

THE COLFAX TRAIN WRECK.

Jeff. and Al. Roberts Under Examination at Auburn.

Testimony of Witnesses Who Saw One of the Roberts Brothers at the Wrecked Sleeper.

AUBURN, November 4, 1891.

The Courthouse was densely crowded here to-day, the occasion being the commencement of the preliminary examination of Alf and Jeff Roberts, the two young men who are charged with having wrecked the west-bound overland train near Colfax on the 12th of last month.

It will be remembered that an attempt was made a week ago to have this examination at Colfax, but as Justice Stevens ruled that the men could be examined separately, if they desired, District Attorney Kelly Robinson dismissed the case. The Roberts brothers were re-arrested, however, and taken to Auburn. Here

THE JUSTICE WAS MANDAMUSED In the Superior Court by the defense, who desired to compel him to grant a charge of venue on the ground of prejudice. Superior Judge J. E. Prewett gave his decision in this case yesterday, and denied the writ of mandamus. He took occasion to rule that the District Attorney had taken a proper stand in demanding a joint examination.

Both defendants were in court this morning looking somewhat nervous and frightened at the attention that was bestowed upon them. They were accompanied by their mother and father, a very respectable appearing couple. Their attorneys were there, too, Messrs. Fred Tuttle and Lee Chamberlain, both of this place.

District Attorney Robinson was assisted in the prosecution by Charles T. Jones of Sacramento, and by Messrs. Francisco and Ben F. Tabor of this place. Warren E. Doane was sworn by Justice Gwynn to act as official stenographer. It was expected that the defense would interpose some obstacle that would prevent the hearing of the case immediately, but this proved not to be the case, as they were as willing to proceed as was the prosecution.

Both sides answered that they were ready to go ahead, but both pleaded that some of their witnesses had not yet arrived. Attorney Tuttle of the defense stated that one of his witnesses was sick in bed, and his deposition would probably have to be taken another day. He asked the court to adjourn until tomorrow, a lady, had absolutely refused to obey the subpoena, so a bench warrant was issued for her arrest and an officer sent after her.

THE TESTIMONY. The first witness put upon the witness-stand by the prosecution was Angelo Genoff, a track-walker, whose district is in the vicinity of the late wreck. On Sunday morning before the wreck, he said, he walked over the track and it was in good condition. On Monday he went up on an engine to the place where the wreck occurred. It was in quite a different state then.

On cross-examination, Genoff said that he had been in the employ of the railroad company as a track-walker for five years. His duties were to examine carefully the track in his district. He carried a hammer, a wrench and two flags with him. When he found loose bolts on the track he always tightened them with his wrench. He thought that on Friday morning before the wreck he tightened some bolts just where the wreck occurred. Sometimes on curves the bolts need tightening almost daily. He said that he tightened all the bolts. He said that it usually took him seven hours to make half of his trip—that is, he walked up the full length of his district and in the afternoon came down again. On the day of the wreck he examined the curve where the train went over, and it was all right—the bolts were all tight.

HEPT A CLOSE WATCH. On re-direct examination the witness explained that he did not have to tighten bolts every day, but examined them every day. When the new steel rails were put into a track the bolts securing them would work loose for about three months. After that they would tighten and solidify, and needed attention afterward. The rails where the wreck occurred had been in position for three years or more.

The witness was asked the condition of the track after the wreck, in answer to questions from Mr. Chamberlain. The spikes had been drawn from the outer rail in seven places, and the angle-plate had been unbolted and removed, and was wedged under the loosened rail, so as to keep it from swinging back into position again.

Edward Cashin, section foreman of the railroad, and stationed at New England Mills, was the next witness. He said he had been in that business for twenty-two years. His duties were to keep the track in his section in repair. The track-walkers under his supervision were usually well over the track daily, too.

