



Margaret Yates

Date of Trial:	13 March 1817
Where Tried:	Stafford Assizes
Crime:	Forgery
Sentence:	14 years
Est YOB:	1784
Stated Age on Arrival:	34
Native Place:	
Occupation:	Country Servant (Housemaid at trial)
Alias/AKA:	(née Hancock), Margaret Kelly/Keley (m)
Marital Status (UK):	
Children on Board:	
Surgeon's Remarks:	Quiet but indolent
Assigned NSW or VDL	VDL

Margaret Yates was the only *Friendship* woman who had been tried at Staffordshire. Together with William Tarlington and Henry Shaw, she had been brought before the Stafford Assizes on 13 March 1817 on a charge of uttering forged bank notes for which all three were sentenced to be transported for fourteen years.<sup>1</sup>

After a short spell in jail Margaret was removed to Deptford and embarked on the convict vessel *Friendship* which departed England's shores on 3 July 1817. Margaret contributed little during the voyage, whiling away her time being 'quiet but indolent'. On arrival at Port Jackson, the muster formalities having been completed, Margaret, aged 34 and a country servant by occupation, was put aboard the *Duke of Wellington* for transfer to Van Diemen's Land, where, by 1820, she was at Hobart and was a married woman.<sup>2</sup>

Daniel Margaret in harness James David. W.	Keley ✓ Yates ✓ Blay. Bush.	Convicts Convict.	Indefatigable Friendship	45 years. 34 years.	17 December.	Danns,
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On 17 December 1818 she had married Daniel Keley (aka Kelly) at Hobart. Both were listed as convicts. Daniel was eleven years older than his bride and, unlike her, he was able to sign the register.<sup>3</sup> However, from his trial records we find that Daniel would have been somewhat older than his stated age.

Daniel Kelly had arrived at Van Diemen's Land some five years earlier than Margaret, one of the convicts sent out in the *Indefatigable*, which sailed from England on 4 June 1812 and arrived at Van Diemen's Land on 19 October 1812 after a voyage of 137 days.<sup>4</sup> He had been tried at the Old Bailey on 20 February 1811, the proceedings being recorded in great detail.

206. DANIEL KELLY was indicted for feloniously stealing, on the 3d of February, three silver servers, value 10l. thirteen silver spoons, value 7l. two silver desert spoons, value 1l. and a silver marrow spoon, value 10s. the property of Catherine Baron, widow, in her dwelling house; and DAVID ATKINS, for feloniously receiving, on the 11<sup>th</sup> of February, the said goods, he knowing them to have been stolen.

CATHERINE BARON. I am a housekeeper; I live in Southampton-row, No. 49, Bloomsbury. I have an independent fortune.<sup>5</sup>

Q. Do you know Daniel Kelley – A. He was my butler, and had the care of my plate. Q. Did you miss any of your plate – A. Yes. Q. When did you last see it before it was stolen – A. On Sunday evening, at dinner, on the 3d of February, the articles were safe then. I missed it on the Tuesday following: The prisoner had not quitted my service when I missed it. Some of the plate is here.

Mr. Reynolds. You say you saw your plate on the Sunday – A. Yes, excepting the marrow spoon. Q. Did you take particular notice of it – A. No. The silver servers were brought to table, and the spoons; I cannot exactly say

whether they were all there or not. Q. Did you take any more observation of your plate on that day than any other day – A. No.

JOHN PERRY. I have the management of Mr. Spinks shop, 22, Gracechurch-street, he is a silversmith. The prisoner came to me on the 13<sup>th</sup> of February, he asked me if we bought silver, and what we gave per ounce; I told him from five shillings and sixpence to five shillings and ninepence was the usual price given, upon which he opened the plate. I examined the silver and said as there was foreign silver among it the utmost that I could give would be five shillings and sixpence per ounce; he said that was not sufficient, he expected five shillings and tenpence; I told him it was the most I could give, he asked me to weigh it for him that he might not be deceived in any other place he took it to; there were fifty one ounces four penny weights; he asked me what it would come to at that; I told him fourteen pounds one shilling and sixpence; he said he did not suppose he could do better with it, I should have it. I paid him the money and he went away.

Mr. Reynolds. Which man are you speaking of – A. Atkins is the person that I bought it off. I gave him the full value of it, as he told me he was a country dealer I gave him more than others would have done.

JOHN BLAKE. Q. What are you – A. I am a servant.

Q. What do you know of this transaction – A. I believe you have the minutes.

Q. I must have it from you again, tell the whole of it, and tell the truth, and nothing but the truth, do not charge any person unjustly – Do you remember a fortnight ago you were in company with Mrs. Devey, on a Sunday, a fortnight ago – A. Yes, I was.

Q. Did you go with her to any place – A. I did, at her request I went with her to a public-house in Bloomsbury-place, it is at a corner of a street. Q. Do you remember Mrs. Devey sending a boy of an errand – A. Perfectly well. Q. What was the boy to do – A. As I understood to tell Kelly the butler to come to her; Kelly at Mr. Barons, or Mrs. Barons, I cannot say which.

Q. Look round, do you know either of the prisoners at the bar – A. Both of them. I knew Kelly before I went with Mrs. Devey, but not Atkins. Q. Did Kelly come – A. He did come. Q. Do you remember Kelly bringing anything to Mrs. Devey – A. Not at that time. Q. Do you remember anything of a bundle – A. Yes. Q. Who brought the bundle – A. Kelly; he delivered the bundle to me at our parting at the public-house.

Q. Did you know the contents of the bundle – A. I did not know then, I do now.

Q. What were you to do with the bundle – A. He said there were different articles, some belonged to him, and some to his friends; I took the bundle home along with me, I was to dispose of the articles that were in it; I sold them to Atkins, on Monday, eight days after I received them.

Q. During these eight days did Kelly call upon you for anything – A. He asked me if I had disposed of them.

Q. To whom were you to give the money to – A. To Kelly.

Q. What is Atkins – A. I do not know.

Q. How come you to sell them to Atkins – A. I was in a public-house, a man was talking of a jeweller, and some conversation ensued about watches, and they said he bought silver and gold. A man brought Atkins to me at my master's stable; I do not know the man's name.

Q. What is your master – A. A gentleman, I believe, a counsellor, Mr. John Penleaze.

Q. What was it you sold to Atkins – A. Three small silver waiters.

Q. Were they silver – A. I believe so; I sold them as silver, I did not sell them alone; to the best of my recollection thirteen (or it may be one over) spoons, table spoons, I believe.

Q. Do you know whether they were table-spoons or tea-spoons – A. Yes, but they may put them to different purposes.

Q. What besides – A. I do not think there was anything else. By the account of Atkins and his friend that brought him to me they came to ten pounds some shillings. Atkins paid me the money.

Q. Did Atkins weigh the silver – A. Yes. I gave Kelly the ten pounds the next morning. Kelly said it should be fifteen or sixteen pounds that he ought to have had.

Q. How many ounces did it weigh – A. Forty-seven ounces, as I understood, at four shillings and threepence an ounce. I gave Kelly the money, he gave me nothing for my trouble.

Mr. Reynolds. You were taken up and charged with this were you not – A. Yes.

