

## **Edward Smith's Statements.**

From: *NSWSR, Col Sec Papers. Depositions of Edward Smith. 4/612, 67/5775; 4/607, 67/6692.*

**Edward Smith, First Statement, 14.2.67** made at the Police office in Braidwood when James Griffin was charged for "Aiding the Outlaw Thomas Clarke".

*The deponent Edward Smith being duly sworn maketh oath and saith as follows. I am manager on the Jinden Station. I know the prisoner James Griffin. I lent him a breech loading rifle about three months ago, the same rifle produced. He said he wanted it to shoot a wild entire horse. I gave him no ammunition. He said he could buy some from a storekeeper. I understood him to say he could buy ammunition from Mick Connell. He said he would only keep the rifle a few days. Immediately after I lent the rifle I went to Sydney. When I came back prisoner returned the rifle. He had it for 8 or 9 weeks. Prisoner is a good horseman. He used to shoot wild bulls for me. I sent Thomas Lynn for the rifle. Prisoner did not give it to him, he brought it to me. I spoke to prisoner about the rifle. I told him to bring it home. He said he had it his in a log near Cody's and that he would bring it home. I told him I was afraid it would get into the hands of the bushrangers. I never saw the rifle with any person from the time I gave it to prisoner until he returned it. He gave it back to me about ten days before special constable and party were shot. When prisoner returned the rifle to me he said sergeant Byrne wanted it from him. Prisoner said he thought it better to return it to me. When I lent the rifle to prisoner it was in good order. It was out of order when he returned it. It is now out of order. I do not know the saddle produced. The last time I saw prisoner he was riding a saddle, nothing like the one produced. I never recollect seeing him ride on a saddle like that produced. I should think that the prisoner knew Tom and John Clarke, but I do not know. I should think he knew Tom Connell. I have heard prisoner often saying that Clarke's gang were sticking up again. Prisoner used to come to my place very often.*

*When prisoner spoke about Clarke's gang sticking up again it would also be reported in the public newspapers and I would hear other talking about it.*

*I may have seen the prisoner Griffin in Thomas Connell's company but not lately. I may have seen him about 18 months ago when he came out of gaol but not since. Griffin came with me to help with the cattle over the gap. He, Griffin went with me from my place to the camp. The three bushrangers were at the camp. I did not see Griffin speaking to the bushrangers a short time before Carroll was shot. Griffin slept at my place the night.*

## **Edward Smith, Second Statement, 14.2.67.**

*This deponent, Edward Smith, being duly sworn maketh oath and saith as follows. I am a manager and grazier residing at Jinden. I have been from home for three weeks Jinden Station is about 40 miles from Braidwood. I knew special constable Carroll and party. He stayed at my station on the night of Tuesday 8<sup>th</sup> January last. They left my place about 7 o'clock the following Wednesday morning. I saw their dead bodies on Thursday, 10<sup>th</sup> January last about 11 o'clock, lying about 1.5 miles or 2 from my homestead. I sent for the police. I know the three prisoners. Prisoner Guinea lives 4 miles from my place and Connell about 16 miles. Griffin lives about 19 miles from my place. I saw Griffin at my place about 4 o'clock pm, 8<sup>th</sup> of last January. Griffin was riding, I think he was on a bay horse, he stopped about ½ an hour. He told me that he had passed Carroll's party on the road. That was all he said to me about Carroll's party. He said nothing about the bushrangers. He did not tell me where he was going. I saw Griffin on the following morning after Carroll's party had left my place. We had no conversation about the bushrangers or Carroll's party. He was then riding a grey horse.*

*Carroll and party had left my place about ¾ of an hour before Griffin came. He did not tell me where he came from. I had some conversation with Griffin about Carroll's party. I cannot recollect what was said. I think Guinea's name was mentioned and also Carroll's name. I don't think Griffin said the detectives were going in the direction of Guineas, he*

