

# MRS. MURRAY HOLDS DIABLO

## CROOKHAM DISCHARGED FROM CUSTODY BY JUDGE HORGAN

### Court Decides That No Felonious Intent Was Shown on the Trial

#### Attorneys for Mrs. Murry Notify Al to Keep Hands off— the Horse Will Remain at Salem

At 11 a. m. today Judge Horgan discharged the prisoner, and held that no felonious intent had been shown. The remedy in the case was a civil action. He refused to bind defendant to the grand jury.

Dr. Strong and Mr. Crookham, accompanied by Constable Lewis, went to the Red Front livery stable, where Diablo was quartered, and the animal was formerly turned over to them, and they in turn announced that the animal would remain in that barn, and warned the proprietor to allow no one to have the horse or remove him from the barn, except on the order of one of them. Diablo will remain in Salem.

#### Testimony in Case.

The hearing of the case of C. D. Crookham, on the charge of stealing the stallion "Diablo" from the fair grounds, was concluded yesterday afternoon, when the court reconvened at 2 p. m. Several more witnesses for the state were heard, followed by those for the defense. Alpha Massey, Castro's stable boy, was the first witness called. He said he was a groom in Castro's employment; was with Castro at the fair grounds when Crookham took the horse. Mr. Crookham, Dr. Strong and Mrs. Murray came after the horse on the 26th. Did not hear conversation until Crookham attempted to open the door to the stall, when witness warned him to desist. Did not see Crookham open the door. Saw him lead Diablo out of the gate. Heard Castro ask for his authority to take the horse. Mrs. Murray told the witness that Castro had no lease on the horse.

Cross-examination — Castro asked Mrs. Murray what terms she would give him, when something was said about a commission, but no agreement made. They were willing to set

tle all bills, asking Castro what his bill was, to which the latter replied he could not tell. Castro said to Mrs. Murray that Crookham was more rattled than she was.

F. P. Talkington—Knew Murray, and met Mrs. Murray at his home, since her husband's death. She told witness she had leased the horse to Castro for half the receipts for the 1904 season, in compliance with the late Mr. Murray's request. Later met her on State street, when something was said about the contract. When telling of her contract she seemed satisfied with the arrangement.

Cross-examination — Castro worked horses for witness, and latter was interested in keeping "Diablo" in Salem, and improving the breed of horses here.

J. A. Pooler—Knew Murray and met Mrs. Murray after her husband's death. Was introduced to her by Castro. She told him that she had arranged with Castro to keep the horse and Murray's contracts would be carried out to the letter, so far as witness' interests were concerned. Castro had kept the agreement. He introduced a check given Castro in payment of service, and a receipt signed by Castro and Mrs. Murray. (No cross-examination.)

Sam Castro recalled for cross-examination—Did not remember being told not to run down the reputation of "Diablo," but to buy him cheap. Denied having told Perry Manzy that Mrs. Murray was crazy.

#### The Defense.

Dr. F. E. Strong—Resident of San Francisco, and a brother of Mrs. Murray. Went with sister and Crookham to fair grounds. Met Castro, and asked latter how much his services caring for the horse were worth, as they were anxious to settle. Castro

wanted to make arrangements to keep the horse, but they could make no agreement. The horse will not be removed from Salem, but be here the coming season. Told Castro they were ready to pay him for caring for the horse. Knew defendant for 18 years. Cross-examination—Did not say the horse would certainly go to California.

C. D. Crookham—Married Mrs. Murray's sister. Was acting for Mrs. Murray in taking charge of the horse. Went to the stable of Diablo, and met Castro, and told him that unless written contract they would remove the animal. Demanded horse. Took lock off the door, but did not batter it. Took out horse and led him to town. When town was reached Crookham was arrested by Constable Lewis, and horse placed in barn and cared for. (No cross-examination.)

Dr. J. A. Richardson—Attended Murray during last illness. At time of death he also treated Mrs. Murray. She was in a highly nervous state during husband's sickness, and after his death she went into an almost total collapse. She was nervous, almost hysterical, and witness feared it would border on insanity. This continued up to the time of her trip to California, about November 1st.

Cross-examination — Treated her continually from her husband's death to her trip south; she was in a nervous, emotional condition, threatening self-destruction, her grief being the cause. He was compelled to give hypodermic injections of morphine to quiet her. Treated her since her return. Her condition now very much better.

Re-direct—She was in condition to be easily influenced to make almost any kind of contract. In her mental condition she was unstable. Witness often urged her to leave business matters alone, and go to California. This closed the testimony in the case.

#### Adams Cites Authorities.

Mr. McNary waived argument. Mr. Adams reviewed the authorities and proceeded to apply the same to the case. The question of Crookham's alleged larceny had been lost sight of. The element of felonious intent was not present in this case.