Q. You have come now from prison to here – A. Yes.



Q. When did you first tell this story after you were taken up and charged – A. No, I did not.

Q. When was the first time – A. Last Monday.

Q. Three days ago – A. Three days ago.

Q. That was the first time that you told this story, when were you taken before the magistrate, as thief, you know – A. On the Thursday, I believe.

Q. And you never told this story until the Monday night – A. No, I had no opportunity; I searched for advice, and I got advice of my master.

Q. Are you in service now – A. I do not know whether I am or am not.

Q. Do you know your way into Mrs. Baron's house – A. I do, if I am shewed the door.

GEORGE CLERKE. I am a watchmaker. On Monday the 11<sup>th</sup> of February the prisoner Atkins came to my house and informed me he was going to purchase some foreign silver; a friend of his, a one legged lieutenant, was to introduce him to the person that had it to sell, it was to be sold at a public-house near Berkley-square; I cautioned him not to have anything to do with it; I told him if the people had come honestly by it, they would go to a refiners, or to a silversmith's shop, where they could get more by it than he could afford. He borrowed my scales and weights, I lent them to him having known him about two years.

Q. What is he – A. An hawker, or pedlar, during which time I have trusted him at several periods to the amount of forty or fifty pounds, he has been frequently in my shop, where valuable articles lay about, both of gold and silver; I had not the least doubt of his honesty. I also told him, after he had borrowed the scales, that he had better go to a silversmith's shop, and have it weighed, and valued, by which means he would not be wronged; he told me he could depend upon his friend the lieutenant. He returned the scales the next morning, I was not at home; I saw him in the afternoon, he told me he had made a purchase of the silver, and gave five shillings the ounce.

Mr. Glead. Did you know where Atkins lodged – A. He told me in London-street, Fitzroy-square. I was present at the time of his apprehension, he was apprehended in my shop; he then acknowledged everything.

Q. I want to know when he was apprehended whether he gave all the information of the person of whom he purchased the different articles – A. He did. Q. In consequence of the information he gave was the witness Blake apprehended – A. Yes, and Kelly.

Mr. Reynolds. You did not go to the public-house where he bought the plate – A. No. Q. You know nothing of Kelly – A. I do not.

WILLIAM SMITH. I am a patrol of Bow-street. By the information that I received at Mr. Clerke's house on the Wednesday, on Thursday I apprehended the prisoner. As soon as I told him who I was and took him in custody he told me of the person that he had bought it of; he said he did not know the name; by the information that he gave me I found out Blake; he went with us and found out Blake. When we apprehended Blake, Blake said that he had this plate given to him.

WILLIAM CABLE. I am a pot boy at Orange-street, Bloomsbury-place.

Q. Do you remember a lady of the name of Devey coming to you – A. Yes.

Q. Are you the boy that was sent with a message to Kelly – A. Yes, she sent me of an errand to 49, to Kelly, to tell him to come; Kelly came about eleven o'clock. Q. Did you see any bundle – A. I did not.

Mr. Reynolds. You saw Kelly come, and you saw no bundle – A. Yes. I saw no bundle.

Q. If the bundle had been of any size at all you must have seen it if he had brought it – A. Yes, I must.

COURT. Did Kelly come once or twice – A. I saw him come once.

Q. to Blake. How often did Kelly come to Mrs. Devey at the public-house in Bloomsbury – A. Twice.

STEPHEN LAVENDER. I am an officer. I had some conversation with Atkins, he said he was cautioned about purchasing this plate, and in consequence of this caution, he buried the plate before he sold it.

Q. Then he told you that he had sold it – A. Yes, to the silversmith in Gracechurch-street, he said that he buried it in consequence of some caution he had of Blake.

Q. to Perry. Did Atkins give you reference to Mr. Clerke – A. No; he was known at our shop I had known him a month or six weeks before. I knew from Atkins that he had dealt with Mr. Clerke, and there he was found.

Q. to Prosecutrix. Look at the plate, is that your property – A. The silver has my crest upon it; these two, they

are all my own that is produced, and more is wanting still; these are worth twelve, thirteen or fifteen pounds: I do not know exactly.

Kelly's Defence. I am free of the charge against me.

Atkins's Defence. I hope I gave a fair price for them.

Kelly called one witness, who gave him a good character

KELLY, GUILTY – DEATH, aged 48.

ATKINS, GUILTY, aged 31 - Transported for Fourteen Years.

Second Middlesex jury, before Mr. Justice Heath.<sup>6</sup>

By warrant dated 26 March 1811, Kelly's death sentence for 'Stealing Goods, value 40/- and upwards in a Dwelling House', was commuted to transportation for the term of his natural life.<sup>7</sup> Where and to whom Daniel had been assigned since his arrival at Hobart in 1812 is not clear. Prior to his conviction he had been employed as a butler, calling for a very different skill-set hardly suited to labouring in government work. Daniel was granted a conditional pardon on 31 January 1820.<sup>8</sup>

Far more in keeping with his pre-transportation lifestyle, in September 1818, just before his marriage to Margaret Yates, Daniel was pleased to make the following announcement.<sup>9</sup> He and Margaret would start married life as partners in business.

**D**ANIEL KELLY, 29, Bathurst-street,  
respectfully informs the Inhabitants of  
Hobart Town, that he has commenced the  
Business of a Confectioner.  
N. B.—Sweet Cakes and Biscuits of every  
kind, may be had on the shortest Notice.

Perhaps to encourage custom for his new venture Daniel had been too generous in extending credit because in May 1821 he placed a notice in the newspaper requesting all persons who owed him money to pay their bills otherwise 'legal Means will be resorted to, in the Lieutenant Governor's Court, for Recovery thereof'.<sup>10</sup>

By 1824 Daniel and Margaret had embarked on a new enterprise. In January Daniel obtained a license to sell beer at the sign of the "Noah's Ark" in Bathurst-street which, as Daniel amusingly reassured everyone (and presumably also himself!), was still floating in August of that year.<sup>11</sup>

**D**ANIEL KELLY respectfully begs  
leave to return his sincere Thanks  
to his Friends and the Public, for the  
liberal Encouragement he has received,  
and humbly trusts that the Accommo-  
dation which has been already expe-  
rienced may continue to evince them,  
that Noah's Ark, in Bathurst-street, is  
still floating with the best Colonial Beer  
yet offered to the Inhabitants, at 1s. per  
Quart.  
☞ Breakfast, Dinner, and Supper,  
with good Entertainment for Settlers, at  
reduced Prices.

