

defendants were all there; I looked in the cabin and there was just enough floor for them to make a bed on; about two hours after going there I saw the body of Nokes; the defendants were all armed; I said I had heard of the shooting and came up to look for the body; Patnode said when other parties came we might look for it; he made no threats to me; there was but little conversation about the killing; we found the body near the house, lying on its back, straight out; he had overalls on; his pistol was lying on his left side; it was clean; his hands and face were covered with dust; when we went to look for the body Treffle said it was not necessary to look for it, it was there.

James Preston testified—I live in Snake Valley near the scene of the trouble; in June, before the shooting, I heard Treffle Dutrie say in the presence of Alex, that he had advice in the matter and said he meant to kill both of them and would use the shot gun law; Alex said, "I am sorry I did not kill the other one when I had him up the creek."

Alonzo Lyman, of Fillmore, testified—I know the defendants; I was present at a conversation at Dutrie's ranch before the shooting, and when Alex said he had laid in the brush waiting for Preston to come in sight, that he might blow him up.

The following witnesses were examined: Wise Cropper, R. A. Bridges, D. C. Reed, each of whom had either examined the body or heard confessions by the defendants which the prosecution considered of importance.

At 3 o'clock the prosecution rested.

At the close of our report of the proceedings in the court at Provo on Tuesday, October 1, Jerry Patnode, one of the defendants, testified—Was farming for the Dutrie boys in 1887; at one time, while working on the Dutrie ditch, Preston came and said, "I'll have the water if I have to kill both of the French s— of b—;" in 1888 I was working for the Dutries in July; Alex. put up a cabin in April; I was also there then and helped him; I worked there in April about three weeks; while there I slept with Dutrie, and when the house was furnished Alex. and I slept in it; in July when I went back to work for them I helped handle the hay; on the 20th we handled five loads; I saw his wife about noon; they, Preston and wife, had arms; Alex. went up to his cabin and said he found Mrs. Preston there; we slept in Alex's cabin that night; we slept together, Alex. and I; Treffle went home about sundown; I went to sleep and in the night Alex. waked me, and I saw a man on horseback going down the trail; after he had gone by I fell asleep again and Alex. waked me once more; I saw two men close together; one had a blanket on him, and I thought one was an Indian; I left the trail and came close to the door; I saw the pistol slung; they stooped and Nokes fired a shot. (The witness here illustrated his testi-

mony with dramatic gestures.) I returned the shot; then Alex. fired twice; I said, "Don't fire again, he is down;" Nokes said, "Boys, fetch me some water," but I saw his pistol slung and dared not go; I heard an Indian yell and said: "I guess we have got to die tonight;" we went to Treffle's cabin and got him, and then we came back to the cabin; in the morning Bishop, Earl and Lyman came; we went out to look at the body; I saw overshoe tracks there; when we lifted the body the blood flowed from it freely; I never saw so much blood in my life; I saw Bishop take the pistol up and say he never shot; we took dinner at Carter's in a day or two afterward; I said, "Your partner's gone, and he came to shoot Alex. in bed, and a man who would do that ought to be roasted;" I didn't make the remarks Mrs. Carter said I did; no one ever touched the body after it was shot, till the morning when Bishop came; it lay right where it was killed; I never said I'd have got Preston if he hadn't run.

Cross-examined by Mr. Varian—He detailed his early history and furnished his pedigree from way back; Alex. was pretty mad about the water in the fall of 1887; he called Preston a pilgrim, but used no hard names; on the 6th of April, 1888, when I was going to the canyon, I met Preston and another man coming on horseback toward me; the men were armed and stopped me and asked me in a gruff way where I was going and where the Frenchmen were. (Witness' tongue ran like a flutter wheel and it took Mr. Varian all his time to shut him off and keep him in line.) When we went down in the field on the 20th, Alex. and Treffle had a gun each; I had nothing but a pitchfork; when we went to fix up the cabin the boys took two guns and a pistol; yes, two pistols; that morning Treffle said, "We'll go down today and sleep in the house;" Alex. wanted to go to secure the land; we didn't go down with arms to hold the place.

At this point court adjourned.

On Wednesday, October 2d, Jerry Patnode was again put on the stand for cross-examination in the Dutrie murder trial; he said he did not recognize Nokes in the horseman who rode past the cabin before the shooting; did not hear the men on foot as they came back; it was light at the time, but one could not see all over the room; as Nokes came to the corner he jumped in front of the door, shot, jumped back and received the shots from Dutrie, three shots; when Lyman came, Treffle told him to go for witnesses; witness was excited throughout; Bishop picked up the quilt about 60 feet from the pistol; Mr. Bishop turned the cylinder of the pistol as he picked it up. (In skipping from point to point, the witness became considerably "mixed.")

Alonzo Lyman—The brush would have been broken down by laying a body down as well as by a man falling down; the body was flat on its back, hands crossed on breast; witness was called out at 12

o'clock at night by Treffle, Dutrie and Patnode; went over to see the body; defendants explained what had been done and how; he was wanted to look at the body, go for a horse and see Joe Carter; they wanted him as a witness, too; Carter couldn't come; I told Ike Preston the Frenchmen were moving into their cabin. the Frenchmen told him of the day's trouble, and that they were going to move into the house and hold the land; after the killing witness was shown the tracks, said to be made by Nokes; witness pointed out on the map to Mr. Varian the positions of the tracks as explained to him; was present a few days before when Preston had challenged Treffle to fight, and Treffle would not do it.

Alex. Dutrie testified—In June I told Nokes to take his horses out of the field, as I wanted to cut the hay; Lyman replied that he would kill all of us if I drove the horses out; on the 14th of July I told Lyman that on the night of the 3rd I went out to see who it was driving the cattle; I said I was in the grass; did not say I laid in wait for Preston, or that if he had come in sight I'd have fixed him.

Cross-examined by Mr. Varian—It was June 30th when I notified Lyman to take his horses out; they had been running there for a year before I told him to take them out; I was talking to both Nokes and Preston; after that Nokes struck me in the face; I didn't resent it; I told him it was all right; I wasn't intending to get even with him; I was mad; have lived in this country since 1882; I talk French with my own people, but do my ordinary business in English; I have been in the penitentiary over a year; on July 19 we both claimed the land, Preston and I; I don't know how many times I fired; the gun was loaded with buckshot; it was mixed; there were one or two dragoon pistol balls in the gun; we only had the two guns and a pistol.

Aaron Carter, the boy who was in Preston's tent, was called—Heard Nokes say that if the Frenchmen got any more hay he would have their lives, and much of a character like what had preceded.

Treffle Dutrie, after describing in detail the maps and diagrams, gave an autobiography of his life, and finally came down to July 20, 1888, the fatal day. We were all armed in the field that day; I stayed at my own place; Mr. Lyman and his wife also stayed there; about 4 o'clock I was awakened by Patnode; he said, "Treffle, get up, Nokes has been shot;" Lyman and I went with him; when we got up there I couldn't see the body; Bishop came and called to me and asked for Tom Nokes; no one had been to the body during this time; I told Bishop to look at the tracks; he said, "D— the tracks! I want to find Tom Nokes;" I might have said, "No, he never shot," but I did not mean it; the blood ran from the body when we picked it up; I left the cabin at that time; on the way to Deseret we ate dinner at Mrs. Carter's, but didn't