

## **Good afternoon. The Due Course of the Law.**

This afternoon I want to tell you about three of four women who passed through the Cascades Female Factory. Convicts, yes! These women had to die! Everyone dies, but these women all died the same way. Three of them had large crowds watching them die; the last one had only a small group of official witnesses, but die they all did, at the end of a hangman's rope.

In the short time I have today, I do not intend to go into too many gruesome details. I will merely tell you the story of what they did and the 'male dominated' officialdom that existed in those days which caused their ignominious demise.

Many of you will know the story of Mary McLauchlan, who arrived on the *Harmony* on 14<sup>th</sup> January 1829, transported for theft by housebreaking. Soon after Mary arrived, spending some time in the female factory, she was assigned to Charles Ross Nairne at Richmond.

In August that year, she was brought up by Nairne on a charge of misconduct, but Mary stated that she had not received the proper quantity of clothing. However, she was remanded to the House of Correction. Mary then laid a charge against Nairne, which was found to be without any foundation. She was five months pregnant at the time. Nairne in return then charged Mary with leaving his house on the previous Saturday without permission.

That serious charge saw Mary being locked away in Solitary Confinement on Bread and Water for six days and then to be reassigned as a 'C' class female convict, the lowest of the low, a virtual slave, in the House of Correction for six months, before being eligible for reassignment to the interior of Van Diemen's Land.

Much has been written about the harsh working conditions and life of the 'C' class women. Being in the final stages of her pregnancy would have been extremely bleak and inhospitable for Mary. Ultimately around the 3<sup>rd</sup> December she went into labour and delivered a boy child, which soon afterwards was discovered to be dead.

Unfortunately, we have no accurate details of what actually took place, only reports by newspaper editors at the time that it appeared Mary had privately delivered the child herself and had caused its death by strangulation and afterwards concealed it in a water closet in the House of Correction.

It was not until Thursday 15<sup>th</sup> April 1830, some five months after her baby had died, that Mary, charged with murder of a male child, appeared in Hobart Supreme Court, before Chief Justice John Lewes Pedder and a Jury of seven military men. Mary had no defence council. Twelve witnesses were called. No direct record exists of any evidence presented at the trial which lasted from 10am until late in the evening.

Mary was found guilty and sentenced by Justice Pedder to be hanged by the neck until she should be dead. This was to take place merely two days later on the Saturday at the usual place of execution and when dead, her body was to be dissected.

At 2:30 pm the next day, Friday, the Executive Council met in the Council room at Government House. Present were the Lieutenant Governor, George Arthur; Chief Justice Pedder; the Colonial Secretary, John Burnett and the Colonial Treasurer, Jocelyn Thomas.

After Pedder reported Mary's case as he saw it, Burnett and Thomas expressed the opinion that the crime appeared to have been committed without any known adequate motive. Thus it was desirable that a reprieve of a few days might be granted in the hope that something might come to light, which might avert the distressing necessity of the first public execution of a female in the colony.

The meeting lasted some four hours, with Chief Justice Pedder strenuously arguing that he could not advise the lieutenant-governor to interfere with the due course of the law. But Arthur said he was anxious to obtain more information and

agreed with Thomas and Burnett's recommendation before coming to a decision. Ultimately, he desired to respite Mary's execution until the following Monday.

Called together again the next day, Lieutenant-governor Arthur informed the Council that he had received a letter from the members of the jury recommending Mary to mercy. Mr Thomas begged leave to attend to the recommendation of the jury as the crime was one of a rare occurrence.

Colonial Secretary Burnett and Chief Justice Pedder strenuously disagreed, stating they could not advise that mercy should be extended to the prisoner. Mary's fate was sealed after only 30 minutes, with the majority vote of the council unable to advise Arthur to interfere with the due course of the Law.

At 8am on Monday morning, Executioner John Dogherty led Mary, followed by the Reverend William Bedford, up onto the scaffold above the walls of the Murray Street Gaol. A large crowd had gathered out in the street. Mary was dressed in a long white gown with a black ribbon round her waist. Dogherty quickly fixed the noose and placed a white hood over Mary's head. She barely had time to utter, 'Oh, My God' before she was launched into eternity. At length her body was cut down and delivered to the surgeons for dissection. The following Thursday, 22<sup>nd</sup> April, Rev Bedford buried Mary's remains in St Davids' burial ground without any religious service.

