



The so-called Maungatapu Murderers: Philip Levy (top), Richard Burgess (left), Thomas Kelly (right) and Joseph Sullivan (bottom).  
(Nelson Provincial Museum Collection: 319996)

## A Crime that shocked the Country

*The Physician's Gun* is a work of fiction, but it was inspired by a true event: the Maungatapu Murders, carried out by the ruthless Burgess gang. Descriptions of their evil deeds can be found in numerous books and newspaper articles.

A detailed account can be found on the New Zealand History website, but here is a summary:

**O**n 12 June 1866, James Battle was murdered on the Maungatapu track, south-east of Nelson. The following day four other men were killed nearby – a crime that shocked the colony. These killings, the work of the 'Burgess gang', resembled something from the American 'wild west'.

The case was made more intriguing by the fact that one of the gang, Joseph Sullivan, turned on his co-accused and provided the evidence that convicted them. The trial was followed with great interest, and sketches and accounts of the case were eagerly snapped up by the public. Unlike his colleagues, Sullivan escaped the gallows.

All four members of the Burgess gang had come to New Zealand via the goldfields of Victoria, Australia. Three of them had been transported to Australia for crimes committed in England. They were the sort of 'career criminals' that the authorities in Otago had feared would arrive following the discovery of gold in the province.

The gang's ringleader, originally known as Richard Hill, had been transported from London to Melbourne for theft at the age of 16. After his release he resumed a life of crime and served several prison terms. By 1861 he was calling himself Burgess, the name of a New South Wales runholder he had attempted to rob. In January 1862 he left Australia for the Otago goldfields, where he teamed up with Thomas Noon, an acquaintance from his prison days in Australia. They specialised in attacking and robbing lone prospectors.

In March 1862, members of the Otago Mounted Police tried to bring Burgess and Noon in for questioning over a robbery on the Otago goldfields. Gunfire broke out and the pair fled, but were eventually captured. They were

sentenced to 3½ years' hard labour in Dunedin Jail. After receiving 36 lashes for his role in another escape bid, Burgess vowed to exact revenge on society by taking a life for every lash.

On their release, Burgess and Noon (now calling himself Thomas Kelly) headed for the West Coast goldfields and staked a claim inland from Hokitika. Just before Christmas they carried out a series of robberies. Burgess was now living with a woman named Carrie who was pregnant with his child. His plan was to rob the bank at Ōkārito, south of Hokitika, and move back to Australia with her.

In the meantime, William (alias Philip) Levy arrived in Hokitika. He had emigrated to Victoria in the 1850s and established himself as a gold buyer. He also worked as a 'fence' (a seller of stolen goods) and passed on information about possible targets for robbery. In Hokitika he helped Burgess and Kelly plan robberies.

In April 1866 the gang was completed by another recent arrival from Victoria. Joseph Sullivan had been transported from England in 1840 for robbery, but by 1853 had established himself as a prize-fighter and publican.

On 28 May the gang murdered George Dobson, a surveyor whom they mistook for a gold buyer. Undeterred, they set up an ambush of the real gold buyer, but they were thwarted by the police and given 48 hours to leave town.

Using assumed names, Burgess, Sullivan and Kelly joined Levy aboard the *Wallaby* and departed for Westport with plans to rob the bank there. Finding that it had closed, they continued on to Nelson.

They arrived in Nelson nearly penniless on 6 June, and considered robbing one of the town's three banks, but found the police presence too great. Instead, they decided to walk the 70 miles to Picton and try their luck there. They travelled via the rugged Maungatapu Track, which would take them past the Wakamarina goldfield.

On 10 June they arrived at the goldfields settlement of Canvas Town, 40 miles short of Picton. Levy set about finding a possible target for the gang. At nearby Deep Creek, he met Felix Mathieu, a publican and storekeeper. He and three associates, James Dudley, John Kempthorne and James de Pontius, were about to leave for the West Coast, carrying money and gold. When Levy informed the others, plans were made to ambush the travellers near the summit of the Maungatapu Track.

The gang left Canvas Town early on 12 June and were passed on the track by James Battle. Burgess and Sullivan, concerned about potential witnesses, throttled him and buried him in a shallow grave.

They attacked the Mathieu party on 13 June, killing them one by one. Dudley was strangled, Kempthorne and de Pontius were shot, and Mathieu was both shot and stabbed. The gang acquired cash and gold dust worth £320 (nearly \$35,000 in today's money).

The gang continued on to Nelson, where they booked into different hotels under false names. Next day they sold the gold and divided the proceeds equally before deciding to lie low for seven days, then travel to New Plymouth by ship.

Unbeknown to the gang, a friend of Mathieu's suspected foul play when they failed to arrive in Nelson. He reported their disappearance to police, and when a search party found some evidence of a crime, Levy was arrested. On 19 June his three associates were located and arrested too.

Without bodies, the police case was circumstantial. The government promised £200 (more than \$21,000) and a free pardon to any accomplice (not the actual murderer) who turned Queen's evidence, and Sullivan took the offer. He claimed to have been merely a lookout for the gang, and told the police about the killing of James Battle and incriminated the others. The bodies of Mathieu, Dudley, Kempthorne and de Pontius were recovered thanks to Sullivan's evidence. Battle's body was found three days later.

Awaiting trial, Burgess wrote a long statement - 'The Confessions of Burgess the Murderer' - in which he detailed his many crimes and exonerated Kelly and Levy.

The case went to the Supreme Court. A special sitting opened in Nelson on 12 September with Mr Justice Johnston of Wellington as trial judge.

In accordance with the terms of the amnesty, Sullivan was not charged. Burgess, conducting his own defence, was determined to implicate Sullivan directly in the killings and cross-examined him for 15 hours without success.

The judge spent more than six hours summing up the case for the jury. He described Burgess as an 'arch plotter', a 'cruel assassin' and 'one of the wickedest of men'. The jury took less than an hour to find all three men guilty of murder. Kelly collapsed and was taken away sobbing, while Levy continued to maintain his innocence.

Members of the Nelson Volunteers surrounded the jail on the morning of the execution to ensure that 'good order was maintained'. Before bounding up the scaffold steps, Burgess declared that 'he had no more fear of death than he had of going to a wedding'. He selected the central noose and kissed it as 'a prelude to heaven'. Kelly had to be carried up, while Levy calmly protested his innocence. There was a delay while the three condemned men made their final statements. Kelly was still speaking when – just before 8.30am – the hangman drew the bolt that opened the trapdoor.

Moulds for casts of the three heads were taken as a contribution to phrenology, a then-popular discipline that would eventually be dismissed as pseudo-science. Adherents of phrenology claimed that personal characteristics could be determined from the shape of an individual's head.

The bodies were buried in the prison yard.

- The full story: <https://nzhistory.govt.nz/culture/further-sources-maungatapu-murders>