THEY THAT SIT IN DARKNESS

A STORY OF THE AUSTRALIAN NEVER-NEVER

BY JOHN MACKIE

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Continued from first page.

—had come across the body of a man who had been murdered by the blacks.

The description of this man corresponded with that of John Farquharson, and the papers found on the body were also those of the latter. It was therefore believed that the murderer of James Sexton had met with his just deserts at the hands of the blacks. However, a few days ago the prisoner was recognized as being the real John Farquharson, living under the assumed name of Tyndall. He would produce witnesses to swear to his true identity. The surmise was that when he discovered the body of the man who was murdered by the blacks, seeing in it a presentment of himself, the idea occurred to him to effect a transfer of personalities. He had previously changed his name to that of Tyndall. He therefore transferred his own papers to the person of the murdered man, whose real identity had thus been lost. Moreover, two £5 Queensland National bank notes had been found on the body corresponding with the numbers on the notes that had been taken from the body of Sexton. To say the least of it, it was an ingenious device of the prisoner's. Personally the sergeant had no knowledge of the accused, but he would produce witnesses of undoubted respectability and probity who would identify him.

At the mention of the aforesaid witnesses of "respectability and probity" an old bushman in the body of the court broke into an explosive snort. He had a keener sense of humor than his comrades, but he was promptly ejected from the tent by a stalwart trooper.

The sergeant now produced a warrant for the prisoner's arrest and testified to its execution. He repeated that he would produce witnesses who would testify to the prisoner's identity and justify his worship committing him for trial.

He paused. His straightforward and earnest manner of stating his case had made its impression. Jack, however, seemed perfectly unmoved. Then the sergeant called his first witness, Timothy Daly. I looked at this representative of "undoubted respectability and probity" and confess to having experienced a species of admiration for the man's cool effrontery. He was a handsome villain in his way; at least he was the style of man that some women would call handsome. There was a suggestion of Mephistopheles about him. To me that set smile and those shifting blue eyes were only the veneering of a cold blooded, crafty nature. I noticed that Norah Mackenzie never once took her eyes off him while he gave his evidence.

His examination was to this effect:

It was much against his natural inclinations that he was in his present position as a witness in this case against the prisoner, they being to a certain extent comrades and working on the same station. He had been at the Cloncurry in March last, had seen the prisoner with the deceased James Sexton and understood they intended traveling together toward Normanton. He was aware that Sexton had a considerable sum of money with him; was sorry to say that he had then his suspicions about the prisoner's character. As, however, the witness had shortly afterward left the Cloncurry, traveled down to Burketown, joined the traveling mob of cattle belonging to Mr. Mackenzie, and come with them right out into this northern territory, he had had no opportunity of hearing the news of Sexton's murder. Next saw the prisoner on Mr. Mackenzie's run on the Robinson river. He was then going under the name of John Tyndall. He had heard that one John Farquharson had been murdered by blacks near the Calvert river, but thought that the prisoner had simply changed his name through some private reason that was no concern of his and instances of which were by no means uncommon in the gulf country. In short, the prisoner he saw was John Farquharson.

Then I rose to cross question Daly, and I admit I took pleasure in making him feel uncomfortable. I was determined to play a bold game and began at once to do so.

What was he doing at the Cloncurry about the beginning of March last and would he state the names of the men he was with?

Daly betrayed but little outward surprise, though a subdued gleam of rage could be detected in his cold eyes as I asked this question. He took the bull by the horns, however, and appealed for protection to the bench. I was a friend of the prisoner's, he said, and was endeavoring to make out that he had been keeping certain notorious company, with which, unfortunately for him, he had come in contact. But the bench made him give the names of the parties, all of whom had warrants out against them for horse stealing.

"Now, Daly," I said, and tried to rivet those shifting blue eyes of his with mine, "if, as you tell me, you did not know anything about the murder of Sexton, why did you steal out of Mr. Mackenzie's camp a couple of nights ago and come into this township on purpose to tell that you believed John Farquharson, the reputed murderer of Sexton, was in the camp?"

This was a bold shot and ought to have been a telling one, but I had not gauged the depth of villainy and cupidity which lay under that smooth, smiling face of his and that bland, plausible tongue. He looked down and said as if with evident reluctance:

"In trying to harm me you're harming your own case and the prisoner's, a thing I've no desire to do. As for stealing out of the camp, as you call it, I wasn't aware that I'd first to ask your permission or any other person's, for the matter of that."

Here a very solemn faced individual who sat on his heels in the back of the tent, and who had once, when in very different circumstances, belonged to a debating society in the old country, under the impression that he was in "Codger's hall" listening to a debate, promptly shouted, "Hear, hear!" He was promptly suppressed by having his hat jammed down over his face.

