

morning of the robbery, Wilson went into Orange - a distance of 25 miles to play football; fourteen other players left Cargo; when he went I had the two outside door keys; Wilson had the key opening the treasury door; about dusk - about half past five o'clock - I saw Love in Belmore street; he asked me if he could have a feed of chaff. Mr. Want asked his Honour to instruct the jury that any evidences of conversation with Love would not affect his clients - Stines. His Honour directed the jury accordingly.

Witness: I told Love to come at 9 o'clock for the chaff: he

Went

THE CARGO BANK ROBBERY.

file 2/29

(Account taken from the files of "The Bathurst Daily Free Press and Mining Journal, Monday, July 31st., 1893.)

Prisoners before the Court.

John Thomas Stines and John Stines were indicted for that they, on the 10th day of June, 1893, did assault one Frank Parker Fawcett, and rob him of the sum of £775, and that before doing so they did strike and wound the said Frank Parker Fawcett. Thomas Connell Love and Thomas Flood were indicted for that they, on the same day, and at the same place, did incite the said prisoners to commit the offence. Plea: Not Guilty.

Mr. John Want, Q.C., instructed by Mr. Kearney, of Orange, appeared for prisoners Stines. Mr. Wagner, instructed by Mr. J.H. McIntosh, appeared for Love and Flood.

The prisoners only challenged one juror.

The Crown Prosecutor opened the case, confining himself almost entirely to a lengthy statement of the facts of the case as disclosed by the evidence given at the preliminary examination.

Frank Parker Fawcett, manager of the A.J.S. Bank, Cargo, deposed: I was manager in June, and had been at Cargo some time; had an assistant named Wilson; the Bank is in Belmore street, and there is a store next to it; the Post Office Hotel is on the opposite side of the street; the banking chamber is on the street, with a kitchen and other rooms at the rear; I live on the premises. (Witness described, by means of a plan, the bank building.) The door opened from the street to the bank chambers, and a door led from that to the Manager's room; the safe was in the manager's room; a gate opens off the street on to the side of the bank; a passage passes between the chambers and sitting room; and my bedroom was off this, and to get from my rooms to the bank chambers I would have to pass through the passage; all money and documents are kept in the safe; there are two keys for the outside lock; I keep one key and Wilson the other in day time, and as a rule only one is kept on the premises at night; there are two keys to the inner door; and each kept one; the bullion is kept in the treasury department; on the night of the 10th June, there were £1,094.18.10d. in the safe, being £251 in gold, £174 in silver, 500 notes on the Joint Stock Bank, and £152, other banks - Australasia, Union and New South Wales; some of the New South Wales notes were the new issue; the notes on the Joint Stock were £10, £5 and £1; these were not ready for issue, as I only had signed, and Mr. Wilson had to sign; they were not negotiable; the notes on the other banks had been received from customers; there was a joint responsibility; I know prisoner Love by sight, and have seen Flood; Love has been living in Cargo about 18 months; he had an account at the bank, and had been in the dwelling house as well as the bank chambers; he had been through the passage; Flood was staying with a relation named Burns for some weeks before the robbery; had not seen him for a month previous; the rule relating to the keys is supposed to be kept private; on the

while looking for the horses I saw two men riding down the road from the direction of Orange; knew one of the men, but did not know his name; heard next day his name was Jim Stines; could not identify one brother from another; the horses they were riding were very wet; it was a foggy morning; that morning about 9 o'clock I saw James Stines near Doyle's place on the Eugowra road; he was with another man, but did not take any notice of him as I cantered along.

To His Honour: I cannot recognise any of the prisoners now in the court as the man I saw on the Sunday morning.

