

SECOND DAY OF TRIAL.

(Continued from Page 1.)

In his address yesterday afternoon stating the case concerning the evidence to be produced by the crown in support of its charge of the murder of Clayton, Relfe and Olsen by O'Brien, Crown Prosecutor Wade said: "We are about to enter upon the trial of a case which from the peculiar circumstances surrounding it makes it the most intricate trial of the most diabolical crime probably ever committed on this continent. I do not consider, gentlemen of the jury, that the trial will take as long as I intend to do all I can to shorten it as much as possible and my learned friend who conducts the case for the accused will, I am sure, do the same."

"The evidence which will be produced by the crown will reveal a crime of the most diabolical nature ever heard of in the history of this continent."

"In all cases of this kind it is necessary to prove that a man has been killed before you can attempt to prove that some one killed him."

"I will not go into the medical evidence just at this point, but will state the facts concerning the finding of the bodies. The bodies of three men were found on a bar in the Yukon river at a point near Selkirk."

Here Mr. Bleeker, attorney for the defense, raised an objection that the prosecutor could not state anything relative to the bodies not concerned in the indictment. The objection was overruled by the justice and Mr. Wade proceeded:

"On the 28th of May, 1900, a body was discovered on a sand bar near Selkirk with two bullet holes through it and we will produce evidence to show the body to be that of Clayton. On June 8th, 1900, another body was found on a bar with two bullet holes through it and which we will prove to be the body of Lynn Relfe. On the 27th of June the body of Olsen was brought to Dawson."

"The medical evidence will show the condition of the bodies when they were discovered. The body of Relfe showed that he had been shot in two places, once through the trunk and once in the head. Clayton had been dealt with in much the same way, while with Olsen the method of procedure had been somewhat different, he being clubbed to death. His body showed that his ribs both in front and behind, had been broken with some heavy instrument, besides which his head had been shot into almost an unrecognizable pulp."

"A peculiar circumstance connected with the finding of the bodies was the fact that each of the three men wore sweaters and in each case the sweater had been pulled up over the head. What the object in doing so, whether to make a more thorough search or for some other purpose, we will try to prove by the doctors' evidence."

"Now, to start with we have the departure of these two men—Clayton and Relfe—on the 17th of December, 1899. Both of the young men, in the prime of life, vigorous and strong, both bent on going to the outside. How anxious they were will appear as we go on."

"We first encounter them at the Fusell roadhouse at Minto, where they arrived on the evening of the 24th of December; Clayton with his bicycle and Relfe on foot. They arrived at the roadhouse just about supper time and shortly afterwards Olsen came in. Olsen was at that time in the employ of the government as a telegraph line-man and was located at Minto and from there worked both ways keeping the line in repair. He was generally accompanied on his trips by a comrade. On the 23rd of December Olsen had left Fusell's roadhouse accompanied by a constable to make repairs on the line between Minto and Hootchiku and returned to Fusell's on the night of the 24th and left with Relfe and Clayton on the morning of the 25th. The next thing we have before us is the starting of the young men on that day which is the symbol of 'Peace

on earth good will towards men.' Notwithstanding the urgent requests of Capt. Fussell and his wife for them to remain for Christmas dinner, they were anxious to get outside and so they started. The last words which any one of them was heard to speak, unless their murderer, heard their voices, was Clayton, who was wearing Relfe's big mitts, saying to Mrs. Fussell: 'It is a nice thing for me to carry Nigger Jim's mitts for him isn't it?' Clayton always called Relfe by that name."

"Lineman Olsen was expected to arrive at Hootchiku that night, but nothing particular was thought of it until the next day, when it was learned that Olsen had left Minto the previous morning and had not been seen since. The telegraph wires were kept busy and revealed the fact that Relfe and Clayton, who were with him had disappeared also."

"It is perhaps a curious coincidence that this was the date on which the mails both ways passed a certain point between Minto and Hootchiku. On that date Burgess, the C. D. mail carrier accompanied by an Indian, was coming down from Selkirk to Minto. Instead of going straight through they stopped at Mackey's or otherwise they would have been at the point where the bodies were afterwards discovered at about 1 o'clock in the afternoon. A particular point to be noted was that at this place where the mails passed a conspiracy had been formed during the months of August, September and October to rob the mails, murder the drivers and throw the bodies under the ice."