Once again, in a short time financial troubles loomed. By May 1825 "Noah's Ark" may still have been be afloat - but only just.<sup>12</sup>

**D**ANIEL KELLY most respectfully returns his thanks to the Gentlemen who supported the Ark with their kind Accommodations, and trusts his conduct will at all times meet their approbation. The Ark is now afloat with the best Colonial Beer ever offered to the Public.—The Traveller and the Settler will find shelter at the Ark on the most reasonable Terms. Kelly has been at a great expence to procure comforts of the above description, and at heavy losses by credit and bad bills.—Credit died at half-past 4 this morning at the Ark. Kelly hopes those indebted to him will come forward and pay, to prevent the bed-screw the next Court of Requests.—*Bathurst-street, May 19, 1825.*

Neither Daniel Kelly nor “Noah’s Ark” were listed in the 1825 allocation of liquor licenses.<sup>13</sup> Seemingly ever the optimist, Daniel found another use for his property at 29 Bathurst Street, as advertised in December 1825.<sup>14</sup>

**A**T the Request of several respectable Inhabitants of Hobart Town, the Advertiser begs leave to state, that his Assembly Room will be attended with the best Music and Attendance twice a Week, Mondays and Fridays, or as otherwise bespoke.—None admitted but those invited.  
**DANIEL KELLY, 29, Bathurst-street.**

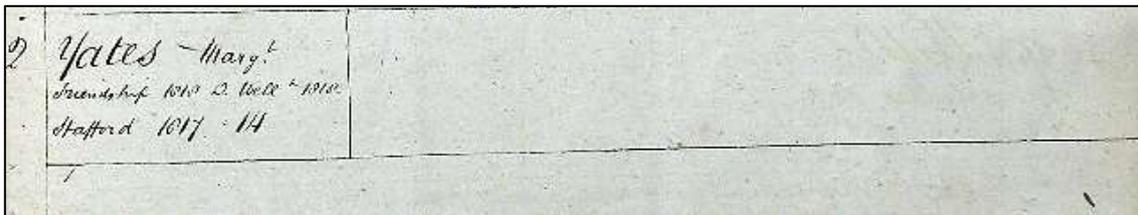
We cannot know whether Daniel’s entrepreneurial ‘flair’, or lack of it, had any impact on Margaret’s health, but the following is probably the record of her death and burial on 17 April 1826 at Hobart. She died relatively young, at the stated age of 40 (with no cause of death being recorded). Her status, Hand keeper’s (??) wife, is hard to decipher.<sup>15</sup>

No. 77.	Margaret Kelly	Hobart Town	17 April	40 years	-	Hand keeper's wife	Wm. Stafford.
No. 75.	1190						

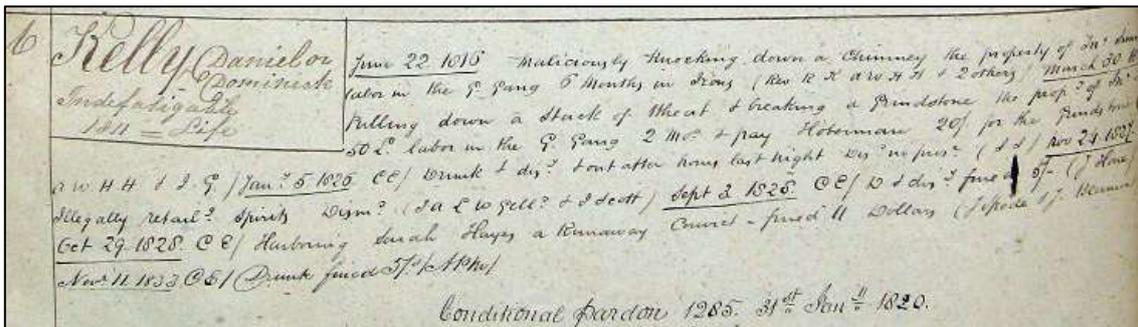
According to one source Margaret Yates had been married prior to her trial and transportation, but whether the bride of the following record and Margaret Yates are the same person is open to question. This source records the bride’s name as Mary Ann and her maiden name as Hancock. No further information about Thomas Yates is provided so, if he was Margaret Yates’ first husband, we do not know if he was alive or dead when Margaret married Daniel Kelly.<sup>16</sup>

No. 1310 Thomas Yates of the Parish  
Bachelor of Mary Ann Hancock of the same  
Parish were  
married in this Church, by Banns  
this sixteenth Day of May in the Year One Thousand eight Hundred  
and two By me J. A. Perry Curate  
This Marriage was solemnized between us } Thomas Yates  
Mary Ann Hancock X her maid  
In the Presence of } Wm. Gutter  
Ann Jones

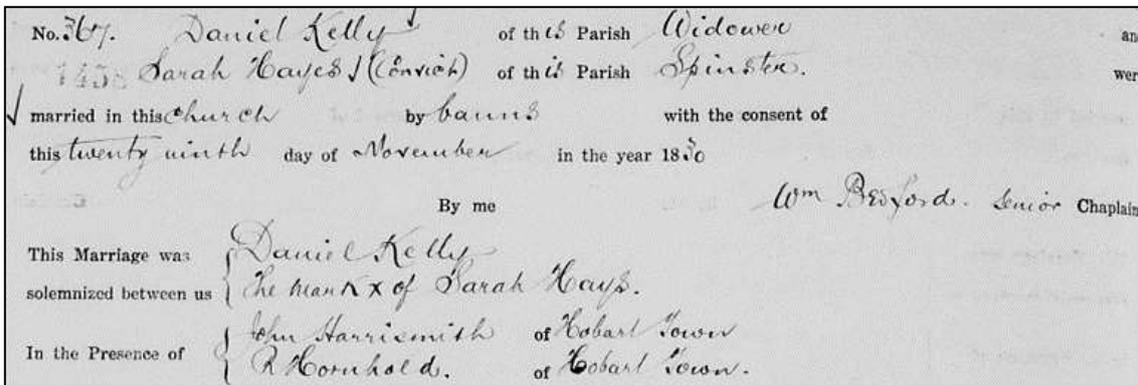
Margaret Yates/Kelly was one of those women who managed to steer clear of the authorities during her time in the colony. There was not even one indiscretion registered on her conduct record.<sup>17</sup>



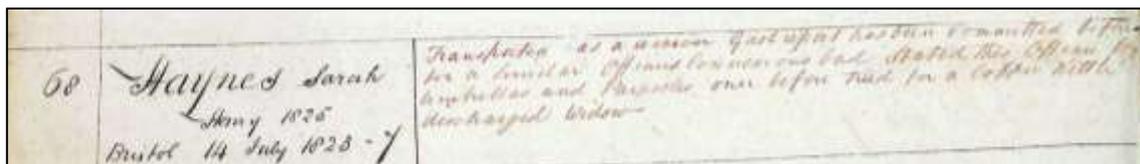
The same cannot be said for Daniel who committed his first offences in 1816. In March he was found guilty of pulling down a stack of wheat and breaking a grindstone, the property of John Hoberman, for which he was sentence fifty lashes and two months labour in the gaol gang for, plus reimbursement of 20/- to Mr. Hoberman for the cost of the grindstone. Three months later, on 22 June, he received a further sentence of six months labour in irons in the gaol gang for 'maliciously knocking down a chimney, the property of John Simmons'. Ten years elapsed before the next offence was recorded. On 5 January 1826 he was up on a charge of being drunk and disorderly, but the case was dismissed for want of a prosecutor. Similarly, a charge laid on in November 1827 of illegally retailing spirits was dismissed. Not so lucky in regard to a charge in September 1828 of being drunk and disorderly, Daniel was fined 5/-. More seriously, on 29 October 1828 Daniel was charged with harbouring Sarah Hayes, a runaway convict, and fined 11 dollars. The last offence was recorded on 11 November 1833 when Daniel was charged and fined 5/- for being drunk.<sup>18</sup>



