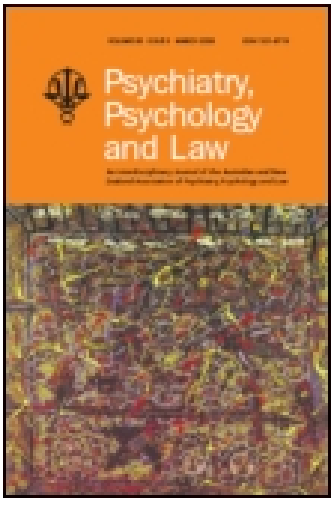

Psychiatry, Psychology and Law
Publication details, including instructions for authors and subscription information:
http://www.tandfonline.com/loi/tppl20

Ned Kelly - Stock Thief, Bank Robber, Murderer - Psychopath

Russ Scott[a] & Ian MacFarlane[b]
[a] Forensic Psychiatrist, Brisbane, Queensland, Australia
[b] Historian, Melbourne, Victoria, Australia
Published online: 21 Jul 2014.

To cite this article: Russ Scott & Ian MacFarlane (2014) Ned Kelly - Stock Thief, Bank Robber, Murderer - Psychopath, Psychiatry, Psychology and Law, 21:5, 716-746, DOI: 10.1080/13218719.2014.908483

To link to this article: http://dx.doi.org/10.1080/13218719.2014.908483

Psychiatry, Psychology and Law, 2014
Vol. 21, No. 5, 716–746, http://dx.doi.org/10.1080/13218719.2014.908483

Ned Kelly – Stock Thief, Bank Robber, Murderer – Psychopath

Russ Scott[a] and Ian MacFarlane[b]

[a]*Forensic Psychiatrist, Brisbane, Queensland, Australia;* [b]*Historian, Melbourne, Victoria, Australia*

In his boyhood, Edward "Ned" Kelly began "lifting" cattle and horses. His early convictions included assault (1870), "feloniously receiving a horse" (1870) and resisting arrest (1877). On 15 April 1878, a lone police constable who visited the Kelly home to arrest Dan Kelly for horse theft later alleged that Ned Kelly shot and wounded him and that he had been assaulted by Kelly's family members. With a warrant for his arrest on a charge of attempted murder, in October 1878, Kelly and his gang ambushed and shot dead three policemen in remote bushland near Mansfield. On 1 November 1878, as a result of the Felons' Apprehension Act, the Kelly gang were proclaimed "outlaws" and initially rewards of £200 for each was offered alive or dead. After robbing banks in Euroa and Jerilderie in NSW, and murdering a police informant, Kelly and his gang planned to derail a special train carrying police and black-trackers. The derailment was averted and police laid siege as sixty hostages huddled inside the Glenrowan Hotel. Kelly always claimed that he and his family had been victimised by police and that he had been driven to lawlessness. Many historians and authors have attempted to make connections between the Kelly gang outbreak and social conflicts of the period. However, a close examination of his developmental history and subsequent criminal behaviour reveals that Kelly was a violent and vindictive man who demonstrated prominent psychopathic features including pathological lying, callous lack of empathy for others and a parasitic lifestyle. As Kelly terrorised country Victoria, he showed little concern other than for his own gratification and self-justification. Kelly's own florid diatribes and correspondence further illuminate his grandiose sense of self-worth and his inability to accept responsibility for his criminality.

Key words: Ned Kelly; murderer; psychopath.

After 130 years of folkloric colouring, considering Ned Kelly dispassionately requires diligence in distinguishing between blurred facts and blatant fiction.

Enthusiasm for Kelly is sometimes ridiculously extravagant: "Ned Kelly is the best known Australian, our only folk hero . . . Popular instinct has found in Kelly a type of manliness much to be esteemed – to reiterate: courage, resolution, independence, sympathy with the under-dog".[1] By contrast, the *Melbourne Punch* at the time referred to Kelly as "a wretch without one redeeming point . . . murderer, traitor, hypocrite, liar and coward".[2]

Ned Kelly and Colonial Victoria

To understand the story of Ned Kelly, it is important to appreciate the context of hardship in early rural Australia. In the 1830s, settlers who occupied land beyond the official settlement of Melbourne became known as "squatters". Often from wealthy English

Correspondence: R. Scott, High Security Inpatient Service, The Park – Centre for Mental Health, Research and Treatment, Locked Bag 500 Sumner Park B.C. 4074, Brisbane, Queensland, Australia. Email: russ.scott@health.qld.gov.au

families, squatters were later able to purchase vast pastoral tracts at marginal cost.[3] By legislation introduced in the 1860s, "free selection" of Crown land "before survey" was intended to encourage closer settlement, based on intensive crop cultivation, rather than extensive cattle and sheep grazing. The Land Acts passed by Victorian parliament in 1860, 1862 and 1865 purported to open the land more equally by making parcels available to poorer settlers. However, with organised squatters often already ensconced on the most fertile land around natural water resources, selectors were greatly disadvantaged and struggled to farm small plots intensively in the harsh seasonal climate.

The development of the concept of "mateship" under great adversity and resentment of authority, particularly felt by Irish-Australians who railed against the Anglo-Australian ruling class, was further exacerbated by conflicts caused by squatters impounding selectors' stock when the animals strayed onto the squatters' runs and attempts to force small selectors off their land.[4]

Whilst some Australian historians of the time dismissed the offences by the Kelly gang as simply social delinquency and lawlessness,[5] other early authors were more laudatory and attempted to make stronger connections between the Kelly outbreak and social conflicts generated by the operation of land selection legislation.[6]

Kelly has been naively characterized as a "social bandit", a champion to small selectors who felt disenfranchised and victimized by bureaucracy and community policing.[7] Since his execution, Kelly has been idealised as an "underdog" who challenged oppressive authority and he has been fashioned into a figurehead of Irish Catholic and working-class resistance to the "establishment" and British colonial ties.

Ned Kelly – The Legend

There may have been a superficially compelling quality about Kelly's exploits which appealed to aspects of the budding national character. The nascent Australian "larrikin" character was colourfully irreverent of authority and disdainful of conformity. Larrikinism consisted of "breaking windows, throwing stones at passing traffic, shouting cheek at adults, congregating at street corners at night jostling passers-by, and other variations of anti-social behaviour"[8].

After Kelly encased himself in crude armour and took on the massed force of police during the siege at Glenrowan, the expression "as game as Ned Kelly" entered the Australian lexicon. Convicted and sentenced to death, a defiant Kelly wrote eloquent, self-serving missives to the Governor of Victoria. At Kelly's request, a handsome photo portrait was taken and he was visited by family members whilst he waited in the condemned cell in the Old Melbourne Gaol.

After he was hanged on 11 November 1880, Kelly's name became enshrined in popular Australian folklore and the national identity.[9] Since the first publication in 1879,[10] the romanticized story of Kelly and his gang has spawned a vast collection of non-fiction[11] and fiction,[12] serialised newspaper cartoon,[13] poems, ballads, films, art, blogs and tourist sites.

A series of paintings by Sidney Nolan[14] and others have become some of the most internationally recognisable icons of Australian art and culture and it is claimed that the "Iron Outlaw" website attracts over a million hits annually. Kelly even has his own Australian government web-page.[15]

But is Kelly worthy of such adulation and selective story-telling? What can actually be said about the man rather than the legend and what are the substantive elements and context of Kelly's short, brutish life?

Ned Kelly – Early Developmental History

Kelly's father "Red Kelly" was an Irish convict who, in 1841, was sentenced to seven years transportation for stealing two pigs. Arriving in Van Diemen's Land in 1842, Red

Kelly obtained his "ticket of leave" in 1848 and went to the Port Phillip district which later became Victoria.

In November 1850, Red Kelly married Ellen, the daughter of James Quinn, a former labourer and porter who later squatted on a large parcel at the headwaters of the King River. Born in County Antrim, Ireland in 1832, Ellen migrated to Australia with her parents and ten siblings in 1841. Red Kelly worked as a bush carpenter and gold-digger before he bought a small freehold at Beveridge, north of Melbourne. Over the next fourteen years, Ellen bore eight children to Red, the first of whom died in infancy. The family were fringe-dwellers, whose children were poorly clothed and lived in poverty.

In 1860, after Red Kelly developed alcoholism, the family was forced to sell up and move to Avenel near Seymour. Red Kelly's third child and first son, Ned, was probably born in December 1854, around the time of the momentous events of the Eureka stockade. His birth was not registered. In April 1863, at the age of 8, Kelly had his first experience of the criminal justice system when he gave evidence at the Kilmore General Sessions trial of his uncle "Jim" Kelly who was charged with cattle theft.[16] Kelly's evidence that his uncle had been at home when the cattle were stolen did not persuade the police magistrate who convicted Kelly's uncle and sentenced him to three years hard labour. In June 1869, when he was aged fourteen, Kelly gave evidence in favour of a farmer named Yeamon Gunn who was accused of possessing mutton for which he could not account. Although Kelly claimed he had sold him two sheep, Gunn was still convicted. The court was probably aware that Gunn's older brother had married Kelly's sister Annie two months previously.[17]

In May 1865, Red Kelly was convicted of stealing a calf. Unable initially to pay the twenty-five pound fine, he failed to appear in court and later served six months imprisonment with hard labour. When he died shortly after his release from gaol on 27 December 1866, possibly of complications of his alcohol abuse, Red Kelly was survived by his wife and seven children. Ned Kelly attended school only until he was aged 12 at the time of his father's death.

