



When Sherritt opened the door Byrne stepped behind the protection of the chimney, and when Sherritt had stepped out playfully pointing to a sapling and asking Weeks if he saw it, Byrne stepped behind Weeks again and shot at Sherritt the bullet passing through the left side of his neck. He ran into the house but Byrne fired again the bullet entering under the left nipple and passing through the body, he fell, moaned once and died. The constables were in the bedroom, and as the murder took place so quickly, none of them were an actual witness of it. This room was separated from the other by a partition which only reached as high as the wallplates, above which it was open. The door was composed of a calico screen. Mrs. Sherritt distractedly ran out and into the house several times. She knew Byrne and asked him why he had shot Aaron to which he replied "If I had not shot him he would have shot me". Byrne demanded to know who was in the room, the ladies avoided the question, but finally had to acknowledge there was more than one in the room, and ultimately that they were police. Byrne told Mrs. Barry to open the back door, doing so she found Dan Kelly standing there armed with a rifle which he carried in a threatening manner. Byrne then ordered the men to come out of the room whilst he kept himself covered by Weeks and Mrs. Barry.

The police to leave the room would have had to enter the kitchen which was illuminated by a large fire and the light of a candle; to have come out as invited meant certain death. Finding the men would not come out and be shot the outlaws fired 7 shots into the bedroom. Armstrong, the man in charge of the party, said he looked in vain through the window for some one to fire at; as Byrne, who had heard the ominous click of the guns being prepared to fire, shouted out to Dan Kelly; "Look out they are going to shoot"; and Kelly retired from the light of the door. Another constable got upon a box from which position he could see over the partition and was about to fire at the back door where Byrne was stationed when Armstrong told him not to fire as he might shoot some innocent person and if he did he would be put upon his trial for murder or manslaughter. The English language has been searched for words of contempt to describe the conduct of the constables on this occasion; yet I think that under circumstances like these a brave man would hesitate to say what he himself would do, and I feel assured a wise one would express the opinion he would rather be elsewhere.

The men did not know the number of their assailants for, though there were only 4 outlaws, many others were willing to fire a shot at the police in the dark. It is, however, believed that only Byrne and Dan Kelly were present at this outrage. The police were accused of hiding under the bed, it is acknowledged that two of them did so, these men stated they lay down to avoid the shots and held their weapons ready to repel an attack through the door which they expected. The room being small it was unavoidable that a portion of their bodies was under the bed. The outlaws threatened to burn the house down and tried ineffectually to do so. They had whistled for some friends to come from the scrub and assist them, but as no person came they released Weeks and left. Early the next morning Armstrong wrote a report of what had taken place and endeavoured to get a messenger to take it into Beechworth, but after trying several who returned intimidated, he procured a

horse and rode in with the news himself. It was thus nearly two o'clock before the outrage was reported at Beechworth, and it was half past two before Mr. Hare was apprized of it at Benella. An inquest was held upon Sherritt and a verdict of wilful murder returned against Byrne and one for aiding and abetting against Dan Kelly. After the inquest the foreman stated that 11 of the 12 jurymen were in favor of adding a rider to the verdict that the police did all could be expected of them under the circumstances.

The late Superintendent Nicholson, who was looked upon by the members of the service as a man of undoubted courage, said the men could do nothing else unless to sacrifice their lives in a useless manner. The late Superintendent Hare condemned them, and the Police Commission was very scathing in its report regarding them, recommending their discharge. I knew Armstrong as an energetic plain-clothes constable in the city, in fact 3 of them were city police.

At the time that Armstrong and others from the city were sent up to the north east it was remarked to me by a sergeant of police that some good men were being sent up now, and Armstrong was mentioned as a man who would render a good account of himself should the opportunity present itself. The four men were at the destruction of the gang at Glenrowan where they took a forward position. Armstrong repeatedly volunteered to rush the hotel and was the first to enter it after the clergyman. The fact that this party had not circulated information about the murder of Sherritt for nearly 20 hours after that event took place may have been culpable on their part but it was this that caused the first hitch in the plans of Ned Kelly and helped materially to his capture.

At 2 o'clock on Sunday morning, 12 hours before the murder was known in Benella, Kelly had started to prepare for the police train which he expected from that town. It was not too late even now for his plans to be successful if Mr. Hare decided upon instant action, and relied upon the ability of his own trackers, two of whom he had upon the Benella station. But he decided to wait and the waiting policy probably saved the lives of all who would have been in the train had he decided to start immediately. At 2 o'clock on Sunday morning Kelly and Hart were joined by Dan Kelly and Byrne. They first stuck up Mr. Stainstreet, the station-master, and wanted him to remove some of the rails from the line; that gentleman refused, upon being threatened with death, he told them he knew nothing at all about the permanent way. They then proceeded to the camp of some railway labourers and under threat of death they compelled two of them, Messrs. Reardon and Sullivan, to remove some rails from the line about half a mile north of the Glenrowan Station where there was a high embankment and the line took a sharp turn. A better place to wreck the train could not have been chosen, as the pilot would have been hidden round the bend it is almost certain that both it and the train following would have gone to destruction. Kelly after and before his arrest freely stated it was not only his intention to wreck the train but also to shoot every man that escaped death in the wreckage. The outlaws made a great number of prisoners this day at one time there were 67 persons under restraint in the hotel. Amongst these were Mr. Curnow, the local school-master and his family.

