

Mary Ann Grayson

(Edward 1834)

By Rae Blair

When twenty-three year old widow, Mary Ann Grayson, arrived in Van Diemen's Land, she'd already shown a propensity to be difficult and this didn't change when she arrived. She was transported from England for seven years after being found guilty of stealing twenty-one shillings and sixpence. An English northerner and farm servant by trade, Mary Ann's time as a convict was characterised by her stubborn resistance to toeing the line, despite the many harsh punishments she received. She married fellow convict, Charles Bartam, which had a profound impact on both of their lives. Mary Ann became one of Tasmania's most well-known and celebrated hoteliers, amassing assets that would become the centre of a bitter court battle. Mary Ann's story is told over Three Acts.

Act I: in which Mary Ann's life changes for ever—windowed farm servant, turned convict. Rebellious, punished, social.

Act II: in which Mary Ann builds the life she's wanted—respected businesswoman, landlord, unparalleled hotelier.

Act III: in which we witness the epic battle for her assets.

This is her story.

ACT I

A Life Forever Changed

A feisty northerner in the south

When Mary Ann Grayson arrived in Van Diemen's Land, she stated her "real" name was Owens and that she was a widow.ⁱ Born in 1813ⁱⁱ in Liverpool, Lancashire, Mary Ann Owens was baptised either on 21 March 1813 (to parents Robert and Hannah Owens) or 29 March 1813 (to parents William and Mary Owens) in St Peter, Liverpool, Lancashire.ⁱⁱⁱ

Despite record searches, we are unable to locate a marriage for Mary Ann Owens that occurred before 1834 (the date of her arrival to Hobart). So, it is unclear why Mary Ann would find herself two hundred and forty-five miles south of her birthplace, and answering to charges of theft. The *Hampshire Advertiser* reported on 4 January 1834 that Mary Ann Grayson was sentenced [at the Southampton Quarter Sessions on 31 December 1833] to seven years transportation for having, at Ringwood, stolen from the person of Stephen Roberts twenty one shillings and sixpence.^{See alsoiv}

Following her conviction, Mary Ann was incarcerated until her transportation, and she was not going to go down without a fight. Her gaol report listed her behaviour as 'bad'.^{vi} After four months, she was moved to the transport ship *Edward* on 23 April 1834, which she boarded with one hundred and fifty other women convicts. The *Edward* set sail from Woolwich twelve days later, on 5 May 1834^{vii}, and arrived in Hobart at the beginning of spring on 4 September after a four month sail.

When she arrived in Van Diemen's Land at age twenty-three, she listed her occupation as Farm Servant and was someone who could "make butter & cheese"^{viii}.

Standing a fraction over 5' in bare feet, Mary Ann had a fresh complexion, small head, brown hair and oval face, with a medium-height forehead, brown eyebrows, grey eyes, small nose, medium-width mouth and small chin. Intriguingly, a tattoo 'A.H.W.H.' was on her right arm, and she had a brown mole on the right side of her upper lip.^{ix}

A refusal to submit

Three months after her arrival, Mary Ann was assigned to a Mr Ball. But on 17 December 1834, she was up on charges of being "insolent to her mistress". Subsequently found guilty, Mary Ann was sentenced to the Cascades Female Factory, one month in crime class, and one month in a Solitary Working Cell.^x

At the Cascades Female Factory, women prisoners were divided into three classes: First Class (recently arrived prisoners who'd shown good behaviour on the journey; or those who'd successfully seen out their probation in Second Class—these women were sent to service when the appropriate employment could be obtained); Second Class (those guilty of minor offences; or those with improved conduct who merited removal from the crime class); and Crime Class (those transported for a second time; guilty of misconduct on their journey; convicted of offences before the Supreme Court; or those who committed offences within the Cascades Female Factory).^{xi}

In the Crime Class, the women were "sentenced to the washtub, laundering for the factory, the orphan school and the penitentiary; they also carded and spun wool. All of these tasks were subject to change at the discretion of the Principal Superintendent."^{xii}

As Mary Ann's sentence was passed in early summer, where there were extended hours of sunlight, she would have had to labour up to twelve hours a day—even the slightest disobedience to the rules was punishable.^{xiii}

The Cascades Female Factory Rules and Regulations of 1829 stated that "Females guilty of disobedience of orders, neglect of work, profane, obscene, or abusive language, insubordination, or other turbulent or disorderly or disrespectful conduct, shall be punished by the superintendent with close confinement in a dark or other cell, until her case shall be brought under consideration of the Principal Superintendent."^{xiv}

None of this seemed to deter Mary Ann.

The next year, on 29 April 1835, when she was assigned to a Mr Brady, Mary Ann was found guilty of being "Drunk and out after hours", and sentenced to be restricted to "Cell on bread and water for six days."^{xv} The 1835 Muster records Mary Ann in the Female House of Correction.^{xvi}

Whilst still being assigned to Mr Brady, Mary Ann reoffended again two months later, on 25 June 1835, when she was discovered “out after hours”, for which she received a reprimand.^{xvii}

It was around this time, on 12 August 1835, that Mary Ann applied to marry fellow convict William Smallwood (who came out on the *Maria*)^{xviii}. At this time, Smallwood had a conduct record littered with offences such as “Out after hours”, “Drunk and disorderly”, “Absent from muster and church”, “Breach of the peace” and “Assaulting three catering women.” Louisa Ann Meredith in her book *My home in Tasmania*^{xix} wrote that a suitable marriage was seen as “so probable and legitimate a means of reformation” that it was encouraged. She further noted that “Drink was the main temptation” and that if “the women avoided that, all was well.” Given the offending records of both Mary Ann and William Smallwood, it is unsurprising that the application was refused. She didn’t know it at the time, but the authorities did her a huge favour, and it was not something that she’d appreciate until much later.

Meanwhile, being prevented from marrying William Smallwood, less than a week later, Mary Ann was “found in a disorderly house last night after hours” (18 August 1835). She was sentenced to the “Wash tub” for one month. It was small consolation that at this time it was winter, and her working hours were a little shorter than had she offended in summer, but working at the wash tub would have been bitterly cold.^{xx}

Mr Brady must have had enough of Mary Ann, as by 31 October 1835, she was assigned to Mr Patterson. Mary Ann didn’t like this new assignment any better, as she was found guilty of “Insolence and idleness” and sentenced to three months at the Cascades Female Factory, but this time in Second Class.^{xxi} It was time for Mary Ann to learn new skills, as the prisoners in Second Class were employed in making clothes for the establishment and preparing and mending linen—a step up from the wash tub.

Released from the Female Factory at the end of January 1836, Mary Ann was assigned to the Baker household, but her good behaviour lasted only a month when on 25 February she was reprimanded for being absent from her service without leave.^{xxii}

A week later, on 3 March 1836, Mary Ann was insolent to the mistress of the Baker household, which was “in consequent of her Mistress desiring a Constl to take her sister in charge.” (Author note: this is an authentic transcription of the notation on Mary Ann’s original convict record. It is unclear what it exactly means.) Mary was found guilty of the charge and sentenced to fourteen days at the wash tub and afterwards assigned “in the interior”.^{xxiii}

By this time, Mary Ann had racked up a long list of court appearances for undesirable behaviour. The judge in ruling she be assigned “in the interior” essentially removed Mary Ann from Hobart and her social circle, which appeared to be very important to her. References to Van Diemen’s Land’s “interior” have been found in newspaper reports, particularly in reference to the District of Campbell Town^{xxiv}. However, it possibly refers to any of the Midlands areas located between Hobart and Launceston, as there was much development occurring to open up land for farming of wheat and wool.^{xxv}

Mary Ann was subsequently assigned to a Mr Halls, but it wasn't long before she was answering to another offence—absenting herself without leave. She was sentenced to be confined to a “Cell on bread and water, 48 hours, and returned to the Factory.”^{xxvi}

The next month, having left Cascades Female Factory and taken an assignment with a Mr Harrison (most likely back in the Hobart area), Mary Ann was reprimanded on 18 June 1836 for being “out after hours.”^{xxvii}

Six weeks later, on 2 August, having now being assigned to a Mr Hickson, Mary Ann was answering to the offence of “being disorderly.” Her sentence was the “Wash tub 1 month, and assigned in the interior.”^{xxviii}

Just over eight weeks later (18 October 1836), under her assignment to a Mr Benjamin, Mary Ann was back before the judge answering to the charge of “insolence and neglect of duty”.^{xxix} The judge had had enough. She was sentenced to “three months Crime Class.” It was back to gruelling twelve hour days of wash tub and other laundry duties at the Cascades Female Factory. She was becoming well known to those in charge there.

