scribe, the blood could not get there if he was murdered. Farmer Atkinson says that the coats were not interfered with, therefore the coroner and Inglis must have found the body as it floated in the river. The weight of evidence is against Farmer Atkinson. If the coats were buttoned the the blood could not have got there. My learned friend has remarked on the coat that the God of Nature made testimony for the defence and that he had never been disturbed after falling into the river. He has also said a great deal about Providence. There was probably no profanity intended, but he would not have expected to have heard such talk in a bar-room. If the body of McCarthy lay all winter which Mr. Palmer claims it did, the head would be frozen in the ice and would have moved with the ice this spring.

After taking the doctor's testimony and the circumstance into consideration, the only conclusion we can arrive at is that Timothy McCarthy came to his death by violence, and not by accident; and now, having presented the Crown view of the case, I will go over the evidence as rapidly as possible.

Dr. Tuck then took up the evidence and commented upon it. When he came to that of Caldwell—about the hatchet—he said: I have no doubt of the truth of Caldwell's statement. Before Caldwell testified I put this hatchet into Annie Parker's hands and asked her: "Does that look like the hatchet Harry used?" She said; "The blade is like it, but the handle seems shorter." If she was lying, why did she not at once say, "Yes, that is the hatchet." When Caldwell gave his testimony, what was my surprise to find him saying that he had broken the handle, cut it off and drove it in again. Nothing in this case struck me more forcibly than this piece of evidence. Now we come to Mrs. McCarthy's evidence. Did the Osbornes act like innocent persons when she called looking for her husband. She was met with raging, swearing and sharp talk. Her feelings were harrowed by Eliza telling her that her husband had gone away because he could not live with her. Was it not natural that Mrs. McCarthy would want to know something of her husband? Should the people not have given her all the assurance they could? The fact is, they did not like her around. The consciousness of guilt was upon them. Now, with regard to Agnes Buchanan. There is not a single fact which leads to criminate the prisoners but she has disproved. She proves too much. You can come to no other conclusion than that the whole story was concocted between the Osbornes and herself. If true it charges Mrs. McCarthy with a crime as bad as that charged against the Osbornes and at the time Buchanan says she met Annie Parker at Cooks Brook she had never met Mrs. McCarthy. What was Agnes Buchanan doing there, why was she walking? Twenty-five cents would have taken her there by train; what was Annie Parker doing there? The fact is she never saw Annie Parker at Cooks Brook. I have now presented the evidence to you as fairly as I can—a few more words from me and you will listen to the charge of the learned Chief Justice. The duties on this case have been arduous for all concerned. I have done my duty to the best of my ability it now rests with you to perform yours. If you can say conscientiously that the prisoners are innocent say so. But if, after having considered all the testimony, you think otherwise, do not allow any sympathetic feelings to bias your judgment. I know you will remember that a mother, daughter and son—an immature boy—are the persons charged with this crime, and that many others will suffer if they are found guilty. If you think them guilty say so, but if you have a reasonable doubt acquit them. I thank you for your kind attention.

THE JUDGE'S CHARGE.

His Honor began his charge to the jury at five o'clock.

His Honor said:—

Gentlemen of the Jury—I can also congratulate you that this long and important trial is about to be concluded. It has taken a longer time than any other which has been tried in this Province, but as it is a case of great importance, I think no time has been wasted in receiving the evidence. The lives of the prisoners are at stake and they have employed able counsel to defend them, and that duty has been ably performed by Mr. Palmer and Mr. Holstead. It was the duty of Dr. Tuck and his associate, Mr. Hanington, not to conduct the case merely as advocates, but to produce all the evidence bearing on it and fairly present the case to you, and this they have done with ability. As this is not the first time that the Crown officers have had to investigate this remarkable and mysterious case, they have doubtless efficiently performed their part. You must not expect an argument from me: my duty is to present to you the evidence and point out, as it may be, in favor of the Crown or the prisoners. It is not my part to express an opinion as to the credibility of the witnesses; it is for me to say what evidence to receive and what to reject, but it is for you to judge of the evidence before you. I shall refrain from passing any opinion as to any of the evidence presented. It is my duty to point out where the evidence may seem to conflict and where there may be corroboration. With regard to the credibility of witnesses you must judge of that by the manner in which they gave their testimony. If you find a witness frank and trying to hide nothing he is deserving of belief, but if on the other hand you find a witness coming on the stand and giving an improbable account, not in any way consistent or natural, do not receive it unless supported in some other way. The character of the principal witness in this case has been attacked and found to be not good and this has been admitted by the Crown, but it does not follow that all she has told in this case is untrue. You must in judging of this matter take all the facts into consideration, and you must bear in mind she has been contradicted as to some of her statements, and it is for you to consider whether you think her worthy of credit.