32 year old Eliza Benwell arrived in Hobart Town on the *Hector* in October 1835. She had been transported for 14 years for stealing a quantity of household articles from her mistress who had recently died.

Eliza was well reasonably well behaved, until she received her Ticket of Leave in 1840. Regularly being drunk in disorderly houses with immoral conduct saw her returned to hard labour as a 2<sup>nd</sup> Class convict at the Factory and House of Correction, with her Ticket of Leave suspended. After four years Eliza was recommended for a Conditional Pardon and assigned to William Elwin at New Norfolk at his Bush Inn and later his Derwent Hotel.

Early in 1845, the body of Jane Saunders, a nurse maid employed by the American Consul was discovered in the River Derwent at New Norfolk.

Consul Elisha Hathaway and his family had been holidaying at Elwin's Derwent Hotel with 18 year Jane Saunders caring for their young children.

Three male convicts working at the hotel were immediately charged with the murder of Jane Saunders. But it was not until five months later that the three appeared in the Hobart Supreme Court before Justice Algernon Montagu on Thursday, 24<sup>th</sup> July 1845.

The trial lasted all day with the chief witness being Keo, a twelve year old Hawaiian boy, who also worked for the Consul. Keo spoke little English and his whole testimony was translated by an interpreter appointed to the court.

During his evidence, Keo stated that he saw a female servant at the hotel present when the murder took place. Eliza Benwell was immediately called to the court and after making a statement that she knew nothing about the death of Jane Saunders, was placed in custody in the gaol directly across Murray Street, before being taken to the Cascades House of Correction. The three men were found guilty of Jane's murder and sentenced to death, but were not executed and remained in gaol awaiting an examination of Eliza's involvement.

On Friday September 5<sup>th</sup>, Eliza Benwell appeared before Justice Montagu and a jury of 12 men. She was charged with malice aforethought, being present, aiding, abetting and assisting in the murder of Jane Saunders. Eliza pleaded 'Not guilty'.

For four long days, all the evidence of the witnesses at the men's trial was re-hashed and re-examined, again with 12 year old Keo surprisingly remembering and even contradicting minute details, in his version of what had taken place some ten months before, aided of course by his translator's assistance.

Finally, after patiently listening on day five to Justice Montagu's 27 pages of hand written notes, the jury after an hour's deliberation, returned a verdict of 'Not Guilty'.

Justice Montagu immediately asked them to retire again and consider that Eliza 'need not' to have known of the men's intention to murder. She did her part by keeping watch.

Obviously completely exhausted, the jury eventually returned at 11pm with a verdict of 'Guilty'. The court closed and next morning Justice Montagu sentenced Eliza to death and dissection, carefully informing her that she had no hope of Mercy. She was removed across Murray Street to the gaol.

At the executive Council meeting on the Saturday, Justice Montagu provided his copious trial notes. There were letters of protest and conflicting medical opinions as to just how Jane Saunders might have died. All to no avail, with the Executive Council stating to Lieutenant Governor Sir John Eardley-Wilmot that they could not advise him that mercy should be extended to Eliza.

The following Tuesday, the three men, Lockwood, Gomm and Taylor, who had been patiently waiting in the gaol, were then brought from the condemned cell and executed, even though they still persisted on that fatal morning in maintaining their innocence. Eliza thus spent the last two weeks of her life in that same condemned cell awaiting her destiny.

On Tuesday 30<sup>th</sup> September, Eliza, dressed in a printed cotton gown with a white handkerchief, her light brown hair tastefully arranged, mounted the scaffold. She was absorbed in meditation with her eyes closed, as several thousand people crammed every vantage place in Murray Street beneath the gaol walls. Rev. William Bedford said some quick prayers, before Executioner Solomon Blay, as the cool and expert finisher of the law, quickly adjusted the rope and launched Eliza into eternity. Her body after hanging the usual time was placed in a coffin and removed to the Colonial Hospital for dissection and anatomization before her remains were taken to the Campbell Street Burial Ground.

17-year-old Mary Sullivan from County Cork arrived in Hobart Town on 22<sup>nd</sup> May 1852 on the *Sir William Dare*. She was transported for seven years for stealing quilts. Her trade was listed as a nurse girl.

