

Evidence Heard Yesterday Before Coroner's Jury

Inquest Proceedings Continued Into Circumstances Of Death In Highway Accident Of Michael Horgan.

The coroner's inquest on the death of Michael Horgan, 23, of Covehead, killed in a motor accident on the night of Sept. 1 on the Stanhope Road, was continued yesterday afternoon at 2 o'clock in the presence of the following jury: Frank Bell (foreman), James M. Hennessey, Arthur Kane, Bruce Wonnacott, Carl Kelly, James D. Campbell and James Falckner. D. Edgar Shaw, K.C., Crown Prosecutor, examined the following witnesses: Ernest McGowan, W. C. Cook, James Gesner, James C. G. Duffy, and Helena Horgan (deceased).

At 6 o'clock, adjournment was made until 3 p. m. today. The hearing, which was in the Police Court, attracted a large crowd. Ernest McGowan, Charlottetown, mechanic at the Reliance Garage, testified that he was driving the Horgan car from the Stanhope Road last week. The right rear wheel was in the ditch on the right-hand side of the road going towards Stanhope. He noticed an evidence of a blow to the front of the car. He described the damage minutely. He had tested both lamps on the car. A juror: "Did they both light?"

Witness: "No, the left-hand bulb was burned out."
Mr. Shaw: "What was the trouble?"
Witness: "The filament was burned out."
Juror: "Would the jar of the accident cause that?"
Witness: "Yes."
"Did you put in a new bulb?"
"Yes."
"What was the result?"
"Both lamps burned."
"You felt that the jar of the impact burned out that filament?"
"Yes."
"Can you give us an idea how much of a jar it would cause to break that filament?"
"Not very much sometimes. It all depends."
Continuing, witness described damage to the car: The front bumper was bent towards the centre. The left hub caps were missing. He had noticed no glass in the car.

A juror: "Do you think a direct blow would bend the fender like that, or a glancing blow?"
Witness: "It would be more of a glancing blow."
"What damage was done to the left rear fender?"
"You could hardly fix it. It was all dented right to the body."
Damage to other parts, witness said, would indicate that the car had struck the bank.
William C. Cook, of The Cook Studio, Charlottetown, produced two photographs of the scene of accident, taken by him about 9:10 a. m. Sept. 2 on instruction from R. C. M. P. Sergeant Anderson.

Mr. Gesner's Evidence
James Gesner, Charlottetown, testified that he had a fishing pond near estate at Stanhope. On the evening of Sept. 1 he was at the pond, fishing, with Judge Duffy. They had gone out in his car.
Mr. Shaw: "Did you come back to Charlottetown that night?"
Witness: "Yes."
"What time did you leave there?"
"Approximately nine o'clock."
"Who went with you?"
"Judge Duffy."
"Just you and Judge Duffy?"
"Just the two of us."
"Who was driving the car?"
"Judge Duffy."
"What occurred on the way?"
"Coming in we passed several pedestrians. We passed one car. The Judge dimmed his lights, and just coming on to—I don't know the name of the Forge, but it was approximately where the accident happened—I noticed this car coming. Previous to that, before we reached the Forge, I pointed out the home of Joe Robison and said something about dropping in and seeing him some time. Shortly after that we passed this car going towards Stanhope. There were some pedestrians ahead of that, on the right side of the road, going towards Stanhope. He dimmed his lights for the first car. Then there was a small job in the curb of the road, slightly down-hill, going east to the Forge. We were almost to the Forge and I noticed this other car with one headlight."

"Could you tell which headlight?"
"I will come to that in a minute. I spoke to the Judge—it was only a matter of seconds—Here comes another one, another car. I wonder which side that light is on."
"You called his attention to the fact that they had only one light?"
"One light."
"What did he do?"
"He slowed up."
"No, he didn't dim his lights. It was so glaring to dim them. It was exceedingly glaring."
"What then?"
"Then the next thing I knew I hit the windshield with my head."
"Which seat were you in?"
"The front seat, with the Judge. I guess I was put, possibly, a half minute or a minute."
"You mean you were stunned?"
"Yes."
"You didn't know how long?"
"I have no idea. But it was not long."
"People don't take any record of time while they are stunned."
"Not very well, but it was not long. I got out on my side and

