

THE REDEMPTION OF HAMISH O'HALLORAN

By

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No one really knew where he came from. When anybody asked he would just say he was from here. He was old enough that none of the other attorneys remembered when he wasn't a fixture in the old Court House that occupied the center of the sleepy old southern town of Pine Ridge.

Of course, Hamish O'Halloran wasn't the kind of antebellum name that could be related to the old solid aristocracy and other land owning families in the area. Nevertheless, he had a queer kind of pedigree for just having been there so long.

He was a tall, gaunt man in his sixties, somewhat Lincolnesque. His hair was thinning, but he wore it in a scraggly pony tail the color of dish water. He usually sported a rumpled old suit which seemed to be one of two that he alternated regularly without bothering to ever send to the cleaners. He wore nondescript ties and a white shirt that never seemed quite white and was usually frayed at the collar. His lack of sartorial splendor was just one of the many factors that did not endear the old barrister to the other members of the bar.

He held himself aloof, never bothering to engage in the legal prattle or Court House gossip that so delighted the other members of the bar. When he would find himself in the little lounge that was the hangout of the other District Court denizens he sipped his coffee diffidently, did the unchallenging cross word puzzle and casually perused the local newspaper, spending most of his time on the obituaries and trivia that was the local news. He was polite enough, responding with a nod or a good morning, to the kindly few that deigned to acknowledge him but he didn't appear to have what you would call friends among members of the bar.

Behind his back, though, he was often the subject of stories and myths, often floated by one of the lawyers whose cousin or family friend claimed to be in the know. Sometimes it was rumored that he was a burnt out hippie, a stoner whose best days had been spent in the mud at Woodstock. Some said he had been a draft dodger and had anonymously reinfiltrated back to the state from Canada, where he had fled to avoid service in the military during the Viet Nam War. Others said that he had been a soldier and was burnt out after having seen more than his share of death and degradation in Viet Nam. No one really seemed to know for sure.

He lived alone in a small old white clapboard house on the edge of town. It wasn't particularly run down but wasn't what you would call well kept either. It had a certain Victorian charm with its carpenter Gothic tracery. There were a couple of mutts that roamed his fenced in back yard, and one rather vicious looking animal that he kept chained to a tree stump in the middle of his back yard. No one knew any body who claimed to be related to him or even his friend. And none of the other lawyers had ever

been invited into his house. But it was his office, at least the front room was, for he had a simple old sign that said “H. O’Halloran, Lawyer,” inauspiciously nailed next to the front door.

He was a peculiar old bird, was Hamish O’Halloran. His law practice consisted almost entirely of Court appointed cases, and most of those were misdemeanors. The judges just didn’t feel right in appointing him to anything more complex than a misdemeanor case. Invariably, he would enter pleas of Guilty for his Court appointed clients, and not make much of an argument on their behalf. He never showed any expression either way after a judge ruled, merely accepting the sentence, nodding to his client, and silently leaving the Court room or sitting down to wait for his next case to be called.

One day the Court house was all astir when Mrs. Viveca Sandfort was charged with perjury and she showed up in Court at her first appearance represented by none other than old Hamish O’Halloran, and not even Court appointed at that. Viveca was a human exaggeration. She was a woman in her mid forties with an outlandish physique, and traditionally wore clothes and makeup which were designed to make one turn their head and think things which would get them arrested. She was married to a ne’er do well who used to beat her regularly, it was pretty well acknowledged, and nobody could understand why she stayed with him. Sanford Sandfort sometimes worked as a used car salesman and sometimes he didn’t, but he was never far from his favorite bottle of booze.

The prosecutor assigned to the case was an arrogant young scion of one of the town’s more noble families. G. Earl Farnsworth, the third, had gone to the state’s best university, where he lettered in volleyball or some such non contact sport. He was tall, perhaps 6’ 3”, with a finely honed physique, and slicked back hair popular in the yuppie style. He was fond of wearing fine silk yellow ties superimposed on the colour de jour, usually royal blue or magenta. He fancied himself a ladies man, but for some unannounced reason he seemed out to get Miss Viveca, a woman a good ten years his senior. There was certainly more between them than the normal prosecutor-defendant animus. Their held glances shot daggers at each other. You could almost see the smoke steaming forth from their eyes. This obvious intense mutual emotion caused a lot of tittering among the spectators, especially the lawyers, who began to read much more into the situation as the rumors began to spread.

