

Is Marion The Man?

Preliminary Hearing in the Toohy Murder Case.

Efforts to Connect the Slayer of the Policeman

With the Assaulter of Watchman Ross.

Strathroy Witnesses Positively Identify the Prisoner

As the Tramp to Whom They Gave Food and Water the Evening of the Murder.

The Skirmish Between the County Constables and the Peg-Leg Described—Watchman Ross Positive That Marion Brown Is the Man That Assaulted Him the Evening of the Murder.

Thursday Afternoon.

The court resumed at 2:30, and the usual crowd jammed into the court room.

HUGH TURNER.

Hugh Turner, lot 17, con. 9, Caradoc, was the first witness called. He remembered that on Sunday, June 26, a one-legged man came to his father's place, but he did not know where he came from.

Mr. Magee—Can you describe him? A.—He was a peg-leg, a mulatto, about 5 feet 7 inches in height.

Q.—Do you see him here? A.—I see a man who looks like him very much. Q.—Did you see any difference between them? A.—The man who called at my place had a little heavier mustache—a week or so's growth.

Q.—Any other difference? A.—He had different clothes on. Q.—As to features? A.—The features of the prisoner resemble very much those of the man that called. There may be another man who looks like him.

Cross-examined by prisoner's counsel, witness said he would not like to say positively that the prisoner was the man who called, but he looked very much like him.

Q.—How was the man dressed? A.—He had a dark suit on and a black hat—hat—at least, I think it was a hard hat, faded black.

Witness could not say which leg was off.

MALCOLM CAMPBELL.

Malcolm Campbell, of Brooke township, said he lived on lot 29, con. 9. He described the position of his land, but did not know how far it was from the railway. It was about four miles from Alvinston.

Q.—Do you remember Monday, the 27th of June? A.—Yes, sir.

Q.—Did any stranger come to your house? A.—Yes, sir. Myself and daughters Mary and Margaret were at home at the time.

Q.—Could you describe this stranger? A.—He was like the man who sits there (pointing to the prisoner).

Witness said that the peg-leg came



MARION BROWN, alias "Tom Allen," now under examination for the murder of P. C. Michael Toohy on June 24.

there about 7:30 in the evening, and wanted something to eat. He sat and ate in the summer kitchen.

Q.—Did you have any conversation with him? A.—I asked him how far he had come, and he said from Wyoming, and that he was going to Hamilton. I told him he would get there quicker if he kept to the railway, and the prisoner replied that he had strayed there.

Witness then described the prisoner's position in the summer kitchen. He was near the south door, nearly opposite a north door, on a chair, but witness could not say who put it there. While there County Constables Duncan Gillies and another came to the north door, and asked if they had seen a peg-legged tramp going that way. Gillies talked very loud, and said that the peg-leg had shot a policeman in London. He was told that the peg-leg was in there, and then Gillies went and called Philip Fuller and Jack Shaw, who came toward the house. The peg-leg got out of the house while the men were going there, and went toward the fence.

Q.—Did you notice anything? A.—Yes, I noticed a gun, a long revolver, nickel-plated. It was a long one. Witness did not see the handle, because that was in his hand. He had it by the handle when he flourished it. Witness said Fuller came running back to his

house for a shotgun, and he directed him where to get one. He was sent across the concession to Mr. Dempsey's place. After Mr. Fuller went away, witness went back and got his shoes on. He went out and then saw the peg-leg going towards the bush, with Shaw following.

Q.—What pace was the prisoner going? A.—Not very fast. Q.—What pace was Shaw going? A.—Not very fast.

Q.—Was he walking backward or forward? A.—He went east and stood more than once and looked behind.

Q.—How far was Shaw behind him? Witness could not answer this question, but said they were close enough to talk. Witness heard three shots fired, but didn't know who fired the first shot, as he was not near enough.

Fuller and Dempsey followed the prisoner some distance with a rifle. The men did not follow the peg-leg into the bush, because it was no use, as it was getting dark. Witness said the man was dressed in dark clothes, and had a vest on. His hat might have been stiff once. It was rolled down, and didn't stand high on his head.

Cross-examined by Mr. McPhillips: Q.—Are you sure of the date? A.—I am telling you I think I am.

Q.—You think it was Monday, the 27th of June? A.—Well, I didn't fix it



POLICE OFFICER MICHAEL TOOHEY, who was murdered June 24, in the discharge of his duty.

In any way at all, but it struck me that that was the date. Witness had not put it down, because he didn't expect to be called on any more.