Then, things settled down for Mary Ann. It is not until the middle of the next year, on 13 June 1837, when she was assigned to a Mr Weavell, that Mary Ann was back to her old habits. Her offence: being “drunk and very abusive to her mistress.” It is clear that the other punishments had no permanent effect on her behaviour, so the judge sentenced her to “three months hard labour” at the “House of Correction” (Cascades Female Factory).^{xxx}

She was barely free from her sentence of hard labour when, assigned to a Mr Brooks, she answered to another charge—that of being “absent without leave” (27 September 1837). A new punishment was in store for Mary Ann: four days and nights solitary confinement.^{xxxi} Given much of her misdemeanours were for being out after hours, no doubt, in the company of others, that this punishment might have bitten hard.

Then, Mary Ann met a new man, Charles Hartam, and they sought permission to marry on 18 December 1837. Hartam arrived in Van Diemen's Land by convict transport *John* nearly seven years earlier in January 1831.^{xxxii} His conduct record (although recording four offences—for one he received twenty-five lashes, and another a reprimand for “Riding on a cart of which he was the Driver without having any person on foot to guide the horse”) was more desirable than that of William Smallwood. There was only one occasion of being ‘drunk and disorderly’. The authorities granted the marriage application. Charles Hartam (Bachelor) and Mary Ann Graison [sic] (Spinster) married on 6 February 1838, New Norfolk^{xxxiii}. They signed the marriage register with their marks in the presence of John and Margaret Bates.

Mary Ann's new husband, Charles Hartam was born in London^{xxxiv} and was twenty years old^{xxxv} when he arrived in Hobart after being tried at Middlesex on 8 July 1830 for “larceny from the person” – “stealing a snuff box”. His sentence: fourteen years transportation. At the time, he worked as a “Groom and Carter.” He stood nearly half a foot taller than Mary Ann (at 5'5½”) and was a year older. Charles had a fair complexion, round head, and light

brown hair. He wore his round face clean shaven, and had a high forehead, dark brown eyebrows and grey eyes. He had a large nose and medium width mouth and medium chin, and had several pockmarks on his face.^{xxxvi}

Eleven months after their marriage, Mary Ann Grayson was granted her Ticket of Leave on 18 January 1839.^{xxxvii} Just when you might think that Mary Ann's trouble with authorities would now be over, she came to their attention one last time—on 22 March 1839 for “using obscene language in [a] public street” and was fined £5.^{xxxviii}

On 31 December 1840, Mary Ann's sentence expired, and she was issued with her Free Certificate. The authorities must have been relieved to no longer have to deal with such a troublesome convict. Charles Hartam's Conditional Pardon was issued in April the next year, and he received his Free Certificate when his sentence expired in 1844.^{xxxix}

ACT II

Free to Run Her Own Race

A small start

What stands out from Mary Ann's conduct record is that it appeared she liked to socialise (despite the cost, which was at times extremely punishing), and she didn't like to be told what to do—or perhaps, she just thought she knew better. So, it is unsurprising that on 13 May 1842, with Charles on his Conditional Pardon, but Mary Ann with her Free Certificate, they'd commit their scarce savings and take over the licence for a place called the Greyhound Inn^{xl}. This small establishment was located on Elizabeth Street, a main street that runs south-east to north-west through the centre of the city from the Hobart dockland area. By this time, Hobart had a busy port area, mostly to support the developing wool trade, but the city had “begun to take on the guise of a town”^{xli} and was declared a city that year.

Charles and Mary Ann's venue operated in a crowded market of some seventy-seven licence holders registered that year in Hobart Town.^{xlii} If they were going to make their venue a success, their offer had to be good.

With the Greyhound Inn they cut their teeth in the hospitality trade, and after two years,^{xliii} they wanted something better. That presented itself with the opportunity to take over the licence of William the Fourth in 1845.^{xliiv} This venue was located on Liverpool Street, which runs parallel to the docklands and about four blocks away. Apart from bar facilities, it also had accommodation which expanded their revenue stream. The 1848 census showed Charles Hartam as the proprietor and employer of servants. Fourteen people resided in the establishment on Liverpool Street (ten males and five females), including six unmarried males who were servants.

Whilst Charles and Mary Ann's focus was on William the Fourth, they kept an eye out for other opportunities to expand their property portfolio, and purchased the Ottoway Hotel, also located on Liverpool Street. They installed tenant licensees into this property. A deed was drawn up on 20 April 1848 wherein the Ottoway Hotel was conveyed to trustees to

hold for Mary Ann's use, and to pay the rents to her for her separate use.^{xlv} Their accountant, Mr John Luckman, managed separate accounts for Mary Ann and Charles.^{xlvi}

From little things, big things grow

Mary Ann and Charles ran William the Fourth for four years, before they upgraded again. This time, they took over the licence for the London Wine Vaults^{xlvii} and also purchased the Royal Hotel, located on Liverpool Street.

Unencumbered by the inconvenience of pregnancy, or the distraction of raising children, Mary Ann could focus completely on building their business. She had a keen eye for what attracted people to her establishments, and kept the properties in "first class order" which were noted for their "cleanliness". She paid "great attention...to the comfort of her visitors [which were] distinguishing characteristics of every house she kept."^{xlviii}

Despite Mary Ann's manner being "occasionally a little brusque" her patrons saw the "kindly tone under-lying her sometimes plain spoken rebukes that prevented her ever giving offence. She could take hard hits as good humouredly as she gave them, and thus she had long become an established favourite with the public, who had learned to appreciate her many good qualities."^{xlix}

She and Charles would run the Royal Hotel as licensee from 1850 to 1853,ⁱ when they transferred the licence to John Watchhorn. By this time, Hobart had become a municipality with 24,000 inhabitants, the third largest city in Australiaⁱⁱ and there was strong demand for quality drinking establishments as well as accommodation.

In 1854, Mary Ann and Charles took over the licence of the British Hotel in Liverpool Street before returning to their Royal Hotel, where they maintained their licence from 1857 to 1860. This hotel would form part of their property portfolio and they would not sell it within their lifetimes. The Royal Hotel was also used as a venue to conduct Colonial Inquiries, such as the one held in April 1859 to investigate a fire in Liverpool Street.^{lii}

Charitable actions

Mary Ann and Charles had worked long, hard hours to build their businesses, but they never forgot what it was like to have nothing.

In 1859, Charles helped out the widow, Mrs Benjamin Jackson, when he built "new and commodious Stables" for her to commence a business as a "Livery Stable Keeper" at the rear of the Royal Hotel.^{liii}

Mary Ann was known to be "anything but demonstrative in her manner, and the last to do any kindness for the sake of its being talked about"^{liv} but she was keenly aware of the now privileged position she and Charles had created for themselves. Prudent and careful in all her business matters, Mary Ann "yet bestowed of her means liberally on the poor, and many a destitute home [was] gladdened by considerate gifts of food and other articles from her pantry, or, where she deemed relief in that way more likely to be of greater use, by

money. Nor was her generosity confined to acts of charity. Many a struggling tradesman [was] enabled to tide over difficulties by her timely aid. A shrewd discriminator of character, she was not easily deceived, and where good behaviour had won her confidence no one sought her assistance in vain.”^{lv}

Mary Ann supported the community and the community supported her. Meanwhile, Mary Ann had mixed success with the tenants installed in the Ottoway Hotel. At one stage she was compelled to close the “house”. By this time, Charles Hartam’s sister, Mrs Jane Swan, had arrived from England, and in order to open the venue, Mary Ann applied to have her registered as the Ottoway’s licensee. However, during this process, a more suitable tenant appeared, a Mrs Ann Reeves, who negotiated with Mary Ann to become the tenant. Mary Ann withdrew Jane Swan’s application in favour of Mrs Reeves in February 1859. When Mrs Reeves’ application to be the tenant licensee was granted, the venue was renamed the Criterion Hotel.^{lvi}

Mrs Ann Reeves held the licence for a year, and it was subsequently transferred to Mr Charles Toby (a sharebroker and estate agent), who then transferred the licence to Charles Hartam in 1861.^{lvii}