walked around to the back of the car to see if anybody was hurt. I saw this young chap. I didn't know him. He was lying on the side of the road, handy Judge Duffy's car, and handy the other car, between the two cars."
"What was he lying on?"
"His feet were towards Judge Duffy's car and his head was towards the rear wheel of the other car."
"When you came around there was anyone on the road except that boy?"
"Yes, there were some ladies and some others, that I didn't know. I didn't know any of the people."
"You say there was only one light on the other car? Do you know which one it was?"
"You couldn't tell until it got equal with your light. It was impossible to tell."
Juror (Mr. King): "What kind of headlights were on the Horgan car?"
"Well, now, I didn't look. I didn't examine Mr. Horgan's car at all, except to go over and look at it."
"The lights of the Judge's car were in good order?"
"They were in good order."
"And you didn't see this other car until the crash?"
"We saw the light, yes; but we didn't know which side of the car it was on."
"When within 25 or 30 feet, when the lights of the car are working, you should be able to see the car."
"No sir."
"You couldn't?"
"No sir."
"Do you drive a lot?"
"For twenty years."

"I have also, but I have yet to run into anything on the way if my lights are good."
"I was not driving."
"You don't have to be driving to see the road ahead."
Mr. Shaw: "What about your own lights?"
Witness: "I tested them three times by opening and closing the gates to let the Judge through each time."
"How do you know they were on at the time of the accident?"
"I am not swearing that they were on then."
"You say the boy was lying on the road with his feet towards Judge Duffy's car and his head towards the other car?"
"Approximately, yes."
"How far would he be from the Judge's car, measuring across the road?"
"The feet would be between five and six feet."
"That would be further to the east side of the road?"
"Yes."
"His own car was on an angle. The front wheels were on the road, and one rear. His head would be very close to his own car. His feet would be near the back fender of Judge Duffy's car."
Witness was questioned further as to position of the injured man.
Mr. Shaw: "Speaking in a general way, he would be to the rear of Judge Duffy's car?"
"Witness: "Practically."
"Did you recognize anyone that you saw there?"
"Just a couple of minutes afterwards I met Mr. and Mrs. Joseph Robison and Mrs. Dr. Blanchard."
"Were they all there when you came around the car?"
"No, a few minutes afterwards."
"Did you see any men there?"
"Yes, but I didn't know them."
"What were they doing?"
"Well, frankly, I was paying more attention to what the women were saying. They were asking to get a priest for the boy, and I didn't pay very much attention to what the men were doing."
"You saw the boy lying on the road?"
"Yes."
"What did you do?"
"I was just getting out of the car."
"Did you ascertain whether he was hurt or not?"
"Yes. I asked where the boy came from. They said he was in the car. I thought possibly he had been walking on the highway."
"You didn't see him on the running board, previous to the impact?"
"No, you couldn't see anything until you came up to the headlight."
Juror King: "You mean to say you didn't discern anything on the running board of the car? We knew it was only a matter of seconds, but if you were proceeding along the highway in your car and your lights were good, even if you were driving forty or thirty-five miles an hour, you should be able to pick up an object at least twenty feet from the range of your own lights."
Witness: "Beyond the light that you are meeting?"
"You say he had one light and it was glaring. That one light would not affect you if you were sitting by the side of Judge Duffy unless it was coming on a dead end towards you. I have had lots of experience in driving cars. You say you couldn't see that boy ahead on the side of the car?"
"No sir, no nobody else."
"I don't believe that, Mr. Gesner. I have driven cars for years and I have yet to kill a dog."
Mr. Shaw: "Did you ascertain which light of the Horgan car was out?"
Witness: "No."
"Do you know now?"
"I was the left one, the one on the