Not only was Daniel 'harbouring' Sarah Hayes, in 1830 he married her, the marriage taking place at Hobart on 29 November 1830.<sup>19</sup>



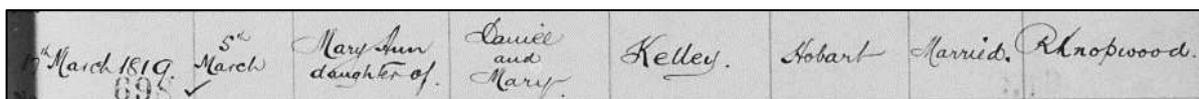
It is possible that Sarah Hayes was in fact Sarah Haynes, who had been tried on 14 July 1823 at the Bristol Quarter Sessions, found guilty, according to the *Bristol Mirror*, of stealing two brass locks, &c from T. Cross, and sentenced to seven years transportation. Note: the Bristol Prison Register, and her Conduct Record, state that her crime was receiving stolen goods. Her Conduct Record also states that she was a widow.<sup>20</sup>



In September 1824 she had been removed from the Bristol City Gaol, taken to Woolwich and put on board the convict vessel *Henry* bound for Botany Bay.<sup>21</sup> The ship departed England on 30 September 1824 and arrived at Van Diemen's Land on 8 February 1825. On board were 79 females, 77 of whom were disembarked at Hobart. In accordance with the recommendation of Surgeon William Bell Carlyle one of the two who were kept on board to continue their journey to Sydney was Sarah Haynes.<sup>22</sup> There is a tantalising letter from Governor Arthur to Surgeon Carlyle, dated 10 February 1825, in which he acknowledges receipt of a letter from the latter and agrees with the Surgeon's recommendation that Sarah Haynes be separated from the other female convicts, and concurs with the Surgeon's 'motive which induces you to suggest her being removed to Sydney'. What the 'motive' was is not stated. Sarah was to be sent to the female factory at Parramatta.<sup>23</sup> It is perhaps of note that Sarah brought with her £350 which was banked on her behalf pending the completion of her sentence. In 1825 she was mustered at Sydney, general servant to Mrs. Solomons.<sup>24</sup> No record has been identified for Sarah in the NSW 1828 census. If she was the woman who married Daniel Kelly when did she arrive at Hobart? And again, if she was the second Mrs Daniel Kelly she had been granted her certificate of freedom in July 1830, at the conclusion of her sentence. However, it should be noted that the woman who did marry Daniel Kelly in 1830 was, according to the register, a spinster and a convict.



From speculation to certainty - two children, both daughters, were born to Daniel and Margaret Kelly. The elder of the two was Mary Ann Kelly, born on 5 March 1819 and baptised two weeks later by the Reverend Knopwood who noted that the parents were married [albeit the mother being six months pregnant on her wedding day].<sup>25</sup>



Second daughter, Margaret Jane, arrived three years later.<sup>26</sup>

1330  
 No 6 Margaret Jane daughter of Daniel and Margaret Kelly  
 of Hobart Town, Van Diemens Land, was born on the 25<sup>th</sup> day  
 of March 1822 and was baptized on the 15<sup>th</sup> day of April  
 following, Martha Hoxley and Susannah Garth being the  
 Godmothers and Edward Garth the Godfather by me  
 W Horton  
 Witnesses  
 Jno Hoxley  
 Joseph Hussalowitz

Both girls were included in the 1827 Tasmanian muster of children by which time Mary Ann was 7 years old and her sister Jane aged 5. Both were living at Bathurst Street. Mary Ann's 'religion' was recorded as Protestant; Jane as a Catholic, although another birth record shows that she was baptised at the Melville Street Methodist Church, Hobart.<sup>27</sup> Their mother was no longer living, but both girls were stated to be daughters of Daniel Kelly, and were judged to be in 'great distress'.<sup>28</sup>

One particular event, a legal case of *Gould v Peck* which was heard by the Supreme Court on 14 September 1840, and covered in great detail by the newspapers of the day, reveals something of what happened to the girls, and also indicates that their father also found himself in distress. The following account is taken from *The Hobart Town Courier and Van Diemen's Land Gazette*.

#### GOULD v PECK

This was an action of *crim. con.*, the declaration set forth two counts, 1<sup>st</sup>, criminal conversation; the 2<sup>nd</sup>, enticing the wife of the plaintiff from her husband. The damages were laid at £2000.

The Solicitor-General opened the case, by stating that in the month of January, 1838, Mr. Gould arrived in this colony a free immigrant, with the intention of following the trade of a baker, which he did, and finding it succeed, in February, 1839, with good advice and counsel, and to the mutual satisfaction of both parties, entered into the marriage state with one Mary Ann Kelly, a daughter of Mr. Daniel Kelly, of Bathurst Street. He possessed a small capital; this he embarked in trade, preparing and erecting suitable premises, with a determination to possess it with his wife, and having combined this capital with his own industry and frugality, to make a suitable provision for himself and family, (should he have any), and be thus enabled to pass the remainder of his days in comparative affluence and comfort. But instead of this pleasing picture, behold the reverse – his hopes are all blasted by his wife's infidelity; and let any young man wishing to pass as a useful member of society, place himself in his position, how horrible would the situation appear. Let any unprejudiced persons ask themselves, whether this is not a most important feature in the case before them. An honest, hard-working, creditable member of society, cannot turn his back, but a base adulterer comes in to destroy the peace of his family, annihilating the social compact, and injuring forever his serenity of mind; but lamentable as the statement was, he had to comply, and yield the dear wife of his bosom to the base and unhallowed appetite of the defendant. Situated as he was, a young beginner in trade, his wife's services would have been exceedingly useful to him in conducting and managing the shop department; in this manner only he had sustained a great pecuniary loss. The Solicitor-General wished the jury to place themselves in the plaintiff's situation, and then they could not say that the damages laid in the declaration were too heavy. The Clerk of the Court then read the certificate of the marriage between the plaintiff and his wife.

Mrs. Elizabeth Miller<sup>29</sup> said, I know the plaintiff, Gould; his wife lived with me before her marriage four years; she married from my service; I was one of the witnesses at the marriage; Gould was then a baker in Murray-street; he removed to Elizabeth-street a few months after the marriage; they seemed to live very comfortably together, and the business was apparently very good; previously to February 1840, they lived very comfortably; I placed a great deal of confidence in Mrs. Gould, and would have trusted her with my children after her marriage; I do not think she was of age; she was very pleasing in her personal appearance; she attended in the shop, and was well calculated for such service.

*Cross-examined.* – Her father's name was Kelly; he was a poor man, a hairdresser by profession, but subsisted mostly on charity; Mrs. Gould was very industrious; I imagined Mr. and Mrs. Gould lived very comfortably; I never knew of any difference between them but twice; once not long after the marriage; the first difference was about some article of dress; the second was on the day she left her husband; I was there on that morning; they seemed

uncomfortable when I went in, and afterwards quarrelled; Mrs. Gould said she had determined to leave him; I urged her to come to my house, where she could always have a home; I knew the next morning that she had left; she once spent a few days at my house when ill; I fetched her away myself; I do not know of her having left her home upon any other occasion; she said they could not agree; Gould was a good-looking man; they had no family; I seldom saw any gentlemen in the shop; her sister lived with her a short time; I knew Mr. Peck by sight.

