

RICHARD WOLFE MURDER AND TRIAL

HORRIBLE CRIME OF MURDER

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A MAN WAY-LAID AND MURDERED

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THE MURDERERS CAUGHT.

Marmora, Oct. 15, 1874.

A man named Richard Wolfe was waylaid and murdered by Thomas White and Nelson Wheeler about two miles from this place, last night. The murderers have been apprehended.

In reply to a special despatch (3 o'clock) asking for further information, we were informed that full particulars would be transmitted " as soon as the jurymen returned, " by which it is presumed an inquest was in progress.

THE MARMORA MURDER !
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 THE INQUEST, --- VERDICT.
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 THE PRISONERS IN JAIL.

Friday, Oct. 16, 1874.

Yesterday afternoon we published the mere fact of a horrible murder which took place the previous evening in Marmora. We could not ascertain further information in time for publication. To-day we received by telegraph a supplementary statement, which throws some light upon the tragedy. It seems that the murdered man, Richard Wolfe, who is widely known and much respected, residing about five miles from Marmora, visited the village during Wednesday, and had an altercation and fight with Thomas White. The combatants were separated, White leaving about dusk for home before Wolfe. The latter however, overtook his quarrelsome friend, (as both travelled by the same road) about two miles from the village. Nelson Wheeler accompanied White. The latter at the time of the meeting being out of the waggon, renewed the quarrel, and attacked Wolfe stabbed him in the thigh, cutting the femoral artery lengthwise about one inch and a half. Wolfe, it is said, fell back, and died almost instantly. An inquest was held yesterday, the jury empanelled at which rendered a verdict to the effect that Richard Wolfe came to his death from a wound in the leg wilfully made by means of a sharp instrument in the hands of Thomas White; and they believe that Nelson Wheeler was accessory to the deed. A warrant was issued for their commitment, and both parties were sent to the Belleville goal, at which place they arrived between 11 and 12 o'clock last night. The county prison now contains four persons, charged with the most serious and heinous offence in the criminal calendar. crime of late has been rampant in this vicinity; it is hoped the current will now take a different channel. We can well spare reputation of such a character.

This morning by permission of the goaler our reporter had an interview with Nelson Wheeler. The writer informed him that he understood he had not been charged with having played an active part in the melancholy event--that he was represented as being only a passenger with Mr. White, but being cognizant of the transpiring circumstance he was in a position to give a plain unvarnished statement of the case. He seemed greatly depressed in spirits, and commenced the conversation by bemoaning his misfortune in being in White's company when the murder occurred. He said that shortly after dinner on Wednesday afternoon White and Wolfe, Between whom ill-feeling had for a long time existed, they having had two or three fights, used abusive language towards each other on the street in front of McWilliam's tavern in Marmora. Their anger increased in intensity, and subsequently they clinched and had a scuffle. Wheeler says he was a witness of the occurrence in the bar room, and rushing out parted them, in which task he was assisted by a brother of Wolfe who was present. Both were considerably intoxicated, and acted in the most careless manner. Though separated, the differences arising from the old feud were by no means settled or forgotten, and it is assumed both fostered the same animosity towards each other which had been unmistakably apparent for the last three or four years. It is believed that during their stay in the Village they drank to excess. Wheeler, who is a neighbor of White's, and who drove to the village

to procure supplies of domestic necessaries, etc., persuaded White to start for home about dusk. The Latter was somewhat unruly and stubborn--characteristics of his disposition when under the influence of liquor. They had proceeded only about two miles when White stopped at a creek for the purpose of getting a drink. He was somewhat tardy in returning to his seat in the vehicle, but finally he took his place just as Wolfe drove up behind and called out " Is that you Wheeler? " Wheeler replied " yes. " Immediately afterwards--only a few seconds had transpired, adds our informant-- he heard some one jump from Wolfe's waggon, and approaching White pulled him out on the road. It was dark and Wheeler could not see who it was, but he thinks it must have been Wolfe--he was the only man in his carriage, beside his daughter and niece. A desperate fight ensued; numerous blows were struck, and the pugilists abused their persons roughly. Eventually there was a daughter crying in tones of the deepest and most touching anguish " He is dead ! he is dead !! " Wheeler alleges he never left White's waggon until he heard Miss Wolfe's scream of distress when he asked, excitedly. " Is he dead? " and was answered in the affirmative. Wheeler then alighted and approached the place where Wolfe was lying, and a match being ignited, life was ascertained to be totally extinct. The ground upon which he lay was saturated in blood. Wheeler then sought White and telling him the sooner he got home the better, induced him to re-enter his waggon, and they drove to their respective farms, lots No. 2 and 3 in the 14th Concession of Rawdon. White seemed to be perfectly delirious with excessive drinking, and did not seem fully conscious of the serious nature of what happened, though he stated at a house at which they stopped, " D---n him, I've split some of his black blood. " Wheeler does not know how they managed, but no help being convenient, it remained for the girls, painful as must have been the situation, to have the gory corpus removed from the road-side to the residence of the deceased. Information was as speedily as possible lodged with the authorities, and about sunrise in Thursday (yesterday) morning Wheeler and White were arrested.

The inquest followed, and on the verdict of the jury, as detailed above, the men were committed to goal at this place, to await their trial at the Spring Assizes.

Yesterday it is said White danced and capered, and manifested the utmost indifference of spirit; today he is more thoughtful and quiet. Wheeler is completely downhearted, the more so as he contends he is as innocent of the offense of which he is indicted as an accessory, as the girls who attended Mr. Wolfe. The incarcerated men live about seven miles from Marmora. Wheeler is a man of a little over 40 years of age, married, but without children. He has a good farm, is in comfortable circumstances, and has many friends in the Township of Rawdon. White is perhaps 50 years of age, and has a large family of nine or ten children. He is not a boisterous man except when intoxicated.

This adds one more to the long list of crimes perpetrated under the inspiration of liquor, and furnishes material for the effectual advocacy of temperance and prohibition.

To the Editor of the Intelligencer.

Further Particulars of the Murder in Marmora.

EVIDENCE BEFORE THE INQUEST.