our side."
"How do you know that?"
"From what I was told."
"That is from evidence here today?"
"And from what I have heard."
"Tell us who told you that."
"Judge Duffy. He said the Mounties told him when they came out and found there was only one light."
The Coroner: "The evidence here is that the impact of the accident would destroy that other lamp. But we are speaking of before the accident. Can you say that only one light was burning before the accident?"
Witness: "Yes sir."
Mr. Shaw: "You can't tell us which one it was."
"No sir."
"Would there be any difference as to what you could see if it were the right-hand side light or the left?"
"Well, of course, had it been the left hand light we would no doubt have cleared."
"But as to the light blinding you?"
"Well, it didn't blind us, but it was glaring."
"That is, it put you in a different position as to seeing?"
"Well, you would have to judge your own distance from the road, take your own share of the road, and depend that the other fellow would do the same."
"If it were the left-hand light burning and the right-hand light out, would you be able to see as well as if it were the other way? In other words if the right-hand light were on would it show you any more to the right side than the left light?"
"I couldn't tell you that. It was only the right one on."
"You know that now, but you say you didn't know it then."
"No."
Juror King: "Perhaps the two lights might have been burning. Certainly you meet cars on the road with one light very, very dim and the other very bright. Therefore, you have to allow for that."
The Coroner: "A moment ago, Mr. Gesner, you told us that you knew there was only one light burning, that you got the information from Judge Duffy who said the Mounties told him so. What did you mean by that?"
Juror King: "Mr. McGowan has told us that both lights were burning; just one bulb was broken, that could be broken by the force of the impact. Sometimes it doesn't take much of a jar to break the wire."
The Coroner: "I understood you, Mr. Gesner, to say that you knew one light was broken, that you got the information from Judge Duffy, and that the Mounties told Judge Duffy that one light was gone. Is that correct?"
Witness: "The Judge informed me which light was gone. We knew there was only one but we didn't know which side it was on."
"Or Mr. Horgan. When you meet a car with one light on, can you tell which side it is on?"
Witness: "Not until you are almost fender to fender."
"How would you drive in a case of that kind?"
"With extreme caution."
"Would you take it for granted that it might be the off light?"
"I would say we use extreme caution in such a case of that kind because it is a dangerous thing to meet on the road."
"Would you keep far enough away from the light that was on, so that you could escape with the car even if it were the off light that was on?"
"Yes sir; keep to your own side of the road."
"Do you know whether that was done in this case or not?"
"Yes sir; that was done in this case."
Juror (Mr. Fullerton): "Do you think you were on the right side of the road, Mr. Gesner?"
Witness: "We were on the right side coming in."
The Coroner: "There is a photograph. Will you tell the jury whether the Horgan car was on its right side or the left side?"
Witness: "The Horgan car going to Stanhope is on its right side."
"Is it extremely on its right side?"
"It is in that picture, yes."
Juror (Mr. King): "Would you consider Judge Duffy's car was on the right side—from this picture?"
Witness: "I would consider there was quite sufficient room for any car to pass the Judge's car there."
"On which side?"
"On his own side."
"There should be when the other car was in the ditch."
"I am speaking about from Judge Duffy's running board to the gutter."
"It is questionable."
"The traffic was passing between the two cars after the accident. Mr. Horgan's car front wheels were on the road on the right-hand side. There were several cars drove between those cars."
"While you were there, before the Mounties came?"
"Yes sir."
"What was your intention, to telephone next door to Proud's?"
"But you came to town and didn't do it."
"Well, it was too late then. I was of the opinion they were notified from two or three sources."
"What gave you that opinion?"
"Well, Mr. Robison said the Mounties would be out long ago."
"Had he gone to notify the police before you left there?"
"I couldn't say that. I said to him they should be notified; they should be out here long ago."
"But you didn't make any effort to notify them yourself?"
"No sir."
"Were you at the scene of the accident since, while the cars were in position?"
"I did drive by the next day."
"There was some mention made about the rim of the Judge's headlight."
"I don't know about the rim. I picked up a large sized rim off the road and laid it on the Judge's running board. I could not say which car it was off."
"What time did you pick that up?"
"The boy had been taken to the hospital long before that."
Continuing, witness said he also

