

Fullhart Murder Trial.

Wm. OXLEY ON TRIAL FOR HIS LIFE

The Case Aily Prosecuted by County Attorney Kirkpatrick, C. H. Holcomb and J. S. Kirkpatrick, and Defense Conducted by Wall and Dean.

The case of the murder of W. H. Fullhart, who was found dead 18 miles north west of Anselmo, on the 24 of last November, was commenced Monday with Judge H. M. Sullivan on the bench. All day Monday and until 10 o'clock Tuesday was occupied in securing a jury. The regular panel was exhausted on the first day and talesmen had to be called to fill up the jury. Judge Wall, for the defense, objected to the sheriff summoning the talesmen and the court appointed E. Taylor, ex deputy under Sheriff Leisure to serve as special deputy for that purpose. The following is a list of the jury finally chosen: G. T. Robinson, Broken Bow; Godfrey Nansel, Callaway; H. Wilke, West Union; Jas. May, Callaway; T. D. Gill, Genet; Geo. Cox, ———— W. P. True, Georgetown; J. L. King, Ryno; Jason Evans, Sargent; W. H. Mauk, Berwyn; S. P. Young, Lomax; Jas. Cosner, Broken Bow.

It is stated that there are 60 witnesses for the state and 48 for the defendant, making a total of 108 witnesses to examine before the case can go to the jury, it will probably take the entire week.

Among the witnesses for the defendant are: Everett Oxley, father of the defendant and two brothers, George and Emery of Chambers and A. L. Spearman of Louisville and George Ringo of Springfield Neb. A half brother of Fullhart, J. B. Shidler, of Cuba, Kansas, arrived Tuesday morning, and he expects his brother today, who has been detained at home up to the present by sickness.

The witnesses on both sides were excluded from the court room during the trial by order of the court. The first witness called was Wesley Richardson, who after being sworn testified substantially as follows:

Have resided 13 miles west of Anselmo since Nov. 16; moved on Nov. 16th from 11 miles north of Broken Bow; have a family, consisting of a wife and one child; moved to Groat & Sloggett's ranch, 13 miles northwest of Anselmo. Will Groat was living at the ranch at the time; he has a family, consisting of wife and four children. I took his place, Reached there Friday, Nov. 16th, at 10 o'clock a. m. On Saturday, the 17th of November, worked around the house with Mr. Groat; Sunday, the 18th, was at home all day. Weather on Sunday cold; snowed Sunday evening. Monday, the 19th, worked about the place; Mr. Groat and I were at home all day; Tuesday, chored about the place; Wednesday, took fence down north of house; Thursday rolled up wire; Groat and I worked together. Friday I went to Anselmo, and Mr. Groat stretched wire; Saturday, went to Mr. Murphy's; five miles northwest of Groat's ranch. I left at 8 o'clock; Groat went with me; we went to tell him about some cattle which we had taken up; we went from there to Fullhart's place, four miles from Groat ranch. When we got to the Fullhart place, we went to the door and knocked, but received no answer; went north to the tank; saw four head of horses and a colt there; ground covered with sleet and snow. Examined for tracks around the house, and found nothing but horse tracks. Door fastened on outside with rope on nail; unfastened door and went into house; found he was not there. Went due east from house, along line of fence, along side of road; thought we might find him over there. First saw sled with wire on it, and Mr. Fullhart's dog; got up even with the sled, and found Mr. Fullhart's body, with head lying to the southeast, on right side of face; was 6 or seven feet northeast of sled. Three rolls of wire were on sled. Wire was stretched on the fence within about two rods of his body; two wires were stretched on the fence; posts all set half mile west of his body; no wire stretched west of body; keg of nails just east of him, where he finished stretching wire. It was three-fourths of a mile east of Fullhart's house, hitched to the sled with rope and single-tree; sled facing east; body clothed with three pair of pants, undershirt, two outside shirts, vest, coat, with blanket over his shoulders. The blanket was folded and drawn over his shoulder, and tied in front with string; blanket half way over his head; cap 6 feet southwest of him. Wounds on right back side of head and left ear. Face and head covered with blood, also ground where his head lay, for quite a space; indicated quite a lot of blood. Mr. Fullhart was with me. We did not touch the body nor touch it. Fullhart had a pair of felt boots and on his feet; overshoes