Sir, I beg leave to give you a few particulars of the murder of Richard Wolfe, of the Township of Marmora, committed on the night of the 14th Oct., by Thomas White, of the Township of Rawdon, lot No. 2, in the 14th concession. A Coroner's inquest was held at the house of John White, about two miles out of the village of Marmora, on the body of Richard Wolfe, D.G Bowen, Esq., officiating as Coroner.

Mr. John Wolfe, a brother of Richard Wolfe, testified before the jury as follows,-- Am a brother of Richard Wolfe, the deceased; I accompanied him as far as Dr. Smith's from Marmora, then came on home ahead of him; he came to my house and stayed about an hour and a half; went on with him for fear the scoundrels would waylay him; it was between eight and nine o'clock when he left my house; when we approached the place where the murder was committed met Thomas White, whose wagon was stopped outside of the wagon track; my brother asked them what they meant by stopping; White and Wheeler, who had got out, said they would soon let him know; my brother then sprang out of the wagon, and White came towards him; I shoved him back; think Wheeler and deceased had a scuffle. White came towards him, and the deceased pushed him back, when they clinched; White was in a stooping position; could not tell whether he struck at him or not; White then let go of him and he fell; I then went to my brother who was dead; was about three feet from him; heard him mutter some words, but could not tell what he said; think Thos. White was the man who did the deed; saw White make motions as if he was striking deceased, and have no doubt he was the man who committed the deed; did not see a knife in White's hand because it was dark; White left Marmora before I did, and must have passed my house before I reached there.

Two or three other witnesses testified to much the same as John Wolfe or corroborated what he swore to.

John D.R. Williams M.D., made a post mortem examination of the body of Richard Wolfe, and testified as follows:- Have this day made examination of the body of Richard Wolfe; found a wound of the femoral artery about one and a half inches in length, about the middle of his thigh. This wound is sufficient to cause death in a very few minutes. The appearance of the internal organs as well as the appearances of the skin indicate that death was caused by the loss of blood. Examined the heart and found it and the large arteries in its vicinity in a healthy condition; have not a doubt but that the wound in the femoral artery, which was made by a sharp instrument, was the cause of his death.

The verdict found by the Jury was " that the deceased came to his death from a wound in the leg, wilfully made by a sharp instrument in the hands of Thomas White, and we further believe that Nelson Wheeler was accessory to the deed."

It seems that White and Wolfe had an altercation sometime in the afternoon of the day on which Wolfe was murdered, and Wolfe had his nose bitten by White, and Wolfe stopped on his way home to have his nose dressed by Dr. Smith, who lives a short distance from the Village of Marmora. R. Wolfe, T. White and Wheeler, I believe, had

been drinking whiskey rather freely. Thos. White had come to Marmora, to mill, and Wheeler was in company with him.

Since the inquest on the 16th, a knife has been found and was brought to the Village this afternoon. The knife has blood upon the blade; and I believe is in the hands of the Coroner; also the knife has been identified by a person who says it belongs to Thomas White, as he borrowed the same knife to cut some tobacco with it from Thomas White on the day of the murder. The knife was found some thirty feet from the place of the murder.

I also hear to-day that some party here heard White say that he would have Wolfe's life before 12 o'clock.

Your obedient servant,

D. Bently.

Marmora, Oct. 17th, 1874.

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For the Intelligencer.

Mr. Editor, Sir,- Please permit me to contradict the statement made by one of the accused, in Mr. Richard Wolfe, the deceased murder, which appeared in your daily issue of Friday last. The altercation did not commence in my bar room, according to the statement. And also; Wolfe, the deceased, and White, did not fight in front of my hotel.

Please insert this and oblige,

W. McWilliams.

Marmora, Oct, 1874.

SPRING ASSIZES.

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SEVENTH DAY.

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THE MARMORA MURDER.

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Wednesday, April 28.1875.

The Court House was, this morning, packed with a large crowd of spectators, in anticipation of the trial of Thos. White and Nelson Wheeler for the murder of Richard Wolfe, in the Township of Marmora, on the night of the 14th of last October.

The case.

So far as is disclosed by the evidence for the crown, the facts of the case are about as follows. On the day in question, the prisoner White and the man Wolfe who was killed had met after dinner in the Village of Marmora, and both being to some extent under the influence of liquor, an old quarrel had been revived between them, and they fought for some time in the streets of the village, but were finally separated. In this encounter Wolfe's nose was bitten by White. Between 8 and 9 o'clock, Wolfe, who was accompanied by his brother John and other persons in his waggon, fell in with White and Wheeler on the road. Their waggon was stopped, and both were out on the road. Wolfe asked why they were stopped, and either one or both of the parties answered they would soon let him know. On this, Wolfe sprung out of the waggon and White came towards him, but was shoved back by John Wolfe, deceased's brother. A scuffle, it is alleged in the testimony as taken before the Coroner, here ensued between Wheeler and deceased. White again approached deceased, when they clenched or grappled with each other. In this struggle, it is said, White stabbed deceased in the thigh with a pocket-knife, about the middle of the thigh, severing the femoral artery, and in a few moments Richard Wolfe, was a corpse. A knife, which was identified as the property of White, was afterwards found near the scene of the tragedy, with blood upon its blade. These are the chief features of the case.

The prisoner White is a short, thick-set man, apparently about 55 or 60 years of age. His demeanor in the box is that of a man a little frightened by his position, but determined to fight it out to last. He has a wife and a large family. Wheeler is much taller than White, and appears to be from 40 to 45 years old. He seems much less confident than White, and to realize keenly his position.

White is defended by Jas. O'Reilly, Q. C., and Mr. E. B. Fraleck; and Hon. L. Wallbridge appears for Wheeler. Mr. Britton conducts the case for the Crown, assisted by Mr. S. B. Burdett, who appears on behalf of the friends of the deceased.

THE JURY.

The following jury was empaneled to try the case. Gilbert Ross, Tyendinaga; Peter D. Sills, Thurlow; Henry Lake, Rawdon; James Walsh, Tyendinaga; Patrick Egan, Tyendinaga; John T. Lattimer, Belleville; John Huston, Stirling; George Miller, Madoc; William Hubble, Rawdon; Wm. Heath, Rawdon; William West, Sr., Madoc; John W. Sills, Thurlow.

