## JAMES BUILTY OF MANSLAUGHTER

Continued from Page 1.

take part of her story and condemn her on that. It would be most unfair to assume that accused had been resolved to commit murder. If Donald had stayed where he was, there would! have been no shooting. If the girl had deliberately intended to shoot him the time to do so was in the hall and before she had reentered the kitchen. As it was the shooting had only taken place after deceased had taken such a strong hold of her that the imprint of his hands had been left on her person for days afterward.

#### Defense Was Motive

To establish a charge of murder, Mr. Farris reminded the intent. No such motive as jeal- In the last analysis, Mr. Far-, Developing the theory of self Mr. Johnson further pointed ousy, revenge, retribution, rob- ris submitted, it could not be said defence, Mr. Johnson asserted out that people were not sup-

girl. Mr. Farris maintained, only the girl in danger of being beat- jointed out that the revolver was cused was responsible for the went to reveal her innocence, en up or killed, it was a ques- fully loaded with a cartridge in killing of Donald and, if so, was After the shooting, she had not tion of running away but what the breach. Even with the safety the killing justified? she was seen with the gun still that the gun had gone off in the fire the weapon. Was the fact in her hand. She had known that impact after deceased had come of the gun being in the hand of out that the burden of proving on her part. Only after she had then she was in a corner and had unarmed. She had no right to proved that the prisoner had begun to realize the tragedy and been forced by the man himself fire the gun unless her life was committed the killing, it then the awfulness of the situation to do the shooting. had she stated that there was In closing his address, Mr. avenue of escape than through facts constituting manslaughter

#### indications of guilt. Dangerous Position

Charlie Bibeau, deceased's best of the crown's case. . dangerous that Bibeau, on one whether for or against the whether Gale or Dolan had called ther alternative was acquittal. occasion, had said that he would crown's case. worse condition, Dolan was in that accused had been responsi- It it had been an accident, Mr. even more danger? Mr. Farris . again referred to the marks that had been found on the girl's arm. There was nothing more reasonable to assume than that they had been put there by the ugly drunken man. The powder marks found on the man's body was evidence that the shooting had been at very close range, and proved that the gun, as the girl herself had testified, had not gone off until they were practically at grips. It was plain that Donald had approached her and that in so doing he had brought

#### the tragedy upon himself. Withstood Ordeal

The crown had not a single argument to advance that was inconsistent with the girl's own story. Mr. Farris drew the attention of the jury to the manner that accused had withstood the ordeal of Mr. Johnson's cross-examination. After having languished in a cell for six months, every day seeing the face of the dead man, picturing the jury that she would be called upon to face and anticipating the possibility of a death sentence being passed upon her at this trial, her veracity and demeanor had remained unshaken even in the face of the cross-examination of one of Mr. Johnson's

## Merely to Frighten

Was her story that she had taken the gun merely to frighten deceased anything but reasonable? Was she to be condemned because she had not reasoned out something else to do in the circumstances? They were all half drunk, it was 3.30 in the morning and she had been mauled by a drunken man. Did that prove malice or murder? It must also

THE RESIDENCE AND ASSESSMENT OF THE PARTY OF

BRINGING UP FATHER









guilty mind as well as the mere outside the pale of the law. Their mon every day horse sense. physical act. It was necessary natural instainct was against The facts leading up to the that preparation, motive and seeking the assistance of a po-shooting, Mr. Johnson asserted, subsequent guilty conduct be liceman. It was unreasonable to were simple. It was necessary to

shown. There had been no sug- suggest that as a reason for in- consider to what extent deceased gestion or indication of prepara- tent to commit murder. The had abused accused and to asion. Two minutes before the threat that the girl admitted certain in how great danger she killing, the gun had not been having made even further estab- was. Was the shooting justified Johnson suggested that accused thought of. In this case motive lished her intention of meaning as a case of self defence or was should have told the police so at must be shown in order to prove only to frighten the man. | it merely an accident?

