

Young Police Court.

TUESDAY, MAY 14TH.

Before Mr. F. B. Treat, P.M.,

**ALLEGED MALICIOUSLY KILLING
A HORSE.**

Henry West and **Timothy West**, on remand, were charged with at Wombat, on or about 28th April, maliciously killing a bay mare, the property of **Goldberg Bros.** of Wombat. Mr. Gordon appeared for the prosecution and Mr. Hogan for the defence.

George Goldberg, deposed: I am a storekeeper at Wombat carrying on business as **Goldberg Bros.**; I know the two accused; **Timothy West** was working for me on 23rd April; he had a business transaction with him; he offered to exchange his mare and foal for my mare; the exchange came off; he delivered his mare and I gave him boots to the extent of £2; the receipt produced is the one accused gave me. the

the one accused gave me, the
mare is branded WJ on near
shoulder, and 3 on near thigh.
I remember the 21st April
last; remember Timothy West
coming to my private resi-
dence and handing me a
cheque for £1 15s, for which
I gave him credit in my book
of £1 and handed him 15s;
on Sunday afternoon he called
me outside and asked me if I
would give him the mare and
foal back; he said he would
give me the mare and £4
back; I refused, and he offered
me £5; I went and saw Mrs.
Goldberg and came back and
told accused something; he
then offered me £6; I told
him if he gave me £10 I
would not part with the mare;
I told him if he liked to buy
the other mare I would sell it
to him cheap, and took him to
the shed and showed him the
mare; he said it would not
suit and went away; on the
following Saturday, April 27,
I saw Timothy West, but did
not speak to him; he saw my
brother-in-law; I kept the
mare in the yard at the back
of about half an acre; I was

or about half an acre; I was in the habit of feeding her there; the mare was in the yard on 27th April and had a new rug on; I was busy in the shop that night until about 10 o'clock, and during the night I had occasion to get up and go into the yard; I noticed that the gate of the yard was open; I shut the gate and went back to bed; next morning I missed the mare and the rug; the rug produced is the same; after I missed the mare I saw Timothy West at about 9 o'clock at his own house, a couple of hundred yards from my residence; I said to him, "Do you know where the mare came from, for I've lost her"; he said, "I bought her from a traveller, and if you lost the mare you might find her at Yass, where she came from"; I asked him if he saw the mare pass his place; he replied, "No,"; after that he came to my private place with a little boy; Timothy West asked me to sell him a pair of boots for the boy; I could not suit him and he went away; I next saw my mare when it was taken from the hole by

was taken from the hole by the police and Mr. Apps; this was on Monday evening 29th; she was dead; I recognised her as my mare; the rug was torn off the mare and found in the hole afterwards; I valued the mare at £15; I did not authorise any person to take the mare; I saw the shoes taken off which contained the brand; they were taken by the sergeant of police.

To Mr. Hogan; I cannot say what time it was that I got up that Saturday night; I had a good sleep; I had been trying to exchange the mare with a man named Thompson, a day or two before West came to see me on 21st April; I did not strike a deal; the reserve is full of diggers holes where the mare was found; the reserve is fenced in and the holes are uncovered; I had just weaned the foal about three weeks before; I kept the mare in my yard the whole time ex-

cept when being used; Wes left my employ on good terms I did net tell West I missed

I did not tell West I missed the mare at any particular time when conversing with him next day.

To the Police Magistrate: There was no padlock on the gate.

John Goldberg, a member of firm of Goldberg Bros. deposed; I remember West coming to my shop on 21st April and changing a changing a cheque for £1 15s; I recollect him also coming on Saturday 27th April; about 8 o'clock at night; he asked me for a padlock, but I could not suit him with one; he was talking to some one in the shop; I went to the post office five weeks ago; this was after my brother bought the mare from Tim... ; his was before West... to get the mare back again; I heard Timothy West in the hotel; but did not see him; I know West fairly well and know his voice; I heard West say very plainly "I won't let Goldberg laugh at me over the deal;" the mare was kept in the house yard and was in the yard on the night of the 27th April and... on she was fed near

