

TESTIMONY ALL IN AND CASE GOES TO JURY TOMORROW

WOULD PROVE AN ALIBI FOR DEFENDANT CHAS. LISKEY

Swear That He Was Sick And at the Home of His Mother at the Time Horses Were Driven to Railroad

When Court convened this morning the first witness called in the Liskey case was T. J. Patterson, of Mt. Hebron, who testified to seeing the band of horses driven to the stock yards and loaded onto the car. This was about 1 o'clock in the afternoon, and they were driven by two men, but did not pay sufficient attention so as to recognize them. The shorter of the two men rode the larger horse and he noticed him riding away from the depot going east. He wore a yellowish coat.

Aley Vinson, son of Henry Vinson, was then called. He stated he was 29 years old and that he lived on the Vinson ranch in Langell Valley. He testified in relation to the ownership of the horses and stated that there was no real partnership existing between Henry Vinson and the children. All the stock was bought and sold by direction of Mr. Vinson. On cross examination by Mills, he stated that his father visited the ranch every year, sometimes in May and during the summer and sometimes in the winter. That his father made his home in Medford, and that no stock was bought or sold by the children without first consulting their father and getting his sanction. His father kept the books and handled all the money and paid the expenses. On redirect by Drake he testified that the V brand was the official brand of the Henry Vinson stock.

Albert Patterson was called as a witness and not being present, the Judge ordered a bench warrant issued for his arrest to appear as a witness.

Arthur Pierson asked permission to be recalled to make plain certain testimony he had previously given. He stated that Liskey was gone 3 or 4 days at one time and at another time for 5 or 6 days. This was the time he came home the night of the show. In regard to the telephone call, he stated that he was not sure as to the exact time, it might have been anywhere between Thanksgiving and the time of the show.

County Clerk DeLap was put on the stand and gave testimony in regard to the record of stock brands and marks which were introduced in evidence to prove that the brand of the stolen horses was that of Henry

Vinson. Attorney Mills for the defense made objection to practically every question asked, argument and delay ensuing.

The prosecution offered in evidence a certified copy of the record and a piece of leather on which is burned the brand of Henry Vinson.

Following the examination of Witness DeLap the State rested its case.

Attorney Mills for the defense then made the following motion:

"Comes now the defendant, Charles Liskey, and moves the Court to instruct the jury to acquit the defendant, and find a verdict of not guilty, and for the following reasons to-wit:

I. "That there is a variance between the allegations in the indictment and the proof, kind and character of the property alleged to have been stolen;

II. "That there is a fatal variance between the indictment and proof in this, that the charge in the indictment is the larceny of fourteen head of horses, the personal property of Henry Vinson, and that the proof only tends to show the larceny of mares and geldings and does not tend to show the larceny of any animals in their natural state—or stallions.

III. "That there is a fatal variance between the indictment and proof in this, that the charge in the indictment among other charges, is the larceny of one horse, the personal property of George Ritter, and the proof tends to show only the larceny of one mare, the property of George Ritter.

IV. "That there is a fatal variance between the allegation of the indictment and proof in this, that the indictment charges the larceny of fourteen horses, the personal property of Henry Vinson and one horse, the personal property of George Ritter, and the proof, among other variances, shows that the fourteen horses alleged to be the property of Henry Vinson were at the time of the alleged larceny the property of the partnership, composed of Rube Vinson, Phoebe Vinson, Henry Vinson, Aley Vinson and Annie Vinson, and that Henry Vinson had no special property therein, and that there is not sufficient corroboration of the evidence of the

accomplice, Welch, of the larceny of alleged horse as the personal property of George Ritter.

"Council moved on the further and fifth ground that there is a total failure on the part of the State to prove the ownership of the horses alleged to have been stolen from Henry Vinson, as completely shown by the records and brands last introduced."

After reading a decision covering the motion made by Mr. Mills, Judge Noland promptly overruled it without permitting any argument. The defense saved an objection to this ruling.

Brief intermission was then taken after which the defense called its first witness, Arthur Langell, of Bonanza, who testified to having had a conversation with Walter Welch on or about December 5, 1908, in regard to polo ponies, Welch stating that he was in the market for horses of this character.