The property portfolio expands

By 1861, Charles and Mary Ann owned the Royal Hotel and the Criterion Hotel both in Liverpool Street, Hobart. Charles expanded their assets with the purchase of at least four more retail/dwelling properties on Liverpool Street, and installed tenants.^{lviii}

A formidable empire

With the Hartam’s now resuming the licence for the Criterion Hotel, the State Coroner followed, moving his ‘court’ to new premises. From at least 1862, Coronial Inquiries were held at the Criterion Hotel into matters such as fire, murder and suspicious deaths.^{lix}

The Criterion Hotel flourished under Mary Ann and Charles’ management, allowing them to consider bigger and better premises. In 1869, they transferred the licence for the Criterion to J. Robertson^{lx} and purchased and refurbished The Ship Inn. *The Cornwall Chronicle* reported on the news:

“On Saturday last, this well-known and long-established hostelry at the corner of Elizabeth and Collins Streets, which has for many months past been empty and in a sadly dilapidated state, was re-opened by Mr Hartam, formerly occupier of the Criterion Hotel in this city, and whose management of that house in conjunction with Mrs Hartam, who has all the business tact of an English landlady, is a sufficient guarantee that the new venture under their hands will be conducted with equal propriety. No expense whatever has been spared in fitting up the premises, which have been painted and decorated throughout.”^{lxi}

The Hartams moved their home to the opulence of The Ship Hotel, which was considered the oldest established, best known and situated in Hobart Town.^{lxii}

Their family expands

Whilst Mary Ann and Charles never had children, at some stage, Mary Ann adopted an infant boy she was very fond of called 'Robert Charles Hartam McLaughlin', known as 'Charlie'.^{lxxiii} Charlie spent his early boyhood years at the Criterion Hotel with Mary Ann and Charles. It is unclear how this adoption came about, or whether it was ever legalised (no records found), however, Charlie's mother, Mrs McLaughlin, was alive and despite having a 'townhouse' even stayed at the Criterion where she was "well treated" by Mary Ann,^{lxxiv} and was staying at The Ship Hotel when Mary Ann was unwell.^{lxxv} Charlie had a brother and a sister, and the sister often lived at the Criterion Hotel with them, but she was never considered a daughter to the Hartams.^{lxxvi} Mary Ann often referred to her adopted son as "my boy Charlie", and when he turned sixteen, she arranged for him to be apprenticed as an engineer, based in Sydney, paying his board and lodgings.^{lxxvii}^{lxxviii} From Charlie's viewpoint, he called Mary Ann and Charles 'Granny' and 'Grandfather'.^{lxxix} Mary Ann told James Doxey, a local engineer, that "Charlie would be well provided for, and that she intended to leave him the Criterion Hotel."^{lxxx}

Charles visited Charlie in Sydney, and upon his return to Hobart told an acquaintance, Mr John Clark, who was an Inspector of Machinery, that "Charlie was just out of his apprenticeship" and "was talking of going to sea." Mr Clark was surprised and said to Charles "What does he want to go to sea for when the old woman has left him so well off?" Charles replied, "That will not be 'til I am dead."^{lxxxi}

A proper home at last?

Four years after the purchase of The Ship Hotel, with Mary Ann now sixty and Charles sixty-one, perhaps she started planning for her retirement. She purchased a home at 29 Cromwell Street, Battery Point for £700 in October 1873.^{lxxxii} They named the home 'Hartamville'.

A deed was subsequently drawn up (dated 7 November 1873) for this property, which conveyed it to trustees to hold for Mary Ann's use, to pay the rents to her for her separate use and after her death upon trust for her husband for life.^{lxxxiii}

The property was situated near the top of a hill and commanded "a beautiful view of the town and river." When it was built thirty-seven years earlier, it was described as a "comfortable dwelling-house, containing a dining and drawing-room with folding doors, five bedrooms, kitchen, storeroom, and large wash-house newly finished and completely painted."^{lxxxiv} Mary Ann immediately engaged Edward C Rowntree, architect, to design 'alterations and additions' which were tendered in October 1874.^{lxxxv}

Mary Ann takes to her bed

It is unclear whether Mary Ann ever moved into the Battery Point house. By mid 1876, despite her "robust constitution"^{lxxxvi} Mary Ann was suffering from ill-health. On 19 August, Mary Ann called solicitor Mr David Crisp from Graves and Crisp to her bedside to prepare her will. They discussed her giving the Criterion Hotel and Hartamville in trust for Charles for his lifetime, then selling both properties on his death for Charlie's benefit so "he could

pursue the calling of an engineer, which he was then learning.” Mr Crisp departed and prepared her will, returning to her bedside to have her execute it. In the room was Charles Hartam^{lxxvii}, her doctor, Dr Crowther, and a man called Walter Graham. As Mary Ann could not read or write, Dr Crisp read the will to her and she put her mark to it. Dr Crowther witnessed it. Mr Crisp was about to add his signature as witness, when Mary Ann said to Walter Graham, “Come on, Walter, and see me sign my death warrant.” Walter Graham then added his signature as the second witness. Charles Hartam paid the costs of preparing the will.^{lxxviii}

Mary Ann appointed Thomas Giblin and G. Westbrook as her trustees.^{lxxix} The Women’s Property Act was not then in existence, so her will was only valid if approved by her husband.

Two days later, on 21 August 1876, “the flags of the shipping in port...were dipped in respect to the memory of Mrs Hartam of the Ship Hotel.” At aged sixty-three, Mary Ann Hartam, was dead from “broncho pneumonia”.^{lxxx} She’d been a farm servant, rebellious convict, wife, the “principal and best-known hotel keeper”, with a “keen business quality”, “keen politician” and a manager of a hotel with “no equal in Tasmania”. Mary Ann died at “her residence Ship Hotel, in Collins Street, Hobart.”^{lxxxi}^{lxxxii}^{lxxxiii}^{lxxxiv} With her passing, a “chapter in the history of Tasmania closed that regarded.....[The Ship Hotel] and its late hostess as Hobart Town institutions.”^{lxxxv}

Charles immediately retired, and one week later, put The Ship Hotel up for sale.^{lxxxvi} Eight months after Mary Ann’s death, in April 1877, Charles remarried. The marriage record stated fifty-five-year-old Charles married a thirty-four-year-old widow called Elizabeth Allwright.^{lxxxvii} The age Charles gave was out by ten years. He was, in fact, sixty-five—some thirty-one years older than his new bride.

The new Mrs Hartam

Two years earlier, on 19 March 1875, Elizabeth Allwright engaged solicitor Mr David Crisp to apply for a ‘Petition for Protection Order’. Elizabeth had six children to her husband, George Allwright, a man she married when she was nineteen, and they had lived together for fifteen years. In February 1874, her husband deserted her. With six dependent children, Elizabeth “maintained herself” and had “acquired certain property.” She was seeking to protect her assets from George Allwright and be protected from his creditors.^{lxxxviii} Elizabeth had engaged the same solicitor that Mary Ann and Charles used, and one wonders how a single mother of six children could afford the services of a solicitor from Graves and Crisp? The answer might well be that Elizabeth and Mary Ann were friends, at least from Elizabeth’s perspective. Before Mary Ann died in 1876, Elizabeth knew Mary Ann “so many years, and [Mary Ann] was a very good friend to [her] when [Elizabeth] was a widow.”^{lxxxix} It is possible that Mary Ann assisted Elizabeth to protect her assets. George Allwright died one month after the Protection Order was issued, in April 1875.^{xc}

Elizabeth “used to see [Mary Ann] almost every day before she died. [Mary Ann] died on a Monday, and [Elizabeth] saw her alive between 11 and 12 o’clock on that day.” Mary Ann

“could not speak to [Elizabeth]. On the Saturday [Elizabeth] rubbed her hands, and spoke to her, but she never answered.”^{xc}

With Elizabeth a widow, and with Mary Ann’s passing, there was nothing now standing in the way of Elizabeth assuming a very comfortable life created through Mary Ann’s hard work. A marriage with the elderly Charles Hartam would secure her and her children’s futures.

A new will

Three months after Charles and Elizabeth’s marriage, in June 1877, Charles engaged Mr David Crisp to prepare his will. When he gave instructions as to the disposal of the Criterion Hotel, Mr Crisp pointed out that Charles only had life interest. Unsatisfied with this news, Charles subsequently engaged Mr John Roberts, solicitor with Allport, Roberts & Allport, who “knew the late Mary Ann Hartam very well”, to review Mary Ann’s will.