Q.—It might have been the 27th of July? A.—I don't think it; there are lots of things that might be.

Q.—It might have been the 27th of May? A.—I cannot see it like that.

Q.—Can you give me any reason why you know it was the 27th of June? A.—No reason to give you, only that I know that was the date. I cannot do anything else with you.

Q.—You are positive of the day of the week? A.—I think it was Monday.

Q.—But you are not sure? A.—I think I am.

Witness said his memory was all he had to go by. He admitted that it was not an unusual thing to see tramps about there. They often came in for food. He would not have paid any special attention to this man (meaning the prisoner) if those people had not been after him.

Q.—You can undertake to swear to the identity of this man four months after, and have never seen him before? A.—I think I can.

Q.—Is there a possibility of your being mistaken? A.—There is anybody.

Q.—This may not be the man at all? A.—You may say that.

Q.—It may not be the man? I want you to say anything. A.—I have nothing to say.

Q.—There is a possibility of your being mistaken? A.—No, sir; I think not in this case. That is the man.

Q.—If we have it established that this man was hundreds of miles away on this date, what have you to say? Would you still swear? A.—It makes no difference. I feel sure that he is the man.

JOHN SHAW.

John Shaw, of Watford, said he went to the house with Gillies and Fuller, and when going round the house saw the peg-leg go toward the barn. Witness called to him and said: "Hold on, there, I want you. The tramp laid the revolver on the fence, and witness remarked: "Don't you know that you will be taken?" to which the peg-leg said: "If I am taken, I'll be taken dead."

Q.—Why did you say he would be taken? A.—We thought he was the man wanted for the murder of Toohy.

Witness said the prisoner then turned north, and Fuller then asked Dempsey for the gun and fired in that direction. Fuller was trying to get another shot at the peg-leg, when the latter fired. Dempsey then asked for the gun saying that it would shoot wherever it pointed. The tramp saw witness following him and then said: "I am waiting for you—I am coming."

When witness got near to the tramp the latter got off the fence and said: "Come on you ——— peg-leg. I am waiting for you."

A.—Have you only one leg, Mr. Shaw? A.—Yes.

Witness then said the prisoner went in the direction of the woods after this, and that the witness circled round through the woods to head him off, as witness believed he was making for the road. Witness saw him again lying on a log in the same wood. His gun went off, but witness thought it was fired to scare the witness out of the woods. The witness admitted that he got nervous, and went back to watch for him. Dempsey said when he gave Fuller the gun that there were only two cartridges, but could not say how far away the prisoner was at the time.

Cross-examined by Mr. McPhillips: Q.—So you got a little nervous? A.—Yes, sir.

Q.—And if you hadn't, they would not have had to go to Washington to

bring this man back? A.—Maybe I would have got shot.

Q.—Had you any warrant in your possession that day? A.—No, sir.

Q.—Had anyone with you? A.—No, sir.

Q.—I suppose you had heard through the papers that this was a dangerous man. How many revolvers had you with you? A.—Only one.

Q.—You thought that was not sufficient, and started to hunt for a shotgun? A.—No, sir. The man ran across the field with one to us.

Q.—Your idea in getting the gun was because you could get a shot at him, and he could not at you? A.—Yes, sir.

Fuller fired at the peg-leg, witness said, as he was retreating, and then the man turned and fired at Fuller from the west side of the fence.

Q.—Is there any possibility of your being mistaken as to the identity of this man? A.—There might, but I do not think there is.

Q.—You saw this man four months ago at a distance of eight rods, only for a minute, and would swear positively as to the identity of this man? A.—Yes, sir.

Q.—No question about it? A.—No, sir.

Q.—You would still keep to that if dozens of people said he was hundreds of miles away? A.—Yes.

Q.—Are you claiming any of the reward? A.—No, sir.

Witness said that if he had arrested the man there would have been \$150 in it for him.

Mr. McPhillips asked Mr. Shaw how it was that he did not see whether or not the prisoner was firing at him when the pistol was discharged in the bush.

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gun would shoot anything it was aimed at, and witness said he dropped the gun and told Dempsey that if he wanted to shoot the peg-leg he could do so—that he (witness) wouldn't. Witness said Shaw was the only man who followed the peg-leg to the woods. Witness was positive that the prisoner was the man.

JAMES ROSS.