The family was left indigent and, in May 1867, moved to a dilapidated former hotel in Greta which they shared with Kelly's two aunts whose husbands, the Lloyd brothers, were absent serving prison sentences for stock theft. On 27 January 1868, after a drunken argument, Kelly's uncle James "Jim" Kelly set fire to the derelict hotel. Although all of the sixteen occupants, most of them children, survived the fire, on 18 April 1868 Jim Kelly was convicted of attempted murder and was sentenced to death. The sentence was commuted to fifteen years and Jim Kelly spent most of the remainder of his life in Ararat Lunatic Asylum and Beechworth Asylum.[18]

The Kelly Family at the Eleven Mile Creek Selection

In May 1867, Kelly's mother managed to secure a selection of 88 acres of uncultivated land at Eleven Mile Creek, between Greta and Glenrowan (30 kilometres east of Benalla) which was described as "fair agricultural land".[19] She was later reported to have said "the land was very poor, and wouldn't grow anything scarcely".[20] Between 1871 and 1877, Mrs Kelly failed to fulfill the cultivation requirement of her selection.[21] The family was impoverished and the Kelly children had "chaff bags over their shoulders to keep out the rain and the cold"[22] and subsisted in a primitive bark-roofed earthen floor tenement of rooms separated by curtains. A historian later noted "The hardship of the life, in a locality far from social comfort, education or religious influence, has never been clearly conveyed; nor have the effects it produced".[23]

The Kelly shack lay close to the Melbourne-Sydney road and later earned a reputation as a sly grog outlet, increasing frequented both by travellers and locals, including the

bushranger Harry Power, and became closely monitored by the local constabulary.[24]

Charges of Robbery, Assault – 1869, 1870

On 10 October 1869, at age 14, Kelly was charged with the assault of a Chinese miner and was held for ten days on remand before the charge was dismissed.[25] It was alleged that, on 16 March 1870, prominent local identity and magistrate Robert Bean was robbed at gunpoint by Harry Power and that Kelly, then aged 15, was an accomplice. On 5 May 1870, Kelly was arrested and charged with highway robbery in company. Kelly was later held on remand for seven days before he appeared before a court when he assumed such a "jaunty air" that a journalist reported: "the misguided youth evidently considered himself a character to be admired".[26] The charge was dismissed.

On 30 October 1870, Kelly was aged 16 when he was charged with the assault of a hawker named McCormack and was later implicated in sending McCormack's childless wife a box containing calves' testicles and an indecent note.[27] On 10 November 1870, Kelly was sentenced to six months hard labour.

Conviction for Feloniously Receiving a Horse – 2 August 1871

Upon his release from prison on 27 March 1871, with a two-month remission on a good behaviour bond, Kelly returned home. While staying with the Kelly family, an acquaintance named Wright reported that his mare had gone missing. After borrowing one of the Kelly family's horses, Wright returned to Mansfield. Kelly subsequently related that he had "found" Wright's missing horse. When police later attempted to make an arrest on 20 April 1871, just over three weeks following his release from prison, Kelly, who was aged 17 and was by then six feet tall and weighed over 100 kilograms, overpowered and humiliated one of the police officers before he was eventually restrained and arrested.

A major difficulty for Kelly apologists is the letters Kelly wrote, which attempted to explain his *raison d'être* and motives. In the most serious of his claims, Kelly alleged that during his arrest on 20 April 1871, Senior Constable Edward Hall had tried to kill him as Kelly violently resisted arrest and struggled with Hall outside the Greta Police Station. Kelly later claimed that he heard Hall's revolver misfire "three times" as Hall pointed the weapon at Kelly. With the help of a group of labourers, Kelly was eventually subdued and dragged bleeding to the lock-up. However, on 29 April 1871, in the Wangaratta Police Court, nothing was said about the revolver misfiring. On 1 May 1871, when he was represented in court, Kelly again failed to mention the incident in which he claimed the policeman attempted to shoot him. Kelly was committed for trial and, on 2 August 1871, after nearly three and a half months in police cells, Kelly, along with his brother-in-law, were sentenced to three years imprisonment with hard labour for "feloniously receiving a horse".[28] When the archival documents are closely examined about this and other events, Kelly's recurrent complaints about police in his letters are frequently exposed as being half-truths, misrepresentations or plainly false.

Imprisonment – April 1871–February 1874

Historian John McQuilton emphasised how oppressive, for some, the law enforcement and sentencing was in colonial Victoria:

> The reward system and the inability of the police to differentiate between theft for gain, theft for food and borrowing began to entangle those associated with suspects and then the innocent as the arrests became increasingly indiscriminate. Innocent horse traders and selectors who purchased stock in good faith were jailed by Benches who refused to believe that they had not known . . . Any selector arrested for stock theft who had a record was given a heavy sentence.[29]

On 17 April 1873, whilst Kelly was in prison, his younger brother, James was

sentenced to five years' imprisonment for cattle stealing. Following his release, James Kelly went to Wagga Wagga where he was sentenced to a further ten years imprisonment for stealing horses. In 1877, Kelly's youngest brother Dan was sentenced to three months' imprisonment for damaging property. During Kelly's imprisonment, his niece Ellen died in January 1872 and his sister Annie died in November 1872.

After his transfer to Pentridge Gaol, Kelly forfeited the standard three months "good behaviour" remission from his total sentence and had only seven days docked from the head sentence. After his release from gaol in February 1874, Kelly worked for two years as a foreman in a timber mill then panned for gold before finally finding employment mustering strays in the Riverina. On 3 August 1876, Kelly appeared before the Oxley Police Court charged with stealing a horse.[30] The evidence was found to be inconclusive and he was discharged.

Conviction for Drunkenness, Assaulting Police – 19 September 1877

On 16 September 1877, Kelly was intoxicated when he was arrested for riding over a footpath and was locked-up overnight. The following day, whilst being escorted by four policemen, Kelly escaped into a shoemaker's shop. During a struggle in which Kelly's trousers were almost ripped off, he was "blackballed" (grabbed and held by the testicles) by Constable Thomas Lonigan. It was reputed that Kelly told Lonigan at the time: "Well Lonigan, I never shot a man yet [sic], but if I ever do, so help me God, you will be the first!"[31] Kelly was later convicted of drunkenness and assaulting police and was fined.

On 2 October 1877, under the headline *"Bushranging and Burglary"*, the Beechworth *Advertiser*, fulminated over the antisocial behaviour of Kelly and his confreres:

> In the neighbourhood of Greta for many years there has lived a regular gang of young ruffians, who from their infancy were brought up as rogues and vagabonds, and who have been constantly in trouble, and on Sunday we learnt that, though it is but a short time since some of them have been released from gaol, where they have been serving sentences for horse stealing, a little game with which they are thoroughly *au fait,* they have again indulged in their pranks.[32]

Kelly and Organised Stock Theft in North-East Victoria

During Kelly's early adulthood, a highly organised network for redistributing stolen livestock developed in north-east Victoria. The rugged mountain ranges and tracks were rarely patrolled by police and vantage points offered easy observation of the progress of the occasional police patrol. With separate police forces and different legislation, regulations and methods of recording stock theft, the porous border region between Victoria and New South Wales became dotted with isolated paddocks where stolen animals could be hidden whilst their brands and markings were altered before they were offloaded at auctions, purchased with a legitimate receipt and re-sold. The extended Kelly family became the principals in the corruption and terrorizing of small farmers along the isolated border stock routes.

Subsequent police investigations revealed the extent of the organised stock theft by Kelly and his brother Dan. Although only a suspect in many cases of stock theft, Kelly himself later boasted that in his youth, he had become an accomplished stock thief. During Kelly's subsequent trial, a witness deposed that Kelly had told him that he had stolen about 280 horses, and that if "the police had taken him for any of these cases" he would not have objected, but that the police had continued to "persecute" him.[33]

In what later became known as the "Jerilderie letter" which was written in 1879, Kelly reflected on what he claimed was an earlier false accusation against him:

> I heard again I was blamed for stealing a mob of calves from Whitty and Farrell which I knew nothing about. I began to think they wanted me to give them something to talk about. Therefore I started wholesale and retail cattle and horse stealing.[34]

The local newspaper, the *Ovens and Murray Advertiser,* continued to agitate for increased efforts to eradicate the widespread and apparently well-organised cattle duffing and horse thefts in the Greta and King River districts[35] and eventually arrest warrants were issued against Kelly on 15 March 1878 and his brother Dan on 5 April 1878.

Fitzpatrick Incident – 15 April 1878

Minimizing the extent of earlier offending by Kelly and his family and associates, Kelly and his subsequent hagiographers have identified an incident in 1878 involving his family and a policeman as the pivotal event in Kelly becoming an outlaw.

On 15 April 1878, on his way to take up duty at the Greta police station, Constable Alexander Fitzpatrick went on his own to the Kelly home to arrest Kelly's brother Dan on the horse stealing warrant. Although Kelly later claimed he was not at the family home at the time, in his subsequent deposition, Fitzgerald alleged that during a commotion in the shack, he was suddenly confronted by Kelly who fired a small hand gun and wounded him in the wrist. Fitzpatrick also claimed that he was assaulted by members of his family and others.[36] Immediately following the incident, Kelly and his brother Dan went into hiding in the Wombat Ranges near Mansfield.

Kelly's Mother Convicted, Sentenced – 9 October 1978

On 17 April 1878, Kelly's mother with her baby Alice, her son-in-law and a family friend were arrested and remanded to bail. On 17 May 1878, they were charged in court with aiding and abetting the attempted murder of Fitzpatrick.[37] On 9 October 1978, following a jury trial, all the accused were convicted. The trial judge, Irish-born Sir Redmond Barry, sentenced Kelly's mother to three years imprisonment and the two men to six years imprisonment. It was reported that during sentencing, Justice Barry expressed the hope that the "gang of lawless persons" in the Greta district would now disband.[38] A reward of £100 was posted for Kelly and his brother Dan.

