

ELIZABETH SMITH

[*Morley* (3), 1820]

by

Don Bradmore

Convict Elizabeth Smith had been in Van Diemens Land (VDL) for almost fifty years when she passed away at Hobart on 20 September 1868. In the fifteen years before her death, she had managed to stay clear of the law but her first three decades in the colony had been turbulent ones. As a prisoner she was troublesome. She was charged with drunkenness on a number of occasions. She kept bad company. While assigned as a servant to free settlers, she frequently absented herself without leave. She was disorderly, disruptive and rebellious - and, on at least one occasion, violent. She absconded once and was missing for ten days before she was apprehended. More seriously, she narrowly avoided being hanged for murder!¹

This is her story ...

Very little is known about Elizabeth's life in England before her transportation. Her convict documents reveal that she was born in Staffordshire, England, about 1796 but do not show the names of her parents. However, the documents make it clear that her mother was already in VDL when Elizabeth arrived in 1820.² Had her mother been transported as a convict earlier or had she arrived as a free settler? Future research might find an answer to that question.

The documents make no mention of Elizabeth's father but, interestingly, they show that, in early May 1823, after Elizabeth had been in the colony for only three years, she was the victim of an assault by a convict named Philip Smith.³ The cause of the assault is not stated - but could convict Philip Smith have been Elizabeth's father? Was the assault the outcome of a family feud of some kind? Again, later research might provide an answer.

Upon arrival in VDL, Elizabeth was twenty-two years old.⁴ She gave her trade as 'confectioner'. She stated that she could read and write. She had had no convictions prior to the one which saw her transported and there is nothing to suggest that she had been 'on the town'. All of this might

¹ Thirty-one prisoners named 'Elizabeth Smith' were transported as convicts to VDL between 1812 and 1853. Two of them arrived on *Morley* in 1820. This Elizabeth Smith has been given 'Identifier 2'. Upon arrival at Hobart, she was allocated Police Number 27; see CON40/1/9, Image 14.

² CON40/1/9, Image 14.

³ *Hobart Town Gazette and Van Diemen's Land Advertiser*, 10 May 1823, p.2; Philip Smith (CON31-1-38, Image 50) was sentenced to a week in gaol for the assault.

⁴ In his authoritative *Notorious Strumpets and Dangerous Girls: Convict Women in Van Diemen's Land* (Sydney: Angus and Robertson, 1990), Philip TARDIF writes that there is some doubt about Elizabeth's age upon arrival. Tardif suggests that there is evidence to indicate that she was twenty-six rather than twenty-two.

indicate that she had been well-cared for and that she had received at least a little education and training.⁵

Elizabeth's first brush with the law was in 1820. On 18 March of that year, at the Norfolk Assizes at Thetford, Norfolk, England, she faced the court charged with receiving stolen goods. Found guilty, she was sentenced to transportation for fourteen years.⁶

After the trial, Elizabeth was put aboard *Morley* (3) which left England on 22 May and reached Hobart on 29 August 1820 – a passage of only ninety-nine days, making it the quickest recorded to that time and one of the all-time quickest for convict ships to VDL. Fifty of the 121 prisoners it carried were disembarked at Hobart while the rest were taken on to Port Jackson (Sydney, New South Wales.) The ship's surgeon, Dr. Thomas Reid, noted in his medical report that Elizabeth had been 'most excellent' throughout the voyage.⁷

In the colony, Elizabeth was first assigned to Mr. Abbott of Hobart Town. It was while she was there, perhaps, that she met convict Robert Kable/Cabel/Cable, the man who was to become her first husband. They were married at Hobart on 26 July 1821. On the marriage entry, his age is given as twenty-eight; hers as twenty-two. His surname is shown as 'Cabel'. One of the witnesses to the marriage was 'Oliver Smith'. Could he have been one of Elizabeth's relatives?⁸

