

No Verdict in The McAuley Murder Case

Jury Disagrees and Is Discharged, Seven Stood for Conviction, Five for Acquittal—May Mean a New Trial.

After three hours and thirty-five minutes deliberation the jury in the case of John Paris, charged with the murder of Sadie McAuley, returned late yesterday afternoon and announced that they could arrive at no decision. To His Honor Judge Barry, Foreman W. E. Anderson said that seven stood for conviction and five for acquittal. The jurors left the court room at 2:40 o'clock and returned at 4:40 to have the evidence of Chief of Police Fraser, of Truro, read over to them. They retired until 6:25 when they returned again and said they "disagreed." The judge sent them back a third time. At 5:45 they returned again and announced the same decision. As the court room was emptying Paris and Humphrey, the star witness for the prosecution, faced each other. Paris crouched and made a motion as though to leap out of his chair. Eying the deputy sheriff, Paris pulled himself back. The matter of a new trial at this session of the court rests with the attorney-general's office. There is a possibility that the case will go over until the October term.

The proceedings of the afternoon session began at 2:15 o'clock and Mr. Justice Barry continued his charge to the jury. He referred to the evidence of several of the witnesses for the defence, making pointed comments as to their character and the credibility to be attached to their declarations. He would not go over Paris' evidence only to say that Paris, while an uneducated man, was an intelligent man. When the police authorities had arrested him it was supposed that he would ask, "Why am I arrested?" and when told of the charge would have said, "Why, I was in Truro." He pointed out to the jury that if he (Paris) were an innocent man—and he would not say so—he could have said, "Why, I was here in my home town." A score of people had come from Truro to testify in his defence. Regarding the evidence of Nichols' assistant in the garage, he could not say as to the time or date, except that it was the date on which he got the gas from the Imperial Oil Company. Stewart Fraser corroborates the prisoner's statement about card playing on the night of Aug. 2. In the judge's opinion, Stewart was not a desirable type of citizen, otherwise he would not have been gambling and playing cards at all hours of the night. John Byard had overstepped the bounds in his evidence. "If you are satisfied with the evidence of these people that settles the case—what Humphrey says is false—what all the witnesses from West St. John say is false." Continuing, his honor said his guilt must be proved beyond reasonable doubt and he defined in a masterly manner what constitutes "reasonable doubt."

Reasonable Doubt.
"Not only has the crown to prove the facts necessary to convict the prisoner of

the offense charged," the judge continued, "but it is to prove his guilt beyond reasonable doubt. Every man is presumed to be innocent until proven guilty. One of the most important legal presumptions is that of innocence. This presumption, which is legal, is not to be repelled by any evidence, but it is to be repelled by evidence of such a nature as to establish the fact of criminality with moral certainty. In more civil disputes, where no legal presumption operates in favor of either party, the preponderance of probability, due regard being had to the burden of proof, may constitute sufficient ground for a verdict. But to fix on any person the stigma of crime requires a higher degree of assurance and jurors are not justified in taking such a step unless they are satisfied beyond reasonable doubt. It is not to be taken lightly. The consequences of their verdict are so serious to the accused—except on evidence which excludes from their minds all reasonable doubt. If the law, which mostly depends upon considerations of a moral nature, should go further and require absolute certainty, it would be tantamount to a denial of justice. This reasonable doubt should be actual and substantial and not based upon imagination or mere possibility. It should be such a doubt as the jury can give reason for. A juror need not create material doubts, but resorting to trivial suppositions and remote conjectures as to a possible state of facts if different from that established by the evidence, is not to be commended. All persons who possess the necessary mental qualifications for jurors know, or ought to know, that a doubt of the guilt of the accused, honestly entertained, one that insists on imposing itself upon the mind, and which cannot be removed by a reasonable doubt. If you have that doubt then the prisoner is, under the law, entitled to the benefit of it and you should acquit him because the crown has not, as it is obliged to do, satisfied you as to the guilt of the accused beyond reasonable doubt."

The Jurors' Doubt.
"There is no room in the jury box any more than there is on the judges' bench for any word accidentally. The duty which you have to perform may be a stern one; it may be one repugnant to your natural feelings, but it is a duty which must be honestly met and performed. The common jury has long been regarded as the palladium of British liberty and it will hold that high place in the confidence of the public just as long as it can be depended upon to give a true verdict according to the evidence. The security of life and property depends largely upon the integrity and fidelity of jurors. For the law, as it stands, neither you nor I have any responsibility. It may be that some of you would like to see it changed. It may be that a better system of dealing with those found guilty of capital crimes might, in your opinion, be adopted. But for the time being it is the law of the land and you and I are bound by our oaths to give it effect. I am not saying this to you because I suspect for a moment that any of you would be guilty of the crime of declining to return a true verdict because of consequences to the accused. I believe that you are one and all deeply impressed with a sense of the great responsibility that rests upon you—a responsibility that is greater than that which you live; to yourselves and to your neighbors—and if, after fully considering the evidence, you think the prisoner guilty of the crime charged against him, you are bound by your oaths to say so. The very horror and abomination of the crime is a reason for your taking the most extreme care not to impute to the prisoner anything that is not established to your entire satisfaction. I should be very sorry to think that any of your minds, even in the smallest degree, are tinged with hostility against the prisoner."

