



THE SUPREME COURT AND THE CURSE OF THE GYPSY

THE TRAGIC TALE OF CLARENCE MELVILLE YORK

Todd C. Peppers

IT IS A STORY SEEMINGLY RIPPED from the pages of Grimm's Fairy Tales. A travelling carnival arrives at a country hamlet. Quickly bored with the fair's offerings, three young lads, good hearted but impish, begin teasing a mysterious crone who is reading the fortunes of fairgoers. Anger flashing in her eyes, the old woman raises her hand, hisses a curse at the boys, and predicts their premature and dramatic deaths. The laughing youngsters dismiss the prophesy, although in later years they will jokingly refer to the divination when gathered together. The three boys grow up and leave their tiny village, moving to the capital of their fair land to seek their fortune. With dazzling speed, they rise to the position of courtiers. Back in their tiny village, the town folk speak with pride of their three hometown boys and hold them up as examples to the local youth. And then, tragedy strikes. At the pinnacle of their fame, the three men die mysterious and horrible deaths in quick succession. The first plunges to his death from a window. The sec-

Todd Peppers is an associate professor of political science at Roanoke College and a lecturer in law at Washington and Lee School of Law.

Todd C. Peppers

ond is sucked into the powerful currents of a river and drowns. The third, terrified by the death of his friends and finally fearful of the curse, hides in his home and guards against dangers real and imagined – only to die of a sudden heart attack while playing a simple game of chance. A compelling tale, but certainly not true, you must think.

In fact, there were three boys who grew up in the small town of Vineland, New Jersey during the closing decades of the nineteenth century. Their names were Benjamin Franklin Barnes, John Wesley Crawford, and Clarence Melville York.

My tale focuses primarily on York, who was born in Vineland on November 24, 1867 to Sidney P. and Elizabeth York. Clarence was the second York child to bear the name “Clarence M. York” (after an earlier sibling who had died in infancy). Sidney York was a graduate of Union College and the founder of Fairfax College in Winchester, Virginia. He was also a minister. Sidney York was taken prisoner by the Confederate Army during the Civil War – an ordeal that the local Vineland newspaper described as “quite thrilling” – and after the war was a school teacher in Vineland from 1869 to 1878 and the superintendent of schools from 1878 to 1897. In approximately 1897, Sidney York took a position with the War Department. He worked with the War Department for six years and died in 1903.¹ Clarence York had one older brother, Merwin L. York, who himself would serve as a stenographer and private secretary to several prominent Washingtonians.

Barnes, Crawford, and York were childhood friends, who went to school together and worshipped at the same church, appearing each Sunday “uneasy and restless in best clothes and [struggling to meet] the necessity of curbing boyish impulses and fun.”² Although they were later nicknamed “the inseparables,” the boys could not have been more different looking – the gregarious Crawford was “a

¹ “Obituary,” *Vineland Evening Journal*, June 6, 1903; “Professor Sidney P. York,” *New York Daily Tribune*, June 8, 1903.

² “Were Boys Together: Three Washington Secretaries Who Have Been Lifelong Intimates,” *The Washington Post*, June 11, 1905.

The Curse of the Gypsy

veritable 'tow head' of good sturdy growth, a promise of the generous propositions of the man," Barnes was "a dark eyed, brown haired laddie, especially good looking," and quiet York "was the red head of the trio." Crawford and York were natives of Vineland, while Barnes was born in Nova Scotia in 1868 and moved to Vineland as a young child.