After these general observations I will now consider what are the facts of the case. On the 12th of October, McCarthy leaves Moncton, goes to Point du Chene by train, discovers his wife has come on the same train, and immediately goes back by train to Moncton and returns to Shediac the same afternoon, and puts up his horse at the Weldon House. He is fully identified by Dr. Leger, Milligan, Chip. Smith and others; and on that night he comes to his death. Did he come to his death by violence as stated by Annie Parker, or by accident? He is at the Osborne house that evening, disputes with Eliza about the color of the buttons on a polonaise, shows a roll of notes and goes out and says that he is coming back again. According to Annie Parker, the Osbornes, mother and daughter, concoct a scheme to drug McCarthy on his return and get his money. She gets up to meet a lover, and instead of that McCarthy comes in. They go into the bar-room; he is drugged and killed, and his body driven away and put in the Scadouc. The theory of the Crown is that on the following Sunday the body was taken up from the river and deposited in the river further up stream, and that two or three weeks after it was again taken up and dressed with the rubber coat and overcoat, and again placed in the river. On the part of the defence it is put forward that he came to Shediac to go to the Island, that when he came out of the Weldon House he did so with the intention of going to the Point to take the steamer for the Island; that, after visiting the Adams House with Chip. Smith, he parted with him at the hay scales, intending to go to the Point, but made a mistake and went the wrong way and walked out to the Scadouc railway bridge and fell over. Does the evidence satisfy you that he came to his death by violence or accident? The doctors say that the body presented no appearance of drowning, and I say that I see no reason why you should not take the evidence of the doctors in this case. They are educated and skilled in matters of this kind. In using the word "drowned" I use it in the technical sense in which it was used by Dr. Allison, and not in reference to a person who had been stunned and fallen into the water and died. There was a state of things on this body of McCarthy, which, according to the doctors, go to show that he was not drowned. [His honor here read from the evidence of Drs. Allison, Fleming and Scott.] Supposing you are satisfied that McCarthy did not come to his death by accident: next did he come to his death by violence? The doctors seem to come to the conclusion that he might have come to his death by such a blow as is described by Annie Parker, although Dr. Scott differs somewhat.

[His Honor was reading from the evidence of the doctors when the Court adjourned.]

During this afternoon a larger number of persons were present in Court than at any time since Annie Parker gave her evidence. The ladies who have been quite attentive throughout turned out in large numbers and the *elite* of Dorchester and Sackville were on the platform.

DORCHESTER, Aug. 21.

His Honor occupied the forenoon in reading the medical testimony.

A very large number was present this morning. The ladies as usual turned out in full force.

On the right of the Chief Justice sat Annie Parker, dressed in a dark suit with a dark hat trimmed with a light ribbon and a bunch of flowers. On his left sat Mrs. McCarthy and her four children, two boys and two girls.

Dr. Tuck's address yesterday was a very able effort and produced a great effect. It was very highly spoken of by all who listened to it, and is the general topic of conversation to-day.

