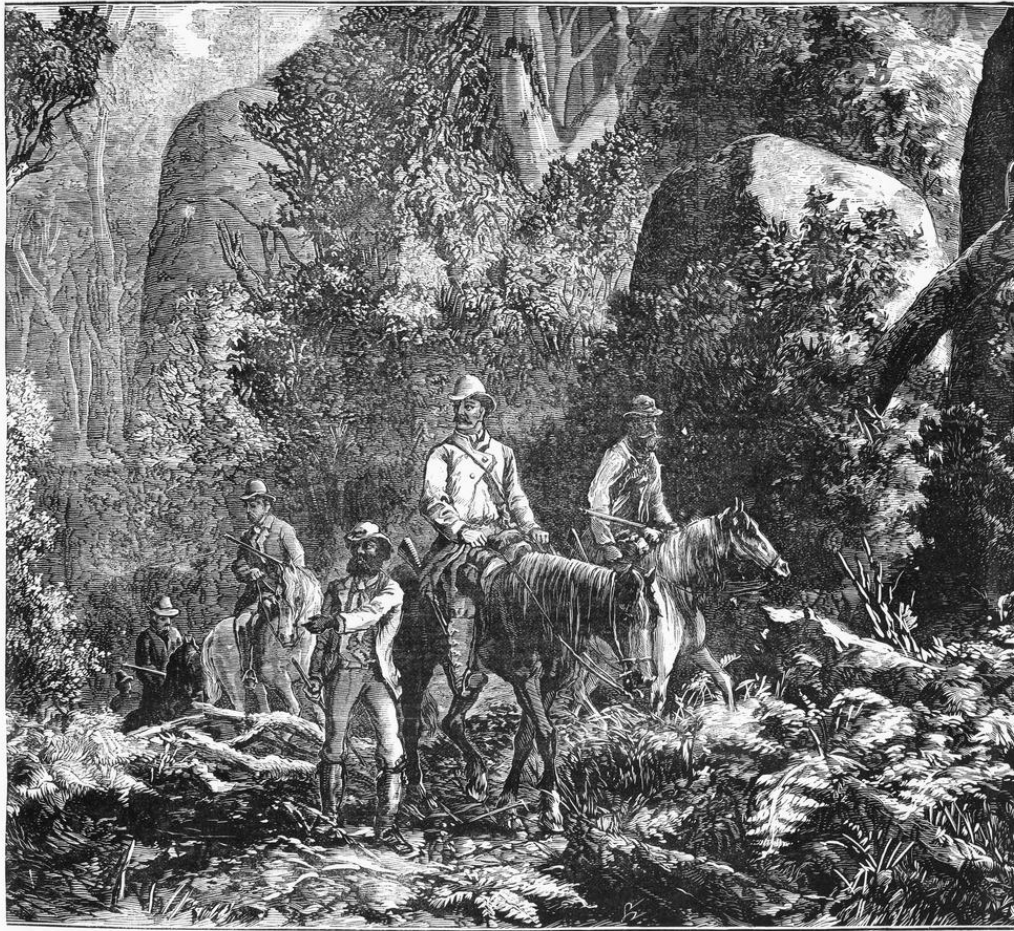


# Ned Kelly and the Myth of a Republic of North-Eastern Victoria



A SEARCH PARTY IN THE WOMBAT RANGES.

Stuart E. Dawson

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## Preface

This is not another retelling of the Kelly gang story. It is a close examination of a longstanding claim, first made and promoted by influential Kelly historian Ian Jones from 1967 onwards, and furthered by many since, that Ned Kelly and his gang had planned to establish a republic in north-eastern Victoria, with the active support of a large number of selector farmers. Although the claim has permeated much popular and academic work on Kelly since the 1980s, it has no historical evidence to support it, and much to contradict it. It has nevertheless managed to find its way into a significant number of Australian historical works virtually unchallenged, and to worm its way into material supporting Australian history curricula. This investigation set out to comprehensively review the claim, which it definitively rejects. It traces and reveals the origin and construction of the Kelly republic myth. The claim is exposed as a complex historical fiction. The story provides a fascinating insight into how large numbers of people are willing to accept uncritically what they think (or wish) might have been true, or to accept dubious propositions, with no evidence, about what was “undoubtedly” the case, in a similar way to that in which we willingly lose ourselves in a good fiction story, based on the seeming plausibility of its narrative.

### **The context of the Republic myth**

The Kelly outbreak was triggered in April 1878 by the attempt of Constable Fitzpatrick to arrest Ned Kelly’s brother Dan at their mother’s house for horse stealing. Fitzpatrick was wounded in the subsequent affray, and warrants were urgently sworn against Ned, for attempted murder, and against Dan, Mrs Kelly, and two associates, Bill Skillion and “Bricky” Williamson, for abetting. Ned and Dan fled for the bush the same night. The others were arrested over the following night and remanded for trial. On 9 October 1878 they were sentenced and gaoled. On 26 October Ned and Dan with two others, Joe Byrne and Steve Hart – the “Kelly gang” – ambushed a police search party at Stringybark Creek, killing three troopers – Michael Kennedy, Thomas Lonigan, and Michael Scanlan – while a fourth, Thomas McIntyre, escaped to tell the tale. Wanted for murder and outlawed, in December 1878 the gang held up the National Bank in Euroa, and, in February 1879, the Bank of NSW in Jerilderie. In both cases the gang rounded up numerous locals and held them prisoner during the raids, threatening them with dire retribution should they assist the police in their enquiries. On both occasions Kelly wrote letters – now infamous – protesting his and other’s past innocence, and demanding the release of his mother and friends.

Hard to catch in the vast, sparsely populated ranges, the gang were assisted with supplies and information by a considerable number of “sympathiser” families, mostly related by marriage and often at odds with the law. In early January 1879 the police arrested and held 23 men thought to be actively aiding the outlaws, nine of whom were held for nearly three months, until increasing protests that their ongoing remand violated the principle of *Habeas Corpus* caused their release. The police also implemented a policy of blacklisting known sympathisers from acquiring land principally in parts of the north-east likely to facilitate cross-border horse theft, a policy that was well received by the majority of law-abiding selectors. Kelly enthusiasts have argued to the contrary, that the remanding and blacklisting swung a large body of north-east selectors to side with and support the outlaws against the authorities. As many were of Irish extraction, it has been held that Kelly himself had a republican heart, and planned to lead a republican selector rebellion triggered by the wrecking of a police train at Glenrowan in June 1880 and the massacre of any survivors. Then he and his followers would live fearless, free and bold in their Republic of

North-Eastern Victoria; as Jones put it, “proclaiming that the law of Queen Victoria no longer held sway in the north-east”.<sup>1</sup> As will be seen, many have fallen down the same rabbit hole.

Historical myths are remarkably common, and die hard. Think of the legend of the mahogany ship, for example.<sup>2</sup> I hope you enjoy the journey of historical myth-busting to which the Kelly republic theory is subject here. I have addressed some other widespread Kelly myths elsewhere, in academic papers on the Fitzpatrick incident, Ned Kelly’s last words, and Kelly’s accidental shooting of a labourer before the Glenrowan siege. These articles are listed in the bibliography, and are available free from the internet. Readers interested in Kelly history may also enjoy a free PDF transcription of the text of G.W. Hall’s rare 1879 book, *The Kelly Gang, or The Outlaws of the Wombat Ranges*, with original pagination, available online from [www.ironicon.com.au](http://www.ironicon.com.au)

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#### **Acknowledgements and independent academic open peer review**

Open peer review means that the reviewer’s and author’s names are known to each other. It is rapidly rivalling the traditional, cumbersome and often slow process of blind peer review, especially in the sciences,<sup>3</sup> but also in Arts. As Tony Ross-Hellauer observed in 2017, “Traditional peer review [also] provides little in the way of incentives for reviewers, whose work is almost exclusively unpaid and whose anonymous contributions cannot be recognised and hence rewarded”.<sup>4</sup> Open peer review offers material for review to experts in a particular field, and authors gladly acknowledge their contribution towards the further improvement of the work.

I wish to acknowledge the valuable constructive criticism of Sharon Hollingsworth on successive drafts of this investigation. Her extensive and detailed knowledge of and enthusiasm for the Kelly story is truly impressive. An assortment of interested others have cheerfully corresponded on specific points. I also thank my wife for tolerating the amount of time invested in researching an anti-social bandit. I am grateful and appreciative for time generously given for academic peer review, helpful comments and suggestions, and recommendations to publish, by (in alphabetical order) Professor Lyn Innes, author, *Ned Kelly: Icon of Modern Culture*; Ian MacFarlane, author, *The Kelly Gang Unmasked*; Dr. Russ Scott, co-author with Ian MacFarlane, “Ned Kelly – Stock Thief, Bank Robber, Murderer – Psychopath”; and Professor Graham Seal, author, *Tell ‘em I died game: The legend of Ned Kelly*. I am entirely responsible for all faults and deficiencies.

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<sup>1</sup> Ian Jones, *Ned Kelly: A Short Life* (South Melbourne: Lothian, new edn., 2003), 204.

<sup>2</sup> See the intriguing paper by Murray Johns, “The Mahogany Ship Story: Re-examining the Evidence”, 3rd Mahogany Ship Conference, Warrnambool, 2005, <http://www.mwjohns.com/maritime-history/>

<sup>3</sup> See Ulrich Pöschel, “Multi-stage open peer review: scientific evaluation integrating the strengths of traditional peer review with the virtues of transparency and self-regulation”, *Frontiers in Computational Neuroscience* 6 (2012), <https://www.frontiersin.org/article/10.3389/fncom.2012.00033>

<sup>4</sup> Tony Ross-Hellauer, “What is open peer review? A systematic review”, *F1000 Research* (August 2017), <https://f1000research.com/articles/6-588/v2>



## LATEST FROM MR. KELLY.

“Wombat Ranges.

“DEAR PUNSH.—We have got a big thing on, and thats wy you haint heerd from me lattely. But you mus kep it dark. Mums the word mind, or you and an nounce of led will become boosom companyuns. Wel we are a going to grab Standish, and kepe him in pawn (“old ‘im to ransom,” Ned calt it) till the bloming Govment grants us all a fre pardon—ain’t that a prime lai? Ain’t it O. K.? Wen we’ve got the bloke, and a few more of the slops safe up ‘ere with hus, we sends the folerin letter wich Dan hev writ becoz he’s the scollard. Twig the perffessional touch about it, and say, old man, as if Dan hadn’t been brorte up as well as he hev, wether he mitent hev descended in the soshul skale, and become a sivil servant, or a juge, or sommert equelly lo.

“‘Owever, ‘ere’s the leter :—

“‘Wombatt ranges.

“‘To the right honorable the Chief Secretary of Victoria.

“‘Sir,—I have the honor to inform you that we have in our possession in these ranges Captn Standish, the Chief Comissonner of Perlice, and two other perlice whose names we have not the pleasure of there aquanternce. These fu lines is to inform you that unless, by this day fortnite, Mr. Edward Kelly, Mr. Daniel Kelly, Mr. Joe Hart, and Mr. Steve Byrne receive a free and uncondishional pardon for the acts they was found to committ at Mansfeeld, in October last, and subsequent, the perlice which we holds to ransom will be killed without fear or favor, and the lord hav mercy on there soles.

“‘I hav the honor to be, Sir,

“‘Your obedient servant,

“‘NED KELLY.

(Per Dan Kelly).’

“‘Ain’t this a prime game, old PUNCHEY? The Govment darn’t let ‘em be killed in coled blood, and there is no alternatif but to give us al a pardon, and let us clear out of the coloni with our swag like gents. Dan says he’ll go to Urope, and do the ‘gran tour.’ I shall make for Texas, ‘osses is plentiful thare. Hart is agoing to turn parson, and preche agin bushranging, and Byrne is agoing to jine the Perlice force in the old countri.—Yours, D. KELLY.”

*Melbourne Punch*, 27 Mar 1879, 2. Source: State Library Victoria.

## The Destruction of the Kelly Gang.

The destruction of the KELLY gang is a great blessing. It has spread throughout the country a sense of relief hardly expressible in words. Had society been ridded of a horde of hyenas, wolves, and tigers, thirsting for human blood, the joy would scarcely have been greater than that felt at the hunting-down of this band of unmitigated ruffians and murderers. For two years has the country, infested by these men, been living in a state of terror and panic, subject at every and any minute to their depredations, cruelties, and crimes. The whole

*Singleton Argus and Upper Hunter General Advocate*,  
7 July 1880, 2. Source: State Library Victoria.



## Introduction: Ned Kelly and the myth of a Republic of North-Eastern Victoria

One of the most perplexing (because unevidenced) claims of the modern Ned Kelly legend is that Kelly and his gang aspired to establish a Republic of North-Eastern Victoria, and penned a declaration to that end, which is said to have been taken from Kelly following his capture, and destroyed.<sup>1</sup> Against it, there is no mention of any such document, plan or intention in any record of Kelly's day, nor in the numerous interviews and memoirs of those connected with the gang, or its prisoners who listened to Kelly's speeches while held up, nor in the work of early historians of the outbreak who knew the Kellys, their gang, their sympathisers, or the pursuing police.<sup>2</sup> Further, there is no hint of republican aims or a declaration legend in the first "fervently pro-Kelly book", *The Complete Inner History of the Kelly Gang*, by Labor Party member and unionist J.J. Kenneally (1929), written "long after anyone could possibly have gotten into trouble for seditious actions" in the previous century.<sup>3</sup> Beginning with the declaration claim, the pillars that support the theory of a Kelly republic – a land war between squatters and selectors, rural depression, Irish rebel traditions, widespread sympathy for the outlawed gang, and a planned republican uprising at Glenrowan – will be systematically reviewed. The "Kelly republic" emerges as a widely promulgated fiction, built on tall tales, wishful thinking and flawed historical analysis.

The first that is heard of a declaration legend in any source is a passing mention in Max Brown's 1948 Kelly biography, *Australian Son*, in which he said, "A legend ... declares that in the hour of his capture, the police took from Kelly's pocket a declaration for a Republic of North-Eastern Victoria!".<sup>4</sup> Prominent Kelly historian Ian Jones was inspired by Brown's remark to consider the possibility that Kelly and his gang had republican motivations, which might provide a political rationale for their attempt to derail a police train at Glenrowan and massacre its occupants. In 1969, he conversed with an *Age* journalist, Leonard Radic, who stated that he had seen a copy of the declaration in England in 1962, "in a group of documents relating to Australia", on exhibition at the London Public Records Office.<sup>5</sup> For Jones, this witness testimony that a printed declaration

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<sup>1</sup> Justin Corfield, *The Ned Kelly Encyclopaedia* (South Melbourne: Lothian, 2003), 408.

<sup>2</sup> See G.W. Hall, *The Kelly Gang, or, The Outlaws of the Wombat Ranges* (Mansfield: G.W. Hall, 1879); G.W. Hall, *The book of Keli, or, The chronicles of the Kelly pursuers* (Mansfield: G.W. Hall, 1879); Police Commission, *Minutes of Evidence taken before the Royal Commission into the Police Force in Victoria, together with Appendices* (Melbourne: Government Printer, 1881); Francis Hare, *The Last of the Bushrangers: An Account of the Capture of the Kelly Gang* (London: Hurst and Blackett, 1892); C.H. Chomley, *The True Story of the Kelly Gang of Bushrangers* (Melbourne: Pater & Co., 1900; Thomas McIntyre, *A True Narrative of the Kelly Gang* (MS, Victoria Police Museum, VPM2990, [1900]); George Boxall, *History of the Australian Bushrangers* (London: Unwin, 3rd edn., 1908); Charles White, *History of Australian Bushranging. Vol. 2: 1863-1880, Ben Hall to the Kelly Gang* (Sydney: Angus and Robertson, 1903); Brian McDonald, ed., *The Kelly Gang from within: Articles written by Brian W. Cookson for the Sydney "Sun", 27 August to 24 September 1911*, (Bondi, N.S.W.: Australian History Promotions, 2005); John Sadleir, *Recollections of a Victorian Police Officer* (Melbourne: George Robertson & Co, 1913).

<sup>3</sup> Brian Stevenson, "A Review of Ian MacFarlane's *The Kelly Gang Unmasked*, Part 2" (3 February 2013), <http://elevenmilecreek.blogspot.com.au/2013/02/part-2-review-of-ian-macfarlanes-kelly.html> (accessed 2 February 2016).

<sup>4</sup> Max Brown, *Australian Son: The Story of Ned Kelly* (Melbourne: Georgian House, 1948), 12.

<sup>5</sup> Ian Jones, Q&A after John McQuilton, "Ned Kelly: Social bandit or rural criminal?", in Marian Matta (ed.), *Ned Kelly Seminar Papers, Beechworth, 13-14 November 1993* (Melbourne: CAE, 1994), unpaginated.

existed, together with an identifiable group of embittered, active Kelly sympathisers, was proof of Kelly's politically rebellious intent.<sup>6</sup> Without "some such rationale", said Jones, the attempted police massacre at Glenrowan "would be seen simply as a criminal atrocity of monstrous scale".<sup>7</sup>

Indeed, that claimed sighting of a printed declaration of a republic was regarded in 2003 by the then Chief Justice of Victoria, John Phillips, as "hard evidence of a north-eastern republican movement", on the grounds that the witness was responsible and objective.<sup>8</sup> Yet Phillips' legal test of the truthfulness of a recollection does not establish what was seen. A recollection of the existence of a document, the content of which could not be remembered in a discussion seven years afterwards, is not evidence of a political movement.<sup>9</sup> The subsequent failure by anyone to locate any trace or copy of that allegedly once sighted document, or to produce any form of tangible historical evidence for the existence of a republican movement in north-eastern Victoria during the years 1878 to 1881, demands a review of the Kelly republic claim and its basis.

### **The legend of a declaration document**

Max Brown, who researched the Kelly story in 1946-7 but did not provide any reference citations in his work, appears to have inferred the existence of a legend of "a declaration for a Republic of North-Eastern Victoria" taken "from Ned Kelly's pocket" from two disparate sources. The first is a short paragraph from a Sydney newspaper of 2 July 1880 that reported,

"It is rumoured that in Ned Kelly's possession [after his capture] was found a pocket book, containing a number of letters, implicating persons in good positions, and the name of one Member of Parliament is mentioned. The authorities will give no information on the subject. Ned Kelly is said to be very anxious to see representatives of the Press".<sup>10</sup>

The item was reprinted in several other NSW newspapers over the following week, with minor variations in wording.<sup>11</sup> It does not mention any republican document or sentiments. Given that Kelly made no political statements when he was interviewed at length by reporters shortly after his capture, it is likely – if the rumour was true – that the letters were rambling self-justifications similar to those he sent to parliamentarian Donald Cameron MLA after the Euroa bank robbery (the "Euroa letter"), and tried to have printed at Jerilderie (the "Jerilderie letter").<sup>12</sup>

The second source, a suggestion that Kelly had planned to establish a Republic of North-Eastern Victoria, went through several permutations before it reached the form most likely seen by Brown in the mid-1940s. It first appeared in the *Bulletin Magazine* in June 1900, as the only unattributed item in an oddities column called 'Aboriginalities', and read,

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<sup>6</sup> Ian Jones, *The Fatal Friendship: Ned Kelly, Aaron Sherritt and Joe Byrne* (South Melbourne: Lothian, rev. edn., 2003), 157.

<sup>7</sup> Jones, *Fatal Friendship*, 156.

<sup>8</sup> John Phillips, "The North-Eastern Victoria Republic Movement - myth or reality" (Kerferd Oration, 2003), 4.

<sup>9</sup> The witness "unable to remember detail of its contents", Jones, *Fatal Friendship*, 229.

<sup>10</sup> *Evening News* (Sydney), Friday 2 July 1880, 2. For further discussion of this item see the Addendum.

<sup>11</sup> *Armidale Express and New England General Advertiser*, 2 July 1880, 5; *Newcastle Morning Herald and Miner's Advocate*, 3 July 1880, 8; *Australian Town and Country Journal*, 3 July 1880, 9; and some others.

<sup>12</sup> Edward [Ned] Kelly, "Euroa letter", 14 December 1878 (VPRS 4966, Unit 1. Item 3), and "Jerilderie letter", February 1879 (State Library Victoria, MS 13661). See the bibliography for a text download URL.

“If certain statements contained in reports in the Vic. Police Department anent the Kelly Gang are to be believed, that crowd narrowly escaped making a political landmark in Australian history. These reports indicated the existence of such a widespread state of disaffection in N.E. Victoria owing to what was called the ‘remand-ring’ as applied to persons ‘guilty’ of being Kelly sympathisers, that the Kellys had determined to take advantage of it for their own purposes. They had resolved, it was said, after having upset the special train containing the police from Melbourne, to make a cut across country from Glenrowan to Benalla, destroying bridges and telegraph lines *en route*, and there to have proclaimed N.E. Vic. a republic with Benalla as capital. This move was stopped by the failure of the effort to destroy the train, owing to a miscalculation of the time at which it was to arrive. But for this hitch, it is asserted, nothing could have averted the railway catastrophe as a prelude to the Presidency of Edward Kelly, Esq., supported by nine men out of every ten in the disaffected district”.<sup>13</sup>

Kelly historian Doug Morrissey regarded the piece as “a bit of mischief” by the *Bulletin* itself.<sup>14</sup> Its suggestion that nine out of ten men in north-east Victoria had supported the Kellys completely misrepresents the understanding of an April 1880 article in the *Ovens and Murray Advertiser*, which had caustically said that “nine out of ten bush hands and swagmen” applauded them.<sup>15</sup> In fact, detailed demographic analysis has shown that less than two men out of ten in the core “Kelly country” parishes of Greta, Lurg, and Glenrowan were Kelly sympathisers.<sup>16</sup>

The *Bulletin’s* item was reprinted verbatim in a jokes column, “Snaps”, in the *Morwell Advertiser* three weeks later.<sup>17</sup> A similar notion was raised in jest in a 1906 news article on the Boer War, which commented that “the idea of this [Boer General] Ferreira directing a national movement is almost as grotesque as it would have been if Ned Kelly and his gang had in their day proclaimed themselves as the pioneers of an Australian republic”.<sup>18</sup> The *Bulletin’s* tale may also have been reprinted in an Irish paper in the 1920s, but the claimed item has not been located.<sup>19</sup> It next appeared in an oddments column in Sydney paper *The World’s News* in 1934, under the heading, “General Ned Kelly”, where it grew with the telling to comprise “papers found after the Kelly era”, that “proved that the famous gang went close to leaving a prominent mark on Victorian political history”. The ending was altered to speculate that, had the plan come to fruition, “battles between the Government’s troops and the rebel army under General Kelly would have

<sup>13</sup> *Bulletin*, 9 June 1900, 14. ‘Aboriginalities’ was “the title of a column appearing in the *Bulletin* magazine [that] consisted of contributions from readers (usually submitted under pseudonyms) containing tall tales, bush yarns, and odd paragraphs about aspects of Australiana.” (Kel Richards, *Kel Richards’ Dictionary of Phrase and Fable* [Sydney: University of New South Wales Press, 2013], s.v. ‘Aboriginalities’).

<sup>14</sup> Doug Morrissey, *Ned Kelly: A Lawless Life* (Ballarat: Connor Court, 2015), 150.

<sup>15</sup> *O&M*, 8 April 1880, 2.

<sup>16</sup> Doug Morrissey, “Ned Kelly’s Sympathisers” (Honours thesis, History, Latrobe University, 1977), table, 35.

<sup>17</sup> *Morwell Advertiser*, 6 July 1900, 2.

<sup>18</sup> *Australian Star*, 13 November 1906, 4.

<sup>19</sup> John Phillips said the “first written account” he had seen of a Kelly republic rumour “was in the *Irish Times* ... in the late 1920s” (Phillips, *Kerferd Oration*, 3). Independent searches of the *Irish Times* and *Irish Times Magazine* from 1915 to 1935 by myself (online and print) and Sharon Hollingsworth (online) in October 2016 found no such item. If it exists somewhere, it is most likely the *Bulletin’s*, with Phillips’ unsourced and detail-less recollection tinted by his reading of Brown and Jones on the republic legend.

added a gory page to Australian history".<sup>20</sup> The only reference to a "rebel army" in any source of Kelly's day is G.W. Hall's lampooning of the notion in his 1879 parody of the Kelly hunt, *The Book of Keli*, in which he applied the term only to the gang itself, in its raid on Jerilderie.<sup>21</sup>

The *Bulletin* tale surfaced again in 1941, further creatively enhanced, in a book of curiosities by speaker and author Bill "Believe" Beatty:

"Did you know that had not a certain train been running late, in one period of our history we might have had an Australian Republic with Ned Kelly as the President? After the Kelly Gang had been broken up, certain papers and documents were found which indicated that Ned went close to altering the whole political history of Victoria. It is stated that if Ned had succeeded in wrecking the police train he intended proclaiming north-eastern Victoria a republic, with Benalla the capital city and himself as first President. Only the fact that the train was running late put the knocker on the gang's plans and hopes. Had the plan carried, it is certain large numbers would have flocked to the banner of the Kellys, for their sympathisers were legion throughout Australia".<sup>22</sup>

Perhaps the most apt comment on Beatty's item was in the 1941 *Advocate*, under the heading "Should be Batty", which remarked, "There is a redundant vowel in 'Bill's' name".<sup>23</sup> Beatty's story was reprinted in several newspapers from 1945, the first cited of which noted that he was an "immensely popular" believe-it-or-not radio broadcaster.<sup>24</sup> His book, which had run to three editions by 1945, was read over the BBC network in 1946.<sup>25</sup> The tale had grown from a spoof hailing Kelly as president of choice for "nine men out of every ten" in north-eastern Victoria (1900), to his leading a "rebel army" as General Kelly (1934), who could command a "legion" of sympathisers from around Australia (1941-6).<sup>26</sup> Beginning as a humorous jest, it would come to be accepted by many as fact.<sup>27</sup> Beatty's tall tale of "certain papers and documents" found after the gang was broken up, that revealed Kelly's intention to proclaim himself president of a

<sup>20</sup> *World's News* (Sydney), 11 July 1934, 12.

<sup>21</sup> George W. Hall, *The book of Keli, or, the chronicles of the Kelly pursuers* (Mansfield: G.W. Hall, 1879). In Chapter 2, the "rebel army" (the four members of Kelly gang) confront "the armies of the king's hosts" (the two Jerilderie policemen), force them to exchange clothes, and go "forth through the land of Jerilderie".

<sup>22</sup> Beatty, William A., *This Australia: Strange and Amazing Facts* (Sydney: Angus and Robertson, [1941], 2nd edn., 1943), 30-31.

<sup>23</sup> *Advocate*, 25 September 1941, 16.

<sup>24</sup> *Border Watch*, 17 February 1945, 5; *Portland Guardian*, 5 March 1945, 3; *Pittsworth Sentinel*, 28 January 1947, 3.

<sup>25</sup> Jan Brazier, *Australian Dictionary of Biography* Vol 13, 1993; entry "Beatty, William Alfred (Bill)".

<sup>26</sup> When the story later reached Ireland, the "remarkable" document found in Kelly's pocket had become, perhaps amusingly, "no less than a declaration for a Republic of New South Wales", *Belfast Sunday Independent*, quoted in the *Herald*, 2 December 1952, 11.

<sup>27</sup> To ex-CIB Inspector Harry Mann, "It is on record that [Kelly] actually plotted to kidnap the Governor of Victoria and declare a Republic", *Mirror* (Perth), 15 September 1951, 7. The only mention of a plan to kidnap the Governor appears in Kenneally's *Inner History* (188-9), where it is presented as a plan to obtain a pardon for the gang after having first kidnapped senior police at Glenrowan, and conducted an exchange of prisoners for Mrs Kelly, Skillion and Williamson. There is no mention of republican sentiments. The kidnap story, an early satirical version of which appeared in *Punch* in 1879 (reproduced on p. ix above), was repeated as fact by Martin Flanagan, "The many histories of the Kelly gang", *Age*, 28 March 2003, 8.

republic of north-eastern Victoria, re-echoed as folklore, in combination with the 1880 “rumour” of letters taken from Kelly upon capture, is almost certainly the basis of Brown’s legend. In his rush to paint Kelly as what he described as “a new Messiah of Australian democracy”,<sup>28</sup> Brown created what he thought he had discovered: a legend of a declaration for a Kelly republic.

Brown’s fleeting mention of a republic legend triggered Jones’ interest in a political Kelly, and he sought to vindicate the idea that Kelly had had a political agenda.<sup>29</sup> Jones wrote that the idea remained dormant until May 1964, when Thomas Patrick Lloyd, son of Kenneally informant and Kelly cousin Thomas Peter Lloyd, “volunteered some material about the Republic”, and then “subsequently” told him “of the preservation of a copy of the Declaration”.<sup>30</sup> Jones first presented his theory of the Kelly republic in a Wangaratta Kelly seminar in 1967, but did not mention any Declaration.<sup>31</sup> That seems to have been first discussed on 29 July 1969, when Lloyd told Jones that a handwritten copy, which has never been sighted, was “hidden away” with “some letters from a girl and a handkerchief”.<sup>32</sup> Significantly, earlier in that same month, Jones and journalist Leonard Radic had discussed the concept of Kelly as an Irish rebel in the context of Jones’ co-scripting for Tony Richardson’s 1970 film, *Ned Kelly*.<sup>33</sup> It may be that the discussion of that conversation with Lloyd triggered Lloyd’s claim to recall a previously unmentioned secret.

Radic had told Jones that in the winter of 1962-63, he had seen a printed copy of the declaration on display in the London Public Records Office.<sup>34</sup> He said, “it was in a glass cabinet. It looked like a handbill that you would see pasted on a lamp post”,<sup>35</sup> with “old fashioned block type” and “quaint, mock-legalistic language”.<sup>36</sup> It was “a political flyer of about A4 size”, and he “noticed Edward Kelly’s name among the signatures”, but “did not recognise its special significance until some years later”.<sup>37</sup> Radic recalled that “when he went back a few days later the document had been withdrawn from public view and hasn’t been sighted since”.<sup>38</sup> He said, “I don’t remember the exact wording, but it talked about the setting up of an independent Republic of North-East Victoria”, and held that it “established the Kelly gang as political rebels, not murderers”.<sup>39</sup> Jones initiated two intensive searches by the PRO in 1969 and 1970, assisted by Tony Richardson and Minister Barry Jones, which found no trace of it and “denied its existence”.<sup>40</sup> He has insisted ever since that Radic’s claimed sighting is as good a proof of a declaration as the document itself.<sup>41</sup>

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<sup>28</sup> Brown, *Australian Son* (1948), 12.

<sup>29</sup> Jones, *Fatal Friendship*, 228.

<sup>30</sup> Jones, *Fatal Friendship*, 228-9.

<sup>31</sup> Jones, “New view”, 169. While Brown’s legend is mentioned, nothing is said of a declaration document.

<sup>32</sup> Jones, *Short Life*, 201; the Lloyd interview, 399.

<sup>33</sup> Radic (interviewing Jones), “Kelly was Irish to his boot heels”, *Age*, 11 July 1969, 6.

<sup>34</sup> Jones, *Fatal Friendship*, 229.

<sup>35</sup> Radic, in Maguire, “Wild Colonial Republic”, *Sunday Herald-Sun*, 8 October 1995, 31.

<sup>36</sup> Jones, *Short Life*, 201.

