

# THE SALACIOUS SHE.

## An Alleged Rape.

### A FORMER EXPERIENCE OF MRS. SCHMARR'S.

#### An Episode in a Curious Career.

**Maud Cook Declares that Jack Guerin Carnally Ravished Her; but Medical Men Discredit Her Story and the Bench Discharge the Accused Without Asking Him for a Statement.**

When the case of Frederick Mitchell, charged with attempted rape and acquitted, was dealt with on the 4th instant, at the Metropolitan Quarter Sessions, the counsel for the defence, Mr. W. A. Walker, cross-examined the prosecutrix, Mrs. Isabella Schmarr, at considerable length as to

#### A CHARGE OF RAPE

that she had made against a man named John Guerin. The Crown Prosecutor, Mr. Murray, objected to what he called "this piecemeal way" of getting out the evidence, and he asked that the whole of it be read. Mr. Walker had no objection, and so the depositions were handed up to his Honor Mr. Justice Rogers, who carefully read the whole of them to the jury. There can be no doubt that the reading of these depositions greatly

#### ASSISTED THE JURY

in coming to a decision, and in consequently acquitting the accused Mitchell.

This case against John Guerin was heard at the Camden Police Court on January 24, 1894. The Bench consisted of Messrs. Charles Badham, S.M., and Charles Turner, J.P.

Constable Charles Parker testified that when he arrested John Guerin, and charged him with having committed the crime of rape, accused replied, "I am innocent of the charge."

Mary Ann Cook the foster-mother of the prosecutrix said that she lived at The Oakes, a township about ten miles from Camden.

#### WITH HER HUSBAND.

A retired blacksmith. The girl, Isabella Maud Cook, now called into court, was an adopted child of witness' husband. Witness thought she was about 15 years old. About 5 o'clock in the evening of January 22 witness sent Isabella Maud Cook to look for a cow at The Oakes Creek, about 20 minutes' walk from witness' house. She was away about a quarter of an hour and returned, crying, and with her dress crumpled. She made a complaint to witness, and, in consequence thereof, witness went, accompanied by accused's uncle, Michael Devitt, to the residence of accused. When they got to accused's house accused said,

"WHAT IS THE MATTER?"

and witness said, "I suppose you know what is the matter." Accused laughed and said, "I only did it for a lark. I laid her down and pulled up her clothes. I did nothing else." Witness said that she would take her to a doctor and have her "proved." Accused replied, "I would like you to." Witness then took the girl first to Dr. Muller and then to Dr.

like you to." Witness then took the girl first to Dr. Muller and then to Dr. Bell. She afterwards obtained a warrant for the arrest of Guerin.

Under cross-examination, the witness said that when she went to see accused the girl Isabella Maud Cook was not present at the conversation. She had, however, apparently made a mistake in this, for she afterwards stated that

#### THE GIRL WAS PRESENT,

and heard everything. Witness, in fact, said that when Guerin had stated that he had only pulled up the girl's clothes, witness said, "If he did nothing more than that to you, won't you shake hands with him and make it up." The girl, said witness, replied, "I won't, for he did more than you know; he had connection with me." She never complained to witness about other people having connection with her. Witness never told John Cook that she believed Maud to be in a certain condition, nor did witness tell Mr. Goldsmith, the catechist, that the girl was in a certain condition. Witness knew Jack Schmarr, her son-in-law. It was a fact that witness had asked the girl if there were anything

#### BETWEEN HER AND SCHMARR.

The girl then admitted that what she had previously said about Schmarr was untrue, and that her mother had put her up to it. Witness did not notice, when the girl returned to the house, whether she walked with difficulty or not, but she looked broken-hearted, crying. Witness could not read or write, and could not tell how old she was. When the story was got up about Schmarr, the girl was only 12 years old. Maud was charged at the Picton Court with taking a hawker's money, but the case was dismissed.

Isabella Maud Cook said that she went, on the occasion referred to, to get a cow from a creek that is about half a mile from "our house." When

#### LOOKING FOR THE COW,

witness saw accused between her and his own residence. He said to her, "Come here, Maud, I want you!" Witness said, "What do you want me for?" He did not answer, but caught hold of her round the waist and carried her into some bushes. He then laid her down and had partial connection with her, but she struggled with him. She could not struggle away from him, and she could do nothing. Witness cried out often: "Stop it." Witness heard footsteps on the bridge, and accused, after remaining two or three minutes, left. As he left, witness said, "I will go

#### STRAIGHT HOME AND TELL,

and if they don't take me I shall go straight into Camden." Witness was crying. Witness then went and got the cow and drove it home. Then witness made a complaint to Mrs. Cook, and Mrs. Cook went with witness to Guerin's place. At accused's place witness accused Guerin of the rape, and said, "You tried to do it again, but I managed to prevent you." Mrs. Cook then said she would take witness to a doctor, and Mrs. Cook said to witness, "Will you shake hands with him and say good-bye?" Witness replied, "No."

#### ACCUSED HURT WITNESS.

He had her hands grasped, lay on the top of her, and kept her down. Witness did not give accused consent to have connection with her. It was quite against her will. Witness was afterwards examined by Drs. Muller and Bell. Witness wore clean underclothing at the time of the offence. It had not since been washed. After the assault witness noticed that her

#### UNDERCLOTHING WAS WET.

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Cross-examined. I have never accused anyone else of having connection with me. I know a man called Schmarr. My mother told me to say about him this, that I was enciente by him. Therefore I told Mrs. Cook so. It was not true. I afterwards told Mrs. Cook it was not. I never told Mr. Goldsmith, the catechist, that I could not attend his confirmation class because I was enciente. I was charged with taking a hawker's money. I said I never took it from where he said. I was discharged by the magistrates. I had no bruises on me after this assault. I could hardly move by the way he had me. I know where Mr. Devitt was working. He could not

#### HEAR ME CRYING OUT.

I think, by reason of the noise of the water in the creek. If Mrs. Cook said this morning that, when she asked me

to shake hands, I directly after said, "You don't know what he did," Mrs. Cook is not correct. I said all that he had done at the interview. Mr. Devitt was quite close, and could hear all. Guerin did say, "I would not have done anything to you if you had let me." I replied, "You did do it." I did tell Dr. Bell that prisoner was startled by someone calling out on the bridge. It is a fact that prisoner did say to me, "Who is that calling?" I said, "It's mother calling Lydia. It's time I was home." He was attempting to assault me then. I told him Mrs. Cook was calling to induce him

#### TO LET ME GO.

Lydia Cook said that she heard Maud Cook calling out "Stop it," and, afterwards, she saw Maud crying as she walked up a little path. Witness could not tell whether "Stop it" sounded as if it came from someone in trouble or at play. It was not very loud.

Dr. Hans Muller testified that he examined Isabella Maud Cook, and found absolutely no signs of rape.

Dr. George Bell said that he also had examined the girl, without detecting any definite signs of rape. She said she had no difficulty in walking. Although the girl said that she was prepared to swear that she had never had connection with anyone but Guerin, witness judged

#### BY CERTAIN INDICATIONS

that her statement was not correct.

Michael Devitt said that he was present at the interview with Guerin, who said nothing about having pulled up the girl's clothes. Witness heard Maud Cook say, "You would if I had let you." There was not sufficient running water in the creek to drown the sound of a voice.

The Bench, having heard the evidence, declared that it did not warrant them in calling upon the accused to make any statement, and he was therefore discharged.