*By the Judge.* – I often went to their shop; two or three times a-week.

*William McCarthy.* – I am seventeen; I am apprenticed to Mr. Gould; he worked in the bakehouse; Mr. Peck at first came three times a-week; afterwards he used to be always coming till master sent a letter; Mr. Peck used to walk before the door almost every day; Mrs. Gould used to come and stand out at the door; when master came in from the bakehouse Mr. Peck would sit down; master sent me with a note to Mr. Peck about a month before mistress went away; I delivered it at Mr. Molloy's, at the bar; Mr. Peck was inside the bar at the time; master and mistress appeared to live very happy when I first came; they lived so until Mr. Peck came there.

*Cross-examined.* – They lived very happy; I never heard of any difference; mistress used to go out in the afternoon; I do not recollect her sleeping out; Mr. Peck used to talk to master when he came in; he used to come and take supper; master did not think any harm of him at that time; Mr. Peck sent me out for the beer; I brought two bottles of porter generally; the supper was for Mr. Peck himself; I know of Mr. McMinn; he was not often there; the letter was not written by Mr. McMinn; the handwriting looked like that of master's; I have seen Mr. Peck at master's after I took the letter, but not often; I never saw him sup there after; mistress left her home on Monday night, between six and seven; mistress told him she would leave; I never heard her say so before that day; she told me I was going to have a new mistress; master did not ask her to stay; she said 'good bye' and he said 'good bye'.

*Re-examined by the Solicitor General.* – Master kept an eating-house; other people had meals there; mistress had a sister living on the New Town Road at Mr. Bradbury's; I have seen mistress at a house of Mr. Molloy's in Brisbane-street; Mr. Peck lives there.

*Mr. Washington McMinn.*<sup>30</sup> – I have known Gould and his wife about six months; I know Peck also; I was in the habit of visiting the shop; I have dined there and paid for my meal; the shop appeared to have custom; Mrs. Gould attended to the shop; Peck was a frequent visitor there; Mr. and Mrs. Gould did not seem to disagree much; I never saw any serious disagreement between them; I cannot swear that I am acquainted with the handwriting of the plaintiff; the defendant showed me a letter; it was about two months before Mrs. Gould left her home; it was shown to me in the street; defendant said – "Here's a pretty go". The last time I went to the shop I do not recollect; I think I have supped there with Peck; I think it was shortly prior to the receipt of the letter; I have supped there more than once, but never after receipt of that letter; it was treated by the defendant as a letter from Thomas Gould. Peck was living at Mr. Molloy's prior to his acquaintance with Mrs. Gould; the "Pickwick" public-house is in Liverpool-street; Peck slept there, but was at Mr. Molloy's in the day-time; I have heard that he claims some houses as his property in Brisbane-street; I have heard him say that the old gentleman (Mr. Molloy) had no one else to leave his property to.

*Cross-examined.* – Mr. Molloy is an old man; Peck lives in one of his houses; I live in the same street; Mr. and Mrs. Gould did not appear to disagree much; I have seen a serious quarrel between them; it was a month or two before they parted; Mrs. Gould used to use such language; rather strong; I do not think they ever lived happily together.

[This witness gave his evidence not only with reluctance, but his answers frequently had no relation whatever to the question: for instance, when asked – Do you believe it (Gould's) was a house out of which it would be reputable for a respectable female to be seen coming? The answer was – public opinion is a curious thing!]

*George Pearce.* – I am a tinman; I reside next door to Gould; I thought they lived happily; he appeared an industrious man.

*Cross-examined.* – Mrs. Gould told me a day or two before she left, that Gould was as good and kind a husband as she could wish.

*Jane Kelly.* – I am sister to Mrs. Gould; I have been from time to time at her house; I thought they were living very happy together; I was there twice a week; I lived with them four months; I was in service at Mr. Bradbury's<sup>31</sup> four months before Mrs. Gould left her husband; during that time they appeared to be living very happy; I went to the Pickwick; the outer door was open; I knocked at the door I was shown within; my sister opened it; it was



about 9 o'clock in the evening; she was in her nightgown; there was a bed in the room; Mr. Peck was in it; I tried to persuade my sister to return with me; she would not; Mr. Peck and Mrs. Gould have now removed into Brisbane-street. I remain with Mr. Gould; I receive no wages; Mr. Gould seemed very uneasy at my sister leaving him; it has distressed him; he was much attached.

*Cross-examined.* – He did not send me to look for my sister; Sophia Ames accompanied me; Mr. Gould knew where I was going; I arrived at Mr. Gould's about eight o'clock on the evening my sister left. I have heard them differ.

*Mr. Marshall.* – I am a confectioner; before Gould's wife left he was doing very well in business; Mrs. Gould was well adapted to carry on the business; I never saw them disagree; she was rather short-tempered with him; since his wife left he appears quite an altered man for the worse; he has advertised his business for sale; he came to me the morning after his wife left, and said he would leave the country there and then; I persuaded him not.

*Cross-examined.* – When Gould first came to this colony he was in Hedger's employ; he now seems in low spirits; and he does not attend to his business as he used.

The Attorney-General addressed the jury at considerable length in mitigation of damages, and contended that there was no evidence to show systematic seduction, indeed he rather considered that the plaintiff's wife had thrown herself at the defendant's feet. It was evident that the parties, as man and wife, had been continually jarring and jangling. The learned gentleman remarked upon the singular, although no doubt purely accidental circumstances, of a female of pleasing appearance always to be found in the establishment of a confectioner, and considered that Mr. Gould's policy in choosing a wife to conduct his business had most probably had some reference to the remarkable but undoubted fact to which he had just alluded. He placed before the jury in the strongest light every circumstance which by its connection with the case might tend to lessen [sic] the weight of the evidence against the defendant, and concluded with the severest condemnation of the plaintiff's feelings, who, in order to support his case, had not scrupled to place a sister in the box, to give her evidence of a sister's shame.

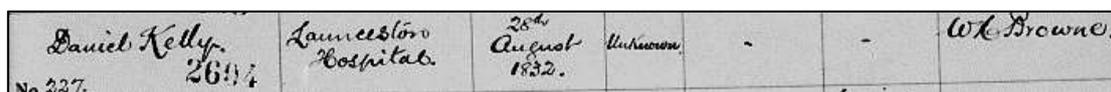
His Honor the Chief Justice summed up minutely, and having recapitulated the evidence to the jury, left it in their hands to determine the amount of damages.

The jury retired to consider their verdict, and after about an hour's absence returned into court with a verdict for the plaintiff. Damages, £90.