Emily Gilligan, a girl of 12 years of age, deposed: I live at Doyle's; old Mr. and Mrs. Stines live about 150 yards from Doyle; know the two sons - James and John - the prisoners in court; heard of the bank robbery two days after the occurrence; on the day after

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a ring; they then tied my hands behind my back, a rope round my legs and a second rope round my arms above the elbows; one then went away and the second remained in charge; they spoke to me in a whisper; after being away for a time the man returned and asked his mate where No. 3 key was; I told him Wilson had it with him at Orange; I could not hear their footsteps but as they moved about things were knocked about as though they were moving in the dark; when I told them Wilson had the key, one said that if I had it they would stiffen me; the other said to feel my pocket and this was done without success; one of the men then went away and was absent about half an hour; after waiting half an hour I told him that his mate had got frightened and had cleared away; I then offered him £5 to let me off and would not say anything about it; he said he could not do it as his mate was the boss; he asked me what time Wilson would be back and I told him very likely some time that night; I expected him back at any moment; the one in charge of me asked who went through the passage with me and said, "Was it Wilson?"; I said "No, it was Tom Love". He asked who he was I replied that he formerly kept the Post Office Hotel, but since then had been on the Canoodine Station; he asked where he had gone to and I said "Home"; he asked where that was and I replied, "Near Thompson's Hotel"; after the one man was absent some time I heard a wrenching sound; it appeared to come from the room in which the safe was; there was a brick partition between that room and the room in which I was lying; the rope round by arms was hurting me, and I asked the man to loosen it; he moved the rope lower down and gave me ease; during this time I heard one ask the other how he was getting on, and he replied "Nothing but -- notes - they are no good;" this was I think before the one went away; this conversation appeared to take place while one man was in the passage and the other at the door of my room; the man in charge of me left the room several times, and each time he returned he came over to me and tried the ropes; while his mate was away the man asked me how far the Half-way House (a public house between Orange and Cargo) was; I told him about 12 miles; while the wrenching noise was going on no conversation took place, but after a time I heard a whistle outside and knock at the window; do not know if the man was still watching me, and asked "Are you there?" I received no reply, and waited for a minute or two; I then remembered I had a knife in my coat pocket; by twisting myself I managed to saw the rope on my arms; I then took the cloth from my face and untied the rope round my feet; I then got up and picked a hat off the floor which I thought was mine; I saw the coast was clear and I ran out into the back and jumped the fence into Power's which property adjoins the bank; the people at Power's were in bed and I woke him up; having dressed Power accompanied me to the police station and the three of us returned to the bank; we tried to force the front door open, but not succeeding we went into the back; found the back door open, and when I struck a light found some slippers in the passage.

paid on 6th June; giving seven £1 notes, some New South Wales, and old issue, and Union bank; I gave the money to Mrs. Dwyer, publican.

To His Honour: Have often seen James Stines about Canowindra; did not see him between the 6th and 10th June.

Robert Kennerson, blacksmith, at Engowra, deposed that prisoner Stines sent a bay horse to be shod; he put slippers on; he shod another bay animal, could not say whether it was a mare or horse, but both horses were shod after the Cargo robbery; never shod any for him before; the bay horse had not been shod for three or four months before, as there were no marks of nails; I have been shoeing horses from the time I could walk; swear this horse was not shod on the Saturday previously; these men are not friends of mine; a boy brought one of the horses; the police came to me to make inquiries and I gave them

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the Cargo bank robbery; they had used the paddock previously; on the Saturday of the robbery the horses in the paddock were old Stines' two draught horses and a foal; they were there at dark when I put my horse in; next morning between 7 and 8 o'clock I saw two fresh horses in the paddock; I knew one of them to be James Stines'; the horses had rolled and as the ground was damp no saddle marks could be seen; before going out the girl Gilligan had told me something;

To Mr. Want: Did not notice anything the matter with them; I had been away at work all Saturday; at the Police Court I said I would not swear there was not another horse but Stines' on Saturday; I alluded to the foal.

Sabine Doyle, wife of the last witness, deposed that she did not notice particularly what horses were in the paddock on the Saturday afternoon.

Jeremiah Murphy, publican of Cargo, deposed: my hotel is opposite the bank; I know three of the prisoners, but not James Stines; Flood was at Cargo a couple of months; John Stines stayed at my place about March last; on the night the bank was stuck up prisoner Love came into my place about 9 or 10 o'clock and stayed about two hours; the night was very windy and but few people were there; it was a bad night for publicans; Love was sitting in the sitting room and wanted me to play dominoes; I took no particular notice of what he was doing; he left about 11 o'clock but before leaving he bought 2/- worth of brandy which he took away in a ginger ale bottle; the iron bars produced are mine; one is used for putting tyres on wheels; they were outside my shop which is near the public house, and near the corner; the irons were at the back of the shop, and are very little used in the winter.

