

AN EMPIRE BUILT ON PAPER

TRIAL OF FOSHAY JUROR

GENEVIEVE CLARK 1931-1933

A bombshell erupted during the first Foshay jury deliberation in October, 1931. Prosecutor Horowitz was approached by *Minneapolis Journal* reporters who had received a telephone tip that the jury would be deadlocked 11 to 1 on conviction—before the jury verdict was read!

The reporters spied on the deliberations from a nearby building, using binoculars. They reported seeing Genevieve Clark oppose the other eleven jurors. After the hung jury was dismissed, Horowitz began an investigation.

November 4, 1931: Prosecutor Horowitz filed contempt of court by perjury charges against Clark, stating her responses during voir dire were willfully and corruptly false. The Government alleged she concealed her former temporary employment with the Foshay Company, her acquaintance with one or more of the defendants and her husband's previous business relationship with them, and that she was determined in advance of the proceedings to vote "not guilty." Waiving her right to a jury trial, Clark appeared before Judges Nordbye and Sanborn.

November 19-20, 1931: Clark's perjury trial began. Amid intense and relentless press coverage, five fellow jurors testified Clark had made up her mind before entering the jury room and would not listen to arguments of other jurors or consider the evidence. Clark took the stand and testified she could not have voted for anything but "not guilty" without violating the dictates of her own conscience and her oath as a juror. Sigurd Ueland, Clark's attorney, argued she was charged only because she voted to acquit. He raised questions about the jury selection process, specifically how Clark's name came to be in the jury wheel.

December 26, 1931: Clark was found guilty and sentenced to six months in Ramsey County Jail and a \$1,000 fine. Judges Sanborn and Nordbye wrote in their decision that "Mrs. Clark has brought upon herself the contempt of the community in which she lives—not because she voted for the acquittal of the defendants in the Foshay case but because her vote was not believed to represent her honest conviction based on the evidence and the law." This was the first case of juror misconduct involving a female juror in Minnesota after women were legally permitted to serve in 1921. (*U.S. v. Clark*, 1 F. Supp. 747)

February 2, 1932: Clark filed an appeal to the Eighth Circuit Court of Appeals. Arguments were heard in St. Paul on May 25th.

October 20, 1932: The Court of Appeals affirmed her conviction but stated she could not be subjected to both a fine and imprisonment. (*Clark v. U.S.*, 61 F.2d 695)

March 13, 1933: Clark filed for a writ of certiorari with the U.S. Supreme Court. Oral arguments were heard on February 7, 1933. In an opinion written by Justice Benjamin Cardozo, her conviction was affirmed. The case was remanded to the District Court for resentencing. (*Clark v. U.S.*, 289 U.S. 1)

April 21, 1933: Clark was re-sentenced to six months in jail and released on her own recognizance until the following Monday to arrange for childcare. When she failed to appear on Monday, Judge Sanborn issued a bench warrant for her arrest.

Six days later, the bodies of Genevieve Clark, her husband, and two sons were found in their car in a Prior Lake field. Their deaths were ruled homicide/suicide from carbon monoxide asphyxiation. Newspapers reported Clark had no property or money, her husband had been unemployed for over two years, and she had pawned her rings to pay for the District and Circuit court filing fees of \$493.

May, 1933: Aftermath of the Clark contempt case

A panel of federal judges investigated the Clark case and the methods of drawing federal juries. They were prompted by two factors: names on jury lists of people connected to attorneys and federal employees; and, Clark's name had not been on the list of 606 prospective jurors furnished by Hennepin County Clerk of Court. The Clerk of the U.S. District Court told the judges he'd found a slip of paper with Clark's name on his desk. He didn't know where it had come from but he placed it in the jury wheel along with the other names submitted in the usual manner. From that wheel, 100 prospective jurors were chosen for jury service for the first Foshay trial. The Department of Justice declined to reopen the investigation in the absence of evidence of violation of federal criminal law.