As it happened, Robert Cabel turned out to be an unfortunate choice of husband. Born at Scoulton, Norfolk, England about 1792, he had been convicted of sheep-stealing in 1817 and sentenced to seven years transportation. His conduct record shows his surname as 'Kable'.⁹ He had arrived in VDL per *Lady Castlereagh* on 11 June 1818. By 1823, he had been granted a ticket of leave but on 4 January of that year he was found guilty of stealing thirty pigs from the property of a farmer named Reardon at Pitt Water and sentenced to receive a hundred lashes and then to be transported to Macquarie Harbour to serve out the remainder of his term of servitude.¹⁰ When that term expired in 1825, he was returned to Hobart but he had learnt nothing from his Macquarie Harbour experience. On 8 June 1826, he was found guilty in the Supreme Court of stealing sheep from Mr. Sherwin's property at the Clyde. In handing down the death sentence for this crime, Chief Justice Pedder made reference to Cable's relationship with wife, Elizabeth:

Robert Cable ... was a well known sheep-stealer, and has at length suffered for that nefarious crime. He has also been many years in the Colony, was married,

⁵ CON40/1/9, Image 14.

⁶ 'England and Wales, Criminal Registers for 1791-1892, for Elizabeth Smith: England, Norfolk, 1820' via 'Ancestry.com; a transcript of the trial does not seem to have survived.

⁷ 'Convict Ships to Tasmania' at <http://www.members.iinet.net.au/~perthdps/convicts/shipsTAS.html>; 'most excellent' quote via Tardif, see Note 4, above.

⁸ Marriage: Cabel/Smith, RGD36/481/1821, Hobart.

⁹ As Robert 'Kable': CON31-1-23, Image 191.

¹⁰ *Hobart Town Gazette and Van Diemen's Land Advertiser*, 11 January 1823, p. 2.

*and leaves his wife behind him; and who might by industry have become comfortable and happy. He was a butcher by trade, had been sent to Macquarie Harbour, from whence he only returned about twelve-months since, in a most dejected state. He found his home, and wife ready to make him happy; but no, he must again fly to his old habits of plundering sheep, until his career was closed by his being apprehended with the stolen sheep ...*¹¹

Cable was hanged at Hobart on 21 September 1826.¹²

It is likely, of course, that Elizabeth – who had obviously tried to be a good wife - was greatly affected by Cable having been sent to Macquarie Harbour in 1823 and by his sheep-stealing charge and eventual execution in 1825. From the time she married him until the time of his banishment to Macquarie Harbour, she had been free of misdemeanours. However, after he was sent away and she was alone, she was returned to the Female Factory for re-assignment and, from that time, became troublesome.¹³

Between 25 August 1824 and 30 March 1829, Elizabeth was charged with offences on eight separate occasions. These offences included being drunk and disorderly (1825, 1828), being absent from her assigned place of service and, on one occasion, being illegally at large for ten days (1825, 1827, 1828 twice), absconding (1826) and improper conduct, violence and attempting to destroy the property of her mistress (1829). For these offences, she was ordered to spend time at the House of Correction several times, sometimes confined in ‘C’ (or ‘Crime’) Class, the section of the prison reserved for the worst of the worst prisoners.¹⁴

At some time during these years, Elizabeth met a man by the name of George Peart and, on 7 October 1829, she married him. Peart, about twenty-nine, had arrived free in the colony. He was a Hobart baker.¹⁵ But, again, Elizabeth seems to have made a poor choice of partner. Her association with Peart almost cost her life.

On 4 December 1829, just two months after Elizabeth’s marriage to Peart, the *Colonial Times* reported that a coroner’s jury had found that the pair had had some involvement in the murder in Hobart the previous day of John Pilkington (alias Moses Dodds, a convict per *Malabar*, 1821),¹⁶ Pilkington had died at the Peart home in Murray Street, Hobart, when stabbed through the heart during a vicious quarrel that had broken out over a game of cards. Also in the house at the time was another acquaintance, a ticket-of-leave man, George Jeffreys/Jeffries (*Sir Godfrey Webster*,

¹¹ www.law.mq.edu.au/research/colonial_case_law/tas/cases/case_index/1826/r_v_farquharson_and_webster/; see also <https://stors.tas.gov.au/SC32-1-1>, p. 155.

¹² *Colonial Times and Tasmanian Advertiser*, 22 September 1826, p.3; Cable death/burial: RGD34/1269/1826, Hobart.

¹³ CON40-1-9, Image 14.