made a remark about the detectives and Guineas but I don't recollect what it was. Griffin remained for about  $\frac{1}{4}$  or  $\frac{1}{2}$  an hour. He had some gin in a bottle. I had some with him in the dairy yard, about 30 yards from the house. The gin was in a square bottle. I had my breakfast before I had the gin. Griffin rode up. He had the gin in his pocket. He said nothing about Clarke's party. He did not tell me where he got the gin. He did not tell me where he stopped that night. He came to my place about 8 o'clock am. I cannot say whether he took the remainder of the gin with him. When going away he rode around the yard. I did not notice what way he went. I saw Griffin at my place on Monday or Tuesday. It was the day they came to remove the corpses to Braidwood. He was at my place all that day from 11 or 12 o'clock. I saw Griffin at Connell's public house on the same day after the detectives were murdered. Connell was there. I stayed at Connell's on the Saturday night. I saw Griffin about 11 o'clock on the following Sunday morning. I did not see Griffin coming to the place. I do not know if he came on horseback. I got up on Sunday morning about 9 o'clock am. I had breakfast. I saw Griffin and Connell together. I was in the little parlour and they were in the bar. I could not hear what was said in the bar. There is a door leading from the parlour to the bar. Connell was drunk that day. Griffin was pretty well on when I saw him about 11 o'clock. I saw Griffin and Connell have drinks about 10 o'clock on the Sunday morning. That was the first time I saw Connell on the Sunday morning. Connell and Griffin were talking in the bar. There was a good deal of chaffing about the murders. Griffin said if he had been there he'd have saved Kennagh's life. They were going on with all sorts of talk. I don't recollect the conversation. I don't recollect Griffin tell me that Tommy Clarke got behind a tree he might have said so I do not remember Griffin say that Bill Scott and John Clarke fired together at Carroll's party. He might have told me but I do not remember. I was not sober on that Sunday. I was not sufficiently sober to know all that passed on that day. I was muddled the day before and Sunday. I do not recollect telling that Phegan and McDonald were first shot. He made some allusion to it. He said they were good shots. Connell said I believe that there were two shot first. Griffin said he supposed that was it. Connell said he supposed that Clarke shot three out of the four. They were saying that they were good shots. I believe that they were referring to the bushrangers. I do not recollect Griffin saying that Carroll did not fire at all. I cannot swear that he did not say so. I don't recollect Griffin saying that Carroll kept behind Kennagh whilst Kennagh kept firing at the gang. I heard Connell saying that no doubt they had their horses and pursued them. Either Connell or Griffin said so. I did not hear Griffin say that Clarke arrived with the horse. I heard Griffin or Connell saying that Carroll prayed for mercy and the answer was how can you expect mercy when you showed no mercy to me sisters.

I heard one of them, either Griffin or Connell say that after Carroll asked for mercy Tommy Clarke went up close to Carroll and shot him with his revolving rifle. I heard the remark that Kennagh threw down his rifle and did not ask for mercy. I heard them say that Scott shot Kennagh through the neck with a double barrel gun. I cannot say which prisoner said so. This conversation took place between Connell and Griffin. Guinea was not present. I did not hear them say that Clarke took a £1 note out of Carroll's pocket and put it on his breast. I did not hear them say that £1 note was put on Carroll's breast. I did not hear it. It might have been said without my hearing it.

I did not hear Griffin say that if he had known Kennagh was such a game fellow he would have saved his life. I heard him say that if he was there he would have saved Kennagh's life. I don't remember Mrs McEnnery's name being mentioned. I don't recollect telling Griffin and Connell that day that Mrs McEnnery that she saw three men going away from the place of the murder. I might have told them that she told me. I did not hear Griffin say that it was a good job for her that she did not see more than three men going away. The conversation at Connell's was carried on, on the Sunday before and after dinner. I was in the little parlour writing a letter. I got up about 9 o'clock. I was writing the letter about 11 o'clock am. I might have had 6 nobblers of brandy between 9 and 11 o'clock am. I wrote the letter and posted it. It was to Mr Wallace of Braidwood.

There is a slab partition between the bar and parlour not plastered. The door was open. I could mostly hear what was said in the bar when I was in the parlour. I do not remember asking Griffin what he was talking about. I went out a couple of times to the bar. I heard what was said in the bar when I was in the parlour. I was not a party to the conversation except when I could go out to the bar to have drink they might make a remark to me about being a very good shot. I don't remember Griffin saying that Tommy Clarke rushed out from behind a tree. I don't remember them making any remark in my presence about the

shooting. I left Connell's about ½ past 11 o'clock am to go to Ballalaba to post my letter. The distance is 6 or 7 miles. I saw the postmaster at Ballalaba. I do not think he saw me. I gave the letter to the post boy. I stayed about ½ an hour and had dinner with sergeant Byrne and then rode back to Connell's. I am certain I had drink on the Sunday morning before I went to Ballalaba. I never saw prisoner Connell at my place until the day of the inquiry. I had no conversation with Connell on the day of the inquiry. He said it was a dreadful affair.