His Honor having finished the medical testimony before dinner, continued his charge after dinner as follows:—In considering this matter you will have to determine whether McCarthy came to his death by violence or accident. If by violence, was it as Annie Parker stated? or if by accident, was it according to the theory of Mr. Palmer? If you take the evidence of the doctors as correct you will have no difficulty in coming to the conclusion that he did not come to his death by accident. You are not bound to take the evidence of the doctors, but it is the best. According to Mr. Palmer's theory you must believe that after coming out of the Weldon House, he made a mistake, and went in the direction of the Scadouc instead of the Point, as he intended, and walked out to and fell over the railway bridge. Do you think he could make this mistake and fall over the bridge? The doctors told you that if he struck any hard substance in his fall that there would be a more apparent mark on his head than there was; they also think the mark over his eye a post-mortem mark. If he fell in the river and struck the bottom, the doctors think the mark on the body could be made. There would be more water in the river on that night than usual on account of the wind and storm. Is the evidence of Annie Parker worthy of credit or not? A great deal has been said on both sides as to her credibility. I shall leave her evidence in your hands, and you will have to look at the probabilities and improbabilities of it. Do you think it reasonable that she could have manufactured this whole story? She describes the death scene, and what strikes me forcibly is her stating that McCarthy after being drugged called the names of his wife and children. She could scarcely, it strikes me, have made up the whole story. True, she has told different stories in her statements to the Sheriff; she refuses to tell more. Is her explanation of the different statements sufficient to make you believe her? A man named Henry Peltier swears that she is his child. He denies that he is a Scotchman or a Baptist as she swore he was. She is contradicted as to several places where she said she had lived. Mr. Delaney contradicts her as to the time she lived at Moffatt's; she swears she lived there two years; he says she only lived there for two months and was discharged for stealing. Mr. Brown, who had charge of Gordon's Hotel, at Campbellton, contradicts her as to the powder: he says he never saw or used any such powder as she speaks of, and that instead of living there nine or ten months she only stopped there a month. Mr. McLaughlin, police magistrate of Bathurst, tells that she came to him to swear her child, and called herself Parker, and when he asked her if she was not the girl who was living at Mrs. Clifford's, called Peltier, she said she was. You see she is contradicted in some things by a number of disinterested witnesses. There is a maxim of law: "False in one, false in all." I don't know, however, that swearing falsely in one case makes all her story false. She seems to think that there are some matters which do not properly belong to the case, and that it is not necessary for her to tell the truth about these; you see she is a waif and has rather confused notions as to matters of this kind. It may be that she thinks there is no reason for her to swear to things which do not belong in the case; that it is her duty to only tell the truth about matters properly relating to the case. I don't say this is so; it may be that you will think that as she is false in one, she is entirely unworthy of credit. But if you find other evidence which corroborates her, it may be you will think that she has substantially told the truth in this matter. As she is the most important witness, I shall read over her evidence and make some comments as I go along. [His Honor then proceeded to read her evidence.] When he came to that relating to the murder he said:—It is for you to say whether you think it is probable that the Osbornes would plan to drug and kill McCarthy in the presence of a young girl whom they knew little about and who might go away at any time and inform on them.

In reference to the hatchet, His Honor said this is an important point, for it is the instrument with which Annie Parker says the murder was committed. The fact of a hatchet being there would be corroborative of her statement. It is for you to decide between the evidence of Burns and George Osborne on the one side and that of Caldwell and Hibbert on the other. I may say the same with regard to the rope; Annie Parker says Harry cut a piece of rope off a bed cord in an unoccupied room: a piece of rope is found in the river; Marshal Steadman and Agnes Buchanan each cut off a piece of rope from the same place, but it does not correspond with that found as it has two strands while the other has three. The girl states that the rope was not in the bedstead but on the floor of an unoccupied room. It is for you to decide which to believe.

Court adjourned at 6 o'clock.

DORCHESTER, Aug. 22,

This forenoon His Honor read that portion of Annie Parker's story which relates to the stone, the wagon, the tracks in the field; also the evidence which contradicts or corroborates her story in these particulars. In reference to Mrs. Atkinson's hearing a wagon that night his Honor said there was no doubt but that she told the truth but she might have been mistaken. If a wagon went down as described by Annie Parker the girl could go to the door and see none. Is it probable that the prisoner, Harry Osborne, could take the body, drive away as described, take down the fence, drive out far enough into the river to put the body into the channel? You must consider that he was a stranger to the locality and unacquainted with the distance of the channel from the shore. I offer no opinion on these points. You will consider whether it is at all likely or not. I look upon these points as most important, and if I were a juror would present very great difficulties. According to Dr. Tuck to make matters consistent with Annie Parker's story the body must have been taken up and the coats put on, the money, watch and other things put in the pockets, as the clothes were not on when put in and on when found. It is contended by Mr. Palmer that unacquainted with the river as Harry was he could not do this without fear of drowning himself or his horse; that if the body had been left in shallow water it would be seen and would putrefy; beside that it would be seen by persons travelling along the river looking after logs. [Here His Honor read the evidence of D. B. White as to the measurements he made.] Supposing the body was taken out to the last measurement before the channel, and was there left attached by the rope to the stone, when the body got buoyant it would show. Dr. Tuck, to get rid of this, assumes that on the Sunday night following the murder the body was taken up and put in the river further up stream. There is no evidence of this except the stone, and if the body was placed in the channel, how did the stone get in the shallow water where it was found? There is no evidence whatever for the Crown's theory in this respect unless you fully believe Annie Parker's story. The theory of Dr. Tuck to make Annie Parker's story consistent is that McCarthy's body was again taken up some two or three weeks later, his coats put on him, the watch, money, etc., put in the pockets and then the body replaced in the river. I can see no evidence to warrant a jury in finding that this was the case, excepting the seeing of the man and boy with the horse and wagon as stated by Warman and White. A person's admission is good evidence, but I will say that it is a dangerous kind of evidence. If anything is added or taken away, the hearer may misunderstand what is said, and where a case has been very much talked about people may think they heard what they never did, and are apt to get what was said at another time mixed up with it. Annie Parker is contradicted by Tait and others, as to scrubbing the floor, and her statement at Moncton and here differs. You will consider whether this goes to break down her credibility. If what Campbell says about Harry telling him that he had driven away a drunken man is true, it would go to corroborate the story of Annie Parker, as Harry may have been trying to allay any suspicion that he might have supposed Campbell to have, if he should have heard the wagon. I will here observe that if when Stephen McCarthy told Mrs. Osborne that he believed his brother was out west and Annie Parker heard it and knew he was in the Scadouc, it is strange she did not then make it known. However, if you believe that she took her oath on the Bible, it would account for it.