<sup>37</sup> Radic, in Paul Heinrichs, “My uncle, Ned Kelly”, *Age*, 30 May 1998, Extra, 3.

<sup>38</sup> Phil Maguire, comment, Andrew Bolt Forum, 10 July 2006, <http://www.news.com.au/news/andrew-bolt-forum-150-july-10/news-story/03ee09f5d8702af91f473fafda507038> (accessed 11 September 2016).

<sup>39</sup> Radic, in Maguire, “Wild Colonial Republic”, *Sunday Herald-Sun*, 8 October 1995, 31.

<sup>40</sup> Intensive searches 1969 and 1970, Jones, *Fatal Friendship*, 229; PRO denial, *Short Life*, 399.

<sup>41</sup> “The Radic encounter ... is absolutely credible”, Jones, in Q&A after McQuilton, “Ned Kelly”, unpaginated; it “is still out there”, in Bunn, *Border Mail*, 10 October 2013 (accessed 18 May 2018).

Belief that a written declaration of a Republic of North-Eastern Victoria exists somewhere has been an article of faith for Kelly enthusiasts since Jones claimed it as fact.<sup>42</sup> To Jones, it is “the ‘Holy Grail’ still awaiting discovery by Kelly scholars”.<sup>43</sup> By 1995, with the launch of Jones’ *Ned Kelly: A Short Life*, the belief had gained enough traction for then Prime Minister Paul Keating to support calls for its return from England.<sup>44</sup> However, Cameron Forbes, a long-time colleague of Radic, interviewed him around 2013, and Radic’s recollection then was that “the document was not a declaration but a pamphlet in dark, bold typography calling for a meeting to discuss the republic”.<sup>45</sup> This does not solve the primary problem that no record of a declaration, handbill or poster for a Kelly republic could be located by the London Public Records Office, despite intensive searches. Speculations by Radic in 1992 that the PRO may have been protecting a private lender’s anonymity, or that their identity “was known only to the organiser of the display”,<sup>46</sup> do not escape the difficulty that the PRO would simply have noted lender anonymity if that applied. What Radic most probably saw in 1962 was a copy of the famous £8,000 reward poster naming the four members of the Kelly gang, with an explanatory sign that included the text of Beatty’s believe-it-or-not version of Kelly intending to proclaim a Republic with himself as President.<sup>47</sup> This explanation fits every published word of Radic’s self-confessedly unclear memories of his encounter.<sup>48</sup> The solution is simple: there never was any declaration to find.

### **Kelly’s letters during his outlawry**

#### **The “Euroa letter” to Donald Cameron, December 1878**

In the absence of a declaration document, Jones sought to glimpse a politically aware Kelly from scattered remarks in Kelly’s letters. Kelly’s first letter as an outlaw wanted for murdering police was posted on 14 December 1878, addressed to Donald Cameron MLA, who had in Parliament “asked the Chief Secretary whether he would cause a searching inquiry to be made into the origin of the Kelly outbreak, and the action of the police authorities in taking the preliminary steps for the arrest of the criminals”.<sup>49</sup> Cameron noted that some persons had criticised the conduct “of certain members of the police force” as contributing to the Mansfield murders, and thought the searches “to be nothing less than sending out men to be butchered”.<sup>50</sup> Jones observed that Cameron’s comments were no more than “a routine attempt to embarrass the government”, but Kelly seems to have taken them as suggesting he might have a sympathetic listener.<sup>51</sup> He wrote to Cameron that “it seems impossible ... to get any justice without I make a

<sup>42</sup> McQuilton: “It will turn up.” Jones: “I believe so”, Q&A after McQuilton, “Ned Kelly”, unpaginated.

<sup>43</sup> Jones, in Heinrichs, “My uncle, Ned Kelly”, *Age*, 30 May 1998, Extra, 3.

<sup>44</sup> Maguire, “Wild Colonial Republic”, *Sunday Herald-Sun*, 8 October 1995, 31.

<sup>45</sup> Cameron Forbes, *Australia on horseback: the story of the horse and the making of the nation* (Sydney: Pan Macmillan, 2014), 298, quoting personal discussion with Radic.

<sup>46</sup> Radic’s speculations in Jones, *Short Life*, 399.

<sup>47</sup> Poster (Reward Kelly Gang), 15 November 1878, Victoria Police Museum, VPM2656.

<sup>48</sup> I wrote to both Cameron Forbes and the Radics in late 2016 with a fully documented version of this suggestion for consideration, but was advised by Mr Forbes that Mr Radic was too frail to engage in discussion.

<sup>49</sup> Parliament of Victoria, Legislative Assembly, *Hansard*, 13 November 1878, 1793.

<sup>50</sup> Parliament of Victoria, Legislative Assembly, *Hansard*, 13 November 1878, 1793.

<sup>51</sup> Jones, *Short Life*, 144; Brendan Kelson and John McQuilton, *Kelly Country: A photographic journey* (St. Lucia: University of Queensland Press, 2001), 3.



statement to some one that will take notice of it”, and to make “a few remarks concerning the case of Trooper Fitzpatrick against Mrs Kelly W. Skillion & W. Williamson”. He further wished,

“to give timely warning that if my people do not get justice and those innocent released from prison and the Police wear their uniform I shall be forced to seek revenge. ... If I get justice I will cry a go. For I need no lead or powder to revenge my cause, and if words be louder I will oppose your laws. With no offense (remember your railroads)”.<sup>52</sup>

Clive Turnbull published the letter in 1942 as a testament to Kelly, but noted that Kelly “chose Cameron ‘very much to his surprise’, and possibly embarrassment”.<sup>53</sup> As Clune saw, the letter’s main point is that “if his mother was released, he would ‘cry a go’ and commit no more acts of violence”.<sup>54</sup> Kelly’s punctuation and rhyming doggerel obscure his conclusion: he holds that he needs no gun as his cause is just: if his words can speak louder than guns he will oppose the law without committing any offense. Despite its clear threat to wreck a train if his demands are not met, the letter ends in the same way it began: a cry for justice, which he felt had been denied to him. There is no hint of republican content in it. Although Premier Berry determined that the letter should not be made public, it was read by journalists, and a synopsis was printed in the *Herald*.<sup>55</sup> The paper commented that “throughout the whole of the document, Kelly discloses a fearful animus against the police”, but it did not notice any political statements or implications.

#### **Kelly’s letter to the Acting Chief Secretary, January 1879**

A letter sent by Kelly to the Acting Chief Secretary, Bryan O’Loughlen, in late January 1879, says that his “chief reason for writing ... is to tell you that you are committing a manifest injustice in imprisoning so many innocent people [remanded sympathisers], just because they are supposed to be friendly to us. There is not the least foundation for the charge of aiding and abetting us against any of them.... I warn you that within a week we will leave your Colony, but we will not leave it, until we have made the country ring with the name of Kelly and taken terrible revenge for the injustice and oppression we have been subjected to. Beware, for we are now desperate men”.<sup>56</sup> Despite its explosively aggressive tone, it expresses no political demands or agenda.

#### **The “Jerilderie letter”, February 1879**

The Jerilderie letter of February 1879 is a longer and more vituperative version of the Euroa letter.<sup>57</sup> Superintendent Francis Hare described it as “a tissue of lies from beginning to end, a wandering narrative [of the type] which men of the criminal stamp are in the habit of telling”.<sup>58</sup>

<sup>52</sup> Kelly, “Euroa letter”, 1, 15-6, 17.

<sup>53</sup> Clive Turnbull, *Ned Kelly: being his own story of his life and crimes* (Melbourne: Hawthorn Press, 1942), [17]. The book is unpaginated.

<sup>54</sup> Frank Clune, *The Kelly Hunters: The Authentic, Impartial History of the Life and Times of Edward Kelly, the Ironclad Outlaw* (Sydney: Angus and Robertson, 1954), 194.

<sup>55</sup> *Herald*, 18 December 1878, 3; reprinted in *O&M*, 19 December 1878, 2; suppressed, Jones, *Short Life*, 156.

<sup>56</sup> Edward Kelly, “O’Loughlen letter”, in Keith McMenemy, *Ned Kelly: The Authentic Illustrated History* (South Yarra: Hardie Grant, 2001), 127; original apparently lost; facsimile in Burke Museum, Beechworth.

<sup>57</sup> Clune, *Kelly Hunters*, 211; Jones, *Short Life*, 165, “It was based on the original draft of the Cameron letter”. An indicative visual comparison is given as an addendum on p. 65 of this book.

<sup>58</sup> Hare, *Bushrangers*, 154.

Its many errors and falsehoods were explored by Morrissey.<sup>59</sup> Jerilderie schoolteacher William Elliott, who provided the synopsis that was wired to the *Argus*, wrote that while much had then been said of the letter's length, "it would not have occupied more than two columns space in long primer [standard type] in a newspaper", and he thought "the greater portion ... little better than emanations of wild fancies from a disordered brain".<sup>60</sup> According to Jones, "it contains the only available fragments of a rebel manifesto that underlay [Kelly's] attempt to proclaim a republic in the north-east".<sup>61</sup> The claim has been widely circulated,<sup>62</sup> and warrants review.

Jones identified the three fragments that he saw as "hints of [a] Republic Declaration".<sup>63</sup> The first consists only of dire threats against any person assisting the police. The second calls on "those men who joined the Stock Protection Society to withdraw their money and give it and as much more to the widows and orphans and poor of Greta district". This is hardly a plan for a republic, and, as Ian MacFarlane noted, Kelly, "his family, and their sympathisers, may have benefitted from [his] bank robberies, but not the widows or needy of the region".<sup>64</sup> If anything it was just as likely a further insult to the police: as an interjector at Gaunson's 1880 reprieve meeting called out, "What about the widows and orphans he has made?".<sup>65</sup> The third fragment consists of the last page of the letter, which gives "fair warning to all those with reason to fear [him] to sell out" and leave Victoria, or "abide by the consequences". Kelly warns that he will give "full force" to his orders, which "must be obeyed". For Kelly, the consequence of not obeying an outlaw's order is to be shot dead, as happened to the three police at Stringybark Creek.<sup>66</sup> The Jerilderie letter repeats the four core topics of the Euroa letter on which it is based: the "innocent" men gaoled in the Baumgarten horse-stealing case; the McCormack incident; the Fitzpatrick incident; and Stringybark Creek. Long passages are repeated almost verbatim.<sup>67</sup> There is nothing linked to a republic here. At best one could concur with a story in the *Bendigo Advertiser* six months later, about a man who had "heard a sympathiser when in his cups say that Ned Kelly would soon be heard of in South America, and he would not be surprised to hear of him as president of one of those bloodthirsty republics in which governments only last a week.... I think Mr. Edward Kelly would make a good president in that land of murderers, or a rajah in one of the Malay pirates' islands".<sup>68</sup> In March 1879, *Punch* satirized Ned and Dan Kelly as the barely literate authors of a mock plan to capture the Chief Commissioner and other police and ransom them for pardons, in order to leave the colony – to go horse stealing in Texas and do the Grand Tour of Europe respectively – with Hart set to become a parson, and Byrne to join "the Perlice force in the old countri [sic]".<sup>69</sup> Pro-republican historian Mark McKenna observed that, "unlike Kelly, Australian Republicans were politically active individuals ... and the story of their role in Australian political

<sup>59</sup> Morrissey, *Lawless Life*, 192-237.

<sup>60</sup> *Jerilderie Herald and Urana Advertiser*, 2 January 1914, 1.

<sup>61</sup> Ian Jones, "Ned Kelly's Jerilderie Letter", *LaTrobe Journal* 66 (2000), 36.

<sup>62</sup> E.g. National Museum Australia, "Kelly's words ... are regarded by some as an early call for an Australian republic", <http://www.nma.gov.au/collections/highlights/jerilderie-letter> (accessed 28 October 2017).

<sup>63</sup> Jones, *Short Life*, 399; the extracts, 201, from Kelly, "Jerilderie Letter", 50-1; 54; 56.

<sup>64</sup> MacFarlane, *Kelly Gang Unmasked*, 210.

<sup>65</sup> *Argus*, 6 November 1880, 6.

<sup>66</sup> Kelly, "Jerilderie Letter", 32, 53-4.

<sup>67</sup> See e.g. the passages about "Lydicher", "Whitty and Burns", "Fitzpatrick's falsehood", "Bullock Creek".

<sup>68</sup> *Bendigo Advertiser*, 28 October 1879, 3.

<sup>69</sup> *Melbourne Punch*, 27 March 1879, 2; reproduced here in the preface, ix.

culture is an exploration of the intellectual history of pro-federation Australia".<sup>70</sup> Kelly the career horse and cattle thief offered nothing to interest 1870s republicans.<sup>71</sup>

There are more digressions and invective in the Jerilderie letter than the Euroa letter. Jones aptly wrote that "sometimes, unpunctuated passages roll along like a gleeful drunk".<sup>72</sup> He claimed that Kelly's anger "reached out past the squatters and police to the government itself – even to the British Crown".<sup>73</sup> He took its first sentence about "occurrences of the present past and future" to embrace events "from the brutal crushing of the 1798 Irish rebellion, on through the dark years of Australia's convict system in the early 1800s, and into the writer's present day ... [and then] on to a future where the writer promises a bright new day for all those who have suffered the injustices of the past and present".<sup>74</sup> This misreads its simple, basic structure. The past (pages 1-26) comprises Kelly's troubles with the law down to the Fitzpatrick incident and the gaoling of his mother and associates. The present (26-49) is his outlawry, which, as in the Euroa letter, he wrongly dates from the charge of shooting at Fitzpatrick.<sup>75</sup> The future (49-56) is his threatened revenge if the "innocent" are not released from prison. Within this framework, he (or Byrne) added polemical rants about the predominantly Irish-background police, historic torture, and the convict system in a form that predated his own father's transportation (43-53). Kelly's vowed revenge on anyone who betrays him to the police – "pegged on an ant-bed", etc. – also reflects tales of the early convict days.<sup>76</sup> He claimed that as Irishmen comprise America's army, England should expect it to declare war and reinstate a green flag on Erin, to free it "from the pressure and tyranny of the English yoke" (48-9). This has nothing to do with a Kelly republic, but continues the lengthy rant against Irish police and soldiers who take the Queen's shilling and "wear the enemys coats", that began on page 44. Despite his hate of English tyranny over convicts expressed in lines derived from the "Ballad of Moreton Bay" (46), he said nothing about the 1804 Irish convict rising at Castle Hill, NSW, which he omitted,<sup>77</sup> or the Eureka rebellion in the Kelly gang's parents' own lifetime. There is no push for an Irish rise in the Jerilderie letter.

McKenna, whose belief that Kelly had "republican sentiments" was sourced solely to Jones, dismissed the letter as comprised of "simplistic, aggressive and shallow rhetoric" and "no republican manifesto".<sup>78</sup> As MacFarlane noted, "there is no mention in any of [Kelly's] letters of a platform of reforms and initiatives to better the lives of the inhabitants of Victoria's north-east".<sup>79</sup> John Molony nevertheless praised the Jerilderie letter as "the lesser charter of a stillborn

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<sup>70</sup> Mark McKenna, *The Captive Republic: A History of Republicanism in Australia 1788-1996* (Oakleigh: Cambridge University Press, 1996), 123.

<sup>71</sup> Kelly self-described as horse and cattle thief, "Jerilderie letter", 55.

<sup>72</sup> Jones, "Ned Kelly's Jerilderie Letter", 33. Kelly's larrikin lifestyle, Morrissey, *Lawless Life*, 162-3; Kelly drunk and disorderly, Jones, *Short Life*, 89.

<sup>73</sup> Jones, *Short Life*, 166.

<sup>74</sup> Jones, "Ned Kelly's Jerilderie Letter", 33.

<sup>75</sup> Kelly, "Jerilderie letter", 27, "outlawed ... for me shooting at a trooper"; cf. Kelly, "Euroa letter", 8.

<sup>76</sup> Kelly, "Jerilderie Letter", "ant-bed", 50; see e.g. James Tucker [1803-1866], *The Adventures of Ralph Rashleigh: A Penal Exile in Australia, 1825-1844* (London: Jonathan Cape, 1929), chapter 14.

<sup>77</sup> The Ballad of Morton Bay: "I've been a prisoner at Port Macquarie/ At Norfolk Island and Emu Plains/ At Castle Hill and at cursed Toongabbie", <http://folkstream.com/061.html> (accessed 2 May 2018).

<sup>78</sup> McKenna, *Captive Republic*, 123.

<sup>79</sup> MacFarlane, *Kelly Gang Unmasked*, 209.

republic".<sup>80</sup> To Molony, Kelly's claim that his family and associates had been treated unjustly was extended in the letter to "that far wider circle of people in the northeast who felt that in some way the struggle of the [outlawed gang] was the struggle of them all".<sup>81</sup> The text does not support that interpretation. It specifies the "innocents" to whom justice is owed. These comprise his mother and "four or five men".<sup>82</sup> These men are identified as those imprisoned in late 1877 as a result of the Baumgarten horse stealing investigation, and Skillion and Williamson, convicted with his mother following the Fitzpatrick incident.<sup>83</sup> In trying to broaden its application, Jones amended the text by changing its words about those "suffering innocence" (innocents) to those "suffering in innocence".<sup>84</sup> Yet the letter totally ignores both other selectors and the 23 men arrested and held as Kelly sympathisers from 3 January 1879 onwards, 16 of whom were arrested in the first two days, with the arrests well known before the Jerilderie letter was finalised.<sup>85</sup> Kelly's demand to "give those people who are suffering innocence, justice and liberty" or suffer "some colonial stratagem", replicates the threat, "if my people do not get justice and those innocent released from prison ... I shall be forced to seek revenge", in the same context in the Euroa letter of December 1878, which predated the remands.<sup>86</sup> There is no support for the Kelly republic theory in the Jerilderie letter. The claim is built on the false hypothesis of its being a precursor document for a "declaration of a republic" that never existed.

#### **Kelly's letter to NSW Premier Parkes, March 1879**

In a short letter of 14 March 1879 to NSW Premier Sir Henry Parkes, the outlawed Kelly vowed that he would not be taken alive, declared his intention to rob the Bathurst bank, complained about "mongolians" inundating the labour market, and sent his "respects to the Sydney police", but made no political demands, despite his stated readiness to fight any pursuers to the death.<sup>87</sup>

#### **The lost letter to the *Herald* of July 1879**

Perhaps the most overlooked document in the Kelly saga is a now-lost 16 page letter from which lengthy extracts were published in the *Herald* in July 1879, and reprinted the following week in the *Ovens & Murray Advertiser*. It was authenticated by McMenomy as from the gang, as "the letter's phrasing was identical to the previous two [then unpublished] letters. It also displayed a knowledge of their history unavailable to anyone but themselves".<sup>88</sup> The letter asserted:

"the whole cause of the [Stringybark] tragedy and the subsequent events was the conviction of Mrs Kelly, Skillian and Williamson, on the unsupported testimony of Constable Fitzpatrick, which ... was false. Justice is claimed for these three persons. ... It was the police who went out to murder for the reward. ... If an inquiry should be held

<sup>80</sup> Molony, *Ned Kelly*, 175.

<sup>81</sup> Molony, *Ned Kelly*, 197.

<sup>82</sup> Kelly, "Jerilderie Letter", 43.

<sup>83</sup> Kelly, "Jerilderie Letter", 18, 20. The Baumgarten case summarised, McQuilton, *Outbreak*, 84-5.

<sup>84</sup> Kelly, "Jerilderie Letter", 19; Jones, "New View", 168.

<sup>85</sup> Remands and dates listed in McQuilton, *Outbreak*, 114; publicised in *O&M*, 7 January 1879, 2.

<sup>86</sup> Kelly, "Jerilderie Letter", 19; "Euroa letter", 15.

<sup>87</sup> Sir Henry Parkes, Correspondence, Vol. 13, 236-238: "Letter from E. Kelly", Mitchell Library MSS A833. Kelly's handwriting authenticated by graphologist Angeline Baron, *Blood in the Dust* (Greensborough: Network Creative Services, 2008), 27. The Parkes letter is printed in Baron, 147.

<sup>88</sup> Keith McMenomy, *Ned Kelly: The Authentic Illustrated History* (South Yarra: Hardie Grant, 2001), 160.

there are plenty of members of the police force who could give important evidence, and could show the public the true character of the special constables and others supposed to be hunting for the Kellys. In fact, if things are not altered there will be plenty bushrangers [sic] besides the Kellys. As it is, the whole force ought to be outlawed instead of the Kellys. ... [An] inquiry should be held [into the behaviour of Fitzpatrick and other police], and all the particulars brought to light. Unless this is done the Kellys will certainly revenge the insult offered to themselves and their mother".<sup>89</sup>

Those who might take to the bush are those who have suffered at the hands of the police during the Kelly hunt: their "associates, relatives, and friends".<sup>90</sup> There is not a hint of political organization in any of this, only threats of revenge for perceived persecution. It reflects Kelly's constant lament that Fitzpatrick was to blame for the outbreak, rather than the horse stealing that led to warrants being issued against himself and Dan Kelly in the first place, or his shooting at Fitzpatrick that led to the charge of attempted murder.<sup>91</sup> This letter confirms that Jones' and Molony's attempts to interpret the "suffering innocence" of the Jerilderie letter as denoting selectors at large are not valid. It explicitly identifies the arrest and conviction of his mother (Mrs Kelly) and associates as the direct cause of the outbreak, as did Kelly's previous letters and the subsequent Royal Commission.<sup>92</sup> The last of the remanded sympathisers were released on 22 April, only a month and a half before this letter was sent,<sup>93</sup> but as in the Jerilderie letter, they are nowhere mentioned. As Graham Jones and Judy Bassett noted, in none of Kelly's letters is there any statement of political goals: "rather than injecting a political element, [Kelly] was injecting ... the plea of the criminal to be able to carry out, unfettered by parliamentary law, his ... 'trade'".<sup>94</sup>

### Kelly's reported statements

None of Kelly's many reported comments and statements to selectors, townsfolk, police, journalists, and solicitors, both during his time on the run and after his capture, mention a republic or other political aims.<sup>95</sup> Other than self-justification and self-aggrandisement, he aimed no higher than to have his mother and associates released from prison, and to revenge himself on the police and a few parliamentarians. Constable Bracken said of the Glenrowan siege, "When we were held prisoners in the hotel Ned Kelly began talking about politics. 'There was one — in Parliament,' he said, 'whom he would like to kill, Mr. Graves.' I asked why he had such a desire, and he replied, 'Because he suggested in Parliament that the water in the Kelly country should be poisoned, and that the grass should be burnt. I will have him before long'"; he also

<sup>89</sup> *Herald*, 4 July 1879, 2; reprinted in *Ovens & Murray Advertiser*, 12 July 1879, 1.

<sup>90</sup> Hare, *Bushrangers*, 194.

<sup>91</sup> Horse stealing, *RC*, Q.8811-3 Steele; Q.17691 Quinn; for a summary of the origins of the Kelly outbreak in horse-stealing, *Argus*, 10 August 1880, 7. For a reconstruction, corroboration and vindication of Fitzpatrick's testimony, Stuart Dawson, "Redeeming Fitzpatrick: Ned Kelly and the Fitzpatrick Incident", *Eras Journal* 17.1 (2015), 60-91.

<sup>92</sup> Kelly, "Euroa letter", 1, 15-6; Jerilderie letter", 28-9, 43; *RC*, *Second Progress Report*, ix-x; cf. *RC*, Q.181 Standish. So too Clune, *Kelly Hunters*, 205, the main cause of the outbreak was the gaoling of Mrs Kelly.

<sup>93</sup> The remand saga, ending 22 April 1879, McQuilton, *Outbreak*, 121; see table of remand dates, 114.

<sup>94</sup> Graham Jones and Judy Bassett, *The Kelly Years* (Wangaratta: Charquin Hill, 1980), 124. Cf. MacFarlane, that none of Kelly's letters "indicate ... the faintest grasp of political shenanigans", *Kelly Gang Unmasked*, 211.

<sup>95</sup> MacFarlane, *Kelly Gang Unmasked*, 10.

said, “I have written to Berry and he would not publish my letter and he gave too much money to the police for my capture”.<sup>96</sup> Kelly then declared that Berry and his ministry were “all damned fools to bother their heads about parliament at all for this is our country”, a statement that has been universally misread by Kelly enthusiasts as his referring to the people of the north-east at large as though he were their leader.<sup>97</sup> He said (in shorter form) that he wanted to kill Detective Ward, the Native Police trackers, Sub-inspector O'Connor, and Superintendent Hare, after which he “would feel easy and contented”.<sup>98</sup> He then addressed the 35-odd remaining prisoners in the Inn at length, on a night when, according to Jones and others in his wake, a rebel army was poised to gather to wage a regional insurrection, but said nothing about it. Rather, he expressed his hatred of police, threatened that if he heard of any of the prisoners giving information about the gang “I will shoot you down like dogs”, and ranted about wanting to kill one Sullivan, a murderer who had turned police informer.<sup>99</sup> Nothing indicates any political bones in the outlaw.

### **The theory of disaffected selectors and social unrest**

Jones held that economic and social conditions affecting Victorian selectors were an important factor in their willingness to consider republican political rebellion. His views were formed early, and changed little despite criticism. In his first (1967) seminar presentation on Kelly he claimed,

“In the late 1870s there was a series of bad seasons in Victoria [with] economic depression and acute political ferment. Drought and grasshopper plagues aggravated the land war between squatters and selectors. ... It was a period of bad debts and bankruptcy at all levels of society. People in almost every town could see bank managers and officers being charged with embezzling funds and [officials] absconding with public money. There were bank failures, mass meetings of unemployed. ... Victoria was ripe for rebellion. And within the already explosive bounds of Victoria as a whole were the smaller, more tightly knit, and even more potentially explosive groups of Irish-Australian selectors”.<sup>100</sup>

Historian Weston Bate rejected much of Jones’ description in the discussion following Jones’ paper. He noted that “in many ways this is the best time for selectors in Victoria. The majority of them were on their feet ... This does not invalidate your thesis about people around Greta, or any group who were suddenly caught by the Kelly situation and were moved to rebellion... It is possible to see a minority in the situation, but not a general depression”.<sup>101</sup> Jones responded, “because of the importance of this picture to the entire thesis ... I can find no reason to alter my views, which are based entirely on primary material [from] papers and periodicals”, and declared, “we are in happy disagreement”.<sup>102</sup> But Jones’ picture was both superficial and wrong.

<sup>96</sup> First quotation, *Argus*, 30 June 1880, 6; then from Bracken’s official report, 29 June 1880, VPRS 4968, Unit 1, Item 1. In fact, Graves had supported releasing remanded sympathisers, *O&M*, 17 April 1879, 2.

<sup>97</sup> Bracken, report, *ibid.*; Jones, *Short Life*, 219, Kelly’s “clearest reference to his vision for the north-east”; McQuilton, *Outbreak*, 165, “the region’s rural folk”; Peter FitzSimons, *Ned Kelly: The Story of Australia’s Most Notorious Legend* (Sydney: Heinemann, 2013), 503, “Kelly country” generalised as if he controlled it.

<sup>98</sup> Bracken, report, 29 June 1880, VPRS 4968, Unit 1, Item 1; *Argus*, 30 June 1880, 6.

<sup>99</sup> Bracken, report, 29 June 1880, VPRS 4968, Unit 1, Item 1; *Argus*, 30 June 1880, 6.

<sup>100</sup> Jones, “New View”, 160-62; paralleled in his *Short Life*, 79, and “Ned Kelly’s Jerilderie Letter”, 33.

<sup>101</sup> Bate, Q&A following Jones, “New View”, 185-6.

<sup>102</sup> Jones, “New View”, 162 n.6; 186.

From extensive economic and demographic research on Greta and surrounds, and on broader social relationships between selectors and squatters in that period, Morrissey found that

“The 1869 Land Act in particular turned the political tide and by the time of the Kelly outbreak, the land war was all but over, having been decided in the selectors’ favour.... Apart from an occasional squabble, the squatters did not oppress the incoming class of selectors. ... In Greta in the Kelly period 79% of selectors who took up land survived to gain freehold title to their properties. Half of all the selectors living in Greta, Moyhu and Glenrowan did not mortgage their farms ... and only 10% regularly fell behind in their rent payments. 48% of selectors never fell into rent arrears and of those ... only 18% did so more than twice. These figures belie the Kelly myth of rampant poverty and despair.<sup>103</sup>

The entire economic foundation of Jones’ thesis of a selector rebellion is built on a historically incorrect view of social conditions. His alleged “land war” between squatters and selectors is based on Kelly’s demonisation of the settler-selectors (not squatters) Whitty and Byrne in the Jerilderie letter.<sup>104</sup> There was no late 1870s land war between squatters and selectors; but with Jones’ elevation to expert status, it became a persistent theme of the popular Kelly myth.

In an allied approach, John McQuilton’s 1979 *The Kelly Outbreak* sought to experimentally apply Marxist historian Eric Hobsbawm’s class-based social group theory of social banditry in pre-industrial peasant societies, to mixed background farmers on government-lease selections in the Kelly era. Jones in turn endorsed McQuilton’s social bandit perspective and analysis as supporting his theory of a Kelly republic based on selector dissent.<sup>105</sup> Yet as Graham Jones and Judy Bassett observed in a review of McQuilton’s analysis, McQuilton admitted that Hobsbawm

“concluded unequivocally that social banditry could only exist in peasant societies ... traditional and pre-capitalistic in structure, [whereas the Kelly outbreak] owed nothing to ... the social structure of a traditionalist peasant society. ... [By his (substantial) modification of a fundamental tenet of Hobsbawm’s theory, McQuilton] placed the Kelly Gang outside the realm of social banditry, into the realm of common criminality”.<sup>106</sup>

In other words, Hobsbawm’s model did not work in colonial Victoria, and McQuilton’s study should logically have ended by rejecting it. There were no Hobsbawmian social bandits in the Kelly saga, and Kelly was no Robin Hood. There is “no evidence that ‘the region’s selectors’ saw the Kelly’s stock theft as championing them”,<sup>107</sup> simply because the majority of what they stole

<sup>103</sup> Morrissey, “Ned Kelly myth”, 58; spelled percentages changed to numerical percentages.

<sup>104</sup> Anon, “The case for James Whitty” (Unknown, 2001), 3, “Needing to sustain his thesis of a class struggle between ‘squatters’ and selectors, ... Jones needs the personification of Whitty as arch-enemy [and] anti-hero to match his hero, Ned. [But] some of the known facts about James Whitty refuse to fit the role in which he is cast”, including that “far from being the ‘leading light’ [of the Stock Protection Society], Whitty was no more than a member of the group that convened the inaugural meeting and was elected as a committee member”. Thomas Byrne’s son Andrew was President of the SPS. Cf. Morrissey, *Lawless Life*, 184, “Whitty and [Thomas] Byrne acquired land by purchase before the Selection Acts and [then] by selection.... [They] engaged in a family cluster style of land settlement [not] a squatter monopoly”.

<sup>105</sup> Jones, *Fatal Friendship*, 228.

<sup>106</sup> Jones and Bassett, *Kelly Years*, 126; discussing McQuilton, *Kelly Outbreak*, 187-8.

<sup>107</sup> Jones and Bassett, *Kelly Years*, 124.