After a short stay at the female factory Mary was assigned out, but absconded after a few days and was returned to the factory.

At the end of June, Mary was then assigned to Mrs. Emma Jane Langley in Campbell Street, who had been placed in charge of looking after the two children belonging to John Fraser, the landlord of the old Commodore Hotel in Brisbane Street, now known as the Brisbane Hotel.

Fraser was absent at the Victorian goldfields, with his wife, Elspeth, unfortunately in a delicate state of health at St Mary's Hospital. Mrs Langley arranged for her two female convict servants, Mary Ann Farmer and Mary Sullivan to reside at the hotel, sharing a bed in the room with Frasers' two year old daughter Adeline Clara, who was in a cradle and four year old John who was in a cot.

On the morning of Wednesday 7<sup>th</sup> July, Mary Sullivan got up about 6 o'clock in the morning and was supposed to light the fire and later call her fellow servant Mary Ann Farmer, which she did not do.

When Farmer rose around 7, she found nothing done and Mary missing, supposedly absconded along with a quantity of food and clothing, leaving behind her government shoes and clothes. Farmer set about doing the work herself and then discovered that the baby Adeline was also not in her cradle. A search was started and it was presumed that Mary had abducted the child.

Later in the morning, Mary Ann Farmer went out to the water butt in the backyard of the hotel to draw some water and found some clothing floating in the water. When she pulled it out, she was horrified to find it was wrapped around the Adeline's body. An immediate search was made for Mary Sullivan, who was apprehended the following day and after a detailed inquest Mary was charged with the child's murder.

Just two weeks later, on Wednesday, 21<sup>st</sup> July, Mary Sullivan was placed at the bar of the Supreme Court, before Chief Justice, now 'Sir John' Lewes Pedder. Mary was charged with wilful murder of Adeline Clara Fraser. 12 men were sworn to the jury. Mary pleaded not guilty.

All of the witnesses at the original coroner's inquest were called and testified as to what had happened on the day. Mary had no witnesses to call and had nothing to say in her defence. Justice Pedder summed up at great length and the jury, after a short consultation, returned a verdict of 'Guilty'.

Mary was then solemnly addressed by the Chief Justice as to the enormity of her crime and the necessity of repentance in preparation for another world. Pedder then passed the sentence of death, after which her body was to be given up for dissection.

The newspapers of the day reported widely that Mary was in no doubt 'insane' and had been an inmate of the Irish County Court Lunatic Asylum and while in Grange Gorman Gaol the matron had warned other female prisoners not excite Mary, as it appeared she had often frequent complained of the 'badness of her head'.

A meeting of the executive Council was held at Government House on 27<sup>th</sup> July, where they examined the Chief Justice's report of the case. However the Council were unable to discover any reason which would justify their advising his Excellency, Lieutenant Governor Sir William Denison, to extend mercy to the prisoner.

A petition was got up and a medical board appointed to enquire into the actual condition of Mary's mental health. But on upon investigation it was found that there was a second Mary Sullivan on the *Sir William Dare* which led to complete uncertainty and no further action was taken.

A vast gathering of both males and females collected in the vicinity of the gaol just before 8am on Thursday, 5<sup>th</sup> August 1852.

The diminutive Mary, only four foot seven inches tall, eventually appeared on the platform, where Solomon Blay, who towered two foot over her, placed her under the fatal beam. He turned Mary away from the crowd as he fitted the rope; however, she turned her head back to look at the hushed throng below.

Blay promptly placed a woollen cap over Mary's head as a spectator below exclaimed, 'She is only a little girl'. Checking the rope again, Blay swiftly released the bolt and Mary fell through the drop, dying without a struggle, unseen but keenly felt by the silent horror of the crowd.

Lastly, for the narrative of the fourth and final female to be executed in Tasmania, Margaret Coghlin, who in January 1862 killed her drunken, wife beating husband in self defence. You can read Margaret's account on the Female Convicts Research Centre website under 'Research Seminars' from 10 November 2012 entitled "Lord Jesus, Receive my Soul." The Life and Death of Margaret Coghlin. The report of which I presented at the 'Women in a Man's World' seminar.

Thank you.