Mr Roberts attended the offices of Messrs Crisp and Crisp and “perused the title deeds of the Criterion Hotel and of a house at Battery Point, and also the will of Mrs Hartam”. Mr Robert’s advice was paid for by Charles Hartam.^{xcii} In his written advice, Mr Roberts confirmed the existence of the deeds; that Mary Ann had a power of appointment for both, to be exercised either by deed or will; and that Mr Crisp produced a will signed by Mrs Hartam, attested by Dr Crowther and Mr Graham, but that it was neither proved nor registered. He confirmed Mary Ann’s intention that following Mr Hartam’s demise that the properties be sold for the benefit of the youngest adopted child (in the will named) attaining 21, and in the meantime, subject to Mr. Hartam's life estate, to apply the rents for the benefit of the “adopted children”.

David Crisp prepared Charles Hartam’s will without containing any devise of the Criterion, because Charles Hartam agreed after Mr Roberts’ advice that he could not devise it.^{xciii} Charles devised all of his real estate to his trustees, upon trust, to let the same and permit his then wife to receive the rents until his youngest child came of age, then to sell and divide same between his wife and children.^{xciv}

ACT III

A Fight for Assets

A new life

Charles’ life changed dramatically following the death of Mary Ann. He retired from the hotel business and became a ‘gentleman’ with a relatively young wife warming his bed in Hartamville. He funded their lifestyle from rental income from his properties, the proceeds of the sale of The Ship Hotel and its chattels, and interest from fixed deposits.^{xcv} He put the management of his business affairs in the hands of solicitor, Mr Samuel Percy Crisp.^{xcvi}

But Charles’ life was to change in one other significant way. Elizabeth soon became pregnant and began to fill Hartamville with Charles’ children (it is possible that some of Elizabeth’s six children already lived with them). Their first, a daughter, Lily Florence May

Hartam, was born on 15 April 1878.^{xcvii} A second daughter followed nearly three years later, Hilda Blanche Hartam on 30 March 1881.^{xcviii} However, their joy soon turned to sorrow, with Hilda's death six months later from "pulmonary congestion".^{xcix} Elizabeth became pregnant again, and delivered a son, Raymond Charles Hartam on 7 February 1885^c, then their last child, another son, was born three years after that, Charles Edward Hartam, in 1887.^{ci}

Charles still continued to travel to Sydney to visit Charlie and brought Elizabeth along with him. Charlie recalled on one visit, when Elizabeth and he were on their own she said to him "You know your grandmother made no will." He replied, "Oh yes, she did." Elizabeth repeated that his grandmother had not.^{cii}

Charles Hartam was not destined to enjoy his young family for long. At the age of seventy-five, he died on 25 January 1887 of heart disease, very soon after the birth of his last child.^{ciii}

Upon Charles' death, Mary Ann had intended that ownership of the properties Hartamville and the Criterion Hotel pass to Charles and Mary Ann's adopted son, Charlie, as provided for in her will. A few years before Charles' death, David Crisp put Mary Ann's will "under the string of a parcel containing the deeds of the Criterion Hotel and Hartamville, and that it remained there in his office's deed box until the deeds were removed from the office by Charles Hartam." Mr Crisp was at Hartamville about two years before Charles Hartam's death, at which time Hartam took him to a cupboard under the stairs and there showed him "in an iron safe a brooch that [Charles] intended to give to Mr Crisp's wife." Mr Crisp "saw in the safe the parcel of deeds with the will under the string, as when it left his office."^{civ}

Now, with Charles dead, no-one can find Mary Ann's will.

Whose property is it anyway?

After Charles' funeral in January 1887 his solicitor, Mr David H. Crisp visited Elizabeth Hartam and she recollected he said, "You are well provided for, make the best of your loss; go on in the usual way."^{cv} Mr Crisp remembered it differently. After sympathising with her, he told her that "the property had gone from her now, and was [Charlie's]."^{cvi} This was reiterated to Elizabeth Hartam on subsequent occasions.^{cvii}

The previous year, in August 1886, Charles had arranged for Elizabeth's eldest son, Sydney Allwright, at the age of sixteen years, to be articled to Mr Crisp, and Sydney became a solicitor five years later in 1891, when he left Crisp and Crisp. However, during his time at the firm, "Mr Crisp on several occasions mentioned the subject [of Mary Ann's will] to [Sydney]."^{cviii cix}

Elizabeth's relationship with David Crisp soured before her son completed his articles. She disputed the legitimacy of the trustees of Charles Hartam's will collecting the rents, but found an unsympathetic ear in David Crisp. In July 1893 (five years after Charles' death), Elizabeth "balanced the books with the trustees and there was 150 pounds due to her as surplus money".^{cx} She went to Mr Crisp's office several times, and failing to garner support in her favour, she went to solicitor, Mr Roberts.

At age eighteen, Sydney recalled that Mr Crisp complained that Elizabeth Hartam was “treating him badly, adding that he had only to open his mouth and he could take Hartamville and the Criterion away from her.”^{cxix} At age twenty-one, four months before the termination of his articles, Sydney recalled that Mr Crisp called him into his room, shut the door and said: “...I have [Mary Ann Hartam’s] will in a box under my bed where I keep my papers.”^{cxii}

Following Charles’ death, Charlie wrote to Crisp and Crisp enquiring whether Charles Hartam had left him anything. Mr Percy Crisp, the junior solicitor who knew nothing about Mary Ann’s will, wrote in reply that Hartam had left all to Mrs Brown and her children.^{cxiii}

By March 1888, Elizabeth Hartam had disengaged from Crisp and Crisp and engaged Mr John Roberts as her solicitor, but by 1 September 1891, her son Sydney Allwright acted as Elizabeth’s solicitor.

Elizabeth assumes ownership of Hartamville and Criterion Hotel

In June 1891, Elizabeth Hartam and Sydney Allwright spoke with Messrs David and Samuel Crisp (as the solicitors acting on behalf of the trustees responsible for leasing the properties in Charles Hartam’s estate) about letting the marquee properties of their portfolio, Hartamville and the Criterion Hotel. She made an appointment to call afterwards but failed to appear. Samuel Crisp wrote to her twice, asking her on one occasion “if Charles Hartam McLaughlin was aware of his interest in Hartamville, and if not, he would feel it to be his duty to write to him about it.”^{cxiv} When asked why David Crisp had not intervened earlier to ensure Charlie McLaughlin knew of his entitlement, he said it was because he assumed that his then partner, Mr Graves (who died shortly after Mrs Hartam) had communicated the contents of her will to Charlie, and that Elizabeth Hartam continued to live at Hartamville and collected the rents from the Criterion Hotel with Charlie’s consent.^{cxv}

It was only later when David Crisp saw part of the property belonging to Charlie being advertised for rental by Sydney Allwright that Mr Crisp “to prevent further wrong doing” wrote to Charlie.^{cxvi}

Elizabeth marries for a third time

Elizabeth was living at the Criterion^{cxvii} when she married for the third time to William Brown from Richmond Park, Longford^{cxviii} on 2 October 1891. She chose Hartamville as the wedding venue. Her son, Sydney Allwright, mentioned Mary Ann Hartam’s will to his mother a few days before she married,^{cxix} and advised her against proceeding because Mr David Crisp would “turn her out of the Criterion” if she did^{cx}. Indeed Sydney Allwright said that Mr Crisp told him that “he would not put up with [being treated badly by Elizabeth] much longer, but so long as his mother remained Hartam’s widow, he would shut his mouth, but if she married again he would turn round.”^{cxxi} Elizabeth told Sydney not to worry because Mr David Crisp “could not hurt her.”^{cxvii}

Charlie McLaughlin starts legal proceedings

Charlie, who by this time was a married man and a second engineer on board a China trader, once learning of his entitlement, took the matter to court. He applied to become the trustee of Mary Ann’s will and for probate. After a round of hearings, the Chief Justice of the

Supreme Court handed down his decision on 12 December 1892 that Charlie had not made out a case to entitle him to probate and refused his application.^{cxiii} Charlie was, however, free to renew his application.

In April of 1893, Charlie put forward a further application to the Supreme Court for: 1) want of equity; 2) recovering possession of lands and 3) for multifariousness. Elizabeth Brown and her “infant children” (the eldest Hartam child was fifteen) rely on all three grounds; and Charles Hartam’s trustees, Messrs Cripps and Seabrook, rely on the first and third grounds. The defendants submitted a demurrer, which was subsequently over-ruled by the court. It was a win for Charlie. They were going back to trial which was set down for July.