¹⁴ CON40-1-9, Image 14.

¹⁵ George Peart/Elizabeth Cabel marriage: RGD36/128/1829, Hobart

¹⁶ Pilkington: CON31-1-34, Image 67, death RGD34/2020/1829, Hobart..

1823).¹⁷ All four had been drinking. While the coroner, Joseph Hone, was unable to come to a conclusion about who had actually stabbed Pilkington, he was certain that one of the other three had done it. Although the heaviest suspicion fell on Jeffries, all three were committed to trial on a charge of wilful murder.¹⁸

Interestingly, when the case was heard before Mr. Justice Pedder in the Criminal Court, Hobart, on 11 April 1830, it was Elizabeth who was charged with the murder. Her husband was charged with assisting her in the crime. However, after hearing evidence from the police, as well as from a Mr. and Mrs. Brown, neighbours who had heard the sounds of the violent scuffle, the jury returned a verdict of 'not guilty' for both defendants. In commenting strongly on the contradictory testimony sworn to by the witnesses, the judge commented:

*... we would hope that the very narrow escape experienced by the female prisoner in particular, will have the effect of teaching her that the immoral tendency of her conduct, as proved on this trial, will, if not departed from, sooner or later place her in a situation from which in this instance she has escaped rather by the discrepancy and strange testimony of some of the witnesses, rather than from any clear exculpatory proof of her not being a participator in the dreadful act. It is but too certain that houses kept by persons like this female, making them the resort of the profligate and the drunkard, are the nurseries of crime and constant scenes of violence, often resulting in the perpetration of the foulest of all offences against laws, both human and divine - the depriving a fellow creature of his life, at the instant he is himself committing some of the grossest of all sins, thus sending him to his great account, with blasphemy upon his dying lip, and his heart giving its final sensation whilst engaged in scenes of riot and debauchery with the wicked companions upon whom even slight excitement has the effect of changing in one moment the apparent hand of friendship for the deadly weapon of destruction.*¹⁹

It is very obvious that the Chief Justice had little sympathy for Elizabeth. In his opinion, if not the one who actually stabbed Pilkington, she was 'a participator in the dreadful act'. She was the keeper of a house that had become 'the resort of the profligate and the drunkard', 'a nursery of crime' and the location of 'constant scenes of violence'. While none of this seems quite fair in Elizabeth's case, it is not difficult to understand the point the judge was making! Elizabeth was keeping very bad company!

¹⁷ Jeffreys/Jeffries: CON31-1-23, Image 106. See also:

https://www.law.mq.edu.au/research/colonial_case_law/colonial_cases/less_developed/coronial_inquests/tasmania/1816-1829_tas/ and *Colonial Times*, 4 December 1829, p.2.

¹⁸ *Colonial Times*, 4 December 1829, p.2.

¹⁹ *Colonial Times*, 16 April 1830, p.3.

Later, George Jeffreys/Jeffries, who was also charged with the murder was similarly acquitted for lack of evidence.²⁰

After the trial, Elizabeth resumed her married life with George Peart and from that time onward only two more offences appear on her convict record. On 4 November 1830, after having been returned to the Female Factory for assignment after being found drunk at the White Hart Tavern a few days earlier, she was charged with insubordination when she tried to smuggle into the Factory a quantity of tobacco hidden in the folds of her petticoat. And, upon release from the Factory shortly afterwards, she was reprimanded for threatening to assault a woman by the name of Frances Hobsell on a Hobart street.²¹

In 1834, Elizabeth received her certificate of freedom but, on 30 January of the following year, her husband George Peart passed away at Hobart. He was only thirty-five years old.²²

It would seem that Peart had been a bad influence on Elizabeth - and it would be nice to think that she had learnt a lesson from the trouble they had been in together. But, alas, that was not the case. On 27 May 1835, just five months after Peart's death, Elizabeth, who was now forty-four, married for the third time and, although there were to be no new murder charges or appearances in the Supreme Court, her third husband appears to have been no better an influence on her conduct than her second.