/Mr. Curnow

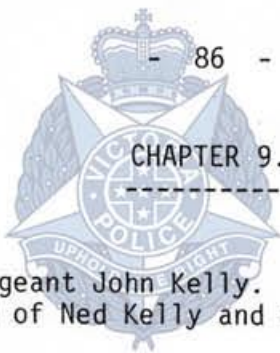
Mr. Curnow learning of Kelly's intention to destroy the train which was expected with a police party, determined to get away to stop the train if possible. For this purpose he pretended to be a sympathiser of Kelly's and obtained permission to return home under many blood-thirsty threats of what would happen to him if he "dreamed too loud." Mr. Curnow having overcome the opposition of Ned Kelly to his returning home found when he had done so that he had only overcome the initial difficulty in the way of his warning the police of their danger. He had to act against a considerable amount of domestic opposition, which was inspired by fear not only of what might happen to himself but also to his family during his absence. He had not a very clear knowledge of how to stop the train nor the means to do so, and he was physically incapacitated from walking any distance in a short time. Besides Mr. Curnow others were permitted to go home but none of them took any steps to stop the train except that gentleman. Mounted constable Bracken was also taken prisoner. He was the only constable upon the Glenrowan station. His wife was confined to bed through illness and he himself was ailing, and had not left the station during the day, so he was in ignorance of the "diversion" which was going on at the hotel about a mile distant from his station. Kelly held a sports meeting during the day, jumping, running and dancing, the latter to the accompaniment of a concertina.

Bracken was a good cross country rider and Kelly knew him; he sent a boy who was known to Bracken to call him out, when he came out he was made prisoner in the usual manner. Kelly was accompanied by Byrne and they wore portion of their armour under their overcoats. This was about 9 o'clock on Sunday night. Bracken was confined in the hotel where there was dancing going on whilst the outlaws were waiting for the train. Hart had been drunk during the day but had got sober again. The other three drank a little but not to excess. The gang had divested themselves of their armour in order to enjoy the dancing, Bracken watched their movements with the intention of escaping at the first opportunity. Mrs. Jones, the hotel-keeper, was a weak minded woman; she was so easily affected by her surroundings that she was completely under the influence of those who were present. The poor woman suffered severely by the loss of her son, a boy aged eleven who was shot in the loin and died next day in the Wangratta hospital. For the loss of her hotel, I believe, she was compensated by the Government. For her excess of zeal to please the bushrangers she was put upon her trial, but after the police court proceedings in which I was a witness, the prosecution was withdrawn. When her son was wounded she became very excited and came out of the hotel screaming and shouting to the police "You blood-thirsty hounds you have shot my son". She then returned to the hotel crying out to the bushrangers "Come out you cowardly dogs and fight the police as you said you would." If her own misfortunes were not due to herself she was responsible for the misfortunes of others. About a quarter of an hour before the police train arrived Kelly told the prisoners they could go home as he had given over hopes of a special train being put on. Preparations were made by several to avail themselves of this permission. Amongst these was Martin Cherry, a railway laborer, an unmarried, quiet, inoffensive man, over 60 years of age. A man named Ryan, with several of his children,

/was amongst

was amongst the prisoners, Cherry taking up one of those children in his arms was about to depart with others, when Mrs. Jones placed herself in the door and would not permit any person to leave "until they had got a lecture from Ned." This interference of Mrs. Jones caused the death of Martin Cherry, the wound received by a young man named Reardon, and probably those received by her own son and daughter, and had generally a most lamentable effect, as the police arrived immediately afterwards and the firing from both parties became general. When Ned Kelly was invited by Mrs. Jones to give them a lecture he was placed in a fix, he only had one lecture, and that was so well known to repeat it would show a paucity of resource in the lecturing line. Perhaps with a view of getting material for another lecture he proceeded to examine and cross examine his prisoners. He asked Bracken if he were not sworn to spare neither father nor mother, sister nor brother. Bracken replied not at all; a constables oath was to do his duty without fear or favor, affection or ill will. This opened up subjects which were too subtle for Kelly, and although he thought he had still the right end of the argument he didn't pursue the subject. He asked Sullivan the platelayer if he were the New Zealand murderer of Maungatapu notoriety. Finding that he was not he said he would give a handsome reward for that monster, as he was a great scoundrel, and it is certain he was for Kelly had all the qualifications to be a good judge. At this moment Dan Kelly who had been on the verandah rushed into the room crying out "Ned: Ned: here comes the b--- train." All was commotion the outlaws went into the bedroom to put on their armour. The citizen prisoners didn't know what to do, if they could have forseen what was going to occur they would have got out through a window or they would have got out anyhow. When Dan Kelly had come in he had locked the door, and observed by Bracken placed the key upon the mantlepiece. Bracken took advantage of the confusion to secure the key which he placed in a fold at the bottom of his trousers until he saw an opportunity when he unlocked the door and escaped.

Before leaving he told some of the prisoners if there was any shooting to throw themselves flat upon the floor, and rushing down to the platform he saw Mr. Hare and told him about the presence of the outlaws in the hotel. When Kelly was fully armed and armoured he went unto the verandah upon which he found the police rushing up in a stragglng body led by Mr. Hare. He fired at the leader and was fortunate enough to hit him, considering that the armour he wore completely prevented the possibility of his taking aim. Mr. Hare was shot through the left wrist. After some more firing Kelly went round to the back where he saw Byrne and told him to hold out till morning when he would return taking the police on the flank and they were to come out of the hotel and assist him. After this Kelly was seen at the back by one of the troopers named Gascoigne who reported to Mr. Sadlier that he must be clad in iron as he had fired several shots at him without any effect. Kelly tried to mount his grey mare but the weight of his armour weighed him down to such an extent that he could not mount and the mare becoming restive broke away from him. Bracken who was unarmed seized one of the troop horses and galloped to Wangratta for reinforcements. Senior constable Kelly who had charge of the Victorian police from the time Mr. Hare retired until the arrival of reinforcements, has been superannuated. He obtained the rank of a first class sergeant, being promoted for his services at Glenrowan. He has furnished me with the following narrative which will give the full particulars of the death of three of the outlaws and capture of Ned Kelly.



The evidence of Ex-Sergeant John Kelly. The Outlaws brought to bay at Glenrowan. Capture of Ned Kelly and death of Byrne, Hart and Dan Kelly.

----- V I C T O R I A P O L I C E -----
That stronger breastplate than a heart untainted?
Thrice is he armed, that hath his quarrel just;
And he but naked, though locked up in steel,
Whose conscience with injustice is corrupted.

Shakespeare.