Connell never said to me that as soon as Carroll and the other buggers left I had them watched and sent for the bushrangers. Connell was assisting the doctor at the post mortem examination. I don't remember Connell saying that he could chop that fat bugger Carroll into mincemeat. He did not say so to me. I heard that remark made use of at Connell's on the Sunday night, there were men and women present. I cannot say if I heard it remarked in Connell's room. Some person said they could chop Carroll up with an axe. I did not speak to any person about the murder at Cooma. I did at Barne's at Buckley's Crossing. I don't remember saying at Cooma that Mick Connell when drunk said to me that when Carroll and the other buggers had left I had them watched and then sent for the bushrangers. I do not remember telling sergeant Lenthall that. I won't swear that I did not tell it to sergeant Lenthall. I saw Lenthall at Buckley's Crossing place about three weeks ago. I stayed at Walch's the first night that I went to Cooma. Next night I stopped at Barne's. Lenthall was there. I had a conversation with Lenthall. I told Lenthall that no doubt they had been watched and laid on by some person. I never heard Mick Connell saying that when Carroll and the other buggers left I had them watched and sent for the bushrangers. I won't swear that he did not make use of those words. The post-mortem examination was held at my place.

I did not hear Connell making use of the words I could chop that fat bugger Carroll into mincemeat with an axe. I will not swear he did or did not make use of those words at my place. My memory is not very good. I was served with a summons on last Friday in Cooma by sergeant Lenthall. He served one in Solomon's Public House. Lenthall might have been ½ hour in my company during that day. I might have told Lenthall that I was sorry that Griffin was apprehended. I don't recollect saying so. I won't swear whether I said so or not. I never said that Griffin would bring home murder to someone. I will not swear that I did not tell Lenthall so. I do not think I told him. I am sure that I did not say so. I did not say it to Lenthall on Friday last. I don't believe I said anything of the kind to him.

I never said to Lenthall I was sorry Griffin was arrested as I would have to bring murder home to him. I am sure I never said it. I do not think I said anything to Lenthall in presence of the troopers. I saw no strange horses with saddles or bridles on at my run on the 9<sup>th</sup> January last.

I saw the three bushrangers, the two Clarke's and Scott on the Friday morning before the murder. My men were camped with the cattle and on Friday morning when I went to the camp the bushrangers were there. I would know the letter I wrote to Mr Wallace on the Sunday.

I have a breech loading rifle for the last three or four years. I lent it to Griffin about 3 months ago to shoot wild horses. He told me he'd return it in a week. I told him to leave it with sergeant Byrnes. Griffin returned it to me. He kept it for 8 or 9 weeks. Griffin said nothing about the police when he returned it to me. I don't recollect him saying he was afraid to give it to the police. I never saw it with John Clarke or Tom Connell. I told Griffin if he did not bring the rifle home I would tell the Police as I thought he wanted it for the bushrangers.

I do not remember seeing any Police on the Sunday at Connell's. I had dinner about 1 o'clock with sergeant Byrnes. It would take me about an hour to go from Connell's to Ballalaba. I got back to Connell's on the Sunday about 3 o'clock. I was very sick when I got back to Connell's. I was drinking all that afternoon. I do not know when Griffin left Connell's on the Sunday. I was so bad I had to leave my horse about 8 o'clock and go to bed. Some of the conversation was in the forenoon and some in the afternoon. I think I heard the most in the forenoon. I remember only parts of the conversation that I heard on the Sunday. There were people in and out about Connell's but I cannot recollect who they were. I think Denis Dempsey was there and also George Smith. There were others but I cannot recollect who they were.

*Griffin generally helps me to muster horses and cattle and he was talking of going to Gippsland with cattle. I saw Griffin at Connell's. He left Connell's place on the Sunday the same time that I left to go to Ballalaba. I think he came back to Connell's about 4 or 5 o'clock pm on Sunday. He stayed there for about an hour.*

*I do not remember seeing George Smith at Connell's on the Sunday morning but in the afternoon of that day. I gave no ammunition to Griffin when I lent the rifle. I think James Lynn and Denis Dempsey were at Connell's. I did not see any person in the bar on the Sunday between 9 o'clock am and when I went to Ballalaba, only Griffin and Connell. Everything I heard was said either by Connell or Griffin. I saw Mrs and Mr Berry at Connells on the Sunday morning. I swear that I never said to any person that Mick Connell told me. When Carroll and the other buggers left I had them watched and sent for the bushrangers. He brought the gin to my place and on the morning that Carroll left my place. Griffin came to my place about an hour before Carroll. Griffin said that he passed Carroll and party on the Dirty Swamp, about 5 miles from my house. Griffin had no fire arms. He brought the rifle back about 10 days before the murder.*