bery or anything else had here that this was a case where a that even if deceased had struck posed to have revolvers except been shown. Had not the ill disreputable character had gone accused half a dozen times, the for self protection and, even WANTED - Experienced salestreament that accused had re- out into organized society and use of a revolver was not neces- then, they were not allowed to ceived at the hands of deceased fired a shot. It was a case sarily justified. It was up to the take them out. The fact that justified her having taken the where a man had gone in where jury to judge on the fact of evidence of prostitution or illegun into her hands? Could it these women were and had be- whether accused, knowing the gal sale of liquor might have Daily News office. be assumed that, because the girl come drunk and ill-treated gun to be loaded and ready to been brought out had nothing to was mad, she could have devel- them. If James Donald had not fire, had voluntarily or reckless- do with this case and the jury WOMAN Wants Work of any oped the physical courage to get grabbed hold of the girl, the ly pulled the trigger or whether should dismiss such things from the gun and come into the room shot would never have been pressure applied by deceased had its mind. with the intention of shooting? | fired. With the man in a dan- caused the gun to go off. In | The question for the jury to The subsequent conduct of the gerous and ugly mood and with his connection, Mr. Johnson decide was whether or not actried to run away or hide but should be done when he came af- catch off, it required double aconly a few minutes afterwards ter her. The suggestion was ion of the thumb and finger to the police were being sent for after the girl or through the re- iccused justified. She had a and there was no remonstrance laxation of her muscles. Even leadly weapon while accused was

no gun. It was only a wonder Farris reminded the jury that it using the gun? Her action in or justifiable homicide. There that, innocent as accused might was necessary that a guilty mind going to the cupboard and get-should be no difficulty in the have been, there were no more be established beyond all reas-ting The gun, Mr. Johnson sub- minds of the jury as to whether jonable doubt. The responsibility mitted, suggested some motive. of the jurymen in making a de-From the evidence of the cision would rest with them all It was for the jury to decide the hands of the accused. The crown it was shown that there their lives. All the evidence had as to the possibility of it havhad been drinking in which de- gone to support the story of the ing been an accident. If there ceased had participated. Even girl and to reveal the inadequacy was intent to kill or

friend, had testified that Donald, Mr. Johnson laid the facts of of murder. If the gun had been when drinking, was of an ugly the case before the jury in a fair handled reckless of results, it disposition inclined to make and effective manner with ab- was manslaughter. The only trouble with women. He had sence of prejudice, He explained other alternative for the jury even been considered dangerous that the duty of crown counsel was a verdict of not guilty. when in such a condition - so was to bring out the true facts | The conflict of evidence as to der or manslaughter. The only

not have liked to have been in The mere fact that Donald had was a point of minor importance Gale's position. If a month pre- died in the house that night did with nothing turning upon it. vious Gale had been in danger of not justify the crown in asking What was of importance was her life, was it not reasonable to that the woman be convicted. It that the woman had the gun in tute murder, premeditation assume that on the night in was necessary for the crown to her hand and that Donald was question, with Donald even in a show beyond reasonable doubt lying on the floor in extremis.

jury that it was necessary for be remembered that these girls ble for the death. It was necesthe crown to bring home the were leading an immoral life sary for the jury to use its com-

the time and shown the gun,

in danger. Was there no other rested on the defence to adduce

### Three Alternatives

wound, it constituted a case

for the police, Mr. Johnson said, His Lordship then defined the

Judge's Charge

In charging the jury, Mr. Jus-

ice W. A. MacDonald pointed

hat a crime had been committed

or not deceased had come to his

ury then had to determine if it

as a case of murder or man-

case only two crimes were possi-

crimes of murder and man-

laughter. The matter of malice

was then discussed. To consti-

the act. As to the limit of such

premeditation, long or short in

oint of time, no limit could be

His Lordship then proceeded

to review certain points of the

evidence leading up to the shoot-

ary to determine whether or not

the accused was to blame for the

occurrence. The jury could ac-

cept or reject her story in toto

tory or any prejudice or bias

hat might exist on the part of

placed.

ble under the indictment-mur-

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as would prove effective and no The charge was concluded with REAL HOME COOKED MEALS. ing one's own life. It was for it should make its decision in the jury to decide if the use of this matter as it would in dealwould control or direct the

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# LAND ACT.

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day of May, 1926. G. B.

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#### her or any other witness. Other Means Available His Lordship suggested that some means might have been

adopted to remove deceased from the house other than by threathad been received into a house in a peaceful manner could not be driven out, under ordinary MODERN FLAT for Rent .- Apply ture Store. We Buy, Sell and Exrevolver. Aiming of a revolver, even if unloaded, was punishable. The endeavor of the austroy the use of such arms as far as possible.

In determining self-defence, Smithers, B.C. His Lordship pointed out that only such power or instruments of the revolver was justified. cused exhausted?

tunately killed another while in other reason. the commission of a lawful act. Here again came in the point as to whether or not the possession!

an automatic revolver was neces- ing with a problem of everyday sifated in this case. Were all life. . The accused was entitled

other means of retreat for ac- to any reasonable doubt such as His Lordship then dealt with movements of the jurymen in the question of misadventure or every day life but not such a accident when a person without doubt as might be conjured up negligence or intention unfor- to escape one's duty or for any

The jury then retired at 4.30.