Photo of Mr. Kelly

John Kelly
1st Class Sergeant
1925

I was in charge of the Woodspoint police station at the time of the Kelly outbreak. Woodspoint is a mining township about 60 miles from Mansfield, and is situated away in the ranges the rugged nature of which prevents any agriculture being carried on so that the inhabitants solely depend upon the production of the mines. The township is about 3,000 ft. above the sea level, in consequence of which frequent and heavy falls of snow occur every winter; this snow melting in the spring of the year is the cause of the heavy floods which take place in the Goulburn river at that season as Woodspoint is situated upon the extreme upper water-shed of that river. Amongst the duties I had to perform was the escort of gold to Melbourne. This gold was sent down at irregular intervals according to the quantity obtained.

On the 23Oct. 1878, I accompanied by one constable had to escort 3,300 ounces of gold from Woodspoint, on arriving at Jamieson, 40 miles distant, we remained for the night, and the following morning we added to our escort a quantity of gold nearly equal to that we had from Woodspoint.

/I cannot

I cannot remember the amount we got in Jamieson but the total of the gold we had to escort to Melbourne must have been equal in value to not less than £20,000. The precious metal belonged to the Victorian and Colonial banks, and the local managers of these banks accompanied us; another constable also joined our party at Mansfield. Starting from Jamieson at daylight we arrived at Mansfield, 20 miles, early on the morning of the 24 October.

Sergeant Kennedy met the coach on its entry into Mansfield and after some conversation he told me he was going out with a party to try and arrest the Kelly brothers of whom he had got some good information. Fearing resistance from the elder Kelly he asked me to leave with him the Spencer rifle, which we carried on escort duty, as Mansfield not being a mining centre, had none of those weapons upon the station. I gave him the rifle although I felt that I incurred a serious risk for if anything went wrong with the escort I would have been subjected to something more than censure for parting with it, but the possibility of our being interfered with was, as we thought, remote although it was not so unlikely as we then believed. We usually took the gold down by way of Longwood but on this occasion, for some reason that I cannot remember, we were ordered to take it by way of Benella a round about way to Melbourne.

On this journey we passed not many miles from Kelly's "Stronghold" in the ranges, such being the term usually applied to Kelly's hut owing to the manner in which it was built and loop-holed for defence. The road between Mansfield and Benella twenty years ago was for the most part a lonely one and presented many strategical points for robbing the escort. If Kelly had known about it he would undoubtedly have stuck us up, or endeavoured to do so, and as we were armed only with revolvers and they with long firearms the advantage in distance of range and precision of aim would have greatly handicapped us. In any case whether he would have been successful or not we presented a prize worthy of his very best endeavours. However, I am speculating upon what might have been, we duly presented the boxes of gold at the two banks in Melbourne and I got the usual receipt for its safe delivery.

The members of the Victorian police are entitled to 17 days leave of absence upon full pay each year, and there are few of them arriving in Melbourne from the remote country districts who do not avail themselves of several days leave when their duty calls them there, to break the monotony of their country existence. I had applied for and obtained 7 days leave in the customary manner, and was lodging at the Apollo Inn near the old Detective office in Russel St. On Sunday the 27 October at midnight I was in bed when I heard a man's voice calling me, on inquiry I found it was Detective Hayes who had run over from the office to inform me of the melancholy news that Scanlon and Lonigan were shot by the Kellys and Kennedy missing.

Seeing them so recently it was a shock to me especially as I had known Kennedy so well, and it was I who induced Scanlon to join the police when I was stationed at Beaufort, Scanlon was managing a large store there and hearing him express a desire to join the police I spoke to one of the officers about him, the result being that he

got a special appointment in the force not having to await his turn as other candidates have to do. Under circumstances like these nothing further in the way of leave or enjoyment could be thought of, so at the earliest hour in morning it was possible to see Captain Standish/ I went to inform him that I was going to proceed immediately back to Benalla, and asking him for commands and instructions. I returned to Benalla during the day and remained in the north eastern district until the arrest of Ned Kelly and the destruction of his comrades.

I was a stranger in Benalla and had never seen any of the Kelly family, but I was not long there until I had seen Kelly's sisters and it was impossible for me to shut my eyes to the fact that they were struggling against the pressure of want, as well as being uneasy about the extreme step taken by their brothers. In order to relieve their necessities I, assisted by by others, got up a subscription which was given to the local storekeeper to supply them with any necessaries they might require. I was not at first attached to any station but was continually moving about from place to place being generally in charge of a search party consisting usually of six men having our own horses and two pack horses to carry food and other necessaries. We patrolled the ranges searching for some evidence of the gang, and although at times it was pleasant enough, there were other times, when the weather was inclement in which we suffered great hardships. Several of the men got ill and some died from disease caused by exposure. One man who died had served in a cavalry regiment throughout the Indian mutiny, and after many hairbreadth escapes in that terrible war he died of phthisis the germs of which he contracted in the Victorian ranges whilst in pursuit of the Kelly gang of bushrangers. We were not without that spice of danger which gives a zest to life and makes a man exercise all his faculties to the utmost for we did not know at what time we might fall into an ambush in a country which presented an infinite number of places eminently suitable for that purpose. We missed a fire at night more than anything. Our usual way to encamp was to dismount make a fire and boil the billy, and have our evening meal, when it became dark we carefully proceeded some distance from the fire and each man made himself as comfortable as the possibilities of the position would admit. I generally had a hammock with me and was consequently more comfortable than the others. Our horses were fed when we had feed with us, but they were nearly always hobbled and turned out to feed on the scanty grass of the forest. There was a sentry on all night; they took this duty in turns of two hours each. I was awakened every two hours during the night to see this duty was performed. I insisted upon this but did not object to the men taking whatever turn of duty they liked to arrange between themselves. Thus one man might do a double turn of duty and his mate would reciprocate the following night. Sometimes our camp was within a mile or two off a hut, a gate in a fence, a road, or a railway bridge, these places being considered worth watching, perhaps from information received." At these times almost our entire party would go down after dark and watch the suspected placed. We frequently made use of ropes on these occasions tied across or on the sides of the roads or in any way that our ingenuity could devise to trap the outlaws by tripping up their horses. On one of our trips we went through the ranges from near Benella to --- Woodspoint, avoiding all roads as much as possible we had an exceedingly rough journey. I

/doubt whether

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doubt whether any white man had been over parts of the country we traversed before. To get our horses up and down some of the ranges seemed before we attempted it an impossibility. This trip was taken in consequence of one of the agents reporting that the gang contemplated on the Jamieson bank a raid, and were watching for an escort from that place to stick it up. I had good wind in those days, there is nothing like mountain climbing to expand your lungs, make you eat your meals every time, and enjoy "nature's sweet restorer" under conditions which do not present much in the way of comfort.