well worn out. We looked for evidence of a struggle, but found no tracks at all, except his little dog's tracks. Groat and I went home, got our dinners, and I went back and staid with the body; got back to the body about half past two; staid until sundown. It was in the same condition as when we found it. I went home to supper; Groat, Charley Street and another man came and staid while I was gone. G. S. Bails, Filley, Willie Martin were there when I got back at 9:30; we all staid through the night. The sheriff and county attorney came between 9 and 10 o'clock that night. The next thing done with the body was the next morning, when the sheriff examined it and moved it. The body was frozen stiff, and had a very bad smell. I did not go to Anselmo when the body was taken; was at the inquest. Charley Street hauled the body to Anselmo. I moved to the Groat ranch Friday, Nov. 16th. About a week after I went to Groat's place, a person came looking up some land; his name was Barnes; he drove out from Anselmo with Kirk Eldredge's boy. It was on Thursday after I got there; Thursday before we found the body. Barnes went to see a piece of land between Groat's and Fullhart's; Groat went with him; Groat went on horseback; man and driver went in buggy. Groat left the ranch and went to Fullhart's on day that I moved in. Do not know which direction he went; was not there when he left, or when he came back.

Cross-examined: Moved into house with Groat. Groat staid there two weeks, or a little longer, after I moved. I leased the place. I have an interest, I am not related I refer to Mr. Groat. Owners are Will Groat and Jim Sloggett. I am not related to either; they are not related; I lived on Sloggett's place before I moved; went to Murphy's to notify him that Groat had some of his cattle; written notice was given. I think Mr. Groat had had them taken up two or three days when we gave the notice. They were taken up on the Friday before we found Mr. Fullhart's body, on the 23d. I was not present, but was living on the ranch; was not present when Fullhart's horses were taken up for running on the hay; there were thirteen horses. I was not present. Groat did not take a written notice to Mr. Fullhart; do not know why he did not; he gave Murphy a written notice. He went on northeast from Murphy's to Fullhart's, three and one-half miles; he left home at 8 o'clock; got to Murphy's about 9 o'clock; did not stay over five minutes. When we got to Fullhart's ranch, we knocked at the door; we were on horseback; Groat rapped on door; I was on my horse, two rods away, in plain sight; could not see the fastening on door, on account of wall; saw slate on door; small slate about 8x10; did not notice the slate the first time I was there; Mr. Groat did not stay at door more than about one minute. Groat said I guess he is not there. I saw Groat look at the slate; saw him read it; it was right by him; it was the second time we were at the door; we went to within three or four yards of the tank; went to tank to see if Fullhart was there. We talked about nothing in going to tank; went immediately back to house; we talked on our road back to the house; went into the house; tied horses about one and one-half rods from door, in front of house; went into the house; read on the slate; both read at the same time; went into the house. The door was fastened with a rope wrapped around a nail. Groat went in first; there were two rooms in the house. We went in both rooms; when we looked into second room we went out. A kind of a bad in the room; looked to see if Fullhart was in there; an old door on the northwest; do not know whether it was used. The fastening could not have been made by a man on the inside; examined bed enough to know whether anybody was in there. Question: Did you not state in the preliminary that Groat looked, and you just called for him? Objected to, and objection sustained. Were in the house two or three minutes; went out together; think Mr. Groat shut the door; fastened it with the rope about the same as we found it; went east. It was on our way home, and thought we might find Mr. Fullhart, and because of the writing on the slate. Have seen the slate at the inquest; (slate exhibited) witness identified the slate as the one he saw on Fullhart's door. The writing the same as when I saw it on the door, except the lower part of the writing. Witness, read the words that were on the slate when he first saw it. "We are straight east, one mile along the posts." We went about three-fourths of a mile east; first thing we saw was the sled with wire on it, and Mr. Fullhart's dog. I did not mean to say the face was entirely covered with blood; what I meant was that there was blood on

his face, in his hair, on right side of face, also run down on left side of face, alongside of nose. Did not feel of the body at all, at any time. Could tell it was frozen stiff by looking at it; all I know about it being stiff or frozen was by looking at it. The snow or sleet began to fall on Friday night, a week before Mr. Fullhart's body was found. It was first a heavy frost, everything covered white. Garments were not as clean as men usually wear. The name of the land agent I think is Barnes; think he was from Kansas; have not seen him since. He went west between our place and Fullhart's, to look at a piece of land; did not go with him, and could not see him on his road for more than one-fourth of a mile. Groat went away from the place on the 16th of November. I was not there; he told me he went away. Groat told me he went to Fullhart's after his dog. This was Friday, the 16th of November.

