

At the Commission Day's employer, Mr Arthur George Clarke, butcher, gave evidence. The evidence is worthy of examination-for he was able to observe Day throughout a period of almost four weeks. A significant feature of his evidence is that it is in conflict with that of Acting Sergeant Michael Toomey and that of his employee Robert King regarding blood stains on Day's jumper. Clarke when asked how many blood spots were on the jumper said "I should say there were near a dozen." He went on to say "Some of them would be the size of a shilling; and others not larger than No.3. shot." King, when asked said there were "fifty or sixty" and he described them as being "from about the size of a two shilling piece down".

The transcript of Clarke's evidence before the Commission is as follows:

Q. (*By the Chairman*) Your occupation, Mr Clarke?

A. Butcher.

Q. At Gatton?

A. Yes.

Q. I understand you wish to give us some information with regard to this man Day, who was in your employ at the time these murders were committed?

A. I have no information to give.

Q. I understood that you desired to give information?

A. No, I never desired to give information. Day was in my employ.

Q. Did you form any opinion of the man while he was with you?

A. I cannot say I formed a very bad opinion of him.

Q. With regard to this blood-stained jumper, you have heard what Christie has said?

A. I did not hear all he said. I heard my name mentioned.

Q. Well, he said you objected to Day washing his jumper, and in defiance of or contrary to your wishes he not only washed the jumper but boiled it?

A. Yes, I warned him. I cautioned him against washing his clothes.

I told him to leave the stain in; that he should not wash anything of that kind, because they might be of some service. I thought the blood would have been analysed. In face of that he washed them, although I could not say he boiled them; and he used a scrubbing brush, soda, and water.

Q. Contrary to your wishes, and contrary to your advice?

A. Yes.

Q. Did you see the stains?

A. Oh, yes.

Q. What were they like?

A. It is very hard for me to say, because I am not a professional at that sort of thing.

Q. Were they spots or smudges?

A. It is hardly likely, with the work that man did for me, that he would get such bloodstains on him-not the way they were placed.

Q. How were they placed?

A. On his sleeve and on his breast.

Q. Were they smudges or spots?

A. They were both. There was a clot of blood and spots. There was no real smear. If he had been carrying beef he would have got a smear.

Q. You say there was no smear?

A. Not to my idea.

Q. But you did notice the other?

A. I did.

Q. And did you inform any member of the Police Force of what you had noticed?

A. I had a conversation with Detective Toomey, but that was afterwards.

Q. How long after?

A. I cannot say. I suppose it must have been three weeks after.

Q. But not before that?

A. No, not before.

Q. Then all the washing and scrubbing had taken place?

A. Oh, yes; all the stains had been taken off.

Q. Can you say whether any member of the Police Force saw this jumper before it was washed?

A. None except Toomey. He was the man who brought the jumper to me and asked me if I recognised it.

Q. Then you contradict Toomey when he says there was only one smear on the jumper?

A. I said there was no smear.

Q. Then he is not correct when he says that was the only mark?

A. It might have been there, but I did not detect it.

Q. He says that was the only mark. You are certain there were spots of blood on the breast?

A. Yes, on the left sleeve and on the breast there was a fair amount more than he usually had.

Q. (*By Mr Garvin*) About how many spots?

A. I should say there were near a dozen.

Q. What would be the size of them?

A. Some of them would be the size of a shilling; and others not larger than No.3 shot.

Q. When did you first notice these spots on the jumper?

A. It was Detective Toomey who brought the jumper to me and asked me if I knew the man had such a jumper.

Q. Can you remember the date?

A. I cannot.

Q. You remember the day of the murders, the 26 December, the day of the races. Do you know if Day had the jumper on that day?