When the three boys were approximately eight years old, a fair came to Vineland. Barnes, Crawford, and York attended the fair, where they soon began taunting the gypsy fortune tellers who "infested the grounds." Their childish taunts infuriated at least one of the soothsayers, who uttered what may have been a life-altering curse:

Stung into replying a gypsy seeress wheeled on the boys and with her arm describing cabalistic signs anathematized them and prophesized: "You boys will come to violent or unusual death early in life. I read it in the stars and you will die within two years of each other."³

At the time, the young lads were unperturbed by the gypsy's prediction. "The boys laughed and went on their way, not at all disturbed by this threat. They remembered, however, and often joked amongst themselves about it."⁴

Time passed, the young boys became teenagers, and they grew eager to educate themselves and make their way into the world. Fourteen-year-old Crawford began working in the print shop of the town's local newspaper, where he formed a "home nightschool" that was attended by Barnes and York.⁵ Barnes later moved to Chicago, Illinois to attend high school, where he was briefly joined in his studies by York.

³ "HooDoo Circle at Work: Gypsy Curse Verified in Deaths of Three Officials in Washington," *The Washington Herald*, November 7, 1909. According to the *Merriam-Webster Dictionary*, "hoodoo" is a variation of the word "voodoo" and is defined as "a body of practices of sympathetic magic traditional especially among blacks in the southern United States" or "something that brings bad luck."

⁴ "HooDoo Circle at Work."

⁵ "Crawford's Friends Won," *The Washington Post*, November 26, 1907.



In 1887, York moved with his parents to Washington, D.C. He graduated from National University Law School⁶ in 1889, and within the year he became the private secretary to United States Supreme Court Chief Justice Melville Weston Fuller. It is unclear how York obtained the position with the recently appointed Chief Justice. *The Washington Times* reported that York first met Chief Justice Fuller as a law student, when the Chief Justice was serving as a lecturer in law. “Taking a fancy to the clever young New Jerseyite on graduating with splendid honors, Justice Fuller gave him the post of private secretary.”⁷ *The Washington Post* claimed, however, that Justice Samuel Miller recommended York to the Chief Justice.⁸

Until the mid 1880s, the individual Supreme Court justices – save Associate Justice Horace Gray – did not have private secretaries or law clerks (throughout this essay, I use the terms “private secretary” and “law clerk” interchangeably). When Gray was appointed to the Court in 1882, he began hiring Harvard Law School graduates to serve one- or two-year appointments as his assistants and paid their salaries out of his own pocket. Sympathetic about the justices’ growing work load, in 1886 Congress authorized funds for the hiring of a “stenographic clerk for the Chief Justice and for each associate justice of the Supreme Court, at not exceeding one thousand six hundred dollars each.”⁹ While the justices differed in whom they hired to serve as a stenographic clerk – some hired lawyers or law students, while others hired professionally trained stenogra-

⁶ National University Law School was founded in 1869, and its course offerings permitted government workers to take afternoon and evening courses. Robert Bocking Stevens, *Law School: Legal Education in America from the 1850s to the 1980s* (Chapel Hill: University of North Carolina Press, 1983). One of the school’s most notable graduates was Belva Lockwood, the first woman to argue a case before the United States Supreme Court. National University Law School merged with George Washington Law School in 1954.

⁷ “Falls to Death from the Window of Garfield Hospital,” *The Washington Times*, June 20, 1906.

⁸ “They Were Boys Together,” *The Washington Post*, June 11, 1905.

⁹ 24 Stat. 254 (1886).

The Curse of the Gypsy

phers – within 50 years the position had evolved into what we recognize as the modern law clerk.

Fuller was sworn in as chief justice in October 1888, replacing the late Chief Justice Morrison Waite. A native of Maine, Fuller graduated *Phi Beta Kappa* from Bowdoin College in 1853, and briefly attended Harvard Law School, before starting his legal career. After practicing in Maine for several years, Fuller moved to Chicago, Illinois and established a thriving law practice. Fuller also became involved in Democratic politics, and he was a strong supporter of Stephen A. Douglas. Fuller would serve as chief justice from 1888 to 1910. While he does not rank as one of the most influential chief justices in the history of the Supreme Court, his peers considered him a highly competent administrator and jurist.

