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IN THE COURT OF PROBATE.

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IN THE ESTATE OF SARAH CROKER GIBERSON,  
DECEASED.

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Minutes of Hearing held September 10th.

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WITNESSES PROBATE.

IN THE ESTATE OF SARAH CRCKER GIBERSON, DECEASED.

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THE COURT: Mr. Eccles has Mr. Lawrence,

E X H I B I T S Bishop appearing for Blanch-

ard Giberson. Appearances should be as above.

- L/1 Certificate of Marriage.
- L/2(a) Photostat copy of original certificate.
- L/2 Affidavit of Dr. Warwick, and associate counsel
- L/3 Deed.
- L/4 Picture of Rev. G.A. Giberson.
- L/5 Bundle of cheques.
  
- L/A Certificate from Convent.

afternoon, late in the afternoon, a subpoena duces tecum was served on Mr. Mundy requiring him to produce "all letters, papers, photos, books and other writings, documents and copies thereof in your possession or under your custody or control relating to said matters". That is the application for the administration of the Giberson Estate and the application to revoke the probate in the other. I am moving this subpoena be set aside.

There has



PROVINCE OF  
NOVA SCOTIA.

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been no opportunity since last night to prepare any affidavits. There are two grounds: one is Major Mundy of the Salvation Army is Executor and, if there is anything at all in the application, he is in the opposite party. A subpoena duces tecum is not the practice; it is not the practice to subpoena for documents in the hands of a witness. The other is that the executor is not a party. I am moving this subpoena be set aside.

IN THE COURT OF PROBATE.  
IN THE ESTATE OF SARAH CROKER GIBERSON, DECEASED.

**Appearances:**

MR. M.B. ARCHIBALD, K.C., for Thomas H. Mundy, Executor.  
MR. T.C. DOYLE.

MR. J.E. RUTLEDGE, K.C., and MR. JOHN F. SHAW for their respective clients, Blanchard Giberson and Mrs. Lorna D. Abbott.

MR. D.R. BISHOP, of the New Brunswick Bar, for the same parties, Blanchard Giberson and Lorna D. Abbott.

MR. JOHN F. SHAW also appears for Blanchard Giberson.

**THE COURT:** Mr. Eccles has Mr. Lawrence, Mr. Shaw and Mr. Bishop appearing for Blanchard Giberson. Appearances should be as above.

**HEARING RESUMED FROM PREVIOUS HEARINGS.**  
Mr. Rutledge, Mr. Bishop and associate counsel are presenting further evidence.

**MR. ARCHIBALD:** Yesterday afternoon, late in the afternoon, a subpoena duces tecum was served on Mr. Mundy requiring him to produce "all letters, papers, photos, books and other writings, documents and copies thereof in your possession or under your custody or control relating to said matters". That is the application for the administration of the Giberson Estate and the application to revoke the probate in the other. I am moving this subpoena be set aside. There has been such an institution as the Salvation Army, he should not wish to show any record pertaining to this estate.



to this court. My learned friend says the proper remedy  
has been no opportunity since last night to prepare any  
affidavits. There are two grounds; one is Major Mundy  
of the Salvation Army is Executor and, if there is any-  
thing at all in the application, he is in the opposite  
party. A subpoena duces tecum is not the practice;  
it is not the practice to subpoena for documents in the  
hands of the other parties. Notice to Produce is the  
regular way to proceed.

In the second place, a subpoena duces tecum,  
in general terms, is not sufficient and I am suggesting  
that it is utterly impossible for us to know what we  
are to produce here. If we are to bring up bureau  
drawers, boxes, cabinets and everything else, we would  
have a regular fishing excursion here trying to find  
something that might be helpful. That is not the prac-  
tice.

In the next place, with reference to photographs  
it is vaguer still. We don't know whether they want  
photos of cats, dogs and other things; they might all  
be said to relate to the matter because Mrs. Croker  
might be identified by reason of a picture of a certain  
dog or cat. I am moving to set the subpoena aside.

THE COURT: I would think the Executor would be entitled  
to disregard it.

MR. ARCHIBALD: I think the subpoena can be set aside.  
I want to have both grounds. If it is competent to  
subpoena, I say the subpoena is not in the proper form.

MR. RUTLEDGE: I would say that I am astonished at my  
learned friend's application in this matter. He says  
Major Mundy is the executor; I thought he was not. Even  
though he is executor, I do not see why, representing  
such an institution as the Salvation Army, he should  
not wish to show any record pertaining to this estate



to this court. My learned friend says the proper remedy is to give notice to produce and, when documents are not produced, put in secondary evidence. The proper course, if you want a document or all the documents, is to issue a subpoena duces tecum, and subpoenas of that nature are permissible to be served on the opposite party himself. That is the practice. It is the only way to get documents into court. It is the method used in the Supreme Court. To give general notice to produce is often waste of time unless you have got secondary evidence at your disposal.

As to the general nature of this subpoena that my learned friend complains of, it does not require to empty bureau drawers, it only asks the witness to bring into court all documents, photos, letters and writings, documents and copies thereof that relate to matters of the application and, of course, to this estate. I take the ground the subpoena is in order and I insist on this witness complying with it. If he does not, another subpoena will be issued if necessary. These documents must be got into court some way and I submit there is no decent reason why we should not have them and we are going to have them.

THE COURT: The word "decent" is not necessary.

MR. ARCHIBALD: I don't know how an executor is to have any protection at all. A will is duly proved and the executor is entrusted with the estate; Smith, Jones come in and move to set aside probate and the executor is subpoenaed to bring all documents into court; I say it is intolerable. How do we know what documents he wants?

THE COURT: I think in regard to documents the subpoena must be definite. If I find the subpoena too general I can disregard Mr. Rutledge's remarks. It is counsel's duty to his client to insist that proper procedure be



MR. carried out. I assume my learned friend is looking for

a particular document or a particular picture; surely,  
MR. ARCHIBALD: I refer to Annual Practice, 1936, page 676,  
notes under Rule 30 of Order 37.

THE COURT: This executor is not like a trustee in bank-  
THE COURT: This is a matter that should be disposed of  
right here.

MR. RUTLEDGE: This man, as executor, should not be re-  
luctant to show documents of deceased under his control  
to this court from which he holds letters of probate.  
Opposition is unusual and ridiculous. I have subpoenaed  
Major Mundy as a witness and I propose to call him.

THE COURT: Did you look particularly in all the authori-  
ties?

MR. ARCHIBALD: Yes. I only got this thing last night.  
I was not anticipating any blanket form of subpoena like  
this.

MR. RUTLEDGE: It is in the only form it could be.  
13 W.R., Newland vs. Steer, 1014. 1925, 1 Chancery, 187.

MR. ARCHIBALD: Subpoena duces tecum was intended to have  
witnesses bring into court certain documents which he  
had in his possession, known to be in his possession,  
not to be a general excursion looking for evidence.  
There is the provision for discovery and various other  
things which might have been applied. I submit it is  
not the proper way.

THE COURT: I am inclined to think you are right. There  
is an obligation to show accounts and various things. It  
is a question whether it entitles any one to go through  
the belongings of the deceased.

MR. RUTLEDGE: Only in open court, not privately.

THE COURT: I seriously question whether you can subpoena  
a person in such general form.



MR. ARCHIBALD: I assume my learned friend is looking for a particular document or a particular picture; surely, he can specify it.

THE COURT: This executor is not like a trustee in bankruptcy responsible to the whole world. The executor is the principal legatee and I presume is under no obligation to assist your clients in any way.

MR. RUTLEDGE: He is specifically asked to bring in all his documents that relate to this matter of this application. I submit there is nothing else he could be asked, unless he be asked to bring some specified document. No one knows the nature of the documents he has. We are not asking him to bring in any bureau; we are only asking him to bring in the documents and they are easy enough to bring in.

THE COURT: (Reads from case Newland & Steer and Sedden case, 1923, 1 Chancery, 187.) Mr. Rutledge, unless you have anything more to say, I must allow Mr. Archibald's motion.

MR. ARCHIBALD: I had no opportunity to make the motion in a regular way.

THE COURT: You could move to have the subpoena amended by striking out the general words.

MR. RUTLEDGE: I have no objection to that.

MR. ARCHIBALD: I will move in amendment that the latter part be struck out.

THE COURT: You are moving to strike out: "Also that you bring with you and produce to the court all letters, papers, photographs, books and all other writings, documents and copies thereof that are in your possession or under your custody or control relating to the said matters." I allow the amendment asked for.



MR. ARCHIBALD: I think at this stage we should proceed on one application or the other. The first application presented was an application for the administration of the estate of Sarah Croker Giberson. I took objection to that when we appeared before and another application was put in, an application to revoke the probate of the estate of Sarah Croker and to go on with the Giberson Estate with the understanding that the evidence given in that should be used in the other. It should be definite. We should find out if Mrs. Abbott is entitled to come to court and make this application. All you have is the information that she is the daughter of Sarah Croker Giberson. Mr. Shaw should be cross examined on his affidavit, and the matter should be established. I mentioned this to Mr. Shaw at the previous hearing.

THE COURT: The only thing is Mr. Shaw is representing Mr. Giberson also and, if there is any technical or other reason why Mrs. Abbott has not a status in this matter, I don't think it affects the merits.

MR. ARCHIBALD: The fact that my learned friend is representing Mr. Giberson does not necessarily mean that Mrs. Abbott is competent to be administratrix. He has renounced, but if the application is to set aside the probate that is already under way in the Sarah Croker estate, of course, he is competent to make an application there.

THE COURT: The two applications are so tied up together it is difficult to know where one begins and the other ends. It was agreed that all the evidence in the Giberson Estate would be used in the Croker Estate, so I had the evidence headed Giberson Estate.

MR. ARCHIBALD: Mrs. Abbott is here in court and I presume she will give evidence to establish her right.



THE COURT: If you mean that, before a grant is made to Mrs. Abbott, you wish to have an opportunity of cross-examining Mr. Shaw before Mrs. Abbott, I think that is your right.

MR. ARCHIBALD: I don't think it comes into the second application, the application to set aside probate, but it does in this other. We might have an investigation going on six months or one or two years and then find she was not entitled to administration.

THE COURT: I always thought the proceedings in the Croker Estate were in a sense subsidiary for the reason, if the Giberson application is established, it is the same person, and, under the authorities, I think I could revoke the Croker grant as having been made under circumstances which were not disclosed to me, that is if it was proved the lady Sarah Croker was known as Mrs. Giberson. I think I could do that. The only difficulty will be the costs incurred. By agreement they were paid out of the estate funds. Suppose the Giberson application fails for some reason or other, these are charges that should come out of the estate.

MR. ARCHIBALD: They should be costs paid by the applicant. I think the attitude of the Executor has been fair in this regard. I think the proper procedure is to set aside the probate. We agreed the evidence should be taken in the Croker Estate and I feel the cart is before the horse in making an application for the administration to the estate of Sarah Croker Giberson.

THE COURT: I don't think that. I looked into the matter and I think the proper proceedings were in the Giberson Estate, and if facts were brought out that showed the grant should never have been made in the Croker Estate, it would be revoked automatically.

MR. ARCHIBALD: Why am I here?



