so, sir, thank you."

The court ordered that the prisoner be remanded to jail until this morning at 10 o'clock. The jury were then thanked and discharged until that time.

Standing for some time, 7 for conviction and 5 for acquittal. It was considered that the jury would disagree or bring in a verdict of acquittal.

The Sun learns that the number of jurymen for acquittal gradually dropped. The jurymen who were in for conviction only few gave in for acquittal. A strong plea for mercy was entered.

It is now within the power of the counsel for the defense to move for an appeal to the full bench. This course may be proceeded with at today's session. The appeal may be made on the ground that Chief Clark's evidence was not admissible.

MADAM STEINHEIL HELD FOR MURDER

Formally Accused of Slaying Her Husband and Mother

PARIS, Mar. 15.—The preliminary inquiry into the murder of the artist Steinheil and Mme. Japy, his mother-in-law, was concluded by the examining magistrate today.

Mme. Steinheil, who has been in jail some weeks on the direct charge of having killed her husband and his mother, was informed by the magistrate that she had been released from the charge of the murder. Her mother-in-law was released from the charge of the murder. Her mother-in-law was released from the charge of the murder.

CITY OF HALIFAX LOSES ITS SUIT

HALIFAX, March 15.—The city of Halifax must pay the full amount of the Neptune Water Meter Company's bill for the month of February. The company, which has been in liquidation since last year, has been successful in its suit against the city.

The two most striking points about "The Novice," Lady Townsend says, are that there are no male characters in it and that there is no love scene. "The play may be described as a Lenten play, for the character of Sister Catherine is a deeply religious one. Its object is to show how very lovely and devout some of the sisters in the convents are."

The scenery, also the work of Lady Townsend, represents the garden of the Convent of Our Lady of the Lilies, and the play was stage managed by her also.

The story is a simple one. It tells of the conflict of Marie Josephine between a saintly and worldly life. She has been fitted by her lover and is about to take the veil, full of hesitation and doubt. Then in the midst of her vague fears and tremblings comes a message from the outer world which shows her the way she is to go.

It is none other than a credit with a little baby in it—the child of her one-time lover, whose wife is dead, and who is dying himself. He leaves the baby to her whom he once loved, and she renounces her novitiate and resolves to devote her life to the child.

It was received with enthusiasm for its austere, beautiful sentiment, and Lady Townsend, smiling and beautifully bowed her thanks.

The play was inspired by the Academy of the Theatre, and Lady Townsend said after the performance: "It is meant to show the power and efficacy of prayer."

It should have been seen in London," she said.

NEW YORK, Mar. 15.—Changes in principal trading stocks at the opening today were limited to slight gains and losses, and the volume of business was insignificant.

MAINE MAN'S AWFUL CRIME

Slashes Wife's Throat With Razor

THEN CUTS HIS OWN

Both Are Dead—Double Tragedy Ends Stormy Married Life

BUCKSPORT, Me., Mar. 15.—Family troubles between Raymond Heath, 70 years old, and his wife, a few years younger, culminated this forenoon, when Heath slashed his wife's throat with a razor, then cut his own throat. Both are dead.

The tragedy took place in the heart of the village, Mrs. Heath living in a cottage on Centre street, a few doors off Main street and in sight of the post office. There were no eye-witnesses, but Coroner E. L. Beazley, who made an immediate investigation, says there is no doubt but that Heath dashed into the house where Mrs. Heath was washing dishes at the sink, slashed her throat, then went upstairs and severed his own jugular. A trail and pools of blood about the house, plainly tells the story.

A double tragedy ended a married life stormy for a number of years and husband and wife had been living apart for some months, the latter having applied for a divorce.

Heath, who was formerly a fisherman and who has been made of coasting vessels, is a widower with a number of grown-up children. He married Mrs. Allen Harriman, widow, also with several children, about thirteen years ago. Heath spent the most of his time at sea, but when at home frequently quarrelled with his wife. While he was not a hard drinker, he was of a quarrelsome disposition when not morose. Last fall he was before the municipal court on a charge of assault on his wife, who showed bruises which she said had been inflicted by her husband.

The judge ordered Heath to furnish bonds to keep the peace and that the household property be divided. Mrs. Heath began proceedings for divorce several months ago, when she moved into a boarding house. Mrs. Heath kept house for her two grown-up sons employed in the tannery here, and relied upon them to a considerable extent for protection. The first indication of the tragedy was about 9 o'clock this morning when Mrs. Heath was seen to run from her house screaming for help. She was seen to cut her throat. She fell about fifty feet from her house and was dead when several people rushed to her assistance. Death had been seen on the street but a short time before, and although no one saw him enter the house his body was soon found on the upper floor.

Heath leaves two sons by his first wife, John, of Kansas City, and Frederick, of Guilford. Mrs. Heath leaves two sons, Webster and Harold Harriman.

Already the suggestion has been made that the Town Hall at Kingsport, the old school building there, be at once adapted to school work and used until the new building is completed. This, however, will be finally decided this afternoon.

Dr. Inch, in conversation with the school trustees, remarked that the loss of the Kingsport school is a serious one, a severe blow, but he had no doubt that the loss would be promptly overcome. He stated that the trustees of the Kingsport school, in a few days, probably on Thursday, to attend the opening of the legislature, and that he will no doubt advise the trustees of the Kingsport school to hold a meeting this afternoon and decide upon the best course of action to be taken. The trustees of the Kingsport school will not get to Kingsport.

CARSTORIA

AN ENGLISH PEERESS WRITES LENTEN PLAY

She Combines the Roles of Author, Stage Manager and Scene Painter

LONDON, March 15.—The Novice, a one-act play written by the Marchioness of Londonderry, was successfully produced last night in aid of a local institution at the Maidenhead Town Hall. It is founded on a picturesque story of the French Revolution, and the Marchioness saw one year at the academy.

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FIRE SCHOOL IS DESTROYED

Consolidated School Burned

A MODEL STRUCTURE

Fire Originated in the Basement—Cost About \$25,000

The MacDonald Consolidated School building at Kingsport was destroyed by fire Sunday night, with its contents. The loss is approximately \$25,000, with insurance of \$12,000, only slightly more than sufficient to cover half the damage.

About ten o'clock last night fire was discovered in the basement of the school by the intention of the residents of the district were alarmed and scores hurried to the scene with the intention of endeavoring to extinguish the flames, or at least to prevent the fire from spreading. The school, they found, however, was already a mass of flames, and what could possibly be taken out of the school. They found, however, that the fire had gained great headway, and that practically the whole of the interior of the school building was full of smoke and flames, and it was absolutely impossible for anyone to enter. Within an hour and a half the entire building was in ruins, but the fire continued to burn until early this morning. There was no wind, yet in spite of this, other buildings in the vicinity were threatened, and it was with some difficulty that the old English Church and the rectory were saved. The people who went to the scene succeeded in saving the van and its contents.

Practically nothing of the origin of the fire is known. The janitor, Geo. Urquhart, went to the school last evening and started a fire in one of the furnaces, then went back to his boarding house. He was some time afterwards that the house was without the school was discovered, having evidently originated near the furnace.

The Kingsport school, which has been in use for some years, was destroyed by fire Sunday night. The school was a model structure, and its destruction is a great loss to the community. The school was built at a cost of about \$25,000, and it was a very fine building. The school was used for the education of the children of the district, and it was a very important institution. The school was destroyed by fire, and the loss is a great one. The school was a model structure, and its destruction is a great loss to the community.

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