Chief Justice Fuller's first private secretary was James S. Harlan, the son of Associate Justice John Marshall Harlan and formerly a law student in Fuller's Chicago law firm, who worked only briefly in the Chief Justice's chambers before returning to Chicago to start his own law firm.¹⁰ He was replaced by Thomas H. Fitnam, an 1884 graduate from the Georgetown University Law Department. In October 1889, the Chief Justice hired C.M. Lark – a former clerk in the Interior Department – as his private secretary.¹¹ Unlike Fitnam and Harlan, it is not clear whether Lark was an attorney. Approximately one year later, Fuller hired York to fill the position, which York then held for the next 16 years.

We know little about York's official job duties. Chief Justice Fuller's personal papers contain no examples of York's work product, and I have located no evidence that York ever publicly spoke of his responsibilities. It is likely, however, that York performed substantive legal work for the Chief Justice. Unlike some of the private secretaries who worked at the Supreme Court in the 1880s and 1890s, York had a law degree. Moreover, a newspaper account of his death observed that York's "accurate and unusual knowledge of

¹⁰ Willard L. King, *Melville Weston Fuller: Chief Justice of the United States, 1888-1910* (New York: The MacMillan Company, 1950): 94, 132.

¹¹ "Chief Justice Fuller's Secretary," *The Washington Post*, October 19, 1889.

Todd C. Peppers

difficult law questions has made him of great service to the Chief Justice.”¹²

As York secured the prestigious position of private secretary to the Chief Justice, his old companions Barnes and Crawford were quickly assuming prominent roles in Washington. Both men had successfully passed their civil-service examinations, which ultimately led to Crawford’s appointment as the private secretary to future-Admiral George Dewey in 1889 and Barnes’ appointment as the assistant private secretary to Theodore Roosevelt in 1902. Barnes’ faithful service to Roosevelt led to his nomination (and confirmation) to be the Postmaster General of the District of Columbia, a post that he assumed in the summer of 1906. Both Barnes and Crawford further burnished their professional credentials by graduating from law school – Barnes from Georgetown Law School in 1895 and Crawford with multiple honors from National University Law School in 1905.

The Washington Herald later characterized Crawford as a driven and ambitious man who dreamed of rising above his humble roots and taking his place on the national stage. “He graduated from National Law School with highest honors, studied French and German to further perfect himself, and thirsted for the honor when he might exhibit his forensic powers before the bar. His ambition soared higher still and he saw himself settled in some Western town, rise to honor and esteem, and finally represent his district in [the] House or Senate.”¹³ Crawford remained in the society pages throughout his time in Washington, mainly due to his charitable work with the Young Men’s Christian Association, other athletic associations, and local musical festivals.

The meteoric rise of Barnes, Crawford, and York caught the eye of official Washington, and in 1905 *The Washington Post* published an article on the three “chums” who “delight in spinning anecdotes of boyhood, and are sometimes called ‘The Inseparables’ in the secre-

¹² “Falls to Death from the Window of Garfield Hospital.”

¹³ “HooDoo Circle at Work.”

The Curse of the Gypsy

tary corps of Washington.”¹⁴ “Their devotion became the talk of the official world,” added a later article in *The Washington Herald*, “and their friendship was pointed out as a model to the other men of the service.”¹⁵ Accompanying the article were large pictures of the dark-haired Barnes, now sporting a pince-nez and a luxurious mustache, and the tow-headed Crawford, granted the rank of “lieutenant” due to his position with Admiral Dewey (making Crawford “the only commissioned officer in the navy not to hold a commission”). Sadly missing from the article, however, is any photograph of York, and I have not yet found one. Of the men’s joint achievements, the *Herald* concluded that their rise to fame and fortune was celebrated with “deep admiration and wonder” by the “simple folk of the quiet New Jersey hamlet” of Vineland.¹⁶



Within four years, this story of “hometown boys made good” lay in ruins, after the mysterious – if not predestined – deaths of all three of them.