Mrs. Abbott before a grant is made to her. But if, on

THE COURT: You were served with a citation. When you appeared another citation was issued in the Croker Estate which you brought into court, so you are here properly. You are here on the Croker Estate and also you are here to defend the Croker Estate against matters that are being alleged in the Giberson Estate. Perhaps you have no status in the Giberson Estate.

MR. RUTLEDGE: I am relying on the two being treated together and such evidence as we present will be with that end in view.

MR. ARCHIBALD: I only want no difficulty about the record later on. There is one Estate in court, the Croker Estate.

THE COURT: If your argument was carried to a logical conclusion, they could go ahead and put in what evidence they pleased. I think you have a status here. The two things are fyled together. You have a definite status here, representing a person vitally interested in the Giberson Estate. The allegation, as represented in court, was that Mrs. Giberson is your Mrs. Croker, and, if true, it takes the ground from under your feet, so I don't see any point in allowing your motion.

MR. ARCHIBALD: It was I thought we should indicate clearly which estate we were proceeding on. If on the Giberson Estate, Mrs. Abbott should establish her right. If it is the Croker Estate I think we can carry on without it.

THE COURT: The petition originally issued stated that Mrs. Abbott was applying for the appointment of herself or such other person as the court may direct. I can see, if you question Mrs. Abbott's status and Mrs. Abbott is going to take out administration, I can give you the right to cross examine Mr. Shaw on the affidavit or



THOS. H. MURPHY, direct examination  
Mrs. Abbott before a grant is made to her. But if, on  
THOS. H. MURPHY, direct examination  
EXAMINATION  
Q Y the other hand, it is not for the appointment of Mrs.  
A Y Abbott herself but somebody that Mrs. Abbott and Mr.  
Q Y Giberson agree upon, it would be futile for us to follow  
C such procedure at this stage, because, if Mrs. Abbott's  
A Y right were questioned, then Mr. Giberson could apply  
Q Y who has a status in the matter.

A Y  
MR. ARCHIBALD: He could withdraw his renunciation.

Q As such executor, have you custody of her effects?

A I THE COURT: He is only renouncing a right he has not got.  
Q He is not within jurisdiction. If the next of kin agree  
A Y on somebody else, if neither one is going to apply for  
Q the appointment, we should consult their wishes in the  
A Y matter.

Q Will you produce those photographs and show to the court?  
MR. ARCHIBALD: I am quite content.

(Mr. Archibald objects.)

THE COURT: There is the question about cost. There is  
Mr. Eccles' account and Mrs. Longley's to-day. It won't  
be a big item; there is no other expense the Estate is  
put to through proceedings; I think some arrangement  
should be made for the prompt payment of these bills.

MR. RUTLEDGE: I think Mrs. Longley's account should be  
paid out of the Estate.

MR. ARCHIBALD: If this application fails, in the end  
the charges go back; the costs must follow the ordinary  
rules.

The costs are being paid, provisionally, by the Executor;  
they shall ultimately follow the event.

THE COURT: What is the purpose of these photographs  
being produced?



THOS.H.MUNDY, direct examination

MR. RUTLEDGE: The purpose of having the photographs  
THOS.H.MUNDY, being duly sworn, testified as follows;

EXAMINED BY MR. RUTLEDGE:

Q You are the executor of the estate of the late Sarah  
Crocker under her will?

A Yes.

Q You are here under subpoena to-day?

A Yes.

Q As such executor, have you custody of her effects?

A I have.

Q Amongst her effects are there any photographs?

A Yes.

Q Have you these photographs in court?

A Yes.

Q Will you produce those photographs and show to the court?

(Mr. Archibald objects.)

MR. RUTLEDGE: He cannot be under the inconvenience  
my learned friend complains of if he has them here  
in court.

MR. ARCHIBALD: A number of questions enter into this.  
My learned friend is faced with the problem of identi-  
fying persons in order to prove the marriage. He  
tried to get the evidence by subpoena duces tecum  
and fails. He called the executor, and I wish to  
note the objection that he comes here and calls for  
photos. I don't know if the photos are all in court  
or not. There has been no opportunity to go through  
the effects in this short time. He asks for all  
kinds of photographs to be brought in and, perhaps,  
out of something we find in her effects, Giberson  
or Mrs. Abbott may say: That is the woman all right,  
because it is in her house. I am objecting very  
strongly to producing anything. The subpoena duces  
tecom has been set aside.

THE COURT: What is the purpose of these photographs  
being produced?



MR. RUTLEDGE: The purpose of having the photographs produced by Mr. Mundy is that they may be used by the daughter of the deceased to identify her mother. Her mother had several photographs of her and if such evidence is produced and shown in court they ought to be very strong evidence of the identity of Mrs. Croker. There would be no injustice in allowing the photos actually in court to be shown.

THE COURT: Do you propose to use these photos to show on the one hand they are photos of Mrs. Croker and also photos of Mrs. Giberson? The mere fact they were found in Mrs. Croker's possession would be of no value at all unless you intended to use them as a link.

MR. RUTLEDGE: Our contention is that Mrs. Giberson and Mrs. Croker were one and the same person. We have also Mr. Giberson who might be able to identify his wife's photograph.

THE COURT: You also want to show they were found in Mrs. Croker's effects or were of Mrs. Croker.

MR. RUTLEDGE: We can prove both. Major Mundy can tell where the photos were found. The evidence is most relevant.

THE COURT: You will have to give me a good reason why, those photos being in court, they cannot be produced. If the photos were not in court the witness could say: How do I know what the photos are; they may be anything, but the witness says: I found certain photographs and I have them in court.

MR. ARCHIBALD: A case of various effects was brought in here, including photos, pictures, knickknacks of different kinds. This case did not include everything in the executor's possession. Now, if my learn-



ed friend could establish from Mr. Mundy there was a photograph of Mrs. Croker there, get down to something definite, there might be some basis to work on, but now he wants to get all these things which he could not get at by the subpoena duces tecum.

THE COURT: Mr. Rutledge was advised there were photographs of this lady there?

MR. ARCHIBALD: Yes. Mr. Rutledge, instead of asking "Have you any photographs there?", if he is going to get to it at all, should ask: Have you any specific photograph there of any particular person?

MR. RUTLEDGE: My learned friend is trying to drive the application into a cul-de-sac, probably expecting Mr. Mundy to say he did not know the deceased and, therefore, would not recognize her photo. Now, he has got a couple of photographs here in court and surely he can have no objection to producing them. I don't intend to ask such a narrow question as my learned friend suggests.

THE COURT: I think Mr. Rutledge is entitled to ask that they be produced.

MR. ARCHIBALD: Suppose the photos are in Major Mundy's pocket, I don't see he is under any obligation to produce them simply because he is asked to. There is a way of getting at them.

THE COURT: If he had not brought them with him it would be a different matter.

MR. ARCHIBALD: If my learned friend would indicate what photographs he wants to see, there might be no trouble. I am objecting to these applicants coming to us for evidence for their case, coming down, picking up this and that and saying: there is the story. If there are certain letters - I don't know if there are - if they would



say: letters from Mrs. So and so or Mrs. Abbott at a certain period, we could search the effects and find out, but this is a nebulous thing. Pick out a letter and say: Yes, that is the party; I saw that letter on Mrs. Giberson's desk.

MR. RUTLEDGE: I may have a wrong slant on this but I see nothing unusual or strained in a husband or daughter asking the executor to show documents that are under his control.

MR. ARCHIBALD: Mary Smith may come along and say she is the daughter and Bill Smith say he is the husband.

MR. RUTLEDGE: You have the sworn statement from Mr. Giberson that he is the husband.

THE COURT: You are asking for a lot of photographs to be produced, which conceivably might allow people - the witnesses here seem very reliable - to frame up a case.

MR. RUTLEDGE: They would not have much time for framing if it were all done in open court. Mr. Mundy says he has some photographs here. All we want to see are the ones he has in court here, and I ask your honor to direct that he produce them.

MR. ARCHIBALD: I suggest the witness stand aside and my learned friend go on with his case in order that we can give some little consideration to it. I don't think this is something for a snap judgment. Damage may be done and may not be done; there may be no risk.

THE COURT: If this witness is called first to build up a case on photographs which are produced, the only thing may be to adjourn the case until this afternoon or adjourn for an hour and dispose of this matter which is very vital.



MR. RUTLEDGE: We intend to call other witnesses and can call Mr. Mundy at the end. We can still pursue the original plan and, perhaps, at that time my learned friend will be able to deal with the question more to his satisfaction. I can go ahead with other witnesses. Mr. Shaw has brought witnesses here from a great distance and they want to get through and get away, but Major Mundy's photographs, I am instructed, should be used by these other witnesses while they are here.

MR. ARCHIBALD: The case has been adjourned from day to day; why was the subpoena left until last evening?

MR. RUTLEDGE: I don't see why a witness should have lengthy notice of subpoena, even subpoena duces tecum. It is quite customary to get them out the day before the trial; I don't know of any rule.

MR. SHAW: The date was not definitely set for this hearing until Thursday or Friday.

MR. RUTLEDGE: Subpoena was got out immediately before the hearing and, apparently, Major Mundy has complied with the subpoena and brought documents to court, at any rate, he brought in photographs.

THE COURT: The only point of my suggestion is, if you need Major Mundy's ~~evidence~~ photographs for the examination of other witnesses, that might be accomplished by our dealing with this point now. I see the merit in your stand in this matter but it may be open to objection. The practice may be wrong and it may be very important in the case at this time. You are asking the people opposed to you to supply you with evidence.

MR. RUTLEDGE: There is nothing unusual in that; it is often just such evidence that is produced. It is quite

MR. RUTLEDGE: I might have to call two twice.



the usual thing for one party to have all the documents and the other none. This document is a document in court.

HOPE ROCKWELL, being duly sworn, testified as follows:

THE COURT: The facts are very unusual; they are extraordinary and you, apparently, want to fill in a link which is hard to fill in. It is extraordinary. There are hundreds of people in the province of Nova Scotia and New Brunswick who would be able to prove that Mrs. Sarah Croker was really Mrs. Sarah Giberson yet you seem to be depending on photographs as something very vital. If that is so, we have to go very carefully. We have had cases right in the Probate Court where a whole case was built up on somebody making enquiries in the Probate Court and building up a case on the strength of it. It makes it necessary, if very great importance is attached to a matter of this kind, an alleged photograph, to make sure it is properly produced. Would not a short adjournment be the best way to deal with a matter of this kind?

MR. RUTLEDGE: Yes; a short adjournment would also enable Mr. Shaw to get out his specific subpoena for Mr. Mundy to produce these photographs. Perhaps, my learned friend will withdraw his objection to the photographs.

MR. ARCHIBALD: My learned friend is very suave and persuasive.

THE COURT: One thing should be understood, Mr. Archibald, Mr. Mundy, since he says he has the photographs, will still have them when we resume.

MR. ARCHIBALD: Yes, of course.

MR. RUTLEDGE: I suggest Mr. Mundy step aside subject to being called later.

THE COURT: Would you have to call the witnesses twice?

MR. RUTLEDGE: I might have to call two twice.



HOPE ROCKWELL, direct examination.

(Major Mundy stands aside subject to be called later.)

