

The Trial of James Barry for the Murder of Charles Morgan Blessing

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Adapted from the Cariboo Sentinel's court reporting

The spectators have arrived in the courthouse. A court

CLERK sits at his bench, tabulating attendance numbers. The judge's chair is empty. The CLERK checks for latecomers, closes the door behind him, and addresses the audience as he takes his place to stand and deliver the PREAMBLE.*

**The CLERK can be played by whatever Judge is on staff on that day: Ball, Bushby, Brew, O'Reilly, or otherwise.*

CLERK

Good afternoon, ladies and gentlemen. My name is _____, a magistrate, and representative of Queen Victoria, I am charged with the task of administering Her Majesty's justice in this colony. Before we begin today's session, I suppose I should enlighten you all on some basic conventions of courtroom etiquette.

I would like to extend my gratitude to those gentlemen in the room who have remembered their courtroom etiquette and removed their hats whilst in the courtroom. Further, I could not help but notice several of you carrying motion picture boxes or other such recording contraptions. Due to the nature of this presentation, I should ask that you keep these ... mechanisms... to yourself for the duration of our session. After which, the Judge and I will be more than happy to pose for a photograph, so long as the content of said photograph in no way detracts from the dignity of the judiciary.

I will also say that this lovely 133 year old building is indeed

a commissioned courthouse to this day—and is certainly not a cafeteria. God willing, it shall never become one. No lunch. No coffee. No confectionary. Not here. Water is completely fine, but please leave your stimulant-laden treats by the door or promptly dispose of them in the receptacle near our flagpole outside. There is plenty of room outside if you wish to feed amongst the vermin.

Due to the grave nature of today's proceedings, I will ask politely that you refrain from speaking to each other, or to us, while court is in session today. If you have any questions, we will answer them when court is adjourned. Should you feel the need to converse with each other, feel free to do so outside. And please, don't burden yourself with the awkwardness of re-entry, *simply leave*. If you find you must go, for any reason, don't feel the need to verbally excuse yourself, once again, just be on your way as quietly as possible.

Thank you.

Now, let us begin. Who here knows what the date is?

Really?

The date is July 4, 1867 and you have all come to witness and participate in the trial of one James Barry, who has been accused of the murder of Charles Morgan Blessing, just 35 miles down the road toward Quesnelmouth. The judge and I will represent this trial as accurately as possible, but considering the duration of this case was over a year, we will

condense and simplify certain elements of the process in order to remain within a reasonable frame of time. I should also mention that due to the scant budget allocated to delivering justice in this Gold Rush...*Off stage judges ahem.*

Shall I say it has never been a... highly prioritized expenditure for the Queen and legislative assembly *Off stage judges ahem..* allow me to forewarn you that due to limited financial support your very able and talented court Clerk will represent multiple roles.

Once again, if you have any questions about more specific details of this trial or our judiciary system, we will be more than happy to answer them after today's trial is adjourned.

Now, I will check for latecomers, have a quick discussion with his lordship, and then we will commence proceedings.
Thank you.

[Beginning of show proper.]

CLERK

All rise! OYEZ OYEZ OYEZ! This court is now in session. Honourable Judge Matthew Bailey Begbie presiding. All persons having any business with her Majesty's judge at this general session of the peace, in the judicial district of Cariboo, draw near, give your attendance, and ye shall be heard.

God Save the Queen!

[Repeat until call and response is satisfactory.]

JUDGE

Welcome ladies and gentlemen, and thank you for obeying the command to rise when I entered the courtroom. I do trust that you understand why this convention is of the utmost importance, yes? Well, of course, because as stated in the royal decree signed by Queen Victoria herself, which I carried with me when I arrived in British Columbia in 1858, I am the first official representative of Her Majesty. And I should hope that had our Good Queen entered this courtroom instead of myself, that we all would have stood up promptly and shown a little more patriotic fervor than that.

Now, first of all, in dealing with the business of the day, I feel compelled to address the severity of the charges being laid upon one Mr. James Barry. Unlike California, the crime of murder is relatively uncommon in our colony and I never take this offence lightly. For a grouse hunter to accidentally discover a decomposed body, devoid of flesh, decaying amongst the muck, shot dead, stripped of wealth and possessions... this certainly does not represent a just death for any man. As a matter of fact, it represents an abrupt, violent, and unfair termination of a human life.

