

## **A Story from the Adelaide Gaol**

### **Robert Johnston – Executed 18 November 1881.**

#### **May 17th, 1881, by Telegraph.**

The Adelaide daily Register newspaper broke the news that a Police Trooper had been assaulted and stabbed during the arrest of a man named Robert Johnston and the Police Trooper, Harry Edmond Pearce, was in a critical condition at Kingston South East.

The story unfolded that the policeman had gone to a house that morning, 7 miles from Kingston, to arrest Johnston for supplying liquor to the Aborigines at Wellington.

Pearce went to a Mrs Smith's house several miles from Kingston and, on arrival, asked if Johnston was there. Mrs Smith replied 'Yes' and went inside to get him.

Johnston came out and Pearce spoke to him. Pearce advised him of the charge.

Johnston saddled his horse and they both rode off towards Kingston. During the ride back to Kingston, Pearce told Johnston that he was also enquiring into the disappearance of several horses. After having ridden 5 miles, Johnston stopped his horse and got off. Pearce told him to remount. Johnston refused so Pearce dismounted and warned him to behave himself or he would put irons on him. Pearce then turned his back to remount his horse when suddenly Johnston began stabbing Pearce in a frenzy.

A struggle took place and Pearce's hands were badly cut. Johnston slashed his knife across the policeman's stomach and Pearce fell wounded and unable to rise. Johnston removed the policeman's firearm and threw it into the grass nearby. He then turned Pearce's horse loose.

Johnston mounted his horse and rode off, leaving Pearce lying some distance off the road in long grass.

William Dungey, of Kingston, was driving two horses along the road that morning when he passed a dray. His horse shied whilst passing the dray and at that instant he thought he heard a "cooee" call from somewhere nearby. He stopped and listened, but could not hear or see anything. He had just started to ride on when he saw a hand in the long grass off the roadway waving a handkerchief. Riding over to investigate, he found the policeman lying in a pool of blood.

William Dungey said, "Good God! Mr Pearce! What is up?" Pearce said that a prisoner had stabbed him. Dungey called to the dray drivers to come over and help the wounded police officer, then left them there while he went into Kingston to tell Sergeant Morris what had happened.

Morris made arrangements for the reception of Pearce, then, accompanied by locals Mr Redman and Mr Peck, drove a buckboard out to the location where Pearce was. Trooper Pearce was then removed back to Kingston.

Sergeant Morris, accompanied by Peter Anderson, then left on the trail of

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Johnston. When they were 5 miles beyond Kingston and one mile off the Naracoorte road, they caught up to Johnston who offered no resistance. Johnston obviously thought that Pearce had not yet been found.

Sergeant Morris asked him his name. He replied, "Robert Johnston."

Morris said, "You are charged with supplying liquor to the Blacks at Wellington, and suspicion of horse theft." Morris then cautioned him.

Johnston replied, "You are making a mistake."

Morris searched the prisoner and in his pocket found letters addressed to William Nugent. He also found a knife with bloodstains on it, and money to the value of 17 pounds. Johnston also had 5 horses, one of which had possibly been stolen from Yongala.

Morris then charged him with the attempted murder of Pearce.

Meanwhile, Pearce had been taken into Kingston.

Morris took Johnston to Pearce's bedside where Pearce identified Johnston as the person who assaulted him. Pearce said, "That's the man, and that's the knife." The prisoner did not reply. Two witnesses were present; Mr Gell and Mr Gibson.

John Knox, Station Master at the rail depot rendered assistance to Pearce. He found that the stomach organs were protruding from the wound. He dressed it and his hands as best he could, there being no doctor available.

Doctor Gunning, of Naracoorte, was informed, and arrived on the next train. On examining Pearce, he found a weak pulse but said that Pearce's mind was quite clear. The doctor did what he could, but no hope was held for a recovery. Pearce's parents in Adelaide were advised on what had happened to their son.

Two days later, the Honorable J. Pearce, accompanied by doctor A. Wigg, from Norwood, arrived in Kingston. The Hon. Pearce was Trooper Pearce's father.