noticed some broken glass on the road. He could not say where it was with regard to the position of the cars. He noticed no one picking up any glass.
Mr. Shaw: "Is there any other statement you wish to make?"
Witness: "No sir."
Juror: "Did Judge Duffy ask you to have a car sent out to his car?"
Witness: "No sir."
"You did that on your own account?"
"I told the Judge that I was going to get this chap to drive me up to Peter Proud's to get Proud to come back to the scene of the accident, and the Judge said all right, because we had no assistance to get in and no means of moving our stuff."
"When you went to town and went to the garage and asked Martin to bring the Judge's car in, you did that of your own account?"
"Yes. I would necessarily have to go back to York to the scene of the accident to get Judge Duffy's permission, so I did that on my own."
"What did you say?"
"I made the statement to Mr. Martin there had been an accident and it was necessary if he could arrange to get out as soon as possible."
"Were you positive Judge Duffy's car couldn't be moved?"
"Yes sir."
"Because the front wheel was locked in a position where you couldn't move it either forward or backward."
Juror Fullerton: "The Inspector had me move it off the side of the road under its own power, Mr. Gesner."
Witness: "Well, you couldn't move it that night."
Juror King: "Was an attempt made to move it?"
"Judge Duffy tried it backward and forward and it positively would not move."
"Then you are sure it was not moved?"
"While I was there I am positive it was not moved."
"Yet Mr. Fullerton under the instruction of Inspector Fripps moved that car four feet ahead."
"Well, Mr. Fullerton is an expert man when it comes to anything mechanical. Judge Duffy and myself were not."
Mr. Shaw: "Tell us what you told Martin?"
"That Judge Duffy had an accident there. He had been run into, and to go out as soon as he could."
"Did you mention anything about anyone being hurt?"
"I told him there was somebody hurt and had been brought into town."
"There was something said here about liquor?"
"Yes sir."
"You had better tell the jury about that."
"Well, the afternoon we left there was a small pop bottle in Judge Duffy's fishing bag. I believe it was a small ginger ale bottle."
"What size would the bottle be?"
"A size you get for a nickel."
"What was in it?"
"Rum."
Juror: "Can you tell whether it was contraband liquor?"
Witness: "Well, I am not a connoisseur in those things, but it was as good as you get at the Vendor's, anyway."
"It was just as good?"
"Oh, yes."
"Could you say whether it was adulterated?"
"I couldn't say that."
The Coroner: "How many ounces would that be, Mr. Gesner?"
Witness: "I never measured one."
"Approximately?"
"I couldn't tell."
"Oh, yes, you can tell us. Was it five, ten or twenty ounces?"
"It might have been less than five."
"Is that your oath, that it was less than five?"
"I am only telling the size of the bottle. I never measured it."
"But you can give us an approximate idea."
"I could make a guess at it. I would say five ounces, I guess; but I am not swearing to that."
"Would it be little or much to talk fishing?"
"Well, it would be little enough, I suppose, if you were going to stay very long."
Mr. Shaw: "It was not yours, you say, it was the Judge's?"
Witness: "It was produced by the Judge."
"Did he drink?"
"He had one."
"When?"
"Just before we went to the pond."
"How much did he take at a drink?"
"It is usually classed as a gentleman's drink—just a very modest one."
"Did you have a drink too?"
"Yes sir."
"Tell us what you did."
"Well, that is all, we just simply had one. Then we rode up a lane to the head of the pond. When we came back to the cottage we had one more apiece, and the balance was in that ginger ale bottle."
"Did you have anything before you left Charlottetown?"
"No sir."
"Did you have anything else out there?"
"No sir."
"On the way out?"
"Did you make any calls on your way out?"
"No."
"Or on the way back?"
"No, before the accident."
"Anyone else there besides yourselves?"
"Just the two of us."
"You say you had none in your cottage?"
"No sir."
"You know what became of the bottle?"
"No sir, only what I was told."
Juror: "About how much would be left in the bottle?"
Witness: "Well, I would say there would be two good drinks; what I would consider two good ones."
"Bottle partly filled produced and identified by witness as 'the same kind.'"
Juror: "When you got out of the car did you take anything out of

it?"
Witness: "No sir, nothing."
Judge Duffy's Testimony
Judge C. G. Duffy, the next witness, testified: "One thing I had better clear up is the matter of liquor; there seems to be a lot of interest in that. We had no liquor before we left. We had no liquor on the way out. The only liquor we had on the trip was what I took in this bottle produced by Inspector Fripps. When we went to the cottage, Mr. Gesner and I had a drink each out of this bottle. Then we got ready and I rowed the boat from the cottage out to the head of the pond that Mr. Gesner has. That we estimated to be a mile. Then we anchored and started fishing, at two o'clock, for trout. In the meantime it turned quite cold, though we had come to the trip was what I took in this bottle produced by Inspector Fripps. When we went to the cottage, Mr. Gesner and I had a drink each out of this bottle. Then we got ready and I rowed the boat from the cottage out to the head of the pond that Mr. Gesner has. That we estimated to be a mile. 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