That is photographic copy of the original Certificate  
HOPE ROCKWELL, being duly sworn, testified as follows:

EXAMINED BY MR. RUTLEDGE:

- Q Where do you live?  
A Fredericton, New Brunswick.  
Q That is in the county of York?  
A Yes.  
Q What is your occupation?  
A Stenographer.  
Q Where is your signature?  
A In the Department of Health, Fredericton, New Brunswick.  
Q Who is the Minister of that Department?  
A Hon. Wm. Roberts.  
Q Who is the Chief Medical Officer and Registrar of that Department?  
A Dr. William Warwick.  
Q Do you work under Dr. Warwick?  
A Yes.  
Q In what capacity?  
A As stenographer and assist in vital statistics.  
Q Who has the custody of documents in connection with the Department of Health in the Province of New Brunswick?  
A Dr. Warwick.  
Q You are in his office?  
A Yes.  
Q Have you with you the original Certificate of Marriage of one, Mr. Giberson and Mrs. Croker?  
A Yes.  
Q Would you produce it? (Witness produces L/1.) Where does that document L/1 come from?  
A From the Department of Health, Province of New Brunswick.  
Q May it be retained in court?  
A No, it must be returned; there is a photostat copy.  
Q Where did you get that?  
A From Dr. Warwick.



HOPE ROCKWELL, direct examination.

Q I am showing you first the document L/2(a), what is that?

A That is photographic copy of the original Certificate of Marriage.

Q Have you compared L/2(a) with L/1?

A Yes, it is an exact photostat copy.

Q L/2 is what?

A It is the Affidavit of Dr. Warwick.

Q Certificate of Dr. Warwick?

A Yes. in Fredericton, the whole records for each county.

Q Whose signature is at the bottom?

A Dr. Warwick's signature.

MR. RUTLEDGE: L/2 is a certificate under a section of the Evidence Act; (Counsel reads section 11.)

MR. RUTLEDGE: The statute says what is required

CROSS EXAMINED BY MR. ARCHIBALD:

Q This certificate you say was fyled with official records of marriage at Fredericton?

A Yes, sir.

Q How long has this document been on fyle in the office at Fredericton?

A Since the date of the marriage, I think. The certificates are forwarded to the Official Registrar.

Q Can you indicate the date it was received?

A No.

Q Do you know when it was these documents relative to marriages were forwarded to Fredericton; do you know how long since?

A Do you mean that special document?

Q This kind of document.

A The registrars forward them each month to the main office.

Q When did that practice of forwarding commence?

A Since 1888.

Q You don't know whether or not in January, 1914, when this marriage is supposed to have taken place, such documents were forwarded?

A Yes.



HOPE ROCKWELL, cross examination.

A Yes.

Q To whom forwarded?

A The Provincial Secretary-Treasurer. Since 1920 the Department has taken over.

Q How long have you been in the employ of the Department?

A Since 1931.

Q Are these records kept by separate counties?

A The books are kept by separate counties but all counties come in to Fredericton, the whole records for each county.

Q It purports to be signed by Sarah Giberson and Blanchard Giberson.  
MR. ARCHIBALD: I should like to reserve any comments or objections to this photostat copy of certificate.

Q Whose signature is this, Blanchard Giberson's?

A Mine.  
MR. RUTLEDGE: The statute says what is required is a copy; you have something better, a photostat, and, under the N.S. Evidence Act, I will tender it as evidence. We have the original certificate, very kindly loaned to us by the Government of New Brunswick, and I am submitting to the court that the wishes of the Minister who lent it to the court should be respected, and, after every one has perused the certificate, it should be handed back to Miss Rockwell and taken back to the place where it belongs.

Q Where you were when she wrote it?  
A Yes.  
MR. ARCHIBALD: I have just pointed out to the Registrar I would have been content to have a typewritten copy.

MR. RUTLEDGE: We are not bringing it here as evidence.

Q You remember that very well?  
A Yes.

BLANCHARD GIBERSON, RECALLED:

EXAMINED BY MR. RUTLEDGE:

Q You are the man, Blanchard Giberson, who has already testified in this case?

A Yes.



B.GIBERSON ,direct examination.

A A man by the name of William DeMerchant had it.

Q What is document L/3?

A A deed in this place that Mrs. Giberson sold to.

Q Dated the 24th. November, 1923, from whom?

A Sarah Giberson and Blanchard Giberson.

Q (Counsel reads L/3) To whom is the deed?

A John M. De'Merchant. from him? number living?

Q Who prepared this deed? I went home from here.

A Mr. Elliot, solicitor; a lawyer practicing in Bath, New Brunswick.

Q It purports to be signed by Sarah Giberson and Blanchard Giberson? out and we got home at night; it must have been

A Yes. tly near the middle of the day. and in the night

Q Whose signature is this, Blanchard Giberson's?

A Mine. of lives in Fredericton since?

Q Whose signature is Sarah Giberson?

A That is my wife. being duly sworn, testified as follows:

Q Where was your wife then living in 1923?

A She had a place of her own she just sold out; she came down home with me that night after we did this writing.

Q Was the property conveyed in this deed one you lived in or she lived in?

A I lived in it a couple of years. lived with us sometimes?

Q Are you familiar with your wife's signature?

A Not much but that is her writing all right. her's property

Q Were you there when she wrote it?

A Yes. how long have you been married? married with John.

Q Did you see her write this? June. that is you Elliot?

A Yes. what was your maiden name? mother had six, in a block.

A Croker.

CROSS EXAMINED BY MR. ARCHIBALD:

Q You remember that very well?

A Yes.

Q What was your mother's name?

A Your memory is a little bit better about some of these details than it was?

Q What was your father's name? your brother is left?

A When we come to find that things come back.

Q Where has this document been?

Q What is your age?

A



LORNA D. ABBOTT Direct Examination.  
A A man by the name of William DeMerchant had it.

Q Where does he live? June past.

A He lived in this place that Mrs. Giberson sold to DeMerchant. He have lived at?

Q You got this deed from him? days at Fredericton, New

A Yes. It was an Allan Line boat. I don't

Q When did you get it from him? member living?

A Shortly after the time I went home from here.

Q What time of day did you execute this deed, do you re- member? I was round three. You know in what place you

A We had to be home and drive twelve miles after the deed was made out and we got home at night; it must have been pretty near the middle of the day. used to be good to

Q Mr. Elliot wrote the deed for you? Fredericton.

A Yes. you lived in Fredericton since? those places or do

A No. I don't recall the name?

LORNA DOONE ABBOTT, being duly sworn, testified as follows:

EXAMINED BY MR. RUTLEDGE:

Q Where do you live? Halifax for a short time.

A Forbes Point, Shelburne. you at Fredericton? Father

Q You are a married woman?

A Yes, sir. other live there? mother. My father had the

Q The name of your husband? He lived with us sometimes;

A David Spencer Abbott. going to the old country.

Q By occupation he is a master mariner? father's occupat

A Yes. Did you see what?

Q How long have you been married? earned with boats.

A Seventeen years the 23rd. June. far as you know? let in

Q What was your maiden name? mother met him, on a boat.

A Croker. came to Halifax?

Q Your full name Lorna Doone Croker?

A Yes. or father here than?

Q What was your mother's name?

A Davenport. how you mean how long?

Q What was your father's name? a year because we left

A Harry Croker. years old for the old country, my father.

Q What is your age? what place they lived?



LORNA D. ABBOTT, direct examination.

- A I was forty the 16th. June past.
- Q What is your earliest recollection respecting places that you might have lived at?
- A I remember living in my young days at Fredericton, New Brunswick.
- Q Is that the first place you remember living?
- A Yes, the first place.
- Q How old would you be then?
- A I think I was round three.
- Q That is a very early age from which to remember; can you remember anything specific?
- A I remember of a woman up there who used to be good to me; that is all I remember about Fredericton.
- Q Have you lived in Fredericton since?
- A No.
- Q After living in Fredericton at an early age, where did you next live?
- A I think we came to Halifax for a short time.
- Q Did your mother live with you at Fredericton?
- A Yes.
- Q Did your father live there?
- A I think so; I am almost sure. He lived with us sometimes; he was away on boats going to the old country.
- Q During these early years what was your father's occupation?
- A In some sort of marine; he was concerned with boats.
- Q Had he any naval connections as far as you know?
- A I don't know. That is how my mother met him, on a boat.
- Q Later you came to Halifax?
- A Yes, for a short time.
- Q Was your father here then?
- A Yes.
- Q By a short time you mean how long?
- A We were here in Halifax about a year because we left when I was four years old for the old country, my father, mother and I.



LORNA D.ABBOTT, direct examination.

LORNA D.ABBOTT, direct examination.

Q Have you any recollection of Halifax, where you lived?

A No. I don't remember.

Q What do you next recollect?

A We went on a big boat to the old country because that was my father's home. It was an Allan Line boat; I don't remember the name of the boat.

Q Mr.Crocker was an Englishman?

A Yes.

Q When you got to England do you know to what place you went?

A No; I can tell you different places we lived while there.

Q Tell us as many places as you can where you lived.

A Brixton, Portsmouth, Liverpool.

Q Have you recollections of living in those places or do you just recollect the names?

A I just recollect the names.

Q Besides the names is there anything else you recollect?

A I remember one place we lived called Coronation Buildings.

Q Do you remember any other people besides your father and mother?

A Yes, I remember my aunts and uncles. My father had two brothers, William and David.

Q What do you remember about them?

A They were attending Oxford University.

Q Where did you see them?

A They used to come home to their father's and mother's home on holidays and I used to go there an awful lot to my grandmother's and grandfather's and they used to be there those times.

Q Did your father have any sisters?

A Yes, two, Edith and Ada Crocker.

Q Did you meet them?

A Yes, they were good to me.

Q Did you go and visit them?

A Yes, often.

Q Do you remember at this date what place they lived?



LORNA D. ABBOTT, direct examination.

A No, I don't remember.

Q During these years what was your father doing, Harry Croker?

A He had a good job in the post office but he still belonged to the marine. He used to have to go a month on this boat every year.

Q Was he in the naval reserves?

A Something like that; he went one month out of every year to sea.

Q Did Harry Croker live at home with you when he was at the post office?

A Yes.

Q How many years did you live in England?

A I think about four years.

Q And then what happened?

A My mother had a table set all night and no one came home and my mother said my father was drowned on one of the trips he went on.

Q After that what was done?

A My mother did not stay very long; she sold all the furniture and came back to Halifax.

Q Can you recollect the trip?

A Yes, I was about eight years old.

Q Were there any other allusions at any other time by your mother as to what happened to your father?

A No, she never spoke much about him after we came back, but she used to speak a lot about his people and always kept in touch; they asked about me.

Q Have you any recollection of his people after his death was announced, what they did or anything?

A I remember my grandmother coming to our house quite a lot after.

Q Was there any discussion?

A I don't remember anything; I was a child and I would probably be out half the time.



LORNA D.ABBOTT, direct examination.  
LORNA D.ABBOTT, direct examination.