The following were challenged on behalf of White; H. K. Lyon, Belleville; Philip Clapp, Tyendinaga; James German, Tyendinaga; Wm. A. Ostrom, Belleville; Jas. Salisburg Huntingdon; L. G. Reed, Belleville; Henry Knight, Thurlow; Asabel Palmer, Thurlow; Joseph Richardson, Marmora; Anson Thrasher, Thurlow; Richard Osborne, Tyendinaga; Wm. Phillips, Huntingdon; Joseph McTaggart, Huntingdon; Jos. G. Vandusen, Belleville; Thos. Morton Huntingdon; Richard A. morden, Tyendinaga. On behalf of Wheeler, Robert Carbutt, of Thurlow, was challenged. The Crown Challenged Francis Dean, Madoc; and John McMillan, Rawdon. The following jurymen, having been acquainted with the prisoners, were allowed to stand aside at their own request: Joseph Geary, Stirling; James Fox, Rawdon; and Thomas Chard, Rawdon. In all, forty-two jurymen were called, of whom six did not answer; nineteen were challenged by the prisoners' counsel; two by the Crown, and three were allowed to stand aside at their own request.

WITNESSES SENT OUT.

The witnesses in this case were sent out of court, as is customary in a case of this nature.

CROWN SIDE.

Mr. Britton opened the case for the Crown in an able speech, in which the facts to be shown on behalf of the Crown were fully set forth. He then called-

John Wolfe who was sworn said; I live in the Township of Marmora, the deceased, Richard Wolfe, was my Brother; he resided on lot 14, in the 9th concession of Marmora, my lot is No. 8 in the 6th; his place is about 5 miles from the village, going to which he had to pass my place, which is two miles from there; on the morning of Wednesday, the 14th of October last, saw my brother in Marmora Village, prisoners were there also; did not see them with my brother; they were in Wellington McWilliams' Hotel; my brother was in Hough & Quigg's shop; prisoners were standing on the stoop at the hotel, brother and I went to Gordon McWilliams' tavern to get out of the prisoners' way and give them a chance to start for home; saw a waggon which I took to be prisoners' leave the village; it started from Wellington McWilliams'; Daniel Neal was standing at a corner which they turned, holding my brother's team; I had my team and was alone, and my brother had his; we started about fifteen minutes after the prisoners--my brother ahead; there were two persons in his waggon Abraham Davy, and Daniel Neal; I was alone; was close behind him; required to take the same road as the prisoner; my brother stopped at Mr. Smith's a short distance from the village, to get his nose dressed; I went on home; he drove up to my place about half an hour after; the boys were with him; did not see the prisoners on the road, but heard yells ahead of me; it was quite dark; partially distinguished White's voice, but did not make out any words; my brother stopped at my place and had supper, and the boys with him; they remained about an hour and a half. My brother was not to the best of my knowledge under the influence of liquor; he seemed to be so a little in the village; he had no liquor at supper. His daughter Margaret was at my place; I live in my father's house. Richard started for home; I did not note the exact time; Philip Derry, Abraham Derry, Daniel Neal, myself my brother, and his daughter, went with him.

There were some yells heard on the road quite a while before we started, and some of the boys had heard yells; went with him to see him safe home, as I was afraid after the treatment he had received that he would be beaten again by the prisoners. Did not hear any voice on the road until we got in sight of the prisoners.- White, who was outside of his waggon on the road, called out when we were four or five rods off, " Is Dick Wolfe There? " We drove on, and he kept making a noise, and the horses stopped when nearly opposite White; whether he stopped them or not I cannot say; my brother was driving and he started the horses up again, but they only went about the length of themselves when they stopped again. White was coming towards my brother's waggon; I shoved him back, and being afraid of a row I got out to try to make peace; when White first spoke, my brother said he was there--what was wanted? White said he would soon let him know; my brother got out, and Wheeler and he got in grips; think Wheeler was in White's waggon; did not know how he got out; this was on the road: after shoving White back, I came and parted Wheeler and my brother; Wheeler got into the waggon again: the waggon was White's, I think; it was on or near one of two tracks which were on the road. White came up just as my brother let Wheeler go, and caught hold of my brother, clenching him; did not hear any words used by either party: White made his way towards my brother: when White clenched my brother he kind of jerked him around to the end of White's waggon where there was some mud; they worked around from the one side to the other side of the waggon. As I got around, White appeared to be letting my brother go, as he fell out of White's arms: thought I had seen some motios of White's hand; could distinguish one person from another; was within three or four feet from my brother, who fell towards me on his face as soon as White let him go; he muttered something indistinctly; I turned him over on his back and found blood on his left thigh; when a lantern was brought I saw pools of blood on the ground; spoke to him but he was not able to answer; his daughter Margaret then came up to him; the boys were close by when the struggle was going on; saw Philip Derry and Daniel Neal: don't recollect seeing Abraham Derry; they were behind me; sent one of boys to Connors', my brother-in-law, for assistance; Michael Connors was the first to come; he brought a light with him, and we examined my brother more closely; could not say if life was extinct, but he was unconscious; the body was taken to my father's; other neighbors gathered; prisoners were there still; do not remember hearing them say anything; went back to the house with the body; no one but myself was near my brother when the struggle took place; no one was near enough to touch him except White; Wheeler was in the waggon holding the horses; an inquest was held the next day, before Mr. Bowen, Coroner; deceased was about 45 years old; he had been sickly, but was in good health when he was killed; when the light was brought my brothers clothes were not undone; there was a cut in the leg of his pants; noticed no other marks upon his clothes; my brother gave no provocation for the attack made upon him by White; the clothes produced are those which were worn by my brother when he was killed; found the cut on on the pants; my brother in going home would go straight east for about a mile, and then turn to the left; at the same point White would turn to the right; my brother lived about two miles from the turn; Wheeler lived next neighbor to White, but not so far; from the point where my brother was killed to the turn was about 210 rods; it was the darkest part from the village to the corner;

there was a hard wood woods on one side of the road and balsams on the other, which made it very dark; there were two houses between the place where my brother was killed--Laycock' and O'Conner's; the former stood back from the road; it was 136 rods from the scene of the fight to O'Conner's.