But the way the young prosecutor treated old Hamish was rather pathetic. He seemed to take him for granted, as if Hamish played no role whatsoever in this show. Farny, as he was disrespectfully referred to by the bar behind his back, simply thought of old Hamish as a non-person, and with respect to the first appearance, the attention of all was focused on Miss Viveca, wearing a red satin skirt and turtle neck sweater, both a few sizes too small.

Judge Abel Cain, the District Court Judge whose lot it was to have to conduct first appearances that day, was not a man to abide shenanigans, either from the state or the defense bar. His heavy hand came down evenly on both sides, and there was no doubt

whatsoever who ran his courtroom. He quickly read Viveca her rights, announced the rather lengthy maximum sentence for perjury, obtained her signature on the rights waiver, and dramatically paused before he said, “Now what about the bond.”

Seizing his cue Farnsworth jumped up, and announced that this felony was mighty serious and required at least \$100,000.00 bond to insure her presence in Court at future hearings. The magistrate, having been hypnotized by the Defendant’s form and shortness of Viveca’s skirt, had set the bond at a mere \$1,000.00 despite the fact that perjury was a class E felony. This she immediately posted through one of the myriad bondsmen with whom she was familiar, and walked, minutes after her arrest. She had immediately called O’Halloran on her fancy new cell phone, replete with glitter and gadgets.

Anyway, Judge Cain looked at Hamish with an expectant air waiting for some kind of response from him. None came. Everyone waited and Hamish still said nothing. Finally Judge Cain, in disbelief, said, “O’Halloran, are you going to respond to Mr. Farnsworth’s impassioned plea to jack up this woman’s bond, or are you going to stand mute while she is carted off to jail?”

Hamish paused a minute and seemed to be considering what to say. At last, after having received a not so gentle nor subtle nudge from his increasingly anxious client, he quietly responded, “Judge Cain – everybody in town knows this woman. Where is she going to go? She enjoys the publicity and wouldn’t miss a minute of the drama. I guess the bond’s about right.” And with that, the lanky lawyer sat down in a way that looked as if he did it in sections.

The onlookers and Court hangers on were aghast, but the lawyers did not expect anything more from O’Halloran. However, everyone was surprised when Judge Cain boomed, “I guess you’re right, Mr. O’Halloran. Even I know Mrs. Sandfort. I expect she’ll be in Court, all right. Bond stays the same. Sit down Mr. Farnsworth.”

Well, the case proceeded on through the system and everyone expected Farnsworth to offer a plea and O’Halloran to take it. But it didn’t happen and soon enough the case was the first on the Superior Court trial calendar. The trial judge was no-nonsense Judge Harley Martin. There were dozens of judges throughout the state named Martin, but old Harley was the most feared of them all. Some of the lawyers speculated that the members of the Martin clan were trained to be lawyers and judges from birth. Judge Harley Martin looked like he was crafted by some Hollywood director. He was the epitome of judgeness with his long well combed snow white hair, dark piercing eyes looking out from under bushy black brows, and his jutting jaw. The court house crowd just knew that Miss Viveca was doomed.

Harley called the case for trial. He grimaced as he saw the antagonists were Farnsworth and O’Halloran. He didn’t like either of them, and any thought he might have had that justice would be done were beginning to dissipate like the morning dew with the rising sun. He scanned through the court file as the lawyers set up their books and props

at their tables, and everyone in the now jammed packed court room sat with an expectant air as the trial was about to begin.

“Mr. O’Halloran, Judge Harley Martin boomed,” apparently startled by the amplification of his own voice in the microphone the bailiff had set up in front of him. “I don’t see any motions in the file.”

Hamish rose, slowly, hesitantly, the antithesis of the character seated beside him. “I didn’t file any,” he stammered sheepishly, and sat back down awkwardly without further explanation.

