

Is It Misadventure?

THE COURT ONLY HAS THE POWER TO DECIDE

And We Have Absolute Confidence in The Court.

BY R. H. AMPHLETT LEADER.

THE OCCURRENCE.

A motor truck belonging to the Central Factory taking canes to La Grange and driven by Mr. Milton Jacobs, a property owner and resident of Christiansted, collided with a low cart in which two persons, a man and a woman, were driving. The man met his death; the woman escaped without any injury. This took place early Thursday morning in the vicinity of Wheel-of-Fortune where the road is narrower than in most places.

THINGS IN JACOBS' FAVOUR.

When one gets "in trouble with the law" there are two factors to be reckoned with and these factors are entirely apart from "the trouble" what ver nature it might be. The factors are THINGS AGAINST and THINGS FOR.

Let us mention just a few THINGS FOR Jacobs. He has an excellent character as a citizen. He is sober, industrious, and one of the most hard-working men. He is highly respected and esteemed by the entire community. He has served in the Militia; was promoted to the rank of corporal; and given command of "outposts" to assist the police in locating dangerous characters. He detests crime of every shape or form. As a chauffeur he has a record second to none in these parts, and has, by special requests, driven more prominent people calling at this island than any other chauffeur. All these things, and more, stand to Mr. Jacobs' credit in his "trouble with the law."

It is not our function to pass judgment in this or in any other case—that is for the Court; but the law not only gives us the right of "privilege communication" on public matters, but all courts and American legal lights desire to see such "privilege communications" as they show that the press and people have more than a passing interest in "the greatest power for good or evil on earth—law" (See Hatch V Lane, 105 Mass. 344).

MURDER DEFINED.

Homicide is the killing of a human being by a human being. It is of two kinds. (1) justifiable or excusable (as in self-defense), and (2) felonious. Felonious homicide is homicide without justification and is either (1) murder, or (2) manslaughter. Manslaughter is again divided into [2] voluntary, or [b] involuntary. Let us consider these terms briefly. Murder is homicide with malice afore-

thought. "Malice aforethought is a legal phrase with an historical meaning entirely different to that employed in ordinary language. In substance it is "a state of mind depraved, devoid of all the senses of social duties, and fatally bent on evil", [Rood's Criminal Law] Justice Stephens before all the judges of England uttered the following dictum: "Mens rea, [guilty mind] means in the case of murder, Malice aforethought." ERGO, where there is no 'mens rea', no malice aforethought, no real intent or constructive intent, there is no murder within the meaning of the law

Voluntary manslaughter is murder committed intentionally in the heat of passion which was occasioned by great provocation. On this score Mr. Justice Christiancy, a man famous the world over for his knowledge of criminal law, in handing down a decision before the Supreme Court of Michigan emphasized that the passions must be aroused, the temper ruffled, the provocation great, and the killing the direct cause of the provocation to render a murder voluntary manslaughter. Without each and every one of these causes, says Christiancy, there can be no voluntary manslaughter.

Involuntary manslaughter is the killing of a human being in doing an unlawful act not in itself sufficient to furnish the implied malice necessary in law to render the act murder.

What is an unlawful act that is not sufficient to furnish constructive malice? Disregard everything else and take negligence. Can mere negligence be an unlawful act? Yes. The cases are numerous which show the various kinds of carelessness or inattention that are construed as negligence in law. The courts hold that "turning a vicious and dangerous animal loose", "driving an automobile at reckless speed in public places", "operating defective machinery", "sleeping at a switch, failing to turn it in time, thereby occasioning the loss of life, limb, and property of hundreds or thousands", being "reckless when in charge of a common carrier", constitutes negligence. A common carrier is one who by virtue of his calling, and as a regular business, undertakes to transport persons or commodities from place to place (Fuller V. Bradley, 25 Pa. 120). On all these fast-traveling machines there is a "working limit" set by law; based upon the endurance of the average human being and even in the absence of expressed law, there is some called equity which says that the endurance of human beings must be taken in consideration everywhere. Whether to nod while driving a truck that travels snail-like and that too after upwards of eleven hours of driving is "recklessness" and "unlawful" within the measuring of the term where involuntary manslaughter is in consideration is a question for the Court; and we

have ABSOLUTE CONFIDENCE IN THE COURT.

There is a quotation which has been employed so often that it can justly be called the authority on the law of negligence. "There are many cases in which death is the result of an occurrence in itself unexpected but which arose from negligence, or inattention. HOW FAR, the AGENT of such MISFORTUNE IS TO BE HELD RESPONSIBLE DEPENDS upon the inquiry whether he was GUILTY OF GROSS NEGLIGENCE at the time." (Wharton's Criminal Law).

Then there is death by misadventure. This subject received very learned discussion at the hands of a famous Iowa judge; and it was pleaded in "The Gantz Case". To paraphrase Delmas, "the volcano of California", the law is the essence of pure reason; it exists not to punish but to vindicate and justify. Honour the dead. Use the written law with "extenuating appurtenances". If that fail employ the "unwritten law"—the law that stands for GOOD CITIZENSHIP. The law recognized by the highest courts of the world under peculiar circumstances.

Jacobs is out on a bail of \$500.00, and so much is public sentiment with him that \$5000.00 would have been raised were it necessary.

All this is only the "privilege communication" which the law gives to journalists or in fact the general public. The court only can decide. In THE MAJESTY OF THE LAW—"THE UNWRITTEN LAW"—in THE HONOUR OF THE COURT TO RECOGNIZE THAT LAW—in the INTEGRITY OF THE MAN, WHO CONSTITUTES COURT AND LAW-GIVER to APPLY that law, however, we have ABSOLUTE CONFIDENCE.

TELEGRAMS

ST. CROIX STATION.

Rome, March 16th.—A new ministry has been formed.

London, March 10th.—The Under-Secretary of State for the Colonies in the House of Commons today said that the question of preference between the West Indies, Canada and the United Kingdom had been under consideration by the West Indian Associated Chambers of Commerce. Jamaica has not so far given any preference to Canada or the United Kingdom.

London, March 10th.—The reception on the Exchange Market by the Supreme Council's general findings on the economic situation was somewhat qualified today by the absence of immediate palliative measures. The fact of the recognition that Germany must be supplied with raw materials and credits in order to prevent her collapse, was considered a good point and the German market exchange appreciated this.