

Northern Supreme Court.

The sittings of the Northern Supreme Court were continued on Wednesday, before Mr Justice Bhand.

A CATTLE CASE.

The case in which John Smith was charged with killing two cows, the property of Martin Flynn, of Stoneleigh station, was continued.

Arthur John Bird said he was the son of Thomas Bird, a farmer on the Stone River. He was at accused's place on Sunday, July 4, and saw two cows lying in the cultivation paddock. One was lying on the left side and the other on the right. Their legs were in the air. He did not notice any brands or ear-marks. He did not see any wounds. Cross-examined by Mr Ross. He had first discussed the question of how the beasts were lying with Mr Easterby and accused. The beasts were much swollen when he saw them.

This concluded the case for the defence.

Mr Douglas said it was upon the Crown to prove that the accused shot these cows deliberately. The case for the Crown showed that the accused voluntarily told the owners of the beasts that the cows were lying dead in his paddock and asked for their removal. Assuming the accused killed the cattle, would he be likely to keep the cattle intact for four days, and then ask the owners to see them? He eventually burned them because they were so offensive, but there could be no suggestion that the beasts were burned to destroy any evidence. It was a funny thing that the two witnesses who said they saw the bullet-holes did not mention it at the time. None of the other witnesses saw any bullet wound, and several witnesses said that one beast was lying on the one side and the other on the other side. Yet the witnesses who said they saw the bullet-wounds, said they were both on the right side of the cattle which were both lying on the same side. Then he would point out that the pellet produced, as coming from the cow, exceeded in weight the bullet used in deceased's rifle. It might be that the bullet had been in the cow before or it might have been in the wood which was used in the fire. It is contended there was no proof that the beasts had been shot by the accused.

Mr Ross pointed out that whilst the man certainly reported the cattle it was four days after they were dead. They could quite understand that the man who found his plantation being broken into by cattle, would be very much annoyed. They had definite evidence that the cattle were Stoneleigh cattle. Mrs Fletcher admitted that she did not say anything about the bullet wounds, because she thought it was a matter for her husband, who was away. That she did tell her husband of it was evident from the fact that he went straight off to the police. That the lead

straight off to the police. That the lead in one cow was in small pellets, whilst in another case was in one large piece might depend on the position in which it was. It was possible, of course, that a cow might live with a bullet in the body, but was it likely that two cows carrying lead in their bodies would die within a few yards of each other? He submitted that the jury must find the defence put up was too weak.

His Honor said the question to be determined was whether the defendant shot the cattle, as it was not contended that he had done it accidentally or lawfully. From the difference in the stories, it was evident that there was perjury on one side or the other. The evidence of Mrs Fletcher, corroborated by Ferguson, was very clear, as to the position of the beasts, which were stated to be lying on the same side. The story for the defence was that the beasts were lying on opposite sides to one another. The experiment made as to the recovery of the bullet was not very convincing, as the lead might have been in the bucket or the wood. He did not think they could attach the slightest importance to the fact that one of the lumps was heavier than a bullet, as owing to the unscientific nature of the experiment some other substance might have been added. If they found that the accused shot the cows, they might find him guilty, as there was no doubt that if he shot them he did it wilfully and unlawfully.

The jury retired at 11.15, and returned at 11.45 with a verdict of not guilty, and the accused was then discharged.

A SERIOUS CHARGE.

An indictment was presented against Alek Karoff, charging him with unlawfully attempting to kill one Syman Kalmanoff, on 14th July, 1915, at Townsville; also with unlawfully wounding the said Syman Kalmanoff. The prisoner pleaded not guilty. Mr R. J. Douglas (instructed by Messrs Connolly and Suthers) appeared for the prisoner.

The following jury was empanelled—R. C. Willmet, W. T. Trewin, C. J. Luckman, A. Cousins, W. McSherry, L. Meyer, A. Dawson, M. Geaney, P. J. Claffey, R. T. Cornish, J. A. Gilbert, J. Keogh.

Syman Kalmanoff stated that he had been 16 months in Australia. Witness and accused came to Australia together, having known each other for 17 months. Witness arrived at Townsville on 14th July, in company with three other Russians, including accused. They went to Ponciana boarding-house. Witness, accused and another went down town and had dinner, returning to the house. Witness then asked Karoff to shave him. Karoff started to shave him on the verandah, and after shaving the right side, suggested they should go in a room, as too many people were passing. They went into a room, the second on the left hand side on entering

and on the left hand side on entering the boarding-house. Witness sat on the bed, and then Karoff cut his throat, and felt his pockets. Witness had left his coat in the other room. He had three £ notes and some silver in a purse in the coat pocket. Witness identified the coat and purse (produced), but noticed the three £ notes had gone. Witness went to the door of the next room and tried to speak to the other men, but could not. He then ran out on the street. He did not remember being taken to the hospital. He remembered the accused, with Constable Price and others coming to the hospital. Witness said to one of the Russians that Karoff cut his throat.