The trial lasted upwards of five hours, and seemed to cause great interest.<sup>32</sup>

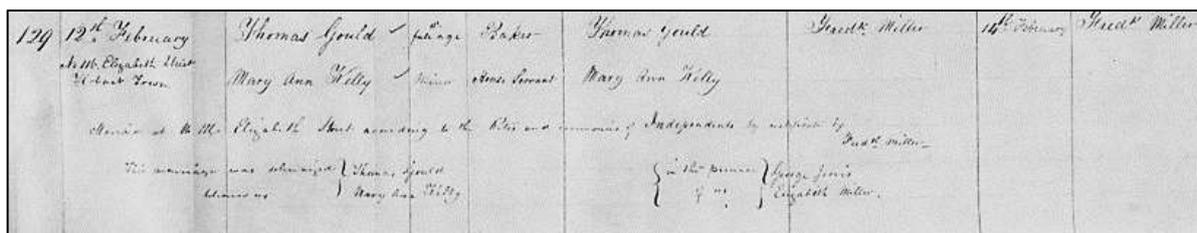
According to the *Colonial Times*, the Court was excessively crowded throughout the trial which lasted nearly six hours, and seemed to excite great interest. The reporter also observed that there were three females amongst the spectators, and queried whether their presence was 'decent'.

In her testimony regarding Daniel Kelly, Elizabeth Miller used the past tense, suggesting that he had died sometime prior and that he had fallen on hard times. The *Anniversary and Hobart-Town Almanack* for the year 1831 lists him as a hairdresser at 25 Bathurst-Street, and he was alive in December 1833 when his last offence was entered into his conduct record, so he could not have been the Daniel Kelly who had died at the Launceston Hospital in August 1832?<sup>33</sup>



And what of the two daughters found 'distressed' in 1827? Had they been placed in the orphan school or had they been taken in by another family/families?

Again, from Elizabeth Miller's testimony, we know that Mary Ann Kelly had been employed by the Millers, a very respectable family, from about 1835 until her marriage in February 1839 to Thomas Gould, at which Reverend Frederick Miller officiated and for which Elizabeth Miller was one of the witnesses.<sup>34</sup>



Mrs. Miller was not sure about Mary Ann’s age, but she would have been nearly twenty when she married. Certainly she had a high regard for Mary Ann, so much so that even after Mary Ann was married, Elizabeth Miller was prepared to take her back to where ‘she could always have a home’.

Thomas Gould had arrived at Hobart on 3 January 1838 on the barque *Emu*, having left London on 27 September 1837.<sup>35</sup> Also carried on the *Emu* was an impressive consignment of confectionery delights for Hedger’s Confectionery Warehouse, Elizabeth-street, where Thomas was initially employed by the proprietor John Hedgers.<sup>36</sup> By the time the following notice appeared in the press in June 1840 Thomas, assisted by Mary Ann, his wife of sixteen months, had established his own business, but his marriage was in jeopardy.<sup>37</sup>

**Caution.**

**A**LL Persons are hereby cautioned not to give my wife, **MARY ANN GOULD**, credit on my account, she having left me without any just provocation, and is now cohabiting with a *gentleman*, against whom it is my intention to seek legal redress.

**THOMAS GOULD, Confectioner.**  
Elizabeth-street, June 24, 1840. 1622

It was followed two months later by another advertisement, in confirmation of the evidence of George Marshall that the Gould business was on the market as the proprietor intended to return to England.<sup>38</sup>

**To Let,**

*For the unexpired Term of a Lease, for ten years, from November last.*

**T**HE Shop, Dwelling-house, Bake-house, and premises, situated in Elizabeth-street, at present in the occupation of Thomas Gould, Pastrycook, Confectioner, &c., who is desirous also of disposing of his present stock in trade, and business to a respectable person, being (from domestic occurrences,) about to return to England. Apply on the Premises.

**August 21, 1840. 2225**

George Marshall had also urged Thomas Gould not to quit the country, but it is not certain whether or not he took this advice. He certainly went to Sydney, where, in December 1842 he was advertising under the name Thomas Gould, Confectioner, King-street West, and where, in 1843, he married Mary Ann McDonagh, by whom he had four children, the births being registered at Launceston.<sup>39</sup> This begs the question as to what happened to the first Mary Ann, and at this stage nothing further has been found for her.

It seems that Thomas continued to operate his confectionery business and apparently with some success. However in October 1852 he notified his intention close down his business.

TO BE DISPOSED OF

The Undersigned, intending to relinquish his present business, is desirous of disposing of the unexpired lease of the Shop and Premises in Brisbane-street, now occupied by him. The lease has two years and a half to run, at a low rental.

The present occupier is ready to treat with any person desirous of entering in the confectionery trade, and would

dispose of the tools, fitting, &c. To such a person a first-rate opportunity is now afforded, as the trade carried on is one of the most extensive in the colony.

The premises are well adapted for the carrying on of any other business, and are well known as an excellent stand for trade. Possession can be given at the end of the year.

Further particulars can be known, on application to

THOMAS GOULD, Confectioner, &c, Brisbane-street, Oct. 20.<sup>40</sup>

A January 1853 announcement confirmed not only Thomas Gould's intention to relinquish his confectionery business, but also signified a relocation. Mr. Henry Howe, auctioneer, declared himself

... favoured with instructions from Mr. Gould, who is relinquishing his present line of business, to SELL by PUBLIC AUCTION, on his premises in Brisbane-street on WEDNESDAY next, the 12<sup>th</sup> instant, commencing at 12 o'clock.<sup>41</sup>

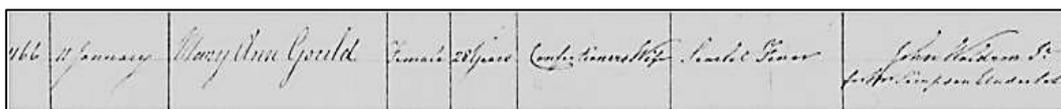
The inventory of stock-in trade, and particularly the household furniture, indicates that Thomas had done well for himself.

**T**HE whole of the **STOCK-IN-TRADE**, consisting of every variety of the choicest confectionery, macaroni, vermicelli, tapioca, jams, lemon syrup, peppermint, cloves, cherry brandy, milk punch, mustard, curry powder, &c. &c. The **GLASSWARE** in the Shop comprises rich cut salad bowls, trifle dishes, liqueur frames and glasses, salt cellars, jelly glasses and custard cups, a great variety of show glasses, ornamental glasses, several sets dessert service, tin boxes and canisters, brown paper, filter, blacking, and a variety of other goods. The whole of the **UTENSILS** in the Bakehouse, blocks, copper moulds, &c. The **HOUSEHOLD FURNITURE**, most of which is of Spanish mahogany and substantially made, consists of an elegant mahogany sideboard, very large telescope dining table, horse-hair sofa, mahogany hair-seated chairs, bedsteads and beds, oil paintings, bookcase and cheffonier, carpets and rugs, fenders and fire-irons, china, glass, crockery, table cutlery, &c.

**Terms—Cash.**

**The auctioneer can confidently recommend the public to attend the above sale, as every article is of the very best description, and will positively be sold to the highest bidder.**

Seemingly the business, if not his first marriage, had survived the scandal of the 1840 trial. Thomas and his second wife were now to settle in Launceston. But their fresh start was cut short by the death of Mary Ann on 11 January 1854 from scarlet fever.<sup>42</sup>



On Wednesday, the 11<sup>th</sup> instant, at her residence, Elizabeth-street, Mrs. Thomas Gould, aged 29 years.

