

a few yards at most, and would take some time. He could not have carried things such as described in the evidence—it would have been impossible. Had he crawled to the spot there would have been marks through the grass. There are marks on his trousers which indicated that he had been lying on his left side. Had he gone through the water-race, one side at least must have been wetted. He could not have gone 10 chains in three-quarters of an hour on Saturday morning. I believe the injuries hastened his death. He was suffering from disease of the kidneys, and had been living on very little food for some time previous. There was not sufficient disease of the kidney to account for death. I wish to explain that the injuries might have been caused by a vehicle as described; but I do not state that the surroundings of the injuries indicated such to have been the case.

To Mr. Raymond: I do not think it likely that the man could have put on his boot, as the fracture to the right collar-bone would have prevented him. Lying down he could not have done it, but sitting up he might. He would have had to bring the good leg over the fracture, which would have been very painful.

Mr. White said he had no desire to call any more witnesses, but he would put in the statements of Jeremiah McCarthy heard at the inquest on the 15th and 21st January.

This was the case for the Crown.

Mr. Raymond, for the defence, said that all the prosecution had done was to show that the deceased had been killed by some one, but there was absolutely no evidence to connect McCarthy with the death of the deceased. He thought the evidence heard at the Coroner's inquest would have been supplemented by the police, but in some points it was really less strong than at the first inquiry. His great difficulty was to find what he had to address himself to. There were really no points against the accused to answer. The police had simply built up a theory, in support of which they had entirely failed to bring any evidence whatever. They had not even established a case of wilful murder, but only one of manslaughter, with which there was nothing to connect McCarthy. There was practically no evidence outside of the McCarthy family, and if they had had anything to hide they could have kept the whole affair to themselves. Looking at the whole evidence, there was not one peculiar circumstance in favour of the Crown. There was no evidence that the man was *in extremis*, and no ordinary man would have done more than McCarthy had done. Taking the facts as brought out in the evidence—on which Mr. Raymond made running comment as he addressed the Court—he held that there was not the slightest ground for the charge, and that it was a farce to send the man for trial. He did not believe the case would pass the Grand Jury; certainly no common jury would convict. He thought his client should be saved the pain, expense, and stain on his character that would follow if he were sent for trial.

His Worship said that he considered a *prima facie* case had been made out against the accused, though a weak one, and he would commit accused for trial. The Supreme Court sat at Timaru on Tuesday, and there would consequently be little delay, while the discharge, if accused was found innocent, would be a complete one. He would point out that where there was a strong moral presumption that a person had committed a crime such as that with which the accused was charged, there was ample justification by law for sending that person for trial.

The accused reserved his defence, and was formally committed for trial at the next sitting of the Supreme Court at Timaru. Bail was allowed as before—namely, two sureties of £250, and accused in £500.

The Court then rose, at 4.30.

SUPREME COURT TRIAL.—CHARGE OF HIS HONOUR MR. JUSTICE DENNISTON.

(*Timaru Herald*, 6th February, 1895.)

The other case of murder was a peculiar one. There was no dispute as to the facts; there was no suggestion that the witnesses were not speaking the truth. The question was, What inferences it was legally right for the jury to draw from the facts. On Thursday, 10th January (it was important to remember the dates), deceased was in the neighbourhood of accused's farm. At half-past 7 o'clock in the evening he walked, without knocking, into the house of a farmer named Kilworth. He walked into the house without any right, and in what might be called an impudent manner, and, when the owner complained, deceased asked for the house of McCarthy. There was no reason to suppose that he knew McCarthy or wanted him. He seemed to have used names at random. Kilworth pointed out to him McCarthy's house, half a mile away. It seemed clear that at this time deceased, though a little lame (possibly footsore), was able to get over a fence and cross a water-race. He seemed to be sound in his limbs. Passing over for a moment the evidence of accused and his family, deceased was next seen on Friday morning, the 11th, at 9 o'clock, by a girl named Rose Davies, and her brother, who were driving along the road. Deceased was then lying on the side of the road, some way from the house of the accused. He had a towel, a pannikin, and a piece of brown paper beside him. Some time later they returned along the same road, and saw deceased in the same place. About 2 o'clock the same day, McCarthy came out of his place with a dray, and the boy Davies went along with him, and saw deceased in the same place. Accused at this time gave deceased some scones, tea, and bread and meat. This was the first time at which there was any evidence—outside his own family—of accused having seen or spoken to deceased at all. This was at 2 o'clock on Friday. McCarthy and deceased had a conversation in the presence of the boy Davies. (His Honour read from the depositions the evidence of the boy Davies. The conversation referred to was: McCarthy spoke to the man, and asked, "What's the matter?" The man said his leg was poisoned. McCarthy felt his left leg just below the knee, and said, "Is your leg poisoned?" McCarthy told the man to cover the meat over. The man did not eat any food while witness was there, but he drank some tea. After they left the deceased, McCarthy