“were draft horses used for ploughing” from other selectors, and cattle from passing drovers.<sup>108</sup> As was seen in its day, the irony of Hobsbawm’s heavily disputed social bandit theory is that “rather than actual champions of the poor and the weak, bandits quite often terrorized those from whose very ranks they managed to rise, and thus helped to suppress them”.<sup>109</sup> The *Ovens and Murray Advertiser* reflected on the Kelly outbreak that, “wherever the inhabitants were not influenced by relationship of blood, marriage or crime, they were controlled by terror”, which would seem to be as close as the Kelly gang got to Hobsbawm’s notion of bandits.<sup>110</sup> Kelly’s ludicrous claim that he had “never interefered [sic] with any person unless they deserved it”,<sup>111</sup> undermines the credibility of his own calls for justice. Further, to be valid, the theory would have to apply to all Victorian settlers governed by the Selection Acts, not just those in the north-east. As Frank Strahan asked, “why, for example, was there no Gippsland Ned Kelly? The geographical and social setting of Gippsland parallels that of the north-east”.<sup>112</sup> The validity of McQuilton’s social bandit approach was critically examined and rejected in Morrissey’s doctoral thesis, which demonstrated that “the traditionalist view that both active and passive sympathy for the Kelly Gang grew out of the socio-economic circumstances of the region prior to the outbreak is simply untenable”.<sup>113</sup> There is no broad body of historical evidence for social conditions in north-eastern Victoria triggering republican selector disaffection in the Kelly period. The view depends entirely on fitting selective and unrepresentative facts into a then-popular sociological theory.

### The theory of Irish rebels

Morrissey noted that Kelly’s “fiercest denunciation was reserved for the Irish members of the police force which was now tracking him down”, and it is easy to suggest, as he then did, that the Quinns, Kellys and Lloyds “passed on to their children [a] patriotic fervour for Ireland” which was “eulogised and worshipped as the spiritual homeland of exiled Irishmen”.<sup>114</sup> If this were so, one might expect the children of the clan to flaunt or defend their Irishness against any felt race-based harassment or persecution; yet it is nowhere mentioned. As Morrissey later showed, the extended clan did not reflect Irish nationalist anti-establishmentarianism, but was rather a sprawling criminal network in which most of the men were charged with or served gaol time for stock offences.<sup>115</sup> It also ignores that the Quinns, Lloyds, and some Kellys were voluntary immigrants.<sup>116</sup> On numerous occasions, “the Kellys, Quinns and Lloyds involved the police in their [internal] private feuds”.<sup>117</sup> Irishness in itself was not the decisive factor behind

<sup>108</sup> Doug Morrissey, “Ned Kelly and Horse and Cattle Stealing”, *Victorian Historical Journal* 66 (1995), 40-1.

<sup>109</sup> Anton Blok, “The Peasant and the Brigand: Social Banditry Reconsidered”, *Comparative Studies in Society and History* 14. 4 (September, 1972), 496. Graham Seal noted that many have found the concept “distorting with regard to the social, cultural, political, and economic circumstances they wish to understand” (“Social Bandits”, in Jay Albanese, *Encyclopedia of Criminology and Criminal Justice*, 2014).

<sup>110</sup> *O&M*, 15 July 1880, 2. The *Bulletin*, 3 July 1880, 9, similarly observed that since the Stringybark Creek shootings, “the very name of the gang [had] been synonymous with terror.

<sup>111</sup> Kelly, “Jerilderie letter”, 49.

<sup>112</sup> Frank Strahan, “The Iron Mask of Australia”, *Overland*, 84 (July, 1981), 44.

<sup>113</sup> Doug Morrissey, “Selectors, Squatters and Stock Thieves: A Social History of Kelly Country” (Ph.D. thesis, History, Latrobe University, 1987), 229.

<sup>114</sup> Doug Morrissey, “Ned Kelly’s sympathisers”, *Historical Studies*, 18.71 (1978), 291.

<sup>115</sup> Morrissey, “Horse and Cattle Stealing”, 32, 36; *RC*, Appendix 10.

<sup>116</sup> Corfield, *Kelly Encyclopaedia*, s.v. the families.

<sup>117</sup> Morrissey, “Sympathisers” (Honours thesis), 19, with references.



sympathiser support for the Kelly gang. It rather reflected the 78% Irish background of the selector families from which these north-east larrikins came; yet around 20% of both the active Kelly sympathiser base and the Greta Mob were not of Irish descent.<sup>118</sup> No-one in “Kelly country” interviewed by Cookson in 1910-11 mentioned Irishness or Catholicism as a factor in relation to the Kelly saga, nor were these raised as factors by the persecution-obsessed Kenneally.<sup>119</sup> The fact of his Irish heritage does not somehow make Kelly a natural would-be republican leader. The Jerilderie letter reflects Kelly’s prominent psychopathic traits: his grandiosity, inflated sense of self-worth, callousness and lack of empathy,<sup>120</sup> not an innately Irish heritage or politics.

Radic suggested that the declaration for a republic that he believed he had seen in London “could have represented the beginning of an Irish uprising in Victoria”.<sup>121</sup> Molony saw Glenrowan as precisely that: in a tradition of “unfortunate” uprisings, “once more such men, most of them of the Gael across the seas, had begun to converge on the quiet hamlet and railway stop called Glenrowan to make another throw, and perhaps at this stand to prove that the Irish were capable of an act of transcendence which, if not for them, at least for others, would win a better future”.<sup>122</sup> Jones held that although Kelly “was born here he didn’t regard himself as an Australian [but] remained an Irishman at heart”, and, like Molony, gave him an Irish brogue.<sup>123</sup> For Jones, Kelly’s Irishness was the key to understanding his outlook: Kelly “was against British authority and ... the Irish quislings who had turned against their own countrymen and sold themselves to the Queen. ... It doesn’t make sense to see him as anything but a rebel”.<sup>124</sup> All these claims are built around Kelly’s polemic against the predominantly Irish-background Victorian police and English common law in the Jerilderie letter.<sup>125</sup> All are incorrect.

Although of Irish descent, Kelly described himself as a “colonial”, “native” and “creole”.<sup>126</sup> As Sharon Hollingsworth put it, Kelly “had feet straddling both worlds and ideologies”.<sup>127</sup> The colonial-born of his era sharply distinguished themselves as such from newer immigrants.<sup>128</sup> Kelly had the same distinctively Australian accent as other colonial children (including Constable Alexander Fitzpatrick, from Mt. Egerton, Victoria), that was predominant from around 1840, as did his brother, Jim Kelly.<sup>129</sup> He hated police regardless of origin, along with anyone else who

<sup>118</sup> Morrissey, “Ned Kelly’s sympathisers”, 295; the Greta Mob were a loose cluster of bush larrikins, 293.

<sup>119</sup> Cookson’s articles, in McDonald, ed., *The Kelly Gang from within*; Kenneally, *Inner History*.

<sup>120</sup> Russ Scott and Ian MacFarlane, “Ned Kelly – Stock Thief, Bank Robber, Murderer – Psychopath”, *Psychiatry, Psychology and Law* 21.5 (2014), 740-1.

<sup>121</sup> Radic to Phil Maguire, *Sunday Herald-Sun*, 8 October 1995, 31.

<sup>122</sup> Molony, *Ned Kelly*, 215.

<sup>123</sup> Ian Jones, “Kelly was Irish to his boot heels”, *Age*, 11 July 1969, 6; cf. “New view”, 157; Molony, *Ned Kelly*, 252.

<sup>124</sup> Ian Jones, “Kelly was Irish to his boot heels”, *Age*, 11 July 1969, 6.

<sup>125</sup> Kelly, “Jerilderie letter”, 43, “sons of Irish Bailiffs or english landlords ... better known as Officers of Justice or Victorian Police”; 47, “The Queen must surely be proud of such herioci [sic] men as the Police and Irish soldiers”; 13, “there never was ... Justice in the English laws”.

<sup>126</sup> Kelly, “Jerilderie letter”, 19, 38, 39.

<sup>127</sup> Sharon Hollingsworth, email communication, 2 October 2017.

<sup>128</sup> Richard Twopeny, *Town Life in Australia* (London: Ellis Stock, 1883; facsimile, Ringwood: Penguin, 1973), 97.

<sup>129</sup> Philip Derriman, “Begorrah, Ned, or g'day?”, *Sydney Morning Herald*, News Review, 22 March 2003, 57; Bruce Moore, “Power of speech all ours”, *Australian*, Inquirer, 4 October 2008, 21.

supported the laws that impeded his activities.<sup>130</sup> Morrissey noted that Berry's Minister of Lands, Irish immigrant Charles Duffy, had been imprisoned in Ireland "for his part in the Young Ireland rebellion of 1848 [and had] called the colonial form of parliamentary self-government that Ned hated so much, 'the most perfect system of liberty that exists in the world'".<sup>131</sup> Time spent in larrikinism, crime and gaol, not Irishness, was the unifying factor behind Kelly and his associates.

McQuilton held that "Kelly came from an Irish-Catholic background with its tradition of republican yearning, the concept of a republic becoming the symbol of an anti-British political system".<sup>132</sup> This republican generalisation is not applicable to the Irish background north-eastern selectors of Kelly's day, or even to Kelly's own family. His sister Maggie's marriage to William Skillion, and his mother's second marriage to George King, were both conducted by the Primitive Methodist Reverend Gould; his sister Annie married the Protestant Alex Gunn.<sup>133</sup> McIntyre, who alone escaped alive from Stringybark Creek, thought Kelly "apathetic" to religion; "like a great many young bushmen he prided himself more upon his Australian birth than he did upon his extraction from any particular race".<sup>134</sup> There was no north-eastern Irish enclave that could have formed an ethnic base for a republican movement.<sup>135</sup> Of the Kelly period, Morrissey showed,

"'Britishness' played an important role in fashioning and preserving community identity. ... [B]eing British was regarded as racially and religiously neutral. Irish Catholics, Scottish Presbyterians, and English and Welsh Protestants while jealously guarding their separate identities, had little difficulty in perceiving themselves as British and in patriotically pledging their loyalty to the Crown. ... Colonial Irishmen ... also saw themselves as loyal British subjects living in an ... age which they believed would see the end of England's domination of Ireland and the eventual granting of Home Rule".<sup>136</sup>

Kelly and his associates were no Fenians, and Morrissey emphasised that "the Greta and Moyhu Catholics ... cannot be labelled as Kelly sympathisers simply because they were Irish [and] Catholic; ... most colonial Irishmen ... did not become breakaway republicans until after the 1916 Easter Rising".<sup>137</sup> In the house where Mrs Kelly lived with her son Jim in her final years, there were "framed enlargements of the King and Queen" on the walls, of which family acquaintance Joseph Ashmead declared, "of course they are loyal, for had they not proven it [in WW1] with the blood of their own kith and kin?".<sup>138</sup> Frank Clune, himself of Irish descent, did not notice any republican aim in his 1954 *Kelly Hunters*. Just as with the earlier Australian colonial bushrangers, and the arguably more audacious Ben Hall gang, the Kelly outbreak was criminal, not political.

<sup>130</sup> Kelly, "Jerilderie letter", 44, all police swear "to arrest [their own family] if required and to have a case and conviction if possible"; 43-4, "rogues"; 48, "armed curs"; cf. "Euroa letter", 11, police "are worse than cold blooded murderers or hangmen". For Kelly's unhinged rant against informers, "Jerilderie letter", 50-1.

<sup>131</sup> Morrissey, *Lawless Life*, 153.

<sup>132</sup> McQuilton, *Outbreak*, 169.

<sup>133</sup> Grantlee Kieza, *Mrs Kelly* (Sydney: HarperCollins, 2017), 81, 156, 159.

<sup>134</sup> McIntyre, *True Narrative*, 23.

<sup>135</sup> James Jupp, *The Australian People: An Encyclopedia of the Nation, Its People and Their Origins* (2nd edn., New York: Cambridge University Press, 2001), 798.

<sup>136</sup> Morrissey, "Selectors, Squatters and Stock Thieves" (thesis), 103-4.

<sup>137</sup> Doug Morrissey, "Ned Kelly myth", *Quadrant* 61.5 (May, 2017), 61; "no Fenian", 62.

<sup>138</sup> Joseph Ashmead, *The Thorns and The Briars: A True Story of the Kelly Gang* (unpublished typescript, State Library Victoria, MSPA PA, Box 55, [1922]), ch. 24.

### Misrepresentations of Kelly's sympathisers and the police

Morrissey's analysis showed that "a clear distinction needs to be made between active sympathy, involving criminal activity, and passive sympathy based on admiration and verbal support. ... Active sympathy ... was limited and emanated from clearly defined social groups related to the Kelly gang by ties of blood, marriage and friendship. ... The Greta Mob of Iarrikins together with the younger Quinns, Lloyds and Kellys ... formed the nucleus of Ned Kelly's inner circle".<sup>139</sup> As he demonstrated, "historians have been misled into thinking that sympathy for the outlaws was widespread".<sup>140</sup> This has in part resulted from sensationalist news reportage in the papers of the day,<sup>141</sup> but also from errors by later writers. The largest number of sympathiser "friends" given in the press is 300, in December 1878; in an extraordinary slip, FitzSimons misread the numeral to claim 800 sympathisers, and then held without evidence that by June 1879 "there are said to be some 2000 in North-Eastern Victoria alone".<sup>142</sup> McQuilton claimed, as had Jones, that all over north-east Victoria, "the adoption of the badge of the Greta Mob, wearing one's hat strap under one's nose, was common", but there seems to be no evidence to substantiate this alleged fashion.<sup>143</sup> The writing of Kelly history has been unduly influenced by Kelly enthusiasts highlighting criticisms of the police, especially at its upper levels, based on the Royal Commission evidence. This has resulted in a pattern of systematic historical distortion in which the police are portrayed as little more than tools of a colonial squatter elite, and Kelly sympathisers as average selectors downtrodden by government forces.<sup>144</sup> In this vein, Jones held that the "the Irishman in [police] uniform was a hated figure" to Irish-Australian selectors, and criminologist Jude McCulloch relied on secondary sources to claim of the Kelly period that "Victoria police, like the [Royal Irish Constabulary], were held in low esteem by the majority of the rural community".<sup>145</sup> Unsurprisingly her sources were Jones, Molony, and McQuilton, all of whom enthusiastically embraced Kelly's view of the world; her chapter on Victoria Police history is headed by Kelly's Jerilderie letter description of the police as wombat-headed buffoons.<sup>146</sup> In fact, as Morrissey and Haldane have shown, there was wide general respect for police by most selectors and rural townfolk across Victoria, including the northeast, in the Kelly era.<sup>147</sup>

<sup>139</sup> Doug Morrissey, "Fallout from Stringybark Creek", *Independent Australian*, 4.2 (1980), 58.

<sup>140</sup> Doug Morrissey, "Ned Kelly's Sympathisers" (Honours thesis, History, Latrobe University, 1977), 28.

<sup>141</sup> As seen in the *Bulletin's* spoof claim of "nine [N. East] men out of every ten" being Kelly sympathisers.

<sup>142</sup> *O&M*, 14 December 1878, 4; FitzSimons, *Ned Kelly*, 301, 388. Jones, *Short Life*, 157, incorrectly implied that a letter from Yea in the *Herald* of 23 December 1878, that spoke of "a great deal of sympathy for them all over these districts among certain classes", and "hundreds of confederates", indicated general public sympathy. The term "certain classes" suggests those with whom one might prefer not to mix.

<sup>143</sup> McQuilton, *Outbreak*, 148; Jones, "New view", 167. For amusement see YouTube clip W9fv8EusSWE

<sup>144</sup> McQuilton, *Outbreak*, 64, "The squatter-police alliance ... must have seemed [policy] to the selectors".

<sup>145</sup> Jones, "New View", 162-3; Jude McCulloch, *Blue Army: Paramilitary Policing in Australia* (Carlton: Melbourne University Press, 1997), 38.

<sup>146</sup> McCulloch, *Blue Army*, 32, quoting Kelly, "Jerilderie letter", 43.

<sup>147</sup> Morrissey, *Lawless Life*, 30, 71-2; Robert Haldane, *The People's Force: A History of the Victoria Police* (2nd edn., Carlton South: Melbourne University Press, 1995), 102, the Kelly outbreak and Royal Commission "cast into the shadow many hundreds of urban and rural policemen who were not directly involved in the Kelly hunt, whose footsteps never ceased in towns across Victoria. They were the bulk and backbone of the police force, and to bring the everyday world of the constable into proper focus gives a necessary balance to the Kelly-Longmore years". The Victorian police adopted a non-military, 'bobby' style

### The myth of “Kelly country”

The meaning of “Kelly country” has been misrepresented by Kelly enthusiasts. To the Royal Commission, “that portion of the North-Eastern district known as the Kelly country may be said to embrace the triangular tract lying between the points formed by ... Mansfield, Benalla, and Beechworth, together with the country lying to the west of the line of railway which extends to the Murray, including the vicinity of Lake Rowan, the Warby Ranges, and the neighborhood of the Woolshed. This constitutes a large and diversified extent of territory, measuring about 1,600 square miles”.<sup>148</sup> The Commission there noted that “land has been taken up eagerly, and an intelligent, honest, and hard-working population is steadily settling on the soil”. Most of these selectors were not Kelly sympathisers, but potential Kelly victims.<sup>149</sup> To the Commission, it was “the peculiar characteristics of the country [that] afforded special facilities for the operations of such lawless characters as the Quinns, the Lloyds, and the Kellys, who, if pursued ... could seek refuge in the fastnesses of the mountains and defy all the attempts of the authorities to arrest them”.<sup>150</sup> The expression “Kelly country” did not indicate a region sympathetic to the Kellys; it indicated a vast, rugged territory in which they were next to impossible to catch.<sup>151</sup>

McQuilton sought to downplay terrain as an obstacle in the Kelly hunt in order to boost his theory of sympathy for “social bandits”, but conceded that “to the average policeman ... without [bush] skills, the bush in the North East functioned as an insurmountable barrier”.<sup>152</sup> He took a note by Standish, that “the outlaws are considered heroes by a large portion of the population of the North East [police] District who, inured to horse and cattle stealing from an early age, look upon the police as their natural enemies”, out of its context of describing a “semi-criminal class” who lived in the “almost inaccessible” country which the outlaws traversed, and who aided and abetted them, to imply that it denoted the majority of the north-east Victorian population.<sup>153</sup> Such persons were a tiny minority in the north-east. When Senior-Constable Kelly spoke of the “disaffected district” in relation to “the friends and sympathisers of the families connected with the outlaws”, he specifically meant Greta and its immediate surrounds.<sup>154</sup> The critical feature of the Kelly country was its long-running, pre-outbreak stock theft routes, mapped by Morrissey.<sup>155</sup> The gang mostly sheltered with a limited few of their younger relations, often travelling separately or in pairs, arriving after dark and moving on in the morning, and living for extended

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uniform in 1877, a year before the Kelly outbreak, as pictured in Fitzpatrick’s carte-de-visite, Victoria Police Museum, VPM2632.

<sup>148</sup> RC, *Second Progress Report*, viii.

<sup>149</sup> Morrissey, “Horse and cattle stealing”, 39.

<sup>150</sup> RC, *Second Progress Report*, viii.

<sup>151</sup> “The country for miles is mountainous, precipitous, extremely intricate, and for the most part densely scrubby. And yet it offers extraordinary facilities for men evading justice. It is full of odd nooks and hiding places with good outlook; it is well watered, and in many places well grassed. There are thousands of gullies nearly impenetrable, and several spurs that would facilitate escape. It is not too much to say that the Kellys, with their knowledge of the country, might be in the Puzzle Ranges today and in Gippsland tomorrow”, *O&M*, 2 December 1879, 2.

<sup>152</sup> McQuilton, *Outbreak*, 141.

<sup>153</sup> Standish, note, 4 May 1879, VPRS 4967, Unit 1, Item 22; McQuilton, *Outbreak*, 139-40.

<sup>154</sup> RC, Q.8314, 8338 Kelly.

<sup>155</sup> Morrissey, *Lawless Life*, xvi-xvii (map).

periods of time at the obscure Bullock Creek (fortified) and Hurdle Creek huts.<sup>156</sup> Hare attributed their success in eluding capture to their hearing of the movements of search parties and moving to different locations, whether the ranges behind Greta, the Warbys at the back of Hart's, or the Woolshed near Byrne's: "In this way they could find retreats over hundreds of miles of impenetrable mountains ... where they knew every road, gully and hiding-place".<sup>157</sup> In practice, the Kelly gang received little support from anyone beyond their family and close relations, the Greta Mob larrikins, and assorted regionally disbursed stock thieves and criminal associates.<sup>158</sup>

### The Kelly gang's intimidation of the North-Eastern District

In a critique of McQuiltons' *Kelly Outbreak*, Jones and Bassett observed that "the assertion that the selectors did not regard the Kelly as criminals, or regard them with fear, is contrary to the evidence".<sup>159</sup> In November 1878 the *Argus* wrote in reference to the Kellys, Quinns and Lloyds, "it shows how widely extended are the ramifications of three families which have been continually intermarrying, so that all over the district the four desperadoes now in the ranges have people connected with them by blood and marriage, and who are willing to give them every aid and assistance".<sup>160</sup> Outside of these narrowly defined allies, fear rather than favour was the rule. Kelly's threats to those he bailed up from Stringybark Creek onwards, to return and shoot anyone assisting the police, were widely publicised. Nicolson reported in November 1878, "we could get little or no assistance from the inhabitants, and the people were all through the country in such a state of terror. Civility was shown us in every town in the district, but no information given. The people seemed to be more afraid of the gang than confident in the police".<sup>161</sup> Both McQuilton and Ian Jones interpreted this passivity as sympathy expressed by non-cooperation, but Marsden noted that "journalists of the time spoke openly of a climate of fear in the area, with many in the community wary of speaking out against the group for fear of reprisal".<sup>162</sup> Police Magistrate Alfred Wyatt counted 77 relatives of the Kellys spread from Wallan to NSW, and expressly stated that it was not true that the gang had the general sympathy of the district's inhabitants, who were "thoroughly horrified" at the police murders, but prioritised their own safety over aiding the police.<sup>163</sup> Wyatt's tally is not far off Sadleir's estimate that "there were a hundred ... heads of families ready to supply" the gang with provisions,<sup>164</sup> which, while considerable, is only a third greater than the extended Kelly clan by itself.

Intimidation by the Kelly gang and their criminal associates of suspected informers and persons thought to have aided the police is illustrated by threatening letters, such as those sent by Kelly cousin Joseph Ryan to a local selector, and by the repeated invasion of Jacob Wilson's hut after

<sup>156</sup> Younger relations, Morrissey, "Sympathisers" (Honours thesis), 28; travelling, McQuilton, *Outbreak*, 143; Eugenie Navarre, *Ned: Knight in Aussie Armour* (Albury: Specialty Press, 2015), 32; Bullock Creek, *Argus*, 13 November 1880, 9; Hurdle Creek, *Age*, 10 June 1882, 1.

<sup>157</sup> Hare, *Bushrangers*, 96-7; the gang informed of police movements by sympathisers, 182-3.

<sup>158</sup> Morrissey, "Sympathisers" (Honours thesis), 31.

<sup>159</sup> Jones and Bassett, *Kelly Years*, 125.

<sup>160</sup> *Argus*, 11 November 1878, 7.

<sup>161</sup> RC, Q.361 Nicolson.

<sup>162</sup> McQuilton, *Outbreak*, 148; Jones, "tacit sympathisers", *Short Life*, 157; Elizabeth Marsden, "The police perspective", in Craig McCormack (ed.), *Ned Kelly Under the Microscope* (Collingwood: CSIRO, 2014), 189.

<sup>163</sup> RC, Q.2351-3 Wyatt.

<sup>164</sup> RC, Q.1942 Sadleir.

midnight.<sup>165</sup> For an act of “simple humanity”, sawmill proprietor Edward Monk, “who assisted the police in the search for the bodies of Sergeant Kennedy and his fellow victims ... has been repeatedly threatened by anonymous letters, and ... one of his dams ... cut”.<sup>166</sup> Thomas Curnow, the teacher who was allowed to leave the Glenrowan Inn before the siege and averted the imminent train wreck, told the Royal Commission that he didn’t know who was a sympathiser and who was not, and that from fear they didn’t speak of the Kellys outside of family.<sup>167</sup> Chomley wrote, “On the whole [people in the north-east had no sympathy with crime, and] would have been glad to see the Kellys caught, but ... while they were left alone ... a large number of people who saw and heard of the outlaws frequently decided to let the police catch them as best they might”.<sup>168</sup> The same point was made by Chief Secretary Robert Ramsay to the Kelly Reward Board: “There was such a reign of terror that those who were resident in the district were afraid of giving the slightest clue to the police, for fear their lives might be sacrificed”.<sup>169</sup> Hare wrote that he often told respectable farmers it was their duty to assist the police, and they replied that “they want to stand aloof from everything connected with the Kellys; if they hear the police have been to my place my stacks will be burned down, my fences broken, and probably all my cattle and horses stolen”, an anecdote supported by ample evidence.<sup>170</sup> The Kelly gang and their criminal relatives and associates were feared and loathed across much of the “Kelly country”.

### The arrest and remand of Kelly sympathisers

In the wake of the Euroa bank robbery of 14 December 1878, public hysteria and criticism of police failure to catch the Kelly gang increased. There were calls for the arrest, conviction and gaoling of anyone aiding the gang to elude capture.<sup>171</sup> The police, with government sanction, determined to exercise powers under the *Felons Apprehension Act* of 1 November 1878 to arrest and charge core sympathisers with aiding and abetting the Kelly gang by providing them with “information tending to facilitate the commission by them of further crimes”.<sup>172</sup> To identify these persons, “all the responsible men in charge of different stations who had been a long time in [the North East] ... the different constables, officer and detectives”, were gathered in Benalla, and asked who they considered key sympathisers in each of their districts.<sup>173</sup> They came up with some thirty names. In McQuilton’s summary, “on 2 January 1879 warrants were sworn out and over 30 men arrested. Of these, 23 were detained in police custody. Some were released [within a few weeks, with nearly a third held for five to seven weeks], but a core group of [nine] men were remanded week after week” for almost three months.<sup>174</sup>

<sup>165</sup> McMenemy, *Authentic History*, 149; RC, Q.4457-63, 4491-2, 4527-9 Wilson; *Argus*, 22 April 1879, 6.

<sup>166</sup> *Argus*, 24 April 1879, 4.

<sup>167</sup> RC, Q.17603, 17625 Curnow.

<sup>168</sup> Chomley, *True Story of the Kelly Gang*, 100.

<sup>169</sup> *Reward Board*, Q.7 Ramsay.

<sup>170</sup> Hare, *Bushrangers*, 136; Morrissey, “Horse and cattle stealing”, 41, 43-4. Kelson and McQuilton, *Kelly Country*, 50, observed that in the 1870s, “with barely 6% of Victoria’s population, the North-East region consistently accounted for almost a quarter of the colony’s stolen stock”.

<sup>171</sup> *Argus*, 30 December 1878, 4.

<sup>172</sup> Hare, *Bushrangers*, 193; McQuilton, *Outbreak*, 114.

<sup>173</sup> RC, Q.1266-9 Hare.

<sup>174</sup> Kelson and McQuilton, *Kelly Country*, 73; see table of arrest and release dates, McQuilton, *Outbreak*, 114.

Kelly narratives typically fail to mention that many of these men had provoked their own arrest. In addition to some core sympathisers providing food, fodder and shelter to the gang, Hare related that a number of them “were setting the police at open defiance. They were galloping round the search parties, watching the movements of the police and insulting the men [and] aiding the gang by giving them information of our movements, and in other ways”.<sup>175</sup> This was no secret: the *Argus* reported in November 1878, “when Captain Standish arrived by train [one] evening, two of the Lloyds and Isaiah Wright were seen on the platform, and ... later on, the same party ... attempted by cutting the railway telegraph wires to frustrate the object of the expedition.”<sup>176</sup> Standish wrote that “all the men arrested are well known to have taken a more active part in aiding the Kellys yet at the same time, the cases against some of them are rather weak, from the fact of our informants being afraid of coming forward [due to fear] of the consequences”.<sup>177</sup> The result was that the police reapplied weekly for extensions of remand, without producing the witnesses or evidence needed to proceed with prosecution.<sup>178</sup>

Initially the *Ovens and Murray Advertiser* was supportive, holding that “extreme cases demand extreme measures”.<sup>179</sup> By the end of January it was clear that evidence was not forthcoming, but the court bowed to pressure to continue to hold 17 men, with P.M. Wyatt commenting to Isaiah (Wild) Wright, “I would give you fair play if I could”, and telling the men’s counsel that he would be glad to assist in any application to the Supreme Court.<sup>180</sup> General opinion swung against the measure after the Jerilderie bank robbery on 10 February 1879, when it became obvious that it had not curtailed the gang’s movements.<sup>181</sup> On 17 April the *Advertiser* vigorously opposed any continuance, describing it as “farcical” and a “perversion of justice” in which nine of the 11 men still held had served “a sentence of some three months” without evidence.<sup>182</sup> On 22 April P.M. Foster refused prosecution requests to continue remands, and discharged the remainder to the consternation of police command.<sup>183</sup> Contrary to the Kelly myth, many were not pleased: the *Argus* immediately called for far tougher measures including Peace Preservation Statutes, suspension of *Habeas Corpus*, and for “any suspected man [to be] detained in custody”.<sup>184</sup>

While Hare wrote that the strategy “did no good, and evoked sympathy for the men in custody”, that is quite different from sympathy for the outlaws.<sup>185</sup> The Royal Commission also condemned the strategy, reporting that the remands “did violence to people’s ideas of the liberty of the subject; they irritated and estranged probably many who might have been of service to the police; they failed to allay apprehension of further outrages on the part of the gang, or to prevent them from obtaining the requisite supplies”.<sup>186</sup> Jones’ claim, that the remands “swung a

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<sup>175</sup> Hare, *Bushrangers*, 192-3.

<sup>176</sup> *Argus*, 13 November 1878, 6.

<sup>177</sup> Standish, letter, 9 January 1879, VPRS 4969, Unit 1, Item 22, record 3, page 3, reverse.

<sup>178</sup> *O&M*, 17 April 1879, 2; McQuilton, *Outbreak*, 116.

<sup>179</sup> *O&M*, 7 January 1879, 2.

<sup>180</sup> *O&M*, 11 February 1879, 3.

<sup>181</sup> McQuilton, *Outbreak*, 121; cf. *O&M*, 17 April 1879, 2, for a petition raised against ongoing remands.

<sup>182</sup> *O&M*, 17 April 1879, 2. McQuilton’s table, *Outbreak*, 114, shows 9 such men, not the eight of *O&M*.

<sup>183</sup> *O&M*, 24 April 1879, 2; Standish, telegram, 22 April 1880, VPRS 4967, Unit 1, Item 12.

<sup>184</sup> *Argus*, 24 April 1879, 4.

<sup>185</sup> Hare, *Bushrangers*, 193-4.