"On December 31st the police and detectives, who were searching for the bodies and evidence of the crime, found about a mile and a half back from the trail a certain tent which will be of importance in this trial. This tent aroused the curiosity of the police on account of its peculiar construction and also on account of its proximity to the trail where the mails passed."

"In view of the fact that a number of caches in the neighborhood had been robbed suspicion pointed very strongly to this tent. A careful search was made and in one corner was found a large amount of canned goods and other provisions which were identified as belonging to a cache from which goods of like description had been stolen. There was also found over the door a .48-42 calibre rifle and several boxes of cartridges of the same calibre. A pair of nippers such as a telegraph line-man would use in repairing a line and also a file which would be used for the same purpose. A paper was also found marked with the letters P. A. R. N. which belonged to Relfe. A Yukon stove of a peculiar make was also found. One of its peculiarities lies in the fact that a mistake had been made at the point where the pivot hole of the damper is cut and a second hole had been pounded in the side in order to make the pivot connect with the damper. The stove also has a telescope or false oven and we will prove that the stove was the property of the prisoner—O'Brien."

"A thorough examination of the place was made and revealed on the left of the tent on the outside the remains of a fire and in front a mat which had evidently been used as a dog mat. Around this fire was discovered some articles of great importance to the case. A 30-30 shell was found some little distance from the fire. The prisoner at the time of his arrest was carrying a 30-30 rifle. In the vicinity of the fire the persons who had stopped there had thrown away certain articles which they probably hoped would never be seen again. The first found was a double bladed, bone handled pocketknife which was identified as the property of Clayton. Two keys the property of Clayton were also found. A number of other articles were found including an electric bell, a dog chain and others which is not necessary to mention at this time."

"The police and detectives were justified in their suspicions by the evidence they had discovered. If the tent

and the contents belonged to someone surely the owners would return, so nothing was disturbed giving an opportunity for the owners to appear and claim their property."

"A watch was kept on the place, but no one appeared to claim ownership which further strengthened their suspicions."

"The police and detectives then renewed their efforts to find the place where the men had been murdered."

"The point where the police were making their investigation was peculiar, one and a half miles from the river trail, but there was another trail between the river trail and the tent and this trail led to a high bank of the river 30 feet back on which there was a pool of blood and by it was found the crown of a molar tooth which fitted in the jaw of Relfe when the body was found."

The prosecutor also graphically described, giving his foundation for his statements, the locations where and how Clayton and Olsen met their deaths."

In giving a brief history of O'Brien's acts for some months previous to the murder, Mr. Wade said the prosecution will attempt to prove that O'Brien had approached one man with a proposition to rob and murder on the trail during the then coming winter."

"He is a false witness," said O'Brien from the prisoner's box."

"I will prove," said Mr. Wade, "that O'Brien also proposed to another man that they hold up and rob the mail on the upper river and murder drivers and put their bodies into the river through the ice."

"They are two policemen and false witnesses," exclaimed the prisoner from the box."

The court commanded order and Attorney Bleeker turned around and told his client to keep quiet."

The prosecutor followed O'Brien and his partner Graves, who was then with him, almost from the day they appeared in the neighborhood of Selkirk about the first of December, 1899, until O'Brien was arrested at Tagish early in January. At that time O'Brien assumed the name of Miller and Graves that of Ross, the latter claiming to be the founder of Rossland, B. C."

Mr. Wade explained that he would prove that the two men, having no reasons for being in that locality, told many contradictory stories as to their business there, when in reality they were there ready to carry out their plans of robbery and murder and in the meantime they were robbing caches along the river eating part and selling to travelers part of their loot."