In any free country where a policeman has not got the support of the citizens he is helpless. The people of the colonies generally acknowledge the power conferred upon the police and assist them in their duty, and we would have arrested any ordinary criminals in a short time for the people would have assisted us by at least giving us information, but these were no ordinary criminals, and those who would assist us were in ignorance of the movements of the gang, whilst those who could assist us were influenced, either by personal consideration, or sympathy for the outlaws and would render us no assistance. Indeed it was possible for us, at times, to imagine we were foreign troops in a hostile country. There was a list compiled of nearly one hundred families who would render every aid possible to the outlaws, most of these were connected with the bushrangers by ties of blood or marriage, and their residences were distributed over what was called the "Kelly" country in a manner to afford the bushrangers the utmost possibility of succor and assistance.

That we were several times close upon Kelly was acknowledged by himself. After his arrest he told me that he and his three mates could have shot me and trooper McDonald. I asked him to explain. He replied "Do you remember being with McDonald in Blanks house one day?" I replied in the affirmative. We were in the inner room of that house all the time you were there and were informed who you were." I had not the slightest suspicion that they were in the house and did not think the people of the house would harbour them. I asked Kelly why he did not shoot us. He replied that he heard from his sisters all about the police, he knew what I had done for them and he would not have shot me if it could by any means be avoided.

I was stationed at Benalla when the telegram informing us of the murder of Aaron Sherrit arrived on the afternoon of Sunday 27 June, 1880. We had two trackers upon the station, but being Victorians they were not considered so good as the Queensland trackers, and as an opportunity to follow the outlaws had not presented itself for many weary months, Mr. Hare decided to get the best talent available, and for this purpose he entered into communication with the Chief, by wire, to secure the services of the Queensland trackers. The head of the Queensland police refused to permit the return of the trackers. Captain Standish placed the matter before the Chief Secretary of this colony who communicating with the premier of Queensland obtained the services of the trackers to hunt down the outlaws if possible. I never knew any instance in which the circumlocution of the Government methods to obtain a desired end was so fortunate as it was upon this occasion.

/Had Mr. Hare

Had Mr. Hare decided to get the train and rush away to the scene of the outrage, or had his request to get the trackers services been immediately acceded to, it would have been disastrous as will be seen by the accompanying engraving of the preparations made by Kelly to receive us. In consequence of these delays it was nearly 2 a.m. on the 28th before a train arrived from Melbourne containing Lieutenant O'Connor and the Queensland trackers. A little afterwards we got our horses entrained and started for the scene of the murder near Beechworth. The members of the Victorian police present were Superintendent Hare, myself and troopers Arthur, Barry, Canny, Gascoigne, Kirkham and Phillips. A gentleman residing at Benalla named Rawlins also accompanied us as a volunteer and did good service in the destruction of the gang. There were also two ladies and four pressmen in the train making a total of 24 persons including the three railway officials.

At first it was suggested that one of the troopers should be strapped to the engine, upon the side plates near the front, to look out for any obstruction upon the line, and Barry volunteered for this dangerous duty. I suggested that there should be a pilot engine sent in front as there had been rumours that the gang intended to pull up the rails. This suggestion was adopted and a pilot engine was procured. Of course it was known that the men upon the pilot ran a considerable risk. These pilot engines were used several times and I never saw any notice taken, in the press, of the danger the officials incurred. On this occasion they got something more tangible than praise as each of them received £104 of the reward and guard Dowset got £175, other railway men received rewards of a lesser amount. Our train consisted of the necessary driving power, a guards van first class carriage and two trucks for the horses. I was in the van with the police and trackers, and stood at the front looking through the window, as it was moonlight I had a good view of the line and the pilot ahead. When we were nearing Glenrowan I saw the pilot stop. Suspecting something wrong I got out of the van as soon as our train stopped in response to the signal from the pilot, and running forward I met guard McPhee. He told me that a man upon the line had held up a light behind a red scarf and upon their pulling up he told them the outlaws were at Glenrowan. I went up to the pilot with the guard and found Mr. Curnow there, he informed us the outlaws were at Glenrowan and had torn up the rails upon the other side of the station. I returned to the train and told Mr. Hare what had been reported to me. He gave orders for the two engines to advance slowly to the platform, and he, taking three of the Victorian police with him, got on the pilot engine whilst I had charge of the other three and was stationed upon the second engine. On arrival at the platform Mr. Hare gave orders for the horses to be got out and he, accompanied by Mr. Rawlins, went up to the station-masters house. Being unable to get any information there they returned to the train just as Bracken escaped and came running down to the platform. When they were informed the outlaws were in Jones's hotel, Mr. Hare cried out "come on men" and we all abandoned the horses and followed him. When we were about twenty yards from the hotel a tall man appeared upon the verandah and fired at us, his shot was quickly followed by three others. We returned the fire and had scarcely done so when Mr. Hare told me he was wounded and ordered me to get the men to surround

/the house

the house and not let the outlaws escape. He also told Lieutenant O'Connor to get his boys placed, and returned to the platform to get his arm bandaged, as the bullet had gone through his wrist. He came back to us but finding himself getting weak from loss of blood, he decided to return to Benella for medical aid. I requested him to send forward some ammunition from the van as we had only a few cartridges with us. This he did by Mr. Rawlins who, having procured Mr. Hare's, fire-arms took a forward position in assisting us. Mr. Melvin of the "Argus" also ran many risks in carrying round ammunition to the police. Mr. O'Connor and the trackers were in front of the hotel, in a drain or water-course, from which position they commanded the front of the house. I placed some of my men on each side of the hotel and taking constable Arthur with me I went round to the back of the hotel. Before going we had heard some woman screaming, but above their screams we could hear some voices challenging us to "come on you ----- you cannot hurt us." I ordered the men to cease firing and we got out the women and some children.