Fitzpatrick was subsequently vilified and was later, in the context of an unrelated incident, dismissed from the police force on 27 August 1880. Some authors doubt Fitzpatrick's account of how he sustained a wound to his wrist. However, one version in which an "inebriated Fitzpatrick pulled Kelly's young sister onto his knee"[39] appears to be pure fiction. Whilst Fitzpatrick can be criticised for his poor judgment in going to the Kelly home unaccompanied, no evidence was given at the subsequent trial, least of all by Kate Kelly herself or by Kelly's mother or sister Grace, that Fitzpatrick had acted improperly inside the cramped confines of the Kelly shack on the night of 15 April 1878.[40] There has even been a suggestion that the injury Fitzpatrick sustained was not a bullet wound. However, in his original deposition, sworn on 17 May 1878, Dr John Nicholson, who examined Fitzpatrick's wound reported:

> I examined the left wrist. There appeared to be bullet wound – the bullet had apparently entered … outside of the wrist … At the exit end there was a clean incision a little more than half-an-inch in length.[41]

At Kelly's committal hearing, Dr Nicholson testified that the wounds were consistent with Fitzpatrick's statement and that the entry wound was caused by a bullet and the exit wound was caused by a knife making a short incision to remove the bullet.

Although Kelly repeatedly claimed that he could have produced witnesses that would have testified that he was not present during the Fitzpatrick incident, none were ever

forthcoming. Following his arrest during the siege at Glenrowan, and just before he was taken from the Benalla lock-up, Kelly spoke with Senior Constable John Kelly who later claimed that in conversation, Kelly admitted to shooting Fitzpatrick in 1878.[42]

Relying upon oral tradition and interviews with Kelly family members and associates to compliment his prodigious archival research, historian Ian Jones has published what have been acclaimed as the most detailed and authoritative works on the Kelly Outbreak. Even Jones concluded that there was overwhelming evidence that Kelly was present during the Fitzpatrick incident.[43] The episode indicated that Kelly was quick to anger and had a propensity for violence.

Police Murders at Stringybark Creek – 25 October 1878

After the incident involving Fitzpatrick, police obtained information that indicated that Kelly and his brother Dan and gang members Steve Hart and Joe Byrne were in the Wombat Ranges at the head of the King River and two parties of police were secretly dispatched.[44] On 25 October 1878, Sergeant Michael Kennedy and Constables Thomas McIntyre, Thomas Lonigan, and Michael Scanlan, all in civilian clothes, set off from Mansfield and later set up a camp on disused diggings in a heavily timbered area at Stringybark Creek, 23 kilometres north-east of Mansfield.

Late in the afternoon, whilst two of the four man party were out scouting, the Kelly gang surprised Lonigan and McIntyre at the camp. Kelly's subsequent description of the shooting of Constables Lonigan and Scanlan during the ambush differed substantially from the accounts given by the survivor, Constable McIntyre.

Previously, in November 1878, opposition parliamentarian and member for West Bourke Donald Cameron had criticised the government and attacked the police force in the Victorian legislative assembly for their failure to apprehend the Kelly gang. Thinking (incorrectly) that Cameron was an ally, on 16 December 1878, two months after the police killings, Kelly dictated to Joe Byrne a 20 page letter which he sent to Cameron. Stating his grievances and highlighting the incidents that led to him becoming an outlaw, Kelly also gave an account of the ambush of McIntyre and Scanlan:

> McIntyre laid the gun against the stump, and Lonigan sat on the log. I advanced, my brother Dan keeping McIntyre covered. I called on them to throw up their hands. McIntyre obeyed and never attempted to reach for his gun or revolver. Lonigan ran to a battery of logs and put his head up to take aim at me when I shot him, or he would have shot me, as I knew well.[45]

However, in the report he wrote almost as soon as he arrived at Mansfield on the afternoon of 27 October 1878, McIntyre emphasised that Lonigan's pistol was holstered when he was shot and killed by Kelly:

> Constable Lonigan made a motion to draw his revolver which he was carrying, immediately he did so he was shot by Edward Kelly and I believe he died at once.[46]

There is no evidence that Lonigan actually drew his revolver at all. In fact, he could not have drawn it easily since it was secured by a fastener in his holster.[47] During Kelly's subsequent trial, *The Argus* reported that McIntyre testified that when he heard someone shout "Bail up; hold up your hands" McIntyre found himself confronted by four armed men and, as he threw up his hands in surrender, he witnessed Kelly point his rifle at Lonigan and shoot him dead.[48]

When the remainder of the police party returned at dusk, McIntyre had been instructed by Kelly to call upon them to surrender. When Kennedy and Scanlan refused to surrender, there was no exchange of fire or any "battle" as most pro-Kelly writers describe. Rather, there was a one-sided furious fusillade of shots at the mounted policemen from

different directions. Kelly shot Scanlan before he could un-sling his rifle and also wounded Sergeant Kennedy after he dismounted. Kelly then pursued Kennedy into the bush, exchanging pistol shots. Confirming that he shot Kennedy in the chest at short range with a shotgun, Kelly later claimed that Kennedy was already mortally wounded and his *coup de grace* was an "act of mercy".

In his letter to Cameron, Kelly gave an account of what happened when Kennedy and Scanlan returned to the camp:

> McIntyre went up to Kennedy, Scanlan being behind with a rifle and revolver. I called on them to throw up their hands. Scanlan slewed his horse round to gallop away, but turned again, and as quick as thought [sic], fired at me with the rifle, and was in the act of firing again when I shot him. Kennedy alighted on the off side of his horse and got behind a tree and opened hot fire. McIntyre got on Kennedy's horse and galloped away. I could have shot him if I chose, as he was right against me, but rather than break my word I let him go. … My brother advanced from the spring. Kennedy fired at him and ran, and he found neither of us was dead. I followed him. He got behind another tree and fired at me again. I shot him in the armpit as he was behind the tree. He dropped his revolver and ran again, and slewed round; I fired with the gun again and shot him through the right chest, as I did not know that he had dropped his revolver and was turning to surrender. He could not live, or I would have let him go. Had they been my own brothers I could not help shooting them, or else lie down and let them shoot me, which they would have done had their bullets been directed as they intended them. But as for handcuffing Kennedy to a tree, or cutting his ear off, or brutally treating any of them, it is a cruel falsehood. If Kennedy's ear was cut off, it has been done since. I put his cloak over him and left him as honourable [sic] as I could, and if they were my own brothers I could not be more sorry for them.[49]

Seeing Scanlan and Kennedy shot, McIntyre feared for his life and escaped by riding off on Kennedy's horse. Injured from a fall during his escape, McIntyre later concealed himself in a wombat hole until dark and walked until he reached a sawmill and was taken to the police camp at Mansfield late in the afternoon of 27 October 1878.[50] After McIntyre reported the murders, police and townspeople conducted a search which later found the campsite. The tent had been burnt and everything of value had been taken or destroyed. The dead men's jewellery was stolen and their pockets turned out.

The account that Kelly later gave of how he killed Lonigan and Scanlan was discredited by the findings of the doctor who conducted a post-mortem at the Mansfield hospital mortuary. An examination of Lonigan's body revealed up to four gunshot wounds including one through the right eye.[51] A wound to the left thigh indicated that Lonigan was shot whilst he was upright, possibly sustained as he ran for cover. There were other wounds including wounds to the left arm which were difficult to explain if Lonigan had taken cover before he was shot dead as Kelly later claimed. The doctor who examined the body also reported that the shot which caused Lonigan's fatal wound to the right eye entered "diagonally" which indicated that Lonigan was not facing Kelly or aiming at him, when he was shot by Kelly.

In his letter to Cameron, Kelly said that he shot Scanlan in self-defence after Scanlan had fired his rifle at Kelly. However, an examination of Scanlan's body revealed at least four gunshot wounds including the likely fatal wound to the chest. By McIntyre's eye witness account, written soon after he arrived at Mansfield, after Kennedy and Scanlan were called upon to "bail up", both instinctively reached for their firearms. McIntyre reported that Scanlan, whose rifle was slung on a strap across his back, almost immediately "received a ball under the right arm which I feel assured caused his death".[52]

Constable McIntyre's Testimony

At Kelly's subsequent committal hearing, McIntyre gave evidence that at least three

shots were fired almost simultaneously at Scanlan as his horse "tossed up" and a single blast soon after. McIntyre testified: "I swear that Scanlan did not fire a shot, and he was incapable afterwards, as he fell to his knees".[53]

The Age reported that during Kelly's trial, McIntyre testified that when called upon to "bail up", Kennedy put his hand on his revolver and Kelly then fired a shot which missed. As Scanlan tried to dismount, he misstepped and fell upon his hands and knee and was in this position when he was shot by Kelly. The post-mortem findings, including the serious wound to Scanlan's chest under his right arm, corroborated McIntyre's account and also raised the possibility that other wounds to his right hip and right shoulder, before he sustained the fatal wound to his chest, rendered Scanlan incapable of operating a rifle slung over his back. The shoulder wound also suggested that Scanlan may have been turning away from his attackers and trying to control his horse when he was struck by successive shots.