York was the first to fulfill the fortune teller’s prophesy. At approximately 1:30 p.m. on June 19, 1906, he fell from a street car while travelling to Chief Justice Fuller’s home at 1801 F Street, North West. The Chief Justice himself was in Chicago, and York was finishing up some last-minute work before travelling to Vineland to see his mother. The fall – which some newspapers claimed was caused by York’s intoxication¹⁷ – resulted in facial bruising and a severe scalp laceration, and York was taken to a nearby hospital to have the injuries bandaged. Against the advice of the treating physician, York left the hospital and returned to his home at the Logan apartment on Iowa Circle.¹⁸

¹⁴ “Were Boys Together.”

¹⁵ “HooDoo Circle at Work.”

¹⁶ “Were Boys Together.”

¹⁷ “Clarence M. York Killed,” *The New York Times*, June 21, 1906; “Justice’s Secretary Killed,” *Vineland Daily Journal*, June 21, 1906.

¹⁸ “Falls to Death From Window of Garfield Hospital.”

Todd C. Peppers

Early that evening, the Logan manager visited York, found him “very ill,” and contacted York’s personal doctor. The manager later recounted that York had been suffering from “chronic Brights’ [sic] disease for the past two years, and during this time his health had been very poor.”¹⁹ At approximately 8 p.m. family physician Frank Leech visited York at his apartment, discovered that his bandages had been removed, and “found York in such a condition that he found it necessary to have him taken to Garfield Hospital.”²⁰ The main body of the story in *The Washington Times* didn’t specify York’s “condition,” but the headline announced that York was “suffering from alcoholism.” The initial account in *The Washington Post* declared that Mr. York was in “good physical and mental condition” when he arrived at the hospital,²¹ but the paper later claimed that York had been taken to the hospital after “becoming demented.”²²

At the Garfield Memorial Hospital, new bandages were applied and York was admitted for the evening. The events surrounding his admission, however, remain ambiguous. While one newspaper reported that York was “perfectly rational at the time” and was only admitted because it was late and his wife was in Atlantic City,²³ another paper claimed that York was “suffering from a nervous breakdown” at the time of his admission.²⁴ At approximately 3 a.m. on June 20, 1906, York fell or jumped from his hospital window into a courtyard 20 to 30 feet below. There were no witnesses to York’s plunge from the hospital window. The fall fractured his skull and broke both legs and several ribs, killing York.

Was the fall accidental or deliberate? Was it suicide or the work of dark magic? The acting coroner of the District of Columbia in-

¹⁹ Id. Today, that condition would be described as chronic nephritis (inflammation of the kidney).

²⁰ Id.

²¹ “Fall Causes Death,” *The Washington Post*, June 21, 1906.

²² “Crawford’s Friends Won.” Meanwhile, a June 25, 1906 article in the *Vineland Daily Journal* reported that dizzy spells had forced York to check into the hospital.

²³ “Clarence M. York Killed.”

²⁴ “Chief Justice Fuller’s Secretary Falls from Window and Is Killed,” *The New York Sun*, June 21, 1906.

The Curse of the Gypsy

formed *The Washington Post* that the fall was accidental, and personal physician Leech opined that York was “dazed by his new surroundings, walked to the window to look out, and lost his balance.”²⁵ The paper later changed its story, however, writing that York jumped from the window.²⁶ *The Washington Herald* apparently agreed, reporting that “[w]hat drove him to his death has never been fully divulged.”²⁷ The *Herald* added: “He left a beautiful wife and two small children. Every prospect of success was his at the time of his death. It was the beginning of the gypsy’s threat coming true.”²⁸ For the three childhood friends, “[t]he circle was broken. But still Crawford and Barnes kept up the old companionship. They were both stronger characters than Yorke [*sic*], and neither feared that the chain of evil circumstances would continue in their lives.”²⁹

Oddly, I could find no official reaction of Chief Justice Fuller to the death of his long-time secretary. He was not in Washington at the time of York’s demise, and there is no indication that he attended the funeral services. The Fuller family clearly did not believe that an official period of mourning was necessary, for less than five days after York’s death the Chief Justice’s daughter re-opened her father’s Washington residence for her surprise wedding (a ceremony that the Chief Justice did not attend).³⁰ What explained the Chief Justice’s apparent absence from York’s funeral? Was it an indication that the Chief Justice wanted to avoid the taint of scandal? Was the Chief Justice simply not close to his long-time aide? Or, as a newspaper account of his daughter’s wedding intimates, was the Chief Justice delayed in Chicago by illness?³¹ Given the

²⁵ “Fall Causes Death.”