At this point, Mr. (CLERK), bring forth the bill so I can initiate today's formal proceedings... Let us begin the official assizes, shall we Mr. (CLERK)?

CLERK

Yes, milord. *[Hands the bill]*

JUDGE

Retrieve the prisoner, will you (CLERK) ?

CLERK

Yes, milord.

[CLERK brings James Barry forth, from the jury room, and places him in the dock.]

JUDGE

This court calls upon James Barry.

Prisoner, the indictment reads that you, James Barry, are being charged with the offence of murder in the case of one Charles Morgan Blessing. This offence is believed to have occurred roughly thirteen months ago near Beaver Pass.

How do you plea?

BARRY

Not guilty.

JUDGE

Be seated, prisoner. The prisoner, James Barry, has pleaded
Not Guilty. Let us empanel a jury.

I will begin the process with a far more liberal approach than most often. How many of you spectators and members of the Williams Creek community would actually appreciate the responsibility and notoriety which accompanies jury duty? Do keep in mind you must be good and true to sit on the jury bench...

[One by one the Judge and Clerk assign roles to volunteers and others until a proper jury is assembled.]

J.H Todd (foreman), Winkler, Oppenheimer, Brouse, Dr. Carra;;, Pearson, Moorhouse, Mann, Glink, C. Strouss, Lecuyer, L. Weill]

Now we must allow the assizes to continue, this was a far more chaotic jury selection than we are used to, wouldn't you say Mr. (CLERK)?

CLERK

Shall we move on to questioning the witnesses?

JUDGE

Precisely.

This court calls upon Mr. William Fitzgerald.
Do you swear to tell the truth, the whole truth, and nothing
but the truth, so help you god?

CLERK (as FITZGERALD):

I do, your lordship.

JUDGE

Proceed.

FITZGERALD

Yes your lordship. My name is Henry Fitzgerald and I am Chief Constable of the Cariboo. On September 27 last, I went with Mr. George William Cox to a place about a half mile below Edward's Ranch where the Wagon Road meets the old trail... near Beaver Pass... There we examined the decomposing remains of a man who had been shot in the back of the head. It seemed as though the body had been there several months. Scattered around the corpse and in the remnants of his tattered clothing we found several personal items with the mark of C.M.B or C.M. Blessing inscribed.

The first item we found was a silver hunting case watch,

makers name John Tobias, Liverpool England.

JUDGE

Would the Special Constable take the watch from the evidence table and present it to the Jury.

FITZGERALD

We then found a silver pencil case bearing on the seal the initials C.M.B.

JUDGE

Would the special constable please take the pencil case from the evidence table and present it to the jury.

FITZGERALD

We also found a new tin drinking cup with similar inscriptions C.M. Blessing which identified the deceased.

JUDGE

Would the Special Constable take the cup from the evidence table and present it to the jury.

FITZGERALD

We left instructions for the body to be decently buried, gathered the evidence, and returned to Richfield. We then

searched the mining license records and we could not find
Blessing listed.

Later on, Wellington Delaney Moses insisted I question a
Hurdy Gurdy dancer. This woman was in possession of a
unique pin that we suspect to have belonged Charles Morgan
Blessing. This man was the prisoner--James Barry's--
traveling companion. Blessing's name matched to the
inscribed initials on the evidence. Of course I connected this
with the corpse at Beaver Pass.

*[JUDGE instructs SPECIAL CONSTABLE, PIN is shown to
FITZGERALD who verifies this is the pin he has mentioned]*

She said that the prisoner gave it to her in a saloon one
summer night back in 1866. Shortly after the body was
discovered James Barry left Williams Creek. I dispatched
Mr. Sullivan after him.

JUDGE

Mr. Sullivan, do you swear?

CLERK (as SULLIVAN)

I do.

SULLIVAN

On Tuesday, October 2, I received a warrant for the arrest of
James Barry, charged with the murder of Charles Blessing. I

left immediately and after 120 miles of hard travel I arrived at Soda Creek the next day. There I learned that Barry had fled on a stage coach headed for Lytton. I got Mr. Spalding to telegraph Mr. Saunders and have arrest James Barry, I then went straight to Yale by coach.