Redirect:—Fullhart's horses had been there at the G ranch off and on all week; the sheriff opened the clothes of Fullhart; saw the body when examined, a few blue spots on the body, on the stomach, on the right side, quite a loud scent from the body; noticed it before the body was moved; could detect it 5 or 6 ft. away before the body was moved; was more pronounced after the sheriff opened his clothing; I took him by the arm and turned him over; the body was stiff, from my judgment thought it was mostly frozen.

Recross examined:—The odor was from the body and not the clothing; do not doubt but the clothing would smell a little bit. First I knew Mr. Fullhart's horses was in Sept some time, I was up there at work; Fullhart was not there with the horses; Fullhart did not tell me that they were his horses; saw 13 horses of Fullhart's second time I was there, all I know about them being Fullhart's horses is from hearsay. If the party that told me they were Fullhart's did not know I was misled. The dog was a little black one, it was small, I saw the tracks of the dog around Fullhart's body, but did not see them around the house.

Court's question:—Did it snow on Friday night? No sir, the sleet and snow fell Sunday night. Excused.

Chas. Street sworn:—Live about 10 miles north west of Anselmo; had known Fullhart about 8 years, was on my place the day the Fullhart body was found, Groat came on that day; I drove my team to Wm. Hough's and put it up there. He hitched up to his spring wagon. We went around by Groat's place, went to the body with Groat and Hough; the head of the body slightly down hill, sled facing east; 2 miles east of house, body had a great amount of clothing on, 2 or 3 shirts 2 pair of pants one overhauls a shawl over shoulders, folded in four thicknesses; badly traised around the head, face lying on side was there from 3 p. m. to 9 a. m. the next day. Peter Filley, John Bales, Hugh McDermott, Ira Foster county attorney and sheriff came while I was there; I took the body to Anselmo and deposited in a building there.

Cross examined:—Lived in county since '83, lived near Broken Bow part of the time, relatives live near there now; Fullhart's house north west of my place. Groat's residence is 2 1/2 miles from my place; Groat told me first of the death of Fullhart, do not remember the date exactly; it was on Saturday before the body was moved to Anselmo; no one was with me when he told me, I was in the field gathering corn between 1 and 2 o'clock; I told him I would get Mr. Hough while he went to Mr. Johnson's; I went in Hough's spring wagon, Hough resides about 4 miles from Fullhart's; I did not see the body examined, I hauled the body to Anselmo, no one was with me; I did not see the clothing taken from the body; 3 overalls, 2 shirts, under shirt, coat and shawl over the shoulders and head 4 thicknesses; did not observe any odor about the clothing or body. I helped load him in the wagon; did not help carry the body in the building; was not in the room until body was prepared for burial; observed no odor. The room was 40 or 50 feet long; I was 4 or 5 feet from the body, passed in and out and looked at the body; quite a crowd was there. I saw the body first time on Saturday; last time saw the body was on Monday at the inquest.

Redirect:—Blanket over the body when in the wagon until I got to my place when I put a heavy duck wagon sheet over it. The body was about the centre of the room when placed for the public to view it. Excused.

John Bales sworn:—Live 4 miles west of Anselmo, lived there 12 years; had known Fullhart prior to his death 8 years; saw him 25 or 30 times in the last two years. It was the custom of Fullhart to carry fire

arms; have seen him with a revolver; it was about 44 colt, pearl handle cap and ball, saw the revolver last time about the 10 of Nov.; had it with him to Murphy's; Murphy's place is 3 miles from Fullhart's; I was at Murphy's the 24 the day the body was found; went to Fullhart's; a sled, wire on it, Fullhart's body, I got there about 7 p. m. and staid until about 10 a. m. next day; The body was east of the Fullhart house about a mile in Custer county, Neb.

Cross-examined: Had known Fullhart about eight years; had seen him 25 or 30 times in past two years, at his house and around at the neighbors; knew about the sword, pistols, guns, two revolvers, a rifle and an old shotgun. Did not see the sword at the time I saw the guns; saw the sword at another time on the wagon. Did not examine but one gun for the maker; one was the Colts; (witness described where the name was on the gun). Had shot it; was 44 caliber; loaded; used it 50 or 60 times, I owned it for a while. Excused.