The blacks were very active in firing and could not be restrained. One of them was wounded upon the temple which may have infuriated him and his example infected the others. Arthur and I advanced from tree to tree taking cover as we went for the outlaws kept up a continuous fusillade, and as the night was bright moonlight we could not proceed without being observed. When we had arrived nearly at the back of the building we found a revolving rifle covered with blood all the cartridges except one being discharged. Close to it we found a heavily padded silk smoking cap, and also discovered that the ground round those articles was bespattered with blood. This would be about 3.30 a.m. We found it difficult to account for those things, as we were of the opinion, unless some person had attempted to leave the hotel immediately the attack commenced, we did not think it possible to get out afterwards, and the amount of firing which was coming from the hotel was also perplexing.

On approaching the back we found several horses saddled and bridled, tied up to the fence, being unable to get the horses out of the yard without exposing ourselves to certain death we, in order to prevent the escape of the outlaws, shot the horses. It was with reluctance I gave this order, but I recognised that it was of the utmost importance that the outlaws should not escape.

I returned to the front of the building to see what was going on there and saw Mr. Stainstreet, the stationmaster, who was evidently a man of nerve, walk quietly and without hurry towards our lines, on being challenged he replied "station master" and was passed through. A man named McHugh, carrying Mrs. Jones's wounded boy, without any display of hurry walked through the police lines answering the challenge in a more than satisfactory manner by informing us that there were 30 men in the hotel who were coming out to fight the police at day light. These two men were permitted to pass because their attitude was not threatening, nor did it indicate a desire to escape. The other prisoners in the hotel would have been permitted to pass in a similar manner but when several men rushed out with the evident desire of escaping, we did not know whether they were the outlaws or not and they were ordered

/back again.

back again. It must be remembered that the outlaws were constantly surrounded by a number of sympathisers who aided and assisted them in every way short of taking up arms, and every one of whom richly deserved shooting. There were only two of our party, Gascoigne and Canny, who knew the outlaws, it was therefore necessary the men in the hotel should remain until daylight, and we told them so but in order no innocent person might be hit we instructed them to lie down and, if we fired we, would fire high in order not to injure them. Mrs. Jones's two children were wounded by the first volley we fired, before we knew there were others than the outlaws present, and Ned Kelly was wounded in the foot and arm at the same time. A man named Cherry was shot later in the night whilst disregarding our instructions to lie down, and a young man named Reardon was wounded whilst endeavouring to escape without informing us who he was. We fired at the flashes of light caused by the discharge of their weapons and it was testified by those in the hotel that the outlaws were hit several times.

"Like Achilles, Byrne clad in his armour, had only one vulnerable point, and at 5 o'clock in the morning he received a shot in this place, the femoral artery. He was in the act of drinking a glass of whiskey to the toast of "Many more years in the bush to the Kelly gang", when he received this shot. He exclaimed "O God I am shot, forgive me my sins", and falling he bled to death very quickly.

Sergeant Steele arrived with the Wangratta police at a little after 5. Superintendent Sadleir came with the Benalla police shortly afterwards, and other police hearing of the affair came flocking in until there were at 10 o'clock 44 Victorian police upon the ground. On the arrival of Mr. Sadleir I reported to him the steps I had taken to prevent the escape of the outlaws. He approved of what I had done and of course he took charge of all the police upon the ground. At 6.30, a.m. we were surprised by the appearance of an extraordinary figure which seemed fully 7 feet high, and advanced upon us from behind our lines. His actions were not less astonishing than his appearance for he carried a revolver from which he alternately fired a shot at our men and struck himself upon the chest with it this act causing a noise like the ringing of a bell. He cried out to the outlaws in the hotel "Come out and we will whip them" and to us he said "You can't hurt me you)))). I was armed with a Martini-Henry rifle and fired several shots at him, feeling convinced that I hit him, for I saw him stagger, I came to the conclusion he was protected in some manner we could not see, for it was not quite daylight, and his figure was covered by a large overcoat. I cried out to the men look out men he is bullet proof. Sergeant Steele and I were about equal distance from him when Steele, who was armed with a double barrelled fowling piece, fired two buck shot cartridges at his legs which brought him down into a half sitting position against a log. Steele and I ran quickly over and Steele caught him by the hand but could not prevent him firing another shot which, however, did no harm. I caught him by the head and taking off his helmet, he was immediately identified by Steele. We were quickly followed and assisted by some more police and Mr. Dowsett a railway guard. There was some excitement at the time and one of the men treated Kelly roughly. Another put his revolver to his head, but I pushed away his hand. Kelly became alarmed, the transition from bullying bluster to fear of death was instantaneous and he cried out "Don't shoot me; let me see it out, let

/me see it out.

