

# **CROKER PRIZE FOR BIOGRAPHY 2021**

## **2108 The Prisoner Haynes, Said Nothing in her Defence**

**by Denise Cameron**

## *The Prisoner Haynes, Said Nothing in Her Defence.*

Historical records focus on dates, places, and events, but from time to time we gain a surprising and personal insight into the real life of our forebears. Finding both the spoken words recorded in courtroom documents and letters written from prison provide an insight into the convict, Ann Foss née Gilbert.<sup>1</sup> Firstly, at her trial at the Old Bailey, Ann stood in the dock silently while her partner in crime betrayed her.<sup>2</sup> During a coroner's inquest held 12 years later in Sydney, an enormous amount had happened in her life revealing Ann's outspoken nature in her witness statement.<sup>3</sup>

Ann Gilbert was 11 years old when her mother, Grace died in 1787 leaving her father, Joseph to raise her in the parish of St John-at-Hampstead, Middlesex.<sup>4</sup> Ann's playground was London's bustling, noisy streets, and alleyways. Marrying, Henry Foss in 1798 at St George's Bloomsbury, London, Ann aged 22 years signed the church's registry *This marriage was solemnized between us – Henry Foss X (his mark) Ann Gilbert.*<sup>5</sup> They lived around London's White Horse-Alley, near Clerkenwell<sup>6</sup> often supplementing Henry's sail making income unlawfully.

On 12<sup>th</sup> March 1804, Ann Foss alias Haynes accompanied an older Sarah Whiley into Mr Hind's shop 134 Whitechapel Road, London. The women asked to purchase a brass footman with iron legs. Sarah handed over a £1 note. Doubts were raised and after closer scrutiny of the bank note, and despite the women's strong denial '*it wasn't a bad one,*'<sup>2</sup> they were arrested. On 11<sup>th</sup> April 1804, Ann, and Sarah, infant in arms, stood in a dock of the Old Bailey Criminal Courts. *Sarah Whiley and Ann Haynes, otherwise Foss, were indicted for feloniously forging and counterfeiting, on the 12th of March, a certain Bank note for the payment of £1. with intention to defraud the Governor and Company of the Bank of England.*<sup>2</sup>

*Prisoner Whiley's defence. I leave it to my Counsel, and the mercy of the Gentlemen; I had the notes from Haynes.*

*The prisoner, Haynes, said nothing in her defence*

**Sarah Whiley, GUILTY, Death, aged 34.**

**Ann Haynes, GUILTY, Death, aged 28.**

Criminal Registers Old Bailey 1804 Whiley & Haynes defence statements.

Both sentences were reprieved to transportation to NSW for 14 years. The Bank of England<sup>7</sup> offered aid to prisoners who were charged with forgery and waiting transportation. The solicitors of the law firm Freshfields,<sup>7</sup> well-respected in the City of London, assisted prisoners in writing their petitions and letters. Ann wrote five letters to the Bank while in Newgate Prison, these make for tragic reading. She writes of her abject poverty, and misery and begged for support to cope with the poor prison conditions and for the journey to Australia.

*Gentlemen In Expectation of being sent abroad in a few days I humbly implore you to have pity on me, it is well known in the Prison that I am reduced almost to poverty not having sufficient to pay for a Bed to sleep on.*

39. [F25/1/129] Ann Foss, Newgate, 9 July 1805<sup>7</sup>

On 13<sup>th</sup> July 1805, twenty-five female convicts including Sarah and Ann were taken from Newgate Prison to join the 117 women prisoners embarking the *William Pitt*. Unfortunately, the ship sailed 8-10 hours before the Bank's agent, James Tippet reached the docks at Falmouth. The money of £5 was returned to the Bank. Ann, Sarah and three other women who were promised money found little comfort during the difficult voyage. The *William Pitt* arrived in Port Jackson on 11<sup>th</sup> April 1806.<sup>8</sup>

Likewise, in 1806 Henry Foss guilty of possessing forged bank notes and sentenced to 14 years transportation on the *Fortune and Alexander*.<sup>9</sup> Henry was assigned to work in the Hunter Valley region.<sup>10</sup> Ann and Henry's daughter Elizabeth Catharine Foss was born on 20<sup>th</sup> January 1810.<sup>11</sup> By October 1816, Henry was sent to Newcastle on the *Lady Nelson* for three years to serve a secondary punishment for possessing forged bank notes.<sup>12</sup> By April 1819, Henry aged 57 years died and was buried in Old Sydney Cemetery, George Street.<sup>13</sup>

In July 1816 Ann was a witness at the inquest of Mary Ann Swinton held in the Coroner's Court. Mr and Mrs Swinton had disembarked the *Lady Elliot*<sup>14</sup> in Sydney and Ann Foss was assigned to wash the Swinton's clothes 'eight dozen in very bad and disagreeable state'. Later, Ann and neighbour Mrs McMahon visited the Mary Ann. In Ann's statement 'she entered the house; she saw the deceased lying on a bed and observed to Mrs McMahon she thought the woman was dying'. Ann assisted by 'finding her jaw falling and took a handkerchief and tied it up and washed and laid the deceased'. Ann was questioned by the J.W. Lewin, Coroner 'whether the deceased had received at any time ill treatment or was denied proper nourishment, bedding, or clothing'<sup>15</sup> Ann's answer 'No! The verdict concluded that Mary Ann Swinton's death was caused by the Visitation of God.<sup>3</sup>

Ann Yellop per *Louisa*<sup>15</sup> and Elizabeth Cotterill per *Lucy Davidson* from the Parramatta Female Factory were assigned to work in Ann's laundry at 18 Pitt Street, Sydney,<sup>16</sup> well-positioned to entice customers arriving in Sydney Cove. Convict women provided essential domestic services such as washing and sewing, played an important part in the colony's developing commercial and social life.