Cross-examined by Mr. O'Reilly. --My brother was older than I; he was stouter and larger; had a little conversation with White in the village; spoke to him roughly about abusing my brother; did not threaten him; went to McWilliams to see him; told him he was not worth thrashing; White appeared to have been drinking; did not, to my knowledge, say to him that I would be revenged on him, or that I would lick him the first chance I got; was not under the influence of liquor; do not remember whether I drank anything that day or not; did not take as much as four horns of whiskey; might have taken a glass with Richard; he had not taken any from the time I came there; he was under the influence of liquor when he was in the village; did not collar White; did not, to my knowledge, make a kick at White, or strike at him; did not kick him; all I gave was a little abuse; took no whiskey home; there was none in the house to my knowledge; saw none in Richard's waggon; don't recollect any one preventing my striking White; don't remember what White said at the tavern when I spoke to him; know Squire Johnson, he was in the village that day; do not remember him commanding the peace in anticipation of my beating White, could not say whether the prisoners, were under the influence of liquor or not, when they started for home, it was about half an hour after my speaking to them when they started for home; Richard did not appear to be under the influence of liquor when he came to my house; don't think he went to sleep in a chair; did not tell Richard that I thought the prisoners were up the road, my mother asked Richard to stay that night, I had no intention of hunting the prisoner that night. Witness here repeated part of his direct examination in answer to questions, and said White, before horses stopped the second time, said " whoa " or something which stopped the horses; the waggons might have been six or eight feet apart; the tail of White's waggon was near my brother's waggon; I jumped out when I saw White coming up to my brother's waggon; shoved him back; did not tumble White into a brush heap; don't remember seeing a brush heap there; he might have stumbled, but he did not fall; don't know whether my brother pulled White out of the waggon; after shoving White Back I saw that Richard and Wheeler were in a clinch; it was near the centre between the two waggons; White and Richard struggled around to the other side of White's waggon; there might have been an old balsom top there, close by the fence; heard Richard say that only for that " damned Wheeler his nose would not have been bitten "; did not hear him say that he would be revenged on White; in the struggle between White and Richard they had hold of each other's collars; did not see one of them pushed against the waggon; had no chance to part them; neither of them fell until the termination of the struggle, neither appeared to have any advantage in the struggle.

By Mr Wallbridge.--Heard that some person had found a small parcel on the road next morning; did not expect that we would come up to the prisoners that night; about half an hour before leaving my house, learned that the post-boy had said that White and Wheeler were ahead of us; where we came up to them the road branched at a mud-hole, their waggon standing on one branch of the road; could not say whether Wheeler or my brother caught hold first; when my brother and Wheeler had hold, the latter kind of begged a little, and I came up and separated them; he then went back into the waggon, and did not leave it again until after the murder; had no impression that Wheeler was on the ground looking for groceries lost; think my brother got out of his waggon on account of White's expressions; my brother urged on the horses after the first stop, but could not say whether he urged them on after the second stop; I jumped out and pushed White back, and my brother caught Wheeler.

RE-examined.-- Never pitched on to White, only abused him that one day, on account of his hitting my brother; when the horses first stopped, White was near their heads; when they stopped the second time, he was coming towards the waggon; White made the attack on my brother, grabbing him; the struggle did not seem to be violent between my brother and White.

Daniel Neil being sworn, testified.-- Live with my father in Marmora; went with Wolfe to Marmora last fall: his daughter Margaret and Abraham Derry also went: know the prisoners: I saw them in Marmora that day: saw a fight White had with Wolfe at Wellington McWilliams' hotel in Marmora that day. Wolfe was coming out of the hotel when White said "Do you want to fight Dick?" and pulled off his coat. White then repeated what he said. White then went to where Wolfe was, and they clenched; White fell and Wolfe fell on top of him: Wolfe was supporting himself with his hands on White's shoulders when Wheeler came up and held Wolfe's hands; Wolfe's face then fell on White's face. White then got his arms around Wolfe's neck, and holding him down bit his nose. Quigg then came up and took Wolfe off. Quigg took Wolfe into his store. White and Wheeler went off together; heard Wheeler say to White, "See what it is to have a friend." Was at Quigg's store after that; did not see the prisoners there. Left Marmora with Wolfe and Abraham Derry; the prisoners had left before that. We stopped for half an hour at Dr. Smith's, whilst Wolfe got his nose dressed: we then went to his father's, John Wolfe. Saw nothing of the prisoners: had supper and remained about 1½ hours at John Wolfe's. Was out doors and heard halloing: thought it was the prisoners. Margaret Wolfe, Abraham Derry, Philip Derry, Richard Wolfe and myself got in the waggon and started for home. There had been no talk of a fight in the house. We came to a creek and drove our horses into it to let them drink; after proceeding about 40 rods further, heard, who I thought was White, "hallo, is that you Dick Wolfe?" Wolfe said "Yes, or I'm here everytime;" Wolfe and Wheeler commenced jawing, and White came up to our waggon; the waggon then stopped: thought it was the noise stopped the horses; Wolfe asked Wheeler, "Was he the man who held his hands?" Wheeler said "Yes;" White then came towards our waggon; could not tell what he said; John Wolfe got out and gave White a push; Abraham Derry got out, and think he ran away;

White was then 4 or 5 feet from the waggon; Richard Wolfe and Wheeler continued to jaw, and Wheeler got down on the side of his waggon. when Wolfe pulled him off the waggon, and Wheeler begged him to let him go, and John Wolfe said let him go, and Wheeler got back in his waggon; as Richard Wolfe turned from Wheeler, White came up behind him, and Wolfe and White got into a clinch, on the right side of White's waggon; they got around against the left side of the waggon; they were there but a short time when I saw deceased fall; did not hear anything said when they were tusseling; they moved around on their feet when they came around the waggon; they were in "holts" all the time; White had hold of Wolfe when he fell; Wolfe fell from White. John Wolfe went then to where Richard fell, and said, "Richard, Richard;" I was standing behind White's waggon; was about ten feet off when Wolfe fell: Margaret then jumped out of the waggon and went to the deceased, and said, "Father is killed:" she then went to try and get some water in a mud hole in the road; stared then for Michael Conner's; did not then go to see the body, did not see his body until it was brought to the house; did not see the wound; no one was near enough to Wolfe to strike him when he fell except White; went for the doctor; saw no waggons on the way, this occurred about half a mile from where we would turn off the main road to go home; White said, "Is this you Dick Wolfe?" in an angry tone of voice.