- me to have some training. She wanted to go to New Brunswick alone.
- Q You came back to Canada?
- A Yes.
- Q What convent did you go to?
- Q Where did you land?
- A The Good Shepherd but the Sacred Heart class.
- A At Halifax.
- Q Was that for the purpose of continuing your education?
- Q Did you live in Halifax, you and your mother?
- A Yes.
- A Yes. My mother went to work at Moirs a short time after we were here.
- Q How long did you stay there?
- A Five years.
- Q What did you do?
- A I went to St.Mary's school and the sisters used to look after me; when mother was at work I went there and got dinner.
- Q How far did you get in the nursing course?
- Q You went to St.Mary's school?
- A I took the eight months course. From there on you are supposed to go to the Victoria General; I did not take that course. I went to Kinley's drug store, and then out there to live.
- Q You lived there for a while?
- A Yes.
- Q What education did you get?
- A I went to Quinpool Road school then because we were out at the west end.
- Q You lived on Kline Street for about how long?
- A Until I was about twelve years old; I don't know just how many years.
- Q Then what did you do?
- A My mother wanted to go to New Brunswick alone and she put me out to work.
- Q Where did you go?
- A Mrs.T.L.Piers on Jubilee Road; she is still there.
- Q Your mother went away?
- A No, not then.
- Q How long did you stay with Mrs. Piers?
- A I was not there very long and my mother put me in a convent.
- Q For what purpose?
- A She had taken me out of school quite young; she wanted



LORNA D. ABBOTT, direct examination.

LORNA D. ABBOTT, direct examination.

me to have some training. She wanted to go to New Brunswick alone.

Q What convent did you go to?

A The Good Shepherd but the Sacred Heart class.

Q Was that for the purpose of continuing your education?

A Yes.

Q How long did you stay there?

A Five years.

Q What course did you take?

A The sisters saw a chance for me to go to the children's hospital to train as a nurse and I went there.

Q How far did you get in the nursing course?

A I took the eight months course. From there on you are supposed to go to the Victoria General; I did not take

that course. I went to Kinley's drug store, and then

I saw an advertisement for some one for a book store on

Gottingen Street and I went to the book store and went

to work there; then I came back to Kinley's.

Q You had a second trip at Kinley's?

A Yes.

Q You stayed there two years?

A Yes.

Q That must bring you up to the time of your marriage?

A Yes.

Q What had happened to Mrs. Croker?

A She was up in New Brunswick; she had this new house built.

While I was at Kinley's the explosion happened and my

mother came down to see if I had come through all right.

Q Where was she living in New Brunswick?

A Beaconsfield, Victoria county.

Q Is that near Andover?

A Yes.

Q Did you ever visit her there?

A Yes, when I was married we visited her there.

Q You and your husband?

A Yes.



LORNA D. ABBOTT, direct examination.

- Q You went up to visit her; you went to her house where she was living?
- A Yes.
- Q What did you observe?
- A Looking round, I thought she must have got married again and she had got married.
- Q What did you see?
- A I saw men's clothes out on the line and I thought there must be a man round.
- Q Did you have any correspondence during these years with your mother, round 1919?
- A While she was up in New Brunswick I did not hear from her very often.
- Q You did not hear from her there?
- A No, I didn't know just where she lived.
- Q How did you come to go up and be able to find her?
- A She came down to Halifax after the explosion. She told me about building a house and living there.
- Q Did you have occasion to write any letters?
- A Yes.
- Q What name did you put on the envelope?
- A I most always put Mrs. Sarah Croker; I did not know if the name was Giberson or Gardnerson; I knew she would get it; her first married name was Croker.
- Q Did you get answers back?
- A Yes, all the time.
- Q You were up there; how long did you stay on your honeymoon?
- A A very short time there; we were stopping at different places on our way back.
- Q Do you know the witness, Mr. Blanchard Giberson, here?
- A Yes, I know him now but I did not meet him when I was up there; he was away somewhere.
- Q Was there any conversation between you and your mother respecting him?



LORNA D. ABBOTT, direct examination

A Yes, she wanted me to stay a few days to meet him.

(Mr. Archibald objects.)

Q Speaking of your correspondence with your mother, are you familiar with her signature?

A Yes.

Q Have you seen her write?

A Yes.

Q I am showing you now the original will on file in this court; at the end of the will you will find a signature in ink, the words being "Sarah Croker"; do you recognize that handwriting?

A Yes, that is my mother's writing.

Q After 1919, the time you got married, when did you next have to do with your mother?

A My mother came back to Halifax.

Q About when?

A I don't know for sure; it seems to me about ten years ago.

Q Did you communicate with anybody about her, write any letters?

A We had not heard from her for quite a while when she was up in New Brunswick so I wrote to the postmaster or postmistress - I don't know if it is a man or woman -

(Mr. Archibald objects.)

Q As a result of the information you got from the postmaster what did you do?

(Mr. Archibald objects. Question not allowed.)  
Mr. Rutledge asks to have question remain on the record.

Q Did you have any communication by letter with Mr. Giberson about that time?

A Yes, I had an answer to the letter I wrote.

Q You wrote him a letter?

A Yes.

Q You have not got the letter now?

A No.



LORNA D.ABBOTT, direct examination

LORNA D.ABBOTT, direct examination.

Q What did you write him about?

(Mr.Archibald objects.)

A I wanted to know the whereabouts of my mother.

(Mr.Archibald objects.)

Q Did you get an answer from Mr.Giberson?

A Yes.

Q By letter?

A Yes.

Q His letter is no longer in existence?

A No.

Q What became of the letter?

A I burned it up.

Q Tell us what was in it.

(The Court excludes this evidence and suggests Mr.Rutledge call Mr.Giberson.)

Q As a result of Mr.Giberson's letter what did you do?

(Objected.)

Q Did you find your mother?

A Yes, I did.

Q Where?

A She bought a house up at the north end.

Q What city?

A It was up near the old station; I don't remember the street.

Q What city?

A Halifax.

Q That would be about what year?

A I don't know the year.

Q How long ago?

A I should think it would be ten or eleven years ago.

Q Did you visit her?

A No, I never went to see her when she was at that house.

Q In between the years 1925 and the date of her death did you visit her?

A Yes, several times. She moved different places. I went

Q Have you any reason to believe he is dead or alive?



LORNA D. ABBOTT, direct examination.

A I should think, if he were alive, he would enquire about to see my mother.

Q What was she doing here?

A On North Park Street she had a rooming house.

Q Did she own the property as far as you know?

A Yes, she owned it.

Q And kept roomers?

A Yes. I don't know of any other.

Q Did your husband visit her?

A No, I came alone or with one of the children. Mr. Croker

Q About how many times did you visit her?

A I have been every year except the last two years.

Q More than once a year?

A A few years I have been down twice a year.

Q You say you are forty years old?

Q Do you drive a car?

A Yes.

A No, I came by train.

Q You were married to Captain Abbott in June, 1919?

Q Did you go to visit her this year?

A Yes.

A No, it was my intention to come in June; I had plans

Q You remember Mr. Croker in Fredericton when you were only made to come in June.

Q What date did your mother die?

A I remember they were always talking and making plans to

A The third of June.

Q Did you come to Halifax after her death?

Q When you were three years old?

A Yes.

A I have a faint recollection about that.

Q Did you examine the body of the deceased?

Q You don't remember much about what happened when you

A Yes.

Q Where did your mother last live?

A No, not outside of that.

A Brunswick Street.

Q You lived in Fredericton when you were three?

Q What do you say as to the body of the deceased, who was

A Yes.

it?

Q Your mother and Mr. Croker were married after they came

A It was my mother.

Q Where was the body when you examined it?

A At Snow's.

A No, I don't remember that.

Q In the intervening years, from the time you left England,

Q Do you remember what time of year you came to Halifax?

Q Have you heard of your father?

A No, I don't remember.

A No, I never heard anything more about him.

Q Was it summer or winter?

Q Have you any reason to believe he is dead or alive?



LORNA D.ABBOTT, direct examination.

A I should think, if he were alive, he would enquire about me and my mother.

Q Why do you say that?

A My father made a lot of me when I was a kid.

Q Have you any other reason for saying you think your

father is dead besides the fact that you were told he

was dead?

A No, I don't know of any other.

A All I know (Objected.)

Q Do you know of anybody else who ever heard of Mr.Croker after the time you were living in England?

A No, I don't.

CROSS EXAMINED BY MR.ARCHIBALD:

Q You say you are forty years old?

A Yes.

Q You were married to Captain Abbott in June, 1919?

A Yes.

Q You remember Mr.Croker in Fredericton when you were only three years old?

A I remember they were always talking and making plans to go to the old country, that is all I remember.

Q When you were three years old?

A I have a faint recollection about that.

Q You don't remember much about what happened when you were three years old?

A No, not outside of that,

Q You lived in Fredericton when you were three?

A Yes.

Q Your mother and Mr.Croker were married after they came to Halifax. Do you remember when they were married in Halifax?

A No, I don't remember that.

Q Do you remember what time of year you came to Halifax?

A No, I don't remember.

Q Was it summer or winter?



LORNA D.ABBOTT? cross examination.

- A I don't remember.
- Q You lived in Halifax about a year?
- A Yes.
- Q I don't suppose you remember much about what happened after you came to Halifax at all?
- A No, not much.
- Q You don't remember whether Mr. Croker was round in Halifax very much?
- A All I know is he wore some uniform and he was round.
- Q Was he coming and going or was he in Halifax all the time?
- A He was coming and going. He was on a boat going to the old country.
- Q Do you know the boat?
- A I think it was the "Proserpine"; I think it was a freight or transport boat.
- Q Then you went to live in England?
- A Yes.
- Q You say you lived at Brixton; do you remember the city?
- A I don't remember what the place was like, I just remember the name.
- Q Did you travel over there or did you stay in Brixton all the time?
- A We lived in Brixton a short time and then moved on to other places. We lived in London and Liverpool.
- Q You lived in London?
- A A short time.
- Q Where did you live first?
- A I don't remember.
- Q Do you know how long you lived in Portsmouth?
- A No, I don't remember how long we lived in these places.
- Q Do you remember living in Portsmouth?
- A Yes.
- Q How old would you be then?
- A Round five or six.



LORNA D. ABBOTT, cross examination.  
LORNA D. ABBOTT, cross examination.

- Q Where were these Coronation Buildings?  
A I don't know what part of the old country they were; all I remember was the buildings on account of the name.
- Q It was an apartment?  
A It was large brick apartments; each one had five rooms.
- Q Were you upstairs?  
A Yes, upstairs; I remember we hung the clothes on the roof; we were quite near the roof.
- Q You say Mr. Croker had two brothers there attending Oxford?  
A Yes.
- Q What were their names?  
A David and William.
- Q I don't suppose you would remember whether they attended Oxford or not?  
A They would only come home for their holidays.
- Q Where would they come?  
A To their mother and father's, my grandmother.
- Q Where did they live?  
A I don't remember that.
- Q Near to you?  
A We had to drive quite a way on the bus.
- Q Where, from Portsmouth?  
A I don't know.
- Q How old did you say you were when you came back?  
A Between eight and nine, past my eighth birthday.
- Q In what sort of a place did your grandparents live, country or town?  
A In town, quite near the post office; I don't remember.
- Q Do you remember if they lived in the country or town?  
A I think it was in the town; I am almost sure it was in the town.
- Q You don't know what your grandfather did?  
A No; all I know is they were pretty well off.
- Q Do you remember your grandfather's christian name, Bill or Tom of what?  
A Slightly.
- Q Did you ever make any effort to locate your grandparents, aunts and uncles in the old country?