Finally, Ann received Absolute Pardon from by Governor Lieutenant General Sir Richard Bourke in November 1837<sup>17</sup> five years before she died in 1842 in Sydney, aged 66 years.<sup>18</sup> She was described as 5 feet 1 inch tall, complexion fair and ruddy, brown hair and brown eyes. Her daughter Elizabeth, a 'currency lass'<sup>19</sup> with her husband William Brown per *Elizabeth*<sup>20</sup> raised 11 children.

Reading through archival documents and transcripts provides the researcher an extraordinary insight into the actual words spoken, the emotions and opinions expressed by their forebearers as in the case of Ann Foss née Gilbert, my 4<sup>th</sup> great grandmother.

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<sup>1</sup> London, England, Church of England Baptism, Marriages & Burials, 1538-1812 for Ann Gilbert.

<sup>2</sup> England & Wales Criminal Registers Old Bailey Online refer ID: t18040411-50 Whiley & Haynes. ©Tim Hitchcock, Robert Shoemaker, Clive Emsley, Sharon Howard and Jamie McLaughlin, et al., *The Old Bailey Proceedings Online, 1674-1913* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 24 March 2018). *Proceedings of the Old Bailey, 11th April 1804, page 48.*

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- <sup>3</sup> NSW, Australia Colonial Secretary's Papers 1788-1856 Inquest Mary Ann Swinton 28<sup>th</sup> July 1816.
- <sup>4</sup> London, England, Church of England Baptisms, Marriages & Burials, 1538-1812 for Grace Gilbert.
- <sup>5</sup> St George's Bloomsbury, London Parish register entry 196 London, England Church of England Baptisms, Marriages Ref No; p82 geo1/018
- <sup>6</sup> England & Wales Criminal Registers Old Bailey Online refer ID: t18040411-51 Henry Foss.
- <sup>7</sup> <https://www.british-history.ac.uk/london-record-soc/vol42/pp1-34#p77>
- <sup>8</sup> British convict transportation registers 1787-1867 State Library of Queensland from British Home Office (HO) records [https:// Convict Records > Ships > W > William Pitt > 1805](https://www.sls.qld.gov.au/convict-records)
- <sup>9</sup> British convict transportation registers 1787-1867 database compiled by State Library of Queensland from British Home Office (HO) records [https:// Convict Records > Ships > F > Fortune and Alexander 1806](https://www.sls.qld.gov.au/convict-records)
- <sup>10</sup> *Free Settler or Felon* - Copyright Jen Willetts. All Rights Reserved Convicts of the Fortune in the Hunter region. <https://www.freesettlerorfelon.com/index.htm>
- <sup>11</sup> NSW Births, Deaths & Marriages. FHL Film Number: 993949 Registration no. V18102026 1A
- <sup>12</sup> NSW, Australia Colonial Secretary's Papers 1788 – 1856 recorded that on 30<sup>th</sup> October 1816.
- <sup>13</sup> Old Sydney Cemetery Records No. 799 St Phillips Parish Register. Record Thomas D Mutch, Mitchell Library, Sydney. Death registry - V181943002B
- <sup>14</sup> Macquarie, Lachlan. *Diary 10 April 1816 - 1 July 1818*. Mitchell Library, Sydney. ML Ref: A773 pp.19-28. [https://www.mq.edu.au/macquarie archive/lema/1816/1816june.html](https://www.mq.edu.au/macquarie_archive/lema/1816/1816june.html)
- <sup>15</sup> NSW 1828 Census at Government Factory, Parramatta. New South Wales Government Gazette (Sydney, NSW: 1832 - 1900) Wednesday 18 July 1832 - Page 192 No.463
- <sup>16</sup> Government Gazette Notices - New South Wales Government Gazette (Sydney, NSW: 1832 - 1900) Wednesday 11 July 1832 - Page 177 No. 53
- <sup>17</sup> NSW Government Gazette Index 1832-1863 1<sup>st</sup> Jan 1837 Colonial Secretary's Office, Sydney Absolute and Conditional Pardons Haynes alias Foss Ann, William Pitt.
- <sup>18</sup> NSW Births, Deaths & Marriages. Registration no. V1842440114
- <sup>19</sup> [Lexico.com/definition/currency](https://www.lexico.com/definition/currency) lass
- <sup>20</sup> NSW Births, Deaths & Marriages registration no. V182550 149 Registered at St. James, Sydney.