To Mr. Wallbridge.-- Wheeler was in the waggon when Wolfe and White clenched; did not see him get out of the waggon; saw a paper of sugar on the road next morning between where White's waggon had been and Marmora; heard of nothing else being found; did not see Wheeler strike either party when he held Wolfe's hands in Marmora; Wheeler did not appear at the time to want to fight; the fight was over when Wheeler took off his coat to fight; Wheeler took off his coat to fight Quigg.

To Mr. O'Reilly.-- Was with Richard Wolfe when he was getting his nose doctored; did not hear him say what he would do with White; Richard Wolfe did not go to sleep when we were at John's think he told John there was hallooing on the road when I heard the noise in the yard; did not hear while there that White and Wheeler were down the road; John said maybe it was them down the road when I told him of the noise; this was about a quarter of an hour before we started; John went with us as he said to me to put Richard past the place where the hallowing was; did not hear Richard say that he would be revenged on White; White's waggon was not jammed between a tree and the fence when we came up to it; there were trees and brush on the right side of the road; there was a dead balsam tree four or five feet from White's waggon; John got out of our waggon first: the noise stopped the team; Richard Wolfe stopped the horses the second time by pulling on the lines and calling "whoa"; he had been talking to Wheeler; Wolfe was jawing Wheeler about holding his hands; he asked Wheeler "was he the man who held his hands;" Wheeler said "yes," and deceased said something to him in an angry tone after stopping for a while he went over to White's waggon and pulled Wheeler of and scuffled with him on the ground. White fell when John pushed him, Wheeler did not want to fight. White was coming towards deceased when they clinched: could not tell who took hold first; it was close beside White's waggon; they struggled for, I suppose, ten minutes; then Wolfe fell back; think John tried at first to part them, by speaking to them; they did not part, and he looked on.

Re-examined.--Wheeler did not attempt to part them; the balsam spoken of was three or four feet from the rear end of the waggon; it did not interfere with the parties in their struggle. Deceased was not a heavier man than White; neither he nor deceased appeared to have any advantage in the struggle.

The Court here adjourned for half an hour.

SPRING ASSIZES.

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SEVENTH DAY.

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THE MARMORA MURDER.

(Continued from yesterday's Issue).

The Court resumed, pursuant to adjournment.

APRIL 29, 1875.

Dr. Williams was called and sworn. He said; I am a medical practitioner and reside in Marmora Village; made a post-mortem examination on the body of Richard Wolfe on the 15th day of October last, at the house of his father; the cause of death was a wound of the femoral artery on the right leg; it did not cut the artery through, but split it for about an inch and a half, piercing it through; there was even more than the usual fullness of the body in such cases; there was a recent wound on the nose, which did not excite my attention; opened the body and found the heart and lungs perfectly healthy; the heart seemed to me rather small; but that might have been from contracting down; the liver was also healthy; saw no other injury than the wound on the artery; there was not a shadow of a doubt that the wound of the artery was fatal; it would be almost as fatal as a wound of the heart, killing a person almost instantly; a slight change of position might cause a muscle to press upon the artery and temporarily stop the flow of blood; without such a pressure, unconsciousness would ensue in half a minute; should judge from the position that the wound had been given from below; it was practically out of the question for a man to injure himself in that manner; the blow probably came from the left side; it would be given by the right hand of a person opposite; it was done with a sharp instrument, as the cut was clear and not ragged; such a blade as that of the knife produced would cause the wound; it would require to cut as well as to pierce; there is something which I should suppose to be blood on the blade.

Cross-examined.--There is a process to discover whether it is blood; by wetting with water, it would show whether it is blood or not; see the knife now for the first time; have not made a microscopic examination of the substance on it; the middle of the wound was more than twice that of the knife blade; it was as deep as the length of the knife blade; it would not take much force to penetrate the femoral artery; the sharp end of the stick might make a puncture, but could not make such a wound as that which was upon Wolfe's body; a sharp thin chisel would make such a wound in the skin; beyond the artery, the wound was small; could not detect any difference in the lips of the wound; the blood would spurt with great force from the femoral artery; if a man had on thick trousers, the blood would not spurt beyond unless it happened to do so through the hole made by the instrument which penetrated it; deceased was a large strong man, slender, for his height, and a little above the ordinary in muscular development.

Re-examined.--Such a blade as that of the knife would make the wound; only a sharp cutting instrument would make such a wound; a limb of a tree or piece of iron could not make such a wound.

Margaret Wolfe, sworn.--I am a daughter of deceased Richard Wolfe; was with my father in the waggon on the night when he was killed; had spent the day at my grandfather's; it was about an hour after my father returned from Marmora village that we started for home. Witness was asked to answer questions, but was evidently so indisposed as to be unable to answer.

Cross-examined by Mr. O'Rielly.--Do not remember grandmother asking father to stay. Uncle John got out of the waggon first; immediately after, father got out on the same side. After a few more questions, the witness had to be helped out of court, being too unwell to give evidence.

Philip Derry, sworn.--Worked at John Wolfe's fathers last fall; was there the night Richard Wolfe was killed; Richard Wolfe arrived at his father's that night between half an hour and three-quarters after John; Daniel Neal and my brother Abraham came with him; deceased took supper; he had apparently been drinking some, and was a little the worse of liquor when he first came; he remained about an hour and a half, perhaps a little more or less; Thomas White and Nelson Wheeler-- I think it was them-- passed first before John arrived; there were two persons in the waggon; Neal and I were out doors and heard some halloing down the road which this waggon took; could not distinguish words; heard some talk in the house about a quarrel between White and Richard Wolfe in Marmora Village; this was before I heard the noise; Richard's team stood by the roadside John Wolfe said he would go with his brother, as they thought the parties making the noise might be White and Wheeler, and he would get Richard past them; I went to be company for John on the return; Richard drove his team; he was sober then; on nearing the spot where the crime was committed, saw a waggon standing on the road; some one said, "Is that you, Dick Wolfe?" Wolfe said. "Yes here I am," and he asked if Wheeler was there, and was Wheeler answered similarly; the conversation was continued between Wheeler and deceased, jawing a little; White stood behind his wagon; which was a little to the left side; there was a mud-hole with room for a waggon on each side; White came a step or two towards Wolfe's waggon, and Wheeler prepared to get out of White's waggon, sitting on the side; deceased went over to White's waggon and pulled Wheeler off the waggon; White came towards them, and deceased turned around and met White; they stopped each other and grappled; they pulled each other around till, they got on the left or opposite side of the waggon; saw White close to the waggon, and Wolfe in front of him; the next thing deceased fell over; White stopped them; for a short time didn't know what was the matter; John first went up to him and found the blood; heard nothing said between the parties when fighting; there were no cries for help; could not say which was getting the best of the fight; was close to them; deceased fell from the waggon; John called to his brother; Margaret said her father was killed, and got out of the waggon and went up to him, and put water on his face; she held his head on her lap; we saw the blood then on the light trousers worn by the deceased; Margaret has not been so strong since her father's death; did not notice John getting out of the waggon; John parted his brother and Wheeler. After hearing of deceased being wounded I went to Marmora.