Ira Foster—Live at Anselmo; have lived there for 17 years; have held office of deputy sheriff and constable; am now constable. Had known Fullhart two years. On the 24th of November, at Anselmo, went out to Fullhart place with the sheriff and county attorney; found Fullhart dead three-fourths of a mile east of his house, alongside of fence. A number of parties were watching there. We took our lanterns and examined all we could; looked to the wounds; did not move him until the next morning; he had built fence east and west; commenced east of house; set posts and strung wire; fence near where body was found; fence east of body, but do not know how far. Wire stretched within about a rod of body; there was wire stretcher, hammer and keg of nails. Body was lying in direct line with fence; first post about fifteen feet from body; set west of that one-fourth of a mile; next morning examined the wound and the ground around the body; searched the clothing, also unfastened the clothing and blanket around shoulders. He had a white cloth around his neck; clothing opened in front and thrown back; body was not in very good condition; skin looked spotted; noticed odor when sheriff unfastened the clothing; spots were on the stomach and breast. Went to the house directly after the examination; door was open; Armstrong, Kirkpatrick, Filley, and one or two others; Armstrong went in first; found a Winchester rifle, double barrel shot gun, a cap and ball navy revolver; think it had a wooden handle; am not sure, as it had raggs wrapped around it. I saw a sword, also revolver scabbard, hanging on some old harness in the house; scabbard was of leather. We followed the sled tracks from the sled back to the house—that was the sled which the wire was on; sled about 12 feet from body; there were two tracks, one made with foot with felt shoe or boot, or raggs wrapped around it; the other a small track, about No. 8, middling plain and clear; tracks by the side of sled track; the other looked as though it was in the lead—the one with the muffled shoes on; one by the side and close to it all the time, the other in front; one track kept outside of sled, the other looked as though it was in front, like he had been leading the horse; found no metal box there; there were harness there; some on the fence and corral, some in the house, half set in stable; on piece of board, nailed onto a post, 5 feet above the ground. Found blood on the harness hanging in the stable, single set or half of double set of harness. The blood spots were on the cockey that hitches onto single tree, on end of tug; did not see any others.

Cross-examined: Examined spots on the harness; they showed very plainly; they were a little dark, brown like; my best judgment is, that it was not paint. The blood stains would cover a space about the size of a quarter; looked like finger marks; think it had been on there for some time. Harness were in the open shed; stock in corral there; stock could get to the harness. The stains could not come from an oil barrel. Have built wire fences; have seen paint come off; have seen people out their hands on wire fences. Sheriff Armstrong and Kirkpatrick were with me. One track seemed to have been made by a boot wrapped in cloth; did not see the tracks made; one track in center of runners, the other outside of tracks; they could not have been made by the same shoe. Murphy first told me of the death of Fullhart. I went with Mr. McDermott, the sheriff and the county attorney; told who were there when he reached the body; sheriff and myself examined the body; house was in a terrible shape; bad odor; the condition of clothing unclear; was smell about the body; some about the clothing; could tell the difference; the clothing smelled as

though it had been smoked for about six months; the body like a dead body. Found Winchester rifle, double barrel shotgun, old Colt's navy revolver, cap and ball; door closed, but not fastened. Court question: "The tracks had been made before the last snow, but in the sand?" Answer: "Did not say the tracks were made in the snow." Excused.

H. L. Ormsby sworn: Lived at Broken Bow for nearly 3 years; am agent for railroad company and express company; have been agent for 12 years. One of my duties is to keep record of weather at this place, for the government and the railroad company. I take the temperature three times each day—at 7 a. m., 2 p. m. and 9 p. m.; (from Nov. 15th to 25th, the record, as shown by the thermometer, was introduced) have been keeping this weather record for nearly three years. Excused.

Dr. R. C. Talbot called. Lived in town since 1884; have practiced medicine for 32 years; for 22 years in this state. I was present at the coroner's inquest at Anselmo of W. H. Fullhart; found a cut through the scalp, above the ear; another extending across, through and below the ear; the first, 1 1/2 inches long; the other 2 inches long, with the one across the ear. I could not have told from what direction it came, without further examination. We stripped the skull, and found it fractured from the medium line to the front, and about 2 inches of the skull crushed into the brain; it was in several pieces, some of which went into the brain. The skull was fractured a little behind the line over the ears, and depressed; the fracture extended to the front, the fracture was from some external blow; from the appearance it was a blunt instrument of some kind, with an edge that would cut through; the instrument must have been of some size, as the cut and crushed skull must have been made at one time; had a weapon, or saw a weapon which could have produced the wound—a large revolver; I took the revolver, and by placing the butt of the revolver over the depressed portion of the skull, the trigger guards fit over the cut in the ear—with proper force the revolver would have made the wounds. He here described how the blow could have been struck. A bullet of wood or steel might have been shaped to have done it; could not have been done with a hammer with one blow. The blow was of considerable force—the blow would kill a man instantaneously. The edges of the pieces of the skull bone had been crushed into the brain substance. A postmortem examination was made by Dr. Day and I. Dr. Williams was present. The other organs of the body were healthy. Blood extended from the wounds over the left side of his face, but very little blood was in the body when we opened it. A little clot was in his heart. Found four thicknesses of coats or vests, one of which was leather, three shirts, three pair of socks, one pair of shoes and wrapped around them; cloth of some kind around his neck—A blanket was lying there, two pair of cotton flannel mittens, very little signs of decomposition—No decomposing odor about it. Could not say definitely the number of days he had been dead.