Cross-examined by Mr Douglas: Witness had never had any quarrel with Karoff. They were good friends and were always together. They had worked together on a railway line and on a sugar plantation. In Russia witness had been a general laborer. He left Russia for Australia to make some money.

Dr. T. Hoggarth said on 14th July at 2.30 p.m. he saw the witness Kalmanoff in Denham-street, bleeding severely from the neck. Witness took him on to the verandah of a boarding-house and rendered first aid, and subsequently had him taken to the hospital. On examination he found the wound to be six long in the upper part of the neck. The right extremity of the wound was on a higher level than the left, and slightly deeper. The opening of the windpipe was exposed. The wound extended back almost as far as the backbone. The man's life was in danger for two days. The beginning of a wound was generally the deepest.

Cross-examined by Mr Douglas: The wound was of a nature which could have been self-inflicted.

Acting-Sergeant A. Price stated that on July 14 he went to Poncianna boarding-house. He saw the accused on the front verandah, also three other Russians. He saw fresh bloodstains on the floor of the verandah, and near the door of the first bedroom on the left he saw a patch of congealed blood, and in the next bedroom saw bloodstains on the floor and on the covering of the stretcher. The sleeves of the shirt accused was wearing were wet at the cuffs. On the 15th witness again went to the boarding-house in the evening,

and saw the accused. In company with the accused and some other Russians witness went to the hospital. There they saw Kalmanoff in bed. A conversation took place between Kalmanoff and one of the Russians and the accused. On the 15th the landlady of the boarding-house handed witness a coat and a purse (tendered and identified).

Cross-examined by Mr Douglas: A man named Jack George was interpreter at the Court held at the hospital. Then they got Busch from Ayr

preter at the Court held at the hospital. Then they got Busch from Ayr as interpreter. The difficulty was to get a man who spoke both Russian and English.

Mary Ann Elizabeth Ross, proprietress of Poncianna boarding-house, remembered four Russians coming to the house on July 14, one of them being the accused and another the injured man Kalmanoff. There were two other Russians staying there. They went out, but all came back about 2 o'clock. She was lying down for a rest when she heard a loud croupy sound, and a Russian named Gadgood came to her and told her something, and she rang up the ambulance. She then saw Kalmanoff standing bleeding at the throat. The accused was standing a little distance off. Kalmanoff ran outside the front gate and the accused jumped over the little gate on the verandah. When she saw the wound in Kalmanoff's throat she fainted. When she recovered she saw the accused, who handed her a purse with some silver and copper in it, and a coat and other things. The purse contained £s 9d.

Cross-examined by Mr Douglas: When Kalmanoff was standing bleeding on the verandah the accused was standing near, looking bewildered.

F. Guesloff, who was sworn on the Karoff, said he was a laborer residing at Poncianna. He knew the accused and Kalmanoff, whom he had met in Brisbane four or five weeks ago. He stated that after they went to the boarding-house witness shaved himself with Kalmanoff's razor and he then sharpened it at the request of Kalmanoff and handed it to him. Kalmanoff then asked Karoff to shave him, and they left the room. A few minutes afterwards he saw Kalmanoff standing at the door with his hands to his throat. Witness then went out for a policeman. When he returned with the policeman Kalmanoff was lying on the verandah, and Karoff was walking about and crying, and witness heard him say "I shall die myself." Next day at the hospital witness asked Kalmanoff if he wished that Karoff be executed, and Kalmanoff said "Yes." Karoff told one of the Russians that on the way up from Brisbane Kalmanoff wanted to cut his (Karoff's) throat, but he did not do it. Karoff said he had to cut Kalmanoff's throat because it was the custom of his country. Karoff said he only wanted to cut Kalmanoff's throat a little bit.

Cross-examined by Mr Douglas: Karoff and Kalmanoff seemed to be friends. Before witness went for the policeman he did not see Karoff crying and talking to himself. When witness went up to the hospital Kalmanoff said "God knows everything. I did nothing bad to Karoff. I don't know why he cut my throat." It was the first time

out my throat." It was the first time witness had heard of the custom of the country spoken of by Karoff.

By His Honor: Karoff had always spoken sensibly with witness.

Sergius Egeroff, a laborer, was sworn in, and was giving evidence when the Court adjourned till this morning.

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