Cross-examined by Mr. Wallbridge.--Supposed deceased went to White's waggon to pull Wheeler off.

By Mr. O'Reily.--Deceased pulled Wheeler on the ground; could not see whether he kicked or struck Wheeler or not; White said "Let Wheeler alone, he's a decent man"; he and deceased met as the latter let Wheeler go, and they met and clinched.

Re-examined.--I thought Wheeler was getting out of the waggon to fight with deceased as they had been jawing.

Michael O'Connor, sworn. Live near the corner where Richard Wolfe and Thos. White would separate on the way home; on the day Richard Wolfe was killed I was in Belleville left Marmora village about 9 o'clock; passed John Wolfe's house saw Richard Wolfe's team standing at John's house and saw another team where the murder was committed, two men hallooted to me as I rode past, one of whom I took to be White; they called a second time, and I halted my horse and asked what was wanted; an indistinct reply was given, and I heard the one say "woa" and the other "get up"; one was in the waggon, and the other was on the ground; stopped my horse to listen twice, if they were coming, and did not hear it; was uneasy about Wolfe, as I had heard that he and White had had a difficulty in Marmora village that day. About half an hour later, my hired girl told me she heard a girl crying that her father was killed; went over to the place, and found Richard Wolfe's daughter crying over her father, whose head was lying on her lap; a few minutes after, took his body back to his father's house saw a good deal of blood on the ground; the prisoners were still at the spot, White leaning against the front wheel of his own waggon, Wheeler jumped into Richard Wolfe's waggon to hold up his head whilst carrying his body to his father's house; ordered him out and he went; next saw them standing together, and told them as soon as the body was disposed of I would come back and tie them up. White said "all right"; went back 3 or 4 hours after, and the prisoners were gone; on the second day following the killing of Wolfe, was showing two persons where the affair happened; my little boy went over the fence, by my direction, to look for a knife; he found the knife produced, which was shut when found; somebody had shovelled the blood off the road where Wolfe fell; my son who found the knife is 12 years old; my house is 150 feet from the road.

Cross-examined.--Should think White and Wheeler were the worse of liquor when I passed them; they did not seem to be so on seeing them again; it was said that White
waggon, but did not see him.

Re-examined. White and Wheeler would have had plenty of time to go to the corner and return between the time of my passing, and hearing the cries.

John O'Connor, sworn. On the Friday after Richard Wolfe was killed, was asked by my father to look on the other side of the fence, at the place where I gave to my father; the knife produced looks like it.

Margaret Hough, sworn. Live in Marmora; saw Richard Wolfe there on the 14th of October last; Wolfe was in a fight with the prisoners on the ground and Wolfe was upon him; Wheeler had hold of Wolfe's arm, and appeared to be separating them; Wolfe came into our store, and the door was locked to prevent Wolfe going out or any one coming in; White came to the door with hat and coat off; did not hear what

he said; somebody told me White was coming, and I locked the door, and when I looked again, he was at the door; supposed he wanted to come in; Wolfe's face was bleeding, and I dressed his nose.

Elizabeth O'Connor, sister of deceased, was sworn and said; recollect the night my brother was killed; a waggon passed my house, in which was a person who said " I stopped the horses and took his God-damned black blood;" to the best of my opinion it was Thomas White; have known him for 14 years; before that heard hallooming on the road after my husband left it was about half an hour after he came home that we heard the cries on the road; perhaps half an hour after my husband left to go to the scene of the murder, the waggon which I spoke of passed.

Cross-examined. I live 150 feet from the road; the distance was measured on Saturday last by John Wolfe and the man who works on our place; have seen White often and have spoken to him frequently; am acquainted with the tones of his voice; it was about half past ten when I heard the words spoken, and I was outside listening, three or four feet from the door; the two men were talking. White said, "I stopped the waggon," and then laughing, said in a louder tone, " I took his God-damned black blood." To the best of my knowledge it was White who spoke.

John Jenkinson, sworn. I live in Marmora Village; am 12 years old; know the prisoners; knew Richard Wolfe, and remember the day he was killed; heard of a fight that day between White and deceased; heard Thomas White, not speaking of any particular person say, he would have his God-damned black heart's blood before twelve o'clock that night; he said this to Wheeler, as they were going towards the mill; it was in the afternoon, towards night; nobody was with me; I went down to the mill after them; Thomas White had a knife which he pulled out of his pocket, opened it, and ran one of the little boys up home, pretending that he was going to cut one of his ears off.

Cross-examined by Mr. Wallbridge.--White brought a grist to the mill; saw Wheeler buy a jug of whiskey; he also had a bundle with him .

To Mr. O'Reily.--Got no money; came down with John Wolfe.

Prof. Bell was sworn and testified; I am Professor of Chemistry, etc., in Albert College; have examined the knife in my hand; find upon it blood three portions of human hair; two filaments of grey wool and one of wool, also some earthy matter. Am not able to distinguish from what kind of an animal the blood was taken; don't think that blood which has been so long dry could be distinguished by any means. Received the knife from the County Attorney for the purposes of this examination.

