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**FLY-TOX**  
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**HENRY RIVARD NOT GUILTY  
OF THE MURDER OF WIL-  
LIAM RITCHIE SAYS JURY  
AT ASSIZE COURT YESTER-  
DAY.**

(continued from page one)

Staff Sergeant McNeill on the steamer after having confessed to and consulted with his spiritual advisor Father Leray and the story he had told then was exactly what he has told in the witness box—a story that was unshaken in spite of a severe cross-examination. If Rivard had wished to kill O'Donnell he could have pumped all the bullets in the gun into him. If accused had had no intention of killing Ritchie, then he could not be found guilty. Mr. Wismer reviewed the evidence of crown witnesses and suggested that they might have made mistakes. It was evident that Rivard was the only one there that night who was quite sober. Was he not the more likely to remember what had actually happened? It was for the jury to decide not upon probabilities but upon facts. The jury had to be satisfied beyond a reasonable doubt that accused had killed the man intentionally. Unless it had been proven beyond a reasonable doubt that the accused had not killed deceased in the manner he had sworn, then the jury must acquit.

The unfortunate man, defence counsel concluded, was already sixty now and had failed greatly since his arrest. No matter whether he were sent to the gallows or to jail, he could not last long. "If you think his story reasonably true, then I ask you to acquit him," concluded Mr. Wismer.

**CROWN COUNSEL**

Mr. Johnson pointed out that the case was not a contest between himself and defence counsel. It was the most important function of the crown prosecutor to bring out the true evidence—whether or not it should be favorable to the accused. His sole object, Mr. Johnson asserted, was to get the truth. It had been admitted that the man was dead and had been killed with a bullet from a rifle in the hands of the accused. The crown's case was that, first, Rivard was not in lawful possession of that rifle and, second, there was no lawful reason for his using it. It was for the jury to decide whether the story of the accused or that of the crown witnesses was the correct one.

Crown counsel also asked the jury to dismiss the matter of liquor from its minds. This had nothing to do with the case. Apparently, all were on good terms except Rivard and O'Donnell, "the whiskey bum." Even though Paddy had made as great nuisance of himself as possible, the accused was not justified in using the loaded weapon. A man could not take the law into his own hands in such a manner without being liable for the consequences. There was no doubt that accused had been the most sober man there that night but every crown witness, he maintained, had tried to tell the truth.

Was it probable, asked Mr. Johnson, that the scraping of the rifle against the banister had caused the discharge of that bullet that killed Ritchie? If the story of accused had been correct, continued crown counsel, the bullet would have passed clean over Ritchie's head. His suggestion was that the rifle, unfortunately, was pointed straight at Ritchie. There were certain things that lead one to believe it was not an accident. Three witnesses had sworn that they had heard the sound of a click. If that clicking had been caused by accused raising the hammer, then he had some evil intention. In any case, a man was supposed to appreciate the consequences of his act.

Mr. Johnson referred to the fact that accused had sent for no help after the tragedy occurred although there were men there who could have gone. It had been an accident why had accused told Potterton that he had gone for a gall of water and found the body there when he returned? Mr. Johnson questioned the veracity of the evidence of Sam Deschamps who had testified that Casey had told him that he (Casey) had thrown the gun away. It was peculiar that counsel for the accused, knowing of such evidence as Deschamps had said, had not caused it to be adduced at the inquest thus "going a long way in defence." "I suggest," said Mr. Johnson, "that this evidence did not exist but is a figment of Deschamps' imagination."

Crown counsel stated that only accused had said that O'Donnell had come back after he had once left. There was no suggestion of self-defence in the



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Mr. Johnson urged the jury not to be influenced by sympathy either for the accused or for the deceased. The crown did not merely want a victim because a man was dead. He urged the jury, in conclusion, to deal with the facts as would ordinary, rational men in every day life.

**JUDGES CHARGE**

In opening his charge, Mr. Justice Gregory urged the jury to be guided by its own recollection of the evidence and not by his. It was the duty of the jury to decide whether accused was guilty or not guilty and he urged the jurors not to be guided by any view they might perceive or thing they perceived.

His Lordship pointed out that if a man shot at another thinking it was someone else, he was just as guilty of murder as if he had shot the man intended. If an offender did an unlawful act likely to cause death without, however, intending to do hurt, murder might be implied. The possible verdicts in this case were: guilty, not guilty or manslaughter. His Lordship defined manslaughter in which provocation was often involved. If the jury believed there was provocation and the killing had been committed on the spur of the moment it might bring in a verdict of manslaughter.

In order to convict of murder, the crown must show that there was an intent. If the jury thought that the accused had been justified in taking the gun, say in defence of his home, and that it had accidentally went off, the verdict should be "not guilty." But there must be some good reason to make it necessary to use the gun. His Lordship did not recall any attack that had been made upon accused except by Paddy, "the whiskey bum," and then a general fight ensued which had not been in the nature of an attack upon accused but a dispute among themselves as to whether accused should have been attacked. If one was apprehensive of being killed or receiving grievous bodily harm, then one might deal just such a death or bodily harm but to no greater extent than was required to protect one's self.

Dealing with the facts of the case, His Lordship remarked that it was to

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