“Hmmp,” replied the old Judge, “Put twelve in the box, Mr. Speedy.” The clerk did as he was bid, and in a few minutes twelve prospective jurors were seated, nervously anticipating the start of the proceedings. Farnsworth began and put on a clinic in jury selection. The spectators were impressed as the twelve conservative looking, hanging jurors were turned over to the defense. Nine women and three stern looking men. They looked at Hamish, with his ragged pony tail, suspiciously.

He started by addressing one older somewhat rotund lady in a simple chintz print dress, directly. “Mrs. Bean, I don’t think you could be impartial in this case, do you?” He seemed to know her and she him.

“She gave a coy smile, and said, “Guess not, Hammy.” There was a buzz in the Court room. Hammy? Someone in the real world actually knew Hamish O’Halloran. Without asking why she couldn’t be impartial, Judge Martin excused her for cause, a slight smirk creasing his normal poker face. Farnsworth, with all his greatly advertised legal skill, had missed one. The lawyers, at first, were taken aback that Hamish had actually removed an apparently favorable juror. But it didn’t take long for a little admiration to creep in as the audience realized Hamish had done the honorable thing.

Another woman who looked like a business executive, wearing a black pin stripe suit, replaced Mrs. Bean. Her eyes dared Farnsworth to challenge her. He didn’t. Then it was O’Halloran’s turn. He stared at her a long time without speaking.

“Mr. O’Halloran?” queried the Judge whose patience was not one of his stronger virtues.

“In a minute, Judge,” he tersely responded as the juror and the lawyer stared each other down, as some sort of unspoken communication seemed to be going on between them. Farnsworth began to get edgy, fidgeting in his chair and nervously rapping a pencil on the table in front of him, the only sound in the eerily still court room, but the prospective juror held her ground, unwavering in her stare.

Finally, O’Halloran breathed an audible sigh. He had won or lost the staring contest, no one knew for sure, but he said succinctly, without asking the adamant woman a single question, “Defense is satisfied with the jury.”

The trial proceeded and each lawyer made brief, pithy opening statements, O'Halloran's being the essence of brevity lasting less than a single minute. It appeared, according to Mr. Farnsworth's brilliantly eloquent forecast of the evidence, that Ms. Viveca Sandfort had sworn out a Domestic Violence complaint against the dubious Sandy, alleging under oath that he had slugged her in the jaw causing her to suffer serious injury. This being the fourth time that the old sot had assaulted her, or so it was alleged, the misdemeanor became a felony, and Sandy was looking at some hard time. At Sanford Sandfort's arraignment Mr. Farnsworth had hopped to his feet and self-righteously asked the judge to raise Sandy's bond, alleging all the menace to society drivel that prosecutors often rely on. His lawyer asked for a bond hearing, and called Viveca to the stand. In an effort to save her no-account husband from years of punkdom, she tried to resurrect the scoundrel by down-playing the incident and finally admitting that, well no, he didn't hit her. You could tell that Farny was basking in the slam-dunkness of this situation as he pictured Viveca trying to explain to the jury the fact that she swore under oath that Sandy had assaulted her and said just the opposite under oath at the arraignment.

The Assistant District Attorney called Mr. Sandy Sandfort to the stand. After the pleasantries Farny got down to business. "Mr. Sandfort, did you, or did you not, on the night of April 24, slug your wife in the jaw with your fist?"

"Objection," Hammy called out casually.

Farny jumped to his feet spluttering, "It's not leading your Honor," his face reaching a peachy shade of beet red, at the insult of Hammy O'Halloran, of all people, interrupting him with a worthless objection.

"Grounds, Mr. O'Halloran?" Harley peevishly demanded.

"Fifth Amendment right against self-incrimination," came the reply, again, rather casually without the slightest hint of insistence.

"You're not his lawyer, Mr. O'Halloran. You can't raise the objection for him, growled Judge Martin. "Go on, Mr. Sandfort."

