

Death of Dost Mahomet.

THE DEFENCE.

Mr. Moss, in opening the case for the defence, apologised for his diffuseness in cross-examination, but his desire was to put such light upon the case that it could not bear before. He thanked His Honor for the assistance he had given him, although he did not, on all occasions, agree with his rulings, He then reviewed the evidence that would be called for the defence, and declared it would be shown to be, if not one of innocence, to be one of extreme doubts, for the accused were not willing participants in the affray. He called William Grigo (the elder accused), sworn, said he was a camel teamster knew Dost Mohamet in Perth when witness was about 12 years of age. Dost had been married to his sister about 3 or 4 years, and our parents were then reconciled to the mixed marriage; saw a lot of Dost, who was always very gentlemanly and kind; boy used to envy me for having him as a brother-in-law; witness at first had a strong prejudice against him but his gentlemanly bearing and kindness soon removed this; when he saw Dost again it was in Port Hedland about three years ago; was then staying at his sister's hotel at Poondina until his sister got married; came to Port Hedland, and Dost asked how witness would like to have some camels, and this led to the purchase of Carda Bux's camels, 17 all told, five for cash, the rest on terms; agreement (produced is the agreement; the money balance owing was 540 pounds; enlarged the herd since then by 10 calves, and have paid 450 pounds off the whole ; owe now 280 pounds; recall the camel strike ; Dost was at the head of that strike, he being the chief of a committee of five; the strike lasted about four months; during that time the promissory notes were running, and Dost was looking after Carda Bux's interests, the latter being in India; the strike ended disastrously for the Indians, as horse carrying was started at the old rates; witness joined the strikers and withdrew his camels, the rates being too low; made arrangements with Dost that the p.n.'s should remain in abeyance during the strike, and the time to be extended on the bid; during the strike Dost was in an excitable state, and never started out without a loaded stick or a rifle; some of the Afghan camel teams were stopped on the roads; the white teamsters would wait till the camel teams got into camp and then unload the camels and let them go; the white teamsters doing this were armed; Dost at that time was carrying firearms; he came to me in a dejected state and said, "Billy, I don't know what to do, storekeeper no like me; will you help me?" witness replied, " I have my own camels to look after"; .he replied, " Never mind, you be true friend to me; want to make store and sell stuff up on Fields" ; his proposition was to enter into competition with the storekeeper, and being an Asiatic he could not get a business area; he asked witness if he would take stuff up in his own name and sell it; Subsequently accepted, on my sister pressing me; told Dost do my best, but had no previous experience, and was no bookkeeper. And he had better get another man; Dost replied "No, Billy, I want a man to trust." And said Dr. Browne would give me advice and information; he went up and got auctioneer's licence and business area; another Afghan was interested in this business with Dost took first load to tinfields, and dropped it opposite the stores and opened the auction sales; then shifted to another camp 45 miles from Marble Bar; sold goods from one place to another; first trip made 87 pounds profit and accounted for every penny; after the strike was over, Dost told me he wanted to apply for business licence in my name for Googlegong; lie came to him one day with fears in his eyes, saying that Musa Khan had been refused a license; witness acceded to his request, but again explained position; took out miner's right and applied for area ; saw Dost after at Marble Bar, and he was very pleased; left Dost there and worked for Mr. Cooper; saw Dost again at Port Hedland and. said, "Well, Dost, suppose you want some money?" he replied, "Never mind, Billy, you and me just the same"; tried to get some financial assistance, £130, From Mr, Beahmache, but told him after did not want it, as he had got it elsewhere; always stay at Dost's house; Harry and Mrs. Dost were there on the 6th; when he went in Dost said, "I Want to see you, Billy," and then abruptly asked, " How much do you owe me?" after some explanation on my part, we had some dispute as to some bicycle tubes, and I said it was usual to allow them as wear and tear;

Mrs. Dost also said it was usual, when Dost jumped up and in a threatening manner said, "Don't you say that"; witness went to him quietly and said, "Now Dost," when Mrs. Dost left the room he told Dost he ought to look after his wife better, as he had one of the best women that ever breathed; he replied, " All right Billy"; later in the same night Dost was sitting on the verandah with Harry, and witness said, " Dost, I'm very glad have fixed up your promissory notes"; he frowned and said, "