JUDGE

You used a telegraph to accomplish this, Mr. Sullivan?

SULLIVAN

Yes. They had just finished installing a telegraph in that particular station, and I am quite certain it was the first message sent south from one of our Northern Telegraphs.

JUDGE

Remarkably convenient, I'd say!

SULLIVAN

Yes, your lordship. As I was saying, when I arrived on the 8th the prisoner was in custody and handed over to me by Mr. Saunders.

JUDGE

Rather ingenious, indeed. If I may say, that is the first I've heard of a telegraph being used in such a way as to apprehend a criminal in a murder investigation!

SULLIVAN

Could very well be, milord. But it was nothing more than a reasonable course of action. I started back from Yale with the prisoner on that same day. He was going on about how he was sure Moses, the barber on Williams Creek, had laid the charge. That Moses had confronted him with suspicions on numerous occasions and that it created conflict between the two. He said he'd sold his pistol to Dutch Bill at Wallace's Roadhouse and that he couldn't recall the name of the murder victim, the fellow that we suspect he travelled with on the road to Barkerville.

Also interesting is that Mr. Saunders told me that Barry had given him a false name when he was arrested at Yale.

Barry retorted by saying this lie was only a joke.

What struck me as most odd was when we discussed his finances, he had contradicting statements.

He first said he had "enough" when he arrived on the creek but went through it quickly on the "Hurdy Gurdy dancing girls," later he remarked he arrived with very little and did not spend much on the Hurdies at all. Thank you.

JUDGE

It was at this point in this historic trial when one Frederick Dibble was called to the stand. He testified to an encounter of Barry's with a German dancing girl. This encounter involved a key piece of evidence.

CLERK

Yes, indeed milord. Now, Frederick Dibble was a miner in the Cariboo and-

JUDGE

Thank you, (CLERK), but due to what we now know about this trial, liberties will be taken with this specific testimony. In the actual trial, Mr. Dibble provided third party testimony about the particulars of this evidence. However, for the purposes of this re-enactment, I believe we should move closer to the source.

CLERK

Pardon?

JUDGE

Don the wig, Mr. (CLERK)

CLERK

Well... your lordship... I'd really rather not.
[JUDGE extends a wig to CLERK at the witness stand.]

JUDGE

Don the wig, Mr. (CLERK)

CLERK

Aye. For the record, I never agreed to this.

JUDGE

Mr. (CLERK), your non-compliance is not something to be proud of. Not only does this enhance the educational experience of our spectators, but it also sheds light upon a key witness who, due to circumstances at the time, was not available to take the stand.

Please, Mr. (CLERK), don the wig!

CLERK

Yes, milord. *[puts wig on]*

My name is-

JUDGE

Accent, Mr. (CLERK).

CLERK

Pardon!?

JUDGE

Mr. (CLERK), you must be true to her nature, vocally. Now, do you swear to tell the truth, the whole truth, and nothing but the truth so help you lord?

CLERK

[with a german accent]

Ja, milord.

JUDGE

Hmmm... the tone is still rather masculine.

CLERK

Can we please just move on, your lordship?

[takes off wig]

JUDGE

[intense and commanding]

Don the wig, Mr. (CLERK)!!!

Mr. (CLERK), when you decide to take doing justice to your representation of this important witness seriously, then we will move forward. In the meantime, I can wait. We can all wait, can't we? *[to audience]*

Waiting on you. Mr. (CLERK).

CLERK

[in a boisterous german woman's accent]

Ich heisse Johanna Reichtumstehlen. At das start of June, ja, Ich bin dancing. Ich bin arbeit... working. In das saloon in Williams Creek. Das prisoner, liebt dancing. Loved.

Dancing with me. We had much fun, he was very handsome, but he was soon run out of money. I teased him about trading this nice pin for a dance, was teasing about this all night. This golden pin. Finally he gave it to me and we danced... a little bit longer.

JUDGE

This pin, madam?

CLERK

Ja, this is the pin. I recognize this pin forever. Ven do I get it back?

