

Avenging of Joseph Dain

By GEO. T. PARDY

John Wilson Murray in a New Sort of Case.



ON a cold, dark winter's night, in March, 1876, two men stole quietly along the black shadows of the house walls in Yonge street, Toronto, Canada. Each of the midnight prowlers took an opposite side of the thoroughfare. They slipped swiftly and softly out to the corner of Bond street where the city limits ended in those days.

On a corner of Yonge and Bond streets lived the Dains, rich drovers and butchers. The family consisted of Mrs. Dain and her three sons, Joseph, James and Major. The latter were wealthy business men and carried large sums of money on their persons for cattle buying.

Upstairs Joseph Dain was sleeping soundly in his room, his trousers lying on the chair beside his bed. A faint noise, a faint creaking, awoke him from slumber and he opened his eyes to see a tall figure dimly perceptible in the gloom, standing beside his bed, rifling the pockets of his trousers in which he had a large amount of money. A powerful active man of fearless disposition, Dain was quick to realize the situation and act on his first impulse. Springing from the bed he clutched with the intruder and a short but desperate fight followed. Exerting all his strength the robber broke away and fled down the stairs with Dain in hot pursuit. The waiting man swung the door open to allow his partner for the crime, slammed it shut again in Dain's face, and the two burglars sped out through the darkness, separating as they fled and running in opposite directions.

Headless of the menacing challenge Dain sprang toward the speaker, when a shot rang through the frozen air, and he reeled and fell to the ground with a bullet in his abdomen. Pocketing the smoking weapon the burglar resumed his former pace, and passed out of sight.

In the meantime he who had stood as sentry on the outside of the house had run swiftly across Yonge street, and the extra overcoat he was carrying and full headlight. Before he could regain his feet he was seized by a passing baker on his way to work, who held him until a policeman made his appearance on the scene and took the captured burglar to the lockup. Dain was carried indoors, attended to by surgeons and rallied considerably after the operation, although it was not expected that he would recover from the effects of his terrible wound. The officer ordered by the Toronto authorities to the task of running down Dain's mysterious assailant was John Wilson Murray, formerly of the United States secret service force and now in the employ of the Canadian government. Murray's first step was to visit the captured burglar in the lockup. His wide experience in the criminal world stood him in good stead, for at the first glance he recognized the prisoner as Charles Leavitt, a desperate American burglar and thief. Buffalo was his home town, but the police there knew him so well that he seldom dared to visit the place. Looking carefully over the overcoat found in the captive's possession, Murray discovered the mark of a Cleveland tailor.

He at once started for the city in quest, and looking up Leavitt's American record found that one of his intimate friends was Frank Meagher of Cleveland, a skilled burglar, clever crook and one of the ablest and worst "rough ones" at large. Leavitt was tried, convicted and sentenced to Kingston penitentiary for life. He submitted doggedly to his fate and sternerly refused to give any information which might have led to the arrest of his comrade. Dain did not die immediately, but lived over one year and a day. According to English and Canadian law, a man cannot be convicted of murder and hanged if his victim lives for one year and one day after the crime has been committed. Dain dragged out, a lingering existence of agony for a couple of months over the year and then died. Heroin resulted from the bullet wound in his abdomen and finally killed him. Under the circumstances Meagher, if found, could be punished, but would not suffer the extreme penalty of the law.

Arriving in Indianapolis, Murray visited the penitentiary in company with Detective Muncie of Cleveland, who knew Meagher well, and they identified Armstrong as Meagher, thus making assurance doubly sure. The next step was to arrange for the removal of Meagher to Canada. Murray went to Terre Haute and secured the services of Daniel Voorhees of that city, one of the best criminal lawyers in the Hoosier state. He informed Voorhees that the state of Indiana had a criminal serving a sentence for a crime committed subsequent to the commission of a far graver crime in Canada, and that he wanted to take him back at once to pay the penalty of his prior deed. Voorhees took the case and accompanied Murray to Indianapolis, where a fine point of law was to be argued. The prisoner was in the Indianapolis jail, where he was kept, pending the outcome of the case, and had been informed of a conditional pardon and the case going against him. He was what is known as a "bad man" in every sense of the epithet. Three times in his career he had escaped from prison and had shot and killed a deputy on one occasion. He had a brother, Charles Meagher of Cleveland, also a thief, burglar, and desperate, resourceful crook. He had many friends; and Frank Meagher, then a fine, kind, well-educated chap of 28, was highly respected and much admired among the denizens of the underworld for his daring and cleverness.

Murray was certain that the chances were all in favor of complete plans having been made to rescue his man. He had all of his papers ready after midnight on June 20, and went direct to the jail. A train left at 4:35 the morning and it was Murray's intention to get away on it with Meagher. It was about three in the morning when he arrived at the jail.