Daly continued: "If I suspected that Farquharson murdered Sexton, I couldn't help my suspicions. Besides, I didn't think of the serious fix I was getting the prisoner into when mentioning these suspicions. Of course I didn't know that he committed the murder. I may have had some words with the prisoner, but I hope there's no ill will borne on either side."

At this point I caught a glimpse of Elsie Gordon's face and fancied there was a look of disappointment on it as she listened to the hypocritical speech of her admirer, but still it could not altogether conceal a certain hint of pride as she gazed upon his cool, unchanging, devil may care countenance. I had no time or inclination to feel sorry for her. It was fortunate that I looked at her mistress, for I read in her eyes that which plainly said she had something to communicate. Instinctively I followed her gaze. It rested on my hat lying on the bench alongside. I picked it up and in the crown found a small piece of paper, which, unobserved, I unfolded and read. I had not seen it put there, but such were the distractions of the restive little crowd that any such action might easily have passed unnoticed. It was as much as I could do to suppress my surprise on reading the small, clear, firm handwriting. Though it contained what was not exactly a revelation to me, still it showed that the writer knew more about this witness than she thought it discreet just then to divulge and that her subtle brain had devised a plan by which, without precipitating matters while holding our knowledge like a sword over the witness' head, we could bring him to modify his views. As the note directed I put the question, then withdrew it. It was a strategical movement worthy of a Machiavelli.

"Now, look here, Daly," I said in a careless way, but in a tone which conveyed a note of meaning to the witness, "do you remember buying a horse and paying for it in Queensland bank notes in May last?"

"Now, look here, Daly," I said.

And here I found the right chord had been struck. In a second there was a startled, scared look in his eyes as he replied hastily and significantly:

"I can't see why you should ask me questions that have nothing to do with the case. Can't you ask me something that'll be a sight easier to answer?"

I only wished my position had been such as to follow up that question, but I did not possess the key to it, and his time had not come yet. He had, however, unfurled the white flag, and I knew that the fortress had capitulated.

I paused for a moment as if influenced by what he had said, then asked him another question.

"I think you said you only met the prisoner once before, seeing him on the Robinson river. Are you prepared to swear positively that he is the John Farquharson whom you saw on the Cloncurry?"

He paused—for the sake of appearances, I suppose—then answered slowly:

"Perhaps I spoke too positively in saying I could identify him as John Farquharson. In looking at him now it appears to me that I must have been taken in by some resemblance."

"That's to say, you admit having been mistaken by a chance resemblance?"

"I'll not swear that he's the same man," he answered.

"That will do. I've no more questions to ask."

If the magistrates and the spectators appeared not a little surprised and mystified at the turn things had taken, the girl at least showed nothing of what she thought. The next witness for the prosecution was the bottle nosed ex-skipper, Dan Smythe. For some years he had imposed his unwelcome presence on the United States and evidently thought it the proper thing to parade the fact by an unduly accentuated and exaggerated form of speech.

The sergeant drew from him that he had seen John Farquharson and Sexton together at the Cloncurry on the 9th of March last. He "guessed" that he could swear positively that the prisoner in the box was the identical John Farquharson he had seen with Sexton on the Cloncurry, no matter what he called himself now. He "guessed, reckoned and calc'lated," when interrogated by the magistrate as to the meaning or interpretation of the word "guess," that "he didn't keer a cuss, and he couldn't see it mattered a darn as to how he expressed hisself anyhow!"

When the sergeant sat down and I was about to begin my cross examination, it was noticeable that the appearance presented by the witness had aroused the latent and playful spirit of humor that was in the crowd. Possibly, as the day was warm, some of them had visited the hollow tree too often. As Smythe, the "respectable and veracious witness" had, in addition to a black eye, a strip of sticking plaster running right down his nose and an ugly trick of glancing over his left shoulder every few minutes, it was little wonder that he was an object of derision even to that crowd. One tall, travel stained, cadaverous looking native called out from the front ranks of the spectators:

He fell down in a fit.

"Steady, Dan, steady! No use looking over your left shoulder. He's not really there, you know. You only think you see him. No use anticipating the inevitable. He'll get you one day, sure enough!"

"Sergeant, have that man arrested for contempt of court," cried the magistrate. This was promptly done, to the no small amusement and evident gratification of the crowd. The offender was not popular. He had been the forcible means of making too many of them stand the drinks.

It was quite evident that Smythe was in that conditon bordering on what is felicitously termed "the horrors." Still, I could not shake the stubborn pertinacity of this witness, who clung to his assertion that the prisoner was no other than the John Farquharson he had seen with Sexton, the murdered man. Just then I found on looking down that another small piece of paper had been put into my hat. Instinctively I knew what it was and who had caused it to be put there. I picked it up carelessly and read. "Ask Smythe what he did with the half caste boy Freddy he used to have with him, and notify the magistrate that you wish to have an opportunity of examining Smythe later on in order to confront him with a witness of importance."