A. That was the Monday.

Q. Yes?

A. No, we had not killed on that day.

Q. When was the last date you saw the jumper on him prior to seeing the blood?

A. The only day that I can remember seeing the jumper on that man was on the previous Saturday. That would be the 24th.

Q. What time of the day was it when you saw him?

A. In the morning, about ten o'clock.

A. If these blood spots had been on the jumper then would you have noticed them?

A. I think so.

Q. But you never saw any blood spots on the jumper until Detective Toomey showed it to you?

A. No, because I never saw the blood spots before Toomey brought the jumper to me.

Q. Were the blood spots fresh?

A. They certainly were not old.

Q. As they got old they would become black?

A. They were not very black; they were inclined to be shiny.

Q. And you know from experience that blood as it gets older gets black. Did you notice if the blood was quite old?

A. It was blackish.

Q. (*By the Chairman*) What conclusion did you come to as to the age of the blood?-Did you come to any conclusion?

A. That is more than I can say.

Q. You did not come to any conclusion?

A. I did not come to any conclusion.

Q. I understood you to say that the nature of Day's employment would not produce any blood spots at all?

A. The work that he did for me was carrying. He merely had to lift pieces of beef.

Q. He had to lift pieces of beef only?

A. Yes, and carcasses of sheep. He did no killing; he was no butcher.

Q. The lifting of those would not have put spots of blood on his jumper?

A. It is possible.

Q. (*By Mr Garvin*) Did you ever see him lifting beef with his jumper on him?

A. No.

Q. What was his usual practice in lifting beef-had he his jumper on or off?

A. He only lifted small joints, and he would put them on his shoulder.

Q. Would he lift them with his jumper on, or in his shirt sleeves?

A. Usually in his shirt sleeves.

Q. Do you think, from your examination of that jumper, that the lifting of beef or sheep could have caused those spots in the way they appeared on the jumper?

A. It is possible.

Q. (*By Mr Dickson*) When Day went to bed every night did he keep his boots on?

A. I cannot say that he did.

Q. Did you tell Christie so at any time?

A. I have gone down at three o'clock in the morning to call the man, and I have found him lying on the bed dressed, but that was only occasionally.

Q. Had he his boots on?

A. Yes.

Q. Did you give a display of fireworks on Boxing Night?

A. I did.

Q. At what time?

A. Between eight and nine o'clock. I know that, because I looked at the clock at ten minutes to nine, and called the children in.

Q. Was Day there?

A. No.

Q. Do you know where he was then?

A. No, I do not.

Q. Had you seen him before that?

A. Yes, having his tea.

Q. About what time?

A. I cannot say exactly, but it was about half past six.

Q. Were all the others connected with the house at the fireworks?

A. Yes.

Q. Was Day the only one who was not there?

A. Yes, that is all.

Q. (*By Mr Garvin*) How long was Day in your employment?

A. A little over a fortnight.

Q. What was his general conduct during that time?

A. Very fair; I had nothing to complain of.

Q. Was he at all eccentric in his behaviour?

A. Well, he was a quiet, reserved kind of man; that is the only thing. He would talk about nothing at all.

Q. Did you notice any peculiarity about him?

A. I cannot say, except that he was very reserved.

Q. (*By Mr Dickson*) Did Day deliver meat to the Murphys at any time?

A. No.

Q. While Day was there did the Murphys come to your shop?

A. I cannot answer that question; it is possible they did.

Q. Were they in the habit of calling at your shop?

A. No, because the meat was delivered at their place, but they did occasionally call at the shop for meat.

Q. Do you know whether either of the girls called at your shop that week?

A. No.

Q. Do you know the Murphy family very well?

A. Very well, indeed.

Q. Did you know the girls very well?

A. Very well, indeed.

Q. Did you know with whom they associated?

A. Yes.

Q. Do you know whether Norah or Ellen Murphy had sweethearts about Gatton?

A. I do not know that they had.

Q. (*By Mr Garvin*) Do you remember the morning of the discovery of the bodies?

A. Yes.

Q. Did you see Day that morning?

A. Oh, yes.

Q. Did you have any conversation" with him in reference to the murders?

A. That morning he took sheep in, and he was the man who came and told me about the murder.

Q. What did he say, as nearly as you can remember?

A. He asked me if I had heard of the dreadful accident.

Q. Tell us what he said in his own words?

A. He asked me if I had heard of the dreadful accident. I said, "What accident?" He said, "I hear that one of the Murphy's is killed." I asked him how it happened, and he said, "The horse bolted." I asked, "Where?" He said, "In Moran's paddock." I said, "I would not believe it, because Murphy's horse is quiet." That is all I know about it.