Where did you get it"; replied, "from a financial agent "; he did not congratulate witness on getting the money, and did not seem pleased; that night Dost made for the 4-mile camp; next day he brought in some tin, and unloaded at jetty; he saw witness but did not speak; that day witness had started teams out, and had followed them to the 12-mile well; returned to the house and Dost said he had seen the agent, and the p.n's were just as good as paid, and asked how he (witness) would want to pay the remaining p.n's; replied at least two trips; told me then about his intended trip to Kimberley, and he would like to send money to Carda Bux before he started; went to the agents and explained position; when he returned to the house Mrs. Dost said, "Don't make a noise, as Dost is asleep and very much worried"; went round to the kitchen door; went out to get a drink, and Dost passed me, looking half asleep, with his hand rubbing his head; said, "Good night, Dost," and he gave a start; almost instantly Dost went out through the door, mumbling something; again sat down in the kitchen, and as Mrs. Dost and witness were conversing Dost suddenly returned with his hands extended; Mrs. Dost was standing near the doorway, wiping a plate, and spoke to Dost in his own language; he replied in a bad Afghan word, and saw Dost suddenly raise his foot and kick Mrs. Dost in the stomach, grabbing her by the throat with his right hand, and raising his left as if to strike her; witness jumped up from where he was sitting and exclaimed, "Dost, Dost, don't"; he then left Mrs. Dost and rushed at me, and grabbed me by the throat; hit at him several times in the face ; he got me by the throat; tried to sing out for my brother, but could not; Dost was making a loud guttural sound showing him not to be in his senses; witness then remembered a trick he learnt at school, which enables one to liberate oneself from a man who has a grip on you, known as the "flying mare"; broke away from Dost and ran towards the door, Dost following me; was not going to run away and see his sister knocked about by a madman; he came at him again with a piece of wood; witness dropped to his right knee; as he got up Dost rushed and struck him in the stomach; he then succeeded in again grabbing me by the throat and forced me into the lobby; were clutched together, and witness got hold of his throat and kept a grip for a good while; we then fell sideways, when Dost resorted to a dirty trick; witness then released hold of his throat and succeeded in knocking his hand away; then succeeded in loosing his hold of my throat and gave him the "flying mare" and threw him; in falling he struck his head about 4ft. up the verandah post; when we got up he again rushed me and we fell again, he (witness) striking his head on the verandah floor; Dost was up again quicker than witness; was almost in an upright position when Dost again caught him by the throat with one hand; tried to sing out, but did not know if Harry helped me then or not; we were struggling on the verandah, and fell off, witness underneath; he then had his hand round my throat and bit my chin; witness had his hand loose clutching, but almost settled: then Dost suddenly dropped his head and fell sideways to the ground; it was then that he crawled on top of Dost and caught hold of him; did not know at that time what my brother had done; the helplessness of Dost dawned on me, and witness released his hold; got up and staggered towards a man named Stapleton, and fell down from exhaustion; lay there for a while, but did not see what happened, as he was dazed; faintly remembered water being poured over him; don't remember being carried on to the verandah; recollect getting off Dost myself; someone mentioned Mrs. Dost's name, and he said, "Where's Mrs. Dost, is she safe ?" tried to crawl back to Dost; remember Harry saying, " That's enough, Billy; Annie is all right"; heard someone say, "Let's shift him out of this"; Fry came about half an hour after, and we went to lock-up; Fry did not tell us we were charged till next day; Fry had a good look at witness's neck, and jabbed his fingers into my neck, and said he did not see any swelling; sang out and said to Fry, "If you had Dost's maulers round your throat you'd be sore."

Cross-examined: Afghans usually carry firearms with their teams; am not bad with my fists, and when Dost accused him of cheating would have tackled him had he not been his brother-in-law; witness would not be afraid of tackling any man if he insulted him; did not get cash for the bull camels sold to Dost; only wanted to reduce any liability to Dost; when he told Dost he had got money to meet p.n.s he was not pleased.

The foreman here intimated that the jury were of opinion that Crown counsel (Mr. Coleman) was trying to mislead the witness.

Mr. Coleman: If the jury are of that opinion then he would retire from the case; and he was about to leave the court when Mr. Moss said he hoped Mr. Coleman would continue the case, as he felt sure the jury did not wish to convey that impression.

The foreman explained that the juryman who had handed him the objection said he did not wish to convey the impression Mr. Coleman had upon it.

His Honor thought counsel should be reasonable in his decision. He did not hear anything objectionable in Mr. Coleman's cross-examination. Mr. Coleman said that after the explanation given he would accept the position.

Witness (continuing): The blows given to Dost in the kitchen were not heavy; hit him before he had his hands on me, as witness was afraid he meant mischief; Dost was a dangerous man when put out; if assistance had not arrived consider Dost would have killed him.

By Jury: When Dost hit his head on the verandah post cannot say if his head hit the floor also.