"I was on the train that was wrecked," said Mr. Cashin, "on the morning of the 12th of October. The train was No. 4. I was riding in the smoker. Train No. 3 had passed over about an hour before the wreck. We had just reached a point about two miles below Colfax, when the violent jarring of the car made me realize that we were on the track. The conductor, brakeman and myself jumped for the bell rope at the same time. When we had stopped I requested a brakeman named McBride to accompany me up the track. He

HAD A LANTERN. And I had none. When we found the loosened rail, and had examined it, I knew right away that the rail had been spiked with, and that somebody had been trying to wreck the train. The angle plates had been taken off, the outer rail pried over and wedged under the inner rail, and one of the angle plates wedged beneath it, so as to hold it in that position. The sleeper "Santa Cruz" was down at the foot of the bank, and several other cars had left the track."

The witness said that the outer rail was just the one for a wrecker to choose, as the cars and engine always travel on the outer rail in going around a curve. In this particular case, the spikes had been drawn from eight of the ties on the inner rail, and they were left lying on the ties. One of them had been placed underneath the loosened rail.

The angle plates and bolts taken from the tampered track were produced in court and identified by the witness. He described by arranging the plates and bolts on the floor, how he found the track after the wreck. He declared that it would be absurd to think that the rail and angle plates could have broken loose of their own accord, or by a train passing over them. In all his experience he never knew of eight spikes pulling up out of the ties of their own accord. The bolts on an average track, needed tightening about once a month. Witness said that he had ridden over the track on train No. 3, going East, before the wreck. If there had been a low rail there, he would have noticed it by the jar of the cars.

ROBERTS MADE THE BAR. "I met Al Roberts at the scene of the wreck on the day that he was arrested," said Cashin. "I was talking to him, and said that it was too bad we could not find the claw-bar with which the rail had been loosened. We knew it had been done with one of these instruments, because we found a piece of one of the claws that had been broken. Roberts told me that he had found the claw-bar, and had hidden it under some bushes near the wreck. I asked him what he had put it there for, and he said he had intended to give it to Constable Dyer."

On cross-examination witness Cashin said he did not believe Roberts had removed the angle plate—the one that was found in the center of the track after the

wreck. To remove this plate would necessitate considerable hammering, and naturally a great deal of noise. He believed that this angle plate, being already loosened by the wreck, was thrown into the position it was found in by the cars passing over it. The outside angle plate, however, had been removed by persons who attended to the wreck. This angle plate was the one which had been placed beneath the loosened rail. Continuing, the witness said that it was five days after the wreck when he talked with Roberts. He denied having told Roberts that on the morning of the wreck he had seen a man running up the track who he thought was one of the wreckers, and could have shot him had he had a gun.

AN IMPOSSIBLE FEAT. In answer to questions asked by the District Attorney, Cashin said that even if the rail had spread it would have been impossible for the spikes to have pulled up in the manner that had been described in the testimony of the witness. In case of spreading the spikes would have been crushed backward and into the tie. Being cross-examined again the witness said that he was never with the railroad men removed the angle-plate, which had been placed beneath the loosened rail. One man had to pry up the track while he was standing with the other pulled out the plate. He was positive that the bolts could have been removed without an ordinary monkey-wrench. Sometimes when the bolts become rusty it was difficult to start them, but they could be taken off just the same. He denied emphatically that he or Brakeman McBride had drawn the track.

He said this would have been impossible, as quite a number of passengers, and others followed them up the track. At the close of Cashin's testimony a recess was taken for lunch.

AFTERNOON SESSION. When court reconvened in the afternoon, attorney Tuttle asked permission of Justice Gwynn and the prosecution to place A. N. Towne, General Manager of the Southern Pacific, on the witness-stand out of order. Mr. Towne was a very busy man and was anxious to get away. The request was granted.

Mr. Towne said that he had offered a reward of \$5,000 for the arrest and conviction of the Colfax wreckers. It was customary for the company to offer such rewards. A similar reward was offered for the arrest of the Lake Labish wreckers, in Oregon, recently. He was not satisfied, however, that that affair was an accident. It was clearly the work of wreckers. The company employed a number of detectives to watch the business, and to detect criminals who preyed upon the company's property and to look after the company's interests generally.