His Honor, on resuming after dinner, said: It would appear that Eliza told a different story to Mrs. McCarthy, as to Chipman Smith being there, from what she told Edward McCarthy, according to their evidence. The correctness would depend very much on the hearer and the length of time that has elapsed since the conversation. Nickerson is the only witness that swears that the Osbornes said McCarthy was back at 12 and states that Annie Parker was called and gave as a reason that she finished scrubbing at 12 and knew from that. This does not agree with Annie Parker's as she says it was only 10 when she got done scrubbing. It is not safe to rely on these conversations. Mr. Palmer remarked of this witness that he was entirely unworthy of belief and there is certainly a difference between his statement in Moncton and here. Forster's evidence is relied on by Dr. Tuck to substantiate the theory of the body being taken up. This to my mind is straining evidence. If the admissions of the prisoners can be construed for as well as against them; your duty will be to consider them favorably to them. A prisoner is always found innocent until proved guilty.

The ladies are out to-day in larger numbers than yesterday. Mr. Holstead was obliged to leave for home to-day on account of the death of his child.

DORCHESTER, Aug. 23.

For some time before the hour for opening Court arrived, the ladies, who have evinced so deep an interest in this case, flocked the court house in large numbers, and when the Chief Justice took his seat they filled the platform and part of the space of the court room. The day being very fine but few came in from the surrounding country. His Honor said:—I almost concluded the reading of the evidence in this case last evening, and shall now only read to you the evidence of Mrs. Botsford contradicting Mrs. McCarthy in reference to the cutting of the coat sleeves. You will remember that Annie Parker's testimony on this point as given here differs from what she said in Moncton. This evidence is important as going to show what she really did say there. Judge Botsford gives the prisoners a high character for honesty, as does also Mrs. Botsford, who speaks of the kindness of Mrs. Osborne's disposition. My experience is that evidence of this character does not amount to much excepting where the evidence is very evenly balanced. In the case of Munroe, tried before me, some twelve witnesses came forward and spoke to his high character and, after conviction, he confessed to the crime with which he was charged. In reference to the blood stains on the shirt, much evidence has been given. Is it blood or not? The doctors say it is blood clot and that it could not get on the shirt from bleeding under water, or from bleeding after putrefaction. From the statement of Hickey there is no doubt but that the night he saw the wagon was the 12th of October. We have no definite information where it came from; whether from the Osborne house, the French lane or the road from the quarries. Annie Parker says the legs of the body hung out over the tail of the wagon. Is it probable that a body could be in the wagon and Hickey not see it at distance of 7 yards on a night so light that he could if he had knew him, have recognized the driver and could tell that the wagon had a tail board that let down? I have now nearly finished my observations to you. It is not my duty to tell you what witness to believe or what not to believe. It is for you to say what credence you give them, having seen their conduct on the stand and the manner in which they answered the questions put to them. If they have told different stories at different times it would create suspicion in your minds as to the truth of their statements. Slight variations not affecting the substance of their evidence should not weigh in your minds against their statement. If you think that the witnesses on the previous examination in this case told all they knew, and have come here and added something else for the dishonest and wicked purpose of convicting the prisoners, if not from dishonest motives, you can give what credence you please to it, than throw out their testimony. I shall now briefly recapitulate some of the points on this most singular and mysterious case, which involves more points and questions of an important character than any case I ever heard of before. Therefore, and because the stake in this case is so great, I have occupied so much of your time. A day or two of your time amounts to nothing in comparison with the taking of human life. Was he drowned? The evidence of the doctors show conclusively not. Did he come to his death by violence, as described by Annie Parker, or by accident as held by Mr. Palmer? This involves the question as to whether Annie Parker told the truth or not. It has been said that the evidence of an accomplice ought to be corroborated. It should be looked upon with suspicion, but I cannot tell you as a matter of law that it must be corroborated. Was she an accomplice? We have only her own evidence as to this. Taking her own account of it, it would appear that the murder was not committed at once, and that it was only after McCarthy