JUDGE

Pardon? Mr. (CLERK) you may take off the wig.

CLERK

[makes a grab for the pin]

Ven!?

JUDGE

MR. (CLERK)!!!!!! The wig! Now.

[CLERK hesitates a little, hands it back, and transforms into himself again.]

CLERK

Did I do her justice, milord?

JUDGE

‘Twas... Splendid, Mr. (CLERK), but let us continue... and I will summarize the next witnesses as to demand less of your ... theatrical... abominations...

After Frederick Dibble, several other witnesses took the stand. Boarding house owners and travelling companions of both Blessing and Barry from different points of their respective journeys.

One fellow claimed to have watched Barry and Blessing rolling up their blankets and heading toward Williams Creek from Quesnelmouth.

He also observed the two of them camped out beside the road at 13 Mile House.

He saw Blessing a final time at a location just 1.5 miles from the scene of the crime, not long before Barry arrived alone at Van Winkle.

The brothers Fraser, William and Daniel, travelled with Barry from New Westminster to Quesnelmouth. On this trip they discovered that Barry had a six-shooter which was commonly suspected to have been stolen from the watchman, Fred Bowers, in New Westminster.

It became clear that on his way to Barkerville the prisoner was extremely poor. James Barry once spent hours searching through oyster cans amongst broken rock, convinced he would find \$1200 of hidden treasures, and would often beg his companions to lend him a few dollars for the journey. Eventually Daniel Fraser gave him \$5.

In late May, upon arriving in Quesnelmouth, the Fraser's last saw Barry sleeping with the pistol under pillow. Days later, they saw him dancing with a rather expensive hurdy gurdy dancer in Cameronton.

Mr. Wilcox, a boarding house owner, reported that Barry paid for room with Bank of British Columbia bank notes and wore a revolver slung in a belt, which he said belonged to him ever since he was a soldier in the American civil war.

And then Wellington Delaney Moses took the stand.

MOSES

I am a barber in Barkerville. I last saw the prisoner James Barry on the 29th of May, at Quesnelmouth. Charles Morgan Blessing and I travelled together from the Junction; we started from New Westminster together, but separated between Yale and the Junction, we left the junction at 2 ½ o'clock on the 22nd of May, and reached Quesnelmouth on the 28th. Blessing and I ate and went to sleep at Brown and Gillis' boarding house, the next day we became acquainted with James Barry. Barry addressed me as Mr. Moses though

I didn't recall having seen him before, and commenced a conversation about leaving to Williams Creek. He and Blessing both decided they would leave the next morning, but I had to stay behind and take care of some business in town, else I'd lose \$10. Blessing said he would go, as he was gaining nothing and losing ground sticking around in Quesnelmouth. But he told me he'd rather not travel with the prisoner. Figured him strange. Blessing told me to remember his name, distinctly he told me not to forget he was Charles Morgan Blessing. He would go with Barry, but he was suspicious. They would be one day ahead of me at Van Winkle, where Blessing worked back in '62, said there were some boys from Last Chance Creek who would give him some work, and if not he'd go to Williams Creek, but in all events we planned to meet in Van Winkle. He said he didn't have all too much money left, but when it came time to settle for drinks, he put his hand into the breast pocket of his coarse shirt and took out a pocket book, he pulled out a \$20 Bank of British Columbia note. I said "Charley, chummy, you're not broke yet," he said, "No, I have a few more of these left," the barkeeper gave him the change, which he placed in a small clasp purse and put it in the pocket of his pants.

When I awoke about 5 o'clock, the two of them had already left for Williams Creek. I never saw Blessing again. I arrived in Van Winkle as scheduled on the 1st of June and inquired if anyone had been asking for me, the answer was in the negative. I thought it odd, and a few days after arriving in Barkerville I'd not yet seen my friend but I saw Barry at Dixon's shop where I was staying and I asked him:

“What did you do with my ‘chummy’?” he replied “Your chummy??? Oh! That coon, I haven’t seen him since the morning we left. I left him on the road, he couldn’t travel. Said he had a sore foot.”

Blessing told me he had no more than fifty or sixty dollars before he left, he was a very timid, quiet, moral man as far as I could tell.

