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*A Profitable Murder*

HAD it not been for a murder and robbery on Sunday, 26 March 1848, the University of Queensland would not be sited at St Lucia. It would most likely have occupied a more cramped campus at Gilchrist Avenue, Victoria Park, adjoining the Brisbane General Hospital. An innocent man was hanged for the crime. The murderer confessed in August, 1865. This is not a pleasant story. It is as macabre as a Greek Tragedy. Its ghastly consequences fell on the shoulders of others, not least on the murderer's youngest son and daughter who fought hard to redeem their family name and honour. A hostile community made sure they failed in this, but their generosity which benefited that community shows that an evil act can sometimes lead to good consequences.

Ever since that deathbed confession there has been speculation about the identity of the victim, and the many fanciful stories which have been repeated about the murderer and the crime. Such stories still abound. It is important to dispel the myths and reveal the details of the inquest to see what really happened.



On Monday, 27 March 1848, the people of Brisbane town were shocked to learn of an exceptionally brutal murder at Kangaroo Point. The victim was Robert Cox, a sawyer, who a few days before had arrived from the Tweed River area with a friend, Richard Smith. In the pre-dawn hours of Sunday morning he had been stabbed in the right side, the chest, neck and belly by a knife which left wounds an inch wide and three inches deep. The body had been expertly butchered.

An early morning boatman and his family, rowing down the Brisbane River, were horrified to see the legs and loins of a body, well below high-water mark, at the bottom of Rankin's garden at the end of Main Street. At eight o'clock a hastily roused Constable Murphy found the arms and upper torso in grass three metres away. Several local residents, many of them regular customers at the adjoining Bush Inn, at the corner of Main and Holman Streets, were drawn by the commotion and quickly arrived at the scene to join the search for the head. A dog eventually led them to where it was propped between two joists in a nearby unfinished building belonging to Mr Colin

Campbell. When the head was picked up it was still bleeding. Constable Murphy had the body reassembled at the Bush Inn and called the surgeon, Kearsley Cannon. He reported that the abdomen had been cut open with a large knife and the spine divided with an axe or similar instrument. The chest had been opened from top to bottom and on the right side. The cartilages of the ribs had been divided with a strong knife and the head severed in a similar manner to the two parts of the body. Surgeon Cannon added that from the mutilated state of the body it was impossible to say in which manner the deceased was murdered.

From the well in the backyard of the hotel and across the dividing fence to Rankin's garden, where the body was found, the grass was heavily bloodstained. When a helpful bystander descended the well on a ladder he found some of Cox's intestines, a table-knife and three shirts and a towel, all bloodstained. The water in the well and in a bucket at the top was heavily contaminated with blood. Black trackers were called, and James Davis (Duramboi), a former convict who had lived for some years with a tribe of Aborigines and was now a blacksmith at Kangaroo Point, reported that the murder had occurred between the hotel and the fence. From the rapidly growing group of bystanders, a Mr Nosely identified the body as Robert Cox, who had a bed at his house. A butcher from the slaughterhouse, William Lynch, said that Cox had stayed at his house on Friday night. Questioned by Constable Murphy, Lynch appeared agitated, his countenance

changed from red to pale. The constable arrested both Nosely and Lynch.

Some hotel patrons, the licensee William Sutton, and his daughter Charlotte Sutton, had seen Cox early on Saturday evening asleep in the bed of the hotel cook, William Fyfe. Many years earlier, Cox and Fyfe had been convicts at Moreton Bay and they were still very close friends. Since coming to Brisbane town, Cox had been steadily drinking to cut out a £4 money order which he had given to the publican at the Bush Inn. Later, at the inquest, a hotel patron, Thomas Gnessill, said in evidence that he had seen Cox and Fyfe together several times in the preceding days and they were "like brothers". Constable Murphy immediately searched Fyfe's room; among his dirty clothes he found a towel marked with blood. In later evidence, Charlotte Sutton mentioned that Fyfe's lips had looked very sore and bleeding, something that Murphy must have noticed. Nevertheless, he promptly arrested Fyfe. Shortly afterwards, the constable took into custody the licensee William Sutton, and William Holt, a hotel resident who had been awake until four in the morning and had heard nothing. The next to be arrested were two mates of the butcher, William Lynch — George Platt and a barely sober John Connell. The latter had spent part of Saturday drunk on the hotel kitchen floor and all of that night drunk on the taproom table.