was drugged and his money and other things taken away from him that fear of his coming to and discovery lead to the commission of the crime. This at most would only make her an accessory after the fact. Her duty would have been to have informed the authorities at once. It may be that the oath she says she took and a not very clear knowledge of the effect as to herself of the part she took prevented her from doing so. When the fact of the killing depends upon the evidence of a girl like Annie Parker whose character and credibility have been so terribly shaken you should look well to the circumstances of the case. If you should come to the conclusion he was not drowned, then was it as Annie Parker says? Could a blow be given by a hatchet as described without breaking the scalp? Dr. Allison says he would expect to find an abrasion of the skin. There are probabilities and improbabilities on both sides of the case for your consideration. Is it probable that this girl could have made this story, describing the blows struck and the death scene so graphically, and the carrying out of the bleeding corpse, as she has? Then is it probable that the prisoners would commit this crime with boarders in the house and carry out the body under the windows of the apple tree men and Dr. Campbell, and a watchman going by each night. One would suppose they would rather take it out the kitchen door, where there would be no clue to bring it back home to them. Is it probable that Harry Osborne could have disposed of the body as stated; that the body could lay where it was put without being seen, and could as Dr. Tuck holds, have been taken up twice and put in the channel and the stone found in shallow water? Then if it had been taken up in this way would the body be in the perfect state of preservation it was on the 25th of May without showing more signs of putrefaction than it did? All those points you will have to weigh when you go to your room and take this terrible matter into consideration. The declaration of John Osborne to the sheriff the time he was informed of the finding of the body is quite as consistent with innocence as guilt. The evidence of the declaration of Mrs. Osborne to Linkletter is important, if there was any evidence to show whether Annie Parker's statement of the body being in the river was made public or not at that time. If they were not made public, is it evidence of a guilty knowledge or not? Do you believe that Annie Parker told anything but the truth in her declaration to the Sheriff? Do you believe she knew of the murder at that time, or do you believe, as Mr. Palmer contends that she knew nothing of it and only concocted it after the hat was found? By what means did she find out the place on the shore? Was she there and saw the waggon tracks, as she says, or was she never there until she went with Steadman? Did Mrs. Atkinson really hear a wagon or was it a delusion on her part? Was the third panel of the fence removed or not? I have now concluded my observations. All I need say is that you must be satisfied beyond a reasonable doubt that he was murdered by the prisoners in order to find them guilty. A suspicion won't do; if there is a reasonable doubt, notwithstanding your suspicions, the prisoners must have the benefit of it. I leave the rest in your hands, trusting that an all-wise Providence will direct you to a just decision.

The jury went out to their room at 10.30.

It being rumored that the jury would be brought into Court this evening, a large number of persons gathered in the Court room. At 9.35 His Honor came into Court and took his seat upon the bench, and a few moments after the prisoners were brought in and took their place in the dock, quickly followed by the jury.

The clerk called their names, and asked if they had agreed upon their verdict. They answered, through Mr. N. D. Fowler, their foreman, that they had not, nor was there any prospect of their doing so.

His Honor asked if there was any question to ask that would assist them in coming to a conclusion. Dr. Tuck remarked that if they had not agreed in twelve hours they would not agree in twenty-four, and thought it would only be punishment to keep them longer. Mr. Holstead concurred in this view. His Honor said that, it having been six days since the evidence was concluded, and they not having come to any conclusion, he would discharge them.

His Honor then spoke of the time to which the Court would adjourn. Dr. Tuck suggested the 2nd Tuesday in Nov., with which Mr. Holstead concurred.

Dr. Tuck said it was Mr. Holstead's intention to ask bail for John Osborne which he would not oppose. His Honor said that he would admit him to bail in the sum of $2,000 and two sureties in $1,000 each. Mr. Holstead proposed Wm. Robertson and E. A. Taite which being approved of, they recognized for his appearance at the adjourned Court in November.

Dr. Tuck asked that Annie Parker be still retained in custody and His Honor ordered her to be retained in the custody of the Sheriff of Westmorland until further order was made.

The jury stood ten for conviction and two for acquittal.

The court adjourned until the 2nd Tuesday in November next.