On cross-examination Mr. Towne said that the reward was offered in the interest of the public as well as for the company's. The company had to protect its patrons, and its interests were in common with the public's.

HOW IT WAS DONE. Mr. Towne was excused, and the defense requested Section Foreman Cashin for further cross-examination. At the request of attorney Chamberlain he exhibited a track-walker's wrench and a claw-bar. He illustrated how angle bars could be removed with a monkey-wrench. He then showed how the spikes were taken up with the claw-bar, and how a rail could be pried over with a crowbar. The crowbar that the defendants are alleged to have pried the rail over with was also exhibited. The witness pointed to some marks on the bar, which he said were made by some one prying up a rail. He compared the piece of claw-bar found at the scene of the wreck with a claw-bar of his own, and stated that the former was much smaller and inferior than the latter.

At this juncture two long rails were brought into court by a gang of section men, and arranged on the floor. Mr. Cashin then gave a complete and interesting demonstration of his theory of how the wreckers did the job, and fixed the rails in the same position that they were found in at the scene of the wreck. The whole train, he said, passed over the point where the rail was loosened, except the sleeper that was under the track. He could not account, he said, for the fact that some of the cars remained on the track while others went off.

THE WRECKER'S STORY. Thomas Abern, Roadmaster of the Southern Pacific Company, testified that he went to the scene of the wreck on the morning it occurred. He was telegraphed for by Mr. Cashin. He found that the track had not been touched since the wreck, and he made a close examination of it and took notes. His description of it was similar to that given by Mr. Cashin.

In answer to questions by District Attorney Robinson, Mr. Abern said that he never heard of spikes working up out of good, solid ties. Even if the rail had spread the spikes would not have come out. It would have been an utter impossibility for the spikes to have gotten out of the ties at the Colfax wreck without having been drawn out. He examined the claw-bar found at the scene of the wreck, and gave as his opinion that the original bar was made by a novice. The curve where the wreck occurred, he was told, was known as a four-degree-radius curve, and was intended to balance a train going at a maximum speed of fifty miles an hour. The object of the curve was to equalize the pressure caused by a passing train—that is, to throw the weight over and upon the inside rail. Mr. Abern said he had taken some measurements at the scene of the wreck. The house where the Roberts brothers lived is 305 feet from the railroad track; 3,025 feet from the spot where the train was wrecked; 2,969 feet from where the engine stopped after the wreck, and about 10,000 feet from Colfax. He had

EXAMINED THEIR DWELLING. And the room the brothers occupied. There was a window looking out from this room, which was quite close to the ground. There was a table standing in front of the window in the room. He thought it would be a very easy matter to leave or enter the house by means of the table. He was asked to walk from the Roberts house to the scene of the wreck in about ten minutes. The witness said he had experimented since the wreck for the purpose of ascertaining if it were possible for one man to loosen a rail by removing the angle-plates and leave the track in the same condition it was found at the scene of the wreck, and, if it were possible, to ascertain how much time would be consumed. He had a section hand do the work, and the latter moved the rail, took off the angle-plates and left the track as the wreckers did in just seven minutes.

The witness, continuing, said that he found the crowbar which had been shown in court in the brush near the scene of the wreck. It was found on the side of the track nearest the Roberts brothers' house. He examined the bar closely. It bore evidences of having been used recently in prying over a rail, but he did not appear to have been used for some time prior to its being applied to the rail.

THOSE EXPERIMENTS. On cross-examination by Mr. Tuttle, Mr. Abern said that the experiments he had testified to were conducted with the assistance of a practical railroad man, who was armed with modern appliances, and who had never experimented with the day-time. He had not experimented with an inexperienced man at night who had inferior tools. He met with no opposition from the Roberts brothers when taking measurements at the house. He was quite willing that he should proceed.

On re-direct-examination, questioned by Mr. Jones, the witness said that the crowbar found in the brush near the wreck was not one of the company's, should show "Wreck! Wreck!" if the Roberts brothers' room it would be heard all over the house, as the partitions were all glass. He examined the bar, which was found in the brush near the house. The ground had been freshly broken at the place where the crowbar was found, and identified that the bar was recently thrown there.

