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BELLA COOLA INDIAN SENTENCED TO 25 MONTHS IN PENITENTIARY SHOOTING CONSTABLE WILLIAMS

(continued from page four)

Two ash sticks were then put in evidence which had been brought from the scene recently.

Witness in reply to further questions said he wanted to shoot the flashlight. He did not want to shoot the policeman but to save himself. He wanted to chase the man away.

CROSS-EXAMINATION

An attempt was then made by Mr. Gonzales to cross-examine witness but without much success as it proved almost impossible to make the prisoner understand the questions. However prisoner admitted that he and Moody had been together talking for half an hour, all friends together, during supper time. He lived at the cannery in the summer time having moved there in the spring but left some of his things behind him in the house. When asked about the plum trees from which he planned to "keep the bears," he said at first there were six but when cornered admitted there was but one in his garden but the others were several hundred yards away. He had not slept downstairs because he preferred being upstairs and denied Mr. Gonzales' suggestion that there were no blankets upstairs. He had never had any trouble with Williams. In fact, Williams had always been a friend of his.

Prisoner further denied being seen by Sam Moody lying on the ground with the rifle and having the shells taken from him.

Asked what he meant when he cried out in his own language that if those fellows thought he was crazy he would show them, he said he did not know what he was saying. He was scared and excited and began to cry.

BIRD TO THE JURY

In his address to the jury Mr. Bird spoke first of the prisoner, saying that Peter Whitewash had up to this time been everything that was reasonable, decent and bright. He had lived a blameless life. The only thing known against him was that he had taken a drink or two but that was not common to Indians only. On the night of August 3 the only person with whom he was not in agreement was Sam Moody. Peter was innocent of trouble and Moody seemed to have started trouble. He reported to the person over the phone more than he knew. It was passed around that Peter was going to shoot the Indian constable.

LAND ACT

NOTICE OF INTENTION TO APPLY TO LEASE LAND

In the Queen Charlotte Islands, Graham Island Land Recording District, Prince Rupert, and situated on the west side of Rennell Harbor at the Head of Rennell Sound, Queen Charlotte Islands, Province of British Columbia.

TAKE NOTICE that British Columbia Fishing & Packing Company Limited of Vancouver, B.C., occupation Salmon Cannery, intends to apply for a lease of the following described lands:

Commencing at a post planted on the east shore of a creek called Twin River; thence 4 chains west; thence twenty-one chains north; thence 4 chains east; thence following contour of shore line to place of commencement, and containing 8 1/2 acres, more or less.

B.C. FISHING & PACKING CO. LTD. Applicant.

M. M. English, Agent. Dated October 22, 1927.

NOTICE

IN THE MATTER of an application for the issue of a Provisional Certificate of Title for the East half of Lot 2027, Cassiar District, said to contain 320 acres, more or less.

Satisfactory proof of the loss of the Certificate of Title covering the above land having been produced to me, it is my intention to issue, after the expiration of one month from the first publication hereof, a Provisional Certificate of Title to the above land, in the name of MADELINE MINTON. The original Certificate of Title is dated the 30th September, 1913, and is numbered 4470 I.

Land Registry Office, Prince Rupert, B.C.

17th October, 1927.

H. F. MacLEOD, Registrar of Titles.

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Agent for Prince Rupert and District PRINCE RUPERT FEED CO. Phone 58

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ported to the person over the phone more than he knew. It was passed around that Peter was going to shoot the Indian constable.

The boy had gone to his home, contrary to the rule of the cannery and slept there. His sleep was disturbed after he had been in bed an hour or two on account of nothing but idle rumors. The police were allowed to search themselves and others in order to capture a man who did not know what was wrong. He thought he had a right to protect himself when people were trespassing on his property without authority. If the police had waited until morning the court would not have been kept two days trying this case. Williams was young and inexperienced. He had no cause for arresting this man without a warrant.

Mr. Bird asked the jury to put themselves in the position of Whitewash. All alone, he had seen four men creeping around. Williams was out to get him but he found he could not peacefully take him. Prisoner at that time was terrified and almost crying. There was nothing in the law that sanctioned that sort of thing. If they had used decency and order and gone in the day time there would have been no trouble. It was for the jury to decide if the boy had a right to shoot under the circumstances. He saw the gun and others with guns, parading them. The gun should have been left at home. The man was entitled, he claimed, to defend himself in his own castle. The Indian fired at the flash and hit it and also the constable's hand. Then the police scampered away and did not bother Peter any more. In the morning Peter gave himself up. He submitted that the Indian had only defended himself, as he had a right to do.

GONZALES TO THE JURY

Mr. Gonzales controverted the suggestion that had been made to the effect that Moody was an enemy of the prisoner. Moody had declared he had taken a gun from the prisoner and three shells which he had thrown away. Why should Moody make up such a story? Moody told of again seeing prisoner with his gun pointed. Would he make this up out of whole cloth?

Constable Williams had received information that the man was out with a rifle to shoot the Indian policeman. The minister had informed him that the man was out to shoot. If the constable had been shot, what would have been the result? The reasonable thing for Williams to do was to stop the shooting. Williams had been the man's friend. Accused would not come downstairs when asked to do so because he knew what had been said about him was true. No guns were flashed. After trying to induce Peter to come down, the man had cried: "They may think I'm a fool but I'm not," and then fired. It was only by good luck he had not committed murder. In the morning Whitewash had asked if he had killed Williams and had then suggested that if he had done so he would shoot others and then himself.

Mr. Gonzales said he was there not to try to secure a conviction but to aid the court at arriving at a decision. He submitted that there was no justification for the shooting. The jury must use its own common sense in the matter.

JUDGE CHARGES

In his charge to the jury the judge said the criminal code provided it was an indictable offense to shoot at any person. The present case had been overloaded. A great many matters had been brought in which were foreign to what the jury was called upon to decide. In his opinion there were two questions to be determined. "Did the accused shoot at Williams and was he wounded there, by?" If they accepted the evidence of Williams there would be no difficulty in coming to a conclusion. They had a right to take into account the surrounding facts.

The question then arose whether the shooting, if it occurred, was with intent to murder. Actions spoke louder than words. He quoted to show that intention was shown in the consequences of a person's own act. Aiming and shooting a loaded gun indicated that he intended to shoot as he must know it meant death or bodily harm to the persons against whom the gun was aimed. He suggested that if he shot at another in clear sight he intended to harm the man at whom he fired. The attack was made on Williams and at times during the trial it had been almost made to seem that Williams was on trial. Enforcement of the law was a difficult task. He was there alone and had been told there was urgent need. He got two men to accompany him and also under cover took along the Indian constable. It was not important whether Williams was right or not. The situation was whether he went to secure the arrest in a peaceable and quiet manner and whether the accused was justified in firing.

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