To Mr. Want: I have not been arrested yet in connection with the robbery; may not have seen the irons two months before the robbery; Love did not appear excited, or like a man about to commit a bank robbery.

To His Honour: Love did not ask me for a feed of chaff; did not miss him after he came, until he left about 11 o'clock.
(Case proceeding.)

THE DEFENCE.

Mr. Wagner submitted that there was no case against Love and asked for his immediate discharge. The only evidence against him was the statement of Flood.

His Honour said he did not think he could take Love's case from the jury, who would have to decide as to his guilt or innocence. Did Mr. Wagner intend to urge anything for Flood.

Mr. Wagner said he had no request to make in this regard. There was the alleged statement by him; but they had a number of witnesses to call.

Mr. Want said he intended calling the four prisoners in defence, but asked permission to call other witnesses first, as they had to return home.

Cargo is 28 miles from Euginwra; it would be impossible for them to be in Cargo at 12 o'clock that night; when I got home the two were in bed, lying on a "shake-down" in the house; next morning they told me they had found one horse, and Jim went on that horse to look for the other; he went out before breakfast and returned; after breakfast Jack went on foot and returned in the afternoon; I went to the dance before 6 o'clock on Saturday night; I went there with Miss Hurkett; saw Constable Hart there enjoying himself; did not miss him until I looked for him; on the Monday they went up the town with me; they had not then found both horses; on Monday my brother Paddy went to Canowindra to see where Wicks was as they were to go shearing; they returned together that night and on Tuesday they started for shearing; before starting they had one horse shod; I swear positively that my brothers John and James were at home from Friday night until Tuesday.

To the C.P.: Have spoken to Const. Lord about this matter; I had gone to Cudal to see my brothers, and Lord spoke about a letter my brother had sent from Dandaloo; do not remember another constable being with him; on another occasion Lord asked me where my brothers were on those dates; did not tell him I did not see them on Friday night and did not know where they were; I told him I was at Hurkett's doing some sewing; I returned before six o'clock the fence around our paddock is broken near Hurkett's; if John has said he was in the house all Saturday I must have seen him; I got up about 7 o'clock on Sunday morning and my brother Jim was going after his horse; there were then my father's three horses in the paddock; the fence was mended on Monday morning; Smith (the blackfellow) was at our place on the Sunday morning about 10 o'clock; he came to see James; he came again in the afternoon; James stopped home all day and John went in search of the horse; Father was up before me that morning; the fence is only made of saplings and light rails; the fence near Hurkett's was broken down in one place, and the horses got out there; there was also a break in Hurkett's paddock.

To His Honour: I slept in a room at the back; my father slept in the front room on the floor with my brothers; mother and sister Rose slept together with me; there were no regular beds but "Shake-downs".

Thomas Wicks, brother-in-law of Stines, deposed; I was examined for the Crown at the Police Court and subpoenaed to appear at this Court; for three years I was managing at Wollombine and left after the station changed hands; I was going shearing with the three Stines and Smith; Glasson Brothers paid me by cheque; I moved on Thursday, 8th June, and my wife went to Canowindra; John Stines had been living at Wollombine with me for some time, and James came a few days before I left; they were working on the station; I went to Canowindra and they went to Euginwra; I was to be there by Saturday, if possible, but not later than Monday; when they left me James was riding a bay horse and John a brown mare; neither of the horses were shod; we left Wollombine about 10 o'clock on Friday, 9th June; the revolver produced is mine; I got it from George Winsley at Wollombine, and gave him a

To Mr. Wagner: Love came to Wollombine to rent a paddock he had bought at the paddock.

