

Crown finds cracks in hotel owner's testimony

By MAGGIE HANNAH
Herald Special
The Crown proved last Tuesday that despite Cosimo Mercuri's denial the previous day, the Acton hotel owner had an affair with a bartender he employed.

Statements made by Mr. Mercuri in his defence of a second degree murder charge in the Ontario Supreme Court were slowly eroded by Crown Attorney Paul Stunt during an aggressive cross-examination.

Mr. Mercuri, 43, and hotel

employee Michael McCrystal, 49, are charged with second degree murder in the death of hotel resident Howard Gibbons, 58, during a fire which destroyed the hotel on Aug. 19, 1979.

A third defendant, Leonard Cripps, 57, was acquitted March 29.

Mr. Mercuri vehemently denied having an affair with his bartender Heather Moreland of Guelph.

He remained silent when Mr. Stunt told him he was under

surveillance by the Halton Regional Police the night his home was searched and boxes of records and building plans were seized in October, 1979.

Dr. Johan Trapman told the court he treated Mr. Mercuri in July and August, 1979, when he broke a bone in his hand and had to wear a cast. Dr. Trapman said the cast went on July 29 or 30 and was removed Aug. 20.

While it couldn't be impossible for a man to lift boxes or filling drawers weighing up to

20 pounds shortly after the cast was removed, he felt it would be painful.

Mr. Mercuri said he removed such items from the rubble at the hotel when it was returned to him a few days after the cast was removed.

Mr. Mercuri admitted a criminal record and said he was convicted and received a suspended sentence in September, 1976, for a charge of theft over \$200. In February, 1981, he was fined \$500 and put on probation when he pleaded

guilty to a charge of careless use of a firearm.

Mr. Stunt questioned Mr. Mercuri about how he could keep the hotel going when he and his wife together drew a salary of \$2,177 per month but their mortgages alone were \$4,900. On top of that he had food, car, heat, hydro, clothing, entertainment and any other normal living expenses of a usual family to meet from the salary which was automatically short about \$2,700 a month.

"You couldn't make ends meet on your salary," Mr. Stunt said. "You were in a sinking boat."

"Show me any payments I was late about," Mr. Mercuri snarled. "I'm not a bookkeeper. I don't know how to read

that (pointing to an exhibit of his personal finances prepared by the Crown's bookkeeper). All I know is I made it for two and a half years. I didn't worry about tomorrow so long as I had money to pay the bills as they came due."

Even though she had just discovered her husband had been having affairs with two women, Jean Mercuri offered support for her husband last Tuesday when she testified.

Mrs. Mercuri said she had just learned of his affair with bartender Heather Moreland and hadn't had a chance to discuss it with her husband prior to testifying.

Despite his faults, she said, he was still a good family man, still her husband and she still loves him.

Mrs. Mercuri said she and Ms. Moreland had been friends. When Ms. Moreland had a baby in June, 1980, and her husband was seriously injured in a car accident in July, Mrs. Mercuri said she kept Ms. Moreland's children on occasion when she went to see her husband.

Mrs. Moreland also gave the Mercuris half a pig the day they moved to Malton in October, 1980, as a friendship gift, Mrs. Mercuri said.

Mrs. Mercuri explained that the cheques issued in July, 1979, which the bank didn't honor were pay cheques for herself and her husband. Since they involved only themselves,

Mrs. Mercuri said she never bothered to question why the bank didn't honor them.

She said they were deposited by mistake because she was so upset and caught up in family matters at the time her mother-in-law died in Italy.

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Defendant McCrystal reveals little in testimony

Just how much defendant Michael McCrystal actually remembers of the fire that destroyed Acton's Dominion Hotel Aug. 19, 1979, came into serious question last Wednesday as he testified in his own defense in a murder trial in the Ontario Supreme Court.

Even Mr. McCrystal's lawyer, John Smith, had trouble making his client stick strictly to things he saw or heard rather than things he had been told by others or pieced together from events.

He recalled going to Len Cripps' room on the second floor of the hotel with sandwiches and a jug of beer after the preliminary cleaning was done when the hotel closed.

He heard Mr. Mercuri's car leave five minutes or so after he reached the room and knew it was Mr. Mercuri because of muffler trouble.

He soon recognized the sound of the alarm and went out immediately to check whether it might be a false alarm resulting from a prankster activating a pull switch somewhere.

In the three years he lived at the hotel, he estimated 200 such false alarms had

occurred because of pranksters.

When he could find no cause, he went to check his room, then checked the washroom to see if someone had fallen asleep on the floor or in the bath tub as sometimes happened. He noticed smoke blowing in the open bathroom window on the second floor, but saw no cause for it. The alarm rang for a minute or less, he said.

After seeing smoke he rushed to the third floor in search of a cause and found it full of smoke and the metal clad door at the top of the stairway warm to touch.

Mr. McCrystal could see no flames or source for the smoke. It just seemed to be coming from everywhere. He then began going down the hall knocking on doors and opening them. If he found something such as a mattress on fire he might have been able to extinguish it, he said, although he never removed any of the hand fire extinguishers around the hall from their moorings.

He did knock on Howard Gibbons' door but when he received no answer, he assumed Mr. Gibbons was

away.

Although he could find nothing, there was obviously something wrong when there was all that smoke on the third floor, he said. He went down to the pay telephones in the lobby and called the fire department.

Mr. McCrystal denied a statement about having to "cover for Cosimo a little longer" attributed to him by a Station Hotel waitress in earlier testimony.

If he had made any reference to "cover" or "covering", it would have been in

connection with whether burned out hotel residents were covered by the hotel's insurance policy, he said.

"If I'd been going to say anything to anyone Bert Eade (to whom the remark was directed) wouldn't be the one I'd say it to," Mr. McCrystal said. Mr. Eade had lost an eye and possibly suffered brain damage in an accident, he added.

When asked if he knew the hotel was going to be burned or had anything to do with it taking fire, Mr. McCrystal replied: "I did not, so help me God."

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