



SOUTH WILTSHIRE CORONER'S INQUESTS



Durrington

SMITH, Infant 31st January, 1885

Curious Case of Concealment of Birth at Durrington

A very curious case of the concealment of the birth of an illegitimate child has been revealed at Durrington. It is exaggerated in its interest because of its surroundings. The unfortunate mother and culprit, who is now an inmate of the Fisherton Police Station is Ann Smith, and she was a servant in the employ of Mr Toomer, farmer, of Durrington. The offence itself was strongly denied for some time by her. Even when arrested she protested her innocence, and her statements were apparently supported by her master and mistress. The difficulty of the police was increased by the inability to discover the body. After the unfortunate woman had been confined in the lock-up for a day or two, she confessed the offence, and gave evidence which enabled the police to discover the body on the top of a flue of a kitchen range at her master's house. In the village itself considerable excitement has been caused by the event, which, however, as much arises from the surrounding incidents as from the offence itself.

The inquest was held at the "Plough" inn on Wednesday afternoon, by the Coroner for the division (Mr R A Wilson) and a jury, of whom Mr T Haden was foreman.

The first witness called was PS James Clarke, who is stationed at Amesbury. He stated that on Saturday he accompanied PC Murrell to the house of Mr Frank Toomer. On seeing Mr and Mrs Toomer, he told them he had come to make enquiries respecting a rumour going round the village and he then asked Mrs Toomer if her servant-girl had been confined. She replied "No." He asked "Had she not been ill?" "Yes," Mrs Toomer replied; she went to Salisbury last Tuesday week, and complained of a headache when she came home." Mrs Toomer also said she had not been confined to her room; and Mr Toomer immediately added to this last remark, addressing the constable, "Are you going to accuse her of concealment?" Mrs Toomer then said, after looking at her husband, "We may as well tell the sergeant the truth; she has been confined of a miscarriage." He asked what had become of the evidence. Mrs Toomer said that she threw it down the closet. On going to the closet – Mrs Toomer having provided the constable with a hand lamp – he found something which Mrs Toomer said was what she put there, and which, in conjunction with what Mr Pyle, surgeon, told him as to it, led him to believe that there had been a case of concealment. He made a search for the body on Sunday, Monday and Tuesday morning. On Tuesday evening Mr Supt. Stephens arrived in the village and went with him and PC Murrell to the back-kitchen of Mr Toomer's house. There was a close grate, and on opening the valve he found a bundle which, on removing an outer waterproof cloak, proved to be the body of a male child. Previous to searching for the child he saw the girl Smith who protested very strongly that Mrs Toomer's statement was correct – she said, "if I was to die this moment" it is.

PC Murrell, who is stationed at Durrington, and who was with Clarke when he saw Mr and Mrs Toomer and when the body was found, fully corroborated his statement. The body of the child was, he said, taken to his house; and since he had handed it to the surgeon to make a *post mortem* examination.

Mr Supt. Stephens, of Salisbury, deposed that from information received, he on Sunday went to the house of Mr Toomer at Durrington. There he saw the two last witnesses, the girl Smith and Mr and Mrs Toomer. He saw Smith and Mrs Toomer privately; and charged the former on suspicion with having concealed the body of an illegitimate child. She again denied the offence. Mrs Toomer then said, "I wish to tell you what I told Sergeant Clare was untrue." But the only alteration in her statement was that it was the girl who threw something down the closet. Mrs Toomer then gave a detailed account of the statement of the girl to her. Mrs Toomer added that the girl got up on Wednesday to get her master's breakfast at six; and afterwards went to bed again. Mrs Toomer said she at first thought that the girl had had a little too much to drink at Salisbury, and that that was the cause of her illness. He (witness) asked both Mr and Mrs Toomer if they didn't know the girl was *enciente*; and they said they did previously as long as three months. He took the girl into custody on a charge of concealment of birth.

On Tuesday he went to her in consequence of her having expressed a wish to see him. She said she wished to tell the truth. He having cautioned her, she admitted having had a child, and that after having wrapped it in a piece of cloth she put it up the chimney on top of the fire. Afterwards she said, "it was perfectly true," and signed the statement. In the afternoon in consequence of that statement he proceeded to Mr Toomer's house in Durrington. He went to the kitchen-range – Clarke and Murrell had accompanied him – and saw the bundle taken from the top of the flue. Mrs Toomer was present when the bundle was opened, and at once said, alluding to the waterproof cloak in which the body was wrapped, that it belonged to her.

Mr Charles John Pyle, surgeon, of Amesbury, deposed that he had seen the body of the child found. It was that of a male child; it was fully developed and well nourished. There were no external marks of violence. From its appearance he should say that the child had been born five or six days. He had made a *post mortem* in conjunction with Mr Batho. On removing the heart and lungs *en s*— they all floated. There was no putrefaction. On the section of the right lung there was crepitation and it floated in water; the section of the left lung, although non-crepitant, also floated. From these and other appearances the conclusion that he and Mr Batho had come to was that the child had breathed; and that it died from hemorrhage resulting from its not having been properly attended to. There was no blood in the body, but separate circulation could hardly have been establishment.

Mr William Batho, surgeon, of Amesbury, expressed concurrence with what Mr Pyle had said. The absence of rigor mortis (which Mr Pyle had also noted) seemed (he added) to denote that the child bled to death.

The Coroner, in summing up the case, reminded the jury that their duty was only to consider on the cause of death. Some desire had been exhibited to call Mr and Mrs Toomer, but he thought it unnecessary for the mere purpose of that examination. Whether, too, the evidence they had heard as to the cause of death was sufficient to lay a criminal charge was questionable. Legally speaking, he thought it was not. If the jury thought it necessary to call Mr and Mrs Toomer he would do so; but he thought it would be unwise remembering that probably the police would take proceedings.