Q. Did you ask him who told him?

A. No, I did not.

Q. (*By the Chairman*) What time was that?

A. I cannot remember what time it was.

Q. Well, about what time?

A. I cannot remember, though I have been trying to remember ever since.

Q. (*By Mr Garvin*) He only spoke of it as an accident, then. When did you hear it was a murder?

A. I should say about ten o'clock.

Q. Did you have any conversation with Day after you heard of the murders?

A. No.

Q. Why?

A. Because it was a thing he would never talk about.

Q. (*By the Chairman*) How do you mean he would never talk about it?

A. If you mentioned the thing to him he would not answer you back; he would not discuss the matter at all.

Q. (*By Mr Garvin*) You say he told you that he had heard of an accident. When you heard that it was not an accident, but a murder, did you go to him and say, "Those three people have been murdered"?

A. No, I do not think I did, because there were lots afterwards came to the shop, and I do not think I spoke to Day of it afterwards.

Q. Do you remember any other person having a conversation with Day?

A. No.

Q. How, then, did you come to the conclusion that Day would not talk about the matter?

A. Because I mentioned the subject to him, and he would only say "Well," or something like that, and turn away; he would not enter into a discussion at all.

Q. Did you notice, when you were speaking to him about the murder, any peculiarity in his manner?

A. Only a perfect state of indifference. He did not seem to interest himself in the matter at all.

Q. Was that his general demeanour?

A. I think so.

Q. Even prior to that?

A. He was very reserved. He would say "Yes" or "No," and that was all. I never saw him enter into a conversation with any person. My man says the same thing of him now.

Q. (*By the Chairman*) What man?

A. King.

Q. (*By Mr Garvin*) Did King ever tell you that he had had a conversation with Day about the murders?

A. No; he says what I say—that Day would never enter into a conversation, or say anything.

Q. You saw him pretty early on the morning of the 27th; that is the morning of the discovery of the bodies?

A. I know I sent sheep into town that morning, and it must have been pretty early, but I cannot say what time it was.

Q. Did he go about his work that morning in the usual way?

A. Yes.

Q. (*By the Chairman*) Do you know what clothing he was dressed in that morning?

A. If I remember rightly, he had only his shirt and trousers on; I am pretty well certain he had no jumper on that morning.

Q. (*By Mr Garvin*) Do you know where he kept his clothes?

A. As far as I know, he kept them in his bunk.

Q. Had you ever occasion to go into his room?

A. No, I never went inside his room until Toomey came to me.

Q. What date was that?

A. I cannot tell you; I suppose it must have been the day the murder was discovered.

Q. Did you look at the jumper that day?

A. That was the day Toomey brought it up, I think. I cannot remember the dates now, it is so long ago.

Q. (*By Mr Dickson*) Had you formed a bad impression of Day?

A. No, I cannot say I formed a bad impression of him.

Q. Had you ever any reason for removing him from the work at the coppers?-
Used he to work at the coppers before this?

A. No, he never worked at the coppers.

Q. You did not remove him from that work, then?

A. His work was simply driving the cart about.

Q. (*By the Chairman*) He simply did labourer's work?

A. That is all.

Q. (*By Mr Sadleir*) We were told that you said you removed him from the
boilers, fearing that he would throw you into the boilers?

A. That I was afraid he would throw me into the boiler?

Q. Yes?

A. That gets into rather an outside subject altogether. I would rather not go into
that.

Q. Is it a fact that you said so?

A. Well, I suppose you want to know the rights inside and out of that too. This is
a matter I don't care about talking about. If you wish to know I will tell you.
When the wife was alive she advised me to have nothing at all to do with this
man. She had a very bad opinion of him, and told me to be careful, that it was
quite likely he might knock me on the head. He is a very powerful man, and a
big man, too.