Her new husband was Daniel Stuart (or (Stewart)). Considerable research has failed to find much information about him. His surname is shown on the official registry of marriages as 'Stuart' but, on the day of the marriage, solemnized by Rev. H. Garrard in the church at New Norfolk, the certificate signed by the parties shows the groom's name as 'Stuart' in one place and as 'Stewart' in another.²³ How had he arrived in the colony? Had he come as a free settler or as a convict? There are no satisfactory answers to these questions yet.

Nevertheless, a number of police reports in Hobart papers at about the time of the marriage (and shortly afterwards) might provide a clue as to who he was. The first of these, published on 3 July 1835 reads:

*Daniel Stewart, a baker, was fined £1 and costs, for selling a loaf of bread under the weight, for which it was sold.*²⁴

²⁰ *Colonial Times*, 16 April 1830, p.3.

²¹ CON40/1/9, Image 14; for her crime of carrying tobacco into the Female Factory in 1830, Elizabeth's original term of transportation – fourteen years – had been extended by three years.

²² Certificate of Freedom, 1834, via Tardif, *op.cit*; George Peart, death: RGD34/3851/1835, Hobart.

²³ Marriage, Stuart/Peart: RGD36/3009.1835, New Norfolk; <https://stors.tas.gov.au/RGD36-1-2>, p.211j2k .

²⁴ *The Tasmanian* (Hobart), 3 July 1835, p.8.

As Elizabeth had married very soon after George Peart's death, and as Peart was also a 'baker', it makes sense to think that she might have married one of his associates.

The second report, published on 27 October 1835, mentions that Daniel Stewart's wife was named 'Elizabeth'. In part, it reads:

... the constable, complained of a gross want of common decency on the part of Daniel Stewart, and Elizabeth, his wife, in the public-streets. As he was passing up Brisbane Street, he observed something rolling about, which on close inspection, he found was Elizabeth, who had fallen in a fit of despair, and Daniel rolling after her. This rolling conduct had so incensed her, that she had got Daniel's finger in her mouth ... They were both drunk, which accounted for this strange conduct in a public-street. On being put on their plea, Daniel denied it, until Elizabeth said, "Why Daniel, I was drunk, and so was you, don't deny it, love." They were fined 5s each and costs.²⁵

And then, on 12 April, 1842, this notice appeared:

Daniel Stewart charged by constable Stead with rescuing a woman he had in charge; it appeared the detenué [detainee] was Stewart's wife; he was therefore fined five shillings only.²⁶

Again, admittedly, the evidence is slight but it sounds logical.

On 18 March 1837, Elizabeth was free by servitude. She had served her time and was a free woman at last!²⁷

What eventually happened to Elizabeth's third husband, Stuart/Stewart, is uncertain. Did he pass away? Did he leave Elizabeth and, like many others in the 1850s, go off to the goldfields on the mainland? No death record for a 'Daniel Stewart' or 'Daniel Stuart' who could possibly have been Elizabeth's husband has yet been located.

What is certain, however, is that Elizabeth remarried – as a widow - on 7 March 1854. The marriage entry shows her fourth husband as John Cowley. Elizabeth's surname is shown as 'Stuart'. Her age is given as fifty - but she might have been closer to sixty by that time. Cowley is described as a forty-four year-old 'bachelor' and 'farmer'.²⁸

²⁵ *The Tasmanian* (Hobart), 3 July 1835, p.8.

²⁶ *Colonial Times*, 12 April 1842, p.3.

²⁷ CON40-1-9, Image 14: see also Note 21, above.

²⁸ Marriage, Cowley/Stuart: RGD37/188/1854, Hobart; see also Note 4, above.

After her marriage to Cowley, Elizabeth appears to have lived quietly, and without further brushes with the law until her death – as Elizabeth Smith Cowley - at the General Hospital, Hobart, on 20 September 1868. Her age at death is shown as sixty-four – but, again, she might have been a little older than that. The cause of death was ‘apoplexy’ - a cerebral hemorrhage or stroke.²⁹

As there is no evidence to indicate that John Cowley had pre-deceased Elizabeth, it is rather strange that her occupation is shown on her death certificate as ‘servant’. Was she working again? Could she have left Cowley before she passed away? This, too, warrants further investigation.

²⁹ RGD35/7545/1868, Hobart; see also Note 4, above.