LORNA D. ABBOTT, cross examination.

A No; I think my father was named after him so it must have been Harry.

Q Your grandmother's?

A I don't know her name.

Q Where were these sisters, Edith and Ada?

A They were living at home.

Q You said they were fond of you?

A Yes; they used to take me to their home week ends.

Q Have you heard from Edith and Ada since you came back from England?

A I have not but my mother used to say she heard.

Q Or from William and David?

A No.

Q When you were eight or nine you came back?

A Yes.

Q And all you know about your father is you heard some

one say he was drowned?

A Yes.

Q How long after was it that you came back to Halifax?

A It was a short time after. As soon as my mother sold all the furniture she came back.

Q Where were you living at that time?

A I don't remember whether it was in London or not.

Q You remember it was in England but not the name of the place?

A I remember we lived in Coronation Building when father was drowned but I don't remember whether it was in London or Brixton.

Q You remember living in Fredericton when you were three?

A I remember about this woman being so good to me; I was always running to her house.

Q You remember your father coming back and forth at Fredericton?

A Slightly.

Q Did you ever make any effort to locate your grandparents, aunts and uncles in the old country?



LORNA D. ABBOTT, cross examination.

- A No. ferent streets.
- Q You would not know where to start? to find out and this
- A No. ormation will be helpful. Can you tell us where she
- Q You would not know where to address them?
- A No. George Street.
- Q Do you remember anything about your father's age, Mr.
- A Croker's age at that time? second hand store and we lived
- A No. or her.
- Q Or how old he was when he was supposed to be drowned?
- A No, I don't know.
- Q He was a very young man was not he?
- A I would take him to be a middleaged man. house over on
- Q Your mother and you came back to Halifax and where did
- Q you live when you first came back to Halifax? eat and
- A It must have been somewhere near St. Mary's school; that
- A is where I attended.
- Q Your mother worked where? want to Kline Street?
- A At Moirs' camdy factory.
- Q How long did she work there? ere about twelve years old?
- A Not long, a ffew months; she did not like the work.
- Q Then what didd she do? doing then?
- A She did not ddo any kind of work. downstairs and lived
- Q Where did shee live?
- A She moved roudnd a lot, lived on several streets.
- Q You were always living with her?.
- A Yes. of the time she was not working?
- Q Tell us the pplaces where you lived?
- A Grafton Street, when I went to St. Mary's; Brunswick
- A Street in a pplace called Brunswick Lane in those days;
- Q it runs off BBrunswick Street. years ago and you would be
- Q How long did you live there?
- A We never liveed at one place very long, we were always
- Q moving. you went to the convent and it was the time your
- Q Buying and seelling property? ing to New Brunswick?
- A No, she was aa tenant.
- Q Where else diid you live? went?



LORNA D. ABBOTT, cross examination.

A Different streets.

Q There are a lot of things we want to find out and this information will be helpful. Can you tell us where she

lived and you were living there too?

A On George Street.

Q What part of it?

A I know Mrs. Shields kept a second hand store and we lived over her.

Q How old would you be then?

A About ten, I guess.

Q And then, where next?

A After a short time my mother bought this house over on Kline Street; that was her first buy.

Q We have Graften, Brunswick Court, George Street and Kline Street?

A Yes.

Q How old were you when you went to Kline Street?

A Between ten and eleven.

Q You lived there until you were about twelve years old?

A Yes.

Q What was your mother doing then?

A She owned the house; she rented downstairs and lived upstairs.

Q Your mother had money then?

A She must have had to buy a house.

Q Most of the time she was not working?

A No.

Q Then you went to the convent; that was what year?

A I was twelve years old; they keep a record.

Q You were born in 1896 forty years ago and you would be twelve years old in 1908?

A Yes.

Q In 1908 you went to the convent and it was the time your mother was talking about going to New Brunswick?

A Yes.

Q Shortly after that she went?



LORNA D. ABBOTT, cross examination.  
LORNA D. ABBOTT, cross examination.

A Yes. you went to work at Kinley's what name did you use?

Q Did you see your mother after 1908; did you go over to Kline Street? certificate from the convent there?

A When you are in a convent you don't go out, they come to see you. you are described in the name you were baptised

Q Did your mother come to see you?

A No, she moved away shortly after that. my name goes now.

Q You did not see her?

A No. are you born in New Brunswick?

Q You were in the convent for how many years?

A Five years. out a few months ago; I asked the sister to

Q That would be 1913. Did you see your mother the year before you came out of the convent?

A No. id she know Lorna was your own name?

Q She was living in Halifax in 1912 was not she?

A After I was in the convent I never heard how long my mother stayed in Halifax.

Q Your husband is David Spencer Abbott?

A Yes, sir.

Q You were married the 23rd. June, 1919?

A Yes. when did you first hear of Mr. Giberson?

Q Where were you married? when I was married.

A St. Paul's church. recall after Mrs. Croker died you came to

Q What name did you give at that time when you were being married?

A Mary Carmel Croker; I have my marriage certificate right here. That is the name I was baptised by in the convent.

I go by my own name; I have kind of gone away from the

Catholic church. army officer informed you also and arranged

Q When were you baptised?

A I was baptised in the convent, I forget the year; I have the record. and Mrs. Mundy met you at Halifax?

Q Is that the only time you used the name Mary Carmel when you were getting married?

A Yes; in the convent they called me that because I was

baptised. not know for sure whether it was Giberson or Gard-



LORNA D. ABBOTT, cross examination.

Q When you went to work at Kinley's what name did you use?

A I was known as Lorna Croker.

Q Have you the certificate from the convent there?

A Yes.

Q There you are described in the name you were baptised

under?

A She gave me that little slip there as my name goes now.

(L/A, certificate from convent.)

Q Were you born in New Brunswick?

A Yes, in Fredericton, New Brunswick. That certificate

was made out a few months ago; I asked the sister to put my own name.

THE COURT:

Q Did she know Lorna was your own name?

A Yes, when I went in.

THE HEARING ADJOURNED UNTIL 2.30 P.M.

THE HEARING RESUMED AT 2.30 P.M.

CROSS EXAMINATION RESUMED:

MR. ARCHIBALD:

Q When did you first hear of Mr. Giberson?

A When I went up there when I was married.

Q I suppose you recall after Mrs. Croker died you came to Halifax?

A Yes.

Q You were advised of Mrs. Croker's death by a representative of the Salvation Army?

A I had read the news in the paper.

Q The Salvation Army officer informed you also and arranged for you to come to Halifax?

A I had all arrangements made.

Q Major Mundy and Mrs. Mundy met you at Halifax?

A Yes, sir.

Q Do you remember saying to them that you did not know the name of Mrs. Croker's husband in New Brunswick?

A I did not know for sure whether it was Giberson or Gard-



LORNA D. ABBOTT, cross examination.  
LORNA D. ABBOTT, cross examination.

A person. it was two years ago; it would be round July or

Q Did you mention either of these names to them?

A I am not sure I did. at North Park Street?

Q You also intimated to them that you were not interested in the estate? remain in Halifax?

A When I arrived I was not in a good state to be asked questions; I could not answer them; I think they took advantage of me; they should not have asked me questions.

Q Major and Mrs. Mundy were kind to you?

A Yes, I cannot say they were not.

Q You suggested to them that you did not want any of your mother's money? rest. I was in the habit of coming

A At the time I said I was not worrying about my mother's money; it worried me the way she earned the money. This case has come up and I did not want my mother's past life brought up; that is why I did not say anything about it.

Q Since you have said so much, where did this money come from?

A I know where it came from but I am not going to bring her past life up before this court. When did you

MR. RUTLEDGE: It is not relevant.

Q When were you last in Halifax to visit Mrs. Croker?

A About two years ago. with her?

Q When? but I fed there.

A I don't know just the month. on your mother?

Q That was in 1934 some time? with this year.

A Yes, my mother was still on North Park Street. was in New

Q What time of year were you there?

A In the summer time. when you were here?

Q Do you know what time of year? at North Park Street.

A I am almost sure it was the summer time but I don't know the month. any day.

Q I want you to tell me when in 1934 you came to Halifax to see your mother. It is an easy question. that; that was July, 1934. I saw every year. she

A You mean when I visited her last? when we were backward and

Q Yes, the last time you came to visit Mrs. Croker. she has been at so many



LORNA D. ABBOTT, cross examination.  
LORNA D. ABBOTT, cross examination.

- A I think it was two years ago; it would be round July or August.
- Q Did you visit her in 1933?
- Q Your mother was living at North Park Street?
- A Yes, she was still at North Park Street.
- A Yes.
- Q How long did you remain in Halifax?
- A I don't know for sure, may be two weeks; I have no account of my visits to Halifax or how long I stayed.
- Q You live at Forbes Point?
- A Yes.
- Q These visits to Halifax to your mother were the only visits you were making to Halifax?
- A No, I came for a rest. I was in the habit of coming for a rest.
- Q You stayed with your mother?
- A No; my mother took roomers and every room was taken up.
- Q You had friends you came to visit?
- A I stayed with them because my mother never had room for me.
- Q You told us, with the exception of the last few years, you came up to your mother every year. When did you come up last to see your mother?
- A Two years ago.
- Q You did not stay with her?
- A No, but I fed there.
- Q You got your meals there?
- A Yes.
- Q How long were you in Halifax at that time?
- A Two weeks.
- Q Where did you stay when you were here?
- A Mrs. Campbell's, 95 Beech Street.
- Q You were at your mother's every day?
- A Most every day.
- Q When were you in Halifax before that; that was July, 1934?
- A It would be the year before that, I came every year.
- Q To visit your mother?
- A Always when I could find her; she has been at so many



LORNA D. ABBOTT, cross examination.  
LORNA D. ABBOTT, cross examination.

forward.

different addresses.

Q Did you visit her in 1933?

A Yes, she was still at North Park Street.

Q And in 1932?

A Yes, but she was not at North Park Street .

Q Where was she living?

A Over what is called "Mothers' Cash & Carry", I think on Maynard Street.

Q You did not live with her that time?

A No.

Q All these years your mother was keeping roomers?

A Most of the time; if not, she was living in two rooms herself, sleeping on a cot; there was no room for me.

Q 1931?

A I don't remember whether I saw my mother that year or

not; I think I was down here. She never gave her whereabouts to anybody so they would not know.

Q Did your mother visit you at Forbes Point?

A No, but we asked her to several times.

Q She never visited with you?

A No .

Q You maintained a correspondence with your mother all these years?

A Yes, sir.

Q When did you last hear from your mother?

A Last March or first of April this year .

Q You did not hear much from her when she lived in New Brunswick?

A No.

Q When she lived in Halifax you did?

A Yes.

Q Communications were not kept up in New Brunswick while she was living there?

A Not while I was in the convent. After I came out she came to see me at Kinley's, then we wrote backward and



LORNA D. ABBOTT, cross examination.  
LORNA D. ABBOTT, cross examination.

forward.