On 29 October 1878, the inquest into the deaths of Lonigan and Scanlan held at Mansfield heard McIntyre deposed that Scanlan was trying to get his rifle off his shoulder and take cover: "before he could do so, I saw him fall – and saw the blood spurt out from the right side as he fell. At this time a great number of shots were being fired by Kelly's party – but none by the police, as they had no time to do so".[54]

In relation to Kennedy's fate and his own escape to Mansfield, McIntyre later wrote: "Sergeant Kennedy I am unable to say anything about, he was advised by me surrender [sic] he said it is alright I will [sic], but as the desperadoes continued shooting at the Sergeant and me, I seized his horse which he had abandoned and made my escape".[55]

On the day after Scanlan and Lonigan's funeral, another search party discovered Sergeant Kennedy's body. A handwritten note to his wife had been torn from Kennedy's notebook and his gold fob watch had been stolen. Despite advanced decomposition, examination of the body later revealed a number of wounds including one under his right arm, which may have been sustained whilst holding his arm above his head in surrender, and a huge chest wound which, in the examining doctor's opinion "was caused by a charge of shot fired at close range which passed completely through the body and out of the back".[56]

Kelly's Letter to Donald Cameron – 16 December 1878

Referring to the incident involving Fitzpatrick which resulted in the imprisonment of his mother and friends and the subsequent imprisonment of sympathizers, in his letter to Cameron, written less than two months after the police murders at Stringybark Creek, Kelly warned:

> I have no intention of asking mercy for myself or any mortal man, or apologising, but wish to give timely warning that if my people do not get justice, and those innocents released from prison, and the police wear their uniform, I shall be forced to seek revenge of everything of the human race for the future. I will not take innocent life if justice is given, but as the police are afraid or ashamed to wear their uniform, therefore every man's life is in danger, as I was outlawed without cause, and cannot be no worse, and have but once to die. If the public do not see justice done I will seek revenge for the name and character which has been given to me and my relations, while God gives me strength to pull a trigger. The witness which can prove Fitzpatrick's falsehood can be found by advertising, and if this is not done immediately, horrible disasters shall follow. Fitzpatrick shall be the cause of greater slaughter to the rising generation than St. Patrick was to the snakes and toads of Ireland. Had I robbed, plundered, ravished and murdered everything I met my character could not be painted blacker than it is at present, but thank God my conscience is as clear as the snow in Peru.

Kelly concluded the letter to Cameron with an ominous threat:

> I am really astonished to see Members of the Legislative Assembly led astray by such articles as the Police, for while an outlaw reigns their pocket swells: "Tis double pay and country girls" – by concluding, as I have no more paper unless I rob for it. 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 offence (remember your railroads), and a sweet good bye from Edward Kelly, a forced outlaw.[57]

Kelly's letter to Cameron was posted on 16 December 1878 and a second copy was sent to Police Superintendent Sadleir. However, the letter was never tabled in parliament as Kelly had hoped. The existence of the letter was first referred to in *The Ovens and Murray Advertiser* on 7 January 1879 and was not published in full until well into the next century.

Felons' Apprehension Act 1878

It is difficult to overstate the gravity of Kelly's murder of three policemen at Stringybark Creek. On 30 October 1878, the Felons' Apprehension Bill was introduced and passed by the Victorian Legislative Assembly. On 1 November 1978, the assent of the Victorian governor translated the Bill into the Felons' Apprehension Act (612) which proclaimed the Kelly gang as "outlaws" and offered rewards of £200 for each, alive or dead. The Act was based on the NSW Outlawry Act 1865. In the preamble to the Victorian Act, it was stipulated that the Act was intended to rectify "persons charged with murder and other capital felonies . . . [who were] availing themselves unduly of the protection afforded by law to accused persons before conviction". The legislation made it lawful for anyone to use deadly force to apprehend any members of the gang and also made it an offence to aid members of the gang in any way. Later, the reward was increased to £500 for each of the gang members, which was a vast sum of money for that time.[58]

On 5 February 1880, the Felons' Apprehension Act lapsed when the parliament was prorogued. Although Kelly was no longer an outlaw, his murder and robbery warrants remained outstanding at the time of his capture.[59]

Euroa Bank Robbery – 9 December 1978

On 9 December 1978, the Kelly gang took possession of a sheep station 150 km north-east of Melbourne and held captive twenty-two persons before holding up the National Bank at nearby Euroa and taking £1,500 in paper and £700 in notes, gold, and silver.

On 3 January 1879, police arrested fifteen known Kelly friends and sympathisers in and around Wangaratta, Benalla and Mansfield. *The Ovens and Murray Advertiser* reported that the prisoners included "men who have openly boasted of their sympathy with the gang, and others who are known to have helped and harboured the gang".[60] The prisoners were detained without charge for three months. This may have caused some local resentment and may have contributed to sympathy and support for the gang which in turn may have been a factor in the gang's ability to evade apprehension. Alternatively, the reaction of many of the locals may well have been quiet relief.

Jerilderie Bank Robbery – 8 February 1879

On 8 February 1879, the gang locked up two policemen in the police station at Jerilderie, a small Riverina town 45 kilometres north of the Murray River. They then held up the Bank of New South Wales and stole £2,141 in notes and coin before rounding up sixty people in the nearby Royal Hotel. The gang also stole several watches and horses.

It was reported that before the gang left Jerilderie, Kelly made a speech to his

captives. During the speech, Kelly claimed that on the occasion in 1879 when Fitzpatrick, the Benalla constable, was shot, he was "not within 400 miles of Greta". Kelly also claimed that although he had stolen "280 horses from Whitty's station", he had never committed any other offences.[61]

The New South Wales government issued rewards totalling £4,000 which were also matched by the Victorian Government, making the total reward for the Kelly gang £8,000. The Victorian Chief Commissioner also accepted an offer from Queensland to provide black trackers and, on 8 March, a contingent of black trackers arrived in Benalla to assist in the hunt for the Kelly gang.[62]

The "Jerilderie Letter" – February 1879

Before arriving in Jerilderie, Kelly dictated to Joe Byrne a 7,400 word manifesto in which he lamented the treatment of his family and, more generally, the treatment of Irish Catholics by the police and the English and Irish Protestant squatters which, in his view, justified his actions. Although it featured rough and florid language and contained little grammar or punctuation, the "Jerilderie Letter" offered a remarkable insight into Kelly's grandiosity and narcissism. Kelly planned to force the editor of the town newspaper to publish the statement as a form of public proclamation of self-vindication. After he failed to locate the newspaper editor, during the bank hold-up, Kelly gave the letter to a bank-teller. Amongst the garbled and malevolent vitriol, Kelly foreshadowed that he would be:

> [C]ompelled to show some colonial stratagem … [which] will open the eyes of not only the Victorian police, the inhabitants, but also the whole British army … and that [Constable] Fitzpatrick will be the cause of greater slaughter to the Union Jack than Saint Patrick was to the snakes and toads in Ireland.[63]

Parodying the officious style of a contemporary public proclamation, Kelly threatened any who considered assisting the police:

> I shall be compelled to make an example of them if they cannot find no other employment. If I had robbed and plundered ravished and murdered everything I met young and old rich and poor, the public could not do any more than take firearms and assisting the police as they have done, but by the light that shines pegged on an ant-bed with their bellies opened their fat taken out rendered and poured down their throat boiling hot will be cool to what pleasure I will give some of them and any person. Any person aiding or harbouring or assisting the police in any way whatever or employing any person whom they know to be a detective or cad or those who would be so depraved as to take blood money will be outlawed and declared unfit to be allowed human [burial] their property either consumed or confiscated and them theirs [sic] and all belongings to them exterminated off the face of the earth.

The "Jerilderie letter" was first published in full only in 1948.[64]

After the bank robbery at Jerilderie, *The Ovens and Murray Advertiser* reported "a regular reign of terror is in existence".[65] In May 1879, the Chief Commissioner of Police informed the government:

> The well affected members of the community appear to be under a kind of terrorism and save in some instances, are unwilling to give the police any information whatever … This however, is scarcely to be wondered at, as they naturally imagine that their properties might be destroyed and even their lives endangered if it were known that they assisted the police.[66]

Murder of Aaron Sherritt – 26 June 1880

Kelly planned to kill police in a trap at the small town of Glenrowan, approximately 30 kilometres west of Beechworth. By creating an incident to lure police with their Queensland black trackers along the railway line into an ambush, Kelly planned to shoot any survivors of the train derailment.[67]

On 26 June 1880, one of the gang, Joe Byrne, shot his former friend and police informant Aaron Sherritt at point blank range in an area known as The Woolshed, near Beechworth. It was reported in *The Argus* that after killing Sherritt as he opened the door to his cabin, Byrne threatened to burn down the cabin whilst four constables hid inside.[68]

Ambush at Glenrowan – 27 June 1880

On 27 June 1880, the day after the murder of Sherritt, the Kelly gang bailed up Glenrowan and cut the telegraph wires. Predicting that a special train containing police re-enforcements and the black trackers would be sent from Benalla during the night, the gang forced railway workers to rip up the rail line at a curve in a culvert over a gully just past Glenrowan. Up to sixty hostages were taken as the gang waited in the Glenrowan Hotel for the police train to pass. Kelly threatened his captives: "if I ever hear of any of you giving the police any information about us I will shoot you down like dogs".[69] By midday, more than eighteen hours after Sherritt's murder, there was still no sign of the special police train. The train wreck was later averted by the intervention of Thomas Curnow, the local school teacher whom Kelly allowed to leave the hotel with his family. Early in the morning of Sunday 28 June 1880, after the train was alerted by Curnow to stop at the Glenrowan station, police alighted and lay siege to the hotel.