JUDGE

And you are certain the two men left from Quesnelmouth together?

MOSES

Prisoner told me so himself when we last spoke in Barkerville.

JUDGE

Mr. Moses, do you recognize this pin?

MOSES

Of course I do, your lordship.

JUDGE

Please elaborate.

MOSES

Charley was mighty proud of this pin. As if he pulled that nugget from the ground himself... He showed it off to me one night, showed me how if you looked at it from the right angle, with the right light, it looked an awful lot like a certain kind of face...

I had my suspicions about James Barry from the moment I met him. And I certainly doubted him when he was flaunting about the creek, blowing money on the dancing girls and fancy boarding houses, and claiming ignorance on the whereabouts of Charley... But when I saw this pin in the hands of another, I knew for certain he was a criminal.

JUDGE

Now, after the various testimonials on the behalf of the prosecution, the lawyer, Mr. A.R Robertson had the task of defending James Barry. He addressed the jury on behalf of the prisoner.

CLERK (as ROBERTSON)

Ladies and gentlemen of the jury. What you have heard is a mix of fact and fiction in relation to James Barry, an honest, hard-working, American miner. I will begin by saying that there were no witnesses to this hypothetical crime. James Barry may have asked for some friends to lend him \$10 here or there, but that's not to say he was desperate enough to kill another man. There have been many unsolved murders in

these stretches of wilderness, and on these solitary roads that stretch hundreds of miles, many would-be miners come and go, making acquaintance with each other. When I listen to the testimonials of these “witnesses” one has to question, what did they witness??? The prosecution has based it’s case on hearsay and circumstantial evidence. My client insists, ladies and gentlemen, that he never travelled with any stranger until he arrived at the 13 mile house. There he and Blessing travelled with several other miners, and when it was only the two of them remaining, they travelled but $\frac{3}{4}$ of a mile together before parting. My client has not since seen Blessing, who had sore feet and was moving at a slower pace. He continued forth, passed three or 4 men of Chinese descent along the road, and arrived in Van Winkle. My client’s discussions with Wellington Delaney Moses have been misrepresented in today’s trial due to a personal strife between the two, and Mr. Sullivan’s claims about their conversation on the way up from Yale to Richfield has also been distorted. In truth, I am shocked that the court has allowed such counterfactual biases to stand as legitimate proofs. I am forced to wonder why this particular murder case has found a scapegoat in James Barry. James is just one of tens of thousands of miners who walk this colony’s treacherous trails. This murder, like the other unsolved murder cases here in British Columbia, could have been committed by any one of them. I will reinforce that the crime which my client is being accused of committing has no witnesses. I have nothing else to say, but I assure you once more that James Barry is no murderer. He is merely a victim of circumstance.

JUDGE

An able speech, indeed. In typical court trial, this is where the prosecution would speak. But as I have often had to represent the defense, the prosecution, as well as perform my duties as a judge, I consider myself more than capable of providing a brief summation of the evidence gathered in the case against Mr. Barry.

First of all, this pencil case and sheath knife both have the initials of C.M.B carved into them. Moreover, this tin drinking cup clearly says “C.M. Blessing”
And this coarse, gray jacket, is akin to what Moses describes Blessing wearing in the tavern the night before they parted ways.

With these pieces of evidence in hand, we can be quite certain that the unrecognizable figure decaying in the wilderness of Beaver Pass was the missing Charles Morgan Blessing.

This pin has been mentioned in many different contexts by most all of our witnesses today. Recognized by travelling companions of Blessing, this is a very uniquely shaped object that wound up in the hands of a dancing girl, who claims it was given to her by the prisoner. Witnesses of many parties claim they saw Barry and Blessing travel together, and James Barry admits for some time that they did.
Under British Law, it is not my duty to judge whether this man, James Barry, the American miner, has committed this offence or not. But, with the prosecution in mind, I can

certainly suggest that there seems to be an overwhelming amount of circumstantial evidence presented, as well as noticeable incongruity in the defence.

At this time I do believe the jury is prepared to retire to the jury room and deliberate a verdict. Under British Law it is your duty, not mine, to decide whether this man is innocent as he claims, or whether sufficient proof has been presented to convict him of murder.