In a case before the supreme court, Judge Thayer had held that where a man took a steer under order of and owner, it was not stealing. There was no larceny intended. In 11th Oregon, state vs. Sway, it was held taking cattle off range under misapprehension was not a crime. In State vs. Eastman 19th Pacific, taking a mare to secure a debt due for wages, held to be not a crime as it was done in open day and without felonious intent.

In 18th Mich., People vs. Hillhouse, held that property taken in good faith under a claim of right without felonious intent, was not larceny.

In 34th Alabama, Black vs. State, a man charged with stealing a hog, taking was open, notorious and avowed, and no secrecy or denial, the man was discharged. There was a strong presumption of innocence. In 79th Georgia, a man charged with stealing a bell, taking it under a fair claim of right was not larceny.

#### Mr. Carson's Argument.

In this case every feature of criminal intent was absent. If such civil controversies were permitted to be tried on a criminal charge, there was no use trying any civil suit at expense of private parties. This was really an action of replevin tried at state expense. It was a prostitution of a court of justice to carry on such litigation to right civil wrongs. Under the guise of this procedure for recovery of the horse the taxpayers foot the bill. The question of a lease to Castro was the point at issue. No one imagined for a moment that a horse had been stolen in this case. There was no pretense of a contract. Mrs. Murray having been shown to be hysterical and mentally unfit to make a contract. If the civil side over reached trial it would be shown that no contract existed. There had been no crime committed and there was no foundation for a civil suit.

#### Mr. Sizer's Argument.

The prisoner did not pretend to be the owner of the horse. Mrs. Murray was the owner, qualified by a lease. Castro had an estate in the horse, and the crime was against his rights. The crime of larceny was taking and removing by trespass the property of another for his own advantage. The law of the state was violated, as the owner protested against the taking of the horse. Castro was in the rightful possession of the property and would have resorted to force.

Crookham took the law into his own hands. Castro had acted with great restraint in resorting to law instead of force. Mrs. Murray admitted that Castro had a contract. They had violated the peace and dignity of the state, and to gain their point impached the validity of their own witness.

## JUST PLAIN KILLING

### Mrs. Price Who Shot Her Husband in Kansas City

#### Is Acquitted on the Ground That She Was at the Time Emotionally Insane

Kansas City, Jan. 29.—Mrs. Lulu Kennedy Price was today acquitted of murdering her husband, on the plea of emotional insanity. This was her second trial, the first resulted in conviction, and a sentence of 10 years. Three years ago she shot six bullets into her husband, kicked the dying man in the face, saying, "You'll never betray another girl." The cause of her killing the man was his suit for divorce, he alleging the marriage was unjustly forced upon him by her father and brothers with revolvers.

#### Bryan's Sister Dying.

Lincoln, Neb., Jan. 29.—Physicians this morning say Miss Nanny Bryan, sister of Wm. Jennings Bryan, can't survive the day. She is dying of peritonitis. Bryan has cancelled his lecture dates, and is hurrying homeward from New Jersey, where he addressed a meeting last night.

#### Ames Gets Free.

Minneapolis, Jan. 29.—The state supreme court today knocked out the indictment upon which ex-Mayor Ames was convicted and sentenced to the penitentiary for malfeasance in office. He is now free, as this is probably the last chapter in the notorious scandal.

#### Russell Goes to Panama.

Washington, Jan. 29.—Russell, the American charge d'affaires at Caracas, has been ordered to take charge of the American legation at Panama during the absence of Minister Buchanan, who leaves for Washington next week. It is believed Russell will succeed Buchanan as minister.

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Office hours, 9 a. m. to 7:30 p. m.; Sundays, 10 to 12 and 2 to 5 p. m.

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The most loathsome and repulsive of all living things in the serpent, and the vilest and most degrading of all human diseases is Contagious Blood Poison. The serpent sinks its fangs into the flesh and almost instantly the poison passes through the entire body. Contagious Blood Poison, beginning with a little ulcer, soon contaminates every drop of blood and spreads throughout the whole system. Painful swellings appear in the groins, a red rash and copper colored blotches break out on the body, the mouth and throat become ulcerated, and the hair and eye brows fall out; but these symptoms are mild compared to the wretchedness and suffering that come in the latter stages of the disease when it attacks the bones and more vital parts of the body. It is then that Contagious Blood Poison is seen in all its hideousness. The deep eating abscesses and sickening ulcers and tumors show the whole system is corrupted and poisoned, and unless relief comes soon this serpent disease tightens its coils and crushes out the life. The only antidote for the awful virus is S. S. S. It is nature's remedy, composed entirely of vegetable ingredients. S. S. S. destroys every vestige of the poison, purifies the blood and removes all danger of transmitting the awful taint to others. Nothing else will do this. Strong mineral remedies, like mercury and potash, dry up the sores and drive in the disease, but do not cure permanently. Send for our home treatment book and write us if in need of medical advice or special information. This will cost you nothing.

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