Q. (*By the Chairman*) He is?

A. Yes. That is how that originated that yarn about the coppers.

Q. Your wife had expressed distrust of this man to you?

A. Yes. You see that is how that originated.

Q. (*By Mr Sadleir*) Was this before or after the murder?

A. After, most decidedly.

A. I want you to go back to the 24th, the day Day wore the jumper that Toomey
showed you?

A. Yes, that would be the 24th.

Q. What work was Day doing on the 24th?

A. He took a lot of bones and offal down to the yard, and that morning it was
raining-a slight shower. He went down and made up the fires and came back.
That, I think, is about the extent of his work that day. Of course he cleaned up the
shop, you know.

Q. Would he get his jumper soiled by any work he had to do that day?

A. No; he had no killing to do that day.

Q. But he had some meat to carry?

A. No, I don't think so. To the best of my belief he had no meat to carry that day.

Q. Detective Toomey saw the jumper before it was washed?

A. Yes, before it was washed.

Q. Was Florence Lowe employed by you while Day was with you?

A. No.

Q. When-before or after?

A. After.

Q. Do you know whether she knew Day?

A. I think not. I am not certain; but I think not. Possibly she saw him, but I am certain she was not there at the time Day was employed.

Q. You cannot say whether she knew him or not. Did she have any opportunities of seeing Day while he was in your employment?

A. Yes; because she passed the place.

Q. Was she ever at your place while Day was there?

A. I am not sure of that.

Q. You have spoken to her since, have you not?

A. Yes.

Q. Did she say anything at all as to whether she knew Day while he was at your place?

A. Well, she said she saw him.

Q. At your place?

A. Yes.

Q. Did she say anything to you about the man she had met at the sliprails?-Did she ever speak to you about that?

A. No.

Q. Did you never hear it?

A. Of course, I knew very well the girl had to go to Toowoomba, and that sort of thing; but so far as any conversation about the man at the sliprails-I don't know.

Q. You did not know she had seen a man at the sliprails?

A. Yes, I knew that.

Q. How long have you known it-a considerable time?

A. I really cannot tell you how long.

Q. Did you know she had seen a man at the sliprails while she was in your employment?

A. Yes.

Q. Did she ever describe him to you?

A. No.

Q. Did she ever connect Day with him in any way?

A. Not to my knowledge.

Q. Did she say anything about knowing this man she saw at the sliprails?

A. She never said anything to me. It is only what I saw in the papers. She never spoke to me about it.

Q. Were Day and yourself on very good terms while he was working for you?

A. Well, up to the day he gave me a week's notice.

Q. (*By the Chairman*) Did he ever while in your employment express dissatisfaction with the nature of his work?

A. No.

Q. He gave you notice, then, for no apparent reason?

A. He complained of the food, not of the work.

Q. That was his reason for going-the kind of food?

A. Yes.

Q. (*By Mr Dickson*) Had Day a beard?

A. No.

Q. Used he to shave while at your place?

A. All except his moustache.

Q. Had he a razor at your place?

A. I cannot say. I believe he had, because he shaved.

Q. Did he shave before the murders?

A. Yes, he came to my place shaved.

Q. You do not know whether he had a razor at your place before the murders?

A. I am not sure.

Q. Had he any firearms?

A. Not that I know of.

Q. Had you any firearms about your place? A. Yes.

Q. What firearms?

A. A revolver and a gun.

Q. What sort of a revolver?

A. A six-chambered revolver. I think they call it a "Tranter".

Q. What bore?

A. .450.

Q. Had you any rifle at all?

A. No.

Q. Were there any other guns about there that you knew of?

A. Not in my place.

Q. How did you kill your cattle?

A. By "pithing". (Slaughtered by laceration of central nervous tissue by means of an elongated rod-shaped instrument introduced into the cranial cavity.)

Q. Were none ever shot?

A. No.

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