Being cross-examined by Mr. Tuttle again Mr. Abern said that he could not say positively that the crowbar found near the one used in prying the rail. He thought, on an account of the marks on

it, and the fact that it had been thrown into the brush.

THE ENGINEER'S STORY. B. H. Estabrook was engineer of the locomotive which drew the train that was wrecked. He pulled out of Colfax, he said, at 3:25 o'clock on the morning of the 12th of October. The wreck occurred about two miles west of Colfax. He did not see the loosened rail, and his attention was first attracted when the engine encountered the rail and jarred back on the track again. He knew that something was wrong, and immediately applied the air-brakes and the driver-brakes and also reversed his engine. The train, or what was left of it, was stopped in a distance that would be covered by about thirteen cars. He then left the engine, and taking a torch, hurried back to see if any cars were thrown from the track. Nearly all the cars were derailed, and the sleeper "Santa Cruz" was in the ditch. He saw some men at work at the site. He did not know who they were, but he saw one who had a lantern. Some of the passengers were still emerging from the derailed sleeper at this time. He did not know where the wreck was, and he was working with it at the sleeper. It was not the axle that belonged to his engine. He did not know what the cause of the wreck was at the time, but supposed it was a broken rail.

On cross-examination the engineer said that about three years ago he was derailed near New England Mills, and was suspended by the company until the matter was looked into. On that occasion a broken rail was the cause of the wreck. He was not with the train at the Colfax wreck. An engineer, he said, cannot watch the rails, but had to look as far ahead as possible constantly in search of obstructions.

William Herzinger, fireman of Estabrook's engine, was the next witness. He corroborated the engineer's testimony in detail. He remained on the engine when the engine went back to see what was the matter, and was positive that Al Roberts nor anybody else passed the engine and spoke to him.

ROBERTS' RUMMAGING. G. W. Merrill, rear brakeman on the wrecked train, testified that he was in the caboose when the wreck occurred. He left the car immediately, and, seeing the situation in the ditch, he ran down immediately to the engine, and for several persons there. He got into the sleeper about ten minutes after the wreck. He did not see the door open in order to get in. He had just entered when he recognized Al Roberts there. Roberts was rummaging around among the effects in the car.

"Hello, how did you get here so soon?" asked the witness of Roberts. Roberts replied that he had heard the crash from his house and hurried to the wreck. He was not sure how Roberts could have made the trip so quickly, as he knew where Roberts lived.

J. T. Costello, the forward brakeman of the wrecked train, testified that he jumped for the emergency valve when he realized that the train was off the track, and for several minutes he applied the air-brakes. He got out with conductor Murray and hurried up toward the head of the train. Engineer Estabrook was standing on the side with a torch and halted them. After ascertaining how many cars were off the track, they hurried down to the derailed sleeper and assisted the passengers out. He did not see Al Roberts, that he remembered of, but heard from others that he was found inside the sleeper, but did not see him.

THE JOB DONE QUICKLY. George Trott, a locomotive engineer, was called out of order by the defense. He plotted the first section of the overland train down on the morning of the wreck. His train passed over the curve where the wreck occurred nineteen minutes ahead of the second section, which was wrecked. He examined the wreckage with care, and believed the track was all right at the time.

Fireman Brenton of the same locomotive corroborated the engineer's testimony. At this juncture the court adjourned till Thursday.

NOT DERIVED. Sun Que Kee's Woman Did Not Leave the City. It appears that the wife of Sun Que Kee did not elope after all. He missed her on Monday night, and, suspecting that she had been kidnaped, informed the police. They learned that a woman and two men had got off the north-bound Oregon train at Wheatland, and the three were soon arrested.

Sun Que Kee's wife has since put in her appearance, however, and explained that she stopped with a friend for a day or so, and had left her home in the afternoon. The charges against the arrested parties were accordingly dismissed by Judge Cravens yesterday.