The stakes were significant for Elizabeth Hartam Brown. If Charlie proved his case, she would lose the Criterion Hotel and Hartamville—including the lucrative rents from both—and she’d be obliged to pay to Charlie whatever rents she had collected over the six years since Charles Hartam’s death. But first, Charlie had to prove a) Mary Ann did in fact make a will (which no-one could find); b) that Mary Ann was entitled to devise property given the Women’s Property Act was not yet in force; and c) if both a. and b. are found to be true, then Charlie had to satisfy the Chief Justice of the contents of the will.

Charlie McLaughlin takes Elizabeth Hartam Brown, her children and Charles Hartam’s trustees to the Supreme Court, Hobart (19 July to 12 August 1893)

Tuesday, 19 July 1893

The two teams gathered with their legal counsel:

The plaintiff: Robert Charles Hartam (Charlie) McLaughlin represented by the Solicitor-General, Hon. A. Dobson, and Mr J. Mitchell (instructed by Messrs Dobson, Mitchell and Allport).

The three defendants: Elizabeth Hartam Brown, represented by the Hon. A.I. Clark (instructed by Messrs Roberts and Allport)

The trustees of the wills (Herbert H. Cripps and George Smith Seabrook for Charles Hartam and E.M. Fisher representing one of the trustees of Mary Ann Hartam’s supposed will) represented by Mr W.W. Perkins (instructed by Mr Sydney T. Allwright);

The three ‘infants’ in the suit: Lily Florence Mary Hartam, Charles Hartam and Raymond C. Hartam, represented by Hon. Byron Miller (instructed by Messrs Roberts and Allport).

The bill brought before the Supreme Court charges that:

- i) The defendant, Mrs Brown, has fraudulently destroyed or concealed and kept back the will of the testatrix, Mary Ann Hartam, and retains the title deeds.
- ii) That she and the defendants Cripps and Seabrook dispute the plaintiff’s claim and deny that the testatrix made a will, or that the plaintiff takes any interest under it.
- iii) That the estate of the testatrix may be administered and the trusts of the will carried into execution.
- iv) For an account of rents and profits.

- v) For the appointment of a new trustee.
- vi) For an injunction and receiver, and for general relief.^{cxxiv}

The Solicitor-General opened the case for the plaintiff (Charlie) pointing out “the case was brought to try the validity of the will of the late Mary Ann Hartam, dated 19th August 1876, which, it was alleged had been destroyed by Mrs Brown.”^{cxxv}

David Henry Crisp, Solicitor gave evidence over the first sitting day, and he testified that he, and his late partner, Mr J.W. Graves, had prepared two draft wills and one final will for Mary Ann, which she executed a few days before her death. The journals and ledgers of David Crisp’s “well-known firm of solicitors were much referred to in connection with matters of the Hartam family, and evidence of the preparation and execution of certain wills and documents from time to time.”^{cxxvi} David Crisp was of the opinion that his partner, Mr Graves, sent a clause of Mrs Hartam’s will to Charlie.

David Crisp stated the circumstances surrounding why Charles Hartam sought clarification on Mary Ann’s will (he was preparing a new will following his marriage to Elizabeth Allwright), which is when John Roberts was engaged to give an opinion on the intent of Mary Ann’s will.

Samuel Crisp was called to the stand and he recalled a “conversation that took place between Mr David Crisp and Mrs Brown at Hartamville, when Mrs Brown stated to his partner [David Crisp], “You have come over to tell me the deeds were lost.” His partner said, “No, as they were not lost.”^{cxxvii} He further stated that Mr Allwright said that he thought he knew where some of the wills were, and thought they’d find the wills in the bottom drawer of Mr David Crisp’s desk. The drawer was searched but they did not find the wills, but among a bundle of draft wills, in another part of the office, he found drafts of two wills.^{cxxviii} Samuel Crisp also said that whilst he was away from the office from September 1890 to April 1891 with typhoid fever, “he and his partner always told each other what they did.”^{cxxix}

The records of Charles Hartam’s Clerk, Joseph Woodhead, were submitted which showed Charles Hartam had paid for the preparation of his wife’s will and for John Robert’s advice.

The Solicitor-General now called witnesses to confirm Charles McLaughlin’s relationship to Mary Ann Hartam, her state of mind when she made the will, and her intention for disposal of her assets. Richard Propsting, former Superintendent of Police was called to the stand. He stated Mary Ann considered Charlie as her son. He visited Mary Ann in her sickbed two days before she died, and “shook hands with her and bid her goodbye.” She was “perfectly sensible.”^{cxxx}

James Doxy and John Luckman confirmed Mary Ann considered Charlie like her son.^{cxxxi} Hannah Ellis, widow, was with Mary Ann when she died and Mary Ann “seemed to retain her senses to the end”. Mary Ann called Charlie “her boy” and spoke of providing for him.^{cxxxii}

Charlie took the stand and gave evidence that he lived with them as their grandson, and when he moved to Sydney he rarely missed writing to her. He was on the best of terms with

Mary Ann when she died. Charlie recalled when he was on a visit from Sydney, he visited Elizabeth Hartam Brown who pretended at first not to know him and said he'd come to town on business. She wanted to know what business. He said, "What about the Criterion?". She replied "What about it?". He said, "That's what I want to know." And he asked her if she was prepared to hand over the Criterion with an account of back rents. She said to that, "What, give up my home? No, do you best, do your worst." Her son, Sydney, came in and wanted to know what all the noise was about. Charlie replied that he had not come to make a noise, that he was acting on what he believed was good advice, and was carrying out part of his instructions. Sydney remarked: "This is some of Crisp's doing." Charlie then left.^{cxxxiii}^{cxxxiv}^{cxxxv}

Elizabeth Hartam Brown's evidence was heard over two days. When she sat in the witness box, she held an ear trumpet to her ear. She had been "deaf [for] two years" (she bought her ear trumpet and tube nine months earlier).^{cxxxvi} Elizabeth stated details of her marriage to Charles and where they lived until his death. She recollected going with Charles to David Crisp's office for his Deeds, her husband explaining that his reason for doing so was because he wanted to keep the deeds. Mr Crisp offered to deliver them, but Charles said he wanted to take them himself. After the deeds were obtained, they were put in an iron chest in a cupboard under the stairs which was kept locked. Mrs Brown said she "never saw the deeds again until Mr Seabrook came to the house about the rivulet wall behind the Royal Hotel." The deeds were not disturbed until last June, when her son, Mr Allwright took them. She said that the deeds "are now in a tin box at Hartamville" but that "she didn't know what the Deeds referred to. All that she knew she was told."^{cxxxvii}

When Elizabeth knew this matter was going to court, she engaged Mr John Roberts as her solicitor, and after this "Mr Crisp did not do any business for her." And when she asked Mr Crisp for a copy of a lease for the Criterion, Mr Crisp unhelpfully said "Oh, you had better get an order from the trustees."^{cxxxviii} Mr Crisp came over after Charles' funeral, to "see where her husband's money was."^{cxxxix} She unlocked the safe and told Mr Crisp "all surplus money was hers."^{cxli} She complained about the Criterion Hotel, where she spent "a large sum of money" for repairs. Mr David Crisp told her that if she left his office [as a client] he would "turn her out of Hartamville, and also that the Criterion and Hartamville did not belong to her."^{cxli}

Elizabeth recalled she went to Sydney with Charles three times and saw "McLaughlin" (Charlie), and also saw "his wife on one or two occasions. She never had any conversation there about Mrs Hartam or her will."^{cxlii}

At the time of Mary Ann Hartam's death, Elizabeth "was living a little way up the street [from The Ship Hotel] and used to run into the hotel to see Mrs Hartam almost daily when she was ill. She was a good friend."^{cxliii}

In response to a question from Mr Byron Miller (her children's barrister), Elizabeth said she "never looked in the iron chest for papers after her husband's death. All the insurance papers were folded with the deeds of the Criterion property."^{cxliv} In response to a question from the Solicitor-General (Charlie's barrister): "She never heard a word about the will until she read a sensational article in the press about it." She further stated "her son never spoke

to her about the existence of a will, but she knew now that he was aware of the rumour which was current at the time.” She also said that her son “told her that Mr Crisp had said that when she married Mr Brown he [Mr Crisp] would turn round on her.” She recalled Sydney said “not to marry Mr Brown, and if she did she would be turned out of the Criterion. Her son never mentioned that there was a will. It would have made a great difference to her if she had lost the Criterion.”