<sup>186</sup> *RC*, *Second Progress Report*, xv.

huge body of people throughout the north-east toward support for the gang”,<sup>187</sup> is not correct. Morrissey saw that “the disquiet over remanding did not indicate support for the Kelly gang.... Rather, respectable people were disturbed at the flouting of the hallowed British principle of *Habeas Corpus*, which required that a person under arrest be brought promptly to court to face his or her accuser and that the case against them be produced”.<sup>188</sup> Those who had called for action against the sympathisers assumed that charges would be brought with evidence, and the supporters tried and sentenced. The measure failed with the inability of the police to persuade informants to come forward from fear of reprisal. Despite this failure, in November 1879 there were renewed calls in the north-east for suspending *Habeas Corpus*: “If the Government had shown that firmness which it ought to have done it would have asked the Legislature of the colony to suspend the Habeas Corpus Act. Mr. Berry must see that at the present moment catching the Kellys is very like a rich farce, which is hourly impoverishing the country. ... It is a lamentable fact that the outlaws being, in Ned Kelly's language, able to travel Greta ‘fearless, bold and free’, is rendering life and property in this and other colonies quite unsafe”.<sup>189</sup>

Mutterings against the police by the Kelly gang continued throughout this time, but the anger of those remanded in all of their many reported comments was directed solely at the police for holding them without evidence as aiding and abetting the outlaws, and was never linked with any wider political demands. In February 1879 Kate Kelly told the *Herald* that her brothers would “never be taken alive, and ... they will astonish Melbourne yet”,<sup>190</sup> although she said nothing in support of any of those remanded for aiding them. Hare related that “a few weeks before those arrested were discharged, some of our spies ... gave me information that the Kellys had procured some dynamite and intended blowing up the train out of revenge for our locking up these persons”, a report of which he “took no notice”.<sup>191</sup> In the same period the telegraph wires between Benalla and Beechworth were frequently rendered useless by earthing during the night.<sup>192</sup> Hall's *Outlaws of the Wombat Ranges*, published on 22 February 1879 shortly after the Jerilderie robbery, and which included a colleague's interview with the gang at “the close of January”, similarly said nothing about those then remanded, or mentioned any political motives behind the Kelly outbreak, which it viewed as stemming from the attempted arrest of Dan Kelly by Constable Fitzpatrick in April 1878.<sup>193</sup> The only consistent theme in all this is revenge. Public opinion turned against the protracted remanding of the sympathisers without them being brought to trial, but there was not one cry of political rebellion from or about them at any point.

### **The theory of blacklisted selector rebels**

In March 1879, Supt. Nicolson wrote that “patches of land” in remote regions “are almost exclusively held by selectors the majority of whom are themselves of the criminal or semi-criminal classes”, and suggested to the Secretary of Lands that the government might “eject ... all selectors of bad character who have not yet acquired a title to the ground they occupy ... for the

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<sup>187</sup> Jones, “New view”, 165.

<sup>188</sup> Morrissey, *Lawless Life*, 151.

<sup>189</sup> *Mercury*, 1 December 1879, 2, from the *Wangaratta Dispatch*.

<sup>190</sup> *Herald*, 7 February 1879, 3. This was three days before the 10 February Jerilderie bank robbery.

<sup>191</sup> Hare, *Bushrangers*, 194.

<sup>192</sup> RC, Q.1501 Hare.

<sup>193</sup> Hall, *Outlaws*, 22 (Fitzpatrick incident); 123 (interview).



purpose of leaving the land ... for occupation by some honest and deserving man".<sup>194</sup> The Secretary replied, in respect of "certain mountainous districts in the North Eastern portion of the colony ... occupied by members of the criminal class ... whether a list of selectors suspected by the Police of sympathizing with, or aiding, the outlaws, can be furnished".<sup>195</sup> On 7 May, Nicolson provided the secretary with a blacklist of 84 "suspected persons and criminals in possession of holdings of lands in the North-Eastern district... Few are mentioned but those residing in secluded or mountainous parts, and where there are great facilities for carrying on horse and cattle stealing and other offences without much risk of observation. Besides the men referred to, there are many young men, members of the same families and others, who are coming to the age at which they may select land and whom it would be most desirable to prevent from settling in such places".<sup>196</sup> Inspector Montfort attested that the blacklisted men had in his time "the invariable tendency always to settle ... outside of the settled country, having nothing behind them but the ranges".<sup>197</sup> Nicolson's letter had also recommended the forfeiture of Mrs Kelly's land, and that of her co-imprisoned neighbour William "Bricky" Williamson, on whose selection he said she had built her new house, as desirable "for a complete clearance of the family from that locality". These actions were indeed harsh and the circumstances now long forgotten, but Montfort attested in response to a question as to whether it would "be desirable to prevent men of that class, and women also, settling in any district so as to form a community or band of criminals", that "it would strike the greatest blow at horse and cattle stealing, and crimes arising therefrom, that could be struck. It is the aggregation of those families that has been the bane of the North-Eastern District".<sup>198</sup> Against criticisms of blacklisting by modern Kelly enthusiasts, Morrissey found that "there was no disquiet at the Victorian government's policy of denying new landholdings under the Selection Act to suspected and known Kelly sympathisers during and after the Kelly outbreak. ... Contrary to what is said in the Kelly literature, land denial of this kind had the strong support of the majority of north-east residents, squatters and selectors".<sup>199</sup>

The unpublicised blacklist policy seems to have first become known through the repeated refusal of applications for selection by Kelly relative, and in Jones' words "prominent sympathiser", William Tanner, who was informed in June 1879 that his application "was refused on the recommendation of the police".<sup>200</sup> Jones held, as did McQuilton and Molony, that following the earlier remands, "in barring Kelly sympathisers from the land itself, the blacklists were creating a hardcore group of people who were pushed to the point of having nothing to lose", and that it "turned the Kelly outbreak into a full-blown rebellion".<sup>201</sup> He equated such sympathy as there was for the outlaws with sympathy for republicanism, seeing these men and their associates as

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<sup>194</sup> Nicolson, letter, 19 March 1879, VPRS 4965, Con.2, Unit 4, Item 177.

<sup>195</sup> Secretary, letter, 24 March 1879, VPRS 4965, Con.2, Unit 4, Item 177.

<sup>196</sup> Nicolson, letter, 7 May 1879, and accompanying list of suspected persons, VPRS 4965, Con.2, Unit 4, Item 177.

<sup>197</sup> RC, Q. 3539 Montfort.

<sup>198</sup> RC, Q. 3532 Montfort.

<sup>199</sup> Morrissey, *Lawless Life*, 151.

<sup>200</sup> RC, Q.3555 Montfort; Jones, "New view", 166; letter, 16 June 1879, VPRS 4965, Con.2, Unit 4, Item 196. For repeated refusals of Tanner's applications, see McQuilton, *Outbreak*, 222, n.20.

<sup>201</sup> Jones, *Short Life*, 189; Jones, in Gregory Miller et al., "Besieged: the Ned Kelly story" (Potts Point: Film Projects, 2003), 35:08-22; McQuilton, *Outbreak*, 168-70; Molony, *Ned Kelly*, 215.

the nucleus of a wider selector republican army, in parallel with Eureka and the Boers.<sup>202</sup> The parallels are invalid: in 1857 Eureka rebel leader turned parliamentarian Peter Lalor avowed he was a democrat and explicitly denied that he ever was or would be a Republican;<sup>203</sup> and the First Boer War did not commence until 16 December 1880, a month after Kelly's execution. The Kelly literature has identified remarkably few cases of denial of land applications from blacklisting prior to Glenrowan. There is no mention in newspapers or police files of any political activity among those blacklisted, or of those blacklisted saying a word about political persecution. The names were expressly chosen to block the clustering of the outlaws' associates in certain places, and did not prevent the blacklisted persons selecting anywhere else in the state. Further, police numbers in the North-Eastern District were reduced over precisely the same period, from mid-1879 through 1880, in which Jones claimed republican sentiment was on the rise.<sup>204</sup> By February 1880, Nicolson considered that "the sympathy by which the outlaws were regarded through their successful outrages at Euroa and Jerilderie ... has almost died out, excepting among their own class".<sup>205</sup> Despite this, Jones held that "early in 1880 ... the rebellious underscore became more insistent and the idea of a republic began to take shape among the inner circle of the Gang and its supporters".<sup>206</sup> As there is no evidence of republican sentiment arising from remanding or land refusals, it is necessary to further review the basis of the "sympathiser republic" claim.

### Oral tradition and the "Kelly republic"

In the absence of any documentary evidence of a Kelly republican movement, Jones relied upon oral history to advance his theory. McQuilton agreed that its acceptance is "necessarily inductive. Coming from oral sources, it is fruitless to search for literate sources as direct corroboration".<sup>207</sup> This begs the question that any claim for the existence of an "oral tradition" also requires corroborative evidence (which could consist of closely corroborative oral sources) to be valid. It is not an assortment or collection of random stories. In his quest for traditions about the Kelly outbreak, Jones interviewed many descendants of families from the Kelly country. As with Brown's post-war travels and enquiries around the region, it is not surprising that Jones "heard the story [of the Republic of North-Eastern Victoria] from many different people", given the widespread airing of Beatty's enhanced version of the *Bulletin's* Kelly republic spoof in book, newspaper and radio through the early to mid-1940s.<sup>208</sup> Jones' research began in the late 1940s, "and became more intensive in the Sixties. ... And the first tangible evidence began to emerge of the very core of the Kelly rebellion – the mad, wonderful dream of the Republic of Victoria and the incredible Glenrowan Campaign designed to launch it".<sup>209</sup>

No tangible documentary or physical evidence has ever been produced, and the credibility of the oral history is at best problematic. Jones admitted that "the oral tradition varies enormously in terms of accuracy. At times, it's uncannily accurate. But even family tradition can come up with

<sup>202</sup> Jones, *Short Life*, 191; cf. Kelson and McQuilton, *Kelly Country*, 87.

<sup>203</sup> Peter Lalor, letter, *Ballarat Star*, 1 January 1857, 2.

<sup>204</sup> N.E. District police strength by month, July 1878 to June 1880, VPRS 4965, Unit 5, Item 394, p. 59.

<sup>205</sup> Memo, Nicolson to Standish, 7 February 1880, VPRS 4965, Unit 1, Item 21.

<sup>206</sup> Jones, in Jones (ed.), *Ned Kelly: The Last Stand. Written and illustrated by an eyewitness* [Thomas Carrington]; edited and with an introduction by Ian Jones (Melbourne: Lothian, 2003), 11-12.

<sup>207</sup> McQuilton, *Outbreak*, 169.

<sup>208</sup> Brown, *Australian Son* (1948), 11-12; Jones, "New view", 169.

<sup>209</sup> Jones, in Les Carlyon, *The Last Outlaw* (South Melbourne: HSV7, 1980), 10.

awful traps and inaccuracies".<sup>210</sup> A further complication is that for events in which the informant did not personally participate, the stories passed down are at best as reliable as their original source. Narrators are often unreliable and prone to exaggeration, due both to human error and (in psychology) self-presentation. Highlighting this issue, historians Bill Joy and Tom Prior visited Euroa around 1960 and wrote, "In a few hours, we had a dozen graphic, eye-witness accounts of the great [bank] raid relayed by descendants of people who just happened to brush by Ned in the street ('As close to him as I am to you now') or who were prisoners in Younghusband's storeroom. Apparently Euroa was crowded with grandfathers doing their banking that December afternoon in 1878, and Mrs. Fitzgerald's kitchen was packed with grandmothers helping with the cooking".<sup>211</sup> Further, the researcher typically provides the master narrative into which the informants' stories are fitted.<sup>212</sup> Where McQuilton praised Jones' "uncanny ability to isolate the truth in a sea of conflicting testimony", Jones' reference notes and discussion show that often in practice he has privileged testimony that supported his master narrative and rejected contrary evidence, at times aggressively.<sup>213</sup> Further, claims to accuracy in oral history depend on reliable corroboration. One of Jones' informants about the making of the Kelly gang's armour was the grandson of Anton Wick, the man who was handcuffed by Joe Byrne and Dan Kelly and ordered to call Aaron Sherritt to his door *en route* to Glenrowan, whereupon Byrne shot Sherritt to death.<sup>214</sup> One might ask how the grandfather would have had more than local gossip to pass on.

When Sydney journalist Brian Cookson toured the north-east in 1910-11 to search out people connected with the Kelly story, ten years after the *Bulletin* spoof about Kelly raiding the Benalla banks and declaring a republic, and nine years after Federation, none of his many interviewees mentioned republican or other political aims for Kelly.<sup>215</sup> Kenneally collected 1920s sympathiser stories of the Kelly saga for his *Inner History*, principally from Kelly cousin Thomas Peter Lloyd, but Clune noted that it "contained very little of local and oral lore beyond that which the Kelly survivors had so willingly imparted to Cookson".<sup>216</sup> By the time Jones began his interviews in Kelly country he was speaking mostly to second or third generation descendants, often with conflicting stories. They also had the normal human desire to explore and vindicate their family links with famous events.<sup>217</sup> From around 2006 Eugenie Navarre interviewed third, fourth, and even fifth generation descendants for her *Knight in Aussie Armour*. Unsurprisingly, many people, including herself, accept and believe the Kelly republic stories vigorously promoted by Jones in

<sup>210</sup> Jones, in Carlyon, *Last Outlaw*, 10.

<sup>211</sup> William Joy and Tom Prior, *The Bushrangers* (Sydney: Shakespeare Head, 1963), 93.

<sup>212</sup> "Researchers typically present a flawless story – one effect of which is that they become inflated, powerful figures (in control and therefore considered 'good' researchers)", Heidi Nast, "The body as 'place'", in Heidi Nast and Steve Pile (eds.), *Places through the body* (London: Routledge, 1998), 71.

<sup>213</sup> McQuilton, *Outbreak*, x. Jones wrongly denigrated Glenrowan gravel contract foreman Alfonso Piazzini's corroborated evidence that George Metcalf was shot by Kelly, which Jones sought to blame on the police, as motivated by hope of gain. Jones' error is repeated as fact in Corfield, *Encyclopaedia*, s.v. "Piazzini". See Stuart Dawson, "Ned Kelly's Shooting of George Metcalf, Labourer", *Erasmian Journal* 19.1 (2017), 88.

<sup>214</sup> Jones, *Fatal Friendship*, 229 and 235; the informant was a Bill Knowles, whom he interviewed in 1970.

<sup>215</sup> Cookson's articles collected in McDonald (ed.), *The Kelly Gang from within*.

<sup>216</sup> Clune, *Kelly Hunters*, xiv. For Lloyd as Kenneally's chief informant, *Inner History*, 10.

<sup>217</sup> One oral tradition had Jim Kelly in school, not gaol, during the outbreak; see Jones in Carlyon, *Last Outlaw*, 10. Several firmly held traditions have Dan Kelly and Steve Hart escaping alive from Glenrowan in various ways, despite their deaths being well-attested (see e.g. in Navarre, *Knight*, 16, 22-30, 132).

interviews, films and books since the late 1960s.<sup>218</sup> There is no sign of any oral tradition of a Kelly republic before the widespread circulation of Beatty's republic tale in the early and mid-1940s.

### **Kelly ballads and folk songs**

Not all historians are deceived by the idea of the Kelly republic. As it is based entirely on oral history, one should expect to find abundant evidence of republican talk early within that tradition, especially in song. There are Kelly ballads to various tunes including "The Wearing of the Green", but all are devoid of political reference.<sup>219</sup> Folk historian Graham Seal, who studied the Kelly tradition over twenty years, found nothing to support any of the late twentieth-century claims for a republican Kelly. As he observed, "the Kellys were not actually motivated by such sentiments [as Irish nationalism]. It was the immediate north-eastern tensions and conflicts that led to the outbreak, not a mis-begotten dream of creating an Hibernian utopia in the Wombat ranges, as implied by some writers".<sup>220</sup> The two central causes of conflict were close police attention to the criminal activities of many of the extensive Kelly/Lloyd/Quinn clan and their larrikin associates, and the remands and blacklisting applied to some members of their extended criminal network. Both were generally welcome by the vast majority of the region's inhabitants. Against suggestions of general republican sentiments in the Kelly country, Morrissey found that "Greta had the largest concentration of Primitive Methodists in Victoria's north-east. Around half of all selectors attended the Primitive Methodist church. These were highly principled, religious people who did not swear, drink, gamble or dance. They attended religious services several times a week and after ploughing the fields all day, some travelled to neighbouring communities as lay preachers".<sup>221</sup> They were far from republican rebels. In summary thus far, there was no declaration document, no republican sentiments in Kelly's letters or comments, no land war between squatters and selectors, no widespread selector disaffection, general social unrest, or potential Irish rebellion in late 1870s north-eastern Victoria, and no Kelly republic folk tradition. As this does not preclude that a nucleus of Kelly sympathisers might have considered some form of insurgent action, it is necessary to review Jones' and others' claims in that regard.

### **Claims of secret republican meetings**

If there was any treasonous republican plot, those involved must have been from a small core of relatives and close associates. Even here, Jones conceded that "one police agent broke the inner circle of sympathizers and heard about the armor being made, though he failed to learn of the republic".<sup>222</sup> This is problematic, given that the theory envisions an armed rebellion by potentially "hundreds" threatened by the blacklists.<sup>223</sup> As one sceptic commented, "the simplest

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<sup>218</sup> Navarre, *Knight*, 6, 13. Jones became a tireless promoter of the Kelly republic theory. In his co-script for Richardson's 1970 Kelly movie, Kelly announces to a pub full of sympathisers, "Friends, let's drink to it, to our own republic – to the republic of Victoria" ("Ned Kelly", 1:05:29-37; see YouTube clip W9fV8EusSWE). In Jones' 1980 mini-series, "The Last Outlaw", Kelly is shown surrounded by sympathisers, writing a "Declaration of the Republic of North Eastern Victoria", Episode 4, 42:22-50.

<sup>219</sup> For lyrics, John Meredith and Bill Scott, *Ned Kelly: After a Century of Acrimony* (Sydney: Landsdowne, 1980), 92-104.

<sup>220</sup> Graham Seal, *Tell 'em I died game: The legend of Ned Kelly* (Flemington: Hyland House, 2002), 90.

<sup>221</sup> Morrissey, "Time to bury the Kelly myth", 61.

<sup>222</sup> Jones, *Short Life*, 198, referring to agent DSA.

<sup>223</sup> Jones, "New view", 168.

explanation of why it was that the spy didn't hear about a Republic, is that ... a Republican plot was not on their agenda; if it had been, it would have been front and center of everything they were doing and talking about. ... Secrets are impossible to keep for very long among a group said to number hundreds".<sup>224</sup> Jones implausibly suggested that a sympathiser army bearing Kelly-supplied weapons might have galloped to muster at Glenrowan, not knowing "the full extent of the [republic] plan", and thinking "it was only to stop the police train, turn it around, and take it back to Melbourne as a bargaining point to gain the release of Mrs Kelly and to put forward the cause of the selectors, the Kelly family, and their friends".<sup>225</sup> It is difficult to overstate how fatuous this proposition is. In the light of the Eureka revolt, why would any rebellion begin with an armed stand against police aimed centrally at securing Mrs Kelly's release from prison? If there was any support for a Kellys' or selectors' "cause", why is there no trace of protest against their treatment in the newspapers, in letters, or through Gaunson MLA, or other political or legal representatives? There is nothing to suggest any widespread sympathy for the Kelly brothers or their gang, either before or after their elimination, and abundant evidence to the contrary.

An incipient republican movement intending to lead a district rebellion would need at least some rudimentary organization, and Jones made several specific claims in this regard:

"When Ned and Joe discussed the mad dream of a republic with their closest supporters – the Lloyds, the Quinns, the Wrights, the McAuliffes, the Tanners – Joe was, as ever, 'scribe' and 'confidential' for their plans. 'Records of meetings' were kept in an exercise book".<sup>226</sup>

This is a creative extension of a report that "elaborate details" for the Euroa and Jerilderie bank robberies were "committed to paper" beforehand with Byrne, the "best scholar in the gang", as "secretary".<sup>227</sup> The enhancement is based on three interviews by Jones (in 1964 and 1969) with Thomas Patrick Lloyd, son of Kenneally informant and Kelly cousin Thomas Peter Lloyd, purporting to relate stories passed down by his father.<sup>228</sup> Neither Jones nor any other historian has seen such a book, and there is no cited evidence or traditions of persons from other families attending such meetings. It is entirely speculation by Jones and/or Lloyd, built on the names of well-known sympathisers. The suggestion of formal records has itself been rejected as highly unlikely.<sup>229</sup> Lloyd, then an ex-policeman, was born in 1908, had a "wry sense of humour", and

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<sup>224</sup> [Dee Caruthers], "Ned Kelly Dreaming: The Republic of North East Victoria", 26 January 2015, <http://kellylegend.blogspot.com.au/2015/01/ned-kelly-dreaming-republic-of-north.html> (accessed 19 October 2015).

<sup>225</sup> Jones, "New view", 171.

<sup>226</sup> Jones, *Fatal Friendship*, 157.

<sup>227</sup> *Age*, 2 July 1880, 7.

<sup>228</sup> Jones interviewed Lloyd on 4 January and 10 May 1964 - *Fatal Friendship*, 228.

<sup>229</sup> Kelly historian Brian Stevenson commented, "I'm wondering why anyone felt the need to record these meetings much in the same way as those of the local cricket club. ... I can't imagine the horse-mad, slow speaking Steve Hart, the quarrelsome ruffian Wild Wright and the quiet Dan Kelly, (who, like Hart, never lived to be old enough to vote) contributing too much to discussions aimed at creating a new political system. I'm also remembering that in one of his accounts of Stringybark Creek, [sole survivor Thomas] McIntyre noted with Victorian delicacy that words like 'fellow' and 'man' did not seem to be in the vocabulary of his captors, so let us hope that the minutes were not verbatim" (Stevenson, "Review of MacFarlane, *The Kelly Gang Unmasked*", online.)

was Jones' prime source for stories about the Kelly republic.<sup>230</sup> In 1964 Jones also interviewed two other sympathiser descendants who claimed to know of the republic story. He stated that these "confirmed some details, challenged others".<sup>231</sup> In other words, there was no shared oral tradition such as validates anthropological work. As MacFarlane noted, "we do not know what was said at the interviews. They have never been published or even quoted to support any of the assertions made".<sup>232</sup> In 1969 Lloyd added that his father "had told him of the 'exercise books containing records of meetings' in which Ned, Joe, and key sympathisers developed their treasonable plans".<sup>233</sup> Curiously, Morrissey had also visited Lloyd "many times when researching [his] own work on the Kelly outbreak ... [and] never once did he raise the topic of secret meetings and exercise ... books in ... discussions of the Kelly republic".<sup>234</sup> But the story worsens.

Molony interviewed the same Tom Patrick Lloyd in 1979, and declared that "on a Sunday in the winter of 1879, at Greta ... a group of men, amongst them Ned, met and talked of a republic. ... They recorded their deliberations in childrens' school books; they knew that physical force had to be the basis of their resistance to authority".<sup>235</sup> Lloyd told Molony that "as a boy he had seen the 'exercise books' containing the 'minutes' of these meetings ... held at three-monthly intervals, and [that] David Gaunson attended one of them".<sup>236</sup> Lloyd subsequently said "that he had seen an old exercise book some years later in which he saw minutes of the meetings at which a rebellion and republic of the northeast had been planned".<sup>237</sup> Molony claimed that the conspirators comprised those of Irish background who "struggled on their selectors' plots", and those suspected of aiding the outlaws who had been denied selections in the north-east; these he pronounced ready to give armed support to launch a Kelly republic at Glenrowan.<sup>238</sup>

As MacFarlane observed, Lloyd's "boyhood memories were of a superior kind if he understood what a republic and minutes of meetings were".<sup>239</sup> The idea that Gaunson, MLA for Ararat, attended a meeting run by Australia's most wanted outlaw and self-confessed police killer was challenged as implausible by both Jones and McQuilton.<sup>240</sup> Moreover, this is the same Tom Lloyd who had told Jones a decade earlier that it was his father, not himself, who knew of the exercise books. The fact that no record of any meeting has ever been produced is explained away as "hardly surprising [as] the penalty for high treason was death".<sup>241</sup> However, it appears that the

<sup>230</sup> Morrissey, *Lawless Life*, 149; Lloyd born 1908, Corfield, *Encyclopaedia*, s.v. "Thomas Peter Lloyd Jr."

<sup>231</sup> Jones, *Fatal Friendship*, 228. The informants are named as Joe Griffiths and Les Tanner.

<sup>232</sup> MacFarlane, *Unmasked*, 11.

<sup>233</sup> Jones, *Short Life*, 397; this will be on 29 July 1969, in which the declaration was first mentioned (p. 399).

<sup>234</sup> Morrissey, *Lawless Life*, 149.

<sup>235</sup> Molony, *Ned Kelly*, 198-9. Molony interviewed Lloyd in 1979 - Ian Jones, Q&A following McQuilton, "Ned Kelly", unpaginated.

<sup>236</sup> Molony, *Ned Kelly*, 284, n.4.

<sup>237</sup> Molony, interview with David White, 2006, Glenrowan.com, <https://web.archive.org/web/20060820162715/http://www.glenrowan1880.com/molony.htm> (accessed 28 August 2017).

<sup>238</sup> Molony, *Ned Kelly*, 214-5.

<sup>239</sup> MacFarlane, *Unmasked*, 208.

<sup>240</sup> In responses to McQuilton, "Ned Kelly", unpaginated.

<sup>241</sup> John Phillips, "The Political Ned Kelly", *Criminal Law Journal*, 26.6 (2002), 363, in accord with Jones' view, *Short Life*, 198.

stories of meetings and minutes were fed to Jones, Molony and others by an amused Tom Lloyd, their only source, who told Morrissey that “he once overheard his father say something about a notebook which he assumed contained the names of those associated with the Glenrowan debacle”, and that “in the Kelly books he was quoted out of context, which he was not at all pleased about”, as they “asked their questions, then went away and wrote what they wanted regardless of what was said. ... On more than one occasion Tom indicated that he had told many of these writers and researchers what it was they wanted to hear, and he further hinted that he had sometimes embellished what he was saying to get a rise out of them”.<sup>242</sup> There is nothing to suggest that the Kelly myth of secret meetings and minutes is more than a sixty year old leg-pull.

### Legal colonial regional separation movements

If there were a group of disaffected persons who wanted regional independence from the recently founded colony of Victoria, there was no need to plot a treasonous republican insurrection. In the decade before the Kelly outbreak there were over a dozen regional separation movements around Australia, including “Princeland” in Western Victoria and the Riverina movement in NSW, with well-advertised public meetings.<sup>243</sup> Australian separationists “did not see themselves as rebels so much as defenders of an enduring British tradition”.<sup>244</sup> Of the separation movements, Princeland was the most “militant”, and, “although the expressed aim of forming a new colony was never accomplished, the separation movement can be considered as a partial success in the role of agitator for the rectification of local wants”.<sup>245</sup> The NSW civic republican movement from the mid-nineteenth century was conceived in terms of political independence from Colonial Office control, and typically as harmonious with the monarchy, with no need to break from the crown itself.<sup>246</sup> McQuilton noted that prior to the railway being extended to Beechworth in 1876, “the citizens of Beechworth openly floated the notion of the North-East joining New South Wales if the government of the northern colony promised to extend its rail net to Beechworth”.<sup>247</sup> Even had that unlikely scheme eventuated, it would have meant only its rejoining the original parent colony. There is no hint of any desire for regional independence in north-eastern Victoria between the mid-1870s and the early 1880s.

### The showdown at Glenrowan

The Kelly gang’s attempt to derail a police special train on the Glenrowan rail bend and massacre its occupants is both well-attested and horrific. The aim was stated by Kelly and Byrne to their prisoners in the Glenrowan Inn, to those forced to rip up the rails, and by Kelly to reporters after the attempt failed and he was captured.<sup>248</sup> It is also the key to Jones’ wrong-headed defence of

<sup>242</sup> Morrissey, *Lawless Life*, 149-50.

<sup>243</sup> Jennifer Craig, “The Riverina separation movement, 1855-1867” (Honours thesis, History, University of Adelaide, 1963), 87.

<sup>244</sup> Benjamin Jones, “Colonial Republicanism: Re-examining the impact of civic republican ideology in pre-constitution New South Wales”, *Journal of Australian Colonial History* 11 (2009), 133.

<sup>245</sup> Roger Harris, “The ‘Princeland’ secession movement in Victoria and South Australia 1861–1867”, *Australian Journal of Politics & History* 17.3 (1971), 375.

<sup>246</sup> Benjamin Jones, “Colonial Republicanism”, 133.

<sup>247</sup> Kelson and McQuilton, *Kelly Country*, 120.

<sup>248</sup> Kelly told Mrs Jones upon arrival that “he was going to take up the line to wreck a special train that was coming up with police and black trackers”, *Mercury*, 2 July 1881, 3. Reardon testified that Kelly said, “I

Kelly. For Jones, the search for exoneration became imperative: “because of the scale of what they were going to attempt at Glenrowan ... if you couldn't find evidence of a republic you'd have to imagine it”.<sup>249</sup> This is precisely what happened: Jones turned a completely unevidenced idea of Kelly-led republican sentiment, elevated into folklore by Beatty, into a pseudo-political rationale for the Kelly gang's attempted vengeful mass slaughter: “the Glenrowan campaign is inexplicable without the central, carefully obscured fact of the republic”.<sup>250</sup> Destroying the train “was an act of war. It had to be, or it would be simply mass murder. ... It was an act which would catapult the Kelly Country into open guerrilla warfare with the authorities – warfare joined by the ‘disaffected’ farmers of the north-east who were threatened by the blacklists”.<sup>251</sup>

To achieve this claimed goal, for which as has been shown there is no evidence whatsoever, Jones retrospectively constructed what he presented as a “simple” plan of action:

“The gang, with their armour, would act as the shock troopers. ... They would give their best guns to the sympathizers. ... Sherritt [‘the bait’] was to be killed at Beechworth. On receipt of the news, a special train would leave Melbourne and pick up at Benalla the major body of police and blacktrackers and horses. ... Ned Kelly and Steve Hart would occupy Glenrowan, gather hostages and break the railway line. ... [The train would] crash over the embankment. In their armour ... the gang would move in and mop up the survivors. Two rockets ... were then to be fired ... and from all over the Kelly country, sympathisers would ride at the gallop ... to follow them in raids on the banks at Benalla, Wangaratta, possibly Beechworth”.<sup>252</sup>

This “plan of operations”, creatively expanded from the Royal Commission's *Second Progress Report*, adds a sympathiser army to the historical record, and sees Glenrowan as “a preliminary to setting up the republic of North-East Victoria, or maybe even the Republic of Victoria”.<sup>253</sup>

On Saturday night, 26 June 1880, the gang bailed up the town of Glenrowan. By Sunday afternoon, over 60 people were held captive in Ann Jones' Glenrowan Inn. A special train was eventually despatched once Sherritt's death was reported. It left Benalla at 2am on the Monday morning, but was stopped by Curnow before it reached Glenrowan. The police disembarked and the siege began. The skyrockets were fired, and Jones claimed that “from as far away as Stanley [36 miles; 58km], the sympathizers started gathering. Lookouts had been waiting for the firing of the rockets and the word spread. They started galloping towards Glenrowan”.<sup>254</sup> According to Jones, Kelly then had a crisis of conscience: “instead of an almost unopposed attack on Benalla,

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expect a train from Benalla with a lot of police and black fellows, and I am going to kill all the —”, *RC*, Q.7607; Kelly, that he had “intended to rake it with shot”, *Argus*, 29 June 1880, 5; they said “they were going to send the train and its occupants to hell”, *RC*, Q.17597, lines 30-3 Curnow. Byrne told Tom Cameron “about the rails being torn up and that they came here to kill the police and black tracker [sic]”, Thomas Cameron, letter, 8 July 1880, Mitchell Library, Ref. 909486, Item 2.