trace chain and hammer; the revolver was taken to Canowindra with my other property, and was there until I took it to Eugowra; it was not out of my possession until the police took it; James Stines changed Glasson's cheque for me and I got the change; the notes I had on me when searched by the police were the same I got in change; on Saturday I was detained at Canowindra, and on Monday morning young Paddy Stines brought me a message; I then went to Eugowra arriving there about 5 o'clock in the afternoon; I was at Cheshire's on the Monday night with the Stines'; saw neither of them exhibiting a roll of notes in the billiard room; on Tuesday we had a horse shod; this was the one James Stines had ridden on Friday; on Friday, this horse was not shod; the horse John Stines was riding on the day the police met us was one Alfred Stines had ridden from Canowindra to Eugowra on Monday; I shod this mare myself some time before; the mare was in my possession from the Friday to the Tuesday; they lost the brown mare John Stines rode from Wollombine; we left Eugowra on Tuesday morning, and in the afternoon the police met us; Smith was riding an unshod horse; I have had my buggy horses shod at Canowindra; when the police overhauled us we told them the route we were going, and they let us go; I heard of the bank robbery on Sunday night; I saw no traces of excitement upon them on Monday as though they had recently nearly killed a man; some few days before leaving Wollombine a swagman came and slept in the stable; he lit a fire near the yard; there is a track from Cargo, frequently used from Barragon; it passes through Wollombine; I see the hare-skin, sheep-skins, shears, etc. produced; saw none of these in the stable at Wollombine when I left; the shears might have been there; never saw Stines wearing a hat like this produced.

To the C.P.: Smith is very little known to me; he is a good runner, and when not shearing he runs and bets on racecourses; I only took three £1 notes with me from Canowindra; the rest I left with my wife; the saddle horses are usually slow; Flood was at my place but a good while before this; the same day Cont. Lord was there; when Lord asked if Flood was there I told him he was not, but he came back within half an hour; this was six or eight weeks before I left Wollombine; Constable Lord and John Stines had ridden from Cargo together; Flood rode away on a gray horse; he did not say why he had come to Wollombine; he was going to Parkes, and I owed him a few shillings; these I paid him; he did not actually ask me for the money but I gave it to him.

To Mr. Want: All the time I was at Wollombine, Flood only came there twice; John Stines had a room of his own, and slept there when about.

To a Juror: Have seen Love at Wollombine; he was there in May - about Queen's birthday.

To His Honour: A good many hares have been shot about Wollombine, and some skins might have been lying about; there were some sheep-skins in the stable when I left; there was a bench in the stable which I had put up; have seen a fire at Wollombine, but have never seen any as fine as this about here.

Mr. Want said that if it had not been for the decision of the

sister was at home by the fire; on the Saturday morning I got up early; when I lit the fire, my daughter got up, and then Jim got up and went after his horse; he got back before eight o'clock; the fence is all sound and nothing but a very wild horse would jump it; none of the fence was down near our house; I thought the rails had fallen down; if my daughter said that a rail was down in one part of the fence then it might be correct; the blackfellow Smith came down to see Jim about 9 o'clock; Jim gave no excuse for going out on Saturday night; he went out with the blackfellow.

David Ryan, contractor, deposed: In June last I was at Eugowra; I know James Stines, but none others in the family; on the night of the Cargo bank robbery, I passed through Eugowra between 7 and 8 o'clock; on that night I saw James Stines standing on the Eugowra bridge; he was with Smith, and as it was dark I said, "Is that you, Jim Stines?" and he replied "Yes." I told him I thought he had started on the shearing and he said they were to start next week.

To the C.P.: I did not stop at his brother's but went on to Eugowra; I had started for Goolagong in the morning but as my horse went lame, I turned round and had to travel back twenty miles; I was not prepared to go on to Southern Cross and stop there for a rest; when I started away from home I had intended riding through to my brothers-in-law; I had about 27 miles to travel when I turned round; if it had not been for the accident I could do the 48 miles in about 8 hours; the night was very dark and wet; the men were standing still; I could see the faces of the men.

James Smith, an American, deposed: I am a hairdresser; I had arranged to start with the Stines and party, shearing on the Tuesday preceeding the bank robbery, but were delayed; saw the prisoners Stines on the night before the robbery; saw them between 7 and 8 o'clock; during Friday night one of the horses got away; did not see the Stines again until after supper; I stayed then till they finished their supper; James and I went down town, and after standing near the bridge went to the ballroom; it being a private ball we could not get in; went back to the bridge; while there David Ryan rode past; never saw Ryan before; this was before we went to see the dance; James Stines left me after 8 o'clock and I went to Cheshire's; he could not have got into Cargo that night by half past nine; saw Stines again on Sunday; the bay horse was shod on Tuesday, it wanted shoeing badly.