Shortly after 9.00pm on the Wednesday night, Trooper Pearce died.

Arrangements were made for the body to be taken to Robe and placed on board the ship S.S. Euro for return to Adelaide.

An inquest was held the next day. Mr Charles Gell, J.P., presided over the inquest on the body of Harry Edmond Pearce who recently died from injuries inflicted by Robert Johnston a prisoner in charge who had been charged with supplying liquor to Aborigines.

Inspector Hunt presented the case for the Crown. Sergeant Dunn was in charge of the prisoner. The jury was then sworn in.

The Crown called witnesses to give evidence of finding the Trooper and Mrs Smith told the jury what had taken place at her house between Pearce and Johnston. Sergeant Morris related how he had detained Johnston.

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The deposition of Police Trooper Pearce was then read to the court. It had been sworn before Messrs C. Gell, J.P., and G.A.F. Marshall, J.P.

"It began at 5.00am this morning. I went to Mrs Smith's where Robert Johnston was stopping. I woke him up and accused him of selling drink to the blacks at Wellington.

At 7.00am we left for Kingston. When about opposite the fourth mile post, Johnston got off his horse and said 'I will go no further'. I got off also and told him I would handcuff him if he would not come. He then said 'There is no necessity. I will go without.'

I turned around to unhitch my horse from a log when he tackled me with a long knife and stuck me in some part of my body. I grabbed for the knife and cut my fingers and could not use my revolver. He struck at me several times. I wrestled with him. He tried to cut my throat, but I rolled around. We then got on our legs he struck me in the abdomen.

I felt faint and reeled. He said 'I am bloody well off and you can die'.

He then unsaddled and unbridled my mare and turned her adrift, and unloaded my revolver. He left then, mounted his own horse and rode away. The following is a description of the prisoner; about 5 foot 10 inches high, reddish whiskers, two month's growth of hair on the chin, dressed in moleskin trousers of a reddish shade, rode a bay horse and led 2 others, had a blue swag on saddle.

Signed by Harry Pearce."

Throughout the inquest Johnston had declined to cross examine witnesses and made no statement. When asked if he had anything to say he remained sullen and silent and only shook his head.

In his summing up the Coroner said he was satisfied that there would be no doubt in the minds of the jury as to the cause of death. The chain of evidence was complete.

The jury, after a short retirement returned the verdict that Harry Pearce died from wounds wilfully and maliciously inflicted by the prisoner at the bar, Robert Johnston.

Johnston was committed to trial at the next Naracoorte Circuit Sessions on a charge of wilful murder. Johnston was then removed to Robe Gaol by Trooper Hayes.

On Friday October 21st, 1881, Robert Johnston, alias Nugent, pleaded not guilty to the charge of murdering Harry Edmond Pearce, Police Trooper on the 18th of May, near Kingston South East. The case was heard by Mr Justice Andrews, Mr Mann, Q.C., for the Prosecution, and for the Defence, Mr Nicholson and Mr Moore. A jury of 12 local men was then sworn in.

The Crown opened with evidence from Corporal Thomas Solley, of Wellington, who stated that on the 11th of May he had locked up some Natives for drinking. He asked them who had supplied them with the liquor

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and they told him Johnston had. He then went to Johnston and told him he would be charged with the offence.

Solley also suspected that one of the horses with Johnston was stolen as it had been gazetted as having been stolen from Yongala.

Johnston asked if the charge could be heard that day as he wanted to be away from Wellington that day, to go ploughing at Salt Creek. Solley then went to the court house to make arrangements for the case to be heard.

Johnston did not turn up.

Solley then telegraphed a message to Sergeant Morris at Kingston, setting out the charges against Johnston. Sergeant Morris then gave the warrant to Trooper Pearce to execute it.

Three days after Johnston had left Wellington, he turned up at Salt Creek. Evidence was given that Johnston had remarked to Joseph Walker of Salt Creek that he had supplied drink to natives at Wellington and that the police were after him.