- Q When did she come to see you?
- A She came after the explosion in 1918.
- Q Was she living in Halifax at that time?
- A No, she came from New Brunswick.
- Q Did she just see you the once at Kinley's?
- A Yes, she went right back to New Brunswick; I went to the station with her.
- Q Did you talk business matters with your mother at all?
- A No, she kept everything to herself.
- Q Did your husband visit her in New Brunswick the time you were up?
- A No, he had a reason for that.
- Q He did not go with you to visit your mother?
- A No.
- Q You did not see Mr. Giberson?
- A No.
- Q How long were you in Beaconsfield that time?
- A We arrived in the afternoon and left next afternoon.
- Q You stayed there just overnight?
- A Yes.
- Q Did you go up there on your own initiative or on invitation?
- A I wrote to my mother about going up and she did not want two of us, and my husband said "Let's go anyway and you go and see her"; that is how we happened to go up there.
- Q Did you ever see this will?
- A No, I never saw it.
- Q It was never shown to you until to-day?
- A To-day?
- Q You never saw this before Mrs. Croker died?
- A No.
- Q Do you know anything about Mr. Harry Croker's estate?
- A I know we never owned any property; we rented every place we lived in in the old country.
- Q Did you ever hear about insurance, anything like that?



LORNA D. ABBOTT, cross examination.

A No, I never did.

Q You don't know anything about his estate?

A No, I did.

Witness stands aside.

MELISSA GREENE, having been duly sworn, testified as follows:

EXAMINED BY MR. RUTLEDGE:

Q Your name is what?

A Melissa Greene.

Q Where do you live?

A Beaconsfield, New Brunswick.

Q Are you married or single?

A Married.

Q What is the name of your husband?

A Duncan D. Greene.

Q His occupation?

A Farmer.

Q How long have you been living where you are now living?

A Since 1917.

Q Before that time were you round there?

A I did live round there once.

Q Where were you born?

A Bath, Carleton County.

Q Do you know Mr. Blanchard Giberson?

A Yes, I do.

Q How long have you known him?

A Over twenty years.

Q Where does he live?

A In Andover; Beaconsfield is just the same district.

Q How far is that from your place?

A I should say a mile or a mile and a quarter; it is over

a mile.

Q Do you know whether he is a married man?

A No, not now.

Q Was he ever married to your knowledge?



MELISSA GREENE, direct examination.

- Q Yes. called there by her mother to see her; I knew
- Q Did you know his wife?
- A Yes, I did.
- Q What was her first name?
- A Sarah Croker.
- Q Where did she live?
- A Right alongside of me, next door neighbor.
- Q Across the road from you?
- A Yes.
- Q How far?
- A About fifty yards.
- Q Did she have a house there?
- A Yes, she did.
- Q Was it her house or her husband's?
- A It was her house.
- Q Did she and her husband have any other house?
- A Mr. Giberson had a farm.
- Q Where did she live during the years you knew her.
- A She lived about seven years alongside of me and then she moved to Mr. Giberson's about two years.
- Q Did he ever live in the house opposite to you?
- A Yes.
- Q Did they live together as man and wife?
- A Yes.
- Q Do you know the witness, Mrs. Abbott?
- A Yes.
- Q Have you seen her before to-day and yesterday?
- A Yes, I seen her.
- Q When did you first see her?
- A In 1919.
- Q Where?
- A At her mother's house.
- Q Opposite you?
- A Yes, sir.
- Q How did you come to see her there?
- A



MELISSA GREENE, direct examination.

A I was called there by her mother to see her; I knew she was coming.

Q How did you know?

A Her mother told me so.

Q What did her mother tell you?

Q (Objected. Question not allowed.)

Q Were you introduced to Mrs. Abbott?

A I was.

Q By whom?

A Her mother.

Q What name did her mother go under?

A She went by the name of Mrs. Croker as much as the name of Mrs. Giberson.

Q You say you were introduced to Mrs. Abbott, where did the introduction take place?

A Right in her mother's home.

Q Was Mrs. Abbott ever in your house?

A No.

Q Was anybody with Mrs. Abbott?

A Her fellow; she did not fetch him home.

Q How long did Mrs. Abbott stay?

A I think she came one day and went back the next.

Q Where did she stay?

A At her mother's home.

Q Do you remember when she left?

A Yes, I do.

Q What took place between her and her daughter?

A I was there.

Q Tell us what happened.

A She bade her good bye and kissed her.

Q Did Mrs. Abbott say anything?

A I don't remember; she said "Good bye, mother".

Q Have you a post office box?

A Yes, I have; that is where Mrs. Croker got her mail.

Q Over a period of how long?

A Well, I cannot exactly remember; I think it was in 1923.



MELISSA GREENE, direct examination.

- A As long as she lived there.
- Q Did you see any letters addressed to her?
- A Yes. back to Halifax.
- Q Did you notice where any letters were from?
- A From Halifax, some. althy; her health failed; she had
- Q What kind of envelopes? and she liked it best.
- A Business envelopes. wards hear from her?
- Q More than one?
- A Yes, sir; she got them pretty often. any religious re-
- Q Did you ever happen to know Rev.G.A.Giberson?
- A Yes, sir. baptised me and married me.
- Q How long have you known him?
- A All my life. CROSS EXAMINED BY MR. ARCHIBALD; was born
- Q What was his occupation? you have lived in Beaconsfield since 1917?
- A Minister. you were a few years ago?
- Q Did you ever hear him preach?
- A Yes. in Bairdsville. you Abbott after that?
- Q Minister of what church? you got away from Beaconsfield?
- A Baptist. five miles some ways you go. what time going
- Q Have you any papers on you? you was about that time you met Blanchard Giberson?
- A I had Mr. Giberson's picture with me. I met him before I came to Beaconsfield.
- Q You mean a picture of the Rev.Mr.Giberson? you would be about the same time as you met Mrs. Croker?
- A Yes. I met Mrs. Croker the 23th. October, 1918. she was
- Q Will you look at L/4 and tell the court what it is? you was about to meet Blanchard Giberson?
- A A picture of the late G.A.Giberson. I heard her
- Q Can you read very well without glasses? you was about that time you met Mrs. Croker?
- A Yes. yes, sir, before I knew her. your mind as that you
- Q Where did you get that picture? you was about that time they were apparently married
- A I cut it out of the Victoria News.
- Q When?
- A In 1922. you know about them being married was just general
- Q Is this man dead or alive? after she came back to
- A Dead. they lived together; I thought they must be married.
- Q When did you last see Mrs.Giberson also known as Mrs. Croker? you were living in the same house from day to day?
- A Well, I cannot exactly remember; I think it was ~~1922~~ 1923 you say it was in 1919 Mrs. Abbott came up?



MELISSA GREENE, direct examination.  
MELISSA GREENE, direct examination.

- A Yes, I think it was.  
or 1924, round there.
- Q What time of day did you meet her?
- Q Do you know where she went?
- A I think in June about half past twelve, something like that.
- A Yes, back to Halifax.
- Q Do you know why she went back?
- A You were over to Mrs. Croker's house?
- A She was not very healthy; her health failed; she had always lived in a city and she liked it best.
- Q How long were you over there?
- Q Did you ever afterwards hear from her?
- A I was away for an hour.
- A No, I never did.
- Q About Rev. Mr. Giberson, did you have any religious relations with him?
- A No, I was there when the girl left; then I went home.
- Q You were not there when she came?
- A Yes; he baptised me and married me.

CROSS EXAMINED BY MR. ARCHIBALD: saw her?

- Q You have lived in Beaconsfield since 1917?
- A Yes. over seventeen years ago?
- Q Before that you lived where?
- A In Bairdsville. Mrs. Abbott after that?
- Q How far away from Beaconsfield?
- A About five miles some ways you go. mother when going
- Q It was about that time you met Blanchard Giberson?
- A Yes, I think I met him before I came to Beaconsfield.
- Q It would be about the same time as you met Mrs. Croker?
- A I met Mrs. Croker the 28th. October, 1918. she were
- Q When was she married to Blanchard Giberson?
- A 1914 I think. afterwards she had the blues. I heard her
- Q Before you knew her?
- A Yes, sir, before I knew her. your mind so that you
- Q All you knew about that was they were apparently married when you came there?
- A Yes, sir. anything else she said to her mother?
- Q All you knew about them being married was just general report?
- A I heard from Mrs. Croker after she came back to
- A They lived together; I thought they must be married.
- Q They were living in the same house from day to day?
- A Yes.
- Q You say it was in 1919 Mrs. Abbott came up?



MELISSA GREENE, cross examination.

A Yes, I think it was.

Q What time of day did you meet her?

A I think in June about half past twelve, something like that.

Q You were over to Mrs. Croker's house?

A Yes.

Q How long were you over there?

A I was may be an hour.

Q Then you went home?

A No, I was there when the girl left; then I went home.

Q You were not there when she came?

A No, but I saw her when she came.

Q That is the only time you ever saw her?

A Yes, the only time.

Q That is over seventeen years ago?

A Yes.

Q Did you ever see Mrs. Abbott after that?

A No, I never did.

Q Do you remember what she said to her mother when going away?

A "Good bye, mother".

Q How did that happen to stick in your mind?

A I can tell you what Mrs. Abbott had on, what she wore away; I can remember because I was right there. I heard her mother say afterwards she had the blues. I heard her say "Good bye, mother" and she kissed her good bye.

Q What was it impressed that upon your mind so that you can remember it after seventeen years?

A I seen that.

Q Do you remember anything else she said to her mother?

A No, I don't.

Q You never heard from Mrs. Croker after she came back to Halifax?

A No, she wrote to nobody, the neighbors or anything like that.

Q Were any other neighbors in that day to meet Mrs. Abbott?



MELISSA GREENE' cross examination.

A No, I don't think.

Q Did you go in?

A I was invited over by Mrs. Abbott's mother.

Q You have never been to Halifax since?

A I was never in Halifax before, this is the first time.

Q You don't know anything about the Mrs. Croker who died here, yourself personally?

A I do; I have lived alongside of her seven or eight years, I ought to know her.

Q I am talking about the Mrs. Croker who died in June in Halifax.

A I did not see her after she died.

Q You don't know who it was died?

A I did not see her after she died.

FRED PURCHASE, being duly sworn, testified as follows:

EXAMINED BY MR. RUTLEDGE:

Q Your full name is Fred W. Purchase?

A Yes.

Q What is your occupation?

A Accountant with the Canada Permanent Trust Co.

Q How long have you been in that position?

A I have been with the corporation twenty-five years.

Q How long have you been in that position in Halifax?

A Sixteen years, since 1920.

Q Does your Company take money on deposit?

A Yes, we have a savings department.

Q Has it done that over a period of some years past?

A Yes.

Q When that money comes in I suppose deposit slips are made?

A Yes.

Q How was it paid out?

A Paid out by cheque or counter receipt.

Q Did you have a customer by the name of Sarah Giberson?

A No.



