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Application for a Reprieve of Chester Gillette.

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, March 29, 1908.

In the Matter of the Application for a Reprieve of Chester Gillette.

On December 4, 1906, Chester Gillette was convicted of the murder of Grace Brown on July 11th of that year. On February 18, 1908, the Court of Appeals unanimously affirmed the judgment and he was then sentenced to suffer the death penalty during the week beginning March 30th. Upon application for executive clemency, and after a careful examination of the evidence, I reached the conclusion that there was no ground upon which I should be justified in interfering with the execution of the judgment of the court.

A reprieve is now asked in order that proceedings may be taken to obtain a new trial upon the ground of alleged newly-discovered evidence.

It is the privilege and the duty of the executive to grant a reprieve whenever the interests of justice require it. But where the petition is based upon the claim that evidence has been newly discovered and the character of the evidence is clearly disclosed, the executive should not interfere with the sentence unless he is satisfied that the case is one in which the application for a new trial should be made and heard. Whatever his power, the Governor has no right to grant reprieves unless he can assign good cause and if the adminis-

tration of the law is to be respected, petitions made at the eleventh hour must show merit. I find none in the present case.

A portion of the alleged newly-discovered evidence is to the effect that Gillette had torn the ribbon band from his straw hat in September, 1905, and had given it to his companion. The object is to rebut any inference from the absence of the interior lining of the prisoner's hat, when the latter was found floating on Big Moose lake, that it had been taken out to avoid identification. This, however, is of no importance. By his conduct both before and after the fatal event, it is conclusively established that he did seek to avoid identification, and the question whether or not he removed the lining of his hat for that purpose is not of much moment.

The other evidence before me, so far as it is at all credible, is to the effect that Grace Brown during the year preceding her death had "spasms" or "spells" from time to time in which she became unconscious. These are described by those who knew her in the factory at Cortland. It is testified that this was a matter of common knowledge among the girls who worked with Grace Brown. There were seventy-five girls on the floor where she worked and two of the witnesses say that they believe that all these girls saw Grace Brown have "these spasms some of the times." It is evident that the facts as to the physical condition of Grace Brown and as to these alleged manifestations, assuming the truth of the present statements, were easily procurable and that any inferences to be drawn therefrom have at all times been available.

The theory of the defense at the trial was that Grace Brown committed suicide.

The theory now advanced is that Grace Brown was an epileptic subject and that if she had an epileptic seizure in the boat upon the fatal day and if during the attack she sustained the various injuries found and fell into the water, the condition of her body as disclosed by the autopsy might be accounted for.

But this theory is wholly untenable. It is conclusively disposed of by the statements, conduct, and testimony of Chester

Gillette himself. If it be assumed that there was such a seizure and fall as might be deemed to account for the condition of the body, it is inconceivable that they should have escaped the observation of the prisoner; and if he had observed anything of the sort it is inconceivable that he should have made the statements and have given the testimony which appear in the record of the trial.

No view of the unhappy event is adequate which fails to take account of the proved facts — the events preceding Grace Brown's death, the condition of the body and the character of its injuries, the overturned boat with Grace Brown's cape on top of it, the disposition of the tennis racket, the conduct of the prisoner previous to the tragedy and subsequently, and the manner in which he sought to explain it when defending his life. If reason is to be our guide and all the established facts are taken into consideration, there is no escape from the conclusion that a brutal murder was committed and that the conviction was just.

After examining the evidence now presented, I find nothing in it which in any way can affect this conclusion, or which furnishes any justification for executive action.

(Signed) CHARLES E. HUGHES.