Although Sandy Sandfort may have been a drunk and a beater of helpless women, he was no fool, and he sensed that something bad was happening. He took the cue offered by O'Halloran and turned to the Judge. "Uh, Judge Martin, uh. I don't want to testify against my wife. Do I have to answer if I think it may tend to incriminate me?" He had watched a lot of people take the Fifth (as he himself had, especially on some of his weekend long toots) on the myriad lawyer shows on television.

Farny was apoplectic. The particular color of purple his face had become complemented his yellow tie quite nicely. He spluttered and spumed and finally blurted out like a spoiled child, "Judge Martin, O'Halloran is telling him what to do. He can't do

that. Anyway, the statute says he has to testify in assault cases, and the spousal privilege doesn't apply."

Judge Harley Martin was a clever old jurist and had seen this coming. He looked at Hammy who had a kind of smug grin peeking out of the corners of his mouth. The two of them looked at each other a moment and understood, and Hammy realized he didn't have to say anything. Harley turned his studious gaze on the ADA, and gave a slight contemptuous shake of his head. Then looking over his shoulder at the witness, he said, "No, Mr. Sandfort, you don't have to testify against your wife." Then turning back to the slack jawed Farny, gaping aghast at the Judge's ruling, he said, "Mr. Farnsworth I hope you realize this is not an assault case but a perjury case. The spousal privilege does apply and he or Mr. O'Halloran, on behalf of his client, can invoke it."

Farny, like a cornered rat, instinctively began the fateful course of action of trying to take on the Judge. "But, your Honor, if this is a perjury case, how will testifying about the assault tend to incriminate him?" He was serious. The audience snickered. The lawyers, bailiffs and clerks snickered. The jury even snickered. And then it dawned on Farny and his blush came close to the beautiful purple of a Crown Royal bag. Embarrassed beyond belief, he sat down and thought for a minute, sweat darkening the pretty white collar on his purple shirt. "Come down Mr. Sandfort," he said, totally subdued.

Farnsworth asked for a recess in order to be able to compose himself and to figure out what to do next. Harley benevolently granted him fifteen minutes. The murmur of the crowd was intense, and there was some laughter at Farny's expense as the juror's filed out of the Courtroom to the haven of the jury room.

When Court came to order fifteen minutes later, for Judge Martin was certainly punctual, some of Farnsworth's arrogance had returned after he had looked at the elements of perjury and considered what he had left as far as evidence was concerned. He quickly and efficiently called the clerk who had given the oath when Mrs. Viveca Sandfort had testified as to the contents of the Domestic Violence Complaint. He elicited her evidence clearly and concisely, about giving the oath and about what she said about Mr. Sandfort slugging her in the jaw. O'Halloran had no questions on cross examination and smiled politely at her, and she smiled back benevolently at the eccentric old lawyer as she coyly walked down from the stand.

Next, Farny called the court reporter who had been recording the proceedings at the arraignment and bond hearing for Sandy Sandfort. She testified about the oath that was given to Ms. Sandfort and read those parts of the transcript in which she said Sandy didn't hit her. Hammy smiled at her too and didn't have any questions for her, and she smiled back. It looked like Farny was going to get his slam dunk after all.

The state rested and Hammy didn't make any motions or asked to be heard. Judge Martin somewhat contemptuously at this lack of lawyerly correctness, said, "Call your first witness, Mr. O'Halloran."

Hamish O'Halloran slowly stood, again as if in sections, and when the erector set that was his angular body had reached full height, he grandly announced, "Defense has no witnesses."

"Oh, no you don't," shouted the vivacious Viveca, none too modestly, as she leapt to her feet and began to march vigorously to the witness stand. "I'm going to tell my side of this story." No one had ever seen Hamish move that fast but before she got half way to the stand, he was next to her with his hand firmly on her arm. She spun to face him and almost shouted, at least in a voice loud enough for the Judge, jury and everyone in the first twenty rows to hear. "I am not going to sit idly by while this clown railroads me."

Hamish bent over and whispered in her ear. She turned beet red and turned angrily to him. You could just about see the smoke emanating from her. He straightened up, put a finger to his lips, paused, and bent down once more, again whispering in her ear. She meekly returned to her seat without another word and slammed her well padded posterior into the chair. "Defense rests," O'Halloran announced with finality.

