

R. v. HENRY BAIRD FORSYTH

SUMMING-UP

In this case the charge is attempting unlawfully to kill. The victim had numerous injuries which were caused by a sharp instrument and no doubt by the razor, Exhibit C, in the case. It is quite clear that they were not self-inflicted and it is quite clear to me that some of them were the result of deliberate action on the part of the accused, while some were caused in a struggle by the victim to gain possession of the razor according to her story. There was no suggestion of accident and the evidence discloses that a defence of accident could not have been maintained.

The prosecution does not have to show a motive, but it may prove the motive for the crime and it may be of much assistance if it can do so. I think here the feeling which prompted the act is shown by the evidence of the events leading up to its commission.

Such a charge as this imports an intent. It is true that the onus is on the prosecution to prove intent. The prosecution has discharged this onus. I am not satisfied with the account the accused gave in relation to the razor; the story does not ring true. I find that he had the razor in his possession with the formed intention of killing Mrs. Holt with it and then committing suicide. In both he would have succeeded except for prompt medical aid. Counsel for the defence refers to the place where the tragedy happened as being a public place and it was unlikely that a person with such a fell intent would choose such a spot for his deed, and the intent was therefore negatived. What would it matter where it was done if the intention was to take his own life in addition to that of his victim. It is by no means certain, anyway, that that was the selected place for Mrs. Holt says he asked her to go for a walk, which she refused to do.

The defence was drunkenness. Such a defence is only compelling when it can be shown that the drunkenness amounted to unsoundness of mind. A person can not escape liability because he is intoxicated. If he intentionally caused himself to become intoxicated, the defence of drunkenness is not open to him. It cannot be said in this case that whatever state the accused was in through the consumption of liquor, his condition was the result of anything but his own act. But I find that he was not intoxicated. His actions just prior to the actual event, the visit to the women when the door was slammed in his face, the note written in clear words at the Hotel where he borrowed a pencil, the pushing of the note under the door with the object of luring the woman outside, among other things, show that he was not intoxicated.

All the evidence of intimacy and close relationship with Mrs. Holt over the weeks may be taken into account but only on the question of mitigation. They are no excuse for the deed itself. I therefore find the accused guilty of the offence with which he is charged.

Verdict: Guilty.