me see it out." he appealed to Bracken who was amongst the party, "Bracken save me I saved you once". I told him he did not show Kennedy nor the others much mercy; to which he replied "I had to shoot them or they would have shot me". I searched him all he had was three pence in silver and a small Geneva watch of little value. To my question of where was Kennedy's watch he replied he could not tell me as it would bring others into trouble. He was divested of his armour and Dr. Nicholson attended to him. The outlaws, in the hotel, seeing a group commenced firing at us, and one bullet struck the ground between the doctor and myself. There is no doubt that the armour protected the outlaws but it also protected us as it was impossible for them to take sight with the quantity of iron they had around them and their shooting, which was frequent, was very badly aimed. Kelly was removed to the railway van but as several bullets struck the van whilst we were there he was removed to the railway station where being in a weak state, he was supplied with some brandy and other refreshments. We had also removed his armour to the station where being weighed it was found to be 97 lbs. in weight a load sufficient to hamper the movements of the strongest man. Constable Dwyer, a strong man, dressed himself in the armour for the purpose of entering the hotel, but finding the weight beyond endurance he threw it off again preferring to take the risk without the encumbrance. Kelly was dressed like a bush dandy. He wore strapped Bedford cord pants, his boots were of patent leather with very thin soles and immensely high heels. Owing to his wounds we had to cut these fancy boots of his feet. We were blamed for indiscriminate firing. Mr. Rawlins wrote to the "Qvens and Murray Advertiser 31st of July '80 in which he corroborates my statement that I instructed the police to fire high in order not to injure any person who was not in actual conflict with us and he concludes his letter by stating that the police instead of being careless of the lives of the citizens "were most forbearing and cautious". When it became daylight the inmates of the hotel were invited to come out but they declined. Dan Kelly and Hart were much depressed after the death of Byrne and the disappearance of Ned Kelly for whom they had been singing out all night. They offered no objection to their prisoners leaving but told them if they did they would certainly be shot by the police. There were several men there who must have thought this possible and probable, and it was not until, we had repeatedly called upon them to come out that, about ten o'clock they all rushed out in a body, 25 in number. Mr. Sadleir asked Ned Kelly to persuade his mates to come out and surrender, but after a moments reflection he shook his head and said "they are too cowardly to come out". We wanted to rush the hotel many of the men spoke to me about it and I went to Mr. Sadleir to obtain his sanction. Mr. Sadleir said that to rush them successfully, seeing how they were protected by armour, would cause a loss of life and there had already been enough blood shed.

Up to one o'clock to expose yourself was certain to make you a target for their firing. Early in the day Senior constable Johnston had offered to set fire to the hotel, and about three p.m. it was decided that this should be done. Before proceeding to this extremity the outlaws were called upon to come out and surrender as there was no response Johnston advanced and set fire to the building. It was known

/that Cherry

that Cherry the wounded man was in the kitchen a detached building at the rear of the hotel.

The usual trains running upon the lines had dropped many of their passengers, attracted by the strange spectacle of a seige in this usually quiet country. Amongst these was a Catholic clergyman, the very reverend Dean Gibney. He decided to remain as upon inquiry he learned there was no Catholic clergyman present. He made his way to where Ned Kelly was and after attending to him in his priestly office, it was his intention to proceed to the hotel, he asked Kelly if it would be safe as he was a clergyman he did not think they would injure him. Kelly replied. "I would not advise you to go, they will certainly shoot you they will not know what you are and they will not take time to think." Father Gibney was thus prevented from going up to the hotel immediately, which was a considerable time before the burning took place. But when the flames burst through the house he saw, that if the outlaws were not already dead death was hovering around the building, and recognising it as his duty he walked boldly up and entered the building. He searched some rooms before he found any of them when he came upon the body of Byrne, it was lying as he had fallen, and the body was quite cold and stiff. In a small room at the back of the house he found the bodies of the other two bushrangers. They were both lying side by side their armour off and alongside each body. They had each of them a bag rolled up and placed under the head and looked composed as if asleep. Father Gibney examined their eyes which satisfied him they were dead for sometime, his opinion being, from their plainly prearranged position, they had committed suicide.

We rushed in after the clergyman, and had time to remove Cherry and the body of Byrne out of the building, but owing to the rapid manner in which the fire spread there was no time to get out the bodies of Hart and Dan Kelly. Martin Cherry, who was shot in the loin, when brought out seemed conscious, but he was unable to speak. He received the attention of the brave clergyman and died whilst still being attended by him. The limbs were burned off the bodies of Hart and Dan Kelly; the trunks and heads remaining and these were delivered over to their relatives.

Ned Kelly and the body of Byrne were removed to Benella. I had charge of Kelly in the van he was very quiet and made no complaints although he had received several severe wounds in the legs and arms.

I had also charge of him at the watch-house in Benella, where he expressed a wish to see you, and your account of the inter- you had with him there was correct. He always spoke creditably of your coolness and courage at the time you escaped from him in the Wombat ranges. Except Mr. Hare I got the largest reward of any of the police and I was also promoted upon the recommendation of the Police Commision. I may state that Kelly never seemed to forget the little kindness I had shown to his sisters, and at the Beechworth police court when all the witnesses were ordered out of court, he requested his solicitor, Mr. Gaunson, to permit me to remain, but Mr. Sadleir instructed me to retire which I accordingly did". As Mr. Kelly personally repeated to me the above narrative I have placed it in the first person.

I will now step into the witness box vacated by him and remain there until I can write Finis to my autobiographical sketch. Mr. Sadleir was condemned for not allowing the men to rush the hotel and the P.C. reported "his conduct of operations against the outlaws at Glenrowan was not judicious, nor calculated to raise the police force in the estimation of the public."