He knew an attempt would be made to rescue him. From the fact that he had gained possession of a revolver and club, it was easy to surmise that some of his friends were scheming to aid him. He thought of that 4:35 train, and turned to the sheriff. "Get open that gate," he said, crisp by "I don't want to speak to him."

"Don't don't," implored the sheriff. "He'll kill you sure! Remember, I was a son."

Murray looked at him grimly. "Open that gate," he said. "I'm going in there."

Yielding to the power of the other's determined will, the sheriff threw open the gate and Murray, without the slightest trace of nervousness, stepped inside and walked upstairs. When he reached the first landing the prison's voice rang out, sharp, tense and a little with deadly menace: "Stop right there, Murray; don't you come near me!"

Murray halted. The shifting barrel of the revolver, gripped in the

man's spoke, Murray's hands were empty, his revolver lying useless in his pocket. The prisoner was first to break the tension. "Murray," he said suddenly, but without shifting his eyes, "I have no fit clothes. I'm a gentleman, and I want to go to Canada looking like a pauper."

Murray smiled languidly. "The sheriff has a suit of clothes for you, Frank," he said. "It's a pretty fair suit, but if it isn't good enough, I'll wait until you get one."

A look of satisfaction crossed Meagher's stern features. Murray, knowing him, knew that he was playing for delay, and became more than over-determined to take him on that 4:35 train. Meagher leaned forward and uttered a torrent of insulting, spiteful words, possibly hoping that he might create a diversion by picking a quarrel with the Cleveland officer.

Muncie made no reply, and the prisoner again turned his attention to Murray. "I've got nothing against you, Murray," he said. "But don't come a step nearer me!"

Murray reflected. He half turned his back and sat down on the stair. If Meagher had looked away for a moment he could have slipped out his gun from his pocket. But the prison's eye never averted. Murray yawned listlessly and turned his back altogether upon him.

"It's like this, Frank," he remarked, quietly. "I don't want to get hurt any

more than you do, but I'm not any more afraid than you are."

There was no response. Murray's mind worked swiftly. The prisoner's silence was uncanny. Perhaps he might shoot or bring the club down with splintering force on the back of his head. Still the detective sat, without moving, gazing steadily down the stairs. Finally Meagher spoke softly, almost in a whisper.

"You're a game fellow, Murray," he said. "I'll not go with Muncie, but I'll go with you. If you get me that suit of clothes."

He stepped down and surrendered the club and gun into Murray's hands, and they walked side by side into the office. Meagher spat contemptuously at the sheriff, swore at Muncie, and glanced at the clock. It was just four, and a smile flitted over his face. He donned the suit of clothes, Murray slipped the handcuffs on him, and accompanied by Muncie, captor and captive entered a closed carriage which was driven at a gallop to the railroad station. As the party alighted the train was making ready to go.

A second carriage drove up, and from thence alighted Red Jim Carroll, Joe Dubuque, and two other well-known crooks. Murray and Muncie hastily boarded the train with their prisoner between them. As the cars began to move, a third carriage drove furiously up to the station, but the occupants did not emerge, probably fearing that they had missed the train. Red Jim Carroll and his three companions, however, had climbed aboard in safety.

Murray's quick eye caught sight of their entering another car, and he noticed Muncie with his elbow.

"Did you see those fellows?" he asked. Muncie nodded.

"There's going to be trouble," said Murray significantly. Meagher was wearing his traps, as well as handcuffs. Murray placed him in the middle, and examined the chambers of his revolver. Muncie also inspected his in his pocket, and the two sat awaiting developments.

"You want to remember one thing, Frank," said Murray to his prisoner. "If there's any break made somewhere before we get to Buffalo, we'll do it."

Meagher did not reply, but a gleam of light, the gleam of his somber eyes. He comprehended the meaning of the threat and knew that the speaker would keep his word.

An hour passed. Suddenly the front door of the car swung open and Red Jim Carroll entered with his three companions behind him.

"Halt," there, Jim," came the brief order in Murray's resolute tones. Carroll stopped and eyed the threatening muzzles of two revolvers. Murray and his companion were standing erect, alert and threatening.

"Good morning, gentlemen," said Carroll.

"Are you in search of trouble, Jim?" demanded Murray.

Carroll grinned. "Not me," he declared. "Will you let me speak to Frank?"

"You may speak to him from where you are," conceded Murray.

Meagher, mindful of Murray's sinister threat, remained quietly in his seat. When the first door of the train had started half up, but remembering the caution given him in this, sunk back again. When Carroll came to a halt at Murray's command the prisoner's face grew black with rage, and he cursed Red Jim and the latter's companions for a set of cowardly curs. Red Jim's hand slid to his pocket, but stopped half way when Murray ordered him to desist.