A grand jury was hastily assembled at Sutton's Hotel to examine the suspects and decide if there was sufficient evidence to send any of them to Sydney to be tried. A key

player in the events, the publican, had earlier told Constable Murphy that he thought his cook, Fyfe, was the villain. Now he added that he saw someone who he supposed was Cox in Fyfe's bed at eleven o'clock when he locked up for the night and went to bed. Fyfe was still up at about one o'clock when Sutton was aroused by three customers wanting a drink. They were regular patrons who had been in the hotel earlier in the evening. From her bedroom, Charlotte Sutton recognised the voices as those of three local butchers: William Lynch, George Platt and Patrick Mayne. All three had been drinking at the hotel earlier. Now they went on drinking for some time. They later declared that they saw and heard nothing, except for the snores of John Connell, in a drunken stupor on the tap-room table. In evidence, Platt swore that he and Sutton were sober, leaving the inference that Lynch and Mayne were not. If this was so, it is surprising that Patrick Mayne's very plausible evidence was so precise about the time they arrived and left the hotel and the length of time he afterwards spent at his lodgings conversing with his two workmates, Lynch and Platt. According to Mayne, they drank for a short time in the early evening, returned to the hotel at twenty minutes to one on Sunday morning and drank ginger beer and wine until three o'clock, at which time they went to his lodgings and conversed until four o'clock. Miss Charlotte Sutton's evidence put the time of their arrival at about midnight and their leaving about an hour later. Fyfe, the cook, was still up when they left and asked Sutton for a glass of beer, saying: "That fellow Cox

has gone." As both the hotel and the back gate had been locked for the night at eleven o'clock, Sutton asked how he went. "He went over the gate at half-past twelve," he was told.

The young son of Sutton's neighbour, Rankin, in whose yard the body was found, said that when answering a call of nature in their backyard during the night, he had seen a tall man in white with a big straw hat standing by his father's fence. He thought it was Mr Sutton, the publican.

Altogether seven people were arrested: Nosely, with whom Cox boarded; the butchers Lynch and Platt; Fyfe, the cook; hotel patrons Holt and Connell, and the publican, Sutton. Unlike the other local residents who patronised the Bush Inn, Patrick Mayne did not appear on Sunday morning to gawp and give advice. He dropped from view until he was called on the third day to give evidence. One by one the arrested men were released. Finally the publican, Sutton, and his cook, Fyfe, were the only two facing the jury. Fyfe was the chief suspect.

Cox's travelling companion, Richard Smith, told the jury that before they came north, Cox had cut and sold to a Tweed boatyard sixteen or seventeen thousand feet of cedar. Although Cox had given a £4 money order to Mr Sutton to be cut out in drinks, Smith believed that since Cox had no intention of returning to the Tweed district, he had with him the money he had received from the sale of the cedar. The amount was never mentioned and the money was never found. The value of cedar at about that time was fourpence halfpenny or fivepence per foot; it

seems reasonable to assume that Cox would have sold his cedar for between £300 and £350, a considerable sum of money at that time.

As Cox had been drinking at the Inn for the past four days it is not unreasonable to accept that others may have been told of the money: Nosely and Lynch, at whose houses he had slept; Mayne and Platt; his close friend, Fyfe, and the many other regular drinkers at the Bush Inn. At three o'clock on Saturday afternoon, Charlotte Sutton and some of the customers at the Inn heard the drunken Cox accuse his friend Fyfe of having robbed him. This Fyfe hotly denied, but Charlotte told her father of the argument. The Suttons did not believe Cox had any money, but it was a good story to pass around the bar and would have been heard by the three butchers — Lynch, Platt, and Mayne, who later returned for post-midnight drinks. There were many opportunities for others to learn about the cedar sale and consider Robert Cox to be worth robbing.

Brisbane at that time was a rough frontier town of rough men. The Bush Inn was a rowdy hotel; the day before the murder Constable Beardmore had arrested the publican, Sutton, for drunkenness. Many of the customers were known to have fled to Australia from a deprived and hungry homeland; many others, ex-convicts, carried a ticket-of-leave. The paucity of women in the colony meant that few had any stable home or family life. They lived and worked under conditions where the solace of drinking their hard-earned wages was the

only mind-easing outlet they had. A windfall of money could be the start of a new and better life. This was something they dreamed of; for some, it was the reason they were in Australia. They knew very well that the embryonic colony was a land where those who used their wits as well as their brawn were the ones likely to succeed.