The members of the Commission were in the position of spectators who saw the fight from beginning to end. Mr. Sadleir could not possibly foresee the end, and had the outlaws acted with the desperation which was expected from their characters they would not have destroyed themselves, but have rushed out of the burning building clad in their armour, and sold their lives as dearly as the desperate nature of their position would have enabled them to do. Had this most likely event occurred, instead of condemnation Mr. Sadleir would possibly have received commendation for had he made an ineffectual attack through the narrow passages of the hotel upon two desperate ruffians possessing the advantages they did he might have left several of his men dead and wounded in the hotel and repeated the attack with an equally deplorable result. So far as the local press was concerned the Benalla "Standard" supported the action taken by Mr. Sadleir, and the Ovens and Murray "Advertiser" 22nd Oct. '80, published the following. "The Commission virtually admit that both they and the public would have been better pleased had a dozen policemen been shot, but every reasonable man must admit that Superintendent Sadleir's view of the matter was the safest and most merciful. We are not ashamed to confess that our feelings were entirely with the men who wanted to rush the house but our reason is altogether with Mr. Sadleir who in the heat of the moment recognised and acted upon the self evident proposition that the gang was doomed and that the loss of further lives would be a gratuitous sacrifice." About the conduct of the police generally I quote the following from the evidence given by the under mentioned gentlemen before the Board appointed by the Government to apportion the reward. The Chief Secretary the Hon. R. Ramsay stated. "The proceedings of the outlaws were a heavy incubus on the entire colony rendering life and property unsafe." Mr. Melvin of the "Argus". "Senior constable Kelly kept visiting men placing them all round the house and supplying them with ammunition." Mr. G.V. Allen; Daily Telegraph. "The police appeared to him to care very little for themselves as long as they met the gang face to face. Speaking generally of the police they acted in a most praiseworthy manner, and there was no desire to get unnecessarily under cover." Mr. McWhirter "Age". Armstrong, Dwyer, Johnson, Montifort and some others offered to rush the hotel. I never saw one of the police flinch I can say that for the whole of them." Mr. Rawlins said; He thought Ned Kelly was trying to get away. That Senior Constable Kelly deserved the credit for preventing the escape of the outlaws. "There was heavy firing for the the first 25 minutes after that there was no more for about two hours and there was very little firing after Ned Kelly was taken."

"They had all the elements there ready to rush the place any amount of men were ready to rush it."



CHAPTER 10

What I saw at Glenrowan. Interview with Ned Kelly.

Escorting Kelly and his Trial at Beechworth.

The Melbourne Trial and Sentence to Death.

The 27th June '80 being a Sunday I had a day off duty, and I was not aware of the stirring events which were taking place until I saw by Monday's paper that Sherritt had been shot. I hastened in to the Detective office, and there learned the latter particulars which had not appeared in the press, that the gang was surrounded by police at Glenrowan. Being informed that the Chief was going up to that place in a special train accompanied by several police under Sr. const. Walsh I went up to his office, and hearing there that he had already started I engaged a hansom and followed him to the station where I arrived just in time to catch the special and obtain the Chief's permission to accompany him.

There were many very sanguinary rumours going about Melbourne that morning, and at the station I was seriously informed by a man with whom I had some previous acquaintance that the very last information was to the effect that the Kellys had shot 6 policemen and succeeded in escaping.

We travelled very quickly up to Benella and had we gone through we would have been at Glenrowan before the final act in that tragedy took place. But owing, as I afterwards learned to some obstruction on the line, we were detained for upwards of two hours at Benella, and were informed of the burning of the hotel before we left that town. Dr. Chas Ryan, who had accompanied us, and the Chief went to see Mr. Hare. When they returned we continued our journey to Glenrowan. On our arrival there I ascertained that Kelly was at the railway station, proceeding there I found him lying down and the room full of police and citizens. Amongst the others I was unnoticed and I remained looking at Kelly for some time reflecting upon the last time that I had seen him. He was in fairly good spirits for a man who was so seriously wounded and who must have known that his career had come to a termination besides having lost his brother and accomplices in such a tragic manner. Proceeding from here to the railway platform I found the bodies of 4 men lying there. Two of the bodies had been in the fire and were charred trunks with the heads still attached to the frames but the legs and arms burned off. The others were the bodies of Byrne which I easily recognised, and that of Martin Cherry the railway labourer. Whilst I was looking at the bodies Capt. Standish approached and asked me if I recognised any of them.

I pointed to the body of Byrne and said he was one of the men who attacked us in the Wombat forest, the other body I did not know, and the two charred bodies were beyond recognition. He then inquired if I had seen the prisoner at the railway station, I told him that I had and that I identified him as being the principal in

the attack made upon us. The Chief further asked me if he was much changed to which I replied in the negative. He then gave orders for our return to Benella. I was in the same van as Kelly on the journey to Benella but I did not speak to him as the van was full of police and it was difficult to get near him. That evening Sr. const. Kelly, who had charge of the prisoner in the watch-house at Benella, told me that he had been asking about me I told the Sr. constable that I would like to see the prisoner but I would leave it until the next morning as there were so many excited people about that evening endeavouring to see him and I wanted to have a quiet talk with him. At 7 o'clock next morning I, accompanied by the senior constable went to see the prisoner. And I may here state that my object in doing so was to exonerate myself not to criminate him. He was lying down upon a mattress; quiet in his manner and he did not appear to be in pain.

After the excitement of his capture was over the police treated Kelly in a kindly manner whilst he was in their charge. On entering the cell senior constable Kelly addressing the prisoner said, "Ned, do you know this man?" Prisoner: "It is Flood is it not?" I: "No, you took me to be Flood the last time we met." Pris. "O yes it is McIntyre." I: "I have suffered a great deal over this affair: was my statement correct?" Pris. "Yes, it was."
I: "You remember the last time we met; didn't I tell you then that I would rather be shot than tell you anything about the other two men if you were going to shoot them?" Pris. "Yes." And turning to S.C. Kelly he said, "McIntyre said he would rather be shot than bring the other two men into it if it was a thing that they were going to be shot."
I: "When I turned round I saw you had my chest covered." Pris. "Yes I had."
I: "And when I held out my hands you shot Lonigan."
Pris: "No Lonigan got behind some logs and pointed his revolver at me. Didn't you see that?"
I: No, that is only nonsense, Did Kennedy fire many shots at you.
Pris. "Yes, he fired a lot."
I: "I never saw him fire a shot. I suppose you had a shot at me when I was getting away?"
Pris. "I don't think I had we never thought you could get away, or we would have shot you at once."
I: Why did you come near us at all? You could have kept out of our way when you knew where we were."
Pris. "You would soon have found us out and if we did not shoot you, you would have shot us."
I then asked him if I had shown any cowardice when bailed up. To which he replied "No."