The friends and relatives of the late Mrs. Gould, wife of Thomas Gould, confectioner of this town, are requested to follow her remains from St. John-square Chapel, at a quarter past eight o'clock tomorrow morning.<sup>43</sup>

To complete Thomas Gould's story – on 6 July 1854 he remarried, his new bride being Jane Luckhurst, both described as being 'of full age' and 'of Launceston' and by whom he had two more children.<sup>44</sup> Thomas did eventually return to England. He, his wife Jane and their blended family were found at Bothenhampton, Bridport,

Dorset, for the 1861 census.<sup>45</sup> Days before their tenth wedding anniversary, on 24 June 1864, Jane Gould, aged 39, the wife of a pastry cook, died in child-birth at her home in St. John-street Launceston.<sup>46</sup> Thomas married for the third time – on 12 July 1866, to widow Maria Dukenfield Jolley.<sup>47</sup> Maria, described as a confectioner, contracted breast cancer and died on 18 September 1878.<sup>48</sup> Thomas outlived her by just over a year, his death occurring on 25 October 1879. The register described him as being a householder of 65 years of age and the cause of death as paralysis.<sup>49</sup> Judging by the newspaper notices announcing his death, Thomas still had connections at Bridport, Dorset.

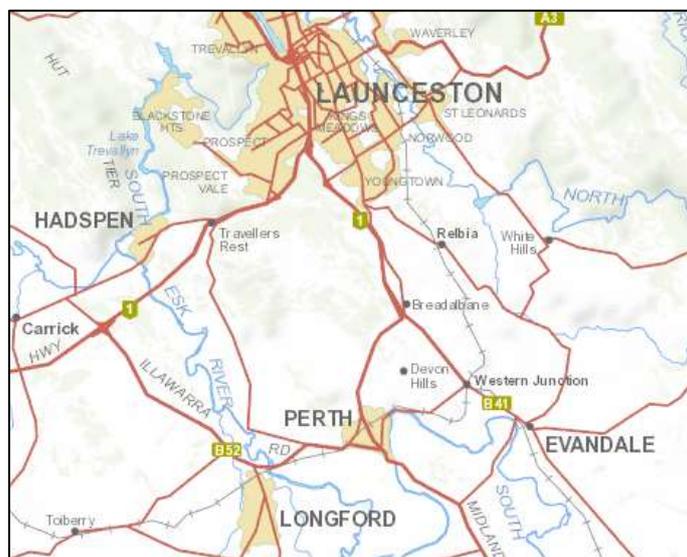
GOULD – At his residence, Brisbane-street West, on the 25<sup>th</sup> October, Thomas Gould, aged 65 years. (Bridport and Dorset papers please copy).<sup>50</sup>

From testimony given at the 1840 trial we know that Margaret Jane Kelly, or Jane as she was more generally known, had been in service with the Bradbury family. Like her elder sister, Jane had, around late 1839/early 1840, ‘landed’ a plum position with one of the more reputable families of Hobart. She would have been about 17 at the time. How and where she had spent her life prior to that is not yet known. After Mary Ann left her husband, Jane left her position with the Bradbury family and moved in with her brother-in-law Thomas Gould to assist him in his business, but by May 1842 she had become Mrs. Thomas Barker.



On 9 May 1842 Thomas Barker, aged 40, free, a labourer and single, and Margaret Jane Kelly, aged 21, free and a single woman, were married at St. John’s Church Launceston by banns and according to the rites of the United Church of England and Wales. The two witnesses were Elizabeth Lush and William Jones. All parties signed their name except the groom who made his mark.<sup>51</sup>

Thomas Barker was not a free man when he arrived on the *Woodman* which left England on 1<sup>st</sup> December 1825 and arrived at Hobart on 29 April 1826, carrying 150 male convicts. Thomas had been born in 1802 and was a ploughman by occupation. His crime, for which he was sentenced to transportation for life at the November 1825 Shropshire Assizes, was stealing six sheep.<sup>52</sup> For the 1830-1833 musters he was assigned to Andrew Barclay at the latter’s property “Cambock”, at Evandale.<sup>53</sup> A model prisoner, Thomas was granted a ticket of leave in May 1834, by which time he was assigned to R. Jones at White Hills, and a conditional pardon on 22 June 1838.<sup>54</sup>



South Esk district<sup>55</sup>



On 1 March 1869 Margaret Jane Barker, (a minor) and daughter of Thomas and Margaret Jane Barker, married George Swain at the Baptist Chapel, Launceston.<sup>62</sup> Tunnel is about 35kms from Launceston and 10kms from Lilydale where the death of Margaret Jane Dawes, age 88, was registered, and where she was buried at the Lilydale Cemetery on 24 December 1909.<sup>63</sup>

Margaret Jane Kelly had only just turned four when her mother died, so she would have had little if any memory of her. If Margaret Yates/Kelly had herself little to contribute to colonial life, her daughter and namesake more than compensated for this through her own children and numerous grandchildren (Margaret Yates' grandchildren and great-grandchildren).

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#### NOTES

<sup>1</sup> *Bath Chronicle and Weekly Gazette*, 27 Mar 1817, p.2.

<sup>2</sup> Female Convicts Research Centre (FCRC), Female Convicts in Van Diemen's Land database, Convict ID: 3632.

<sup>3</sup> TAHO, Hobart marriages 1818, RGD 36/1/1 no 297.

<sup>4</sup> Claim a Convict, Indefatigable (1) arrived 1812, <http://www.hawkesbury.net.au/claimaconvict/shipDetails.php?shipId=88>.

<sup>5</sup> Catherine Barron described herself as a 'housekeeper' but was most likely what is today termed 'householder'.

<sup>6</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 28 May 2018), February 1811, trial of DANIEL KELLY DAVID ATKINS (t18110220-26).

<sup>7</sup> Findmypast (FMP), England & Wales, Crime, Prisons & Punishment, 1770-1935.

<sup>8</sup> Ancestry, New South Wales, Australia, Convict Registers of Conditional and Absolute Pardons, 1788-1870.

<sup>9</sup> *The Hobart Town Gazette and Southern Reporter*, 12 Sep 1818, p.1.

<sup>10</sup> *The Hobart Town Gazette and Van Diemen's Land Advertiser*, 12 May 1821, p.2.

<sup>11</sup> *The Hobart Town Gazette and Van Diemen's Land Advertiser*, 16 Jan 1824, p.2. *The Hobart Town Gazette and Van Diemen's Land Advertiser*, 13 Aug 1824, p.4.

<sup>12</sup> *The Hobart Town Gazette and Van Diemen's Land Advertiser*, 27 May 1825, p.4.

<sup>13</sup> *Colonial Times and Tasmanian Advertiser*, 28 Oct 1825, p.1.

<sup>14</sup> *Colonial Times and Tasmanian Advertiser*, 30 Dec 1825, p.4.

<sup>15</sup> TAHO, Hobart deaths 1826, RGD34/1/1 no 1190.