F. PURCHASE, direct examination.

- Q Sarah Croker?
- A Yes.
- Q When did she put any money in there?
- A The account was opened August 1st., 1927.
- Q Have you still the account?
- A Yes.
- Q What amount was deposited to begin with?
- A Eleven hundred dollars, if I remember correctly.
- Q What amount remains on deposit?
- A \$331.
- Q Were cheques drawn against that amount from time to time?
- A Yes.
- Q Did you know the depositor personally?
- A Yes.
- Q Have you talked with her?
- A Yes.
- Q Do you know her signature?
- A Yes.
- Q You have seen her write?
- A Yes.
- Q Sign her signature?
- A Yes.
- Q Describe her, tell the court what she looked like.
- A She would strike you as an elderly woman with white hair.
- Q Any habits you know of?
- A She struck me as being of a rather nervous temperament when she came to take money from the bank.
- Q Have you any items of description?
- A No, what impressed Mrs. Croker on my mind was more her nervous temperament.
- Q Was this account an active one?
- A Just fairly, not active in the true sense of the word.
- Q About how many cheques were drawn on the account in the period just mentioned?
- A Perhaps a hundred.
- Q Have you some of the cheques here with you?



F. PURCHASE, direct examination.

A Yes.

Q long, how many years?

Q In the form of a bundle that could be marked?

A I should think I have been acting as teller for a period

A I prefer not to leave the whole bundle.

Q of six or seven years off and on.

Q L/5 is a bundle of cheques, and what is the specific

Q Did you cash any of these cheques in packet marked L/5?

A Yes.

A That is a counter receipt.

Q Many or most?

Q What date?

A Not most but several of them. I was teller about 1931

A July 2nd., 1931, for \$52.63, signed by Sarah Croker.

Q I am handing you a document, being the original cheque.

Q Was that the signature of the depositor?

A Yes. I am handing you a certificate here, which you probably

Q Would you look at the signatures to all the other thirty

Q that signature and compare it with the cheques and tell

Q or more documents that make up the packet and tell us

Q us if it is the signature of the same or of a different

Q in whose name they are?

A All Sarah Croker's.

Q In my opinion, it would be the same.

Q They are all cheques or counter receipts?

Q I am handing you a certificate here, which you probably

A Yes.

Q have never seen before, L/1, being the original Marriage

Q How many accounts do the Canada Permanent have?

A Certificates from the Province of New Brunswick will

A From twelve to fifteen hundred.

Q you take a little time and look at the signature on the

Q Do you act as teller?

A back of that; "Sarah Croker", study it for a moment and

A That is part of my duties.

Q compare it with the signature to the cheques and tell

Q Are cheques on these different accounts paid on your

Q identification of signature?

A In my opinion, it is the same signature.

A When I am acting as teller.

Q Have you ever seen this lady write?

Q You do not act exclusively as teller?

A Yes.

A No.

Q Where?

Q Who else acts as teller?

A At times when making withdrawals.

A Mr. Mann.

Q Do you do most of the teller work?

A No, he is the teller. some reason was trying to get a

Q Used you to be the teller? suppose a lot of nervous per-

A Yes. come into the banks?

Q For how long?

A Five years.. see a lot of people feel frightened off

Q Are you accustomed to comparing handwriting? I think.

A Yes, I satisfy myself the correct signature is on cheques.

Q You have been comparing handwriting over a period of how



- Q Your experience has been directed to the Canada Permanent?  
A Yes.  
Q long, how many years?  
A I should think I have been acting as teller for a period of eighteen or twenty years off and on.  
Q Did you cash any of these cheques in packet marked L/5?  
A Yes.  
Q For how long?  
Q Many or most?  
A Not most but several of them.  
Q I am handing you a document, being the original will account, since that time all bills on the end it bears the signature "Sarah Croker"; I want you to examine that signature and compare it with the cheques and tell us if it is the signature of the same or of a different person.  
A In my opinion, it would be the same.  
Q I am handing you a certificate here, which you probably have never seen before, L/1, being the original Marriage Certificate from the Province of New Brunswick; will you take a little time and look at the signature on the back of that: "Sarah Croker", study it for a moment and compare it with the signature to the cheques and tell us what you think of it?  
A In my opinion, it is the same signature.  
Q Have you ever seen this lady write?  
A Yes.  
Q Where?  
A At times when making withdrawals.

CROSS EXAMINED BY MR. ARCHIBALD:

- Q My learned friend for some reason was trying to get a description of the lady; I suppose a lot of nervous people come in to the banks?  
A I suppose so.  
Q It is a place a lot of people feel frightened of?  
A It depends, on the temperament of the person I think.  
Q This is the first time you have seen this certificate?  
A Yes.



A.F. MCISAAC, direct examination.

- Q Your experience has been limited to the Canada Permanent?  
A Yes.  
Q You have been in Halifax how many years?  
A Since 1920, sixteen years.  
Q Were you a teller before you came to Halifax?  
A Yes.  
Q For how long?  
A I went with the Company in 1911; I was teller about 1914 during most of the war years; then in 1918 I became accountant; since that time all duties, partly teller and partly accountant.  
Q How many accounts have you in Halifax?  
A Twelve to fifteen hundred.  
Q Your Company carries on deposit here about how much, customers' deposits?  
A (Objected to as not being relevant.)  
Q About six hundred thousand.  
Q Have you given evidence as an expert in handwriting on other occasions?  
A No.  
Q This is your first?  
A Yes.  
Q You never studied the subject?  
A No, just experience.  
Q You don't profess to be an expert?  
A No, not an expert.

A.F. MCISAAC, being duly sworn, testified as follows?

EXAMINED BY MR. RUTLEDGE:

- Q What is your full name?  
A Arthur Francis.  
Q Your occupation?  
A Police officer in the city of Halifax.  
Q What education have you?  
A University.  
Q What university?  
A St. Dunstan's, University, Charlottetown.



A.F.MCISAAC, direct examination.

- Q Did you graduate?
- A Yes.
- Q Do you hold the degree of B.A.?
- A Yes.
- Q I understand you took a law course at one time?
- A Yes.
- Q By correspondence?
- A Yes, the American Law School.
- Q Did you complete your course?
- A Yes.
- Q You got a certificate?
- A Yes.
- Q Which certificate is to what effect?
- A Degree of LL.B.
- Q You are not a member of any bar?
- A No.
- Q You don't practice law?
- A No.
- Q Are you interested in the subject of handwriting?
- A Yes, I have been for a good many years.
- Q Have you made a study of it?
- A Yes, sir.
- Q By making a study of it what do you mean?
- A I took a series of lectures from a handwriting expert who is a graduate of a law school. I took a series of lectures from Mr. Brewster of Calcutta, India, who is recognized as a national authority on handwriting. I have also read a number of text books, including Osborne's. I have been giving evidence in courts the last ten years.
- Q What courts?
- A In the Maritime Provinces, the Supreme Court of Nova Scotia and New Brunswick.
- Q In handwriting matters?
- A Yes.
- Q Over how long a period?



A.F.MCISAAC, direct examination.  
A.F.MCISAAC, direct examination.

A The past ten years.

Q You mean the same person wrote them?

Q I am showing you first of all the will in this case;

A Yes, in my opinion.

have you looked at the signature of the will?

A Yes, sir.

Q It reads what?

A Sarah Croker.

Q I am showing you also exhibit L/1, being Marriage Certifi-

cate which at the bottom end bears the caption "This

marriage was solemnised between us, Blanchard Giberson

and Sarah Croker". I want you to refer particularly to

the signature of Sarah Croker there and compare it to

the signature to the will; look through your glasses or

otherwise with a view to deciding whether it is the sig-

nature of the same person or another person.

A I would say the same person. In my opinion, both signa-

tures are very outstanding; most characteristic is the

loop in the small "r" and the slant of the "s".

Q Anything else?

A The general character of the writing is practically the

same.

Q Also I am handing you L/3 which is a deed dated November

24th., 1923, signed at the foot by one Sarah Giberson

also signed Blanchard Giberson; I want you to compare

the signature, first of all, of Sarah Giberson, particu-

larly the word "Sarah", with the other two "Sarahs" in

the will and marriage certificate respectively with a

view of determining whether the signature is that of one

person or of different persons?

A I would say it is the same writing in my opinion.

Q Would you please compare the signature "Blanchard Giber-

son" with the signature "Blanchard Giberson" at the end

of said deed with the same object in view?

A In my opinion it is the same.

Q What is the same?

A "Blanchard Giberson".

A No, not to any great extent.



A.F.MCISAAC, direct examination.

Q You mean the same person wrote them?

A Yes, in my opinion.

CROSS EXAMINED BY MR. ARCHIBALD:

Q When did you take this course of instruction from Mr. Brewster?

A About five years ago.

Q This is a sort of hobby, a side line with you?

A Yes, sir.

Q Your occupation is?

A Police officer.

Q Have you been recognized as an expert by the Supreme Court?

A There is no school or curriculum for handwriting, no qualification. If the Court qualifies you as an expert, I was qualified by Sir Joseph Chisholm; in my first case in the Supreme Court he ruled I was qualified to give evidence.

Q What case?

A A civil case, the case of the Canadian Acceptance Corporation vs. Lunenburg Outfitting Company. I might add for expert handwriting there is no school; there is no qualification other than being qualified by the court.

Q When did you commence to give evidence in these courts you refer to?

A Ten years ago.

Q How many times have you appeared in the Supreme Court of Nova Scotia as an expert?

A Roughly, any time when the occasion arose.

Q In New Brunswick?

A Once in New Brunswick.

Q In Prince Edward Island?

A I was called there but the case did not materialize.

Q Have you had any experience in clerical work, accounting or anything like that?

A No, not to any great extent.



A.F.MCISAAC, cross examination.

- Q Your qualifications as an expert do not arise from your experience every day with the writing of people?
- A No more than I have made a hobby of studying.
- Q You have read what books were on it that you could find?
- A Yes.
- Q How many lectures did you take?
- A Roughly, sixty.
- Q Where were they given?
- A Through correspondence.
- Q All your training has come through reading?
- A Yes, sir.
- Q Not from demonstrations by experts to you like in a lecture room?
- A Only in the form of lectures.
- Q You were referring here to this peculiar loop on the "r" in the signature, that is not an uncommon characteristic?
- AA No, it is a very common characteristic in handwriting.
- Q Indicating any nervousness?
- A No, I would not say the loop in the "r" did but other parts of the writing show some nervous tremble.
- Q You might expect that in the signature of a nervous person?
- A Yes, usually a nervous person shows it.
- Q That is only your opinion?
- A I am just expressing an opinion, that is all.
- Q The signature on the will appears to be that of a more nervous person than the signature on L/1?
- A That might occur when the state of mind is different.
- Q This quality of nervousness is very much emphasised in respect to the will?
- A Yes, very characteristic.
- Q Much more so than it is in the signature of the marriage certificate;; you would note that?
- A Yes.
- Q You cannot tell very much about the age of people from their signatures?



A.F.MCISAAC, cross examination.

- A No, it is pretty hard to tell about age. Old people as a rule write with a physical tremor in their hand.
- Q Looking at these three signatures, which would you think were by the older person?
- A This on L/1.
- Q The signature on L/1 looks like the signature of an older person?
- A It looks heavier.
- Q You say that it looks like the signature of an older person?
- A Yes.
- Q Let us compare this signature on L/3 with the one here, "Sarah Giberson".
- A L/3 looks like the signature of an older person.

MR. RUTLEDGE: I want to refer your honor to Snellgrove vs. Stevens, C.R.R. Carrington & Marshall, p.508.:

Even though no subpoena duces tecum had been served, nevertheless, witness being on the stand is bound to produce it. Kee vs. Angus, vol.2, L.R.Equity, p.59.