To the C.P.: the only place to spend an evening at Eugowra is at the dance or the billiard room; I went to Stines' because I was lonely; I had no drinks that evening; I have recently been a bar-man at Parkes; I left Parkes soon after Constable Rainsford had a conversation with me; he did not tell me to clear out of Parkes; have not run a race for seven months; when we were searched by the police on the Tuesday after the robbery, James Stines told the police that his father, sisters and I could say where he was on the Saturday night.

o'clock on Sunday morning.

To the C.P.: I borrowed the horse from Burns and it was tied up at my place; I have a brother named George Robert; he is called Bertie Love.

To His Honour: There was a little chaff in the box when I went to the bank for more; during the night the horse broke away, and I had to borrow another horse to go for this; I was on my road to borrow this horse when I heard of the bank robbery, and then went to see Mr. Fawcett; did not know Wilson had gone with the Football team until I saw Fawcett and asked for the chaff; Wilson is one of the leading players; I waited at the Hotel to see them come back; some of them returned on Sunday;

Thomas Flood, labourer, deposed: When arrested I was working on my mother's farm, Blayne; had been working there from 12th May; I knew nothing about this bank robbery at all; was not in Cargo from 12th May until I was arrested; was at a dance one night during this time; I left Cargo on 10th May and never returned; I was never 12 miles away from home during this time; had never seen Love during this time; I might have once said that something would happen to open their eyes; this was a reference to a fight I had with John Stines; believe someone put him onto me; he is pretty well up with his fist; an effort was being made to get up another fight, and it was to this I referred; I never had any intention of sticking up a bank; I never said anything to Williams about sticking it up and asking him to help me; before leaving Cargo I went to Wollombine to see Wicks who owed me some money; stopped there one night and went away next day; I had no reason for hiding from the police; I swear solemnly I had nothing to do with the bank robbery.

To the C.P.: When at Wollombine I lost my horse and went out to look for it; I have never been in Burns' house with Williams; have been in the direction of the shop.

To Mr. Want: I had asked Williams if he would fight Stines; Williams is a bruiser; Constable Lord warned us, and told us to go home or he would arrest the whole lot of us.

This closed the evidence for the defence, and the Crown proceeded to call evidence in reply.

John Stines, Snr., recalled by the Crown Prosecutor, deposed that he did not hear his wife tell Doyle that the boys had come home all hours Sunday morning;

James Doyle, recalled, deposed that the fence was alright on the Saturday and Sunday morning; had never missed any horses before; he had not made any repairs to the fence.

To His Honour: I face the lane at the Orange end.
To Mr. Want: My horses are both draught and saddle; Stines' horses and mine are used to the paddock; I went into the paddock on the Saturday morning and got my horse and went to work, putting the horse in again; I did not go round the fence; saw James Stines' horse

in the paddock four days before; he rode that horse away I believe; did not notice if it was shod.

To His Honour: There were two other horses in the paddock.
To the C.P.: I saw Mrs. Stines on the Sunday morning and had a conversation with her.

To a Juror: Could not see from my door if a top rail was broken.
Charles Hurkett, recalled, deposed that the fence of his paddock had always been fairly secure; he had never known his cattle to get out.

To Mr. Want: The fence is very old but yet keeps stock in; shearers' horses have been there but never got out; I have never seen a break in the fence since.

This closed the case for the Crown.
Mr. Want addressed the jury for the defence, of the whole, it having been arranged that he only should address the jury. He commenced by stating that the Crown, having got hold of some men and who were seeking the sheet home the crime to them, on the lines taken by a certain Judge, who said that as he had not committed a certain crime, nor the jury, nor the gentlemen at the barristers' table, the only persons who could have committed it were the prisoners. He pointed out the great wrong that would be done by a jury in finding accused guilty where there was a reasonable doubt of guilt. He contended that if the only evidence in the case was that Flood was alleged to have said, and even if they had heard Flood say it themselves that was not evidence against any of the three other prisoners. In considering the case of the two Stines and Love they must shut out from their minds whatever Flood had said about the robbing of the bank. He then proceeded to point out what he considered to be the absurdity of the story told by the witnesses Williams and Power that the remarks made by prisoner Flood about something happening that would astonish them had reference to the bank robbery. He commented very severely upon the character and conduct of the witness Williams, and proceeded to argue that the actions of the prisoners were incompatible with their guilt, referring to each individually. In the case of Love he submitted that the police and the Crown were asking him to send him to goal for 14 years, because he went to the banker to borrow chaff and because he happened to remark that the gate at the back was open, and he would go out that way. The police started with an idea in the case of the Stines' that they were guilty, and they followed it out to the bitter end, refusing to accept any evidence against anybody else. Not stopping to think or ask, everything that seemed to tell against the prisoners was eagerly seized, while everything in their favour shut out, they pressed everything against them; and having started out to prove these men guilty, they would not be happy until they secured their conviction. He urged the jury not to be carried away by any evidence based upon mere guessing, although that was really what the Crown asked them to do. Referring to the evidence given by witnesses for the defence concerning the accused being at other places than the