Reporting on Kelly's plan to wreck the special police train, an *Argus* journalist later wrote:

> The treacherous slaying of the unhappy man Sherritt can be understood. No doubt the outrage would strike terror into the hearts of all who may be disposed to assist the officers of justice, and it was in the interests of the gang to establish terror in the district, but the wrecking of the train was purely gratuitous. If the gang had made the effort they would have been back in their old hiding places in the Strathbogie Ranges long before the police could have been on their tracks, and thus they might have eluded pursuit as successfully as ever.[70]

Siege at Glenrowan – 28 June 1880

Protected by crudely fashioned quarter-inch thick metal armour made from mouldboards of ploughs, gang members fired upon the advancing police from the hotel. They continued to taunt police whilst ignoring the screams of women and children hostages who cowered in terror inside the flimsy weatherboard walled hotel as gunshot penetrated from all directions.

Having slept little and having also consumed considerable alcohol, the gang members were emboldened in their armour. However, the armour weighed approximately 40 kgs and markedly constrained activity, including walking and firing accurately and the narrow helmet slit opening greatly limited visibility.

Around daybreak, police reinforcements arrived from Benalla, Beechworth and Wangaratta and eventually more than 50 police were involved. In the early morning light, wearing a long grey overcoat over his armour and with only a revolver, Kelly left the hotel and circled around and, through the early morning mist, attacked police lines from the rear. Although no bullets penetrated his armour, Kelly was felled with gunshot wounds to his unprotected legs.

Later in the morning, the women and children among the hostages were allowed to leave the besieged hotel. At 10 o'clock, a white handkerchief appeared at the front door of the hotel and about 30 male hostages emerged. However, a rail worker named Cherry had been fatally wounded by a police bullet and the 13 year old son of the hotel-keeper later died in hospital of a wound from a stray bullet. The hotel keeper's daughter was also wounded in the head and died two years later.

With Kelly captured and Joe Byrne dead, having bled to death from a gunshot wound to his unprotected groin, the siege ended after nearly 10 hours when the building was set on

fire. The two remaining gang members' bodies, burned beyond recognition, were later uncovered from the ashes of the hotel.

After Kelly recovered sufficiently, he was interviewed at the scene by a correspondent from *The Argus* who reported Kelly's incriminating statement:

> I was going down to meet the special train with some of my mates, and intended to rake it with shot; but it arrived before I expected, and I then returned to the hotel. I expected the train would go on, and I had the rails pulled up so that these bloody blacktrackers might be settled.[71]

When asked about the special police train, Kelly was reported by the correspondent to say: "I wanted to fire into the carriages, but the police started on to us too quickly". When Inspector Sadleir queried: "You wanted, then, to kill the people in the train?" Kelly was reported to reply: "Yes, of course I did; God help them, but they would have got shot all the same. Would they not have tried to kill me?"

Committal for Trial – 6 August 1880

Kelly was taken to Melbourne to recover from his wounds. On 31 July 1880, in the kitchen of the Melbourne Gaol, Kelly was remanded to Beechworth for committal proceedings. Later, as the train passed through Glenrowan, Kelly was reported to have said that he regretted that he and his gang had not rushed the station when the police train had arrived for had they done so, they would have been certain to have killed all the police party.[72]

During the committal hearing at Beechworth on 6 August 1880, Constable McIntyre gave eyewitness testimony of the killing of the police at Stringybark Creek.[73] After a series of other witnesses, Senior Constable John Kelly testified to his conversation with Kelly in the Benalla lock-up after the siege during which Kelly admitted shooting Constable Fitzpatrick during the incident at the family home in 1878.[74]

On 5 July 1880, *The Argus* had published a brief collateral report in relation to the incident involving Fitzpatrick:

> Rumour has been busy with the name of Constable Fitzpatrick in connexion with the Kelly outbreak. A prisoner now confined in Pentridge, who was present when Fitzpatrick was shot by Ned Kelly, has made a statutory declaration which, if true, goes far to exonerate the constable from the charges made against him. At present the authorities deem it advisable to withhold the particulars set out in the affidavit.[75]

Despite being remanded into custody, Kelly was able to advocate on his own behalf through statements published in *The Age* newspaper. On 9 August 1880, *The Age* published what was purported to have been an "interview" with Kelly:

> I do not pretend I have led a blameless life, or that one fault justifies another, but the public in judging a case like mine should remember that the darkest life may have a bright side, and that after the worst has been said against a man, he may, if he is heard, tell a story in his own rough way that will perhaps lead them to mitigate the harshness of their thoughts against him, and find as many excuses for him as he would plead for himself. ... If my life teaches the public that men are made mad by bad treatment, and if the police are taught that they may not exasperate to madness men they persecute and ill-treat, my life will not be entirely thrown away. People who live in large towns have no idea of the tyrannical conduct of the police in the country places far removed from court. They have no idea of the harsh and overbearing manner in which they execute their duty, or how they neglect their duty and abuse their powers.[76]

Since he sustained wounds to his right hand during the siege at Glenrowan, Kelly was unable to write. The so-called "interview", had clearly been drafted by Kelly's then solicitor David Gaunson. Gaunson had been admitted to the Victorian Bar in 1869 and later, in 1875, became the parliamentary member for Ararat.

The Ovens and Murray Advertiser castigated Gaunson, ridiculing him as "*The Age's* reporter":

> It was very clumsily managed that interview business. They put too many big words in Ned's mouth. There was too much of the big language used in Parliament in the supposed interview.[77]

The Argus was more measured in its implied criticism of Gaunson's advocacy on Kelly's behalf:

> The tendency which exists to regard a man with his hands imbrued in innocent blood as a modern Robin Hood is much too prevalent in Victoria, and it requires be sternly checking, and not encouraging. Nothing would stimulate the feeling, however, so much as the printing of stories from Kelly's own lips. In many instances, all that he said would be believed, and what he would say is easily foreshadowed. He would malign the police. He would accuse this man of cowardice and that of perjury. He would himself posture as something of a hero and a good deal of martyr. He would be irresponsible for his utterances, and his new victims would be as powerless as those whom he killed near Greta. This much can be predicted with certainty, because Kelly has already done something of the kind. He left a manuscript at Jerilderie, a copy of which came into the possession of *The Argus*, and we found it to be entirely unfit for publication, because it was of the character stated. And, moreover, the trick of maligning the police on some side issue, and of posing as the victim of persecution, is common to all habitual criminals . . . Mr. Gaunson visits Kelly as his solicitor. Yet it is alleged and no contradiction has appeared – that he has allowed Kelly to use him as a means of placing before the public a series of statements which on the face of them are false and injurious. We can only hope that Mr. Gaunson will yet see his way to assure the public that he has in no way abused his position, and we must certainly warn the public against placing the smallest faith in Kelly narratives, no matter who may be the reporter. Their value is the same as that of the Jerilderie manuscript, which, as responsible journalists, we declined to publish.[78]

Conviction and sentence – 28 October 1880

On 18 October 1880, Kelly stood trial at Melbourne before Justice Sir Redmond Barry, who had sentenced Kelly's mother to imprisonment in 1878. The trial was adjourned to 28 October 1880, when Kelly entered a plea of "not guilty" to the murder of Constable Thomas Lonigan. The most compelling evidence against Kelly again came from McIntyre, the only police survivor from the Stringybark Creek ambush, and witnesses who heard Ned discuss the murders.[79]

During the two day trial, Kelly did not testify or make an unsworn statement from the dock. No defence witnesses were called and no evidence was adduced by counsel Henry Bindon in support of Kelly's earlier claims of victimisation or harassment by police. Crown prosecutor Charles Smyth attempted to tender the government clerk's copy of Kelly's "Jerilderie letter". Kelly's counsel objected that the letter was not in Kelly's handwriting and indeed was actually written by Joe Byrne. The objection was upheld. After retiring, the jury deliberated for less than half an hour before returning a guilty verdict. It was reported that when asked if he had any statement to make, Kelly said:

> Well, it is rather too late for me to speak now. I thought of speaking this morning and all day, but there was little use, and there is little use blaming any one now. Nobody knew about my case except myself, and I wish I had insisted on being allowed to examine the witnesses myself. If I had examined them, I am confident I would have thrown a different light on the case. It is not that I fear death; I fear it as little as to drink a cup of tea. On the evidence that has been given, no juryman could have given any other verdict. That is my opinion. But as I say, if I had examined the witnesses I would have shown matters in a different light, because no man understands the case as I do myself. I do not blame anybody – neither Mr. Bindon nor Mr. Gaunson; but Mr. Bindon knew nothing about my case. I lay blame on myself that I did not get up yesterday and examine the witnesses, but I

> thought that if I did so it would look like bravado and flashness.[80]

The Argus reported the extraordinary exchange between an unrepentant Kelly and the sentencing judge:

> His Honour: The facts are so numerous, and so convincing, not only as regards the original offence with which you are charged, but with respect to a long series of transactions covering a period of 18 months, that no rational person would hesitate to arrive at any other conclusion but that the verdict of the jury is irresistible, and that it is right. I have no desire whatever to inflict upon you any personal remarks. It is not becoming that I should endeavour to aggravate the sufferings with which your mind must be sincerely agitated.
>
> The Prisoner: No, I don't think that. My mind is as easy as the mind of any man in this world as I am prepared to show before God and man.
>
> His Honour: It is blasphemous for you to say that. You appear to revel in the idea of having put men to death.
>
> The Prisoner: More men than me have put men to death, but I am the last man in the world that would take a man's life. Two years ago, even if my own life was at stake, and I am confident if I thought a man would shoot me, I would give him a chance of keeping his life, and would part rather with my own. But if I knew that through him that innocent persons, lives were at stake I certainly would have to shoot him if he forced me to do. But I would want to know that he was really going to take innocent life.[81]