"I pity the poor police that overtake me on the road."

The Crown then called witnesses to the finding of Trooper Pearce off the road verge and the capture of Johnston. The evidence given at the Inquest was again given. Altogether, the Crown called 16 persons to the stand.

The defence stated that Pearce had had no right to arrest Johnston as he had no warrant. There was no evidence to show that the prisoner had intended to commit murder. They had left Smith's place on good terms. It was known that Pearce was a Trooper (although he was not in uniform at the time), and that Pearce had given two versions of his story; one, that Johnston had gotten off his horse to light his pipe, and the other that he got off and said he would go no further.

The defence said that if the murder was planned, he would not have done it so close to the Adelaide road where the body could be easily found and pursuit given quickly.

His Honour, in his summing up said that, while the jury would give the prisoner the benefit of any reasonable doubts, those doubts must be such as would influence them in the conduct of their own business.

When a servant of the Crown was killed the law presumed malice, and it was for the prisoner to bring evidence to the contrary before the crime could be considered one of manslaughter.

It was possible that the policeman had exceeded his duty, and might have been anxious to hide it, but the statement of the deceased had been corroborated in several important statements.

The objection of the warrant was no objection at all. It was sufficient that Pearce had a reasonable ground to believe one had been issued and this was by the telegraph message given to him by Sergeant Morris. If the wounds had been inflicted accidentally in a scuffle, then the prisoner would have assisted

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him. His Honour concluded by telling the jury that if they were guided by the evidence, they must bring in a verdict of murder.

The jury retired for 15 minutes before returning with a guilty verdict.

The prisoner was then sentenced to death. Johnston betrayed no sign of emotion or nervousness.

A week after the murder, Trooper Pearce, the son of the Honorable J. Pearce, was laid to rest in the Walkerville Cemetery on a Sunday morning. The cortege was a long one, accompanied by Foot police and Mounted Troopers. Among the police contingent were W.J. Peterswald, Superintendent of Police, and relatives of the deceased.

The funeral procession had left for the cemetery from the home of Mr J.B. Scott at Collegetown at 11.00am, arriving at 12.00 noon.

On the 18th of November, the Sheriff, Mr W.R. Boothby and Mr Howell, Keeper of the Adelaide Gaol, arrived at the Mount Gambier Gaol at 7.30am for the execution of Robert Johnston.

At 10 minutes to eight o'clock, the Sheriff read the warrant for the execution in the presence of several mounted troopers and official witnesses.

At 8.00am the executioner went into the cell occupied by Johnston and pinioned his arms, then, led by two police Troopers, he was taken into a yard on the western side of the Gaol where the gallows had been erected.

Present at the gallows were 15 persons, including Johnston, who was attended by the Reverend Father Hennessy. The prisoner ascended the gallows steps.

The executioner wore a black crepe mask to hide his identity.

The weather being cold and wet, the scene was a bleak one.

The rope was placed around Johnston's neck and, while the hood was being placed on his head, the prisoner said to the Reverend, "See that my body is put in consecrated ground."

The Sheriff gave the signal to the executioner to pull the lever and Johnston's body dropped the prescribed distance.

The Hangman's knot was the 'new' type of noose adopted by the English executioner, William Marwood of London. Instead of the old knot, the end of the rope is spliced neatly round a ring and the other end of the rope being passed through this ring.

The body was allowed to hang for one hour then was taken down and an inquest held by the Coroner. The body was then buried in the Gaol grounds.

Johnston, whose real name was Nugent, was a 45 year old Irishman of the Catholic faith. Johnston was a widower and had 4 children who were being cared for by their Grandmother in Victoria.

Johnston's brother, a quarryman from Victoria, caused some concern before

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the execution by uttering threats against anyone speaking ill about his brother.

Johnston had at one time worked on the railway at Terowie and Hallet in the mid north of the State.

Before the execution, police were called in from Penola, Naracoorte, and McDonald Bay in case of any trouble, but according to news reports there was not the slightest excitement in the town.

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