

Wm. Oxley on Trial.

His Preliminary Before Judge Armour.
—Forty Witnesses in the Case.

On Thursday of last week Wm Oxley, the supposed murderer of W. H. Fullhart, was taken before Judge Armour, where he was arraigned on the charge of killing W. H. Fullhart, on his ranch, 18 miles northwest of Anselmo, by striking him on the head with some blunt instrument, on or about the 16th of November last. The charges were read by County Attorney L.E Kirkpatrick. The prisoner entered a plea of not guilty. J. R. Dean appeared as attorney for the defendant. On the county attorney making affidavit that he could not get his witnesses here before Tuesday, December 11th, the Judge set the preliminary trial for Tuesday, at 10 o'clock.

PRELIMINARY TRIAL

It was about 11 o'clock before the prisoner was brought into court, but in the meantime the court room had filled up pretty well with some forty witnesses, who were subpoenaed, and many others who were interested in hearing the evidence in the case. Among the witnesses was George Oxley, a brother of the defendant, and by the way quite an intelligent looking young man, who took his seat by the side of his brother's attorneys, J. R. Dean and Judge Wall. Miss Navy Pierson was court reporter. In opening the case the first witness called was David Parks Jr. He gave the following testimony:

I live at Arnold, with my father. I know Wm. Oxley. He lived at our house most of the time since March, 1900. Have known him since 1886. He had been living near his sisters; I have forgotten the name of county. He has been away about eight years; had not seen him in that time until March. I know a bay horse Mr. Oxley used some time in October. Oxley left father's place with this horse about the 10th of October. No one went with him. He told us he was going up to Mr. Gamble's. Did not see him again until a few days before election, four or five days perhaps; at our home; came on horseback; he remained in the vicinity of Arnold until the 12th of November. Went away horse back; took a little bay mare he was longing to my brother, Joe Parks. Left about 6 o'clock; took also a gray mare which I think belongs to Jimmie Gamble. Saw this bay mare again on the 23d of November; she came from Arnold's house; the mare got home about dark. Had not seen Oxley since the 12th (Oxley pointed out in the court room). Running mare; described the mare; pulls back when tied with halter. The defendant was well acquainted with the mare; he was staying with us; helping when he felt like it; he received no wages; he staid there nearly all the time from March to Oct., 1900; had not been away 1 month all the time; went to Mr. Gamble's; would stay about 10 days; made two trips. Did not know W. H. Fullhart; never saw him. Gamble's ranch is between 18 and 20 miles from Arnold; Gothenburg is 30 miles from Arnold.

CROSS-EXAMINED BY DEAN

Oxley helped train horses some; worked part of the time when he was able. I think he helped Mr. Allen a day and a half; had his arms about him; was counted a peaceable citizen; visitors that came to visit the family; no strangers come; no wild-eyed fellows came and called him out. The bay mare belonged to my brother Joe; he left it about the 12th of November; he took a gray mare belonging to Jimmie Gamble; he rode the gray and led the bay; the bay a valuable horse, worth \$400 or \$500; was not afraid to trust it in his care. The mail carrier brought the mare back from Gothenburg; did not see the gray mare afterwards; the bay was gone from the 10th to the 23d of November. Gothenburg mail carrier brought the mare back; the mail ran from Gothenburg to Arnold on Mondays and Fridays; can not tell his name; quiet sort of a man. The bay mare is now at home. I live one-half mile west of Arnold. Bay mare will not stand tied with the halter; would tie her around the body; did not see her when she came home, but I was on the place. The mail gets to Arnold about 4 o'clock in the summer time, and about dark in winter.

BENEDICT EXAMINATION

The first I saw of the bay mare was in the stable. I did not see her when she came; my little brother Johnnie saw her; it was along in the evening. I do not know where she came from; one came with her; she came loose; all I know about how she came was what Joe told me. Witness excused.

Joe Parks sworn. I live at Arnold; Dave Parks Jr. is my brother; the bay mare described is mine; I was feeding hogs when the mare came home; saw her across the bridge; she had nothing on her at all. Live half mile from Arnold. When Oxley got the bay horse the first time I was not at home; he took me on the 12th. I told him to take the mare; he said he thought he would be back in a week; said he was going to Gandy. I have seen Fullhart, but was not acquainted with him; saw him at Arnold.

CROSS-EXAMINED

Saw her in the evening; she had pulled loose before; she would always pull loose; she was all right; did not look as though she had been abused.

