

FIFTH DAY OF TRIAL

(Continued from Page 1.)

Continuing from where the published report of yesterday afternoon's session left off, the witness Andrew Peter Anderson, was cross examined and said he had fixed the date of the arrival of Miller and Ross (O'Brien and partner) as the 5th for the reason that Capt. Fussell had told him the date on passing a short time previous; witness was not surprised that the two each had a gun; guns were not uncommon on the trail; witness had charge of beef and could not give it away, but traded some of it to travelers; had traded some of beef to a man named Fortier, and house of witness was afterwards searched by police, Fortier having stolen the butter; Fortier was arrested, convicted and sentenced to four months imprisonment at Dawson; witness left Bennett on scows with the owners of the beef and had stayed with the scows when they were frozen in; for 17 or 18 days after the ice jammed he did not see a living person but Capt. Fussell; witness would not positively swear that the date was the 5th or 8th of December.

Mrs. Agnes Fyssel, wife of Capt. John Fussell, was the next witness. Witness said she had never seen the prisoner; on December 12th two men came to their roadhouse and wanted lodging, but as the house was full they were told they would have to sleep on the floor; witness saw two dogs when she opened the door to throw out dish-water, it being after supper; one was a big yellow and white dog, the other smaller and black; the big yellow and white dog was brought in and witness said, to the best of her knowledge, it was the same dog; later the police had called at their roadhouse inquiring for two men with one yellow and one black dog; witness remembered the arrival of Relfe and Clayton at the roadhouse on Christmas eve; Olsen came to the house frequently; was there the evening of December 23d and registered; Olsen went away the morning of the 24th and returned the same evening, so late his supper was served singly, the others, including Relfe and Clayton, having previously eaten; Relfe, Clayton and Olsen remained at the roadhouse over night; witness prepared breakfast for them the next morning; she asked them to stay and have a turkey dinner, and they said perhaps they would get turkey for dinner at Hootchiku; the three men had left the house and started up the river at about 7:30 o'clock the morning of the 25th; witness could not describe the tools Olsen carried in his business as lineman for the government telegraph; witness identified a lime juice bottle as similar to some they had at the roadhouse; witness remembered Burgess and an Indian named Mercedes, mail carriers, and a man named Charlson, who came to the house on the 24th and on the 25th Burgess and Mercedes returned about 2 o'clock p. m. from Mackay with mail for down river;

witness identified the names of all the arrivals in the register; witness knew Olsen well, but never saw him after he left their place Christmas morning. Witness was not subjected to cross examination.

Capt. John Fussell was the next witness. He testified that the prisoner and his partner had slept on the floor of his house the 12th, all the 15 banks in the house being full; had talked with the two men known now as O'Brien and Graves; the latter was slightly larger than the prisoner and talked like a New York Irishman, or perhaps an Englishman; witness observed he two dogs closely and petted the large yellow one, whose name one of the men said was "Bruce"; witness identified the dog which appeared to be pleased to hear its name called; O'Brien and Graves had slept on the floor and cooked their own grub on the bankhouse stove; they wanted to pay for their lodging in roast beef, but witness made no charge; the men told him they were going up Big Salmon prospecting and witness had told them they would need all their grub; witness was captain of steamer Reindeer the season of '99 and the last time he pulled out from Dawson early in October he saw O'Brien and a man who he afterwards recognized as Graves standing on the dock; asked if he saw the two men again witness said that a day or two later and on either the 13th or 14th of December he saw a man who he took to be Graves pass his house with the two dogs before mentioned going down the river. The question of a deposition by Capt. Fussell last July arose at this point and for 15 minutes was argued pro and con by the attorneys, decision being reserved by the court. Resuming his testimony, Capt. Fussell said he had not again seen O'Brien after the morning he left his place on December 13th until the police brought him down from Tagish the following February; witness remembered the arrival of a number of people at his place on the 24th of December, including Relfe, Clayton, Olsen, the mail carriers and others; he saw O'Brien at Selkirk in March of 1899 when he (O'Brien) was being tried for theft. Cross-examined, Capt. Fussell said travel on the river was light during the early part of December, but later travel picked up; he would not swear positively that the man he saw coming down the river on the 13th or 14th with a yellow and a black dog was Graves. On redirect examination, witness said a lime juice bottle produced was similar to those of a case he had at his roadhouse and when empty he had filled them with whisky and sold to travelers; the bottle in court had been brought to witness by Detective McGuire and Constable Pennycuik. The bottle is said to have been found at O'Brien's camp. Court adjourned until 10 o'clock this morning.

ALMOST DROWNED.

Lou Heasley Precipitated Into the Klondike Wednesday Night.

Louis Heasley had an experience recently which he will remember for many years to come. He was returning from Last Chance and took the usual Hunker trail along the bank of the Klondike. While riding along at a point near Bear creek he and his horse were suddenly precipitated into the cold and swift flowing river the bank caving in from the weight of his horse.

Fortunately the incident occurred near a cabin in which there were several people and they hearing his cries for help as he was swiftly borne down stream, rushed to his rescue. A rope was hurriedly thrown to him which after several attempts he successfully grasped and was dragged ashore. The horse was also recovered and Mr. Heasley made the rest of the journey in a boat, arriving in Dawson safely.

Curley Carr Talks.

"I understand that Bates is matched to meet Slavin on the 20th instant. I would like to know what excuse he has for appearing in the ring against that man. What has he ever done which would entitle him to meet Slavin? I think it no more than right that if he is any good let him try out with me, then if he bests me he might be entitled to recognition. If I best him I will challenge Slavin.

"The people of Dawson have seen what I can do. They know nothing of Bates. I hereby challenge Bates to meet me on Saturday night, one week after my go with Leedham I will meet him with the understanding that the winner is to take all, or any other kind of an arrangement that will give the best man the larger part of the gate receipts. I will also put up every dollar I have on the outcome."

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