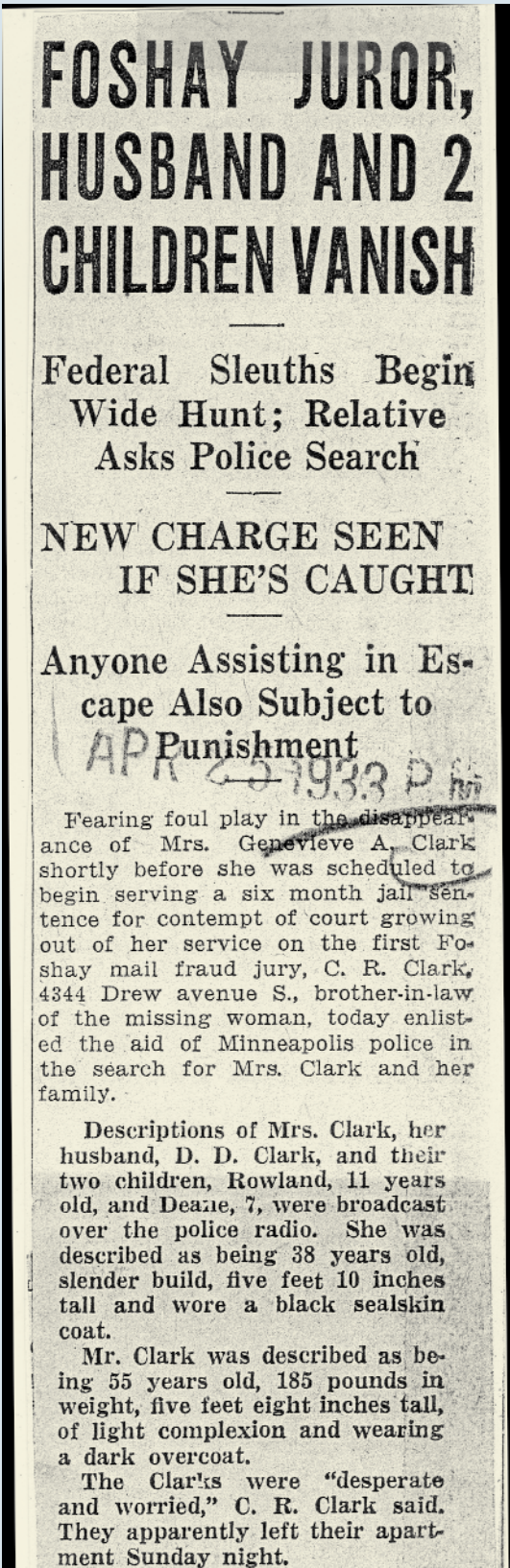
Genevieve Clark and husband Daniel, November 10, 1931. Photo: Minneapolis Public Library