a rug on ; she was fed near some elm trees ; I missed the mare at about 6 or 7 o'clock on Sunday morning and went to look for her ; I first went round where the foal was kept, and then all over the place, but could not find the mare ; I saw Timothy West at a well about 50 yards from his house ; I greeted him, and later on he took a rug off his own mare and he remarked how well she looked ; I replied Yes, she looks well, but I can't say that of our mare ; then he asked why ? I said, "cause the mare has gone out of the yard or been stolen out of the yard ;" he said, "On what a shame ! "; I asked him if he noticed the mare about and he replied, "No;" I then asked him did he know where the mare was bred, and he replied that it was bred at Yass ; West said that the mare had once or twice tried to get away from him, but he got her in time. I asked him again was he sure he did not see her, and he replied, "No;" I then left him and saw him again at 11 o'clock on the shop verandah ;

o'clock on the shop verandah; he asked me if I had found the mare, and I said "No"; I saw the mare no more; the foal was running in a paddock about 50 yards from where the mare was kept, and could see the foal, the mare was very quiet, always went to the foal when it got out of the yard; the yard where the foal is kept on the Murrumburrah side of Wombat; Timothy West resides on the precincts of the town on the Young side; I know Henry West slightly, but do not know if he lives with Timothy West; I did not speak to him on Saturday night.

To Mr. Hogan: When going to the post office about five weeks ago, I was about four or five yards outside the Post Office at about seven o'clock on Saturday night when I heard Timothy West in the doorway of the hotel; I did not see him, but according to his voice he appeared to be in the doorway; I heard other voices; I first told anyone of West's statements after my brother lost the mare; I am not quite sure who I told

I am not quite sure who I told but I think it was my brother I could not say if it was after Timothy West was arrested ; did not see Sergeant Hanna bringing in Timothy West.

To Mr. Gordon : I am positive I heard Timothy West make the statement ; did not take any notice of it at the time, but remembered it afterwards.

Jasper Eastlake, deposed : I am a farmer, residing at "Hazledeane" near Wombat ; I remember Sunday morning, 28th April last ; on that morning, I and John Needham walked to his father's residence, who was at the time very ill ; I went along the road to Mr. Needham's residence, and arrived about one o'clock ; I was delayed a good deal along the road ; one trap passed along the road, and it was going towards Wombat ; we remained an hour at Needham's and then left for home ; I was delayed on the way back ; on the way back I saw two men running away from the fence about 300 yards away from the road ; they were short men and both wore overcoats ; they ran behind a standing large dead tree ; we walked along and came to a horse tied to a fence ; that is where the men appeared to be running away ; I was only about three yards away ; the horse had a whitish rug on it ; the

horse had a whitish rug on it; the horse turned its head, as we approached; I thought I had seen the horse before; (the rug is similar to that produced); I then walked towards home; I stood on the rise of the hill about 70 yards from where I saw the horse and waited to see what happened; two men came back and led the horse along the road; one of the men was a little taller than the other; this was about ten minutes to three; from what I saw I don't think one of the two persons was a boy; I then went home; at a later hour that morning I again went to Mr. Needham's house and there saw Constable Mills; he spoke to me and I spoke to him; we then went to the spot where I saw the horse tied up to the fence; I noticed shod horse tracks and boot tracks; I showed Constable Mills the tree which the two men ran behind; I followed the tracks along the left hand side of the road leading to Wombat; I knew the mare; I did not know at the time that the mare had been lost.

To Mr. Hogan: I could not swear to either of the men I saw running away; the boot tracks showed that one pair of boots had two protectors on the heel of each boot; the tracks were on the road and I went with Constable Mills to the tree; the tracks were there; the ground is bare in places; this was in Worner's paddock.

To Mr. Gordon; The other boot tracks had nails in the heel; the

tracks had nails in the heel; the tracks corresponded to the heels of the boots produced; I have done a little bootmaking: another pair of 'blunder' boots were produced which showed that a piece of leather had been put in; in my opinion the two pairs of boots would be worn by the same man; these boots were shod they appear to be the same size and the same style; the tracks correspond to the boots produced; I have lived at Wombat all my life; I have known the West's a good time; they lived for many years on the west side of my grandfather's land; they know where the mare was found; it was half a mile from where they lived; the lease is comprised of digger's holes, it is a place only used by the lessee and his neighbours: there is no road through it to my knowledge.

A large amount of evidence was taken and the case lasted till five o'clock Constable Mills gave evidence with regard to the finding of the mare in a 'hole on what is known as Tresillian's lease, and to the finding of a saddle and driving bridle in another hole. He also gave evidence of the arrest of Timothy and Henry West. Montague Burns (tracker) and Sergeant Hanna also gave evidence of a corroborative nature.

Accused, who reserved their defence, were committed to take their trial at Cootamundra Quarter Sessions on 12th June.