Daniel McPhail was sworn, and deposed to assisting the constable to arrest the prisoners; took them to Wellington McWilliams', in Marmora; got them at their own homes; on passing the place where Wolfe was killed, White said, "I fought there last night like a son of a bitch." That was all the conversation.

Cross-examined by Mr. O'Reily. When we arrested White, he said he was going to Madoc to take the law against other parties.

Leslie Quigg, sworn. Keep store in Marmora; remember seeing the prisoner White in holds with Richard Wolfe on the day he was killed, in Marmora Village; White was under; one of Wolfe's legs was partly under; Wheeler had hold of them; I stepped off the sidewalk, and Wheeler let go of them, and they separated and got up; thought Wheeler might have made a better effort to part them; got Wolfe into the store; Wheeler took his coat off saying he had been accused of foul play and he had not done so; I talked with him a few moments and went into the store; he and White afterwards came to the door of the store, I suppose to try and get in at Wolfe; both had their coats off at all events White had; his hat was also off; told them that Wolfe was in, but if they insisted on trying to get in, I would have to use the poker on them; they went away.

Cross examined by Mr. Wallbridge,--It was about 2 o'clock in the day when the fight took place. Wheeler seemed to be trying to separate them.

Armenia Bedard, sworn.--Lived at Wellington McWilliams' in October last; saw the fight between Richard Wolfe and White; as far as I could see, I thought Wheeler was holding Wolfe's hands, whilst White bit his nose; White went up to Wheeler, put his arms around his neck, and said it was well to have a friend; this was after the fight; did not hear White say anything further.

Mr. Wallbridge asked that Wheeler be released from custody.

The Judge held that there was evidence to go to the Jury as well against him as the other prisoner.

The Court then adjourned, the Jury being left in custody of the Sheriff.

EIGHTH DAY.

Thursday, April 29, 1875.

The Court opened at a few minutes after 9 o'clock, the attendance being smaller than that of yesterday.

Trial of the case of the Queen vs. Thomas White and Nelson Wheeler was proceeded with.

Richard Simmons, sworn.--Was living at Connor's when Richard Wolfe was killed; went near to the place where the killing took place, but turned back with Mr. Laycock; this was shortly after the affair took place; saw the prisoners at a distance, moving around by a waggon; did not see the waggon go, but heard one move away past Connor's place; went back a second time half an hour after, and the waggon was gone.

McWilliams sworn.-- Been a hotel at Marmora village; on the 14th, October last, saw prisoners and Richard Wolfe after the quarrel was over; afterwards met Wolfe, and his nose was bleeding; he wanted to go up street, but I dissuaded him, and his brother came up and took hold of him: prisoners were standing on the stoop at my father's, appearing to wish to attack Wolfe; both had their coats off and were jawing; told them to let Wolfe alone, that he had got enough; went away then.

Cross-examined by Mr. Fraleck,--Did not see the boy Jenkinsen about that day; know nothing bad of him; he is not accounted foolish.

Joseph Stapely, sworn,--Am a miller and reside in Marmora; prisoners had a grist to mill on the 14th of October last; did not hear them say anything about a row with Wolfe; they took their grist away between sundown and dark.

Cross-examined by Mr. O'Reilly.--Saw Jenkinson at the mill in a waggon, about two o'clock in the afternoon; did not see him again that day; the grist was White's; when they came back for the grist, about 6 o'clock, they were both tight; Wheeler could get into the waggon, but White could not; I helped him in.

To Mr. Wallbridge.--Prisoners would have to pass the grocery stores on their way home; they would not pass Bleecker's on their direct way home; think there were no groceries in the waggon; they brought a pickle-bottle with whiskey; I know what it was, because I took some of it; they brought the grist to the mill about 10 o'clock in the morning, and came back perhaps at 1 o'clock, with whiskey; came back again about two o'clock with their team and left it there until they went away; they brought no groceries with them.

Re-examined,--When they came back the last time, White said he had a fight with Richard Wolfe; White was plaguing the boys in the waggon, and he rubbed something on the box of the waggon which looked like a knife; that was before he told me about the fight; young Jenkinson was there; Wheeler was there also.

To Mr. O'Reily. Could not say what time of the day this last occurrence took place; it was about two o'clock; White had then no black eye; the last time he came there was blood on his face.

Daniel G. Bowen. Coroner, was sworn, and deposed to holding an inquest on the body of Richard Wolfe on the 15th of October last.

Philip Derry was called and deposed that he had measured the distance from Connor's house to the road; it is 150 feet.

This closed the case for the Crown.

DEFENCE.

No witnesses were called for the defence.

Mr. Wallbridge applied to have the case of Wheeler submitted to the jury separately from that of White, when, if the latter were acquitted, as he anticipated that he would, he could testify on behalf of White. Otherwise, as the parties were alone, the case would be uncompletely submitted to the jury.

His Lordship said he still held that the jury must pronounce upon the case of both. In the case of one person, the same difficulty would prevail.

Mr. Wallbridge asked that Mr. O'Reily be allowed to address the jury last, in the case of his client White.

As under the Statutes, Mr Britton, not being a Queen's Counsel, would not have a right to sum up, it was decided by the defense to call no witnesses.

Mr. Britton then, at 10 o'clock, began his address to the jury. He reviewed the evidence at length, and commented upon the vindictive disposition of White, who, after inflicting more punishment upon Wolfe

in the fight than he received, yet threatened revenge upon the man a man whom he shortly afterwards killed. There was nothing in the conduct of the deceased or his friends to show that they wished to meet the prisoners again. On the contrary, they sought to avoid them by waiting until they would, according to all expectations, have been out of their way. Prisoners had a start of at least two hours, which was occupied in traversing the short distance between John Wolfe's house and the place where deceased met his death. It was but a mile to the corner where the roads of deceased and the prisoner would have separated. Had they gone at a snail's pace, they would have traversed the distance, and nothing would have occurred. A child could have traversed the distance in less time. Mr. Britton was here proceeding to comment upon the intention of the prisoners in remaining on the road, but was interrupted by his Lordship, who called his attention to the rule that the Crown counsel could comment only upon the evidence--not upon the motives of the prisoners. Mr. Britton continued reciting the facts as to the demeanor of the prisoners on deceased coming up to them; the prisoner White attacking Wolfe without provocation, and using a knife without any danger of being beaten. The intention must have been to do grievous bodily harm, as the blow was struck with great force. In this case, the prisoner must be held to be guilty of murder. After the body had left the scene the prisoner White had spoken, with an imprecation, of having "let out the black blood" of the deceased. Mr. Britton here said evidence on this point was unimpeached, when he was again called to order by Mr. Wallbridge, which objection was sustained by the Court, and he concluded at this point, after speaking for about 25 minutes.