**Edward Smith 21.2.67 Statement 3. This agrees with what Edward Smith said in court as a witness for the prosecution in James Griffin's trials.**

*Edward Smith, Jinden, on oath states – prisoner James Griffin came to my place at Jinden House on the 8<sup>th</sup> January 1867 and had some conversation with me. On the following morning, the 9<sup>th</sup> he came there again ½ hour after Carroll and party left Jinden House. Griffin on the morning of the murder told me that he saw the detectives going in the direction of Guinea's along the road, and then he after breakfast asked me for the loan of my breech loading rifle which I refused. He then went in the direction of where Clarke and gang were previously camped on the right of Mrs McEnnery's. On the 13<sup>th</sup> January (Sunday) four days afterwards I saw Griffin at Mick Connell's public house, Stony Creek, and heard him telling Mick Connell something about the shooting of Carroll and party but could not hear all that was said. Soon afterwards Griffin came out from Mick Connell and spoke to me. I asked him what it was he was saying to Mick Connell. He then commenced and gave me the following statement regarding the murder of Carroll and party. Griffin said I rode 30 miles the night before the murder to bring the boys up. By the term boys I knew he meant the bushrangers.*

*Thomas Clarke who had taken up a position behind a tree and when Carroll and party came up he rushed out from behind the tree and called upon them to give up their arms at the same time firing at them in conjunction with Johnny Clarke and Bill Scott who also rushed from behind a tree. Phegan and MacDonnell fell (having been shot) the other two Carroll and Kennagh retreated down the flat. Kennagh firing at the Clarkes and Scott frequently from behind trees. MacDonnell fired a shot at the bushrangers after his own leg was broken. Kennagh kept firing at the gang. Carroll did not fire at all. Tommy Clarke got a horse and rode around the back of Kennagh. Kennagh at the time having Bill Scott and Johnny Clarke covered with his rifle. Tommy Clarke fired a shot at Kennagh and put it in a sapling on the side of Kennagh. Kennagh looked round when Tommy Clarke sang out "lay down your arms" which order Kennagh obeyed by throwing down his rifle on his arm. After Kennagh surrendered Carroll was standing close to his side. Clarke then said to Carroll, "you are Carroll". Carroll replied, not Carroll, Carroll is dead on the road. Then Carroll cried out for mercy – mercy Tommy Clarke. Clarke replied how can you expect mercy, you did not show my sisters or mother mercy. He then went close to Carroll saying "Make up your mind, you have not many minutes to live" and shot him with his revolving rifle. Kennagh having thrown down his rifle did not ask for mercy and was immediately shot down by Scott through the neck with a double barrellled gun. Tommy Clarke put his hand in the right hand trousers pocket of Carroll and pulled out a £1 and half a crown. Then Griffin said that if he Griffin had known that Kennagh was such a game man that he would have saved his life or something to that effect. Griffin then told me that he held the horses. He afterwards expressed a wish to go with me to Gippsland but I refused to take him. On the Sunday after the murder referred to in my depositions before the magistrates. Mick Connell said to James Griffin in my hearing "Jim, how did that gin take effect?" Griffin replied, only for that gin I don't think we could have got them up to the pitch. Connell then said Tommy Clarke shot three out of the four. Connell likewise said to Griffin*

*that there was but one ball in McDonald. Griffin replied there must be another. He likewise told Griffin and me that Tommy Clarke was barefooted and therefore could not run so fast down the hill and then Tommy Clarke sang out for a horse and two horses were immediately brought down. Mick Connell told me that at 11 o'clock on the night of the murder Scott came to his house (Mick Connell's) at Stoney creek and showed him (Connell) one of the rifles which they (the gang) had taken from the special constables after their shooting them and got two bottles of gin from Mick Connell and took them away saying he would pay some money he owed him (Connell) the next time he saw him. 21.2.67.*

*21.2.67 I Edward Smith of Jinden do solemnly and sincerely declare that the foregoing statement made and sworn by me this day before Houlton H Cofs J.P. is true and correct in every particular and that my for not giving similar evidence before the Police Court was that I believed the prisoner Guinea (discharged) would be discharged from want of evidence and repeat all that I said, whereby my life and property would be endangered. Having now determined to leave Jinden and expecting to dispose of my property before the trial comes on I wish to give a truthful narrative of everything I know in connection with the murders.*