<sup>249</sup> Ian Jones, in Q&A after McQuilton, “Ned Kelly”, unpaginated.

<sup>250</sup> Jones, *Short Life*, 202. There is no evidence of any “campaign” anywhere.

<sup>251</sup> Jones, *Short Life*, 200; 202; 204.

<sup>252</sup> Jones, “New view”, 170-1.

<sup>253</sup> *RC*, *Second Progress Report*, xxiv; Jones, quoted in Brian Carroll, *Ned Kelly: Bushranger* (Dee Why West: Lansdowne, 1976), 261.

<sup>254</sup> Jones, “New view”, 172.



they faced a pitched gun battle. They must be turned back”.<sup>255</sup> He held that Kelly then left the Inn, met them, and told them to disband, leaving them “confused and disbelieving”.<sup>256</sup> As this meeting is claimed to have occurred soon after the siege began, but was unheard of by any of the reporters who arrived in the special police train, and as the events at Glenrowan underpin Jones’ core claim for the existence of a republican selector army, both demand careful review.

### **Kelly’s alleged meeting with a sympathiser army**

The story of “the gathering and dismissal of the sympathisers” was first told to Jones by Tom Patrick Lloyd, his chief source, in January 1964, and further explored that year with two other sources.<sup>257</sup> Although he claimed that besides oral tradition there is “documentary evidence” for this meeting,<sup>258</sup> none has ever been cited. The interviews took place 84 years after the events they purported to discuss, and no source had any preserved eye-witness accounts. There were only fragmentary, incoherent stories, “from descendants of those who may [or may not] have been there”.<sup>259</sup> Jones claimed the versions “tally in essential detail”,<sup>260</sup> but as his discussion and notes show, they differed widely in respect of how many sympathisers were claimed at Glenrowan, where they met, when they arrived and were dismissed, and what (if anything) happened. Jones admitted that accounts of the location were “confusing and conflicting”, and accounts of the meeting were “confused and contradictory”.<sup>261</sup> Lloyd gave Molony a location in an almost opposite direction to the one he had given Jones.<sup>262</sup> Jones claimed elsewhere that at least four blacksmiths, along with other sympathiser “men, women and children”, had been involved in making the gang’s armour.<sup>263</sup> Yet no descendant could give any coherent story of the climactic dismissal of “all those ‘decent hard working men’ clutching Kelly guns and riding their farm horses, summoned ... by the falling rocket stars”.<sup>264</sup> Jones contended that “the gathering and turning back of the sympathisers ... is irrefutable”.<sup>265</sup> The following sections expose the story as a purely hypothetical construction that is definitively refuted by contemporary evidence.

### **The problematic Glenrowan siege timeline**

According to Jones, Kelly left the Inn at the time the signal rockets were fired. He then met and dismissed a sympathiser army some half a mile away, rested, and returned to the Inn shortly before Byrne’s death. He then left again, and was next seen behind police lines as he advanced in what became known as his “last stand”.<sup>266</sup> It is imperative for the theory that the meeting

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<sup>255</sup> Jones, *Fatal Friendship*, 188.

<sup>256</sup> Jones, *Short Life*, 226.

<sup>257</sup> Jones, *Fatal Friendship*, 228. The other two sources named there are Joe Griffiths and Les Tanner.

<sup>258</sup> Jones, “New view”, 173, n.16.

<sup>259</sup> MacFarlane, *Unmasked*, 11.

<sup>260</sup> Jones, “New view”, 173, n.16.

<sup>261</sup> Jones, “New view”, 172-3, the meeting “somewhere around the shoulder of Mount Glenrowan, not far from where the tracks had been torn up; 185, “towards the gap leading towards Wangaratta”; *Short Life*, 226, “probably beyond the Gap on the far side of a spur that ran down towards the break in the line”; *Fatal Friendship*, 188, “not far from the broken railway line”.

<sup>262</sup> Molony, *Ned Kelly*, 226, “in the valley near Greta”.

<sup>263</sup> Jones, *Short Life*, 197.

<sup>264</sup> Jones, *Short Life*, 225.

<sup>265</sup> Jones, “New view”, 182.

<sup>266</sup> Jones, *Fatal Friendship*, 188-9.

occur soon after the rocket signal, to prevent the sympathisers riding into “a pitched gun battle”.<sup>267</sup> Yet witness details of Kelly’s movements puncture the viability of Jones’ scenario.

Superintendent Hare, with 13 police and 17 horses, alighted at Glenrowan station at around 3am.<sup>268</sup> After some discussion, he told Senior-Constable (S/C) Kelly to unload the horses, and then went with Charles Rawlins and three policemen to seek information at the stationmaster’s house, about 100 yards away.<sup>269</sup> They spoke with the stationmaster’s wife, and returned to the station “in a few minutes”.<sup>270</sup> The horses were still only half unloaded when Constable Bracken, who had just escaped from Mrs Jones’ Inn, ran down to the station and called to Hare, who was with some of the men on the platform, that the outlaws were at the Inn.<sup>271</sup> Hare called to his men, “Come on, boys”, and rushed toward the Inn, about 200 yards by path from the station.<sup>272</sup> Some did not hear him, as they were then engaged in saddling horses.<sup>273</sup> About eight of the 13 police were in the first group that went immediately with Hare.<sup>274</sup> It is safe to allow ten minutes (to 3:10am) from first arrival at the station to the start of the rush to the Inn (see Appendix).

The gang were waiting under the shadow of the verandah, and fired at the advancing police.<sup>275</sup> Hare, one of the two policemen wounded in the gunfight, was shot in the left wrist but returned fire, and reloaded with one arm.<sup>276</sup> The men who were still on the platform taking out horses picked up their arms and ran towards the Inn.<sup>277</sup> The horses were left to scatter as they pleased.<sup>278</sup> The police who had been heading for the Inn scrambled for cover, and began to shoot back, with the first police volley from about 3:13am.<sup>279</sup> Had not Bracken told the prisoners before his escape that their only chance of safety was to lie down as flat on the floor as possible, wholesale slaughter would have resulted at the Kelly gang’s instigation.<sup>280</sup> A “pretty warm fire was exchanged for a few minutes”.<sup>281</sup> After the first volley, the gang “retired inside” the Inn.<sup>282</sup> Hare called on his men to cease fire.<sup>283</sup> One of the outlaws then abused the police from inside the Inn, telling them to “fire away, as they could do them no harm”.<sup>284</sup> The Kelly gang were utterly indifferent to the fate of their prisoners. After that challenge, reporter John McWhirter of

<sup>267</sup> Jones, *Fatal Friendship*, 188.

<sup>268</sup> RC, Q.11293-4 Arthur; Q.8673 S/C Kelly; Q.6627 Kirkham; Q.1116 O’Connor; *Reward Board*, Q.92 Allen.

<sup>269</sup> RC, Q.11547, 11555 Rawlins; Q.8708 S/C Kelly; Gascoigne, draft report, in George Farwell, *Ned Kelly: What a Life!* (Melbourne: Cheshire, 1970), 93. Cf. Rawlins, *Reward Board*, Q.49.

<sup>270</sup> She said her husband was just taken into the ranges RC, Q.10301 and *Reward Board*, Q.143 McWhirter.

<sup>271</sup> RC, Q.10718-9 Allen; *Reward Board*, Q.98 Allen; Q.49-50 Rawlins; RC, Q.9674 Gascoigne.

<sup>272</sup> RC, Q.10301 McWhirter; Q.11553, 11577 Rawlins. Hare, *Bushrangers*, 269, “by the path we took, the hotel would be about 200 yards from the platform”; cf.278.

<sup>273</sup> *Reward Board*, Q.143 McWhirter.

<sup>274</sup> O’Connor, letter to C.P. Seymour, 1 July 1880, in RC, pp. 452-3.

<sup>275</sup> RC, Q.10718-9 Allen; *Reward Board*, Q.101 Allen.

<sup>276</sup> RC, Q.8088 S/C Kelly; RC, *Second Progress Report*, xxv. For the Native policeman, RC, Q.1201 O’Connor.

<sup>277</sup> RC, Q.10301, 10304 McWhirter.

<sup>278</sup> *Reward Board*, Q.98 Allen.

<sup>279</sup> *Weekly Times*, 3 July 1880, 18, had the first volley at 3:15am, a good approximate general time.

<sup>280</sup> RC, Q.10551-2 Mrs Reardon; Q.7644 Reardon.

<sup>281</sup> RC, Q.10720, 10723 Allen; “perhaps five minutes without intermission”, Q.7365 Barry; cf. Q.8126 Kelly.

<sup>282</sup> *Argus*, 2 July 1880, 7.

<sup>283</sup> RC, Q.10314 McWhirter; Q.10798 Allen; Q.11213 Arthur; Q.8098-9 S/C Kelly.

<sup>284</sup> RC, Q.10311-4 McWhirter.

the *Age* could hear the cries of women from inside the Inn.<sup>285</sup> Desultory firing followed the first volley, with the police explicitly instructed by Hare to “fire high”, “as high as the height of a man above the ground”.<sup>286</sup> The testimony of reporters McWhirter and Allen on these points, together with that of the civilian Rawlins, overturns everything that has been popularly presented about the “reckless” firing of the police, including by Jones and Molony, for the last 90 years.<sup>287</sup>

Superintendent Hare felt weak from loss of blood from his artery, and returned to the station “about 8 to 10 minutes” from leaving it.<sup>288</sup> As the rush toward the Inn began about 3.10am, his return to the station was towards 3:20am. Reporters then quickly bandaged his arm. He went back immediately but kept bleeding, could not continue, and returned again to the station, all in about five minutes.<sup>289</sup> In his brief return to the fray, soon after 3:20am, Hare told S/C Kelly to surround the Inn to stop the outlaws escaping.<sup>290</sup> S/C Kelly began to push his men on from tree to tree around the Inn, commencing about five or six minutes after the first volley finished, i.e. not long after 3:20am, consistent with the reporters’ accounts of Hare’s movements.<sup>291</sup> Phillips heard Kelly and Byrne talking by the rear of the Inn, “about 10 minutes” after the first encounter. Kelly urged Byrne to come with him to fight the police, but Byrne did not go as he had been shot in the leg.<sup>292</sup> Kelly later said “that he walked into the hotel, and asked Joe Byrne to follow him out, and that he went out at the back and Byrne did not follow”.<sup>293</sup> The prisoners afterwards said that Kelly called Byrne to come with him; “all agreed [Kelly] did not remain in the house”.<sup>294</sup> Based on Phillips’ estimate, that discussion occurred around 3:23am. Kelly then came out again, “walked down towards the railway fence”, fired at the police near Hare, and then exchanged three or four shots with Gascoigne.<sup>295</sup> The second police volley started about seven minutes after the first ended, i.e. around 3:25am, with heavy fire resumed between the police and the gang, and “fire high” was heard called again.<sup>296</sup> In thick smoke from the second volley, Kelly went around the back corner of the Inn.<sup>297</sup> The sequence places this around 3:26-7am.

Jones stressed that Kelly’s movements in “the ... few minutes” after his shots at Gascoigne “are vital to an understanding of ... subsequent incidents”.<sup>298</sup> Indeed, Jones’ entire hypothesis of Kelly meeting a sympathiser army depends on this timeline. After the volley, “a man [Kelly] came out

<sup>285</sup> RC, Q.10314, 10328 McWhirter. Hare first heard cries halfway through that volley, Q.1505-6; 1582-3.

<sup>286</sup> And in “the time of the first rush”, RC, Q.10328-33 McWhirter; under Hare, Q.10729, 10792, 8 Allen.

<sup>287</sup> “Murderous fire”, Kenneally, *Inner History*, 215; “wanton killing”, Brown, *Ned Kelly* (2005), 226; “wild firing”, Clune, *Kelly Hunters*, 301; “trigger-happy lunatics”, Molony, *Ned Kelly*, “ 227; “hailstorms of lead”, Jones, *Short Life*, 225. See Rawlins’s testimony, that it was not true that there was indiscriminate firing into the Inn after the order was given to cease firing, RC, Q.11739; and Sadleir, *Recollections*, 231.

<sup>288</sup> RC, Q.10724, 10733 Allen; Q.8110-2 S/C Kelly; Q.10314 McWhirter; *Reward Board*, Q.143 McWhirter.

<sup>289</sup> RC, Q.10314 McWhirter; Q.10731 Allen; *Reward Board*, Q.104 Allen.

<sup>290</sup> RC, Q.11342 Phillips; Q.11595 Rawlins; Q.8093-4, 8114-6 S/C Kelly; *Reward Board*, Q.144 McWhirter.

<sup>291</sup> *Reward Board*, Q.72 Rawlins; RC, Q.8126, 8137-8 S/C Kelly, although he said 8-10 minutes at Q.8752.

<sup>292</sup> Phillips, affidavit of 16 September 1881, presented by Hare, RC, p. 674.

<sup>293</sup> RC, Q.8266 S/C Kelly; corroborated by Q.11315 Phillips, “the way he went then, in my opinion, was round the Wangaratta end and round the back yard”.

<sup>294</sup> RC, Q.10440 McWhirter.

<sup>295</sup> Gascoigne reward claim, VPRS 4968, Unit 1, Item 21.

<sup>296</sup> RC, Q.7707-9 Reardon; Q.10729-33, 10788-90 Allen. See Appendix for events at 3:25am (p. 64 below).

<sup>297</sup> RC, Q.11314-5 Phillips; Q.9766 Gascoigne.

<sup>298</sup> Jones, *Short Life*, 403.

from the [rear] yard, and as he [did] there were two rockets let up between the railway station and McDonald's [sic]" .<sup>299</sup> The *Argus* wrote, "It seems that [soon after the exchange of fire, Kelly] made his escape by the back door into the bush before the police got the house surrounded".<sup>300</sup> From the evidence reviewed above, Kelly's escape was barely a minute or two before 3:30am.

### The timeline after Kelly's escape from the Inn

The *Age* wrote that after being wounded, Kelly "could not without danger return to the hotel, so he sprang upon his horse, and during the excitement that followed, he got away towards Morgan's Look-out".<sup>301</sup> Although dramatic, it was a speculation of the moment, directly refuted by Rawlins who told the *Reward Board*, "I will tell you what he did", which was to escape to the north-east on foot.<sup>302</sup> The *Age* report may have confused Kelly's escape after the gunfight with hearing that, when the train whistle was heard before the siege, Kelly and another outlaw left on horse to reconnoitre, and returned in a few minutes.<sup>303</sup> Hare also stated that the *Age* report was "quite wrong. Kelly being wounded, tried to escape on foot... No man left the hotel on horseback".<sup>304</sup> Jones concurred that Kelly limped to where his mare was tethered "about 100 yards" from the Inn.<sup>305</sup> The Commission thought Kelly had led his horse "away into the bush at the rear",<sup>306</sup> but either way there is no doubt about his leaving the Inn on foot. Kelly himself said, "My arm was broke the first fire. I got away into the bush, and found my mare, and could have rushed away, but wanted to see the thing out, and remained in the bush".<sup>307</sup> (His claim that he might have got away is disingenuous: as will be seen, in reality he had no chance of escape.)

Constable Arthur said that after returning the fire from the verandah, S/C Kelly took him around "to a point opposite the north-west corner of the building", to the north of the Inn.<sup>308</sup> To reach it, they "crept on ... face and hands for about 400 yards".<sup>309</sup> There they found Kelly's rifle, about 100 yards from the Inn: "A pool of blood lay near it, and also a round skull cap".<sup>310</sup> This occurred "about 3:30am",<sup>311</sup> barely 5 minutes after the second police volley began, and within a couple of minutes of Kelly escaping the Inn. Rawlins testified that Kelly, who had bullet wounds in an arm and a foot, and was wearing 97 lbs (44 kg) of armour, "made off in ... a north-easterly direction from the back of the house – this is where his rifle and cap were found [*map*] ... There we found a track – he never went further than that; he was trying to get away; his mare was there; he told me he was in these bushes ... (pointing to the plan). He never went into the house again. [*Commission: He went to look for the mare and fell down?*] I am certain of that. ... He got up

<sup>299</sup> RC, Q.11190 Arthur.

<sup>300</sup> *Argus*, 2 July 1880, 7.

<sup>301</sup> *Brisbane Courier*, 3 July 1880, 6; also quoted in Hare, *Bushrangers*, 284, from the *Age*.

<sup>302</sup> *Reward Board*, Q.58 Rawlins.

<sup>303</sup> RC, Q.7628 Reardon; Mortimer, statement, *Age*, 29 June 1880, 3; Gibbons, statement, *Weekly Times*, 3 July 1880, 19.

<sup>304</sup> Hare, *Bushrangers*, 284.

<sup>305</sup> Jones, *Short Life*, 224.

<sup>306</sup> RC, *Second Progress Report*, xxvii.

<sup>307</sup> *Argus*, 29 June 1880, 5.

<sup>308</sup> *Argus*, 2 July 1880, 7; cf. S/C Kelly statement, *Weekly Times*, 3 July 1880, 19; RC, Q.8157-9 Kelly.

<sup>309</sup> S/C Kelly statement, *Weekly Times*, 3 July 1880, 19; cf. RC, Q.8159 Kelly.

<sup>310</sup> *Argus*, 2 July 1880, 7; cf. S/C Kelly statement, *Weekly Times*, 3 July 1880, 19.

<sup>311</sup> S/C Kelly, reward claim, VPRS 4968, Unit 2, Item 52.

when he found daylight was coming and he could be seen. If we had only known it, the man was perfectly helpless".<sup>312</sup> Jones' hypothesis that Kelly rode off to meet with sympathisers depends heavily upon Kelly's words, "I didn't run away. I was shot in the foot in the first volley, and in the arm, and I wanted the boys to go with me. I thought they would follow, and got on my mare and rode quietly up along the fence over the hill; and as they did not come, I turned back".<sup>313</sup> Jones privileged this implausible account, regardless that Kelly himself was later reported in the Royal Commission evidence to have said to a fellow convict in the Melbourne gaol, "I couldn't mount my horse, the flap of my armour broke, and my arm was useless".<sup>314</sup> As well as rejecting the convict's testimony, Jones' theory requires him to accept the first part of Kelly's boastful claim to have ridden off, while rejecting the second, that he soon turned back, in order to argue that Kelly met a sympathiser army half a mile away. But there is further evidence against it.

Arthur said of finding the rifle, "we formed the opinion that [an outlaw] had [just previously] passed", and they heard "a sort of ringing noise" nearby; and after his capture Kelly had said that "he stood within a couple of yards of the senior constable and me, and that he could have picked us off easily".<sup>315</sup> Kelly's recognition of and personal identification of both men in itself disproves Jones' theory that during this time Kelly was meeting with sympathisers half a mile away. Jones claimed that it was Tom Lloyd Jr., rather than Kelly, in the bushes a few yards off when the police found Kelly's rifle. He held that Kelly first met Lloyd, then met with the sympathisers; while Kelly addressed a meeting, Lloyd went back to retrieve the rifle where Kelly had dropped it, but found it clogged and useless.<sup>316</sup> This is impossible. The finding of Kelly's rifle and cap within a couple of minutes of his leaving the Inn on foot, with Rawlins' later discovery of Kelly's tracks, and Kelly's corroboration that he was close by (so as to be able to identify the two police), invalidates Jones' hypothesis that Kelly did or could attend any such meeting. As with the rest of the selector army theory, it is a *deus ex machina* tale derived from Tom Patrick Lloyd and directly contradicted by a range of evidence that Kelly went nowhere. The same evidence invalidates Molony's theory, also derived from Lloyd, that Kelly limped "back further to tell ... his following that it was all up", then returned to where his cap and rifle were found, where he tried to stem the blood, before going "off into the bush where he lay" until he arose at dawn for his last stand.<sup>317</sup> The "sympathiser meeting" hypothesis is built around a wrongly claimed uncertainty about Kelly's movements, and requires a range of evidence and testimony that directly refutes it to be ignored.

### Did Kelly return to the Inn during the siege?

Jones originated the claim that Kelly returned to the besieged Inn and saw Byrne shot and die inside it,<sup>318</sup> based chiefly on later memoirs by Dwyer and Sadleir, who were not yet on the scene. Earlier historians had accepted that after Kelly escaped from the Inn, he lay hidden in the scrub close to where his rifle was found, and then, "after lying encased in his armour on the frosty ground in a welter of his own blood for three and a half hours, came fully to his senses at seven

<sup>312</sup> *Reward Board*, Q.58-62, Rawlins.

<sup>313</sup> Jones, *Fatal Friendship*, 234; *Weekly Times*, 3 July 1880, 19.

<sup>314</sup> Jones, *Fatal Friendship*, 234; Weston affidavit, cited by Hare in *RC*, Q.16317.

<sup>315</sup> Quoted from Arthur's two overlapping statements in *Age*, 2 July 1880, 2, and *Argus*, 2 July 1880, 7.

<sup>316</sup> Jones, *Short Life*, 225, further contradicted by Kelly on the two constables in Hare, *Bushrangers*, 287.

<sup>317</sup> Molony, *Ned Kelly*, 227-8.

<sup>318</sup> Jones declared, "This seems unbelievable but it is true", "New view", 173; echoed in *Fatal Friendship*, 189; 234; cf. McQuilton, *Outbreak*, 161, Kelly "walked through the police cordon for a third time."

o'clock, and decided to return to the battle".<sup>319</sup> FitzSimons lowered Jones' belief that Kelly met with sympathisers during the siege to a speculation, on a par with his own alternative, that Kelly found a "quiet clump of trees and [slipped] from consciousness".<sup>320</sup> He moved the time of any meeting with sympathisers to a point much later in the morning and after Byrne's death, so as to accommodate his similar view that Kelly was in the Inn when Byrne died. He based this belief on an implausible "description of Byrne's death" in the *Bendigo Advertiser*, which is contradicted by a majority of the statements given by those then inside the Inn.<sup>321</sup> The *Advertiser's* story was reprinted in the *Weekly Times*, which said that it was from "a person who had an interview with the outlaw soon after he was captured", but noted ironically that "it differs slightly from the other accounts".<sup>322</sup> As Jones and FitzSimons both contradict Kelly himself saying that he had "not been in the house since the special train came",<sup>323</sup> a review of the evidence is necessary.

Witnesses agreed that Byrne was shot about 5am.<sup>324</sup> Dwyer arrived much later, about 6:30am.<sup>325</sup> He was not expressly told, but rather deduced from Kelly's words, that Kelly was in the Inn when Byrne died: "He saw him drop. [*Commission: How do you know?*] Kelly said, when he saw his best friend dead, he had no more faith in them; he left the house".<sup>326</sup> However, another source reported Kelly as saying, "When I saw Byrne my best friend fall, from my place in the bushes up there, the heart went out of me too".<sup>327</sup> Years later, Dwyer said that, after Byrne was shot, "Kelly stole away from the hotel by the back, and at this time he dropped his Winchester rifle"; yet that escape occurred an hour and a half earlier, in the initial phase of the siege.<sup>328</sup> Similarly, Sadleir's memoir states that after he arrived he spoke to Gascoigne, who said he "had just been fired at" by Kelly, whose voice he recognised, and had returned the fire: "If Gascoigne was not mistaken as to the man at whom he fired, Ned Kelly must have got through our police lines much later than is generally supposed".<sup>329</sup> That encounter, related by both Gascoigne and Arthur to the Commission,<sup>330</sup> took place early on in the siege. Sadleir wrongly took it to have just occurred.

A rumour that Kelly returned to the Inn during the siege was heard by one of the reporters, who investigated and wrote to the contrary, that the majority of those inside during the siege "state that after Ned Kelly went outside the first time, he never came back again".<sup>331</sup> Belief in his return and re-exit requires one to believe that Kelly's reported comment could apply at 5am, that (in bright moonlight) he "walked out past seven or eight police. I could have shot them easily, and

<sup>319</sup> Clune, *Kelly Hunters*, 276-7, 292. See "Incidents of the fight", *Argus*, 30 June 1880, 6.

<sup>320</sup> FitzSimons, *Ned Kelly*, 546.

<sup>321</sup> FitzSimons, *Ned Kelly*, 546 n.89 referencing *Bendigo Advertiser*, 1 July 1880, 3; contradicted by *Herald*, 2 July 1880, 3.

<sup>322</sup> *Weekly Times*, 3 July 1880, 22; see also 18.

<sup>323</sup> "Appeal to Kelly", *Weekly Times*, 3 July 1880, 19.

<sup>324</sup> RC, Q.9679 Gascoigne, from "the men who came out" of the Inn.

<sup>325</sup> RC, Q.9428 Dwyer.

<sup>326</sup> RC, Q.9485-6 Dwyer; cf. Dwyer in Fitchett, *Ned Kelly*, 59.

<sup>327</sup> Quoted by Max Brown, *Australian Son* (1948), 216; cf. variation in Charles Osborne, *Ned Kelly* (London: Sphere, 1970), 125. Neither gave the source document reference.

<sup>328</sup> Dwyer, in Fitchett, *Ned Kelly*, 59-60.

<sup>329</sup> Sadleir, *Recollections*, 229-30.

<sup>330</sup> RC, Q.9679 Gascoigne; Q.11314 Arthur.

<sup>331</sup> *Herald*, 2 July 1880, 3.

could have got away if I wished".<sup>332</sup> This was not possible once the Inn was surrounded, albeit thinly, just after Kelly's escape at 3:27-8am, which is indubitably where this anecdote belongs.<sup>333</sup> When Reardon was asked if Kelly was missed before Byrne was shot, he said that the outlaws "said he was gone, and supposed he was done".<sup>334</sup> David Mortimer, also a prisoner in the Inn, expressly stated that when Byrne was shot it disheartened Dan and Steve, who "had been calling for Ned all night, and they renewed their calls for him. We had not seen [him] since the firing commenced".<sup>335</sup> Kelly himself appears to have believed Byrne was injured but still alive when Sadleir appealed to him in the morning to get the others to surrender; an anecdote supported by McWhirter's recollection that Kelly was told Byrne was dead "at a later hour of the day", and consistent with seeing him "fall".<sup>336</sup> Around the time Kelly was captured there was a rumour that Byrne was dead, but it was not confirmed until the remaining prisoners were freed at 10am.<sup>337</sup>

The time that police reinforcements arrived at Glenrowan is disputed. Jones correctly rejected all claims for arrival at various times before 6am on the testimony of Constable Phillips, from Hare's party.<sup>338</sup> Sergeant Steele's group, with four Wangaratta police accompanied by Bracken, arrived by horse a few minutes before Sadleir's contingent arrived by train from Benalla; Dwyer with two others arrived by train from Wangaratta soon afterwards, stopping just short of the break in the line, and walking down with Rawlins.<sup>339</sup> Jones may be right to place this cluster of arrivals around 6am, but a railways report from Benalla, Dwyer's Commission evidence, and S/C Kelly all place it around 6:30am, though still well before dawn (6:59am).<sup>340</sup> Many years later, Dwyer related an anecdote of an occurrence that took place shortly before his arrival, that Kelly

"walked a couple of hundred yards away from the hotel, and lay down under a large fallen log. Just then MCs Montiford [sic], Cawsey, Moore, and Dixon, of the Wangaratta contingent, were walking up to the back of the hotel from the railway line. Ned's armour, which he had on, rattled, which cause the police to stand, Moore asking, 'What noise was that?' 'Oh, it must be the noise of the horses hobbles', Montiford replied. [In relating this, Kelly said] that he could have pinched Montiford's leg at the time".<sup>341</sup>

Dwyer was mistaken in thinking that Kelly had left the Inn immediately prior to this event. The occasion itself was independently corroborated by Steele, who had lead that contingent, from discussion with Kelly while escorting him to Melbourne, and showed "that he was considerably

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<sup>332</sup> *Weekly Times*, 3 July 1880, 20; accepted at face value by Jones, *Fatal Friendship*, 189.

<sup>333</sup> S/C Kelly attested that as it was bright moonlight, once his men were posted no-one could escape the hotel unseen: S/C Kelly reward claim, VPRS 4968, Unit 2, Item 52; cf. *Reward Board*, Q.37 and 42 Melvin.

<sup>334</sup> *RC*, Q.7680 Reardon.

<sup>335</sup> Mortimer's statement, *Age*, 29 June 1880, 3.

<sup>336</sup> Kelly, in *Weekly Times*, 3 July 1880, 19, "Byrne is hurt but they cannot hurt the others - they have armour"; *RC*, Q.10383-4 McWhirter; cf. Q.10075 Carrington. For Byrne's "fall", see note 327 above.

<sup>337</sup> *Reward Board*, Q.166 McWhirter; *RC*, Q.10234-8 Melvin.

<sup>338</sup> Jones, *Short Life*, 227; *RC*, Q.11424 Phillips.

<sup>339</sup> *RC*, Q.10321 McWhirter; Q.11710-11 Rawlins; "three minutes" apart, *Reward Board*, Q.149 McWhirter.

<sup>340</sup> Jones, *Short Life*, 227. An undated Railways report says Sadleir's train "reached Glenrowan about 6:30am", VPRS 4968, Unit 3, Item 117, as Dwyer said for himself, *RC*, Q.9428. S/C Kelly said Steel's group arrived "about 6:30", *Age*, in Hare, *Bushrangers*, 303. Dawn (Civil Twilight) at Glenrowan on 28 June 1880 was 6:59 am, <http://www.ga.gov.au/bin/geodesy/run/sunrisenset> (accessed 18 November 2017).

<sup>341</sup> Dwyer, in Fitchett, *Ned Kelly*, 60.

outside the cordon of police".<sup>342</sup> It is also the context for Kelly's comment, "I could have shot several constables at one time. I was a good distance away [i.e. outside the police cordon], but I came back again".<sup>343</sup> While Dr. Nicholson was dressing his wounds, Kelly said that "he had been lying in the same position nearly all night, and was cold and cramped, afraid to move, and unable to lift his revolver up for fear of making a noise with his armour, otherwise he could have shot some of the police during the night".<sup>344</sup> Kelly himself said that after exchanging fire, "I then cleared for the bush, but remained there near the hotel all night".<sup>345</sup> The tale of Kelly returning to and re-exiting the Inn by walking twice unobserved through the police line on a bright, moonlit night rests on two mistaken accounts some three decades after the event by officers not on the ground at the time, and ignores an extensive range of evidence to the contrary. Tom Lloyd may or may not have met Kelly in the bush to help him reload his revolvers, as his son claimed, but claims by Jones and others that Kelly himself got much further than 160 yards from the Inn that night, or returned to it at any point after first leaving it, are demonstrably wrong.<sup>346</sup>

### The claim of a phantom army

Jones claimed that an armed group of Kelly sympathisers, that he called the "phantom army", had gathered outside the police perimeter ready for battle.<sup>347</sup> He said, "descendants of sympathisers disagreed as to ... the numbers involved, with estimates from 30 to 150".<sup>348</sup> The two different numbers are from two persons only.<sup>349</sup> His other evidence included the *Illustrated London News*, which mistakenly numbered the gang at about 30 at Glenrowan, and a comment Kelly made to a fellow convict after capture, that he "had plenty of mates in the neighbourhood ready to join us".<sup>350</sup> The *News* said of its 30, that "after [Kelly's] capture the fight outside became very slack", and at 10am, "about twenty of the gang surrendered by casting themselves prone on the ground and holding up their hands".<sup>351</sup> It had wrongly taken the freed prisoners to have been gang members who had been outside fighting the police. This invalidates Jones' erroneous attempt to use that report as evidence of sympathiser strength. The convict's affidavit supports nothing beyond Kelly's declared intention of plundering a bank. Jones claimed in an unsupported guess that "subsequent events suggest that there would not have been more than 50" armed sympathisers ready to join the fight,<sup>352</sup> although he had yet to prove the existence of any. Although describing it as a "tiny army", he was confident of its adequacy to launch a republic:

"The mad, rebel dream of a Republic was scarcely a day from coming true. Then guerrilla war would begin, with police, colonial militia and, eventually, perhaps even Imperial

<sup>342</sup> Steele, *Advertiser* (Adelaide), 11 May 1912, 22.