As the evidence unfolded, the Chief Constable, William Fitzpatrick, was not of a mind to allow a crime as savage as this to remain unsolved. He seemed determined to secure a verdict against the cook, William Fyfe. Constable Murphy gave evidence that although on Sunday he had found only a towel with blood stains on it in Fyfe's room, the following Wednesday, when he was again directed to search the room and kitchen and take up one of the floorboards, he found a blood-stained child's shoe, a piece of paper, and bloodstains on the floor. In the kitchen oven he found some burnt buttons, and clothing largely burnt to a white ash. Cross-examined by the prisoner Fyfe, Murphy said that he could not swear that all the clothes he saw in the oven were there when he searched the kitchen three days earlier. He also told the jury that when Fyfe was brought from the lock-up to be confronted with this new "evidence", he seemed dumbfounded. With similar honesty, Murphy stated that on Sunday morning, when Fyfe had lifted the severed head by the hair and identified it as his friend Cox, his hand shook and he was much agitated. Murphy thought that was "because of the awfulness of the spectacle".

Fyfe's former employer, Robert Douglas, told the jury

that Fyfe behaved well and was honest, but was sacked because he got drunk when he (Douglas) was absent. Charlotte Sutton also said that Fyfe was a good servant when sober. In addition, nine local people who were up and about and spoke to the cook between dawn and seven o'clock on Sunday morning said that they noticed nothing remarkable about him. His behaviour seemed as usual to the three washerwomen to whom he made early calls to collect his laundry, and to John McGrath, William Holt, John McGarry, James Jennings, Charlotte Sutton, and George Croft. Croft, who had arrived at a quarter to five on Sunday morning to deliver ginger beer to the Bush Inn, said the ashes of the burnt clothes produced in the court could not have been the result of Fyfe burning them in the oven on Sunday morning. When he arrived, the oven was cold; Fyfe was just lighting it. The ash produced for the jury would have needed an oven hot enough to cook a dinner. A fact that attracted little attention was that on Sunday morning both Charlotte Sutton and a local, John McGrath, who called at six o'clock for a light, saw Nosely and Lynch at the front door of the hotel. A full hour before the body was discovered they had come to enquire if Cox, the victim, was there.

Much of the case against Fyfe rested on the fact that before seven o'clock on Sunday morning he asked Charlotte Sutton for a clean shirt as his had not come back from the washerwoman. In addition he had been seen cleaning out his room with a cloth. At first the jury could not agree, but on Thursday brought in a verdict of wilful

murder against Fyfe. To the end there was division of opinion about the innocence of Sutton, but nine of the twelve believed the publican innocent and he was freed. On 12 April the cook, William Fyfe, was sent to Sydney where he faced a judge at Central Criminal Court on 5 June 1848.

In Fyfe's signed statement to the jury before he was committed for trial in Sydney he pointed out that all his clothes which were supposed to have been burnt or found in the well were eventually found elsewhere, without bloodstains and intact. Because the murdered Cox had slept in his bed, his room was thought to be the scene of the murder, but on Sunday nothing was found there except a blood-marked sheet and two towels, stained from Fyfe's bleeding lips. The fact was that in the hotel yard a great amount of blood was traced through long grass and over some chips. From Sunday to Wednesday, while Fyfe was in custody, the kitchen had been unguarded and open to anyone, but on that Wednesday when he was taken from the lock-up to the hotel, the Chief Constable had found blood under his bed. Had it been there all the time, it could have been seen on Sunday by Constable Murphy without raising the floorboards. Fyfe added, "It has been stated in evidence against me that I washed and swept my sleeping room on Sunday, which was not usual. Had I seen the blood, I should have washed that first."

Fyfe's statement carried no weight with the jury. However, in the absence of a motive, few Brisbane townsmen believed he was guilty, and reports in the *Moreton Bay*

*Courier* and the *Sydney Morning Herald* echoed that uncertainty. Twelve days after Fyfe was committed, a lawyer, John Humphries, voluntarily gave a signed statement to Captain John Wickham in which he said that on the Saturday afternoon before the Cox murder, Fyfe had come to him to borrow a clean shirt as all of his were dirty and with the washerwoman. He lent him a white shirt and Fyfe returned to the Bush Inn. Captain Wickham forwarded this statement to the court in Sydney, but it carried no weight either. This is surprising, as on 15 June, in Sydney, the same circumstantial evidence as that produced in Brisbane caused the trial judge to comment that the circumstantial evidence was remarkable, and he severely censured the Brisbane policemen for their neglect in not taking charge and locking the cook's room at Sutton's hotel.