bank on the night in question, he submitted that the jury could not convict without involving those witnesses in a crime greater even than that with which the prisoners were charged.

The Crown Prosecutor replied, pointing out that the case for the Crown was this - that a serious crime had been committed, that it was possible for the accused to have committed it, and that the chain of evidence connecting them with it was sufficiently complete to convince the jury that the prisoners were the offenders.

His Honour summed up. After pointing out that the offence with which the accused were charged rendered them liable to penal servitude for life, he remarked upon the serious obligations resting upon the jury. The case against the brothers Stines rested upon circumstantial evidence simply, and before they could say that the chain was complete it must not only point to the accused as having committed the crime, but must also exclude the reasonable probability of anyone else having committed it. At considerable length he went through the salient parts of the evidence and indicated their bearing upon prisoners' guilt. If the jury believed in the alibi set up for the defence, they would, of course, have to acquit the prisoners, but in that event they must be convinced that it outweighed the evidence brought forward by the Crown. If the jury came to the conclusion that the prisoners were not where their witnesses declared them to be on the night of the robbery, they would have to conclude that the witnesses for the defence had committed perjury. It was for them to say which evidence they believed. His Honour then went carefully through the evidence.

The jury retired at 10 o'clock and 11.40 returned into court. The foreman said they had agreed on their verdict as regards Flood, and returned a verdict of Not Guilty.

There being no other charge against Flood he was therefore discharged. The foreman asked if the evidence of Kelly taken at Cudal could be read.

Then His Honour said that the depositions had not been taken at the preliminary examinations.

Senior Constable Lord was recalled: In reply to the jury said Wilson (accountant at the bank) had twice gone to Orange to play football; he returned on this occasion about 2 o'clock in the afternoon on Sunday; did not examine for tracks outside the window of the bank; I did not think this was necessary on account of the slippers; I went away before daylight to Orange and thought someone else would look for these; do not know anything about the horse Love had borrowed from Burns; the bank premises are large - about 2 acres of ground; the store is on the land and stables; anyone coming onto the premises at night, as stated by the bank manager to give a signal - they would have to jump the fence if the gate was fastened.

To Mr. Kearney: Burns told me Love had taken a horse from his place that night to use on Sunday.

The foreman said the jury was not clear as to the time on the Sunday morning that Kelly saw the two horsemen riding towards Eugowra. His Honour reading from his notes, said it was about the break of day.

Kelly was then recalled, and deposed; The men were 200 yards away from me when I saw them; took no notice of them; did not see two men in Eugowra a few hours afterwards very like these two; saw two men at Stines' fence that morning; cannot recognise the prisoners as either of those two men; they were sitting down by a log fence; believe one of the men I saw at Stines' was one of the men who passed my place earlier in the morning;

Constable Lord was again recalled; Saw James Stines at Cargo on the Wednesday before the robbery; he was then playing billiards. Constable Hart recalled said that he only saw Smith once on Saturday night - at Cheshire's about ten minutes to nine o'clock.

The foreman said that there were no other questions to ask, but if there were any points His Honour could bring out the jury would like to hear them. There was no probability of their coming to a verdict immediately.

His Honour said under these circumstances he would adjourn the court until nine o'clock next morning, and the jury would remain together until that hour.

The jury therefore retired to their room to spend a second night. Wednesday, August, 2nd, 1895.

At 11 o'clock this morning His Honour directed that the jury should be called into court, they had been considering their verdict for thirteen hours.