<sup>343</sup> *Age*, 29 June 1880, quoted in Hare, *Bushrangers*, 287. (Trove text damaged.)

<sup>344</sup> *Argus*, 2 July 1880, 7.

<sup>345</sup> *Age*, 29 June 1880, quoted in Hare, *Bushrangers*, 287.

<sup>346</sup> For Lloyd reloading Kelly's guns and dressing him, Jones, *Short Life*, 229-30, as claimed by Tom Patrick Lloyd. Kelly emerged at dawn some 150 yards away from a tree close to the Inn, Dowsett, statement, *Age*, 1 July 1880, 3.

<sup>347</sup> Jones, *Short Life*, 226; "phantom army" indexed within "sympathisers", 428.

<sup>348</sup> Jones, *Fatal Friendship*, 234.

<sup>349</sup> Jones, "New view", 173 and n.16; *Short Life*, 226; his sources are Lloyd and one of two other men (403).

<sup>350</sup> *Illustrated London News*, 11 September 1880, 252; "mates", Weston affidavit, in RC, Q.16317 Hare.

<sup>351</sup> *Illustrated London News*, 11 September 1880, 254.

<sup>352</sup> Jones, *Fatal Friendship*, 234.



troops set against the farmer rebels in the battleground of their choice – the ranges of the Kelly country – while diverse groups with grudges against the British Crown or the colonial government rallied to the Kelly icon”.<sup>353</sup>

The evidence for armed sympathisers at Glenrowan was collected by McQuilton,<sup>354</sup> and is slim. As MacFarlane observed, “if there were sympathisers present or nearby, they were not an organised force”.<sup>355</sup> Jones took Hare’s comment, that “there is no doubt that at Glenrowan they had parties of scouts, both inside the hotel and outside of it; most of them no doubt were their own relations, and their name was legion”, as support for his contention of a selector army.<sup>356</sup> However, “legion” here referred to the extensive, intermarried Kelly, Lloyd and Quinn clan, not to a legion of sympathisers. There were no sympathisers watching out for the police train before the siege: despite his fear, Curnow was able to flag the pilot engine down unseen.<sup>357</sup> Constable Arthur thought the two rockets, fired “between the station and [McDonnell’s Hotel]”, meant “sympathisers letting them know they were attacked by the police”; Jones thought the rockets signalled that the train was wrecked, to summon a sympathiser army to join the gang for further exploits; and Molony thought “they signalled the end of their dream of a free northeast”.<sup>358</sup> The meaning of the rockets is unknown. If they were meant to signify victory or distress, no-one rallied in response. When the wounded Hare left by train for Benalla, he asked “the gentlemen on the platform to have a look out on the Greta side of the line to see that no assistance went to the Kellys”; a practical caution given that the Kellys were from Greta, but hardly reflecting that he “feared trouble” from Greta as suggested by McQuilton.<sup>359</sup> About half an hour after the start of the siege three men were seen “about 100 yards” behind the police line by Gascoigne, but he did not say they were armed.<sup>360</sup> Curious spectators began to arrive from early in the morning, with the sound of gunfire heard almost as far as Wangaratta.<sup>361</sup> Despite hundreds of people being present by mid-afternoon, no letters have surfaced that mention a group of armed men.

Just before the Wangaratta police train arrived, Rawlins stopped a man from driving the police horses away near the place where the line had been broken, and he “made off” just as Rawlins managed to stop the oncoming train.<sup>362</sup> That, too, could easily have ended in a horrific tragedy. As its driver attested, “the engine in all probability would have been in the hole” sixty yards on.<sup>363</sup> The disturbance was corroborated by McWhirter: “I heard someone amongst the horses. I called on Mr Melvin that I thought someone was trying to drive the horses away. They were snorting and jumping about. I went down the line.... After a few minutes I saw Mr Rawlins

<sup>353</sup> Jones, *Fatal Friendship*, 234, 183.

<sup>354</sup> McQuilton, *Outbreak*, 166-8.

<sup>355</sup> MacFarlane, *Unmasked*, 14.

<sup>356</sup> Jones, *Short Life*, 238; Hare, *Bushrangers*, 318.

<sup>357</sup> RC, Q.17609 Curnow.

<sup>358</sup> RC, Q.11190-1 Arthur; Jones, *Fatal Friendship*, 189; Molony, *Ned Kelly*, 226.

<sup>359</sup> *Reward Board*, Q.144 McWhirter; McQuilton, *Outbreak*, 166.

<sup>360</sup> RC, Q.9677 Gascoigne.

<sup>361</sup> RC, Q.8995-8 Steele: from the One Mile Bridge at Wangaratta, “about ten miles from Glenrowan”, Steele could hear shots and volleys at about 3am.

<sup>362</sup> Rawlins, reward claim, 30 December 1880, VPRS 4968, Unit 2, Item 66; RC, Q.11711, 11762 Rawlins; *Reward Board*, Q.87 Rawlins.

<sup>363</sup> Morgan, declaration, 29 December 1880, VPRS 4968, Unit 2, Item 66.

coming from amongst the horses with Mr Hare's rifle over his shoulder".<sup>364</sup> The stranger was not said to be armed, and did not present a weapon at Rawlins. McQuilton noted that during the night a policeman had told Carrington, "there is a bad nest of them at the back, keep a look-out; there is a bad lot in that hotel over the road - keep a look-out".<sup>365</sup> Carrington later wrote, "the four reporters on the platform were quite at the mercy of any of the outlaws or their pals. We quite expected to be attacked from the rear, as there was a perfect nest of sympathisers on the opposite [south] side of the line, in and about McDonnell's Hotel", and "voices could be heard in that direction".<sup>366</sup> This grossly exaggerates the level of actual threat. The outlaws were holed up, Kelly had collapsed, and the "nest" seems to be only a handful or so of Kelly associates seen in the area after the siege began, perhaps with two boys who had brought the Kelly's horses in.<sup>367</sup> Any concern about sympathisers at McDonnell's Hotel did not disrupt police activity, there was no mention of arms, and there was nothing in it for the reporters. It did not deter train guard McPhee from going to McDonnell's around 6:30am for a bottle of brandy and a glass, where he found stationmaster Stanistreet waiting around.<sup>368</sup> About 7:20am Constable Dwyer also went to McDonnell's, and bought some scone cakes and brandy for the newly captured Kelly.<sup>369</sup> For some three hours after Kelly's capture, police were seen "standing idly, some of them leaning their rifles against trees and putting their hands in their pockets", and around 12pm Carrington himself went to McDonnell's for a quarter of an hour, for "a glass of beer and a bit of bread and cheese".<sup>370</sup> He was seen there by Melvin of the *Argus*, who was sitting in McDonnell's by a window writing his news report for at least the next hour.<sup>371</sup> Clearly none felt threatened by any of the Kelly's friends. McQuilton claimed as evidence of sympathiser activity "a local 'farmer' ... caught hiding behind police lines", mentioned in a report by Steele; but this is the same man who was separately reported by Johnston as one of four men in a group, not an additional man.<sup>372</sup> In that same report, Steele wrote that Kelly had told him that "just before daybreak ... a chap [he knew] came to him ... and asked him how he was getting on".<sup>373</sup> Kelly said that he had "sent him down to the scrub near Mrs Jones' Hotel for a rifle he had left there during the night", but when he brought it Kelly could not use it, "owing to the way the nipples were clotted with blood". The story is nonsense: Kelly's clotted rifle had been captured hours earlier.

<sup>364</sup> *Reward Board*, Q.149 McWhirter.

<sup>365</sup> McQuilton, *Outbreak*, 167; *RC*, Q.10047-8 Carrington.

<sup>366</sup> *Argus*, 5 July 1880, 6, and *Argus*, 7 July 1880, 7.

<sup>367</sup> *RC*, Q.9677 Gascoigne; likely overlapping with the men seen later that afternoon in Johnston's report to Sadlier, 10 August 1880, VPRS 4965, Unit 4, Item 276, and the man stopped by Rawlins before dawn from driving the police horses away, *RC*, Q.11711; part of the "friends of the outlaws" at *RC*, Q.2875-6 Sadleir, discussed on page 45 below. Two boys, *RC*, Q.7770 Reardon. "A perfect nest" reflects Carrington's fear.

<sup>368</sup> Undated Railways report, VPRS 4968, Unit 3, Item 117; McPhee, reward claim, 18 December 1880, VPRS 4969, Unit 1, Item 19.

<sup>369</sup> *RC*, Q.9482 Dwyer. Dwyer called it "McDonald's", as did others; so too did Kenneally, *Inner History*, 211.

<sup>370</sup> *RC*, Q.10049 and 10137-8 Carrington.

<sup>371</sup> *RC*, Q.10190, 10193, 10277 Melvin.

<sup>372</sup> McQuilton, *Outbreak*, 167; Steele, report, 10 August 1880, VPRS 4965, Unit 4, Item 275. Steele speculated that the man might have had Kelly's rifle, but that had been found by S/C Kelly and Arthur at 3:30am. Steele erred in thinking Johnston saw the man in the morning. Johnston arrived at the siege around 11:30am (*RC*, Q.7133), but saw the man described in Steele's report as "lying behind a log some distance from the Hotel", in the afternoon, when he went for straw to burn the Inn; see Johnston to Sadlier, 10 August 1880, VPRS 4965, Unit 4, Item 276. McQuilton thus double-counted the one man.

<sup>373</sup> Steele, report, 10 August 1880, VPRS 4965, Unit 4, Item 275.

When Curnow was later asked if there were “any armed men about beside the Kellys”, he had seen none himself, and had only heard third-hand, via one held overnight in the Inn, that “during the early morning there was constant galloping between the station and the ranges on the right hand side; that is towards Kelly’s residence”.<sup>374</sup> This uncorroborated guess by Tom Cameron was not affirmed by his fellow prisoner Mortimer when retelling it to Curnow. Curnow’s words were misquoted by Jones to read “constant galloping between Greta and Glenrowan”, as a proof of sympathiser activity.<sup>375</sup> McQuilton followed Jones in claiming the galloping resulted from “some of the men who gathered and then dispersed”.<sup>376</sup> In fact, the galloping heard from within the Inn was that of the police horses, which had “bolted pell-mell into a paddock at the Wangaratta end [north-east] of the platform”, were “very restive”, and “would break suddenly away and gallop furiously for a minute or two”.<sup>377</sup> Not surprisingly, Curnow did not mention hearing it himself, as his schoolhouse residence was some 200 yards west-southwest of the Inn.<sup>378</sup> The press did not report any horsemen galloping to or from Greta.<sup>379</sup> Curnow heard galloping “on the other side of the line ... going to Wangaratta” as he went up “to see who was victorious after the first volleys”, but it was of one horse only.<sup>380</sup> Given the timing, that galloping was most likely due to Constable Bracken, who was “mounted and just starting for Wangaratta” not long after hearing that Hare was shot.<sup>381</sup> No-one, including the four reporters from the special train present throughout the siege, mentioned seeing or hearing of any armed men on horseback anywhere at any point.

McQuilton, quoting Sadleir, said that Johnston “had run into four armed men” when he went to fetch straw and kerosene to set fire to the Inn on the Monday afternoon.<sup>382</sup> FitzSimons imagined them as “four men on horseback, heavily armed with rifles [and] revolvers ... *the Four Horsemen of the Apocalypse?*”, and Jones said of them, “the phantom army was beginning to emerge”.<sup>383</sup> Jones additionally claimed that a report by Steele “quotes Johnston seeing a group of armed men”.<sup>384</sup> All these stories are wrong. What Johnston saw was “four men at the back of a log and brush fence ... one of them had a rifle or gun I cannot say which ... about half a mile from Jones’ hotel”, and he stated, “they had no horses with them”.<sup>385</sup> Sadleir’s memory erred when he wrote

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<sup>374</sup> RC, Q.17626-7 Curnow.

<sup>375</sup> Jones, *Short Life*, 238. Brown may have influenced Jones’ eagerness to discern sympathisers here, as he had similarly claimed “much galloping [of sympathisers before dawn] between Glenrowan and Greta”, *Australian Son* (1948), 203.

<sup>376</sup> McQuilton, *Outbreak*, 169.

<sup>377</sup> RC, Q.10039 Carrington; Carrington, discussing the same horses, *Argus*, 5 June 1880, 6, and *Argus*, 7 June 1880, 7.

<sup>378</sup> Jones, *Short Life*, frontispiece map; RC, Q.17626-7 Curnow.

<sup>379</sup> Carrington’s comment, in the *Argus*, 7 July 1880, 7, “There was a nest of sympathisers on the opposite [Greta] side of the line [he specified “in and about McDonnell’s Hotel” in *Argus*, 5 July 1880, 6], and voices could be heard in that direction, and then the horses would break suddenly away, and gallop furiously for a minute or two”, does not refer to sympathiser horses, but to the loosed police horses in a paddock east of Jones’ Inn. See RC, Q.10038-9 Carrington, where the distinction is explicit.

<sup>380</sup> RC, Q.17627 Curnow.

<sup>381</sup> Bracken, report, 29 June 1880, VPRS 4968, Unit 1, Item 1; *Reward Board*, Q.149 McWhirter.

<sup>382</sup> McQuilton, *Outbreak*, 167; Sadleir, *Recollections*, 237.

<sup>383</sup> FitzSimons, *Ned Kelly*, 581; Jones, *Short Life*, 240.

<sup>384</sup> Jones, “New view”, 175, n.20; Steele, report, 10 August 1880, VPRS 4965, Unit 4, Item 275.

<sup>385</sup> Report, Johnston to Sadlier, 10 August 1880, VPRS 4965, Unit 4, Item 276.

his memoir, and the story of “four men fully armed with guns and revolvers” was incorrect reporting by the *Argus*.<sup>386</sup> FitzSimons simply invented horses. In discussing what Johnson saw, Steel’s report refers to one man only. Both Jones and McQuilton ignored Johnston’s report that specified one armed man, which would undermine their belief in a phantom army. Sadleir recalled, “we afterwards learned [the four men] were waiting to join the Kellys in further raids had not their plans miscarried. Fortunately for Johnston he had laid aside his rifle, or these men would not have allowed him to pass with the few simple questions they put to him”.<sup>387</sup> Whoever the men were, they did not threaten or abuse the police at any point, and were clearly not insurrectionaries. Johnston “carried [his] bundle of straw openly through the crowd – there were perhaps 400 people on the platform and all about – and no one observed what he was about”.<sup>388</sup> McQuilton claimed, based solely on a comment by Curnow, that “the existence of an unspecified number of armed men at Glenrowan long before the hotel was fired was common knowledge among the crowd at the siege”.<sup>389</sup> If so, it escaped mention by any reporters, police or spectators. When Curnow was asked about “loiterers outside the crowd any time during the day”, and “alleged armed men standing about”, the loiterers he saw “while the firing was going on” were not armed and did nothing, and he had only heard second-hand of men in a gully watching.<sup>390</sup> He said nothing about hearing of their being armed, or of armed selectors. Jones himself conceded that “apart from vague stories of armed men being seen in the bush outside the police positions, there was no sign of the sympathisers”.<sup>391</sup> In fact the evidence shows that, other than the outlaws and those with the police party, only one armed man was seen or heard of by anyone throughout the entire Glenrowan siege. The “phantom army” is a historical fiction.

### Could the Kelly gang have equipped a rebel army?

Jones claimed that the iron-armoured gang had retained only an assortment of “obsolete guns” for themselves and gave “their best guns to sympathisers”, who had arrived “clutching Kelly guns”.<sup>392</sup> His theory was that, as some of the best weapons they had seized in their travels were not seen at Glenrowan, the invisible guns had been given to a phantom army.<sup>393</sup> This induction is flawed. At Jerilderie, the gang were said to be “armed to the teeth, Ned Kelly had revolvers all round his belt, and two in each hand. He could fire, it is said, eighty shots without re-loading.... The others were also well armed with revolvers and rifles, and could fire straight off from thirty to forty shots each without having to re-load”.<sup>394</sup> At Glenrowan they were no less well armed. On Jones’ tally they had acquired at least “15 revolvers, two double-barrelled shotguns, [and 12 long guns:] four single-shot rifles [including the Martini-Henry that tested the armour], three single-shot carbines, four repeating rifles [including Scanlon’s Spencer], and Ned’s original sawn-off carbine”.<sup>395</sup> Of these, most can be accounted for. Four modern rifles not seen at Glenrowan

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<sup>386</sup> *Argus*, 10 August 1880, 7.

<sup>387</sup> Sadleir, *Recollections*, 237. It may include the 3 unarmed men seen earlier by Gascoigne (*RC*, Q.9677).

<sup>388</sup> *RC*, Q.2864 Sadleir.

<sup>389</sup> McQuilton, *Outbreak*, 167, citing *RC*, Q.17637 Curnow.

<sup>390</sup> *RC*, Q.17636-7 Curnow.

<sup>391</sup> Jones, *Short Life*, 238.

<sup>392</sup> Jones, “New view”, 170-1; “clutching Kelly guns”, Jones, *Short Life*, 225.

<sup>393</sup> Jones, “Six Kelly guns from Glenrowan”, *Caps & Flints* 7 (1980), 140.

<sup>394</sup> *Morning Bulletin*, 3 March 1879, 2.

<sup>395</sup> Jones, in Carlyon, *Last Outlaw*, 66.

were police guns (two Calisher and Terrys from Jerilderie, the Martini-Henry, and the Spencer), and a Snider-Enfield was military. Ammunition for these guns, and for Webley revolvers, was not readily available, and hard to obtain unnoticed.<sup>396</sup> A Kelly associate went to Rosier's gun shop in Melbourne in June 1879, bought some cartridges, and then returned asking to buy cartridges for a Spencer rifle. Rosier supplied him with six "useless ones" and told him to come back when he had time to search for more.<sup>397</sup> The man correctly suspected that his interest was reported, and did not return. The gang shot hundreds of bullets into trees around their Bullock Creek fortress hut.<sup>398</sup> The modern guns were useless once the available ammunition was exhausted, and the gang would be progressively reduced to weapons for which they could more readily acquire, make or adapt bullets. Kelly had a percussion carbine and at least four revolvers at Glenrowan: Lonigan's Webley, found covered in blood 100 yards from the Inn by McHugh, a Colt Navy and a Pocket Colt found on him, and an unidentified revolver sketched by a reporter.<sup>399</sup> The Webley "was loaded [with cartridges] too large for it, ... cut down (evidently with a knife) to the required size".<sup>400</sup> The others had at least two revolvers and a rifle each.<sup>401</sup> The burnt "double barrel of a shotgun" was retrieved from the Inn, with "several gunbarrels ... in the debris".<sup>402</sup> A broken carbine and an old revolver were found on a Kelly pack horse.<sup>403</sup> While "fooling about" at the Stanistreet's house, Steve Hart misplaced "two leather bags nearly full of ammunition" which were then hidden by Mrs Stanistreet.<sup>404</sup> Subtracting a minimum of 11 revolvers, one shotgun and five long guns known to be possessed at Glenrowan, and the five modern cartridge rifles for which ammunition was problematic, there is a difference of at most four revolvers, one shotgun, and two long guns, assuming these were serviceable and supplied with ammunition. As Jones suggested, any guns not seen at Glenrowan may well have been hidden away by relatives or associates,<sup>405</sup> but there are precious few unaccounted-for "Kelly guns" to arm a rebel force.

### Sympathisers inside the Glenrowan Inn

By late Sunday afternoon some 62 persons were detained either at the Inn or at stationmaster Stanistreet's house, of whom 21 were released "during the late afternoon and evening".<sup>406</sup> Judith Douthie was able to identify 40 of the adults involved, and most were clearly there by chance.<sup>407</sup> When Bracken was taken to the Inn not long after 10pm he knew everyone present "except five men", and he asked each of those their names.<sup>408</sup> When he escaped just before

<sup>396</sup> RC, Q.1538 Hare, cf. 1535-44.

<sup>397</sup> Detective report, 14 June 1879, VPRS 4965, Unit 4, Item 342.

<sup>398</sup> *Argus*, 13 November 1880, 9, "In every direction—taking the hut as a standing point—we saw trees which were marked with bullets, from five to fifty having been fired into each, at ranges varying from 20 to 400 yards. The bullets being afterwards chopped out, were melted down, and [the lead re-used]".

<sup>399</sup> McHugh, report, 5 June 1880, VPRS 4965, Unit 2, Item 113; Jones, "Six Kelly guns", 141-2.

<sup>400</sup> *O&M*, 24 July 1880, 8.

<sup>401</sup> Bracken, report, 29 June 1880, VPRS 4968, Unit 1, Item 1; Stanistreet, in Hare, *Bushrangers*, 297; RC, Q.17597, p. 664, l.58 Curnow.

<sup>402</sup> Shotgun, Jones, "Six Kelly guns", 142; "several gunbarrels", *Brisbane Courier*, 3 July 1880, 6.

<sup>403</sup> McHugh, report, 5 June 1880, VPRS 4965, Unit 2, Item 113.

<sup>404</sup> Detective Eason, undated report, VPRS 4967, Unit 3, Item 60, pp. 241-2 of the PDF file.

<sup>405</sup> Jones, in Carlyon, "Last Outlaw", 67.

<sup>406</sup> Jones, *Short Life*, 214-5.

<sup>407</sup> Judith Douthie, *I was at the Kelly Gang Round-up* (Greensborough: NCS, 2007), vii-viii.

<sup>408</sup> Bracken, report, 29 June 1880, VPRS 4968, Unit 1, Item 1.

3:10am, there were “about 35 prisoners ... of whom about 22 were men, the rest women and children”.<sup>409</sup> McQuilton wrote that “only four of the leading sympathisers were found among the prisoners, the McAuliffes, Delaney and Kershaw”.<sup>410</sup> The prisoners thought some of those amongst them were sympathisers, but with the likely exception of the McAuliffes and Kershaw, they were not sure who.<sup>411</sup> Of the “leading sympathisers”, James Kershaw danced with Byrne, and helped the gang to don their amour.<sup>412</sup> Patrick Delaney, of a different family to three Delaney brothers detained by the gang, was “rather a rough character always in trouble with the law, usually for drunk and disorderly and obscene language”.<sup>413</sup> He is not mentioned for any activity. Jones claimed the three Delaney brothers to have been present as sympathisers, but they were clearly there that day by chance.<sup>414</sup> Kelly had ranted at and threatened to shoot the youngest of them, “keeping [him] in a state of extreme terror for about half an hour”.<sup>415</sup> Against Jones, that this was “a ruse”, a witness said, “everyone was pleading for his life, especially the women”, and that Mrs Stanistreet ran into her house “and begged” Byrne to go and stop Kelly from shooting him; Byrne then intervened, although Kelly took his time before relenting.<sup>416</sup>

Denis and Patrick McAuliffe were both members of the Greta Mob larrikins, with Denis known to Sadleir and senior police as “one of the most dangerous of the sympathisers”.<sup>417</sup> Just before Byrne was fatally shot, he “called on McAuliffe to come out and assist him but although the elder [Denis] McAuliffe answered him he did not respond”.<sup>418</sup> As Douthie asked, “if there were others in the hotel ... who were sympathisers and possibly armed, why were they not also called on to come out and help?”.<sup>419</sup> When the remaining 30-odd prisoners were freed at 10am on the Monday morning, “Sadleir directed Constable Bracken to arrest [Denis and Patrick McAuliffe] as Kelly sympathisers. They were ... handcuffed, and taken with the others to the railway station”, but let go shortly afterwards.<sup>420</sup> No-one, including Bracken, who was a prisoner in the Inn for about five hours (roughly 10pm to 3am), identified any other persons as an active threat in the aftermath of the siege, despite the crisis they had all just lived through. What is certain is that at least four sympathisers, of whom two were notorious, were stuck overnight with about 30 people, all facing death by accidental shooting, and uttered no word about politics or a republic.

### The end of the Glenrowan siege

Shortly before the Inn was set alight about 3pm on the Monday, Kelly’s sisters Maggie, Kate and Grace arrived with Isaiah “Wild” Wright, Dick Hart, and Tom Lloyd. Maggie refused two requests

<sup>409</sup> Bracken, report, 29 June 1880, VPRS 4968, Unit 1, Item 1.

<sup>410</sup> McQuilton, *Outbreak*, 166.

<sup>411</sup> RC, Q.17603, 17610, 17620, 17624-5 Curnow.

<sup>412</sup> Bracken, report, 29 June 1880, VPRS 4968, Unit 1, Item 1; Barry to Sadleir, report, 4 July 1880, in Douthie, *Round-up*, 82; cf. Jones, *Short Life*, 220.

<sup>413</sup> Morrissey, “Kelly’s sympathisers”, 296; Douthie, *Round-up*, 43.

<sup>414</sup> Jones, *Short Life*, 211; Douthie, *Round-up*, 39-40.

<sup>415</sup> RC, Q.17597, p.664, Curnow.

<sup>416</sup> Jones, *Short Life*, 212; Thomas Cameron, letter, Mitchell Library, quoted in Douthie, *Round-up*, 40.

<sup>417</sup> Morrissey, “Kelly’s sympathisers”, 296; Standish to Hare, 21 July 1880, Hare Papers, University of Melbourne Archives, <http://hdl.handle.net/11343/21288>

<sup>418</sup> Detective Eason, undated report, VPRS 4967, Unit 3, Item 60, pp. 241-2 of the PDF file.

<sup>419</sup> Douthie, *Round-up*, 82.

<sup>420</sup> Hare, *Bushrangers*, 289.

by the police to ask Dan Kelly and Steve Hart to surrender, declaring she would sooner see them burned.<sup>421</sup> While the *Herald* gushed that there were “considerably over 1000 spectators” then present, the *Age* more soberly reported “some 200 people ... on the platform”, consistent with Sadleir’s estimate of “400 people perhaps on the platform and all about”.<sup>422</sup> After the burnt remains of Dan and Steve were raked out and photographed, Gascoigne recalled, “I saw some of their friends coming up”, and Hanorah McDonnell said, “the people came up in hundreds to the station, and crowded around to see the dead bodies”.<sup>423</sup> Jones took these remarks, along with a comment by Sadleir that “the friends”, which appear there to total seven or eight, including the Kelly sisters, “all began to come up”, as evidence that “the phantom army was materialising”.<sup>424</sup> So whatever the phantom army was to Jones, he held that it was largely still present at the denouement. In his 1967 Kelly seminar paper, Jones claimed that Dick Hart “had stood beside the charred bodies at Glenrowan armed with a rifle, threatening to blow out the brains of the first man who tried to touch the bodies”.<sup>425</sup> This is not supported by any report of the day, and is contradicted by a witness who recorded himself as the first among the crowd to lift the sheet covering the bodies.<sup>426</sup> Jones omitted the claim from his later work without comment.

Following Jones’ previously examined and dismantled claim that sympathisers “waited around the outskirts of the siege” and “were seen by several police, waiting there with their guns as the siege dragged on through the day”, he claimed that they “moved in” over the burnt bodies, and “there were so many of them that ... Sadleir, although he now had 51 heavily armed policemen at Glenrowan, made no attempt to stop them”.<sup>427</sup> Jones thus represented the crowd of curious spectators as comprised centrally of armed sympathisers, but there is no support for this assertion. The *Herald* noted that Kelly’s sister Maggie Skillion “was very violent, and fiercely cursed and abused the police, calling on God to visit them with vengeance for their ‘bloodthirsty and cruel murders’”, but said “this was only to be expected, all things considered”.<sup>428</sup> In what Jones called a “capitulation”, Sadleir “offered to Isaiah Wright, if the family wished it, to give them over the bodies”, which “seemed to please them very much as an unexpected favour”.<sup>429</sup> There was no capitulation. There was grieving, but no armed (or unarmed) men threatened the police. Jones refused to take the well-documented interaction at face value, privileging his belief in a phantom army over Sadleir’s testimony that, in handing the bodies over to the relatives, he “was greatly gratified at getting this trouble over that we had had on our hands for two or three years, and I was inclined to act liberally, and I know the effect has been most beneficial to the public peace”.<sup>430</sup> The large crowd of spectators included three Kelly sisters, Dick Hart, Tom Lloyd, Wild Wright, and possibly a few other sympathisers, but it is abundantly clear that both at

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<sup>421</sup> Jones, *Short Life*, 240-1.

<sup>422</sup> *Herald*, 29 June 1880, 3; *Age*, 29 June 1880, in Hare, *Bushrangers*, 291; *RC*, Q.2864 Sadleir.

<sup>423</sup> *RC*, Q. 9947 Gascoigne; *Herald*, 29 June 1880, 3.

<sup>424</sup> *RC*, Q.2875-6 Sadleir; Jones, *Short Life*, 243.

<sup>425</sup> Jones, “New view”, 177.

<sup>426</sup> Donald Sutherland, letter, 8 July 1880, State Library Victoria, MS 13713, that as part of the crowd late that afternoon he had lifted a white sheet, “and exposed all that remained” of the bodies of Steve Hart and Dan Kelly.

<sup>427</sup> Jones, “New view”, 174-5.

<sup>428</sup> *Herald*, 29 June 1880, 3.

<sup>429</sup> Jones, *Short Life*, 244; *RC*, Q.2875 Sadleir.

<sup>430</sup> *RC*, Q.2899 Sadleir.

Glenrowan itself and across several states, “the general feeling was one of great satisfaction at the extermination of the outlaws, and regret for the innocent lives lost”.<sup>431</sup>

### Reality check

As part of a Kelly documentary, Jones claimed as a subject matter expert that,

“[Glenrowan] could have become the center of a republican movement. ... If Curnow hadn’t stopped the train, or if Ned Kelly hadn’t turned back his sympathisers at the start of the siege, it could have succeeded. There could have been a Republic of North-Eastern Victoria which would have I believe gained terrific support. The police probably wouldn’t have been able to handle it. Militias might have been called in from neighbouring towns. Eventually it’s conceivable that Imperial troops would have had to return to Australia, and you could have had something on the scale of a Boer War fought in the bush of the north-eastern ranges”.<sup>432</sup>

The evidence shows the suggestion is insupportable. The last British army contingent had left Australia in 1870.<sup>433</sup> A mounted group of sympathisers could have ridden to McDonnell’s Hotel (or another assembly point) at a gallop from a couple of miles away, long before Kelly could have met them on foot, yet not one armed mounted sympathiser was seen anywhere before, during or after the siege. If there had been 30 armed sympathisers ripe for revolution nearby, they would have numbered more than twice the 13 police present from 3:30am (when Hare left for Benalla) until after 6am, who were additionally distracted by the exchange of fire with the gang at the Inn. Jones’ sympathiser army is an elaborate fiction, as is the rest of the Republic claim.