²⁶ “Crawford’s Friends Won.”

²⁷ “HooDoo Circle at Work.”

²⁸ *Id.*

²⁹ *Id.*

³⁰ “Fuller-Mason Nuptials Come as a Surprise,” *The Washington Times*, June 25, 1906.

³¹ *Id.* (“The Chief Justice was much indisposed before leaving [Washington two weeks earlier for his trip to Chicago] and was not able to return here for the ceremony.”). There is no mention of York in the biographies written about Chief

Todd C. Peppers

scant historical evidence, it is difficult to draw any firm conclusion.

A distraught Elizabeth Cowell York returned from Atlantic City with her two young children, and, joined by York's brother, accompanied her husband's body on his final trip back to Vineland.³² On June 23, 1906, a warm summer's afternoon, the family and friends of Clarence Melville York gathered at the family plot in the Siloam Cemetery. At a graveside ceremony presided over by the Free Masons, York was buried next to his late father. While we do not know whether Barnes or Crawford attended the ceremony, neither of York's boyhood friends was listed in the local paper as an official pallbearer.³³

One opportunistic father rushed to fill the vacancy left by York's death. In a June 28, 1906 letter to Fuller, Associate Justice William Rufus Day nominated his son, Stephan Day, for the position. "On learning of the death of your secretary," wrote Justice Day, "I wired you at Chicago and Washington, knowing there would be many applications for the place." Noting that Stephan had worked as his private secretary for two years, Justice Day wrote that his son was "industrious and reliable" and possessed stenographic skills. "If you can see your way to give him a trial I shall esteem the favor highly and can say for Stephan that he will do his best to meet your approval of the work."³⁴ Stephan Day subsequently worked for Fuller during October Term 1906. Day had not attended law school, but had "read the law" for two years.

Justice Fuller. Willard L. King, *Melville Weston Fuller: Chief Justice of the United States, 1888-1910* (New York: The MacMillan Company, 1950); James W. Ely, *The Chief Justiceship of Melville W. Fuller, 1888-1910* (Columbia: University of South Carolina Press, 1995).

³² "Mrs. Clarence York Ill," *The Washington Post*, June 22, 1906; "Mrs. York Accompanies Husband's Funeral Party," *The Washington Times*, June 22, 1906.

³³ *Vineland Daily Journal*, June 25, 1906.

³⁴ June 28, 1906 letter from William Rufus Day to Melville Fuller. Melville Weston Fuller Papers, William R. Day Correspondence File, Manuscript Division, Library of Congress.

The Curse of the Gypsy



The final resting place of Clarence York, in his family's plot at Siloam Cemetery in Vineland, New Jersey.

Eighteen months later, the second of “the inseparables” mysteriously vanished into the icy waters of the Potomac River. On November 22, 1907, Lt. John W. Crawford carefully straightened his office desk, placed his gold watch and a letter to his wife on said desk, and left his office at the Mills Building for this final time. He boarded the ferry boat *Lackawanna*, which travelled each day between Washington and Alexandria. Once the ferry was under way, Crawford removed his gray overcoat and matching fedora, carefully folded the coat and laid it on the deck, and then jumped into the Potomac River.³⁵

In the days and weeks after his disappearance, local newspapers breathlessly reported on the search for Crawford's body. Some pointed to the suicide note that Crawford had written to a close friend as definitive evidence that depression over financial losses had

³⁵ “Suicide the Theory,” *The Washington Herald*, November 23, 1907; “Crawford's Wife Thinks Husband Ended His Life,” *The Washington Times*, November 24, 1907.