Eldon Smith, a son of Mrs. M. Smith, the witness for the prosecution who stated positively that the defendant Liskey is the man who was with Welch when they stopped at her place over night with the horses, was next placed on the stand. He testified that his home is with his mother on the Major Brown ranch; that he was at home on the night that two men stopped there with a band of horses; that he did not remember the exact date, but that it was on or about December 12, 1908; that he did not recognize Liskey, but that one of the men was of the same build and that it was undoubtedly the defendant, that he lives near the Liskey place about six years ago and that he had not seen Liskey since that time.

On cross examination it was shown that the witness was about 14 or 15 years of age when he resided near Dairy.

Andrew Smith, a brother of the preceding witness, testified that he is 26 years of age; that he formerly resided near Dairy and that while there he met the defendant; that he had not seen him for about six years; that he was at the home of his mother last December when two men stopped there with a bunch of horses, that he saw the faces of both men, but did not recognize either of them; that one was a tall man and one a short heavy set fellow.

The defense played one of its strongest cards when the witness, Emma Liskey, the 17 year old sister of the defendant, was placed on the stand. Her testimony was a direct contradiction of that given by several witnesses for the State, in fact, her statements had a tendency to tear down the entire prosecution. She gave a positive answer to every question asked and on cross examination did not swerve from her original replies. According to the evidence given by her she lives with her moth-

er who resides about two and a half miles from the home of the defendant; that she was at home from the 6th to the 14th of December and that she attended a show at Dairy on the night of the latter date; that she was accompanied to this show by her brothers, Charles, the defendant, included; that for five or six days previous to this show Charles had been at the home of his mother, suffering from an illness resulting from an attack of the yellow fever which he contracted while a soldier in the Philippine war; that during these days he left the house occasionally, but he was not able to leave the place; that on December 14th, he went to his home and on the way to the show that night she and her other brothers stopped at his place from where he accompanied them to Dairy.

After the noon recess Miss Emma Liskey was again placed on the stand and Judge Drake resumed the cross examination, but she remained firm in her testimony.

J. W. Pool, who resides four miles east of Olene, testified that he was at the Liskey home on December 10, 1908, and there saw the defendant, who was sick, lying on a lounge. On cross examination it was shown that witness Pool had resided in this county about three years, having at 2:30 o'clock, commencing on February 1st from Douglas County, where he had been in trouble.

August Liskey, a brother of the defendant, gave evidence that he was at the home of his mother on December 13, 1908, and that the defendant was there on that day. He had been sick, but was improving. He went to his home at about noon on December 14, and went to the show at Dairy that night.

Bird Loosley, of Olene, testified that certain members of the Liskey family had come to his ranch to get some stock on or about the 13th of December; that August had helped drive the cattle to his mother's ranch.

Mrs. Caroline Liskey, the aged mother of the defendant, took the stand and in broken English told of her son's illness at her home, corroborating the testimony of the witness Emma Liskey. The prosecution did not cross examine her, merely asking if she was the mother of the defendant.

Fred Harpold, of Bonanza, testified that he attended a show at Dairy on or about December 14, 1908, and that he saw Chas. Liskey there.

Ben H. Pickett, of Tule Lake, testified that he met Chas. Liskey on December 6, near his home near Dairy.

J. F. Wallis, the father of Alf. Wallis, one of the defendants in the stock rustling case, gave evidence in regard to the corralling of horses at the Alf. Wallis ranch, where he lives with his son. He corroborated the evidence of the other witnesses for the defense. He stated that Walter Welch was at the Wallis ranch on December 6th and that Chas. Liskey was there on the same day, but they did not leave together. Chas. Liskey left there saying that he was going home.

Dan Liskey, a brother of the defendant, corroborated the evidence of August Liskey in regard to getting cattle from the Loosley place and taking them to the Liskey home in Swan Lake. He claimed that he wore the defendant's "chaps" while he was driving the cattle mentioned.

John Liskey, another of the defendant's brothers, gave evidence that he lives with his mother in Swan Lake; that he has a yellow mackinaw coat which Deputy Sheriff Sam Walker took from him and brought to this city. He corroborated the evidence of the other members of the Liskey family and in (Continued on Page 4.)