James Gamble sworn. Live in the wild horse flats in Logan county; have lived there 8 years; have known Wm. Oxley since he was about 5 years old; do not know how old he is; he is about 4 years older than I. I am 25; have not seen him very frequently the past summer; saw him in June; think he was at my ranch three or four days; he came there the 22d of October, riding a bay horse; he came about noon on the 23d of October; said that afternoon, Monday, Tuesday, Wednesday, and left my place on Thursday, the 25th, some time in the morning, on horseback. I live 20 miles from Arnold; he said he was going in the vicinity of Anselmo, and to Arnold. I saw him again on the 12th of November. He brought a gray mare my brother had taken to Arnold on the Saturday previous; he staid over night, and left about 8 o'clock the next morning, on a bay mare he brought with him, and said he was going over in the vicinity of Dunning and Victoria Springs. I live about 22 miles from Dunning. I next saw him Wednesday Nov. 19th, about dark; he brought nine head of cattle and a calf, and drove them into our small yard near the house; he staid over night; he did not say just where he was going, but had talked of going to Gandy and the south table, to see what he could buy calves for; he made no arrangements with my brother in my presence in regard to keeping the cattle. (he here described the cattle left at their place) He kept the cattle until Mr. Atkinson, the administrator of Fullhart's estate, took them, on December 1st. Oxley told us he had sold four head to Jimmie Gamble.

Tolson sworn. Had worked for Fullhart in hying about four weeks, and left there on the 25th of October. Defendant came to Fullhart's the day before I left; said he was from Arnold; he

and Fullhart talked about people living near Arnold. I believe defendant is the man; am not sure that he is; made quite a change by shaving his beard. I am sure he is the man. He had no gun that I saw; he came on horseback.

Mr. Star sworn. Live five miles southwest of Dunning; visited Fullhart the 29th of October, said two hours. A man was there cooking dinner; he said he was from Arnold, and owned 50 head of cattle; he was a heavy set man, with black hair and moustache, 28 or 30 years old; he said his name was Oxley. The prisoner resembles the man, but cannot say that he is the man, my best judgment is that he is the man. We selected the man, but had no brands on them. We selected them out of a bunch of one hundred or more, and drove them out, and Gamble said they were the ones Oxley left there.

Peter Filley sworn. Live two or three miles from Fullhart's place; have been there frequently; saw his cattle often; went with others to pick out the cattle at Gamble's which Oxley left there. Described the cattle, and told how he knew them; they had no brands on them. We selected them out of a bunch of one hundred or more, and drove them out, and Gamble said they were the ones Oxley left there.

H. B. Andrew sworn. Live at Anselmo; Oct. 17th bought two steers of Fullhart. He brought three steer to my place to sell, one was part Jersey. I bought the two larger steers of him, and he took the other one back home with him. I afterwards saw the steer on Tierney's ranch; I knew the steer as soon as I saw it.

Jas. Judge sworn. Live in Logan county, on Tierney's ranch, known as the T. L. V. ranch; I am foreman. Have met Wm. Oxley; he came to the ranch on the 19th of November, about noon; he said he was going to Gamble Bros. ranch; he ate dinner; said he had worked at the ranch a number of years ago, when Pat Riley was there. He offered to sell me a yearling steer for \$22; I bought it. While I was gone to the house to make out the check, he and my brother brought the cattle up to the corral. My brother bought three calves of him, for \$13 each, for which I gave him another check. One check I drew on B. J. Tierney, of Ansley, the other on Tierney Bros. (he here described the cattle Oxley had with him). Oxley left my place about 4 o'clock; said he was going to Gamble's, five miles south. Our ranch is or 17 miles from Fullhart's place. (Witness pointed out Oxley at end of desk; said he had shaved his moustache since; he looks a little thinner).

Thos. Judge sworn. His evidence was a corroboration of his brother's in the main. He told of Atkinson and others coming to the ranch after the cattle they had bought of Oxley, and said that Andrew pointed out the steer his brother bought of Oxley.

Chas. Vogel sworn. Am employed on Tierney's ranch; saw Oxley on the 19th; he came to the ranch with cattle. I talked with him; he told me he brought the cattle by the place I used to live in the sand hills, 18 miles west of Ansley; told of frame house and wind mill he came by.

Wm. Great sworn. Live about four miles from Fullhart's. Was at his place in October four or five times. On the 15th of November I was there and saw him that day; he was one mile east of the house, building fence, east and west; one wire was stretched to where he was; went there to get a dog. A man was there driving staples, whom Fullhart called Oxley. When I got there, Fullhart was a half mile off watering the stock. The man pointed to where he was, and I went to him, and he came back with me; cannot tell whether the prisoner is the man or not; he looks like the man I saw with Fullhart, only he has no beard. I went to Fullhart's on the 24th. W. Richardson went with me; I had been there two days before. We went first to Murphy's ranch to notify him that I had some of his stock. We came back by Fullhart's to tell him that I had some of his horses in the corral; had them 4 or 5 days. We found no one at the house; we went to the watering tank and found no one there; then W. Richardson and I went to where I had found them; he was riding fence, and found him. A sled with three coils of wire on it was near the body; do not think any wire had been stretched after I was there. Body was lying east and west, with blood on his face. All that had been done to the fence was about a quarter of a mile more posts had been set.