"For the murder of this poor little nine-year-old girl the law does not demand the life of any man in expiation about whose guilt there is any reasonable doubt. You must see to it, gentlemen, that the evidence leaves no reasonable doubt in your minds, but you fall in the performance of your duty, if, being satisfied by the evidence, you do not convict the prisoner of the crime charged against him in the indictment. If, on the other hand, the evidence does not carry to your mind a conviction of the prisoner's guilt beyond a reasonable doubt, it is equally your imperative duty to find him not guilty. If, after a fair and impartial consideration of all the evidence in the case both for the crown and for the defence, you have an abiding conviction of the guilt of the prisoner and are fully satisfied of a moral certainty of the truth of the charge laid in the indictment, then you are satisfied beyond reasonable doubt and you should convict him; but if the evidence has left you in that condition of mind that you say you cannot feel an abiding conviction to a moral certainty of the truth of the charge, then you have a reasonable doubt and you should acquit him. You can now retire to your jury room and consider of your verdict in which you must be unanimous."

The Jury Retires.
As his honor finished, Mr. Vernon, counsel for the defence, rose and asked if the books containing the entries would be handed to the jury. The judge re-

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made, a buzz of whispering among the spectators filled the court. In the interval between this second return to the court of the jury and their final appearance, a large crowd gathered outside the building, jamming the alleyway leading to the entrance. Several hundred endured pangs of hunger and the disreputable elements in order to be on hand.

Report Disagreement.
Soon after six o'clock, a passage was quickly made for the jurors and court officials resumed their places. Paris lost his usual jaunty manner and leaned well over the table, chewing a match, with no trace of a smile on his face. The faces of the jurors were scanned to get some inkling of their verdict and as the foreman, W. E. Anderson rose, for the

third time, the air was charged with suppressed excitement. Roll call was quickly completed and the verdict asked for by the clerk.

"The jurors cannot agree," said Mr. Anderson.

"May I ask how the count stands," inquired his honor.

"Seven for conviction and five for acquittal," was the answer. The foreman said this count was the same as when they came in the first time.

Judge Barry inquired again if the foreman thought there was any use of their returning to their room for further consultation. The foreman did not think so.

"Are you all of this opinion, gentlemen?" asked His Honor, and the jurors replied in one voice, "Yes."

His Honor then said that he wanted them to understand there was no disposition on his part to punish them, but it was too bad that all their work and nothing left to do but discharge them. He requested them to be in their places on Monday afternoon at two o'clock and he handed the prisoner into the care of the sheriff.

Paris and Humphrey Face
A dramatic incident occurred as the men were slowly filing out of the court room and that escaped the notice of a great many. Among the spectators was Humphrey, who, while passing the jurors' room, was obliged to pass close to Paris. Paris had leaned back and was scanning the crowd in his direction. Outside a throng had gathered and the jury had discharged them. Whether to frighten Humphrey or not, Paris gripped the arms of his chair and made a lunge toward him. He was about half way out of the chair when the deputy sheriff, who was watching him closely, barred him from rising further. Paris looked around quickly in the direction of the judges' chair and Humphrey who soon appeared. Friends' hands clapped and their feet thumped as he stepped into the patrol and was whirled away.

MORNING NEWS OVER THE WIRES

After navigating his vessel through a dense fog, Captain Alvin Simms, master of the Boston and Yarmouth steamer company's Prince Arthur, dropped dead on the bridge shortly after arrival at Yarmouth yesterday. Captain Simms was fifty-eight years of age and had been in the Boston-Yarmouth service for forty years.

Levi Coffey of Limestone, Me., and Ben Condon and son, Fred, from Limestone, Victoria County, were caught in an alleged attempt to smuggle contraband liquor across the border yesterday after some revolver shots were exchanged. The arrests were made by Deputy Chiefs A. C. Leighton, of Sweden, and I. H. Whitney of Houlton. The prisoners are out on bail.

A terrific rain and wind storm swept over Ontario, Quebec and New York state yesterday afternoon, which disrupted telephone and telegraph connections for several hours. In Montreal the wind started a Ford car and blew it across the street, injuring several per-

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HAMILTON CANADA

Joseph Roy of Carleton Place, Campbellton, was the victim yesterday of an unknown hunter and instantly killed. Roy and another hunter were looking for moose and had made their way out of the woods to the edge of a lake. Mr. Roy suddenly dropped with a bullet wound in his breast. Roy leaves a family. An inquest will be held.

Roy Clayton was yesterday appointed a county constable by Councillors Dalzell and Donovan, of the parish of Simonds. The action of the councillors was prompted principally by the prevalence of alleged reckless driving by motorists. As well as watching automobile traffic the constable will do duty at East St. John.

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