But the claimant does not say anything now about the several hundred dollars that he at first alleged his wife had stolen from him, and it is quite evident that he is trying to hold the track of changing her with a crime in order to use the courts to get his chattel back again.

Newspapers Serenaded. Last evening the Hussar Band serenaded the Record-Union, Bee and News of the kindly as a token of appreciation of the kindly notices of the band made by the press during the recent summer night concert.

The band then proceeded to the residence of General J. G. Martine, Chairman of the Concert Committee, and treated that gentleman to a similar compliment.

Reported Compromise. For a week past there have been rumors of a compromise between ex-U. S. Senator Fair and H. J. Palmer of the various lawsuits pending between them, including criminal charges against Palmer.

It was stated yesterday that on the preceding day an agreement was arrived at, and that the various cases will be dismissed.

Athletic Notes. The special amateur boxing match between Henry Rubenstein and Fred Tyrell, before the Athletic Club, has been postponed until the 27th. Several other matches will probably take place on the same evening.

The ladies' gymnastic class has been organized for the season, and will meet on Tuesdays and Fridays from 9 to 12 o'clock.

Faro Games Closed. The sports did not, it is said, gambol on the green last night. The President of the Liquor Dealers' Association complained to Mayor Comstock that it was unfair to close the saloons at midnight and allow the Faro games to run.

The Mayor interviewed Chief of Police Drew, and the Faro dealers were notified to close.

Saving License Money. Officer Shellars was sworn to a complaint charging Marco Zarick, a restaurateur at Third and J streets, with selling liquor without a license. He says he saw two men enter the place, and they told him that they had whiskey.

San Francisco Health Board. Governor Markham announced yesterday the appointment of the following new Board of Health for San Francisco, to date from the 23d inst.: Drs. G. J. Bucknall, W. H. Mays, Seeley F. Long, Martin Regensburger.

Herbert Tozer's Funeral. The funeral of Herbert Ois Tozer, son of General and Mrs. Llewellyn Tozer, who lately died in the East, will take place from the family residence at 3 o'clock to-morrow afternoon.

The Tug-of-War. Tom Scott calls upon all persons desirous of competing in a tug-of-war contest to meet at the Old Pavilion on Friday evening at 7:30 o'clock.



Yesterday we commenced the sale of the fine stock of MILLINERY! Purchased from Mrs. E. A. Wayne of San Francisco. The sale will continue each day, commencing at 9 A. M., until the entire stock is sold. If you wish stylish goods at low prices now is your opportunity.

Trimmed Hats, Flowers, Feathers, Ornaments, Birds' Wings, Ribbons, Toques and Bonnets, ALL IN THIS SALE, TO-DAY

We will offer some good things in the following special lines at a discount of 33 1/2 per cent. from regular prices:

One lot of Men's Sample Pants, some 50 patterns, all of the finest imported goods and extra well made, usually sold from \$7 to \$10. Our price will be from \$4 50 to \$6. One lot of Men's Half Wool Light Blue Undershirts, \$1 goods, for 69c. One lot of Child's Pebble Goat Shoes, with heel, sizes 5 to 7 1/2, sole leather tip or plain toe, 99c. Child's Wigwam Lace Slippers, sizes 5 and 6, 50c. A special line of Gents' Dark Brown Kersey Dress Overcoats, extra well made and perfect fitting, medium heavy weight, \$9 50.

C. H. GILMAN, RED HOUSE, SACRAMENTO. AHEAD OF ALL, MAGEE RANGES.

Just received the second carload of those celebrated MAGEE RANGES, the world's best. This makes the second carload this month. Our sales on the MAGEE RANGES are rapidly increasing. Buy a MAGEE and you will use no other. Prices for a No. 7, \$29 and up.