In Sydney, on 4 July 1848, Fyfe protested his innocence to the end and walked to the gallows with great dignity. A speech he had planned to deliver on the scaffold was taken from him; and, before a crowd of some four thousand people, he suffered broken bones and flesh wounds in a mismanaged hanging before he died.

In August 1865, during his dying days, Alderman Patrick Mayne, butcher, of Queen Street, Brisbane, then aged forty-one, confessed to the crime committed seventeen years ago.



Some intriguing anomalies surrounding the Cox murder

which were obvious in the evidence suggest that several people knew more than they admitted — and that the jury was not very attentive to the finer points of the witnesses' testimony. All the main witnesses seemed to have been uninterested in sleep on that eventful night. At six o'clock on Sunday morning, a full hour before the boatman discovered the murder, John McGrath saw Lynch and Nosely at the Bush Inn looking for Robert Cox; they both knew he had been asleep in Fyfe's bed on Saturday night and was unlikely to return to either of their lodgings to sleep. By Mayne's testimony, his fellow butchers Lynch and Platt had been with him until four o'clock on Sunday morning. Nor did Sutton seem to have needed much sleep. Although unsure of the precise times, he said that he went to bed at eleven o'clock, got up at one o'clock, drank with the three butchers until three o'clock, then talked to his cook. He was up and fully dressed at five o'clock when Croft delivered the ginger beer. When the black-trackers were asked to trace the blood, Sutton refused to allow them into his premises. Young John Rankin based his identification of Sutton on the fact that he saw a tall man wearing white and a big straw hat. Mayne was tall and, like most men in Brisbane town, wore a big straw hat.

Of all those questioned who had been drinking for much of the weekend, Mayne was the only one who was precise about time. There was probably a clock at the hotel, but it is doubtful that the twenty-three year old employee from the slaughterhouse owned a timepiece which enabled him to state that they talked at his lodgings

until four in the morning. He was living very close to the hotel, yet on Sunday morning he was the only one of the group who did not gather with the many locals at the scene of the crime. He was also the only man closely involved with the events of the night before who was not arrested. It is not beyond the realms of possibility that the three butchers — Mayne, Lynch and Platt — believing that Cox had money and that, together with Fyfe, was drunk and asleep, decided to come back to the hotel after midnight and gain access to the cook's bedroom for a spot of easy robbery. When they discovered Cox had gone from the hotel, there may have been hope that a few drinks with the publican would elicit his whereabouts. It also seems reasonable to speculate that when the drunken Cox left Fyfe's bed, he got little further than the hotel backyard before collapsing in a drunken stupor. In that state and in that place he was murdered.

George Croft, a nearby Kangaroo Point resident, heard cries in the night. Those sleeping in the hotel heard nothing and declared that had any noise been made downstairs it would have been heard throughout the building. Had any one of the three butchers who lived and worked near the hotel wanted to implicate the suspect further and divert suspicion from himself, he had ready access to blood at the slaughterhouse, with which to stain the clothes and floor of the cook's bedroom during the absence in the lock-up of both Fyfe and Sutton. Only one of the butchers, Patrick Mayne, was not in the lock-up. No questions were asked as to how, three days after the cook's

room had been searched, Chief Constable William Fitzpatrick went back to the deserted room and was able to find bloodstains on the floor and on linen, and in the kitchen the remains of burnt clothes in the oven. No one asked who else might have put them there, or why.

The murder had to have been committed after midnight. The carving up of the body in the manner of a slaughtered beast suggests the murderer was a trained butcher. It is difficult to imagine that Mayne could have perpetrated such a time-consuming crime and been at the hotel during the hours he stated. It seems more reasonable to accept the times given by the only certain sober witness, Charlotte Sutton, who said the three butchers arrived at about midnight and left an hour later. Her stated times make feasible Patrick Mayne's deathbed confession to the murder of Robert Cox.

Nine months after Fyfe was executed, Mayne, now twenty-four, married Mary McIntosh. A few months later he produced the equivalent of five or six years' wages, sufficient money to purchase the shop and business goodwill of the Queen Street butcher James Newbould, then purchase stock and equipment and begin trading.