Justice Barry's sentencing remarks were reported as follows:

> In new communities, where the bonds of society are not so well linked together as in older countries, there is unfortunately a class which disregards the evil consequences of crime. Foolish, inconsiderate, ill-conducted, unprincipled youths unfortunately abound, and unless they are made to consider the consequences of crime they are led to imitate notorious felons, whom they regard as self made heroes. It is right therefore that they should be asked to consider and reflect upon what the life of a felon is. A felon who has cut himself off from all decencies, all the affections, charities, and all the obligations of society is as helpless and degraded as a wild beast of the field. He has nowhere to lay his head, he has no one to prepare for him the comforts of life, he suspects his friends, he dreads his enemies, he is in constant alarm lest his pursuers should reach him, and his only hope is that he might use his life in what he considers a glorious struggle for existence. That is the life of the outlaw or felon, and it would be well for those young men who are so foolish as to consider that it is brave of a man to sacrifice the lives of his fellow-creatures in carrying out his own wild ideas, to see that it is a life to be avoided by every possible means, and to reflect that the unfortunate termination of your life is a miserable death. New South Wales joined with Victoria in providing ample inducement to persons to assist in having you and your companions apprehended, but by some spell which I cannot understand – a spell which exists in all lawless communities more or less – which may be attributed either to a sympathy for the outlaws, or a dread of the consequences which would result from the performance of their duty – no persons were found who would be tempted by the reward. The love of country, the love of order, the love of obedience to the law, have been set aside for reasons difficult to explain, and there is something extremely wrong in a country where a lawless band of men are able to live for 18 months disturbing society. During your short life you have stolen, according to your own statement, over 200 horses.[82]

Execution – 11 November 1880

Following his conviction and sentencing, petitions for Kelly's reprieve were circulated. It can be estimated that in 1880, the population of Melbourne was approximately 280,000.[83] Whilst 34,434 signatures were apparently collected, many were unaccompanied by a residential address and many names were obviously signed by one person on behalf of others. On 9 November 1880, the *Sydney Morning Herald* reported: "An

examination of the petitions showed that they were signed principally in pencil, and by illiterate people, whilst whole pages were evidently written by the one person".[84] One report described how Kelly sympathizers had taken the petition around the Greta area and "many have signed it through fear".[85] In reality, the campaign to have Kelly's death sentence commuted was made possible only because of the active agitation of the Gaunson brothers and the Society for the Abolition of Capital Punishment.[86]

Kelly spent his last night dictating his third letter to the Governor of Victoria in which he asked for permission to be buried "in consecrated ground". Just after 10.00 am on 11 November 1880, about a month before his twenty-sixth birthday, Kelly was escorted to the gallows.

A small group had assembled below to witness Kelly's hanging. The footsteps and shuffling on the metal floor and the murmured prayers of Dean O'Hare, the Catholic chaplain who accompanied Kelly as he was prepared for execution, would have ensured that nothing of what Kelly may have said would have been audible to those watching from the floor below in the cavernous prison hall. The accounts published in *The Herald* that Kelly remarked "Such is life" or in *The Argus*, which reported that Kelly quipped "Ah well I suppose it has come to this" are apocryphal.

Since the eighteenth century and before the advent of routine photography, wax or plaster death masks were made to permanently record the features of faces of corpses for purposes of identification and as proof of death. Death masks were also used in phrenology, the pseudoscience by which the human skull was examined to determine the individual's psychological attributes. A short time after he was pronounced dead, Kelly's hair and beard were shaved and plaster was applied to his severed head to make a death mask. The following day, the death mask went on public display in Bourke Street in Melbourne. After the head was removed, Kelly's body was buried in a rough wooden coffin in the gaol yard. It was illegal to remove executed prisoners or parts of their bodies from the gaol without permission. Kelly's skeletal remains were mixed among those of 33 others exhumed in 2009 from the old Pentridge Prison site in Melbourne. In 2011, after an exhaustive investigation, scientists at the Victorian Institute of Forensic Medicine announced that a DNA sample taken from the great-grandson of Kelly's sister Ellen, confirmed that the remains were those of Kelly.[87] The skull was stolen from a glass display case at the Old Melbourne Gaol in 1978 and is still missing.[88]

Other historical items are also missing. Kelly's .31 Colt Pocket revolver, which he may have used at the Constable Fitzpatrick shooting, at the Stringybark Creek Police murders and at Glenrowan, was stolen in 1976,[89] having been loaned by the State Library of Victoria to a US Bicentennial celebration exhibition in Chicago. Worst of all, a large collection of material, part of the Kelly Gang's almost unknown vindictive campaign against Detective Michael Ward, a local police officer who had been dogged in his pursuit of the gang, is also missing. The collection included letters from Kelly and other hate mail which was reported to have been adorned with funereal crepe and sketches of coffins and the gang shooting at police.[90] If the letters and drawings were as graphic as was described at the time and the collection had survived and remained part of the documentation of Kelly and his gang, there may have been much less sympathy for them today.

Ned Kelly – Psychopath

It is useful to consider Kelly's developmental history and subsequent criminal behaviour within the construct of psychopathy.[91]

Interpersonal Features of Kelly's Psychopathy

A number of the Kelly gangs' hostages reported that Kelly exhibited a superficial

charm and was given to regaling his captives with entertaining anecdotes of his colourful exploits.

During his evidence at Kelly's subsequent trial, the Euroa bank manager Robert Scott testified that Kelly was a gentleman who "never used a single rude word" in front of his wife, which was reported to prompt Kelly to wink at the jury.[92] Mrs Scott, the wife of the manager of the National Bank apparently formed a glowing impression of Kelly:

> There was a great deal of personality about Ned Kelly and he knew how to control men and circumstances. His management of the Euroa [bank robbery] affair was good, he seemed to consider everything and knew what to do for the best. He would have made a magnificent general and would have done much better as a soldier than a bush-ranger. He was a good son … and I believe a good brother.[93]

Even some of his hostages in the Glenrowan hotel before the siege found Kelly appealing. Describing how Kelly charmed his audience, one female hostage reported "but the devil was in us. We had been looking at the darling man, but sure Ned was a darling man".[94]

Particularly with the captive audience of hostages, Kelly displayed his exhibitionism and narcissism when he expounded upon the injustices he and his family had suffered which entitled him to flout the law. His grandiloquent declarations and the pompous letters he sent to public officials clearly demonstrated his grandiose sense of self-worth.

After the murder of three policemen at Stringybark Creek and the bank robberies at Euroa and Jerilderie, the contents of Kelly's letter to the Premier of NSW seem extraordinarily inane:

> To Sir Henry Parkes
> Premier N.S.W.
>
> My dear Sir Henry Parkes, I find by the news papers that you have been very liberal in offering a reward for the Kelly Gang or any one of them. Now Sir Henry the man that takes I, Captain E. Kelly – will have to be a plucky man for I do not intend to be taken alive. And as I would as soon die in NSW as Victoria I will give you or any other person who wishes to take me a fair chance to try your pluck. I am at present not very far from Bathurst (in fact I have been in the town of Bathurst and has taken a peep at the banks). Now I tell you candidly that I intend to rob Bathurst and particularly the bank. So now you are warned. Of course I will not say what time I and the gentleman that follows in my train will visit the City of the plains. But one thing you can count on that I will pay it a visit. Now Sir Henry I tell you that highway robbery is only in its infancy for the white population is been driven out of the labourmarket by an inundation of Mongolians and when the white man is driven to desperation there will be desperate times. I present my respects to the Sydney Police.
>
> Yours E. Kelly
> The Camp March
> 14th. March 1879[95]

Kelly's inflated sense of self-worth was most evident when, having been found guilty of murdering Constable Lonigan, he was asked if he had anything to say before he was sentenced. In his only contribution to the trial, Kelly declared that had he been able to examine the witnesses, he would have secured his acquittal.

Over his brief life, Kelly also became a pathological liar. From his late adolescence through many interactions with police and magistrates, he became practised in denial and fabrication. Kelly always claimed that he was not present during the Fitzpatrick incident. However, following his arrest during the siege at Glenrowan, and just before he was taken from the Benalla lock-up, Kelly spoke with Senior Constable John Kelly who later claimed that in conversation, Kelly admitted to shooting Fitzpatrick in 1878.[96]

It can be speculated that Kelly may have always been troubled by the fact that after he went into hiding, his mother, having been arrested and charged, never implicated Kelly in the Fitzpatrick incident and was herself

subsequently convicted and sentenced to a long imprisonment. Had Kelly turned himself in and, at trial, argued provocation or no intent to kill Fitzpatrick, his mother and the other two may well have received lighter sentences or even been discharged by the court.

On 1 July 1880, an editorial in *The Melbourne Punch* suggested that "lying and cowardice are usually close companions, and a perusal of … [Kelly's semi-autobiographical 'Jerilderie letter'] leads us to the belief that in his last adventure [at Glenrowan] both these elements in his nature were strongly exhibited".