Elizabeth told the court that her husband “kept the key of the iron box where the papers were kept. He kept the key in his pocket. If she wished to put anything in the iron chest she took the keys to do so. She very often had the key to that iron chest. The papers connected with the Criterion were tied up in a brown paper parcel. This was opened by Mr Seabrook [trustee of Charles Hartam’s will] who wished to get papers referring to the Royal Hotel to see where the retaining wall was to be put.”^{cxlv}

Elizabeth Brown testified she found a document shortly after Charles Hartam’s death, “pinned into an old rough book, containing accounts and memoranda kept by Woodhead.” (Charles Hartam’s clerk). The document was dated 10 April 1877 purporting to be Charles Hartam’s will “with Hartam’s mark on it” in which he “bequeaths Hartamville to his wife absolutely.” The document was witnessed by “Joseph Woodhead”—Mr Hartam’s clerk (who died in 1885)—and “Dr Crowther”.^{cxlvi}

Court resumed on Monday, 24 July 1893

Sydney Allwright testified to the several occasions when he was articted to Crisp and Crisp, that David Crisp complained about the treatment he was receiving from Elizabeth Hartam. He said that David Crisp showed him a folio with Mary Ann Hartam’s name on it and an entry “attending make your will”. He told Sydney that “he had only to open his mouth and he could take Hartamville and the Criterion Hotel away from her.” Sydney Allwright gave other examples of threats and bullying from David Crisp, causing Sydney to “feel his position very keenly, he being often moved to tears.”^{cxlvii}

After Sydney concluded his articles, he received a letter from David Crisp referring to the Criterion Hotel. He “immediately saw [his mother] Mrs Brown and arranged with her to call and see Mr Crisp in the afternoon.” (David Crisp was acting for the trustees as solicitor, and the letter was in response to Sydney Allwright advertising for tenders for the Criterion Hotel). Sydney accompanied his mother to Mrs Crisp’s office. David Crisp reminded Mrs Brown that he had previously come over to Hartamville to explain matters to her regarding the Criterion. Sydney recalled Mrs Brown replied “You never, Mr David, spoke to me about this matter before in your life. It is the first I have ever heard about it. If there is a will why was it not brought out? If anybody has a better right to the properties than me and Mr Hartam’s children they are welcome to have it.”

Sydney recalled Mr David Crisp said “Your son is a solicitor, let him see the deeds and he will then let you know whether what I say is true or false? Is that all you want me for?” As Mr Crisp then “left the room” the “interview ended there and they left the office.” Sydney subsequently “looked over the papers in connection with the property Mrs Brown brought to him from the safe. He found no will there of Mrs Hartam.”^{cxlviii}

Sydney recalled that Charlie came to Hartamville with a Mr Dove about the property. He said that Mrs Brown “came into the front room to see them.” When they stated the purpose of the visit, to discuss the property, Sydney told them that “Mrs Brown was ill and did not wish to be worried. If they had anything to complain of they had a remedy.”^{cxlix}

The Solicitor General pressed Sydney on his recollection of the time that Mr David Crisp showed him Mary Ann’s folio. He said when he saw the folio “it never troubled him one iota. The book was not opened a minute. Mr Crisp opened the book and shut it again immediately.” The Solicitor General asked “Was Mr Crisp intoxicated on that occasion?” Sydney replied “He was.” The Solicitor General responded “I suggest to you that you are telling a wilful untruth and you know it.” Sydney replied that he was telling the truth and adhered to his statement. He went on to confirm that he wasn’t troubled by Mary Ann Hartam’s will because “a married woman at that time could not make a will of her own responsibility, and he did not think the will was worth the paper it was written upon.”

Sydney commented that on only “one occasion he mentioned the matters Mr Crisp told him about to his mother. This was a week or so before she married Mr Brown. He told his mother that it was against the wishes of her family that she should get married and if she did she would lose all her friends. He told her what Mr Crisp had told him, namely that the day she got married again he would turn round on her.”^{cl}

Mr G.S. Seabrook, one of the trustees of Charles Hartam’s estate, stated that the first he heard of the properties being in dispute was a notification which appeared in the daily press. He met with Mr Crisp and told him “that he thought it very strange that he had not [been told] that the property was in dispute, for as a trustee he ought to have known.” Mr Seabrook recalled Mr Crisp said that he would have pulled them up had any of the disputed properties be put out to lease. He further stated that Mr Crisp said “that as long as Mrs Hartam remained a widow of Mr Hartam nothing would have been said about the will.”^{cli}

The other trustee, Mr Herbert Cripps, confirmed that Mr Hartam never mentioned Mary Ann Hartam’s will to him and only knew about it from reading it in the press.

A Mary Ann Whitworth took to the stand and testified she attended Mary Ann Hartam during her illness, and confirmed Mary Ann’s desire to make a will. She knew of two draft wills that were prepared which were unacceptable. “There was a great commotion to fetch a lawyer” and there were a “number of gentlemen in the room and a great noise was made.” “A third will was prepared without her being consulted. She [Mary Ann] lapsed so quickly that it was not advisable. Mrs Hartam became insensible on Sunday and expired the following day.” Whether David Crisp was there “on the Saturday evening, she could not say because there was a number of gentlemen there.” The witness “never heard McLaughlin’s name mentioned in connection with the two wills. Mrs Hartam ceased speaking about two o’clock on Monday morning.” There was “no nurse in charge.” She confirmed that neither “Mr Crisp nor Walter Graham [purported witness to Mary Ann’s third will] were in the room when the late Mrs Hartam died. She did not believe that the second will was ever signed.”

Solicitor, Mr John Roberts was called to the stand. He was a reluctant witness for the plaintiff, Charlie, as his company was acting for Elizabeth and her children. Mr Roberts

testified he had been engaged to review the will and the court saw the letter he wrote to Mr G.S. Westbrook (trustee of Mary Ann's will). Following Mr Robert's testimony the judge, Mr Justice Dodds "stated that there were two points in the case: firstly, was there a will, and if so, secondly, what were its contents? Mr Roberts had established an answer to the first question and had given the Court information as to the other."^{clii}

The Solicitor General called witnesses to prove the document Elizabeth Brown described as finding after her husband's death, purporting to be his will where he bequeathed absolutely Hartamville to Elizabeth Brown was a forgery. The document was dated 10 April 1877, "with Hartam's mark on it". The document was witnessed by Joseph Woodhead, Mr Hartam's clerk (who died in 1885) and Dr Crowther. Elizabeth Brown testified she found this document shortly after Charles Hartam's death, "pinned into an old rough book, containing accounts and memoranda kept by Woodhead."

Mr David Barclay, manager of the Commercial Bank, acquainted with the late Dr Crowther's signature, pronounced "the signature not to be that of the gentleman's". Mr H.W. Chapman, manager of the Anglo Australian Stores at Hobart had seen the late Dr Crowther's signature "hundreds of times", and said the signature on the document was not Dr Crowther's. Charles Hartam's Trustee, Mr Seabrook, was recalled and said Mrs Hartam Brown showed him the document, claiming the property under it. He subsequently showed it to Percy Crisp for his opinion and Mr Crisp said it "was not worth the paper it was written on", and he also discredited Dr Crowther's signature.^{cliii} Counsel for the defence then announced that they made no point of using the document, as it had come out incidentally during Mrs Hartam Brown's examination.

Thursday, 27 July 1893

Elizabeth Hartam Brown's barrister, Mr A.I. Clark addressed the court. He summarised the condition under which Mary Ann Hartam made her will. That "there were many persons buzzing about the death-bed anxious to make her a will." He said "influence was brought to bear upon her...not to mean that any undue influence with an ulterior motive was brought to bear, but that the presence of those anxious to make a will acted upon or influenced the mind of the dying person."^{cliv} Mr Justice Dodds said to Mr Clark "You are really arguing that there was not mental capacity [for Mary Ann Hartam to make her will]"^{clv} Mr Clark confirmed that was what he intended.