Judge Harley Martin took over after letting a trace of a grin escape from his stern visage. He talked to the jury briefly and then announced that Mr. Farnsworth would be addressing them first.

Farnsworth was brilliant in his closing speech. One of the statements made by Viveca Sandfort under oath obviously was a lie. He left no doubt in the minds of the jurors that the Defendant was clearly lying because she had told two contradictory stories under oath. His speech was full of vim and vehemence. He had put his heart and soul into the closing speech, for some reason, and it was worthy of comparison to a speech by the world's greatest orators. When he was finished he sat down, as if to punctuate his great oration, smug in the knowledge of the excellence of his speech, and certain that victory was his. Mrs. Viveca Sandfort would go to jail and the thought appeared to give him an odd sense of satisfaction.

Hamish O'Halloran just sat in his seat smiling at Farny in an almost congratulatory way. After a few moments Judge Harley looked at him and gave him a little, "Ahem," just to remind him where he was and that it was his turn to address the jury, in case he had forgotten.

Hamish rose slowly, looking a little confused. He slowly and purposely buttoned the front button of his ill fitting, ruffled suit and brushed his hair back with both hands, although his hair was already tightly pulled back in that scruffy pony tail he wore. Awkwardly, he stood facing the jury and he could read the antagonism on their faces. Farnsworth had snowed them, no doubt about it. Hamish was always uncomfortable speaking in public. He had read an article once which propounded the idea that speaking before a group was the number one phobia of mankind. He agreed, and the idea swept over him that perhaps he should give up and just sit down without saying anything. He knew he was no orator, and certainly was no match for a polished and for some

inexplicable reason, zealous speechmaker like Farnsworth. Nevertheless, duty required him to speak.

He opened his mouth and sure enough he had a frog in his throat. He coughed a little bit, turning crimson with embarrassment, but quickly regaining his composure, he took a sip of water and began again.

“Ladies and Gentlemen of the jury, that was sure a good talk Mr. Farnsworth gave. But one thing he didn’t do, not in his talk just then, and not in the evidence he presented to you, was to tell you which one of those two statements Mrs. Sandfort made was true. Now Judge Harley Martin, here, is going to tell you that the State has to prove all the elements beyond a reasonable doubt, and he will tell you what reasonable doubt is. If you can’t tell from the evidence which one of those two statements is a lie and which one is true, then Ladies and Gentlemen, that is a reasonable doubt.” And with that, Hamish O’Halloran, attorney at law, sat down.

There was a long pause as the two attorneys sat there looking at each other, Hamish with a simple expression on his face, which maybe contained a hint of a grin, and Farnsworth, absolutely livid. The Judge, anticipating a nice boring talk of a reasonable length of time, had walked off the bench and the bailiff had to run off to find him. When he returned, wearing a surprised look, the Judge immediately dove right into the jury instructions. He told them of all the rules, explained what reasonable doubt is, and what constitutes the elements of perjury. Finally, he told them to go out to the jury room and select a foreman and begin deliberating when the bailiff brought them the verdict sheet in a few minutes.

They weren’t out ten minutes. They all smiled at Viveca as they marched back in the Court room. The bailiff handed Judge Martin the verdict, and the judge let a slight whistle out as he handed the verdict sheet to the clerk to read out loud. The Courtroom erupted when the clerk read, “On the charge of perjury, we, the jury, find the Defendant, Viveca Sandfort, Not Guilty.”

Apoplectic, Farny jumped to his feet sputtering his vain objections. Viveca reached up and planted a big sloppy kiss on Hamish leaving her bright red lipstick on his cheek like a neon sign. The audience actually cheered, and Judge Harley Martin smiled as he brought his gavel down.

After that, Farnsworth and Hamish O’Halloran would occasionally pass in the hallowed halls of justice, but they never again tried a case together. Farnsworth would deferentially nod his head slightly, and say, “Good morning, Mr. O’Halloran.” For some reason, thereafter, whenever Hamish was appointed to one of Mr. Farnsworth’s cases, some other Assistant District Attorney would end up prosecuting it.