

to shoot- you Devine for you have
always been tracking me, you are
worse than a black tracker you have
been closer to me than any man
I said to prisoner where's your brother
and the other two men, the prisoner
whistled, the three other walked
up armed with revolvers Dan, Harry
& Byrne. Devine and I were unarmed
in our shirts & trousers we had
been in bed prisoner took us inside
and said have you any arms?
there were two Army rifles a Colts
revolver and one revolver of my own
prisoner took them and took us
into the dining room and said
I intend to rob the Bank at Jendlerie

Devine questioned him about the
murders in Victoria prisoner said
there's been a reward of £100 offered
for my shooting Fitzpatrick which
I am not guilty of I was one or two
hundred miles distant when this
occurred. Fitzpatrick came to arrest
my brother Dan for horse stealing
and my mother being then asked
if he had a warrant for arrest of
her son Dan Fitzpatrick said no.
my mother said you can't take
Dan and if 'Red' was there you
dare not - and looking round said
here's 'Red' coming he looked round
Dan put his arm over took the
revolver from him in the scuffle, in

went off and shot him in the
mit- I did not shoot him. The
reason I shot the serpent, Longman
and Sculm was to get their horses
and arms and make a rise. The
police were persecuting me and
was resolved to revenge myself.

The serpent jumped off his horse
and got behind. the prisoner had
a beautiful gold watch he said
this is the serpents watch I intend
to return it to Mrs Kennedy in the
course of time.

Xexd I was not examined at Buck:
worth. After prisoner covered us
with woolen Devins wife ran
out and said for Gods sake don't

shoot my husband prisoner
said don't be afraid I won't shoot
him. Four Victorian emigrants in
plain clothes were at the Loamwal
punt in Decr 1878. They wanted
to cross, the punterman crossed in
his punt he came back, Coleman
in charge of the party I proposed
we should challenge them in the
punt and if they did not give
a satisfactory answer we should
fire at them, when taken I did
not say to prisoner I suppose you
are going to make it hot for me
I recognised Dan by the photograph
I had seen when the three men
walked up I said this is your

brother Dan. prisoner said, yes,

I did not present my Carbine at
Loomwal and Coleman did not
shake it up in the air. They crossed
prisoner was not with them. During

the same night - had a ^{further} ~~few~~ conversation
about the four other Constables. At

Edward Levey, Clerk in the Bank of New

South Wales, at Scilderie On the
10 Feb. 7 1879 about noon on Sunday
saw prisoner in the Bank he had
a revolver in his hand he said
what money have you in the Bank

I said, about £900 or a £1000 -

prisoner said you have more you
have got £10,000. I said that's all
we have. I laughed at the idea

of £10,000. he came into the Banking
Chamber looked into the drawers
where I had letters and cash and
said what- for arms have you. I
said we have none prisoner said
you have you'll have to produce
them I'll do something if you don't.

I then gave him the revolver I
had in the drawer he took the
money in the drawer put it into
a bag then looked at the safe
seeing two drawers I opened one
in it were a few trinkets of jewellery
he tried to open the second I could
not and said so I had not a
key the man with him said break
it open I said you had better fetch

the manager he did Mr Tarkenton
came from the Hotel we opened it
prisoner took £1200 or £1500 -
after this a few minutes in the
Hotel at the Bar the prisoner said
the gun I shot the police with in
the Wombat Hills was an old one
but a good one it would shoot
round a corner it had been
broken and bound up. Stock was
tied on both barrels by string or
wire this revolver in his or his
brother's hand was taken from
the police. I then went with
prisoner and constable Richards
to the newspaper proprietor he was
not at home found his wife

he offered her a statement - which
as he said he wanted to have printed
she would not take it - he gave it to
me.

Next Portraits were published I read the
paper some time after I gave it to
the police I cannot tell if it was
in the prisoner's hand then was
a life policy of mine in the Bank
I asked him for it - he did not
give it - he left it in the possession
of the Bank. I did not hear him
say he was living close to the place
where the police were.

John Taiton, Clerk in the Bank of New
South Wales, Manager at Scilderie
On the 10 Feb 1879. Monday 11.