The foreman(Mr. Edward Sanden) was sworn, and in reply to questions said that the jury had carefully considered their verdict, but were not agreed nor were they likely to agree even if they remained in company.

His Honour said that he could not see that any good purpose would be served by keeping the jury together any longer. They had been together now for nearly two and a half days, and they did not seem to be able to come to a unanimous conclusion. He would therefore have to discharge them without a verdict being given. This was rather unfortunate in such an important case as this, but it could not be avoided, and he would therefore discharge them.

The prisoners were then remanded to the next Court of Quarter Sessions or any other court that the Attorney General might appoint. Mr. Kearney applied for bail, and asked that the witnesses for the defence should be bound over to appear.

His Honour said that he would direct the witnesses to be bound over, but as to the question of bail, this had already been refused by a Supreme Court Judge, and he would not certainly interfere with that decision, especially after the jury had been unable to agree.

Mr. Kearney said that His Honour now knew the defence.

His Honour said this would not affect him. It was open for Mr. Kearney to apply to the Supreme Court, but he did not feel justified in granting it.

The prisoners were then remanded.

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The Second Trial was recorded in the Free Press of October 13th, 14th and 16th - the jury again failed to agree, and the case was set down for re-hearing in Sydney. Bail was refused.

.....
29th November, 1895.

Another stage was advanced in the history of the A.J.S. Bank robbery at Cargo at the Central Criminal Court, Sydney, yesterday, when the young men, James Thomas Stines and John Stines were, for the third time, placed upon their trial on an indictment charging them with assaulting and wounding one Frank Parker Fawcett and robbing him of £892.4.6d. on June 10th last.

Accused, it will be remembered, have already been twice tried, but the jury disagreeing on each occasion, the Crown changed the venue to Sydney.

Messrs. P.J. Healy and Wade prosecuted for the Crown, and Mr. Moriarty defended the prisoners, who pleaded not guilty.

Mr. Moriarty rose to point out that the property alleged to have been stolen was not laid in any person in the indictment.

His Honour said counsel was most irregular, and ordered him to sit down.

Mr. Moriarty said he wished the jury to know that the property lay in the A.J.S. Bank, so that ---

His Honour: You may depend upon it I shall see that justice is done in that respect.

Mr. Moriarty: I only wanted your Honour to know. His Honour (firmly): I do know, Mr. Moriarty.

His Honour then requested any member of the jury who was a shareholder in the A.J.S. Bank to leave the box.

There appeared to be no shareholder present. Mr. Healy narrated the facts in opening the case to the jury, and proceeded to call evidence.

The Cargo Bank manager, Mr. Fawcett, repeated his former evidence, and the other witnesses examined were Jeremiah Murphy, blacksmith; Robert Gustavus Glasson, owner of Wollombine station; and James Powers, storekeeper.

The witness Powers, a young man, gave his evidence in a very prevaricating manner. It appeared from the Crown case that Powers was near the police cell after committal of the prisoners and overheard a conversation between them, in which his name was mentioned. He subsequently heard a statement embodying the conversation he heard, and he was confronted with this statement this afternoon. He denied, however, all knowledge of making any such statement, and would swear to nothing contained in it, except that it was true he heard his name

mentioned in the cell. If he made the statement he was not in his right senses.

His Honor: Are you in your right senses now?

Witness: I don't know.

His Honor: Have you been drinking?

Witness: No, I had a fall on my head once.

Continuing, he said it was his signature on the statement (produced). The statement was not true, except that part in which he said he heard his name mentioned.

His Honor here asked witness a number of questions, and cautioned him to be careful, or he would send him somewhere else.

Mr. Wade: Did you not ask me two months ago not to refer to the statement at the trial because it would damage your business?

Witness began to prevaricate, and His Honor threatened to commit him for contempt.

Mr. Wade repeated the question, and witness, again prevaricating, admitted that he did say it would damage his business.

His Honor here committed Powers for contempt, and ordered him to be kept in Darlinghurst Goal until tomorrow when his memory would probably be a little clearer.

Henry Owen McLwan and John Kelly also gave evidence before the court adjourned.

30th November, 1893.