On 12 August 1880, before his trial, *The Argus* accused Kelly of being a "habitual liar":

> He left a manuscript at Jerilderie, a copy of which came into the possession of *The Argus,* and we found it to be entirely unfit for publication, because it was of the character stated. And, moreover, the trick of maligning the police on some side issue, and of posing as the victim of persecution, is common to all habitual criminals, male or female, as every attendant at the courts of justice knows … It is notorious that the habitual criminal has a dogged hatred of the police and a morbid vanity as regards himself, and, above all, that he is incapable of telling a true story.[97]

It is likely that Kelly lied or dissembled self-servingly on a number of other occasions. He lied when he gave various versions at different times about the extent of his stock theft. Although Kelly insisted that he could name witnesses that would have testified that he was not at the Kelly homestead at Eleven Mile Creek, Greta when Constable Fitzpatrick was wounded, no person has ever been reported to have supported Kelly's alibi. During the bank robbery at Jerilderie in February 1879, Kelly is reputed to have told his captive audience:

> I swear I was 400 miles from home when I heard of how he [Fitzpatrick] treated my sister. I hurried home and found I had been accused of shooting Fitzpatrick … I don't deny having stolen horses and sold them, but shooting Fitzpatrick I am entirely innocent [sic].[98]

It is also probable that Kelly lied about the circumstances of the killing of all three policemen at Stringybark. By saying that Lonigan had run and was under cover and preparing to shoot, Kelly could insist he was justified in killing Lonigan first and thereafter plead "self defence" for all the police killings. Kelly also lied about what occurred in the prelude to the siege at Glenrowan, including when he suggested that he instructed the school teacher Curnow to warn the police train that the tracks were being torn up on the train line beyond Glenrowan.

Referring to a public meeting held at the Melbourne Hippodrome after Kelly's conviction but before his execution, *The Argus* reported:

> The proceedings were of a most disgraceful character. Mr. David Gaunson, M.L.A., who acted as attorney for the prisoner at the police court investigation and subsequent trial, gave a highly-coloured and one-sided narrative of the events … had the audacity to ask his hearers to believe that the gang of which Kelly was the leader only murdered Kennedy's party in self-defence. In proof of this he adduced some cock-and-bull story to the effect that Kelly had heard that the police did not intend to apprehend himself and companions, but to shoot them down like dogs wherever they might be found. Such a tale carries "lie" on the face of it. Constables, we know, are not in the habit of going about uttering such threats. But if, for the sake of argument, we assume that it is true, why, we would ask, was it not brought out and proved on the trial? We are aware that after he had been found guilty, Kelly stated that he could have put a different complexion on affairs had he cross-examined the witnesses himself, but no one in their senses would attach any importance to such an announcement. The prisoner was provided with counsel, and had Gaunson as 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.[99]

On 13 November 1880, the *Maitland Mercury & Hunter River General Advertiser* reported:

> In his speech at the meeting held on Friday night in connection with the convict Kelly (says the Argus), Mr. David Gaunson said: "As to the pulling up of the rails at Glenrowan, the fact was that the prisoner had no intention of destroying the special train and its occupants, but actually arranged with Curnow to stop the train, with the view of capturing the police party". Upon this the Ballarat Star of Saturday remarks: "We yesterday spoke to Mr. Curnow on the subject, and that gentleman informed us that the story of Kelly he narrated is a deliberate falsehood, and that there was no mention of the foolish idea of asking a train full of police to stop at the bidding of the scoundrel. On the contrary, Curnow was told to go home, and that if he said or did anything he would be shot, so that when he did stop the train he was in fear of a bullet at any moment from one or other of the outlaws who, he believed, were watching him. The object of the convict's lying statement appears to be to discredit Curnow for the sake of revenge, and to minister to his own vanity in leading silly fools to believe that he (Kelly) was so much a power in the locality as to be in a position, by merely sending a messenger, to stop a train full of constables. In reading any statement put forward by Kelly it should be remembered that he has lied notoriously on various occasions, and repeatedly contradicted his own tales. This last lie about Curnow now in no way tallies with his previous narratives as to allowing the latter to go on the memorable night in question."[100]

Following the public meetings and Gaunson's agitation for Kelly's reprieve (and after he was executed), The *Ballarat Star* reported that a petition had been prepared at Ballarat with a view to directing the attention of the Legislative Assembly to Gaunson's reprehensible conduct:

> [I]t is simply scandalous that he [Gaunson] should call public meetings and lay before such meetings garbled and one-sided statements, all of which are calculated to intensify the hatred of the criminal class towards the police, and to bring the law into contempt. We would specially direct the attention of your honourable House to the fact that after Kelly had laid his fiendish plot to wreck a train, and in cold blood sacrifice the lives of a number of men who were simply in the execution of their duty, and after Mr. Curnow had nobly risked his life to save the train, your chairman is not ashamed or afraid to repeat the infamous falsehood of Edward Kelly, "that he had sent Mr. Curnow to stop the train".[101]

Affective Features of Kelly's Psychopathy

There is very little documentation which suggests that Kelly formed many friendships or had any significant intimate relationships. Whilst he appeared to have a reasonably close relationship with Joe Byrne to whom he dictated his early letters, Kelly appears to have been emotionally shallow other than with family members.

Even his relationship with his mother was likely to have been ambivalent. With six other children at the time of the death of her husband, Kelly's mother was very likely to have been emotionally unavailable to Kelly at a crucial period in his maturation. At a developmental stage when he should have been nurtured and cared for, Kelly was likely to have felt unsafe and neglected. In February 1874, Kelly was only aged 19 and had just been released from Pentridge Prison after serving a three year sentence when his mother, already pregnant, married and later had three children to George King who was no more than six years older than Kelly. One author has even hypothesised that Kelly's "mawkish regard for his mother should be viewed as a reaction formation opposed to unconscious feelings of hostility".[102]

Kelly's callousness and lack of empathy manifested early in his life. Kelly was aged 14 when he was charged with his first violent offence and had been stealing stock from his neighbours since his childhood. Kelly was indifferent to the hardship that his stock theft

caused. Kelly's theft was not restricted to the cattle and horses of wealthy squatters. Kelly's theft of working animals was particularly ruinous to small selectors. It is also likely that small, isolated landholders who were fearful of the threat of their fences being destroyed and their haystacks and buildings being burnt, were intimidated from reporting their losses or co-operating with police.

However, in all his many later declarations, statements and correspondence, Kelly manifested a quite profound lack of remorse or regret for any of his offending or the effect on his victims. In his letter to Cameron, Kelly referred to his loathing of Lonigan and showed his indifference to the killing of Lonigan and the other police:

> I did not begrudge him what bit of lead he got, as he was the flashest, meanest man that I ever had any account against, for him, Fitzpatrick, Sergeant Whelan, Constable Day, and King the bootmaker once tried to handcuff me at Benalla, and when they could not, Fitzpatrick tried to choke me. Lonigan caught me by the privates and would have killed me, but was not able. Mr. McInnes came up and I allowed him to put the handcuffs on me when the police were bested. [The killings at Stringybark creek] ... cannot be called wilful murder, for I was compelled to shoot them in my own defence, or lie down like a cur and die. Certainly their wives and children are to be pitied, but those men came into the bush with the intention of shooting me down like a dog, and yet they know and acknowledge I have been wronged. And is my mother and her infant baby and my poor little brothers and sisters not to be pitied? More so, who has got no alternative, only to put up with brutal and unmanly conduct of the police, who have never had any relations or a mother, or must have forgot them.

In the "Jerilderie letter", his letter to the New South Wales Premier and his letters to the Governor of Victoria after his conviction, Kelly demonstrated no remorse for taking the lives of the police or any empathy for the grieving families of his victims.

Before Kelly's trial, Euroa bank robbery witness James Gloster was reported to have deposed:

> The impression the prisoner left on my mind was that he shot the police through revengeful feelings.[103]

At Kelly's trial, James Gloster testified that Kelly had said that it was not murder to "shoot one's enemies", and that the police were his "natural enemies".[104]

Kelly repeatedly demonstrated his inability to accept responsibility for his actions and regularly employed the defence mechanisms of denial and projection of blame onto others or onto circumstances. Kelly became practised at repeatedly claiming to have been wronged, thereby shifting blame to someone or something else. In his letter to Cameron, Kelly traced all his travails back to police harassment and the incident involving Constable Fitzpatrick:

> This sort of cruelty and disgraceful conduct to my brothers and sisters who had no protection, coupled with the conviction of my Mother and those innocent men certainly made my blood boil as I don't think there is a man born could have the patience to suffer what I did. They were not satisfied with frightening and insulting my sisters night and day, and destroying their provisions and lagging my Mother with an infant baby and those innocent men, but should follow me and my brother, who was innocent of having anything to do with any stolen horses.