The bodies of Dan Kelly and Hart were delivered over to their friends, no inquest being held upon them. They were buried at Greta. An inquiry was held upon the body of Byrne at 9 a.m. on the 29th. The inquiry was held in the court house, I was examined and identified the body as being one of the men who had shot the police on the 26th Oct. '78. The verdict was "The outlaw Joseph Byrne whose body was before the court and in possession of the police was shot by them whilst in the execution of their duty." Byrne was privately buried in Benella cemetery by the police the same day at 4 p.m.

/Ned Kelly

Ned Kelly was removed to the jail hospital in Melbourne. Dr. Shields of the Melbourne jail reported Kelly as; "A tall muscular, well formed young man, in good condition, and has not evidently suffered in health from his late mode of life. He has received the following injuries, a severe bullet wound near the left elbow, the arm having been bent at the time he received this, the shot had caused two severe wounds. The right hand had been injured near the thumb and he had also received a bullet through the right foot." I returned to the Richmond depot, and my occupation being gone I had to turn to ordinary duty. The life of a police trooper in the depot is, or was, much like the life of a dragoon one incessant round of drill, grooming horses and burnishing accountrements. Having had more of this work than I relished I applied for office duty and I was employed as a clerk until after the trial. I did not see Kelly again until the 31st July when I had to attend at the Melbourne jail to give evidence in order to obtain his remand to Beechworth for the preliminary trial, Beechworth being in the Bailiwick in which he was arrested it was considered advisable, by the Crown Law officers, to have the police court trial take place there. For this purpose an improvised court was held in the kitchen attached to the hospital of the Melbourne jail. I have already mentioned that 3 days after the murders I took out warrants for the 4 men comprising the Kelly gang, and that these warrants could not be found. There had to be another warrant taken out and this was obtained on my information on the 30th July '80.

Mr. Call P.M. attended at the Melbourne jail to remand Kelly to Beechworth. When I saw Kelly he smiled and, without speaking, apparently welcomed me as an old acquaintance, he was quiet and respectful in his manner and offered no objection to the remand; being told in answer to a question that the proceedings were not in the nature of a trial. I had merely to identify him.

That evening I received instructions from Sergt. Porter who was in charge of the Depot, to be in readiness to go to Beechworth the following morning at an early hour. Next morning, Sunday, learning that I was to form one of Kelly's escort, I told Sergt. Porter that considering my evidence would likely prove fatal to Kelly I regretted having to travel te-a-tete with him. The Sergt. told me that I must not let my sensitiveness interfere with my duty. Sergt. Steele had charge of the escort, which comprised troopers Bracken, Faulkner and myself.

We drove in a cab to the Melbourne jail and so secret had our departure been kept that apparently none of the public knew Kelly was to be removed. We reached the jail at 8.30 a.m., driving right in we were not long there until Kelly was brought out by some warders and Mr. Castieu the Governer of the jail. The prisoner had improved with his residence in the jail, but he was lame and used crutches. When he saw us he said I suppose you fellows are going to hang me, here is McIntyre and I know he is going to do it." Making no reply to this his next remark, "This is better than a wombat hole, eh, McIntyre." Caused me to smile with that feeble smile which any allusion to that animal produces, and I almost ejaculated: "Et tu, Brute." Here were our unpleasant positions brought out at the first remarks that he made. Mr. Castieu, the governer, said to him. "Now Kelly your best game is to be quiet. Kelly replied "D--- it ain't I always quiet?" So far as

/my intercourse

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my intercourse with him afterwards was concerned it was not characterized by any bad feeling, he had apparently no ill will against me, and as I looked upon him as a fallen foe fast approaching the end of his career it was my desire to alleviate his sufferings if he did suffer which was not apparent.

We drove to Newmarket, a few miles out of Melbourne, and waited there for the special which was to leave Spencer St. about 9 a.m. On our arrival here Kelly refused to walk from the cab to the station, stating that the government was rich enough to provide him with some means of conveyance. Faulkner and I put our hands together upon which he sat and we carried him to the platform thus quickly getting over that difficulty. Kelly's conduct during this journey to Beechworth was described by the press as outrageous. He was a little truculent but anything that was beyond decorum I would have described as bluster. During our waiting Kelly tried to attract the attention of some jockeys who were exercising some horses, and riding past the station, he called out to them; "Bring those horses over here and Ned Kelly will show you how to ride them." The boys not knowing who it was "barracked" him and passed on. Whilst we were waiting for the train I said to him, "there have been some extraordinary stories told about your shooting abilities it was stated in a paper that you could gallop full speed alongside a fence and put a bullet into each post as you passed it."

"So I can," said he "and no man is fit for the police force who couldn't do the same thing." This remark of Kelly's proved that he had a very erroneous idea of the police. Until he himself compelled them to learn shooting a trooper, who was found galloping alongside a fence shooting at it with his regulation revolver, would probably be dismissed from the service. The Force here was controlled upon the conservative principles obtained from the old country. The firearms were more ornamental than useful; besides the horses were and probably are, coddled up so much that they are not officially, permitted to go out of a walking pace except upon an emergency. Sergt. Steele's remarked to this assertion of Kelly's. "Pooh! Pooh! that is nonsense; there was not one of you as good a shot as you pretended to be, and as for Hart he was only a boy." Kelly who had been leaning against the station building got into a passion at Steele's contradicting him; he turned quite pale and offered to fight Steele, stepping out on the platform he would have fallen had not some of the constables present caught him. He swore at Steele and regretted he had not got him in the bush when he would show him what he would do to him. He hated Steele before his arrest and this feeling was intensified by the prominent part Steele took in his capture. Steele was unruffled and did not make use of his position to be unkind to him in any way. We had not long to wait for the train, which contained 3 or 4 more troopers, and which we entered and proceeded at a rapid rate to Beechworth. We were in the van, provided with seats, and Kelly sat the most of the journey. He was allowed a stimulant and he had a bottle, from the jail, containing some gin and water. He was in good spirits nearly all the journey and sang several songs about the "Bold Kelly Gang". One of the songs was to a well known air; one verse of which was

/"We have mates