James Ross, the G. T. R. watchman, was the next witness. He was on duty on the night of June 24. His orders were to allow no one to walk on the track, and he ordered a one-legged tramp off the premises. The man was walking along the side of a freight that had just come in from the west. The tramp refused to go when ordered off, and struck witness in the face, and knocked him senseless. When asked his age, Mr. Ross said "Past 60 years."

Q.—Have you any doubt about his being the man? A.—No, sir, I have not.

Cross-examined by Mr. McPhillips, witness said the man who struck him was dressed in a light-colored suit, which was very dirty.

Q.—Is there a possibility of your being mistaken about this man? A.—No mistake at all.

The witness was asked this question in many ways, but his statement could not be shaken. Witness said the hat prisoner wore was a black one, pretty much like the one prodv ed.

L. W. STOKES.

L. W. Stokes, of 12 Pearl street, was going along Adelaide street on the night of June 24, about 8:50, and saw the prisoner coming along the track. When ordered off he knocked Mr. Ross stiff on the track. He assisted Mr. Ross to the shanty, after securing help. The prisoner then went down the track and disappeared between the cars, about 150 feet away. The clothes he wore that night were much darker in color than those he had on today.

This witness was put through a very vigorous cross-examination, in which he swore positively that the black hat produced (the one that was found near the murdered policeman) was the one the prisoner wore on the night in question; and that he would know the coat again, if produced.

Witness said that he had altered from the way it was on the 24th of June. The peg-leg was a solid piece then, and now it was in two pieces. There were no hairs in the peg-leg then. Witness said the man who assaulted Mr. Ross had no mustache, and of this he was also positive.

Friday Morning.

The scene at the police court this morning was similar to that of yesterday. All through the proceedings on Thursday the prisoner smiled at many things the witnesses said, and sometimes looked a little downcast. On the whole the air of Marion Brown for the past two days has been that of a man confident that no ill would befall him.

T. J. O'SULLIVAN.

Mr. T. J. O'Sullivan, of 732 York street, was the first witness called this morning. He remembered the 24th of June last. On that day he saw a one-legged man standing in front of his place between 7 and 9 o'clock in the evening. He described the man as having a dark complexion, dark mustache and dark clothes; wore a light shirt, and a soft felt hat like the one produced in court, and wore it inclined toward his forehead. The tramp carried in his hand a short stick. Witness had only seen the peg-leg for a few moments.

Q.—Will you look at the prisoner and see if that is the man. A.—To the best of my knowledge that is the man.

Witness then said that his wife and an old gentleman had called his (witness) attention to the man, and asked if he were not "a hard-looking citizen." Witness had replied that he did not think so.

Cross-examined by Mr. McPhillips, witness said he was sure of the date.

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Q.—No, sir.

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Witness, with emphasis, "He has a very bad eye."

The magistrate did not think that such questions were material.

Mr. McPhillips—Well, all right, your worship, I suppose the ladies have their own opinion about men's eyes.

Q.—Would you swear positively, unquestionably and undoubtedly that this is the man you saw? A.—Yes; he is the man.

Q.—And if I have a hundred witnesses to say that he was hundreds of miles away from here at the time, would you still hold to your present story? A.—It would make no difference if you had 500.

Q.—Woman like, eh? A.—(With dignity)—Yes.

MARCUS SMITH.

Marcus Smith, of 791 York street, said that while standing in the door of his house, on the night of June 24, a one-legged man passed his place. He described the man as short and stout, wearing dark clothes, with a black soft felt hat. The prisoner resembled the man very much.

Q.—What called your attention to him particularly? A.—By the difference the house I heard him say to my little girl, who was playing outside, "You, what are you doing here—get out of this."

Q.—Have you heard him speak since? A.—Yes, sir.

Q.—How does the voice of the prisoner correspond with the voice you heard that night. A.—It is very much like it.

Mr. McPhillips cross-examined the witness at length, regarding the expression that the tramp used to be witness' little daughter, and the witness became excited. Then the counsel got a little excited.

Mr. Magee objected to the proceedings, and the discussion dropped, without the witness taking anything. Witness would not say positively that the prisoner was the man, although he looked very much like him.

(Continued on page 5.)

A Thousand Tongues.

Could not express the rapture of Annie E. Springer, of 1,125 Howard street, Philadelphia, Pa., when she found that Dr. King's New Discovery for Consumption had completely cured her of a hacking cough that for many years had made life a burden. All other remedies and doctors could give her no help, but she says of this Royal Cure: "It soon removed the pain in my chest, and I can now sleep soundly, something I can scarcely remember going before. I feel like sounding its praises throughout the universe."

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