Kelly was callously indifferent to the innocents caught up in his vengeful acts. These include the labourer George Metcalf, whom he had wounded with a bullet before the siege but kept prisoner,<sup>434</sup> and the random passers-by, including women and children, whom he held captive during the siege, three of whom died as a result of police fire. As for the intention to shoot all survivors of the train wreck, both Kelly and his gang held that “no one but the police and trackers had any right to come by the special; if they did, and got killed, it served them well right”.<sup>435</sup> Nor did they care about ordinary passengers likely to be killed by derailment on the Monday morning when it seemed that a special police train was no longer coming on the Sunday. Curnow stated that “during the Sunday afternoon I heard Mr. Stanistreet ask Ned Kelly to allow the rails torn up to be replaced, and he pointed out to Ned Kelly the sacrifice of innocent lives which would ensue if the Monday morning’s passenger train were wrecked. The outlaw refused”.<sup>436</sup> The idea that the north-east citizenry would ever have countenanced such a massacre of innocents to establish a regional republic in Benalla under Kelly is absurd.<sup>437</sup> After the siege, the retrieved burnt corpses of Dan Kelly and Steve Hart were carried up to McDonnell’s Hotel by family and friends, and the press later reported that on the Wednesday,

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<sup>431</sup> *Herald*, 29 June 1880, 3.

<sup>432</sup> Ian Jones, in Darren Jones and Michael Spencer, *The Story of Ned Kelly* (Australia: Picture Pond Media, 2007), Extras, “Glenrowan”, 19:15-20:12.

<sup>433</sup> Morrissey, *Lawless Life*, 153.

<sup>434</sup> Dawson, “Kelly’s Shooting of George Metcalf”, 90.

<sup>435</sup> Kelly, *Weekly Times*, 3 July 1880, 20; Curnow, in *Argus*, 21 July 1880, 6; cf. *RC*, Q.10533 Mrs Reardon.

<sup>436</sup> *RC*, Q.17597 Curnow (p. 666, ll. 20-2).

<sup>437</sup> Jones, *Short Life*, 204, “Half-glimpsed images of ... days of sunlight and a proud south wind to flaunt a green flag over Benalla, proclaiming that the law of Queen Victoria no longer held sway in the north-east”.



“about a hundred friends and sympathisers attended the burial, but there was no disturbance”.<sup>438</sup> From siege to funeral, there was not a word of political rebellion at any point.

If there was any support for a Kelly republic, there should be some evidence of embittered selector republicans after the Glenrowan gunfight, or private accounts surfacing after the event about the shattered “dream of a free northeast”, as Molony put it,<sup>439</sup> just as there are letters, diaries and memoirs about the Eureka rebellion; yet there is nothing. Certainly there was fear of another outbreak of violent bushranging, with Dick Hart threatening “another and stronger gang”,<sup>440</sup> but no source linked this with any political goals, only with further vengeance. Donald Sutherland, who was at Glenrowan at the end of the siege, wrote, “my belief is that another gang will be out ere long to avenge the death of the present”.<sup>441</sup> The next day, Tom Lloyd rode to Benalla to ask for Byrne’s body, “in a state of the greatest anxiety to know what the police were going to do next, and seemed to be afraid that he and some others would be arrested as sympathisers”.<sup>442</sup> When S/C Kelly advised him to “keep out of the way and behave”, he replied in tears, despite his past active interference in the Kelly hunt, “for God’s sake, don’t interfere with us. We have done you no harm. Be satisfied with the work you have already done, and leave us and the poor girls in peace. Our load is hard to bear”.<sup>443</sup> In mid-July the situation remained uncertain: “No one who does not know the Kelly country can have any conception of the facilities it offers to evaders of the law, and no adequate idea can be formed by strangers of the number, the capacity and the fidelity of their friends. ... This, however, is a portion of the subject with which the Government has still to deal”.<sup>444</sup> Against the impression given in much Kelly literature, Kieza noted that “the press around Australia rejoice[d] at the end of the outlaws’ run”.<sup>445</sup> A range of threats of revenge continued to be made up to and past Kelly’s execution, of which a notable example is a letter of 8 September 1880 sent to Judge Cope, declaring that if Kelly was hanged, “three other gangs are to turn out ... and they vow vengeance on the Police. ... There are hundreds of respectable people that never were sympathisers nor never intended to be swears That they will have revenge [sic]”.<sup>446</sup> A printed pamphlet, “Kelly’s Defence by A Lady”, was distributed in early November 1880, berating “a civil war on a small scale, originating in a police constable invading a private dwelling without a warrant, and carried on for two years”, and claiming that Kelly “fought fair and did not foully murder” at Stringybark Creek.<sup>447</sup> Nothing anywhere mentions any political, let alone republican, motive behind the Kelly outbreak.

### **The historical causes of sympathiser unrest**

Tom Lloyd Senior, uncle to both Tom Lloyd and Ned Kelly, told Constable Graham that “the Kellys wanted ground”; as Jones viewed this, “the sympathisers wanted land, and, if they could be guaranteed access to that land, they would get rid of the few trouble-makers and hotheads

<sup>438</sup> *Herald*, 29 June 1880, 3; *Argus*, 2 July 1880, 7.

<sup>439</sup> Molony, *Ned Kelly*, 226.

<sup>440</sup> *Herald*, 30 June 1880, 3.

<sup>441</sup> Donald Sutherland, letter, 8th July 1880, State Library Victoria, MS 13713.

<sup>442</sup> *Herald*, 30 June 1880, 3.

<sup>443</sup> *Herald*, 30 June 1880, 3.

<sup>444</sup> *O&M*, 15 July 1880, 2.

<sup>445</sup> Kieza, *Mrs Kelly*, 434.

<sup>446</sup> Letter to Cope (with original spellings), SLV LaTrobe Australiana Collection, MS8028 Box 938/4 (c).

<sup>447</sup> “Kelly’s Defence”, VPRS 4967, Unit 2, Item 52.

remaining in the district".<sup>448</sup> Jones held from a shared oral tradition that Graham approached a priest to take him to meet Mrs and Jim Kelly, and then claimed that "there can be no doubt that on the personal representation of ... Graham, Mrs Kelly and Jim moved among the sympathisers to dissuade them" from a second outbreak.<sup>449</sup> Yet the cure would seem to owe at least as much, and likely considerably more, to Sadleir's determined policing once the land ownership issue was brought to light. Sadleir recorded that "one of the Kelly relations, the prospective leader of the new gang, sought an interview" in which he "asked only that those of the Kelly circle who had taken up land should not be dispossessed. I was able to promise him that no one who continued to obey the law would be interfered with, but that no further selections would be made to doubtful characters".<sup>450</sup> This was the same course pursued by Inspector Montfort, who in a lengthy closed-door interview with the subsequent Royal Commission, emphasised that the sympathisers "are much more tractable if they feel that they are treated with equal justice. As to the refusal of land to suspected persons, I have [asked the Commissioner] to place me in the position that I can use the provisions of the Land Act as a lever to influence the applicants for land in the North-Eastern district, more especially for a radius of fifty miles all round, taking Benalla as the centre. ... Their whole object is to obtain land, and if their individual interests depended upon their good behaviour among the population where they are, it would be half the battle towards making good citizens of them".<sup>451</sup> Consistent with the above, when Tom Lloyd "was refused a selection – according to family tradition, for the fifth time, ... Graham interceded with a potent argument: 'How can you expect a man to lead an honest life when you deny him the only way he knows to earn a living?' Tom Lloyd was granted his selection".<sup>452</sup>

The blacklist policy was employed in October 1880, when Maggie Skillion was refused title to her mother's property, regardless that the bank had transferred Mrs Kelly's interest to her.<sup>453</sup> After her release from prison in February 1881, Mrs Kelly was allowed to renew her lease on payment of a 5 shilling fee for illegal occupation.<sup>454</sup> There is further support for Montfort's view that the core sympathisers would behave if they were treated fairly, and left to live without fear of "improper arrest of any of the friends of the late outlaws", in Armstrong's comment, that "they seemed inclined to be most friendly with the police, if the police will treat them in the same friendly way".<sup>455</sup> There were no political motives; the blacklist continued, and proved effective when used judiciously as a control, rather than as a tool of dispersal as originally devised. Sadleir had paved the way for improved relations with his handing over of the bodies at Glenrowan, stating that he "had the thanks of those people since, both for that and for following a fair moderate course towards them; [and that if he] had pursued the [harassing] course they had anticipated ... we should have had the same trouble in an aggravated form again".<sup>456</sup>

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<sup>448</sup> Jones, "New view", 178.

<sup>449</sup> Jones, "New view", 180.

<sup>450</sup> Sadleir, *Recollections*, 239.

<sup>451</sup> *RC*, Appendix 1, Q.29 Montfort.

<sup>452</sup> Jones, "New view", 181.

<sup>453</sup> *Argus*, 16 October 1880, 8.

<sup>454</sup> Ellen Kelly, prison record No. 3520, VPRS 516, Con 2, Vol 7, p. 197. Rent Roll, Benalla, Victorian Lands Department, VPRS 13599, cited in Kieza, *Mrs Kelly*, 599 n.45.

<sup>455</sup> *RC*, Q.12181-4, 12188 Armstrong.

<sup>456</sup> *RC*, Q.2899 Sadleir.

According to Kelly cousin James Ryan, writing in 1929, in order to protect themselves against “cruel and cowardly persecution”, the Kellys “were compelled ... to offer armed resistance to the police.... The Outlawry Act gave my relatives the same right to use the privileges and forms of war as those used by the Government in my relatives’ fight for Justice and Freedom”.<sup>457</sup> Yet even fifty years after the Kelly saga this younger brother of Greta Mob Iarrikin Joseph Ryan, who had been one of the gang’s closest sympathisers,<sup>458</sup> did not claim any political aims in the Kellys’ “fight for Justice”. He rather claimed that they and others had been maltreated by the system. His praise of Kenneally’s *Inner History* was for its assailing the government “for the number of crimes [it] committed against the laws it was sworn to uphold”.<sup>459</sup> Sympathy for allegedly wronged relatives demanding justice from the system, and concern over land security, was what the fight was about, never the system’s overthrow. A similar idea was voiced by Montfort to the Commission, “that a great deal of the difficulty with these men would be got over if they felt they were treated with equal justice—that there was no “down” upon them”.<sup>460</sup> It inspired Clow’s 1919 *Cause of Kelly*: “The police had an unwarranted dislike for the Kellys. They aimed at breaking up their home and scattering the family long before the Party took to the bush.... The ambition to root them out of the neighbourhood is an ignoble design and out of harmony with the statutes of the colony”.<sup>461</sup> Kelly had opened his first letter as an outlaw with a direct appeal to Donald Cameron MLA, that “it seems impossible for me to get any justice without I make a statement to some one that will take notice of it”.<sup>462</sup> It is the heart of Kenneally’s *Inner History*, that the Kellys, “nursing a fierce resentment of the injustice they had suffered, should ... as a last resource give battle to their pursuers”, and throughout were up against “loaded dice”.<sup>463</sup>

Both Clow and Kenneally were staunch Kelly partisans with access to the Royal Commission proceedings and newspapers, but not then to the police and Crown Law files that documented the depredations and terror that members of the extended Kelly clan and their associates inflicted on their fellow selectors and townspeople throughout the northeast from an early age. This archival evidence must now be weighed against the distorted hero worship and cries of police persecution from self-made criminals and their supporters, including an assortment of later Kellyphilic historians, which imply that the broader community should not have taken determined measures in its own defence, rather than let predatory criminals run fearless, free and bold. Either way, there was never a hint of republican aspiration anywhere in the Kelly saga.

After Kelly’s execution, retribution by the Kelly clan and associates against north-east citizens recommenced with the reportage of the Royal Commission sittings that began in March 1881. Far from the dubious claim of some Kelly narratives that the outbreak had benefited Victoria as a result of Kelly’s “calls” (well predated by Cameron MLA) for an inquiry into the police force, the opposite behaviour quickly manifested once the inquiry began.<sup>464</sup> On 26 April 1881 Graham held

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<sup>457</sup> James Ryan, undated letter, in Kenneally, *Inner History*, 314.

<sup>458</sup> For sympathisers identified as members of the Greta Mob, Morrissey, “Kelly’s sympathisers”, 296.

<sup>459</sup> James Ryan, undated letter, in Kenneally, *Inner History*, 314.

<sup>460</sup> *RC*, Appendix 1, Q.29 Montfort.

<sup>461</sup> Robitt Jon Clow, *The Cause of Kelly* (Ballarat: Baxter & Stubbs, 1919), 92.

<sup>462</sup> Kelly, “Euroa letter”, 1. His concern throughout the outbreak is the “unjust” treatment of his mother.

<sup>463</sup> Kenneally, *Inner history*: resentment, Gerald Stanley, J.P., foreword, 7; “loaded dice”, 31 and passim.

<sup>464</sup> Ian Jones, the Royal Commission was “Ned’s greatest legacy”, *ABC Lateline*, 9 April 2001; FitzSimons, *Ned Kelly*, 694-5; hostility triggered by the Commission, Sadleir, letter, in *RC*, Q.9862 Chomley.

“that another outbreak among them is imminent”, and the *Benalla Standard* reported that “there is not the slightest doubt but that the formation of another gang of bushrangers is being meditated in the Greta district”.<sup>465</sup> As Jones noted, “from material ... in the newspapers, it was quite easy to identify people in the Kelly country who had been helping the police. Immediately the sympathisers burst forth into a wild witch-hunt”, and Chomley and others reported “a very bad and revengeful feeling” with the threat of “open acts of violence”.<sup>466</sup> In Chomley’s opinion, “they would not hesitate to take the life of one of the informants first, and perhaps of the police afterwards”.<sup>467</sup> Several, including Curnow, had left the district in fear of their lives, and more did so as the Commission went on.<sup>468</sup> Even in 1929, the Kelly’s near neighbour Jerome J. Kenneally could write without apology that “it is now generally admitted that the quickest way to get to the Wangaratta Hospital is to say something offensive about the Kellys in the Kelly country”.<sup>469</sup> The Kelly clan had little feel for legal justice, used the police against one another as it suited them,<sup>470</sup> and helped pioneer the Australian sport of criminal networks playing the victim card.

### **Kelly’s interviews, statements and letters after capture**

When he was captured at Glenrowan, Kelly was severely wounded, and was so close to death that he was given the Last Rites.<sup>471</sup> He was then surrounded by reporters, police and spectators, all asking questions as the siege continued.<sup>472</sup> Although he had nothing to lose by making a rebel statement or abusing the Crown had he anything to say, he made no political comments. Brown’s 1980 revision of his Kelly biography, *Australian Son*, claimed that “the Glenrowan affair, with its reports by Curnow and others of galloping horsemen and armed parties outside the perimeter of battle, had given the outbreak a new and larger dimension not unrelated to Ned’s republican sentiments”.<sup>473</sup> As has been shown, Brown and others misinterpreted the “reports” to envision galloping sympathisers and armed rebels at Glenrowan. Kelly’s claimed “republican sentiments” are of recent invention. Only a hazy “legend” is mentioned in Brown’s 1948 and 1956 editions. Jones, in 1967, was the first to seriously propound a Kelly republic theory, and others later joined him. However, listening to the gang talk amongst themselves on the Sunday afternoon at Glenrowan, the captive Curnow formed the impression that their aim was simply to wreck the train and rob the banks, nothing more.<sup>474</sup> Donald Sutherland was with the spectators on the Monday afternoon and wrote, “The Kellys this time had lifted the rails to upset the train and kill and shoot everyone on it. They were then going to make the engine driver run them down the line to Benalla where they would stick up all the banks, blow up the police barracks - in fact commit wholesale slaughter and then fly to their mountain fastnesses”.<sup>475</sup> The Kelly gang, and their relatives and associates, were never terrorists with a social or political agenda.

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<sup>465</sup> Both quoted in *RC*, Q.16716 Sadleir.

<sup>466</sup> Jones, “New view”, 179; *RC*, Appendix 4 Chomley. Cf. *RC*, Q. 9870 Chomley; Q9568 Gascoigne.

<sup>467</sup> In *RC*, Q.16716 Sadleir.

<sup>468</sup> *RC*, Q.16716 Sadleir.

<sup>469</sup> Kenneally, *Inner History*, 20-1.

<sup>470</sup> See Morrissey, “Kelly’s sympathisers”, 290-1.

<sup>471</sup> *RC*, Q.12346 Gibney.

<sup>472</sup> Dr. Nicholson’s statement, *Argus*, 2 July 1880, 2.

<sup>473</sup> Max Brown, *Australian Son* (rev. edn., Sydney: Angus and Robertson, 1981), 226.

<sup>474</sup> *RC*, Q.17617-8 Curnow.

<sup>475</sup> Donald Sutherland, letter, 8 July 1880, State Library Victoria, MS 13713.

### The manufactured “interview” with Kelly in the Beechworth gaol

On 9 August 1880, the *Age* published one of Kelly’s several versions of his story of the events leading to his outlawry, claimed to be from a reporter’s interview in the Beechworth gaol, but in fact composed by his solicitor, David Gaunson.<sup>476</sup> The *Advertiser* later savaged Gaunson, writing that he had “used his privilege as an attorney to put into the mouth of the illiterate outlaw [a] rigmarole of sentimental absurdity”.<sup>477</sup> The first four paragraphs are often wrongly claimed by Kelly enthusiasts to be a “Condemned Cell letter” of 1 November 1880.<sup>478</sup> The story rehearses Kelly’s complaints in polished prose: “I do not pretend that I have led a blameless life, [but] after the worst has been said against a man, he may, if he is heard, tell a story in his own rough way that may perhaps lead [the public] to intimate the harshness of their thoughts against him, and find as many excuses for him as he would plead for himself”. The tale reflects the same themes as his “rough”, unpolished Euroa, Jerilderie, and July 1879 letters, in which he blamed everyone but himself for his troubles. He was “harshly and unjustly treated by the police, and ... hounded down by them”. His “mother, Skillian, and Williamson ... were arrested on a charge of aiding and abetting an attempt by me to murder Fitzpatrick, and were confined six months before they were tried.... Fitzpatrick’s statement is false from beginning to end. ... [The police] only wanted the slightest pretext to shoot both my brother and myself”. There is no thought for anyone else, nor any remorse for the impact of his actions on those he had variously robbed, threatened, beaten, held captive, and shot since boyhood.<sup>479</sup> Jones claimed that Kelly accepted responsibility for “hundreds ... who, because of him [faced] possible disaster”.<sup>480</sup> Yet in none of Kelly’s letters or comments before or after capture is there a word about the land blacklisting that Jones saw as the trigger for an armed republican rebellion. Kelly’s horizon and talk was limited throughout to himself, and to the lengthy remands and sentences of his mother and two associates in 1878.

### Kelly’s courtroom defence and post-sentencing dialogue

In Kelly’s committal hearing and subsequent trial, nothing was said in his legal defence or by any witnesses about politics, social motives or a republic; nor about the remanding or blacklisting of selectors, or of him voicing any “injustice” other than being persecuted by the police for crimes of which he claimed that he, his family, and associates were innocent. There is no mention anywhere in his criminal career of the Eureka rebels with whom Jones sought to parallel him,<sup>481</sup> and no suggestion of treason anywhere in the voluminous PROV Kelly files. When found guilty by a Melbourne jury and asked if he had anything to say as to why the sentence of death should not be passed on him, if he had any thought of claiming his actions, including at Glenrowan, as politically motivated, he could have defiantly said so, with full press coverage.<sup>482</sup> The post-sentencing dialogue between Kelly and Judge Redmond Barry was described by Louis Waller as “one of the extraordinary episodes” in the history of Victorian courts, “so unexpected that it was

<sup>476</sup> *Age*, 9 August 1880, 3. For this and other Kelly versions, see Dawson, “Redeeming Fitzpatrick”, 84-5.

<sup>477</sup> *O&M*, 13 November 1880, 7.

<sup>478</sup> See e.g. Meredith and Scott, *Acrimony*, 80; Baron, *Blood in the Dust*, 149.

<sup>479</sup> Kelly was first charged with horse theft as a boy at Avenel, *Victoria Police Gazette*, 6 June 1867, 221 and 224. He took another Avenel horse from the local publican to return for the reward, Jones, *Short Life*, 17.

<sup>480</sup> Jones, “New view”, 168.

<sup>481</sup> Jones, *Short Life*, 191.

<sup>482</sup> *Age*, 30 October 1880, 6; *Argus*, 30 October 1880, 8.

taken down in direct speech by the reporters present and reproduced entirely".<sup>483</sup> There is not a word about politics in it. Rather Kelly boasted of himself, "all I care for is that my mother, who is now in prison, shall not have it to say that she reared a son who could not have altered this charge if he had liked to do so".<sup>484</sup> McQuilton suggested that Kelly's words during his exchange with Barry, "It will be different the next time there is a Kelly trial, for they are not all killed", was "his last reference to Glenrowan".<sup>485</sup> There is no basis for interpreting this as a reference to the Glenrowan shootout. It is the ongoing braggadocio of the just(ly)-condemned Kelly, consumed by his hatred of the police, still insisting on his innocence and that the charge of murdering Lonigan was a false one. Again, during his return to prison after sentencing, he "said that the last of the Kellys was not disposed of yet, and that it would take 40,000 policemen to get rid of them. He added that he would 'come back' to render assistance to his relatives, whatever that promise may mean".<sup>486</sup> This too is a cry of revenge, unconnected with any political theme. After his conviction, the *Argus* observed that at both his committal hearing and trial his solicitor Gaunson was "his confidential adviser; and had there been any further facts essential to the defence to be brought out, we may be sure that they would have been elicited".<sup>487</sup> As his most ardent legal advocate, Gaunson, a member of the Victorian Legislative Assembly, was ideally placed to be alert to any sign of political motives, but nowhere mentioned any such potentially mitigating rationale, either while his client was on trial for his life or afterwards. Not once in the four and a half months between his capture and execution is there the slightest hint from anyone, including those who organised petitions for his reprieve from hanging, that Kelly had any political motivations. The "Kelly republic" is entirely an unevidenced twentieth-century historical fantasy.

### **Kelly's Condemned Cell letters**

As his hand was damaged, Kelly dictated three letters addressed to the Governor of Victoria, on the 3, 5, and 10 November 1880.<sup>488</sup> None of them make any political comments or plead political persecution. The first, of 3 November, echoes those he wrote while outlawed as to why he, and his imprisoned mother and associates Skillion and Williamson, were innocent in the Fitzpatrick incident, from which he held that all else followed. He claimed that he was "many miles away" on that occasion, and had never intended to murder Fitzpatrick or tried to do so. Therefore the charge of attempted murder was false, and was falsely sworn by Fitzpatrick. It follows that Kelly's mother and the others convicted with her were innocent of aiding and abetting an attempted murder. He claimed that Fitzpatrick had sworn that Kelly "had no intention of shooting him, that [they] were intimate friends". (This was likely based on Fitzpatrick's testimony that Kelly had called off the attack then in progress against him by Kelly and his associates, and Kelly's claim that Fitzpatrick had in the past sworn that they were good friends.<sup>489</sup>) He claimed that he and his companions committed no offences between that and the police shootings at

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<sup>483</sup> Louis Waller, "Regina v. Edward Kelly", in *Ned Kelly: Man and Myth*, ed. Colin Cave (North Ryde: Cassell, 1968), 120-1; *Argus*, 30 October 1880, 8.

<sup>484</sup> *Age*, 30 October 1880, 6.

<sup>485</sup> *Argus*, 30 October 1880, 8; McQuilton, *Outbreak*, 172.

<sup>486</sup> *O&M*, 2 November 1880, 4.

<sup>487</sup> *Argus*, 6 November 1880, 6.

<sup>488</sup> Edward Kelly, letters, VPRS 4966, Unit 2, Item 10, pp. 130-147 of the PDF file.

<sup>489</sup> See Dawson, "Redeeming Fitzpatrick", 80, with Fitzpatrick's reconstructed testimony. According to Kelly, "Jerilderie letter", 34, Fitzpatrick "said we were good friends and even swore it".

Stringybark Creek, but were digging for gold and distilling whisky to raise money for a new trial for his mother. He was told that the police search parties intended to shoot him and his brother, not arrest him, and he claimed Fitzpatrick would swear this was so. He complained about police searches of his mother's house, what he maintained was McIntyre's "falsehood" to Kennedy and Scanlon, that they were surrounded when advising them to surrender, and a "disparity" between McIntyre's first statement and those he gave in court. The key issues he raised were the number of guns or revolvers McIntyre had said the gang possessed, and "the position of the men at the time of Kennedy's and Scanlon's advance". He did not argue that he killed them in self-defence; rather, he said they did not correctly understand "their position" from McIntyre's words when they arrived. As a letter of appeal for reprieve from execution, he was silent on his past convictions, dire threats of revenge, and other previously vaunted criminal activities.

Kelly's second letter, of 5 November, offered "a statement of facts of the Glenrowan affair". He claimed that his "first intention" was to stop the police train, and "to capture the leaders of the Police and take them into the bush and allow the superintendent to write to the head [of] department and inform them if they sent any more Police after me or try to rescue him, I would shoot him, and that I intended to keep them prisoners until the release of my mother, Skillion and Williamson". His second plan was to seize the train once the police had left it, and rob the banks "along the line". Both these claimed intentions are contradicted by Kelly's actions and statements to his prisoners at Glenrowan, in which he had vowed to carry out a massacre, but were taken at face value by Molony.<sup>490</sup> None of this penultimate letter's other content matches numerous eye witness accounts of the events at Glenrowan that it purports to describe.

Kelly's last letter, of 10 November, the day before his execution, presents "the remaining facts of my case which have never been placed in a true light". This, then, is the final part of the "full statement of the facts from the beginning to the end" that he undertook to provide in concluding his first letter. Together, the letters amount to the basis of the defence which he declared during sentencing he could have made "if he had liked to do so".<sup>491</sup> He claimed that he had not acted from revenge, as the gang committed no robbery or other offense between the Fitzpatrick incident and Stringybark Creek. He did not seek out the police, but said they came fully intending to shoot him, not to arrest him. He claimed, "Any man who calls on [others] to bail up and surrender does not intend to take life". He held that McIntyre, not himself, was "most accountable" for Scanlon's and Kennedy's deaths, as McIntyre had falsely told them they were surrounded, and not correctly instructed them to surrender. The two year "career" of himself and his companions showed they were anything but bloodthirsty, and they "never ill-treated nor maltreated man, woman or child and always refrained from doing a cowardly act". This is contradicted by multiple accounts of the gang's captivity of, and threats to kill, or destroy the property of, numerous victims of both sexes in their plundering on the run,<sup>492</sup> and during the Glenrowan debacle. Kelly claimed that the armour's purpose was not to "take life", but to enable

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<sup>490</sup> Molony, *Ned Kelly*, 220-2.

<sup>491</sup> *Age*, 30 October 1880, 6, and see also there, "it is on account of the witnesses, and with their evidence, no different verdict could be given. ... I did not ... examine the witnesses myself. I could have made things look different."

<sup>492</sup> E.g. the hotel owner "not far from Glenrowan" who told Hare that he would not be sorry when the gang was caught as "they give us a lot of trouble – destroy our fences and injure our property, and we dare not say a word about it. If we did we would only get the worst of it", Hare, *Bushrangers*, 318.

him to rob a guarded bank and “to capture Superintendent Hare, O’Connor and the blacks for the purpose of exchange of prisoners”. Hostage-taking for an “exchange of prisoners” was never mentioned by Kelly before this final week. He expressed no regrets or concern for the impact of his actions on others. That same day, 10 November, he ranted against Aaron Sherritt and the police: “Kelly ... expressed himself in profane language that Sherritt only received his desserts, and that he (Kelly) would have shot every policeman up to and in Beechworth. When asked by the gaol surgeon, also, whether he was not sorry for what he had done, he replied that he was not sorry, and that he had nothing whatever to be sorry for”.<sup>493</sup> At no point in the entire Kelly outbreak down to his execution did Kelly concern himself with a republic or political change.

### **Why did the republic theory gain credence?**

McQuilton stated that “the idea of a Kelly republic, initially dismissed in the 1960s, came into its own in the 1980s when Kelly was interpreted as a radical nationalist republican”.<sup>494</sup> In 1947, the *Northern Times* had enthused,

“In hundreds of townships in Victoria and N.S.W. Ned Kelly could have asked freely for hospitality and help. ... He was, in fact, planning a minor war - planning to hold up Australia, not for her money or her life, but for her very freedom. He was in truth, planning to proclaim Ned Kelly law in the State of Victoria, counting on thousands of friends to support him. The captured documents show a bold and impudent plan. Ned Kelly planned to proclaim north-east Victoria a republic, with Benalla as capital, and as president - Ned Kelly himself. This might have changed the whole history of Australia, might have brought civil war and certainly unequalled lawlessness, if a certain police commission had not been late in delivering his orders. For strange as it may seem, the police train had not been cancelled. It had simply been held up at Benalla”.<sup>495</sup>

This analysis has shown that idea to have been comically naïve. The *Times* space-filler is a further expansion of the tale widely circulated by book, press and radio in the early and mid-1940s by Beatty, itself an enhancement of the original *Bulletin* spoof of June 1900. Beatty’s popularisation explains the hazy republic “legend” heard post-war by Brown, and by Jones in the late 1940s, bolstered further for Jones by Brown’s passing mention, in his 1948 *Australian Son*, of “a legend” of the finding of a “declaration for a Republic” in Kelly’s pocket upon capture. Jones owned that when his “thesis of the Kelly rebellion and the shadowy Republic of North-East Victoria was first presented at the Wangaratta Seminar of 1967 ... the initial academic reaction was dismissive or derisive”.<sup>496</sup> Undaunted, Jones set out to vindicate Kelly as the “wronged”, police-made criminal he had first encountered in the pages of Kenneally, by re-formulating him as a republican rebel fighting for justice and the right to live fearless, free and bold. The endless list of crime and intimidation against ordinary residents throughout the north-east by the Kelly clan and their associates, that are a constant backdrop to the Kelly narrative in Kieza’s *Mrs Kelly*, are left in the shadows by Jones and others, with the police blamed for the free choices of predatory criminals.

<sup>493</sup> *Daily Telegraph*, 12 November 1880, 3. On Kelly’s last days, cf. Stuart Dawson, “Ned Kelly’s Last Words – ‘Ah, well, I suppose’”, *Eras Journal* 18.1 (2016), 38-50.

<sup>494</sup> Kelson and McQuilton, *Kelly Country*, 159. See e.g. *Independent Australian*, Special Issue 4.2 (1980).

<sup>495</sup> *Northern Times*, 25 April 1947, p. 3; reprinted with minor word changes in *The Manning River Times and Advocate for the Northern Coast Districts of New South Wales*, 3 June 1950, p. 5.

<sup>496</sup> Jones, *Fatal Friendship*, 228.