The Chief Justice asked Mr David Crisp whether Mr Robert's letter influenced his memory in regard to the will. Mr Crisp replied that it did not "in the least shake his opinion as to the contents of the will."^{clvi} Mr Justice Dodd said "The letter refers to a provision that the property was not to be sold until the youngest son came of age?" Mr Crisp denied "there was [anything] of that kind in the will. It was a most simple will."^{clvii}

Mr Clark resumed his address, giving his opinion "that the will was prepared in a hurry and the power of appointment was not recited." He referred to Mr Roberts' letter wherein "the child named in the will was not known, but Mr Roberts was informed that it was the youngest one." Because the will "was so dark and clumsily framed that no definite setting out was contained in it." And that "Mr Hartam could not understand from first to last how it was he was not the owner of the property." Mr Clark noted that "Mr Crisp had never

registered the will” and that “had he done so all attempts at fraud would have been prevented.”

Mr Justice Dodds said “The existence of a will by Mary Ann Hartam is now beyond doubt, and the two questions which remain are: what were the contents of it, and was the deceased woman mentally competent at the time to make it?”^{clviii}

There was some discussion about the whereabouts of Mary Ann Hartam’s will at which Mr Justice Dodds said “that it did not exactly transpire whether or not the will had come into Mrs Hartam Brown’s possession at all.”^{clix}

Barrister for the trustees, Mr W.W. Perkins, suggested that Mr Crisp’s evidence was “unreliable, and traversed his motives in stirring the matter up after so many years.”^{clx}

Friday, 28 July 1893

Mr Byron Miller, barrister for the three Hartam children contended that “Mr John Roberts’ letter to the late G.C. Westbook in 1877 on the construction of the late Mrs Hartam’s will was the centre of interest in the case. He argued that the property in dispute was acquired by the joint earnings of Mr and Mrs Hartam, and therefore that Hartam’s children being blood relations were better entitled to the property than the plaintiff (Charlie)”.^{clxi} The Chief Justice dismissed this assertion, saying “it was quite clear that Mr Miller’s clients had no interest under the will.”^{clxii} He continued “Mrs Mary Ann Hartam was the man of business, and Mr Hartam was a mere cypher. He thought that Mrs Hartam would rather give the property to the child she adopted than to any possible future children of Hartam’s.”^{clxiii}

Mr Miller said “Mr Crisp’s recollection was not altogether to be relied upon as he had a strong interest in the case. His memory, in his opinion, was an artificial one, and he impugned Mr Roberts’ accuracy.” Mr Miller repeatedly referred to Mrs Hartam’s capacity, which the Chief Justice did not accept.^{clxiv} Mr Miller “urged that she did not make a will which the Court could establish. If the will was established against the children they would have a very small inheritance under their father’s will.”^{clxv}

The Solicitor General addressed the court and maintained that Messrs D.H. and P. Crisp’s testimony “should be received with some credence.” Mr David Crisp “had ample opportunities of knowing what the contents of Mrs Hartam’s will were.”

The Chief Justice said that the Court would “express their opinion on some future occasion.”

The judgement

Charlie McLaughlin and Elizabeth Hartam Brown didn’t have to wait long for a judgement, which was handed down by Chief Justice, Sir Lambert Dobson, on Saturday, 12 August 1893.^{clxvi}

The Chief Justice stated that the plaintiff had succeeded in establishing that Mrs M.A. Hartam duly made a will, and that it is as set out in the bill, that he is entitled to the Criterion and Hartamville, and to have possession delivered to him, and that he is entitled as

against Mrs Brown to an account of the rents and profits of the Criterion and to an occupation rent for Hartamville, subject to just allowances.

The *Coastal News and North Western Advertiser* summarised the case^{clxvii} thus:

“Lost wills frequently play a conspicuous part in the novelist’s handiwork, and where a large amount of property is involved nothing on earth is more calculated to cause flutter and strife in the family dovecote. The mysterious disappearance of the will of the late Mrs M.A. Hartam, one of the most successful hotelkeepers that Hobart people remember, has given rise to a very lengthy course of litigation. The second trial last[ed] eight days and at an estimated cost to the litigants of £1500 to £2000. The property involved consists of Hartamville, a residence standing on its own grounds at Battery Point, and the Criterion Hotel in Liverpool Street, representing a sum (when back rents are calculated) of about £12,000. The late Mrs M.A. Hartam adopted a child named Charles McLaughlan, whom she no doubt regarded with much affection. Over the properties in question she had what the lawyers call a ‘power of appointment’, that is, she could dispose of them by will or otherwise, as she liked. She pre-deceased her husband, Charles Hartam by some years and after her death Mr David Crisp, solicitor, produced a will made by her bequeathing Hartamville and the Criterion to young McLaughlan, as she had always said she would, but giving Hartam a life interest. Some months afterwards, Hartam married Mrs Allright and gradually he seemed to have become dissatisfied with his late wife having left “Charlie” the residence and the hotel. He did not proceed to prove the will...he took his box of deeds home from [Mr Crisp’s] office, Mrs M.A. Hartam’s will included....Upon Hartam’s death McLaughlan, who was aware of Hartam’s life interest in the property, bestirred himself to “claim his own” but the will under which he was entitled, namely that of Mrs M.A. Hartam could not be found. There was evidence of its existence...the Judges therefore had little difficulty in deciding that the will existed, but what were the contents was the rub. As to this, a great deal of primary and secondary evidence was taken, and there must have been some “hard swearing” on one side or the other. Their conclusion, however, that Mrs M.A. Hartam left her adopted son, McLaughlan, the property in question and now Hartam’s widow (who has married again, and so changed her name to Brown) has to give up Hartamville and the Criterion Hotel, with an account of rents and use and occupation, which means a good round sum of money in addition. What became of the will is a question which will never be clearly revealed, but everything seems to point to its wilful destruction; and seeing that he was evidently anxious to bequeath the property to his widow absolutely, and even did so, it is very probable that the late Charles Hartam destroyed it himself when he got possession of it from Mr Crisp. There’s now little likelihood of any further appeal, unless Mrs Hartam Brown chose to carry the case before the English Privy Council on some point of law, but there is not much law involved, it being almost entirely a question of fact, and if all the witnesses who have lately been examined in Hobart were taken to London, the litigants would pretty well need to charter a vessel for the purpose. Under these circumstances we presume that the litigation over the existence and purport of the will is at an end, and that the only bone of contention left, is as to the amount of money Mrs Hartam Brown will now have to pay over to McLaughlan, including costs. This will be decided by the Judges in Chambers after hearing counsel on both sides. As to the result of the decision of the Full Court, it has certainly met with the very general approval on the part of the public.”

With the court case concluded, Charlie wasted no time in instructing Dobson, Mitchell & Allport to lease Hartamville, which was advertised on 16 September 1893.^{clxviii} By November 1894, William Langford was listed at the licensee Criterion Hotel.^{clxix}

Elizabeth Brown told to ‘hurry up’

It is probably not unexpected that Elizabeth Brown would be in no rush to pay Charlie McLaughlin what was owed to him. The loss of the court case was a significant blow and had a deleterious impact on her health. Now deprived of the rent from the Criterion and Hartamville, and being forced to move to her husband’s home in Richmond Park, Longford, Elizabeth would need to maintain herself and her children with rent from Charles Hartam’s remaining properties (The Royal Hotel with an annual rental of £223; and three Brick Shop and Dwelling Houses with a combined annual rental of £267).^{clxx} Following the conclusion of the court case, the pressure continued to mount on Elizabeth.