Photo: Minneapolis Public Library

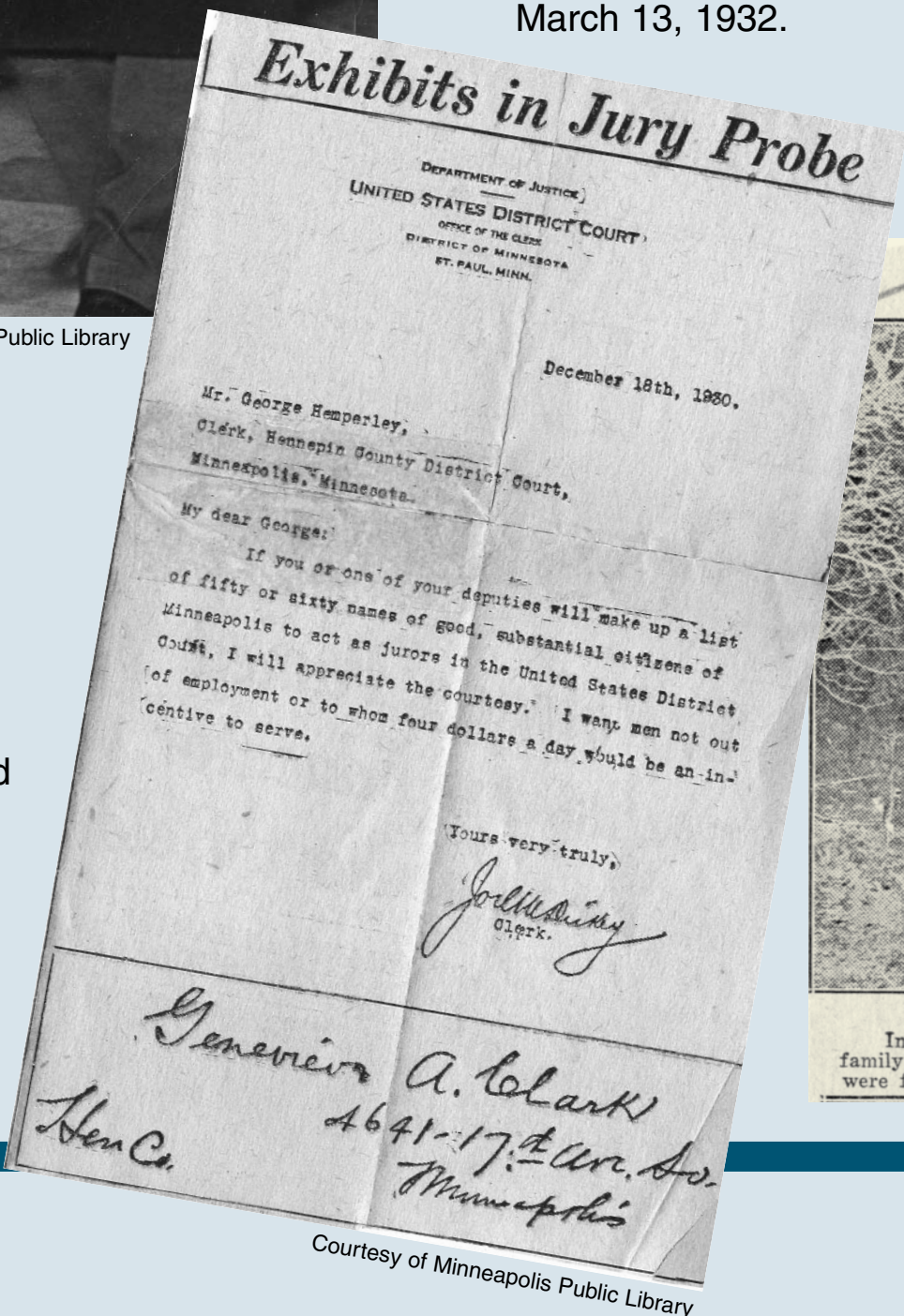
Genevieve Clark leaving the courtroom with her attorney Sigurd Ueland, November 21, 1931.

Sigurd Ueland's law firm took Mrs. Clark's case pro bono. In 1943, Ueland became Vice President and Legal Counsel to the Minneapolis Federal Reserve Bank.

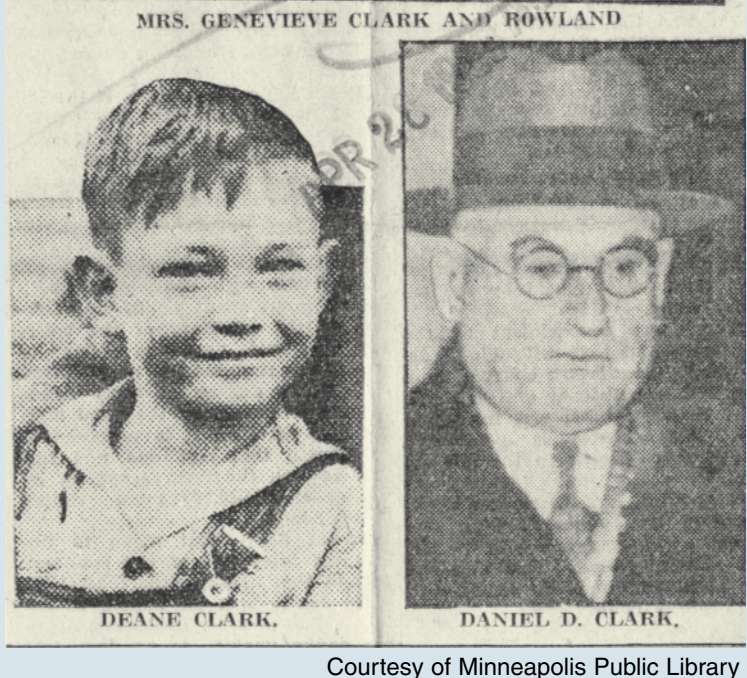


Newspaper clippings from *Minneapolis Journal* and *Minneapolis Tribune*, April 25, 28 and 29, 1933. Courtesy of Minneapolis Public Library

Exhibits in Jury Probe, *Minneapolis Tribune*, March 13, 1932.



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