Mr Stephens said proceedings before the magistrates would be taken against Smith, and he himself had no desire that Mr and Mrs Toomer should be called as they might be involved.

The jury returned an open verdict – that the infant was found in the chimney, that there were no marks of violence upon it, and that it died from hemorrhage resulting from a want of proper care and attention.

In the course of the hearing, the Coroner remarked that it was a curious circumstance that the last inquest held in that parish was on the body of a child concealed under somewhat similar circumstances. The body was found in a closet; and the Lord Chief Justice Coleridge at the assizes asked what evidence was there the infant had not come by its death accidentally – indeed, there was evidence that the girl had prepared clothes, and he directed the grand jury to throw out the bill. The finding of the body alone, he meant to inform them, did not prove a criminal act.

A Juror : But there's a chimney in this, too.

The Coroner : I agree with you there.

Magistrates Court hearing 1885 February 7th

I will quote only passages of this hearing at Salisbury County Police Station, much of the evidence being already dealt with.

The magisterial examination into the charge against the unfortunate girl Ann Smith of having concealed the birth of her illegitimate child took place on Thursday. The girl, who appeared very moved at her position, was accompanied into the "dock" by Mrs Toomer, the wife of the girl's employer. It was hinted at the inquest that Mrs Toomer would be included in the charge. She now conducted herself with equanimity; and it was only at intervals that she betrayed any anxiety. The magistrates were the Earl of Pembroke and Mr H J F Swayne. The charge was formally that Ann Smith and Mary Toomer did, on the 14th of January, at Durrington, conceal the birth of the illegitimate child of the former. The interest in the case is not likely to be lessened by the assertion of the girl that Mr Toomer is the father of the child.

The evidence of the police officers and the doctor having been taken,

Herbert Penny, of Durrington, a labourer in the employ of Messrs Rawlence and Squarey, said he had been engaged to Annie Smith, and was about to marry the girl. The banns of marriage had been published. Witness did not know that the girl was pregnant. On Saturday, January 24th, in consequence of what he had heard in the village, he went to Mr Toomer's house. He saw Mrs Toomer, and asked her what was the matter as a police constable had been to see him respecting the girl. Mrs Toomer said, "I'll tell you the truth, carter, as you are almost a married man. Annie (the girl) had a miscarriage, and," she added, "I and Frank (Mr Toomer) persuaded her to wear something round her to make herself look big as a man on the farm should not notice any difference in her as she is going to be married. After she is married down in her own home she can leave it off gradually." Mrs Toomer requested witness not to say anything about it.

Mrs Toomer here denied the last witness's statement. Penney, she asserted, told her that the police were coming to search the house, and she added that they might for there was nothing for them to find.

The Witness : I did not. I said I came to see about Annie and you told me what I have stated.

Mrs Toomer : I do not believe I said anything about me and my husband persuading Annie to wear anything.

The Witness : Yes, you did, Mrs Toomer.

Part of Supt Stephens evidence included the following:

In her statement, the girl said, "I have had a child. We've got a kitchen range at my master's house, and I wrapped it up in a cloth and put it on the top of the range over the flue. I wish to say that my master told me after the banns between me and Herbert Penney that I was to tell Herbert Penney that if he would come back to work for my master he would give him 13s a week and would let us have some money to get married with. My master is the father of my child."

The accused having been charged in the usual manner, and asked if they had anything to say, the girl Smith made a statement to the effect that she helped her master to lift a pig, when she was "squeezed."

This was explained by the statement of Mrs Toomer herself. She said, "Annie accounted to me for the miscarriage on the morning I supposed it had taken place by a strain from lifting a pig. I said, "You ought not to have gone out." I told my husband he ought not to have asked her. He said he did it without a thought. The first intimation we had of the girl's state was about three weeks before Christmas from my mother-in-law. I told her it was not true, as I did not believe it. The next morning my husband came home and told me his mother had told him the same. He said, "We had better send her to Mr Pyle to be examined and he could send me a private note by the girl." In the afternoon when Annie and me were alone I told her what Mr Toomer had told me. She then assured me it was not true and she so convinced me that I did not send her to the doctor. I have no witness to call."

The magistrates to consider the case in private and eventually they committed both of the accused for trial at the next assizes.

The girl was bound over in a surety of £10; and Mrs Toomer in one of £50, her husband being the surety.

Assizes Court 1885 April 18th

Ann Smith, 20, and Mary Toomer, 37, were indicted for concealing the birth of a male child of Ann Smith, at Durrington, Wilts.

Mr Ravenhill prosecuted, and Mr Read defended.

It seemed that Smith had been employed as a domestic servant by Mrs Toomer, at Durrington, Salisbury, and at the outset his lordship intimated that, having read the depositions, he could not see that there was any case against Mrs Toomer.

Mr Ravenhill said he could not press the case any further, and on the application of Mr Read a verdict of not guilty against Mrs Toomer was recorded, and she was discharged.

PC Clarke obtained information that on the 14th January the prisoner Smith had been delivered of a child, but she denied it. The body was afterwards found in the flue. Subsequently she admitted the offence, and, in a written statement, she alleged that her master was the father. The prisoner was convicted by the jury, who strongly recommended her to mercy.

His lordship, having ascertained that the young man with whom the prisoner was keeping company was still willing to marry her, he sentenced her to only four days' imprisonment, which, as the assizes had commenced on Saturday, had already expired. The judge added that he did not, under the circumstances, think it expedient to confine her within the walls of a gaol for any length of time, as he believed that what she had done was only to conceal the delivery of the child by herself.

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