I have the largest and most complete stock of PARLOR HEATING STOVES On the coast, and at the lowest prices. I also have a large invoice of HOT-AIR FURNACES. Parties wishing a Furnace for their residence will do well to call on me before giving their order, for I have the only Furnace guaranteed to heat five rooms with no more fuel than you would use in an ordinary Parlor Stove. Be sure and see them. I am sole agent. H. K. WALLACE, 813-815 J St., Sacramento. SACRAMENTO LUMBER COMPANY, Dealers in Lumber, Doors, Windows and Blinds. MAIN OFFICE—Second street, L and M. YARD—Front and Retrets, Sacramento.

Miscellaneous. SELLECK, The * Leading * Photographer, Postoffice Building, Fourth and K Sts.

Table with columns: LEAVE, TRAINS RUN DAILY, ARRIVE. Lists train schedules for Southern Pacific Company.

Southern Pacific Company Ogden Route. Dining Car Service. Daily. 3:30 East Mail Trains 3:30 P.M. Leaving San Francisco 7:00 P.M. Making almost continuous Dining car Service to Omaha, Chicago & New York. Ticket Agency, S. K. Goodman, San Francisco, Cal.

TANSY PILLS. Are perfectly safe and always effective. Never fail to give speedy and certain relief. More than 10,000 American women use them regularly. Guaranteed purgative. Will cure all cases of constipation. If you are troubled with constipation, or if you are suffering from indigestion, or if you are suffering from headache, or if you are suffering from nervousness, or if you are suffering from any of the above, you will find Tansy Pills the only remedy that will cure you. Sold by KIRK, GEARY & CO., Sacramento. SHERWOOD HALL NURSERY, Timothy Hopkins, MEXICO PARK, SAN MATEO COUNTY, CAL. Carnations, Roses, Chrysanthemums and Cut Flowers. SWEET PEA SEED A SPECIALTY.

Wistar's Cherry Balm of Wild Cherry. Thousands of Coughs and Lung Diseases it will cure you. Humpreys' Specifics. TAKE THE HINT! All Whiskies Are Not Alike. JUDGES SAY BUFFALO BOURBON Is Absolutely the Best. Price, \$3 a Gallon. Geo. B. Dierksen & Co., Sole Props.

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FOR SALE. A SPLENDID OPPORTUNITY. A BUTCHER BUSINESS IN ONE OF THE best towns in the State, and only a short distance from Sacramento; \$1,300 cash paid out in the town every month for wages; shop, stable, slaughter-house, 3 horses, wagon, harness, tools, refrigerator and everything necessary to the business. MILLS & HAWK, 301 J Street Sacramento. AGENCY UNION INSURANCE COMPANY. SCHAW, INGRAM, BATCHER & CO., 217 and 219 J Street. Builders' Hardware, Iron, Steel and Pipe. Agents for Oliver's Patent Chilled and Casaday Sulky and Gang Plows. Canton Steel, Hazard Powder, Gillingham Portland Cement.

Weak Men and Women SHOULD USE DANA'S BITTERS. The Great Mexican Bitters gives Health and Strength to the Sexual Organs. J. HAHN & CO., 450 J Street, Agents. NOTICE TO CREDITORS—ESTATE OF SAMUEL E. WEBSTER, deceased. Notice is hereby given by the undersigned, executor of the will of Samuel E. Webster, deceased, to the creditors of, and to all persons having claims against the said deceased, to exhibit them, with the necessary vouchers, within four months after the first publication of this notice, to the said executor, at the office of Clinton L. White, northeast corner of Second and J streets, Sacramento City, California. October 25, 1891. EMILY WEBSTER, Executor of the will of Samuel E. Webster, deceased. CLINTON L. WHITE, Attorney for Executor, 629-57th

THE BOARD OF DIRECTORS of THE Escondido Irrigation District will receive sealed proposals for the purchase of the entire canal, \$40,000, or any part thereof, of its bonds, bids will be received at their office in Escondido, California, until 10 o'clock A. M., NOVEMBER 29, 1891. Said bonds are of the denomination of \$500 each. Payable 10-20 years. Interest 6 per cent. A. J. WARDEN, Secretary Escondido Irrigation District, 626-26

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