<sup>16</sup> Ancestry, London, England, Church of England Marriages and Banns 1754-1932, City of London, St Boltoph without Bishopsgate, 1793-1802. Ancestry Online Myfamily Family tree, Margaret Handcock, <https://www.ancestry.co.uk/family-tree/person/tree/403301/person/-2086424263/facts>.

<sup>17</sup> TAHO, Conduct Register, CON40/1/9 p.371.

<sup>18</sup> TAHO, Conduct Register, CON31/1/23 Image 178.

<sup>19</sup> TAHO, Hobart marriages 1830, RGD36/1/1 no 1458.

<sup>20</sup> *Bristol Mirror*, 19 Jul 1823, p.3. Ancestry, England and Wales, Criminal Registers, 1791-1892. TAHO, Conduct Register, CON40/1/5 p.34.

<sup>21</sup> *Bristol Mercury*, 27 Sep 1824, p.3.

<sup>22</sup> Free Settler or Felon? Convict Ship Henry 1825, [https://www.jenwilletts.com/convict\\_ship\\_henry\\_1825.htm](https://www.jenwilletts.com/convict_ship_henry_1825.htm).

<sup>23</sup> Ancestry, New South Wales, Australia, Colonial Secretary's Papers, 1788-1856.

<sup>24</sup> Ancestry, New South Wales and Tasmania, Australia Convict Musters, 1806-1849.

<sup>25</sup> TAHO, Hobart births 1819, RGD32/1/1 no 698.

<sup>26</sup> TAHO, Hobart births 1822, RGD32/1/1 no 1330.

<sup>27</sup> Ancestry, Australia, Births and Baptisms 1792-1981.

<sup>28</sup> Biographical Database of Australia (BDA), Biographical report for Daniel Kelly.

<sup>29</sup> Elizabeth Miller was the wife of the Reverend Frederick Miller, the first Independent Minister in any of the Australian colonies and founder of the first Independent or Congregational Church in Australia - E. R. Pretyman, 'Miller, Frederick (1806-1862)', *Australian Dictionary of Biography*, National Centre of Biography, Australian National University, <http://adb.anu.edu.au/biography/miller-frederick-2454/text3279>, published first in hardcopy 1967, accessed online 31 May 2018.

<sup>30</sup> Washington McMinn was a Court Attorney.

<sup>31</sup> Charles Bradbury, Inspector of Schools, and author of an 1848 report on the Queens's Orphanage for Lt. Governor Denison.

<sup>32</sup> *The Hobart Town Courier and Van Diemen's Land Gazette*, 18 Sep 1840, p.2. See also the *Colonial Times*, 15 Sep 1840, p.6.

<sup>33</sup> TAHO, Launceston deaths 1832, RGD34/1/1 no 2604.

<sup>34</sup> TAHO, Hobart marriages 1839, RGD37/1/1 no129.

<sup>35</sup> *Colonial Times*, 9 Jan 1838, p.4.

<sup>36</sup> *The True Colonist Van Diemen's Land Political Despatch and Agricultural and Commercial*, 19 Jan 1838, p.8.

<sup>37</sup> *The True Colonist Van Diemen's Land Political Despatch and Agricultural and Commercial*, 26 Jun 1840, p.1.



- <sup>38</sup> *Colonial Times*, 25 Aug 1840, p.1.
- <sup>39</sup> *The Sydney Morning Herald*, 24 Dec 1842, p.3. Ancestry, Australia, Marriage Index, 1788-1950. New South Wales Registry of Births, Deaths, Marriages (NSW BDM), Marriage registration 49/1843 V184349 27C. Ancestry, All Australia, Birth Index, 1788-1922.
- <sup>40</sup> *The Cornwall Chronicle*, 20 Nov 1852, p.1.
- <sup>41</sup> *Launceston Examiner*, 8 Jan 1853, p.7.
- <sup>42</sup> TAHO, Launceston deaths 1854, RGD35/1/23 no 1166.
- <sup>43</sup> *Launceston Examiner*, 12 Jan 1854, p.2.
- <sup>44</sup> TAHO, Launceston marriages 1854, RGD37/1/13 no 1062. Ancestry, All Australia, Birth Index, 1788-1922.
- <sup>45</sup> Ancestry, 1861 England Census, RG9/1366/37/p18. *The Tasmanian*, 13 Jul 1854, p.2.
- <sup>46</sup> TAHO, Launceston deaths 1864, RGD35/1/33 no 659. *Launceston Examiner*, 23 Jul 1864, p.4.
- <sup>47</sup> TAHO, Launceston marriages 1866, RGD37/1/5 no 245. *Launceston Examiner*, 23 Jul 1866, p.2.
- <sup>48</sup> TAHO, Launceston deaths 1878, RGD35/1/47 no 314.
- <sup>49</sup> TAHO, Launceston deaths 1879, RGD35/1/48 no 676.
- <sup>50</sup> *Launceston Examiner*, 26 Nov 1879, p.2.
- <sup>51</sup> TAHO, Launceston marriages 1842, RGD37/1/2 no 1469.
- <sup>52</sup> Convict Records, Thomas Barker, <https://convictrecords.com.au/convicts/barker/thomas/81092>. TAHO, Conduct Record, CON31/1/1 p.224.
- <sup>53</sup> Ancestry, New South Wales and Tasmania, Australia Convict Musters 1806-1868. Andrew Barclay, born 1759 in the parish of Cambock, Fife, Scotland, arrived at Port Dalrymple in August 1816, where he quickly became one of the largest landholders in the island - G. H. Stancombe, 'Barclay, Andrew (1759–1839)', *Australian Dictionary of Biography*, National Centre of Biography, Australian National University, <http://adb.anu.edu.au/biography/barclay-andrew-1739/text1921>, published first in hardcopy 1966, accessed online 31 May 2018.
- <sup>54</sup> Ancestry, Australia, Convict Court and Selected Records, 1800-1899. TAHO, Conduct Record, CON31/1/1 p.224.
- <sup>55</sup> Extract, LISTmap – Land Information System Tasmania, <https://maps.thelist.tas.gov.au/listmap/app/list/map>.
- <sup>56</sup> TAHO, Launceston births 1848, RGD33/1/23 no 2256; TAHO, Launceston births 1851 name index 1108865; TAHO, Longford births 1859, RGD33/1/37 no 1350.
- <sup>57</sup> TAHO, Inquests, SC195/1/49 Inquest no 5790.
- <sup>58</sup> TAHO, Launceston deaths 1864, RGD35/1/33 no 770.
- <sup>59</sup> *Launceston Examiner*, 23 Nov 1864, p.4.
- <sup>60</sup> TAHO, Longford marriages 1867, RGD37/1/26 no 479.
- <sup>61</sup> *Daily Telegraph*, 21 Dec 1910, p.1.
- <sup>62</sup> TAHO, Launceston marriages 1869, RGD37/1/28 no 400.
- <sup>63</sup> Ancestry, Australia, Death Index, 1787-1895, Reg No 0298. City of Launceston, Burial Records, Lilydale, Location A/18, no 3.00. Coincidentally, Margaret Jane Swain was also 88 years of age when she died on 11 July 1837 - Ancestry online Myfamily Family Tree, <https://www.ancestry.co.uk/family-tree/person/tree/403301/person/-2086424263/facts>.



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