### The mythologising of Edward “Ned” Kelly

In his near-beatification of Kelly, Jones absolved him of much wrong-doing: the plan to destroy a police train and kill any survivors “wasn’t a criminal act. [It] was an act of war”.<sup>497</sup> A self-declared amateur historian, Jones scoured the newspapers and records of the Kelly years in the spirit of Kenneally, selectively quoting material that advanced his theory, and ignoring or attacking as “incorrect” anything that didn’t.<sup>498</sup> His Kelly biography was consciously revisionist, written in an unabashed attempt to secure Kelly’s “rehabilitation” in the public mind.<sup>499</sup> He said of his process, “You build up a ... jigsaw mosaic of incredible complexity, and then gradually, sometimes you juggle the pieces if there’s a missing piece.”<sup>500</sup> Despite the extensive juggling and confirmation bias, Jones’ thesis that Kelly “brought the republic close to reality” is not sustainable.<sup>501</sup> The Kelly republic is an elaborate but purely hypothetical and demonstrably artificial construction. Close examination of the evidence cited by many to support the theory shows that much has been misrepresented, misquoted or modified to produce the desired result. To use the analogy of an iceberg, 10% of the evidence in a powerful republican narrative is presented as historical reality; but 90%, including key significant omissions, lies below the surface in compelling contradiction.

Jones’ credibility was boosted when McQuilton’s 1979 *Kelly Outbreak* “developed the [republic] thesis”, and Molony’s 1980 *I am Ned Kelly* “accepted rebellion and Republic as fact, on the basis of oral material from Tom [Patrick] Lloyd”,<sup>502</sup> the same source behind Jones’ speculations. As the above analysis has shown, Lloyd’s stories were at times smoke and mirrors. The tale of the Kelly republic is a complex narrative most fully indebted to master scriptwriter Ian Jones, built on a wrongly claimed uncertainty about Kelly’s movements in the few minutes immediately after the second police volley at Glenrowan, highly selective evidence, and Lloyd’s creative oral history.<sup>503</sup> However, witness testimony, a broader analysis of historical evidence, and close scrutiny of the Glenrowan siege timeline establishes with ironclad certainty that Kelly got no further than 100 yards from the Inn during those few minutes, and not much further afterwards. The “Kelly republic” is a historical fiction spawned by the *Bulletin’s* 1900 Republic spoof, as spread far and wide through Beatty’s 1940s enhancement. McQuilton seems right to link its rise to prominence with 1980s nationalist republicanism, and a similar passion seems to underpin its unquestioning adoption by Peter FitzSimons. But above all it owes its longevity to Jones’ long-held reputation

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<sup>497</sup> Jones, “New view”, 172.

<sup>498</sup> Jones as self-declared amateur historian, *Canberra Times*, 10 February 1983, 3. Jones has made numerous mistakes, the most costly being his misidentification of a photograph as Kelly, sold by Christie’s after being authenticated by “one of the bushranger’s greatest fans ... amateur historian Ian Jones” (Andrew Rule, “Stand and deliver a \$19K refund, says buyer of mistaken Kelly Portrait”, *Age*, 21 May 2002). For Jones’ manipulation of source evidence on another topic, see Dawson, “Kelly’s shooting of Metcalf”, 87-89. In his *The Last Stand*, 8, Jones scorned a letter that conflicts his vision of Kelly’s multiple returns to the Inn. For Jones’ attack on any who question Kelly’s status as inept “detractors”, *Short Life*, x.

<sup>499</sup> Jones, *Short Life*, 303.

<sup>500</sup> Jones, in Readersvoice.com, 10 January 2003, <http://www.readersvoice.com/interviews/2003/01/ian-jones-talks-about-his-biography-ned-kelly-a-short-life/> (accessed 27 December 2017).

<sup>501</sup> Jones, *Short Life*, 192.

<sup>502</sup> Jones, *Fatal Friendship*, 228.

<sup>503</sup> For Jones as “scriptwriter” of the Kelly story, Anon., “The case for James Whitty”, 3. Jones was a leading professional scriptwriter and director for Crawford Productions’ television series, including the classics *Homicide*, *Matlock Police*, *The Sullivans*, and *Against the Wind*, over almost three decades.

as the pre-eminent expert on matters Kelly.<sup>504</sup> Jones has aggressively asserted this status. His savage attack on respected legal historian Alex Castles' 2005 *Ned Kelly's Last Days* as "marked by persistent vilification of Ned Kelly - unbalanced to the point of psychosis", "outrageous rubbish", and "poisonously inaccurate", was afforded front page space in the *Age*.<sup>505</sup>

One can only wonder about the state of Australian academic historical studies when a romantic fantasy with no documentary evidence to support it, and much to contradict it, can remain virtually unchallenged for fifty years, feature on government websites, and be uncritically accepted within Australian history curricula. As far back as 1970, Charles Osborne reviewed the published papers from the 1967 Wangaratta Kelly seminar in which Jones' theory was launched, as part of his research for a Kelly biography based on source documents and newspapers of the day. He correctly observed that "there is no reason to believe that [a sympathiser] army ever existed, or that the secession of North-East Victoria was ever proposed or even consciously envisaged by Ned Kelly".<sup>506</sup> Peter FitzSimons, Chair of the Australian Republic Movement, produced no argument for his assertion that the Jerilderie letter "had a fair streak of Republicanism in it", but that did not deter him from airing it to the National Press Club.<sup>507</sup> As McKenna saw, while Kelly's "simplistic, aggressive and shallow rhetoric may fit the mould of the stereotypical Republican hero",<sup>508</sup> it offered nothing to political debate either then or now.

Jones claimed that Kelly "would have been a magnificent leader for a fledgling republican movement and, had things gone more according to plan at Glenrowan, he probably would have been just that".<sup>509</sup> FitzSimons more recently stated with no evidence that in February 1879, there was "a rumour that the bushranger is going to declare Kelly country an independent republic!".<sup>510</sup> The myth had taken on a life of its own. The proposition that anyone in Kelly's day looked at him as a potential political leader is laughable.<sup>511</sup> In December 1878, *Punch* lampooned Berry with a cartoon of Kelly as "the outlaw Premier", showing the dishevelled bushranger in the Premier's chair plotting mayhem.<sup>512</sup> Jones implausibly suggested it is "easy to imagine" it may have "helped [Kelly] encourage his vision of himself as a leader capable of challenging England's right to impose her rule on the people of the north-east".<sup>513</sup> In March 1879, a Queensland wit pilloried the Kellys, and asked when they might commit some "grand deed", such as "fulminating a decree of outlawry against the Berry Government and proclaiming Henderson Africanus first

<sup>504</sup> So Kelson and McQuilton, *Kelly Country*, vi. Nearly all non-fiction Kelly books since the mid-1970s acknowledge Jones' direct personal advice and guidance.

<sup>505</sup> "Kelly expert anti 'poisonous' book", *Age*, 1 August 2005, 1, 4. In that article Castles' daughter and co-author responded that her father was "neither 'pro' nor 'anti-Ned', [and] wanted to ... return to the original sources ... that have been largely ignored by the popular histories, and let the evidence speak for itself".

<sup>506</sup> Osborne, *Ned Kelly*, 9.

<sup>507</sup> Peter FitzSimons, *Ned Kelly*; Address to the National Press Club, Canberra, 26 August 2015, [http://www.republic.org.au/address\\_to\\_the\\_national\\_press\\_club](http://www.republic.org.au/address_to_the_national_press_club) (accessed 28 September 2017).

<sup>508</sup> McKenna, *Captive Republic*, 123.

<sup>509</sup> Jones, in Maguire, "Wild Colonial Republic", *Sunday Herald-Sun*, 8 October 1995, 31.

<sup>510</sup> FitzSimons, *Ned Kelly*, 363.

<sup>511</sup> Kelly and Byrne were mocked as child kidnappers for hire in a December 1879 pantomime, "The Babes in the Wood; or Who Killed Cock Robin", <https://ozvta.files.wordpress.com/2011/05/1879-1912017.pdf>

<sup>512</sup> *Punch*, 19 December 1878, 5.

<sup>513</sup> Jones, *Short Life*, 397.

President of the Victorian Republic".<sup>514</sup> The idea of Kelly as a republican president did not occur to the writer, and he was considered fit only for hanging: the gang "have long established claims to a position elevated several feet above the common herd, and everybody is anxious that they should attain it".<sup>515</sup> When Kelly or an associate carved a mock "N.K.R." (for "Ned Kelly Rex") reward proclamation for Captain Standish into a tree on the track to the Wombat Ranges around May 1879, it was in the name of "Ned Kelly 1, King of Strathbogie".<sup>516</sup> Republican or indeed any political ambition was the last thing on the outlaw's mind. As Brian Stevenson observed,

"with his letters to the Governor of Victoria, his 'interview' with his legal representative David Gaunson in the *Age* of 9 August 1880, and even his argument with Judge Barry as the sentence of death was pronounced, Ned tried tirelessly to give himself and his life some sort of credibility, some sort of legitimacy and probably even some sort of respectability. ... Yet he never once mentioned or even hinted at his supposed plans for a republic which could have provided at least some mitigation for his actions".<sup>517</sup>

One is left with the rationale that Kelly himself repeatedly gave for his actions through and after his time on the run, summed up by Crown Prosecutor Smyth at his trial: he was motivated by "malignant hatred against the police.... [He] considered that in the origin of the Fitzpatrick 'case', as it was called, he and his family were injured and that the prisoner was therefore justified in going about the country with an armed band to revenge himself upon the police".<sup>518</sup> As Max Brown put it, Glenrowan was a "final, desperate lunge of revenge".<sup>519</sup> No higher motive existed.

### **Conclusion: The fall of the Kelly republic**

Kelly's intentions at Glenrowan were no secret. One of the prisoners in the Inn stated later,

"Every prisoner was aware of their plan, or at least all that took the trouble to enquire ... [and] it would have startled the whole civilized world. ... At Glenrowan they were to await the train, and when it had gone over the embankment, slaughter everything that the shock had not killed, rifle the carriages of their contents, more especially the firearms and ammunition, and then ride on to Benalla, about 15 miles, set fire to the court-house, open the gaol and let what prisoners that were there loose, rob as many banks as they could find, shoot everybody that interfered with them, and generally play havoc with the entire town. ... [W]here they intended going after dismantling Benalla, I do not know, nor do I think they knew exactly themselves, but I have no doubt but that they could have eluded capture for some time to come. This in short was their scheme for a grand finale".<sup>520</sup>

Corroboration comes from others in the Inn at the time: "Ned Kelly stated that it was the intention of the gang, after destroying the black trackers and the police, to proceed to Benalla,

<sup>514</sup> *Wagga Wagga Advertiser*, Saturday 1 March 1879, 5. "Henderson Africanus" was Daniel Henderson, the subject of a series of political jokes aimed at Premier Graham Berry. See *Punch*, 29 December 1892, 1.

<sup>515</sup> *Wagga Wagga Advertiser*, Saturday 1 March 1879, 5.

<sup>516</sup> *Weekly Times*, 10 May 1879, 14.

<sup>517</sup> Stevenson, "Review of MacFarlane, *The Kelly Gang Unmasked*" (online).

<sup>518</sup> *Age*, 30 Oct 1880, 5. Byrne also wanted to kill and burn Detective Ward, *Age*, 13 November 1878, 3.

<sup>519</sup> Brown, *Australian Son* (1948), 10-11.

<sup>520</sup> *Windsor and Richmond Gazette*, 5 January 1889, 9.

and blow up the police camp and a bank”.<sup>521</sup> What Jones called the “madness” of the attempted Glenrowan train massacre was exactly that: “a criminal atrocity of monstrous scale”,<sup>522</sup> a long-threatened and planned act of savage revenge for the imprisonment of Mrs Kelly and associates. It dates from Kelly’s passing threats of wrecking a train at the time of the Euroa bank robbery, through the Jerilderie letter’s wild threatened vengeance against the police and anyone assisting them, his demands and vow to “revenge the insult” to his mother and associates in the July 1879 letter, and in numerous comments and addresses to those he encountered during his raids.<sup>523</sup> McQuilton suggested that if “Glenrowan was to be ... Kelly’s ultimate revenge ... the chances passed between February 1879 and June 1880 make little sense”.<sup>524</sup> Yet revenge was the constant driver of Kelly’s actions from the time of his mother’s arrest. When asked by a reporter after capture why he had kept “so quiet for the last twelve months”, Kelly replied, “Because we thought the trackers would go away”.<sup>525</sup> Repeatedly blaming the April 1878 Fitzpatrick incident as the precipitant of his being declared an outlaw – when in fact his outlawry resulted from the later Stringybark Creek murders – and wrongly asserting that the police had been out to kill him for the pre-Stringybark £100 capture reward, revenge permeated everything he said through to his Condemned Cell letters. By mid-1880, hunted, broke and desperate, he wanted a settling.<sup>526</sup>

The vengefulness of Kelly and his gang escalated over time, with extensive target practice at Bullock Creek, frequent threats to “roast” police, an attempt to do so at Sherritt’s hut *en route* to Glenrowan, and lurid descriptions of how they would treat informers.<sup>527</sup> At Glenrowan, Kelly said “he was going to fill the ruts around with the fat carcasses of the police”.<sup>528</sup> The obsession with wrecking a train grew from vengeful thoughts, to threats to blow up the line, to the complex making of steel armour designed to provide frontal protection for the gang, who would stand on top of a culvert to shoot down any survivors from a wrecked police train. Those murdered would include the train crew and any civilians. This explains Hare’s observation, that “none of the rifles

<sup>521</sup> *Argus*, 3 July 1880, 5; “This was put down at first as mere ‘blow’, but [the stationmaster] found an oilcan containing 45lb. of blasting powder, concealed behind a log in the vicinity of McDonnell’s Hotel”.

<sup>522</sup> Jones, *Fatal Friendship*, 156.

<sup>523</sup> Kelly, “Euroa letter”, 15-7; “Jerilderie letter”, 19. Gloster deposed at the Beechworth Assizes that at Faithfull’s Creek (9 December 1878) Kelly had said, “The police are my natural enemies”, and that if his mother was not released soon “he would possibly overturn the train”, VPRS 4961, Unit 1, Item 6.

<sup>524</sup> McQuilton, *Outbreak*, 165.

<sup>525</sup> *Weekly Times*, 3 July 1880, 20. On arrival at Melbourne, “Kelly spoke frequently of his determination to bring the black trackers to grief”, *Argus*, 30 June 1880, 6.

<sup>526</sup> Broke, Hare, *Bushrangers*, 318; Kelly “wanted to see the thing out”, *Argus*, 29 June 1880, 5. Nicolson, letter, 19 May 1880, in *RC*, Q.915, “The [Queensland trackers], and the precautions taken against a successful raid have baffled the outlaws. Their funds are almost exhausted, their *prestige* had failed considerably, and, consequently, the number of their admirers has decreased. ... [T]heir few friends ... are confined to their blood relations and a few chosen young men of the criminal class, who have known them from childhood. ... [T]heir exhausted means compels them to expose themselves more and more to danger of betrayal and (or) capture”.

<sup>527</sup> *Argus*, 12 November 1880, 6, “they were accustomed to declare that they would roast certain members of the police force”; *RC*, Q.4485 Wilson; Q.13400-8 Mrs Barry; cf. Jones, *Fatal Friendship*, 181, but see also *Argus*, 29 June 1880, 6, “Dan Kelly ... broke up a barrel for firewood. Byrne asked Mrs. Sherritt if she used kerosene or candles, and when she said candles, he said he wanted kerosene to set the place alight”; on informers, Kelly, “Jerilderie letter”, 50.

<sup>528</sup> *RC*, Q.17597 Curnow.

stolen by the outlaws at Jerilderie or the Wombat ranges were used by them at Glenrowan, but they had most inferior and obsolete repeating rifles which had been cut short, and no proper aim could be taken with them, as they were not sighted".<sup>529</sup> They expected to be able to shoot any survivors of the wreck within some 20 paces.<sup>530</sup> The planned massacre strategy is clearly illustrated by McQuilton on video.<sup>531</sup> Kelly's "last stand" only occurred after the plan failed. All four of the gang joined in making armour, took guns and explosives by pack horse to Glenrowan, consorted in the murder of Aaron Sherritt, and participated in the attempted train derailment, imprisonment of random civilians, and shootout with the police. Hart's nickname at Jerilderie was "Revenge".<sup>532</sup> Bracken reported that "when the train was heard stopping Kelly said, 'You will see some play now, boys. We will shoot them all'".<sup>533</sup> The train massacre plan never at any point had republican motivations. It was about killing police, trackers, and revenge pure and simple, and it did indeed result, as they had boasted, in an act that would astonish the world.<sup>534</sup>

In the end, proponents of a Kelly-led republic of north-eastern Victoria emerge as wishful thinkers with an uncritical penchant for romanticised oral history and a highly selective approach to historical evidence. By 1930, it was clear that "Kelly and his picturesque ruffians are gradually acquiring the rosy glow of heroes of romance. How Ned and Dan Kelly and their accomplices [Byrne and Hart] appeared to their contemporaries, how much terror and hatred they inspired, and with what exultation the community heard of the destruction of 'those pests to society, the Kelly gang', is shewn in the official telegrams [of the day]. ... As an antidote to the hero myth which is rapidly enveloping the Kellys they are invaluable".<sup>535</sup>

This review has traced the construction and spread of the Kelly republic myth and its numerous historical fallacies. It continues to be widely, uncritically and enthusiastically promoted as fact. For example, the Old Melbourne Gaol tourist centre "self-consciously ... contributes to Kelly's persona as larger than life. ... A [sign reads] 'Land and restrictions imposed on Kelly sympathisers appear to have led Ned to dream of a republic [that] would provide Ned and others like him with a safe haven away from government and police'".<sup>536</sup> As with the rest of the Kelly republic claim, it is the product of a long accumulation of wishful thinking and skewed research by many hands. The claim was always questionable and, as Osborne saw, should have been critically reviewed and rejected within a year or two of the 1967 Wangaratta Kelly seminar. The *Bulletin's* June 1900 "Kelly republic" spoof just scrapes in as Australia's greatest twentieth century history hoax.

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<sup>529</sup> Hare, *Bushrangers*, 224.

<sup>530</sup> *Argus*, 30 June 1880, 6, "the train ... would have rushed over the embankment into the gully beneath; if it had gone on the left side, it would have had a fall of about 20ft, and if on the right, a fall of about 30ft."

<sup>531</sup> Lewis, "Outlawed", 37:40–39:33. See YouTube, <https://www.youtube.com/watch?v=2HzHOPjf6hM>

<sup>532</sup> During the Jerilderie robbery, Kelly "called Hart by the name of 'Revenge', and told him to shoot the first man that attempted any resistance", *Sydney Morning Herald*, 12 February 1879, 5.

<sup>533</sup> *Argus*, 30 June 1880, 6.

<sup>534</sup> *RC*, Q.13182 Mrs Sherritt Snr., "I heard [from Byrne's sister] ... that they were going to do something that would astonish not only Australia, but the whole world." Sadlier was present when police agent DSA told Supt. Nicolson that an act would "cause the ears of the Australian world to tingle" (*Recollections*, 122).

<sup>535</sup> *Nambour Chronicle and North Coast Advertiser*, 8 January 1932, 2.

<sup>536</sup> Michael Welch, *Escape to Prison: Penal Tourism and the Pull of Punishment* (Oakland, California: University of California Press, 2015), 72.

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*O&M* – *Ovens and Murray Advertiser* (Beechworth).

*RC* – Police Commission. *Minutes of Evidence taken before the Royal Commission into the Police Force in Victoria, together with Appendices*. Melbourne: Government Printer, 1881.

*RC, Second Progress Report* – Police Commission. *Second Progress Report of the Royal Commission of Enquiry into the Circumstances of the Kelly Outbreak*. Melbourne: Government Printer, 1881.

*Reward Board* – Kelly Reward Board. *Report of the Board appointed to enquire into and report upon the proper mode of distributing the rewards offered for the capture of the Kelly Gang, together with the minutes of evidence*. Parliamentary Paper No. 85. Melbourne: Government Printer, 1881.

VPRS – Victorian Public Record Series, in Public Record Office Victoria.

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## Appendix to pp. 32-34

### Approximate Glenrowan siege timeline to finding Kelly's rifle and cap

**Bold** = attested times. Quoted words are from source evidence. Other timing is estimated from descriptions. Some events listed below supplement the main text, and hence source references are given for them here.

- 3:00am** Police special steam train arrives at Glenrowan platform; police and reporters start to disembark.
- 3:01 Hare, Rawlins and some police discuss course of action.
- 3:02-3 Hare, Rawlins and three police go 100 yards to stationmaster Stanistreet's house.
- 3:03-5 Hare and Rawlins speak to Mrs Stanistreet. She says the Kellys took her husband mins ago to "the back", pointing to "Warby's ranges" (*Argus*, 20 July 1880, 6); "40" with them, *Reward Board*, Q.49 Rawlins.
- 3:06 Hare and others quickly return to the station, "in a few minutes" from leaving it.
- 3:07-9 Hare hurries police to get the "rearing and plunging" horses (*RC Q.1116 O'Connor*) unloaded to give chase, as he understood from Mrs Stanistreet that the outlaws had just headed for the bush.
- 3:09 Const. Bracken tells prisoners in Inn to lie down flat on the floor, as it is their only way to be safe.
- 3:09 Bracken escapes from Inn (*Q.7757 Reardon*), runs to station breathless; tells Hare outlaws at Inn.
- 3:10-11 Start of police rush: Hare calls men; 8 police follow him along unfamiliar path, 200 yards to Inn.
- 3:12 Outlaws waiting under shadow of veranda; fire at arriving police; Hare shot in wrist in first fire. Police still on the platform grab their guns at the sound of shots, and rush towards the Inn.
- 3:12-3 The police with Hare, between 20 to 30 yards away (*Q.8065 Kelly*), scramble for cover; fire back.
- 3:13 The additional police rush up and fire back; all are still unaware of any prisoners being held in Inn.
- 3:15am** "First police volley". It effectively began when they began to return fire about 3:12-13am.
- 3:13-17 Warm fire exchanged "for a few minutes"; "perhaps 5 mins without intermission".
- 3:17-18 Gang retire inside Inn; Hare orders cease-fire; an outlaw challenges the police to "fire away". Cease fire at "about 10 mins perhaps - very soon after we took our positions", *Q.7376-7 Barry*.
- 3:18 Cries of women heard from within the Inn. Hare orders men to fire high (= 6 feet, *Q.7438 Barry*); see further notes on p. 33. McWhirter heard of the fire high order when police came for ammunition, *RC Q.10333 McWhirter*, and he places that order "in the first rush" (*Q.10331*), consistent with the above.
- 3:18 Police continue to move around seeking better positions with shelter.
- 3:18 Hare leaves, bleeding from artery wound, to return to station. Max time, *RC Q.10036 Carrington*.
- 3:19 Hare arrives at station, "8-10 mins after leaving it".
- 3:20 Hare's wrist is bandaged by reporters and he immediately returns to the police line.
- 3:22-3 Hare cannot continue; rests; tells O'Connor and S/C Kelly to surround Inn; goes back to station. Desultory fire; Martin Cherry hit by police bullet between the 2 main volleys [??] (*Jones, SL, 223*).
- 3:22-3 S/C Kelly starts to push his men around the Inn, "5 or 6 mins" after first volley ended.
- 3:23 Const. Phillips hears Kelly and Byrne talking at back of Inn, "about 10 mins after first encounter".
- 3:24 Kelly walks out, shoots at police, then exchanges 3-4 shots with Gascoigne.
- 3:25 *Hare arrives back on station platform, "all in about 5 minutes" from his previous return.*
- 3:25 Second police volley begins "about 7 mins after the first" ended, likely triggered by Kelly's moves. Jack and Jane Jones both struck by police bullets at time of second volley, *RC Q.7703 Reardon*. Reporter hears policeman in drain, before 3:30am, calling police to fire high, *RC Q.10790-8 Allen*.
- 3:26-7 Kelly disappears around corner of Inn in thick smoke from second police volley.
- 3:27-8 Kelly gets away out the back behind the Inn, limping from bullet wound in foot. McHugh carries Jack Jones out; "a few minutes after" he was shot; "that would be within 20 mins after police began to shoot" (*RC Q.7703, 10-11 Reardon*); says 30-40 in armour in Inn, *RC Q.11311 Phillips*. "A man" comes out the rear yard of Inn; rockets fired between station and McDonnell's Hotel. "Firing ceased about 25 mins from first shot", *Reward Board, Q.75 Rawlins (3:12-3 to 3:27-8am)*.
- 3:30am** S/C Kelly and Const. Arthur find Kelly's rifle and cap 100 yards from the Inn. Hare to Benalla. Mr Stanistreet got out after Hare left around 3:30 (*RC Q.10036-8 and Q.9709*), and "soon after" cease fire, *Rew Bd Q.147 & RC Q.10317 McWhirter*; tells S/C Kelly 30-40 prisoners in Inn, *RC Q.10317, 10333 McWhirter*.

## Index

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## Addendum

A visual colour comparison of matching passages between the Euroa and Jerilderie letters:

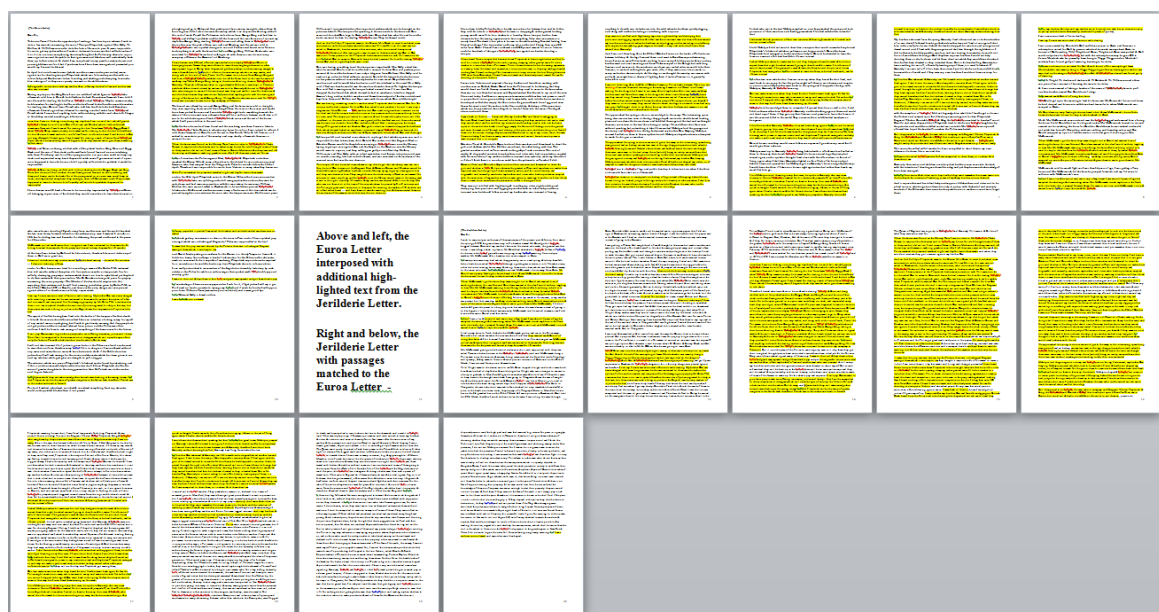
(The yellow shading may not be obvious on a black and white printout of this book. Just see the PDF.)

The pages in the top row, and to the left under it, show the Euroa letter's text, interposed with all closely matching (shaded) passages of the Jerilderie letter. There is considerable overlap in the letters' contents.

The remainder of the second row to the right of the central explanation page, and the third row, show the Jerilderie letter text, with shaded passages matched against the Euroa letter's text. The unshaded text shows the considerable extent to which parts of the Jerilderie letter have simply expanded on the Euroa letter's content. The comparison shows that the Jerilderie letter is just a rambling, ranting, and possibly drunken, longer version of the Euroa letter, made when it was copied out in several stages at Jerilderie.

At least one other similar letter was sent by the gang around the same time, to Superintendent Sadleir (Telegram, Standish to Chief Secretary, 18 December 1878, VPRS 4969, Unit 1, Item 18, record 2). This all suggests that there was an original "master" letter from which subsequent letters were loosely copied.

Bracken reported, and also stated to the press, that at Glenrowan Kelly had said to his prisoners, "I have written to Berry and he would not publish my letter...." (Bracken, report, 29 June 1880, VPRS 4968, Unit 1, Item 1; *Argus*, 30 June 1880, 6). That half sentence was not included in the *Argus*' reportage of Bracken's statement. Misreporting or subediting is likely responsible for the NSW papers' "rumour" three days later, discussed on p. 2 above, "that in Ned Kelly's possession was found a pocket book, containing a number of letters, implicating persons in good positions, and the name of one Member of Parliament is mentioned."



## About this book

One of the most perplexing claims of the modern Ned Kelly legend is that Kelly and his gang aspired to establish a Republic of North-Eastern Victoria, to be triggered by the destruction of a police train at Glenrowan in 1880. Yet there is no mention of republican aims in any record of Kelly's day, nor in the numerous comments of those connected with or held prisoner by the gang, nor in the work of early historians of the outbreak who knew the Kellys, their gang, their sympathisers, or the pursuing police. This investigation provides a close historical analysis of the construction of a romantic myth of a Kelly-led republic in much popular Australian history. It systematically reviews the arguments advanced to support the narrative, and demonstrates that they are contradicted at every point by documented historical evidence. Kelly sympathisers were concerned with allegedly wronged relatives demanding justice from the system, together with land security, but never with the system's overthrow. At no point in the entire Kelly outbreak down to his execution did Kelly concern himself with a republic or political change. It concludes that the "Kelly republic" has become Australia's most extraordinary - if accidental - history hoax.

Dr. Stuart Dawson is an Adjunct Research Fellow with the Department of History, in the School of Philosophical, Historical and International Studies, Monash University. He has written several scholarly articles on Ned Kelly and other aspects of Australian colonial history.

"This is an excellent piece of work that blows out of the water any suggestions of political motivations behind the Kelly outbreak. Dawson has closely examined the origins and growth of one particular aspect of the Kelly legend, that Ned Kelly hoped to establish a separate republic in north-east Victoria. His detailed research and incisive use of sources clearly indicates that any such proposition, whether it dates from the Kelly period or later, is purely mythical, revealing as much about its modern proponents as it does about that group of ill-fated outlaws in colonial Victoria. Dawson's work may also be taken as a warning from history about how easy it seems to be for some to construct a cult based on the slimmest of hard evidence. It is a fine piece of well-written and much-needed historical work." Dr. David Bird, author, *Nazi Dreamtime: Australian Enthusiasts for Hitler's Germany* (Anthem Press, 2014).

"Dawson is a formidable myth-buster. The belief that Ned Kelly was a political rebel seeking to establish a republic, rather than a common criminal, has won surprising credit among historians as well as filmmakers, novelists and republicans. In this meticulously researched and forensically argued study, Dawson has surely busted that myth once and for all." Professor Graeme Davison, author, *City Dreamers: The Urban Imagination in Australia* (NewSouth Publishing, 2016).

"Dawson's thoroughly researched and very readable book is a work of common-sense and impeccable credibility. The public can perhaps be excused for their media-driven hero worship of Ned Kelly and for romantically accepting that a Kelly republic was in the offing. Professional historians have no such excuse and Dawson, bravely and incisively, takes them to task for allowing fifty years of 'fake' history to thrive largely unchecked. He calls out the misrepresentations and distortions responsible for perpetuating the myth of a Kelly republic with panache and comprehensive reference to documented evidence. The Kelly republic legend is here well and truly refuted." Dr. Doug Morrissey, author, *Ned Kelly: A Lawless Life* (ConnorCourt, 2015) and *Ned Kelly: Selectors, Squatters and Stock Thieves* (ConnorCourt, 2018).