Todd C. Peppers

driven Crawford to end his life, while others speculated that Crawford faked his death (no witnesses actually saw Crawford jump into the river) in order to collect on a life insurance policy and start a new life out West. Admiral Dewey issued a statement, praising Crawford as an invaluable aide and expressing shock and confusion at his apparent suicide.

On January 15, 1908, a young boy named Buck Bush found Crawford's badly decomposed body floating in the Potomac River near Fort Foote, Maryland. The discovery earned Buck a \$25 reward and brief mention in the local newspapers.³⁶ Tucked in Crawford's pocket was a copy of his life insurance policy. Crawford was buried in Arlington National Cemetery on January 17, 1908, interred in an area of the cemetery that a local newspaper snidely referred to as "suicides' row." "Thus another third of the curse came true," *The Washington Herald* later pronounced.³⁷



*The final resting place of John W. Crawford
at Arlington National Cemetery in Virginia.*

³⁶ "Crawford's Body Found in Potomac," *The Washington Herald*, January 16, 1908;
"Crawford is Dead," *The Washington Post*, January 16, 1908.

³⁷ "HooDoo Circle at Work."

The Curse of the Gypsy

And what of Benjamin F. Barnes? Did the gruesome and premature deaths of companions York and Crawford rattle the Postmaster?

It is said that the fatal deaths of his chums induced melancholy to [sic] Postmaster Barnes. He became nervous, and probably fully believed the ancient curse of the gypsy would soon fall on him. His predecessor as postmaster had died falling down an elevator shaft in the post office, and Mr. Barnes had his office removed from the third to the first floor, and refused absolutely to ride in the elevator.³⁸

Barnes' efforts at eluding the grim reaper proved futile, and on October 20, 1909, Barnes died while playing pinochle in the dining room of his father-in-law's home. The card game had been briefly halted while Barnes' father-in-law left the table to fetch a pouch of tobacco. When he returned, a ghastly discovery awaited him. "Mr. Frech returned to the table and saw his son-in-law with his head thrown back, mouth wide open and eyes staring in death. The cards had dropped from his nerveless arms to the floor and the postmaster neither moved nor breathed."³⁹ It was the very same room in which Barnes had been married 17 years before. The official cause of death was heart disease, although Mrs. Barnes loudly protested that her husband had always been "so robust and so eager for exercise" and never evidenced "any trace of heart disease."⁴⁰ Barnes was buried in Rock Creek Cemetery on October 23, 1909, the casket draped with his Masonic apron as it was lowered into the ground.

Thus ended the celebrated lives of "the inseparables." And what are we, gentle reader, to make of the gypsy's curse? "Who shall say that it was not at least a wonderful insight into the future that made that gypsy woman know the future fate of the three rollicking schoolboys who mocked her?"⁴¹ After Barnes' death, *The Washington*

³⁸ Id.

³⁹ "Home of Barnes Scene of Sorrow," *The Washington Times*, October 21, 1909.

⁴⁰ Id.

⁴¹ "HooDoo Circle at Work."

Todd C. Peppers

Herald concluded: “The mystic circle has done its work.”⁴² While I am not inclined to believe in curses and things that go bump in the night, the baffling death of law clerk Clarence Melville York brings to mind a comment once made by University of Virginia Law School Professor Robert O’Neil, a former law clerk to Associate Justice William J. Brennan, Jr. Looking over the names of the men and women who served as Supreme Court law clerks, O’Neil solemnly observed that a disproportionate number of the law clerk corps have “lived under an ill-fated star.” Suicides. Early deaths. Unfulfilled potential. Careers ending in disgrace. If O’Neil is correct, then maybe subsequent generations of law clerks were also touched by the original curse that a fairground gypsy placed upon one of the Supreme Court’s first law clerks.



*The final resting place of Benjamin Barnes
at Rock Creek Cemetery in Washington, DC.*



⁴² *Id.*