Bear in mind the gravity of this offence, and be aware that a man's life hangs in the balance of your decision.

Go to the jury room and deliberate your verdict. I will be in my chambers.

[CLERK guides the jury to the jury room, JUDGE leaves.]

CLERK

Judge Begbie and I are referred to as Circuit Judges, our work involves several hundred miles of walking and riding every year. We pride ourselves on swift justice and efficient use of our time. It is for this reason the jury is given but one single hour to reach a verdict. I will say that most

courthouses of the time did not have a jury room, and while

British Columbia is certainly known to be an area of extremes in weather, no matter what the conditions were, we would all be forced to wait outside while the jury stayed inside to reach their verdict. So let us take a moment to appreciate the shelter this fine courtroom provides us with.

For one full hour the jury discussed, argued, and deliberated.

I will now get the jury.

[goes to the door]

Have you reached your verdict?

Excellent. Come on back. I will return shortly.

[Goes to chambers to retrieve Judge]

ALL RISE!

God Save The Queen!

JUDGE

I trust the jury has reached a verdict, Mr. (CLERK)?

CLERK

So they say, milord.

JUDGE

Please retrieve it.

[receives the verdict. This goes one of two ways. If the verdict is “Not Guilty” a slightly altered GILCHRIST RANT is performed with a segway into what follows]

This jury finds James Barry guilty in the murder of Charles Morgan Blessing.

I concur with the verdict of the jury; it is one given after due consideration of the whole circumstances.

Prisoner, it is clear that you started with the murdered man from Quesnelmouth; that you knew he had money; that you were penniless; that you were seen at the 13 Mile House in his company; and again seen with him a short distance from the spot where the body was afterwards found, and that the man was never more seen alive. You had money when you came on the creek; you were in possession of a nugget belonging to the murdered man... You are found in possession of a weapon that would produce the crime. I can no more doubt your guilt, than if I had been an eye-witness to it. I have no doubt you seduced your victim to leave the road and then perpetrated the crime; and that you did it for the sake of booty, the most sordid of all motives; that you reveled for months on the proceeds and then left; that you gave a false name when apprehended. You have given no explanation regarding the nugget, and none as to the disappearance of Blessing; you have appeared perfectly indifferent.

It has been proved that you did not work or do anything to get money. It is impossible to conceive a crime more wanton or atrocious than that which you have committed. I can offer you no hope of mercy. You have...dyed your hands in blood, and must...suffer the same fate. The law is death for death.

My painful duty now is to pass the last sentence of the law on you...; which is that you be taken to the place whence you came and from thence to the place of execution, there to be hanged by the neck until you are dead; and may the Lord have mercy on your soul.

[BARRY is led out of the courtroom by the CLERK]

CLERK

Justice was swift, wasn't it, Matthew?

JUDGE

Indeed. Time is of the essence, Mr. (CLERK), as you know.

Within a few weeks a scaffold was constructed and James Barry was hanged publicly at dawn for the murder of Charles Morgan Blessing.

CLERK

And by then, we were long gone.

JUDGE

Indeed, continuing to the next settlement... and the next settlement.

CLERK

And the next. And the next.

JUDGE

And the next. And so on.

CLERK

James Barry is buried now in an unmarked grave in the cemetery on the way back toward Barkerville. There is no tombstone, only a noticeable lump in the ground at the site. He rests beside Palsk, a man who killed ten and was hanged and buried on the same day. They are the only two men ever to be hanged on Williams Creek. And as you leave toward Quesnelmouth, on the right hand side, you can stop and see British Columbia's smallest park, the scene of this crime, and the gravesite of Charles Morgan Blessing. It is a quaint, secluded, and restful spot. Wellington Delaney Moses raised the funds from community members to arrange this proper burial for Blessing, a sign of friendship and respect.

JUDGE

Yes, Charles Morgan Blessing was murdered in this wilderness, in a case brought to justice by the people of Cariboo, as well as us, the representatives of Queen Victoria here amongst the hardy citizens of this untamed colony.
We are adjourned.

All Rise!

GOD SAVE THE QUEEN!