Mr. Wallbridge then addressed the jury on behalf of Wheeler, contending that Wheeler could have had no possible motive for wishing to injure the deceased. It was natural that Wheeler should interfere to protect the man in whose waggon he got a ride to the village--his neighbor--when he saw that another man had him on the ground and was beating him. Contrary to his expectation, White caught hold of and beat Wolfe, doing in the excitement of the moment what he probably would, ten minutes after, deeply regret. No one however, would contend that Wheeler struck a blow. It was perfectly absurd to contend that, under such circumstances, Wheeler would put his life in jeopardy by plotting with any one to assist in killing Wolfe. Accounting for the delay which took place in the woods. he said they had stopped to get a drink of water, and that Wheeler, missing some parcels of groceries which he had had in the waggon, went back to look for them, and found some, and some they did not find. The necessities of the minute caused them to stop, and no illegal purpose. Wheeler was drunk, and it took him a long time to look after his parcels. That would account for the time. It was the cause of right and of charity to impute a proper rather than an improper motive, where there was a doubt, as in this case. You must prove a man guilty--Not presume him to be so. You must begin with the idea that the man is innocent. Mr. Wallbridge spoke for 15 minutes.

Mr. O'Reilly then summed up on behalf of White. The learned Counsel, after defining the difference between murder and manslaughter, there was no doubt, he said, that Wheeler is an innocent man. In order to make out the charge of murder against White it would be necessary to prove that he waylaid the deceased with the intentions of killing him. To be so it must have been agreed between the prisoners. That would be murder, as it was the result of malice aforethought, and that was the ground upon which the Crown asked a verdict.

He did not dread the extreme verdict of murder, because in this enlightened age men did not go to extremes to take the lives of their fellow men. His experience told him that a jury would take the most favorable view of a case where a man's life is at stake. He could not see, except by violent straining of the facts, any reason why the prisoners should waylay the man and kill him. If it was their desire to obstruct the road so that Richard Wolfe could not pass without coming in contact with them, then they would not have drawn up at a place where there were two waggon tracks, and a clear passage left for Wolfe to pass on his way home. It was an important fact for the prisoner White that Richard Wolfe had himself stopped his horses--a fair mettlesome team. John Wolfe knew the reason why they had stopped, but he was not generous enough to tell them of it, in favor of the prisoner, whose life was at stake, because the blood of his brother had tinged the ground. White had done nothing to stop the horses--his waggon was drawn up on the side of the road, leaving Richard Wolfe room to pass on his way home. Where, then, was the theory of the Crown in pressing the capital charge. Deceased had a hand in his own death, and was as much to blame as was White, if not more so. It was in the mind of deceased to punish Wheeler for either taking him off White when upon him, or holding his hands whilst White bit his nose. He evidenced this by pulling Wheeler off the waggon, and dashing him to the ground. This over rash act precipitated his death. Though they might regret the taking off of this man in his sins, and drop a tear upon his grave, and deeply feel the affliction of his widow and orphans, they yet asked justice--right justice. To make another widow and more orphans would not bring the deceased back to earth. If there were no liquors sold in this country, we would have no goals--no murders--no manslaughters. Richard Wolfe's widow would not be here in her weeds, and the prisoner would not stand in a felon's dock, subject to the forfeiture of his life, if there had been no liquor sold in Marmora that day. He would drive this traffic from the country, if he could do so, at the peril of his life, and no man would do a nobler act than to suppress this traffic. We had happy homes in Canada, but there would be no unhappy ones if this crime--custom it was called--were driven from the country. It was the skeleton in many a home in Canada. He would indeed be a philanthropist who could cause the abilation of the liquor traffic. Whiskey was the cause of this crime. How happy would Thomas White be today but for indulgence in that vile habit. If there was a man listening to him with whom his voice would have weight, let him look upon the example of Thomas White, and avoid the risk. The idea of the whole trouble was Richard Wolfe's desire to be revenged upon Wheeler. Did the action of the latter look like that of a man who had waylaid, with the intention of beating or killing another? They proved that Wolfe released Wheeler at the request of White, who was not in a fighting attitude, and facing White, the struggle, who had revenge in his heart for a supposed wrong, and was burning to revenge it? Why, the deceased, who had a hand in his own death. There were not ten men in the thousand that knew that a wound in the leg would be fatal, and the one spot where it could be so. If White had intended to kill Wolfe, he would have stabbed him about the neck, or the upper well-known vital parts of the body. That disposed of his intention. It would be a monstrous thing to put a forced construction upon this act, and by their verdict open another grave for Thomas White. The law defines an offence committed in the heat of passion as manslaughter, when in a struggle one

of the persons snatches a deadly weapon and kills his antagonist. He contended that his client should be acquitted altogether, on ground that the fight was begun by deceased, that White drew his knife in self defence, thereby constituting the crime one of justifiable homicide. He questioned the evidence of Mrs. O'Connor very much. If he did say it, however, did not prove malice. To the evidence, It would not, he contended, be safe to believe what this boy swore. He argues from the evidence of one of the witnesses who swore that White assisting in placing Wolfe after death in the waggon, that the act should show that there was no malice on the part of White. Therefore who should say that the deed was not done in self-defence, particularly when one took into account that Wolfe was much the stronger man of the two. Much care has been used in selecting a Jury because we felt there was a prejudice against White, as this case was taken over in connection with another case, in which one is now awaiting the scaffold.

His Lordship summed up in a clean and able charge, carefully going over the evidence, and pointing out what seemed to him important matters for their consideration.

The Jury retired at five minutes to one o'clock, and came into court at 3 o'clock, with a verdict of manslaughter against White and acquitting Wheeler. The former seemed depressed by the verdict, and the latter showed but little emotion. He was discharged, the Judge remarking that he hoped this would be a warning to him.