AT THE OPERA HOUSE.

Extra bill tonight—Prof. L. J. Dallow, of San Francisco, a circus man with sixteen years' experience, on the trapeze, rings, etc.

Pictures—"The Red Girl," "Rosa, the Italian Flower Girl," "The Antiquary." New songs.

Don't forget waist sale at Boston Store Saturday, Feb. 27.

Klamath County headquarters in San Francisco is the Hotel Savoy, corner Van Ness Avenue and Ellis Street, Walter E. Conner, prop. Take "Turk and Eddy" street cars at Ferry, get off at Van Ness and walk one-half block north.

WATER USERS RESCIND ACTION

Directors Pass Resolution Assuring the Secretary of the Interior That They Intend to Comply With Contract

The Directors of the Klamath Water Users Association passed a resolution this afternoon, after a lengthy fight, rescinding their former action and agreeing to abide by their contract with the government in regard to the payment of water rights, provided that if at any future time it should develop that the members should be unable to make payments for any legitimate cause, they would make application for relief to Congress. Those voting for the resolution were: President Alex. Martin, Jr., Directors Rueck, Stearns, Dalton and Williams. Those voting against the measure were Stevenson, Irwin and Dixon. The resolution is as follows:

"Be it resolved by the Board of Directors of the Klamath Water Users Association, That

"Whereas, The Honorable Secretary of the Interior has construed the letter of December 7th, forwarded by the secretary of this Association, as meaning that this Board refuses to comply with its contract with the United States Reclamation Service in the matter of guaranteeing the 'payment of that part of the cost of irrigation works which shall be apportioned by the Secretary of the Interior to each shareholder, and will promptly collect or require payment thereof in such manner as the Secretary of the Interior may direct,' etc., Therefore, be it

"Resolved, That we as members of the Board of Directors hereby distinctly disclaim any such determination or intention, as we fully realize that not only our contract with the Honorable Secretary of the Interior is binding but that the stock subscription signed by each and every member of the Association is equally binding and that nothing the Board of Directors could do or fail to do would relieve either the shareholders or the Water Users Association from the provisions of the contracts. We regret that such interpretation was placed upon the said letter as to cause suspension of work on the Project, as we realize that to suspend construction work now and the diversion of Reclamation funds set apart for the uncompleted portions of this Project would result in a greater loss to this community than we could hope might be gained by a reduction of the estimated cost, were such a reduction possible. Further, be it

"Resolved, That we give the Honorable Secretary of the Interior assurance that so far as within our power to do we will comply with the

terms of the contracts executed with the Reclamation Service, and in case the enforcement of the collection under the contracts become too burdensome for the people under the irrigation system we would then look to Congress for such legislation as will afford adequate relief."

ONE NORMAL OR NONE.

People Will Vote at Next Election on Establishing One Normal School at Monmouth.

The Normal School question which has been the bane of the Legislature for a number of years, has been finally settled. The Senate passed the bill cutting out all the Normals and establishing one school at Portland. The House amended the bill to locate the school at Monmouth and it was passed. The Senate concurred in the amendment.

This will now be submitted to the people at the next regular election, and if ratified, it will mean that the Ashland and Weston Normals will be abolished. If voted down the state will then be without any Normal schools. The bill as amended provides for one school at Monmouth with a maintenance fund, for the disposal by the Board of Regents of the property at Ashland and Weston, for appropriating \$100,000 for buildings and furniture and for submitting the act to the people for ratification.

GILLETTE PROPERTY SOLD.

Wm. Pitts has purchased the Gillette property on Washington street, for a consideration of \$5500. Mr. Pitts will occupy the property as a residence. The heavy investments being made by Mr. Pitts in Klamath County is proof that he has faith in the future of this section. He has his eyes open for all the snags that are going and isn't overlooking anything in the way of a good buy.

NOTICE.

There will be a Special Communication of Klamath Lodge No. 77, A. F. & A. M., Saturday evening, Feb. 27, for work in first degree. All Masons are cordially invited to be present. By order of G. L. Humphrey, W. M.

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