Dr. Talbot, taking the degrees of temperature for eight days prior to the inquest in consideration, as shown by the table, the body might have been dead two years. According to all authority a body ceases decomposition when at freezing point. And according to the record exhibited of temperature in that period of time it was below freezing point.

A blow of that force would knock a man down—I hardly know whether a body could have been thrown from a wagon in a runaway so as to have produced such a wound.

Decomposition is destruction that goes on after death.

I think I said at the coroner's inquest that the body had been dead three or four days. The clothing were old. Did not notice the blanket particularly. One of the garments was leather in the back where we cut the clothing off. There was no odor of decomposition. There was an odor peculiar to all dead bodies when you open them. There was an offensive odor from the clothing. I could not tell from what position the blow struck, if from human agency. Had I known or thought about the conditions of temperature intervening at the inquest I would not have stated the body had been dead three or four days.

Dr. Clinton Day sworn:—Resided in Broken Bow two years, physician, practiced over nine years; practiced at Merna before locating here. Was at the Fullhart inquest at Anselmo, made examination and found wounds on body, one wound on left side of head little above and back of the ear. External appearance had the appearance of a

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cut about one inch in length, and the other wound had the appearance of a torn wound made through the ear, in front of first described a slight wound in front. The compressed portion two inches square, the skull was fractured over and around in front of the medium line. On removing the scalp found the wound in front of the ear was not deep. The compressed portion of the skull was broken in fine pieces and pressed down on the brain substance. Think some of the pieces went on the brain but were not pressed down into the brain. The wound could have been inflicted by a blunt instrument. A great deal of force was necessary to produce such a wound. Such a wound would cause immediate death. The wound on his head caused the death of this man Fullhart. The wounds might have all been inflicted with one blow. The force producing these wounds came from behind above, downward and forward. The other organs of the body were in a normal condition. There was some blood clot in his hair and left eye was filled up with blood clot and blood had run down over the forehead. The brain substance was not frozen but the fluid beneath the skull was frozen. Did not examine as to whether the body had been freezing and thawing. The rate of temperature from thirty-six to forty-two degrees above zero would preserve a body—I would say that with the temperature ranging from four degrees to forty degrees above zero for the eight days previous to inquest he might have been one week and it might have been two. The temperature was sufficient to preserve a body. A body frozen solid will not decompose. First decomposition is internally, attended by gasses, in the abdominal cavity. The age effects decomposition. In young persons decomposition sets in earlier than in older. State of health might exacerate decomposition, afflicted stomach might. I think I am able to say that the wounds was effected by some one. I cannot conceive of any way a person might have been thrown to produce the injuries found. I think it impossible.

Court adjourned to 9 o'clock tomorrow.

(CONTINUED NEXT WEEK)

Horse Races with Train.
German papers relate that Captain Baron Holzinger recently covered a distance of fifteen kilometers (nine and a quarter miles) on horseback in twenty-five minutes. His horse had been especially trained for the ride, having been fed on a prepared food, instead of oats, for weeks. The ride was accomplished without extraordinary exertion, and the horse was fit for more work at the finish.

To Explore the South Polar Seas.
The duke of Abruzzi proposes to start from Buenos Ayres in 1902, on a voyage to explore the south polar seas. In a ship which will be specially built in Italy from his own plans and specifications. He has selected as his companions Vittorio Sella, the geographer, and several young officers of the Italian royal navy.

Country's Greatest Gold Camp.
Cripple Creek is the greatest gold camp in this country, and its production is very great. The core of the gold country there is a strip of ground six miles long by three miles broad. Out of this comparatively small area of ground \$20,000,000 in gold will be taken this year.