CROSS-EXAMINED.
There is a generally traveled road from my place to Fullhart's; went there once in two weeks, generally to see about stock, sometimes mine and sometimes his. Never sold or bought stock of him; sold him a rake and provisions, butter and eggs; we never visited, only business. Never changed work, but have worked for him; did not work for him last summer. Have had rows with him; I shot one of his horses two years ago; we had another row in August. I had to knock him down to keep him from shooting me. I gave him back the revolver and told him to keep his horses off my hay. While I held him down he promised not to use his revolver if I let him up. I visited him in two weeks after, I shot up his horses on the 15th of November; I went to tell him. I had a written notice to serve on Murphy that I had some of his cattle. I was there when the sheriff searched Fullhart's clothing; he had something over \$8,000, some buttons, some tobacco; no fire arms or knife. Was within a rod of the sled; I did not see any tools except the wire stretcher; saw a spade about 40 rods west; he had on a pair of felt on his feet; canton flannel mittens on hands; three pair of overalls, a coat, vest, two shirts and a blanket sewn over his shoulders. He had from 35 to 50 head of cattle. I saw them frequently, and knew them as well as I did my own. Heard Fullhart say frequently that he would never sell a cow or heifer.

Weasley Richardson sworn. His testimony corroborated Great's in reference to finding the body of deceased on the 24th of November.

Ira Foster sworn. Live at Anselmo. I knew Fullhart; he was about 61 years of age, and strong for his age; he had no family; lived alone. Reached his place Saturday, Nov. 24th, about 9 o'clock p.m.; found a watch fire and three or four men there; body of Fullhart was three-quarters of a mile east of house, lay on its side, with one arm underneath. I had charge of the cattle until administrator was appointed.

The following from the county treasurer was read by Mr. Arthur, who moved its adoption:

To the County Board of Supervisors of Custer county: On account of the great amount of extra work caused by the unexpected sale of land for tax purposes, and finding it impossible to do the work of the office with the force of clerks, I therefore ask that I be allowed for clerk hire, \$175.00 in addition to my first allowance. M. E. Schaefer, county treasurer.

Motion seconded by Mr. Nicholas. Vote taken; motion carried.

The official bond road and road claims committee presented the following report.

Whereas the road petition signed by Joe Blanke et al. which was acted upon at the January meeting of this board, provided for the taxation of a certain public road described in said petition, and where the said road was not mentioned in the advertisement of said petition, therefore, we, your committee, recommend that the county clerk, and hereby is, ordered to advertise said road, in the manner provided by the statute. Conley, Arthur, Brescull.

Moved and carried that report be accepted and ordered as recommended by committee.

Mr. Bruebuhl, chairman of the erroneous and delinquent tax claims committee, reported that he has examined the claims of C. S. Bayles for tax paid under protest, 1899, and being convinced that the tax was erroneous on the ground that there has been a double assessment, recommends that the amount, \$3.90, so paid be refunded. Moved and carried to accept and adopt report and to order county treasurer to refund tax.

The afternoon was spent chiefly in committee work, and at six p.m. adjournment was taken until 9 o'clock tomorrow morning.

Wednesday, December 5. Board met at 9 a.m.; was called to order by chairman; all members

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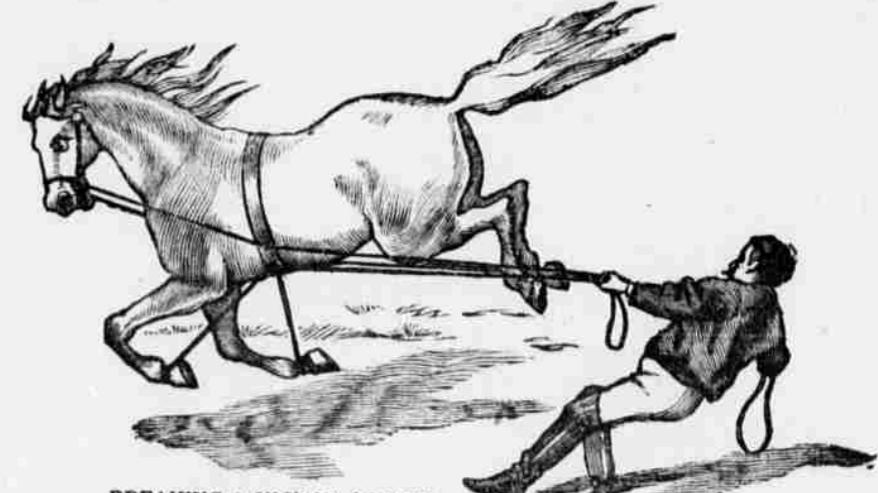
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