A.M. I saw the prisoner I was having
a bath Levy brought in two men
prisoner was me he said we are
shick up at last the Kellys are here
I said nonsense, they walked in
the prisoner and Hart had a
revolver in each hand prisoner
said come along I want you I
said I can't until I've had my
bath he left Hart remained until
I had finished when I came
out he took me to the hotel in
the bar parlor 20 or 30 people
prisoners Dan and Hart on guard
Armed prisoner in the bar made
a sort of speech in which he
said its all very well for people

to talk of my shooting these men
in cold blood I did it in self-
defence I have been persecuted by
by the police ever since I was a lad
of 14 and have been driven to be
an out-law. This revolver was taken
from Lonnigan after he was shot.
I shot him, Lonnigan and Sgt-Kennedy
He mentioned Const. MacIntyre and
said there were only two of us there
my brother and I. Hart and
Byrne were some miles away at
their own Camp. The impression
on my own mind is that he did
all the shooting himself.

Next He said this with the intention
of taking all the blame upon himself

he said we had a camp four
or some miles off when the police
were shot I don't remember his
~~saying~~ mentioning Fitzpatrick he
spoke of persecution of his whole
family.

John Kelly Senior Constable at Richmond

20 June at 7. a.m. at Benalla
saw prisoner at Glenrowan I was
at the north east side of Jones' Hotel
at daylight he made his appearance
in the bush wore an oil skin coat
which came below his knees. On his
head an helmet of iron like a nail
can, (produced) and pads on
his shoulders the police said go
back he came forward with a

revolver in his hand I did not
know him I said to the police if
he does not go back or reply shoot
him at 3 a m that morning
the police had been fired at from
the veranda and Hart wounded
the prisoner fired a revolver at some
of the police Phillips or Arthur
were nearest to him they returned
the fire several constables fired did
not appear to do him any harm
I said he is ball proof he advanced
firing and went behind a tree
I was with Dowsett his hand was
outside the tree I said there is a chance
for you. I fired missed again he
went from the behind a log seemed

greatly exhausted Supt Steele came
and fired at him Prisoner staggered
Steele fired a second time prisoner
fell, Steele ran up caught him by
the wrist. I ran up with the others
Steele said by G- its Red Kelley
breast-plate produced. made of plough
mould boards Hugh Lemon's name
on it 19 bullet marks on it. When
the police were firing he said come
on you B? you can't harm me
he struck the butt of his revolver
against the plate prisoner said
to Const: Bracken I never did you
any harm, Save me, I saved you
Dwyer kicked him and said you
scoundrel after shooting my comrades

Said you showed my little money
to poor Kennedy and Scanton —
prisoner said I had to shoot them or
they would have shot me I searched
him found Silver Geneva watch
Said have you Sept Kennedy's watch
prisoner said no. Said tell me
where it is prisoner said no I would
not like to be was taken to the
railway station remained there
till 5 P.M. then to Benalla to the
lock up in my charge On the 29th
I was present with McIntyre at 7 A.M.
Said Ned do you know this man
prisoner said its Flood isn't it?
McIntyre said the last time we
met Ned you took me to be Flood

prisoner said Oh its MacIntyre I know
you now MacIntyre said I've suffered
a good deal over this affair was my
statement correct? prisoner said it
was MacIntyre said did I not tell
you on that occasion I'd rather be
shot myself than tell you anything
about the other men if you were
going to shoot them, prisoner said, yes
MacIntyre said you had my chest covered
with a rifle at the time you turned
round and shot Lomigan prisoner
said No Lomigan was behind a
log and had a revolver pointed
at me at the time I shot him
MacIntyre said its all nonsense he
had not why did you come near

us. when you knew where we were
prisoner said you'd soon find us
out when you knew where we were
and would have shot us. our horses
were bad we had no money and
we wanted to make a rise on the
same morning before that between
3 and 6 A.M. I const. Ryan within
hearing prisoner rolled off mattress
we put him on the mattress again
he asked for a drink I gave him some
milk and water I said Ned, it's
all up now what about Fitzpatrick's
statement prisoner said his statement
is correct I shot him.

Next I heard Const. James had
found ground cleared near Wombat.