I looked across at Norah Mackenzie. What card was she going to play now? But her dark eyes did not betray the workings of her mind. I fancied, however, there was the ghost of a smile hovering about her lips.

I put some other question to divert attention, then asked Smythe suddenly and with as much significance in my voice as could be thrown into it what he had done with the half caste boy, Freddy?

The witness glared at me with wide open, fearful eyes for a moment without speaking. He was evidently taken by surprise.

Surprise was on my side now, for he fell down in a fit.

"I wish to give notice, your worship, that I would like to examine the witness later on in the day."

"If the witness is in a proper condition to appear," said the magistrate, "you will have an opportunity for examining him."

And now the little crowd was being rewarded for its patient attendance by the sight of this unfortunate wretch's misery. But fits are not uncommon in the vicinity of back block shanties. In relation to shanties they are purely a product of home growth. So are graveyards. Savile and a brawny trooper seized Dan Smythe and carried him out kicking and struggling. As if by magic half a dozen black bottles were produced from the inside of shirts and brandished before the sick man's face with the most reckless prodigality. It was evident that some of the whites, with praiseworthy philanthropy, did not believe in tempting the innocent savages outside by turning a hollow tree into a temporary wine cellar. They reasoned that if liquor could put Dan into such a condition it could surely fetch him out again. The women left the tent, and the police magistrate declared an adjournment for lunch. I noticed that Norah Mackenzie sent Elsie on ahead and waited outside for the two magistrates, who went with her over to the camp.

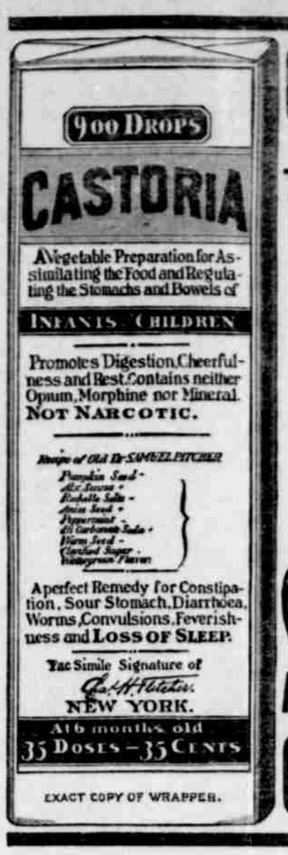
What the sergeant had said about the two Queensland bank notes being found on the body of the man killed on Scrubby creek corresponding with those taken from the murdered man Sexton fairly staggered me. That Jack had possessed no money I knew for a certainty. I had seen him, now that I taxed my recollection, take what looked like bank notes from the dead man's pocket and put them back again. Was it likely that if he had murdered and robbed Sexton and wanted to lose his identity, but anticipated discovery of his scheme, he would put such incriminating evidence as the bank notes into the pockets of the man killed by the blacks, thus virtually proving that he, John Farquharson, had murdered Sexton? The case was fast becoming a mystery even to me and baffled conjecture.

But still I cheered Jack as best I could. As to who the witness was that Norah Mackenzie spoke of bringing forward, something told me it would be unwise to ask questions. Regarding Dan Smythe's antecedents neither Jack nor I knew anything.

Before leaving my comrade I had the satisfaction of learning that Smythe had recovered from his fit, though feeling "rather queer," as the constable who had him in charge said, and who was pledged to produce him in a proper condition in the afternoon.

Then I went over to the camp, where, in the dusky shade of a great leafy tree, some little distance removed from the others, I saw Norah Mackenzie entertaining the two magistrates. I got a pannikin of tea from Savile. Daly was very quiet and, indeed, seemed as if he regretted the position in which he found himself. Gordon informed me that he felt like giving him his money and telling him to go, but the circumstances hardly justified this summary mode of procedure. As it would have defeated my project—dim, it must be confessed, of ultimate fulfillment—for eventually discovering the murderer of Sexton, I commended his views on this point. Then I had a talk with Savile and Gordon. The former somewhat briefly told me that the witness Miss Mackenzie had referred to was a black boy, at present with Percy and Scruton, the drovers, who were then on the Macarthur. I must excuse him, he explained, going too minutely at present into particulars, as doing so might only put restraints on me while giving evidence. Suffice it that this boy had once been in Smythe's employ. He handed me some questions on paper which I might ask the witness, but he begged that he—Savile—should first be sworn in as interpreter, and that no questions should be asked the boy save through him, the lad being almost a myall black and only talking a species of pigeon English. When Savile told me that he had talked to Miss Mackenzie on the subject and that this was her request, I at once acquiesced to this rather one sided form of procedure.

TO BE CONTINUED.]



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