Harry Herman Grigo (the younger accused) said he was 18 years old ; first saw Dost in Perth about ten years ago; came to Hedland the year before last; stopped at Dost's house; always been friendly with Dost; on the evening of the 6th Dost did not seem in a good humor; Billy had come back from town and told Dost he had got the money, and Dost did not seem pleased; Dost picked up his boots and went outside; said to Billy, "He does not look too pleased on it "; Billy replied, "No, Carda Bux has been worrying him, and business is worrying him"; we talked over Dost's money difficulties for half an hour; Mrs. Dost came round and said Dost would be all right in the morning, she was trembling and frightened, and he wondered what was the matter; Dost had a drink of water and said to my sister, "It's all your doings," and threw his boot at her; he then got on his horse and rode in the direction of the 4-mile camp; this is the first time, heard of him ill-treating my sister; on the 7th saw Dost bring a load of tin to jetty; saw my brother getting camels ready for loading; about 5 Billy came to Dost and said he fixed the first p.n.; when Mrs. Dost spoke of the bicycle tyres Dost said, "You shut up, no business of yours"; witness then laid down and went to sleep; this would be about 6.45; was awakened about 8 by someone ; was in a half sleepy condition, and do not remember going up the verandah; heard sounds of scuffling, and saw Dost and Billy on the verandah about 10 yards from the kitchen; saw Dost with a small bit of wood in his hand raised, and he had Billy by the throat; rushed at him and took stick away from him, and hit him with my fist; Dost had the better of Billy, who seemed in a bad way and pretty well knocked up; was too excited to see where Billy's hands were; had no difficulty in getting stick from Dost; he then got both hands on Billy's throat; heard Billy gasp out, "Hit Dost with something"; went and got the stick (produced) and gave Dost a couple of cracks; they were then struggling very near the edge of the verandah. Hit him across the back twice and asked him to let go before and after each blow. Saw he would not let go and gave him a tap on the head. My object in dealing that blow was to make him let go. Could see that Billy was done up. Dost was the assailant, Billy was on the defensive.

The delivery of the first blow had no effect, as Dost continued the struggle with more fury. They then fell off the verandah on to the sand. Dost was up first and gripped Billy again, and witness struck Dost another blow on the head, which appeared to have no effect. Again told him to let go or he would use the stick again. Did not like using the stick. Both fell to the ground again.

Dost half on top, and had hold of Billy's throat. Billy seemed in a bad way, his eyes seemed out of his head and his tongue protruding, and thought he was on the point of death. Asked Dost for the last time to let go or he would strike. He did not answer, and he hit him a fourth blow, harder than the rest, because he thought Billy was settled. Am of opinion he would have killed Billy had he (witness) not been there. The last blow knocked Dost unconscious, and he fell off Billy on one side. Billy then crawled on top of Dost and sat on him and got his two hands on Dost's throat. He remained on top for a minute and then got off and fell flat. Then saw Stapleton, and said "You cook, you go away." He replied, " You can't do that sort of thing." Replied. "He tried to kill my brother." Stapleton asked for the stick and gave it to him. Asked him not to say anything about the stick, and he said lie would not. At that time he had no idea he had killed Dost. Thought it was just a family row. An Afghan came, and thought he was going to hit Billy with a stick, and rushed at him and took stick away. Other Afghans came carrying sticks, and they took charge of Dost.

Billy was lying face downwards unconscious. Stapleton and witness lifted him up and he fell down again; we carried him and put him on the verandah. He was done up and breathing heavily. Omrah is a liar if he said he was at the house that night. Did not notice Stapleton when the last blow was struck. When awakened at the commencement of the row did not know my sister was being ill-treated. Stapleton did not help to pull Billy off Dost.

Cross-examined: The blows he gave Dost in the face with his fists had no effect; could have put more weight in the blows with the wood if he had liked.

The evidence of William Crawford was only material to the fact that a conversation took place at the 4-mile soak between Dost and Carda Bux. Walter Henry Barker, the acting coroner at the inquest, proved the depositions taken in that court.

Constable Skeet deposed as to the condition of the Grigo's when brought to the police station.

H. Wilson gave evidence as to Dost's mental condition when he came to the jetty with a load of tin ore on the 7th. When the Court assembled on Saturday morning the forman asked His Honor for direction as to their verdict, as they did not desire to hear further evidence.

His Honor having directed them the jury, without leaving the box, then returned a verdict of "not guilty" against both the accused.

In discharging the jury His Honor complimented them on the attention they had given this most protracted case, remarking at the same time that he quite concurred with the verdict.