Ranges Hut - was burnt down trees
marked with bullets.

Sgt Steele, Sgt at Wangaratta engaged
looking for prisoner and party 5 A.M.
on Monday 20 June. Reached Glen-
rowan I saw a figure coming down
towards Louis Hotel in my rear I
thought it like a black fellow he
exposed a revolver and fired at a
policeman 25 or 30 yards from him
he still advance and sat down by some
trees and appeared to be loading
I advanced when within 22 yards
he fired with his revolver at me
then turned to his left and walked
across me in front of the railway
station he said far away you B?

you can't hurt me. struck his
apron with his revolver calling to
those in the Hotel come out boys.
and we'll whip the lot of them
he fired about 3 shots before he sat
down. I went towards him I said.
to the men there's no good firing at
him rush him I saw bullets strike
his armour and fall. he had
fired two or three shots before I called
out. I fired and struck him on the
right knee he was about to fire
at me I fired again hit him in
the right hip and he fell his helmet
fell off. I ran up caught him by
the throat and said, "I said I
'd be in at the death of you"

the constables came up and
said let me shoot him prisoner
said don't kill me I never hurt
any of you some one said you did
not show Kennedy and Longain
much mercy prisoner said that's
right enough if I had not shot them
they would have shot me. We removed
the armor found silver watch
some one said where's Capt Kennedy's
watch prisoner said I won't tell,
it won't do for me to tell, some one
said what did you intend to do on
the wreck of the train prisoner said
shoot every body one that escaped
he said but there might have
been civilians in it. prisoner said

they had no right to travel with
the police I saw the rails taken
up he said is it true you shot you
Fitzpatrick prisoner said yes I shot
him right enough.

Next I saw prisoner about 6.45 a.m.

I arrived at 5 a.m. firing commenced
about 5.20 a.m. I fired at a man
who came out of the Hotel I thought
6 men, 5 or 6 came with Mr Hare
and black trackers police were
arriving until 2 P.M. The man
I fired at was Rardon I told
him to hold up his hands I
thought he was one of the outlaws.
I saw splinters from wood work
of the Hotel shuck off by bullets

a woman came out I told her to
run by she did I told her she
would not be hurt and told the
people in the house they would
not be molested if they came out
and held up their hands. Cherry
was shot and Jones son of the land.
Lady Mrs Jones accused me of shooting
her son I did not he died he was
shot before I went there in the morning
I never said to Mrs Jones that if
she would say that prisoner shot
her son I would forward a recom-
mendation to Government that
she should get portion of the reward
I never said so never heard of it
he asked the question today

Re-exd The boy Ransom I shot has
recovered I can't say who shot Cherry

The only volley I saw fired by the
police was in return to one from
the Verandah after the house was
burnt I saw two charred bodies.

Amnel Reynolds. Surgeon at Mansfield -

I saw the body of Lomngan at
Stringy Bark Creek pointed out by
Mc Intyre lying on his back on the
ground early on Sunday morning
I went out with McIntyre Sgt. Pooters
and several others I could see two
separate wounds one on the right
side of the temple a graze one on the
right eye ball. Made post mortem of
Lomngan on Tuesday at Mansfield

one wound through left arm perforation
through fleshy part of left thigh.

I put my finger Regarding
Lorngin gun shot entered inner side
went through orbital bone into the
brain the bullet travelled round and
lodged on inside I extracted the bullet.
I put my finger into the wound
did not meet the ball that was
the cause of death in a few seconds
another dead body was within a
few paces.

Next The direction of the bullet was
slightly slanting as if deceased
had turned his face slightly in
direction of the shot. I did not see
Kennedy's body on the ground

he was stopped there was no pos-
sibility I saw wound in chest he
was in all probability standing
when shot. I extracted the bullet
from Lomigari's thigh small as of a
revolver if wound were inflicted
before circulation had ceased could
not tell difference between wounds
inflicted before and after death.

At 5:35 P.M. Verdict guilty

Sentence death —

W. L. Withers

80
5,159.

November 3/80
vce. 4th

Continued prisoner

C. Kelly

Statement in reference to his case
(Referred by this Court.)