Further evidence was called in support of the Crown case. Inspector Ford of Orange said the witness Powers was perfectly sober when he made the statement referred to yesterday, and made it of his own free will.

James Powers, recalled - after his overnight incarceration for contempt - repeated what he swore yesterday, that if he made the statement which bore his signature, it was not correct, except as to the part in which he stated he heard his name mentioned in the cell. He had received a threatening note, but that was not the reason he was anxious to avoid giving evidence. He might have asked Mr. Wade not to refer to the statement because it would damage his business, but he did not remember it. He had had some drink on the day the statement was said to have been made.

The case had not finished when the court adjourned.
December, 1st, 1893.

The trial of the two brothers Stines, for the robbery of Cargo Bank, was continued in Sydney yesterday, when evidence for the defence was called. Among the witnesses for the defence were prisoners' father, mother and sisters.

In cross-examination by the Crown Prosecutor, the mother deposed: She had never been called for the defence before; this time she was brought here by a subpoena for the Crown; after her sons were committed she went to live in Bathurst; her husband and daughter Maggie had never said her one word about their going to the Royal

Hotel and being questioned there by Mr. Want who was counsel for her sons at one trial; she did not know that they were also questioned by Mr. Kearney (a solicitor from Orange) who defended her sons at the second trial; this was news to her, and the first time she heard about it; she never said to a neighbour named Mrs. Doyle on the evening of Friday, 9th June: "I would not bother about coming over, only I cannot rest, as I am uneasy on account of the boys not coming home. If they don't come home on Saturday, I will send the little boy Paddy to see what is keeping them. If Paddy can't see them I will start the old man away with the blackfellow on Monday." Doyle never said to her on Saturday "Is there any account of the shearing push?" She did not say to him "No, I am uneasy, I don't know what to do. I will start Paddy off tomorrow." Doyle did not say to her on Sunday, "Well, I see the shearing push are home now." She did not answer "Yes, and they came home at all hours." She did not see Doyle on Sunday, June 11th, except at a distance.

On leaving the witness box, at 3 p.m., Mrs. Stines said:
"Your Honor, I have told the truth."

2nd December, 1893.

ACQUITTAI OF THE BROTHERS STINES. THIRD TRIAL.

The trial in Sydney of the Brothers Stines, charged with the Cargo Bank robbery, terminated yesterday, the fourth day of hearing, in the acquittal of the accused.

His Honor in the summing up said the jury had been asked to believe that the accused had made the slippers in the stable at Wollombine Station. There was not a particle of evidence to say they had been seen in the stable. There was no evidence whatever that they had been seen there. There was very strong evidence that these slippers came out of the stable at Wollombine. It would be a dangerous thing for him to say to any jury that they should act against the prisoners on that evidence. There was no direct evidence of circumstances connecting the accused with being at Cargo, or that the accused had been in the stable at Wollombine. The question was: Is there a prima facie case to connect them with the crime? There were five other men who were proved to have been at Wollombine Station during the week. Nothing was known of them. They did not know where these men had gone to. He looked upon the alteration in the law, whereby prisoners were allowed to give evidence, as a step, and a very foremost step, in the right direction. He considered it very beneficial to lay before a jury all the evidence they possibly could. It was not necessary for the prisoner to prove any alibi. The Crown had the proving of the case. They could not convict the prisoners unless they came to the conclusion that the Crown by direct circumstantial evidence, had conclusively proved the case against the accused. There clearly was no strong evidence against the prisoners. The evidence should point so conclusively to the prisoners' guilt that the jury

were entitled to presume they were guilty from the direct evidence of circumstances. They must find direct evidence of circumstances pointing to prisoners without their having any reasonable doubt. If they had any doubt they must give it in favour of the prisoners. If they found the prisoners guilty they must be satisfied not only that the circumstances pointed to the prisoners, and that the facts are inconsistent with anybody else being guilty.

The jury, without retiring, found a verdict of not guilty as regards both accused.

His Honor said he had a doubt in his mind as to whether he was justified in sending the case to the jury. However, he was not asked to take the case away from them by the prisoners' counsel, and, seeing the case had been tried twice before, and there possibly was just sufficient evidence for the case to go to them, he thought it better to leave them to find a verdict. He felt that justice had now been done in this case.

The two prisoners were then discharged.

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