For a short time and between the 10th and the day of the murder, O'Brien was not so much in evidence as for eight or ten days previous, but was evidently stopping at his camp back from the point on the river near which the murders were committed. Mrs. Prater and others saw O'Brien on December 27th and traveled off and on with him for some days up the river and had he money to pay his bills where previous to Christmas day he had no money but cooked his own grub and slept on floors. January 2 at Shock's roadhouse O'Brien purchased a team of horses and paid \$5.00 in cash therefor, and that morning Mrs. Prater saw him lying on his bunk and counting over a large roll of bank bills. Next evening on Lake Marsh O'Brien called at steamer Nora and stayed over night. There he displayed a small sack of nuggets to a man named Hilderbrand and one nugget proved to be a twin nugget, a most uncommon and rare creation in that a small nugget was contained within a larger one and rattled when handled. Seeing the freak nugget O'Brien hastily concealed it. "That nugget," said Mr. Wade, "was the property of Lynn Relfe, presented to him by Geo. Noble of Dawson. A day or two later and when O'Brien was arrested by the police at Tagish the tell tale nugget had disappeared and has not since been seen. Some of the money O'Brien had been seen with had also disappeared, but later and in the Tagish jail two \$500 bills had been found sewed above the leather soles of his moccasins."

Mr. Wade closed his outline or statement of the case by asserting that while the evidence he would present

would be entirely circumstantial, the circumstances would be such as to convict O'Brien on the charge of murder."

Dr. H. H. Hurdman, assistant police surgeon, was the first witness called by the prosecution. He had assisted Police Surgeon Thompson in conducting post mortem examinations on certain bodies a year ago, among them those of three men identified as Relfe, Clayton and Olsen; that the body of Relfe bore marks and wounds, a bullet wound behind and slightly below the right ear, a mark on the neck looking as though made from a tightly drawn rope; one on the left side and about five inches below the nipple was a large hole presumably made by a bullet with a corresponding hole in the back; temporal bones of skull were both fractured and left side of lower jaw was much shattered; the third molar on left jaw was gone and the one back of it was loose and lying in the mouth by the wound; the witness had been handed a molar crown by the coroner which exactly fitted in every respect including marks and decayed spots the stump in the mouth of the body. The molar crown was produced by the prosecutor and recognized by witness."

The molar crown as well as the loose tooth found in the mouth were being shown to the jury by the crown prosecutor and was objected to by Attorney Bleeker. The exhibition to the jury was turned over to the witness. The examination of the witness being resumed he stated that a large wound had been found in the left ventricle of the heart and the left lung was deformed and had large tears or rents in lower part; the chest cavity after heart and lungs had been removed contained about 20 ounces of black, clotted blood, and intestines protruded up into the cavity, the partitions between the two separate compartments of the body having been ruptured. The condition of the stomach would indicate that the man had died within three hours after eating; either the wound in the head or heart would cause death; it was plain that death had not been caused by drowning."

The prosecutor asked Witness Hurdman if he had examined the body of Fred H. Clayton and Attorney Bleeker at once objected on the ground that his client was not on trial for Clayton's murder. Mr. Wade said it was his intention to show that Relfe, Clayton and Olsen were murdered at the same time and that the killing of all was virtually the same transaction. The court stated that as soon as it is proven that the three men were traveling together, the evidence will be admissible."

The hour of 5 o'clock having arrived, the court inquired if it was the wish of the attorneys and jury to continue until six and one juror replied, "This bench is a hard one." Judge Dugas suggested a short night session of not over two hours and Mr. Wade said that at night was the only time he will have to see his witnesses. It seemed to be the opinion of those interested that from 10 a. m. to 5 p. m. with the interval will prove sufficient before the case is ended. Court then adjourned until today at 10 o'clock when the examination of Dr. Hurdman was resumed."

Temporary Quarters.
The firm of Barret & Hull, wholesale grocers and commission merchants, has removed from their old location on the water front and are now to be found at the Dawson Transfer and Storage Co.'s warehouses on Third avenue. It is understood that arrangements have been effected by the firm to handle an immense volume of business this season.

Going Outside.
Mr. Arthur Bloom who for nearly two years has held the position of pressman in the Nugget office, during which time he has never missed a day's work, will leave on the next steamer up the river on a visit to his sister at his former home, Tacoma. There are dark hints that another fellow's sister is the real cause of the visit and that when the versatile pressman returns to Dawson there will be clothes other than his own in his trunk.

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