I would ask, in so far as photographs are concerned, while I have got the witnesses here, the witness produce them so that the court may see them.

MR. ARCHIBALD: The cases are entirely different.

Snellgrove & Stevens refers to specific documents.

It is an entirely different principle in this case.

My learned friend is looking for something to establish his case. If he had alleged any specific document we had and could find and it was brought in here,

I agree, under those cases, you can say: You have it here; you can produce it. My learned friend is not looking for that; he is hoping, somewhere in that

parcel, is a picture or memento that will help his

case. He does not say what photographs, of whom or

what, and I say it is an abuse of court for your honor

to furnish the evidence for my learned friend. There



are ways he could get it without coming in here. Major Mundy, head of an organization here, would not want to be in contempt of court. He produced such documents as he could gather up; there has been no opportunity to go through trunks, boxes, various receptacles; no opportunity of looking for this photograph or that photograph outside of a small group on a table or wall. It is not fair to him. These are not all the documents he has and I submit this is extending the principle in these cases. The writ was served on my client last night; he comes along at ten o'clock and brings documents here and it is found the subpoena could be set aside, then, because he brought them here in obedience to the summons, my learned friend says he is to have access to them; it is not law.

MR. RUTLEDGE: I have to say that we have to go a long distance to find a more capricious objection than that. Here is a man on the witness stand saying he has these documents in court; objection is taken by his counsel to the production of them. In this case, the court has had evidence that this woman died possessed of this document; her husband is here and her daughter is here. The photographs were in the effects of the deceased. Surely, the daughter and the husband can see these photographs; they are not strangers, and the court should follow the rule laid down in those cases and require the witness to produce them.

THE COURT: I do think you are engaged in a fishing expedition. I feel your stand is meritorious but, on the other hand, unless the thing is carried out very carefully, it could lead to abuse in the way of a case being built around a photograph.

MR. RUTLEDGE: There would be less opportunity to build a case if shown in open court suddenly. If the court is anxious on that ground, the best thing to do is to



show them now suddenly and while we have witnesses all the way from New Brunswick. It would be an injustice not to let them see the photos. The husband has a right to see a photo of his wife. My learned friend said the cases I cited are too broad. The cases deal with this specific point. Even though the subpoena is too wide in its nature, nevertheless, if the documents are in court, they must be shown. Under Lee & Angus I could ask him to produce and show to the court all the documents he has.

MR. ARCHIBALD: I don't know that there is so much merit in my learned friend's application; I don't want to be too technical. On June 18th., when this hearing was on before, Mr. Shaw indicated - (Counsel reads page 29 of the record). This was away back in June 18th. There has never been a request since then to come to my office and look over photos if I were willing. I object to taking this backhand way of getting at it, to subpoena the fellow on the other side and let him build up a case for you.

THE COURT: I am asked to decide a very difficult point of evidence right on the spot and whichever way I decide may be wrong -

MR. ARCHIBALD: In this Lee & Angus case referred to I find a little further on (reads).

THE COURT: To make him actually produce photographs I am not clear on; I don't think these authorities deal with the matter.

MR. ARCHIBALD: There is an element of unfairness. There are a number of photos, group photos, photos of men, photos of women, of cats, some views and so on. What is more it is unfair to us; we have not indicated what our case is in this. We are not going to disclose our case at this stage.



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THE COURT: I don't think I have enough material before me to decide.

THE COURT: I said, if you had some particular photo in

MR. RUTLEDGE: I might ask Mr. Mundy a few more questions on the point that might be helpful in the way of narrowing the issue.

Q Do you know what photos you have here?

THE COURT reserves the point.

MR. ARCHIBALD: This is informal and irregular. These photos have been in my office and are there now. They have not been in Major Mundy's hands. I have very grave doubt if Major Mundy has had an opportunity to go through that box of stuff brought down to my office. It has been under lock and key and I have not been through it.

MR. RUTLEDGE: From what my learned friend says Major Mundy does not know much about these documents. I can say he and Mr. Shaw have looked over the photos together, so he is not in a state of absolute ignorance.

THE COURT: Is there some definite photograph you have in mind?

MR. RUTLEDGE: Yes. The proper way to get them here was by subpoena. The witness is in court and has the documents with him.

THE COURT: If you have any definite photo that Mr. Shaw has seen and can identify, it can be produced.

EXAMINATION OF MR. MUNDY RESUMED:

Q Is it not true that you and Mr. Shaw went over the photographs just alluded to?

A In a casual way; we gathered them together; whether they are all there I cannot say. There is a trunk which I

think some were in and put back in again, and, as far as I know, some were put in other things we have stored.

Q How many photos have you in court?

A I don't know; I know there are some photos; I have never



T.H.MUNDY, direct examination.  
T.H.MUNDY, direct examination.

A No, I cannot say I do. I do not know whether they have been  
seen the contents since they were put in. in sailor

THE COURT: I said, if you had some particular photo in  
mind that Mr. Shaw saw and you can identify, you can ask  
him to produce it.

Q Do you know what photos you have here?

A No.

THE COURT: If you have any particular photo in  
mind, why not ask him?

MR. RUTLEDGE: My instructions are it may be younger

MR. RUTLEDGE: He says he does not know what he has  
so what is the use of asking him to produce it?

Q Have you the photos here you and Mr. Shaw were looking  
at together?

A In gathering them together we looked at quite a few.

Q What is your answer to the question? You and Mr. Shaw  
were looking at a photograph of two ladies, an elderly  
lady and a very young one.

A I cannot say whether it is there.

Q Will you look and find out and see if that specific  
photo is under your hand.

THE COURT: ARCHIBALD: He has been accused of being unfair.

Q Do you remember the photo referred to?

A I have a faint recollection. On that day we were in a  
rush gathering things together and put some in a parcel  
and I have never looked at it since; I have not seen it  
for over two months.

Q It is a definite one that you and Mr. Shaw discussed.

A I don't remember discussing any photo. Some were put in  
a trunk and some in a box.

Q You don't remember the one Mr. Rutledge refers to?

A No.

MR. RUTLEDGE: COURT: I think they have a bearing to a certain

Q Do you remember one portraying a man and woman and a  
young girl, the girl being the witness Lorna Abbott in  
court?

any such thing as this; possibly they do. I think



T.H.MUNDY, direct examination.

A No, I cannot say I do.

Q Do you remember one portraying a young lady in sailor suit?

A No, I don't remember that.

Q Did you see a middleaged lady in a sailor suit?

THE COURT: I think Major Mundy had better take the photos and he can go in my office. That is a fairly definite description, a middleaged lady in a sailor suit.

MR.RUTLEDGE: My instructions are it may be younger than middleaged; Mr.Shaw has seen these photos himself.

MR.ARCHIBALD: If my learned friend will name what photographs he wants - I am reserving the right to object to the photographs being evidence - we will bring them in tomorrow morning. I am not going to have Major Mundy go out and come into court and say he cannot find the documents, and afterwards have the suggestion go all over the country that Major Mundy was concealing these documents.

MR.RUTLEDGE: Surely, he has nothing to conceal.

MR.ARCHIBALD: He has been accused of being unfair. I suggest the case be adjourned until ten o'clock tomorrow and my learned friend can give me notice before five o'clock specifying the photos he wants and, if specific, we will go over the photographs this evening. That is the proper way.

THE COURT: I think we have to decide this legal point before we go ahead. I am not going to allow evidence in or exclude it until it is settled.

MR.RUTLEDGE: Perhaps you will have time to look into these cases.

THE COURT: I think they have a bearing to a certain point; I have to have something more definite; they are dealing with documents and are not contemplating any such thing as this; possibly they do. I think



the only thing is to adjourn the matter till ten o'clock tomorrow for argument on the point.

The documents are at the disposal of Major Mundy; they are not in the custody of the court; they are here under his sole control; they are not in evidence so would not be in the custody of the court.

MR. ARCHIBALD: I don't know what Major Mundy will be asked for a little later after he has gone through his photos; there is a bible and a lot of correspondence there I want to check up on.

THE COURT: You will both have an opportunity to look into this matter. I want to be satisfied it is correct procedure to ask an executor or individual to bring in a bundle and every one see what is there.

MR. RUTLEDGE: The next of kin has the right to look over things where there is a contest.

THE COURT: I said there might be some right to inspect.

MR. RUTLEDGE: In England they have specific right.

It is understood Miss Rockwell takes the document and leaves in its place a copy.

MR. ARCHIBALD: I am not prepared to say all that is to be said in respect to that. The document has been brought

over and when it was submitted as a document showing the record of a marriage I said certainly a copy is all right, but now, when it develops into a very essential and important feature in identification, it is very different.

My learned friend is using it for something apart altogether. I am prepared to use the affidavit of the record of marriage.

MR. RUTLEDGE: The original was only brought over for handwriting purposes; it was not brought for the purpose of proving the marriage; the certificate of Dr. Warwick has proved that.

MR. ARCHIBALD: About this document, I don't know what undertakings were given to the Department of Health over there but I suggest the document is quite safe in your honor's hands until we see what turn this case takes.



copy.  
It would be unconscionable to think we have to go over to New Brunswick to get further evidence or have to use photostatic copies.

THE COURT: My objection is it is so much smaller, not a facsimili as to size.

MR. ARCHIBALD: I think there are cases where it has been attempted to identify signatures by bringing in photostatic copies instead of the original documents, and the argument I think has been sustained that photostatic copy is not a reliable document on which to base expert evidence. The camera does not pick up this and may eject that which an expert could detect.

THE COURT: I have heard Mr. Osborne in Halifax give evidence about the difference in ink and quality of paper in dealing with old documents. Some documents look old but they are not old but have been baked in an oven to look old, but considerations of that kind would not be present in this case.

MR. ARCHIBALD: If the document is going to be missing throughout the rest of the case, I have to ask the evidence in regard to handwriting be stricken from the record.

MR. RUTLEDGE: I move for the reception as evidence of all documents tendered, asking the court to direct exhibit L/1 be kept by the person in whose custody it originally was unless and until further required.

THE COURT: That is a very unusual motion.

MR. RUTLEDGE: It is so usual it is the customary one in the Supreme Court, after documents are admitted in evidence, that certain of them are kept in the custody of one person. I only ask that it remain in the custody of Miss Rockwell.

THE COURT reserves Mr. Archibald's right to have document produced in court or by commission.

MR. ARCHIBALD Submits the proper place for it is here. Before, I would have been prepared to take a typewritten



copy.

THE COURT: You had your expert examine it, Mr. Rutledge, and now you want to whisk it away and all Mr. Archibald has is this copy about a quarter the size.

MR. ARCHIBALD: If the document is not available, I move the evidence with respect to it be struck out as respecting a document not in the case at all. It is produced here without the intent of it staying here as part of the record; it is shown here and whisked away again. It is most unfair. Later on I may want the document and discover it cannot be found.

I am not prepared to call evidence tomorrow with respect to signatures.

(Mr. Archibald objects to photostatic copy of L/1 being admitted when it is being used for identification purposes.)

THE HEARING ADJOURNED UNTIL 10 A.M.

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coupling & improving.