On 7 October 1893, the local newspapers reported the following:

“After the trial, Mrs Hartam Brown did not render an account of the rents received for the Criterion Hotel and Hartamville during several years, as directed by the Chief Justice. An Order in Chambers was next taken out and served upon her solicitor, requiring her to render the account, but this was not obeyed. Then the order was served upon her personally, but it still remains unobeyed. Proceedings have now, therefore been taken to compel performance of the order by attachment, which in plain English means that Mrs Hartam Brown will be taken to prison if she persists in her disobedience. The writ of attachment has been issued, but has not yet been put into force. It will, however, be done unless the accounts are forthcoming within the next few days.”^{clxxi}

A few days later, on 11 October 1893, the *Mercury* reported the following:

“Mrs Hartam Brown has written to us denying that she has persisted in disobeying the order of the Court to render an account of back rents, etc in the matter of Hartamville and the Criterion properties and says the accounts have been in her lawyer’s hands over a fortnight, and that she holds their receipt for same. It is strange if this is so that her solicitor has as we understand allowed an attachment to issue: also that Mrs Hartam Brown has ventured to write a long explanation to the judges why she cannot render a detailed account.”^{clxxii}

On 8 December, the court ruled on the costs. One half costs should be paid out of the estate and one half by Mr and Mrs Hartam Brown, trustees to take their costs out of estate.^{clxxiii}

Elizabeth did not have to suffer the inconvenience of her changed circumstances for long. Eleven days later, on 29 December 1893, aged fifty, Elizabeth Hartam Brown died at her residence, Richmond Park, Longford.^{clxxiv}

Charles Hartam’s estate sold

The children of Charles and Elizabeth Hartam: Lily, Raymond and Charles were twenty-seven, twenty and nineteen, respectively, in 1905, when the trustees of Charles Hartam’s

will put his remaining properties up for sale, including The Royal Hotel. All of the properties were situated in Liverpool Street, Hobart. In a newspaper advertisement,^{clxxxv} the following was described:

- I. *The Royal Hotel, one of the best and most popular hotels in the city. The property is now let to Mr. T. A. James at a rental of £223 per annum, and the tenancy expires on The 31st July next. The land on which this hotel stands has a frontage on Liverpool-street of 38 feet 5 and a half inches, by a depth of 234 feet on one side and 274 feet on the other.*
- II. *LOT 2. Brick Shop and Dwelling House, divided by a right-of-way from (unclear). This property is now let on a monthly tenancy of £80 per annum.*
- III. *LOT 3. Brick Shop and Dwelling house adjoining lot 2. This property is now let with Lot 5 at a rental of £115 per annum, and the tenancy expires on the 1st of May next.*
- IV. *LOT 4. Brick shop and Dwelling House adjoining lot 3, now let at a rental of £72. and the tenancy expires on 1st March next.*
- V. *LOT 5. Brick Building suitable, for factory or store, W.B. House and land at rear, adjoining Lots 2, 3 and 4.*

The legacy

Mary Ann Hartam was an inspirational and beloved figure in Hobart. She arrived in Australia in a position of disadvantage with nothing and everything against her. Through hard work, she created an enviable empire and a comfortable life for herself, Charles and Charlie. Elizabeth Allwright was a beneficiary of Mary Ann and Charles' hard work for a while, and her children benefitted from the Hartam family connections and property.

Charlie put Hartamville up for sale at auction in January 1905. It was eventually purchased by William Bispham Propsting (lawyer and politician) and William Richard Frederick Propsting (bookseller and son of Richard Propsting, former Superintendent of Police) in June 1907, and was rented out to various tenants including Thomas Bennison, the city coroner. The Propstings sold the property in August 1923 and it was subsequently renamed Wyuna and operated as a boarding house. At some stage it was renamed Hanover Cottage, and the dwelling is now a private residence.^{clxxxvi}

Mary Ann's legacy will be forever linked with the Criterion Hotel and The Ship Hotel which are iconic landmarks in Hobart. Both properties remain standing, and continue to trade.

Acknowledgements:

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- ⁱ Libraries Tasmania. CON40-1-3 Image 285 and <http://www.lan-opc.org.uk>
- ⁱⁱ Based on the stated age of Mary Ann when she died, and Familysearch.org; Libraries Tasmania. CON19
- ⁱⁱⁱ Familysearch.org
- ^{iv} Libraries Tasmania. CON13-1-6. Image 211
- ^v Australian Joint Copying Project. Microfilm Roll 90, Class and Piece Number HO11/9, Page Number 347(175) states Mary Ann Grayson was tried at the Hampshire Portsmouth Quarter Sessions
- ^{vi} Libraries Tasmania. CON40-1-3 Image 285
- ^{vii} <https://researchdata.edu.au/fas-convict-ship-prosopography-index/395204> (accessed 6 February 2023)
- ^{viii} Libraries Tasmania. CON27-1-1 Image 16
- ^{ix} Libraries Tasmania. CON19-1-12
- ^x *Ibid*
- ^{xi} <https://femalefactory.org.au/history/life-in-the-cascades-female-factory/> (accessed 8 February 2023)
- ^{xii} *Ibid*
- ^{xiii} *Ibid*
- ^{xiv} *Ibid*
- ^{xv} *Ibid*
- ^{xvi} Female Convicts Research Centre database, and HO10/50 — Muster year 1835
- ^{xvii} *Ibid*
- ^{xviii} Libraries Tasmania. CON52/1/1 Page 180
- ^{xix} Louisa Ann Meredith, *My Home in Tasmania*, vol 2, John Murray, London, 1852, p. 209 (from Alison Alexander, Female Convicts Research Centre)
- ^{xx} *Ibid*
- ^{xxi} *Ibid*
- ^{xxii} *Ibid*
- ^{xxiii} *Ibid*
- ^{xxiv} <https://trove.nla.gov.au/newspaper/article/7134376> (accessed 8 February 2023)
- ^{xxv} https://www.utas.edu.au/library/companion_to_tasmanian_history/V/VDL.htm (accessed 9 February 2023)
- ^{xxvi} *Ibid*
- ^{xxvii} *Ibid*
- ^{xxviii} *Ibid*
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- ^{xxx} *Ibid*
- ^{xxxi} *Ibid*
- ^{xxxii} Libraries Tasmania. CON52/1/1 Page 79. RGD36/3: 1838/4266
- ^{xxxiii} Libraries Tasmania. RGD36/1/3 no 4266
- ^{xxxiv} Libraries Tasmania. CON14-2-1. Image 22
- ^{xxxv} Libraries Tasmania. CON27-1-5 Image 41
- ^{xxxvi} Libraries Tasmania. CON18-1-9. Image 81
- ^{xxxvii} *Ibid*
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- ^{xl} *The Courier*, Fri 13 May 1842, page 4
- ^{xli} https://www.utas.edu.au/library/companion_to_tasmanian_history/H/Hobart.htm (accessed 10 Feb 2023)
- ^{xlii} *The Courier*, Fri 13 Oct 1843, Page 4
- ^{xliiii} Libraries Tasmania. HTG 30/9/1842 6/10/1843 1/10/1844
- ^{xliv} *The Courier*, 5 Sept 1846 and 3 Apr 1847. Also, Libraries Tasmania HTG 7 Oct 1845, 2 Oct 1847, 30 Sep 1848, 27 Sep 1849
- ^{xlv} *Mercury*, Mon 14 Aug 1893, page 4
- ^{xlvi} *Ibid*
- ^{xlvii} Libraries Tasmania. HTG 6/5/1850
- ^{xlviii} *Mercury*, Sat 2 Sep 1876, page 2
- ^{xlix} *Ibid*
- ^l Libraries Tasmania. HTG 29 Sep 1850 7 Oct 1851 and 5 Oct 1852; Libraries Tasmania. HTG 27 Sep 1853, 15 Jan 1858, 6 Jan 1857, 5 Jan 1858, 8 Jan 1859, 10 Jan 1860
- ^{li} *Ibid*

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- liv *Ibid*
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- lvi *Mercury*, Tue 8 Feb 1859, page 2
- lvii *Mercury*, Tue 7 May 1861, page 2
- lviii *Examiner*, Sat 23 Dec 1905, page 16
- lix *The Mercury*, 18 Jan 1862, page 3; *Hobart Town Advertiser*, Sat 14 Jun 1862, page 6; *The Mercury*, 17 Sept 1862, page 6
- lx *Hobart Town Gazette*, 25 Jan 1870
- lxi *The Cornwall Chronicle*, Sat 28 Aug 1869, page 5
- lxii *Mercury*, Mon 28 Aug 1876
- lxiii *Mercury*, 21 Jul 1893
- lxiv *Ibid*
- lxv *Tasmanian News*, Thu 20 Jul 1893, page 2
- lxvi *Mercury*, 13 Dec 1892, page 4
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- lxviii *Ibid*
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- lxx *Mercury* 21 Jul 1893
- lxxi *Ibid*
- lxxii http://www.environment.gov.au/cgi-bin/ahdb/search.pl?mode=place_detail;place_id=11260 (accessed 13 Feb 2023)
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- lxxiv *Colonial Times*, Tue 16 Feb 1836, page 1
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- lxxx Libraries Tasmania. RGD 35/1/8 no 3582
- lxxxi *Mercury*, 22 Aug 1878
- lxxxii *Mercury*, Sat 2 Sep 1876
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- lxxxv *Ibid*
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- lxxxvii Libraries Tasmania. Names Index, Hartam, Charles, Marriages 1877
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- clxxv **Ibid**
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