"What are you reaching for?" asked Murray suspiciously.

"I want to pass Frank a couple of hundred dollars," was the reply.

"Take your money to hell with you," roared Meagher, apparently moved to a frenzy of rage by the failure of the plot to rescue him.

Keeping Red Jim covered, Murray ordered him to reach no lower than his breast pocket with his hands, and to count out the money where he stood. Meagher again shouted that he would not accept the money of a cowardly gang of dogs that would stand by and see a friend dragged away.

"Sometimes the worst comes to the worst, Frank," said Carroll, with an odd touch of quiet dignity, "and people can't help themselves. This man Murray is a gentleman. He'll take no advantage of you and give you a fair show."

Thus speaking, Red Jim tossed the money at Murray's feet. "You'll have to excuse my not handing it to you," he said, apologetically.

"Good-by, Jim," was Murray's significant response.

Carroll hesitated, glanced again at the leveled revolvers, and nodded.

"Good-by, Mr. Murray," he said. "Good-by, Frank. Good-by, Mr. Muncie."

He backed out of the doorway, preceded by his three pals, and closed the door. Murray picked up the money and gave it to his prisoner. Presently the train stopped at a junction, and when it pulled out again Red Jim stood on the station platform, waving a final good-by.

Murray and his prisoner went through to Buffalo, thence to Lewiston on the Niagara river, and thence by boat to Toronto. As the steamer passed old Fort Niagara, at the mouth of the river, and glided out into Lake Ontario, Meagher stood on the deck. The American flag was flying over Fort Niagara, and Meagher raised his fettered hands and saluted it.

"Good-by, Old Glory, God bless you," he said, earnestly. "I suppose it's the last time I shall ever see that flag. I'd rather I was dying for it than for what I am."

He gazed after the flag until it was a mere speck against the skyline. The idea that he could still be executed for killing Dain had taken complete possession of him, and all his captor's assurances to the contrary failed to cheer him.

Having landed his prisoner safely in Toronto jail, where he was held for trial, Murray realized that it would be necessary to obtain the evidence of Meagher's confederate, Leavitt, in order to convict the former. Leavitt, however, was sentenced for life and, being dead in the eyes of the law, was not competent to testify. Murray visited Leavitt at the Kingston penitentiary and learned that he yearned for liberty, and was willing to become a witness for the crown. On Murray's recommendation, the government commuted Leavitt's sentence to ten years, thereby making him a competent witness.

Leavitt accordingly told the story of the crime, in court, with the result that Meagher was sentenced to 18 years in the penitentiary. When Meagher heard his former ally testify, he stood up and cursed him as avenger.

"You traitorous bound," he said. "I'll kill you in this world or the next."

Leavitt was pardoned after Meagher's conviction, on Murray's suggestion that he would probably be killed by some of the other convicts, if compelled to associate with them. When last heard of he was living in Cleveland, and Meagher's threat of vengeance was still unfulfilled. But some day they may meet—and then?

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Beware of Volatility. He who knows little soon tells it. German proverb.

accompanied by Detective Lou Muncie. "Mr. Sheriff," said Murray, "I have come for Meagher. Here are my papers."

"I'm afraid we're going to have a lot of trouble with that fellow," remarked the sheriff, who was greatly excited.

"What's wrong with Meagher?" inquired Murray.

"He's armed," he's got up to the fourth floor, the top tier of cells, and says he will kill any one who goes near him," responded the sheriff in agitated accents, wiping the perspiration from his forehead. "I tell you, he's a desperate man, Mr. Murray, and he'll keep his word."

"That's your business," said Murray. "Kindly produce the prisoner."

"Come down, Meagher," piped the sheriff, in trebling tones.

Meagher sprang viciously and howled the speaker with a volley of virulent oaths. "Come up here and get me," he roared. "I'll kill the first man that sets foot on these stairs."

"Now you can see how it is to yourself," appealed the sheriff to Murray.

"All I know is that there sits Meagher and I want him," replied that inexorable gentleman. "Here are my documents, so do your duty."

The unhappy sheriff, thus caught between the devil and the deep sea, swore frantically. "I know that my duty is, all right," he said indignantly, "but I ain't anxious to be shot like a dog, or see anyone else murdered, either."

Murray was doing patience. It was evident that the sheriff would not consent to let Meagher go, and that the prisoner was playing for time, and the purpose of it probably was that

he knew an attempt would be made to rescue him. From the fact that he had gained possession of a revolver and club, it was easy to surmise that some of his friends were scheming to aid him. He thought of that 4:35 train, and turned to the sheriff.

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