In the last of the three letters he dictated before his execution, Kelly again invoked the incident involving Fitzpatrick:

> After my mother was convicted of aiding and abetting in shooting with intent to murder Constable Fitzpatrick, I came back with the full intention of working a still to make whisky, as it was the greatest means to obtain money to procure a new trial for my mother. I tried every legal means to obtain justice, therefore you can see it never crossed my mind for revenge. If I had have

> went looking for the Police or shot them in any of the towns, then there might have been some excuse for saying I shot them for revenge. Where the tragedy occurred is quite sufficient to show that I never went to seek for the Police, but that they came right on to the place where I was at work. There are many members of the Police Force will swear that they came with the full intention of shooting me, not arresting me.[105]

Referring to the killing of police at Stringybark, in the "Jerilderie letter", Kelly said:

> I was compelled to shoot them, or lie down and let them shoot me [sic] it would not be wilful murder if they packed our remains in, shattered into a mass of animated gore to Mansfield, [sic] they would have got great praise and credit as well as promotion but I am reconed [sic] a horrid brute because I had not been cowardly enough to lie down for them under such trying insults to my people certainly their wives and children are to be pitied but they must remember those men came into the bush with the intention of scattering pieces of me and my brother all over the bush.[106]

Referring to the shooting of police at Stringybark Creek, in his letter to the Chief Secretary of Victoria in January 1879, Kelly wrote:

> We only fired on them to save ourselves, and we are not the cold-blooded murderers which people presume us to be.[107]

Yet in his most detailed account (circa 1903), Constable McIntrye described how, after surprising the two man police party, Kelly shot Lonigan dead with his rifle:

> [O]n turning quickly round I saw four men standing in the rushes each of them armed with a gun which they held at their shoulders presented in our direction. I noticed particularly the man upon the right of the attacking party and I knew it was Ned Kelly … seeing that he had me fairly and deadly covered, without the slightest tremor in the rifle, I wanted that rifle lowered before I attempted to get my firearms and accordingly threw out my arms horizontally. Immediately I did so Ned Kelly shifted the muzzle of his gun to the right and without taking it from his shoulder shot at Lonigan who had started to run … putting his hand down as if to get his revolver, he had no time to open the case and must have been looking over his right shoulder when he was shot in the right eye by Ned Kelly. I took a hasty glance around when Kelly fired and saw Lonigan fall heavily … he said "Oh Christ I'm shot", made several plunges, breathed stentorously [sic], after which he remained quiet. The whole affair occurred quickly that Lonigan did not run more than 4 or 5 paces before he was shot.[108]

After Lonigan had been shot and the gang waited for the remainder of the police party to return, Kelly sat with McIntyre and tapped his gun saying "Don't try to get away. If you do I shall track you to Mansfield and shoot you at the police station." Much later after his capture and whilst he was being held in the Benalla lock-up, Kelly asked to speak with McIntyre who had been ordered to accompany the prisoner and be available to give evidence at the committal hearing. McIntyre reported that in conversation, he asked Kelly why he had ambushed the police party in the bushland at Stringybark Creek: "You could have kept out of our way when you knew we were there". McIntyre reported that Kelly incriminated himself by admitting a murderous pre-meditation when he answered "You would soon have found us and if we did not shoot you, you would have shot us".[109]

In the first of his letters to the Governor of Victoria dictated before his execution, although Kelly denied that he shot Lonigan in revenge, he incriminated himself by describing how Lonigan was shot dead whilst "running" away:

> McIntyre's evidence shows that I had him covered when he threw up his arms and surrendered, so if my intention was to take life I should have shot McIntyre when I had him first covered. But according to his own evidence, I took my rifle off him and covered

> Lonigan as he was in the act of running to a tree and drawing his revolver. It was also stated in court that I shot Lonigan for revenge, but McIntyre's evidence will show neither me nor my companions knew who it was at the time. But it stands to reason if I did intend to shoot him, I should have done so, and never called upon him to surrender. Any man who calls on Police or armed men to bail up and surrender does not intend to take life, or he would not have attempted to give them warning, as it would be utter stupidity if I intended to commit murder to call upon them to surrender. Both for Kennedy's and Scanlan's deaths McIntyre is the man most accountable, because he told them a falsehood when he said they were surrounded and therefore placing them in a wrong position, which can be seen by referring them to the photo of the place and the positions of the men, also not telling them who they were surrounded by. But as they were not surrounded, what he should have said to his Sergeant was, "Don't move. You are covered by Ned Kelly and three other men and if you attempt to fight, you will be shot, but if you surrender your arms you won't be shot." Then the men would have known their exact position.[110]

During the night before his execution, Kelly dictated a third letter to the Governor of Victoria in which he also tried to deny that he intended to massacre the survivors of the train wreck at Glenrowan and portray himself as a martyr:

> The next thing I wish to mention is the Crown Prosecutor's trying to point out my bloodthirstiness in wearing steel armour. This is quite contrary, for without armour I could never have possibly robbed a guarded bank and disarmed Police without taking life, but with armour I had no occasion for taking life. I can solemnly swear now before God and man that it never was my intention to take life, and even at Glenrowan I was determined to capture Superintendent Hare, O'Connor and the blacks, for the purpose of exchange of prisoners. While I had them as hostages I would be safe. No Police would follow me. In lieu of taking them, I thought it might be as well to leave them surrounding their Police Barracks at Glenrowan and get possession of their train and horses without an encounter, and get a civilian to claim the reward, so when the Police obtained their horses they would have no enticement to follow me as the reward would have been obtained, so they would not interfere with me until such times as there was another reward issued, and if they did not give the reward to the man that claimed it, no person would inform against me again. I know now it is useless trespassing on your valuable time because of the expense the Government have been put to, which was not my fault. They will only be satisfied with my life, although I have been found guilty and condemned to death on a charge which, of all men in the world, I should be the last one to be guilty of.[111]

Lifestyle Features of Kelly's Psychopathy

From an early age, Kelly demonstrated his need for stimulation and proneness to boredom, which led to him engaging in high risk behaviours.

Eschewing hard work, Kelly boasted in the "Jerilderie letter": "I never worked on a farm". Instead, Kelly chose an entirely parasitic lifestyle, victimising or exploiting others. Kelly was reputed to have been a great horseman and crack shot, which would not be surprising given his lifestyle. However, apologists for Kelly also attribute to him skills as a bushman and survivalist. Of these skills there is actually no evidence. Gang members were succoured by sympathisers and isolated settlers who were intimidated by the gang. After the murders at Stringybark Creek, searchers discovered a log fortress in the Wombat Ranges surrounded by cooking utensils, bottles, empty cans and other detritus of a relatively comfortable habitation. Trees surrounding the camp had been ring-barked and used for target practice. The gang concentrated their activities in familiar locations and favoured routes with which they were well familiar from their earlier stock theft activities.

There is no indication that Kelly developed any pro-social skills or any realistic, long-term goals. Kelly's history of impulsivity, without regard to the consequences of his actions, condemned him to a short, brutish life of instant

gratification, drama and excitement without any meaningful life achievements.

Kelly cannot be likened to some latter day "Robin Hood" who "stole from the rich and gave to the poor". By stealing their livestock, Kelly further prejudiced the lives of his impoverished neighbours. Whilst his family and their sympathisers may have benefitted marginally from the proceeds of Kelly's thefts and bank robberies, the wider community suffered and local resources and policing were wastefully diverted. The 1881 Royal Commission on the Police Force of Victoria later documented the extent of the huge police operation in pursuing the Kelly gang.

There is also little evidence that the Kelly gang was ever as popular as his later apologists suggest. Most law-abiding citizens were appalled by the slaughter of three policemen at Stringybark Creek and the terrorizing of north-eastern Victoria. Following the Jerilderie robbery, one newspaper editorial, entitled "Fresh Outrages", highlighted the community disquiet:

> The raid on Jerilderie was attended by the astounding spectacle of a handful of armed men, certainly daring and desperate to an extraordinary extent, taking possession for the second time of a town, reducing a population to a state of helpless terror, plundering at will, and escaping with impunity without a hand being raised or a shot fired against them. Apart from again displaying the cool audacity of the gang, the Jerilderie affair gave the public quite a new idea of the gravity of the situation. Localities that had previously deemed themselves safe, and took an interest in the Kelly tragedies as sensational but far-off events, began to feel that they were at any time liable to attack by a gang which had appeared in such widely separated spots.[112]

It is likely that other than the most ardent and partisan sympathizers, who probably numbered only in the hundreds and consisted of relatives and associates of Kelly and his extended family, most local land selectors in country Victoria were cowed by intimidation and fearful of retribution if they spoke out against the gang. It is also likely that the Victorian government and Police Commissioner overstated the influence of "Kelly sympathizers" to justify the draconian provisions of the Felons Apprehension Act and the vast expenditure including secret payments to informants[113] which embarrassingly failed to result in the early apprehension of the gang.

It is relevant to note that neither Kelly's correspondence to Victorian parliamentarian Donald Cameron nor the "Jerilderie letter" were published in full during Kelly's lifetime. Cameron passed the letter he received to the Victorian premier who did not release the letter into the public domain. Most Victorians had no insight into Kelly's claims of "police persecution". Contemporary newspaper reports, letters to the editor and statements of hostages were almost uniformly denunciatory of Kelly and his gang.

It is most telling that in the months between his capture and committal hearing, Kelly's family and sympathizers were unable to raise any funds for a private instructing solicitor and counsel. As a destitute defendant facing a capital charge, the cost of Kelly's defence was ultimately met by the Crown.

Perhaps the most absurd proposition which has been propagated about Kelly was that he harboured republican sentiments and was involved in some amorphous secessionist movement. In 1948, long after his execution, it was first announced that "in the first hour of his capture, the police took from Kelly's pocket a declaration for a Republic of North-Eastern Victoria".[114] However, no original document or collateral material has ever been produced supporting this fatuous claim. In all the letters and pronouncements attributed to him, including the many perorations to hostages whom he might have reasonably assumed would have been most receptive, Kelly never outlined any republican plan or promulgated any platform of reform. Kelly's education was at best rudimentary and his knowledge of history and politics was likely to be very basic. Other than an Irish ethnicity, there were no similarities between Kelly and

intellectual republicans like Rev John Dunmore Lang or Eureka Stockade leaders George Black or Timothy Hayes.[114] After the ambush of the police at Stringybark Creek, the Euroa and Jerilderie bank robberies and the murder of Sherritt, the supposed band of Kelly sympathisers scattered in the countryside around Mansfield and Beechworth never materialised to support Kelly or deliver him from the police at Glenrowan.

Even after his conviction and as he awaited execution, Kelly dictated letters to the Governor of Victoria in which he chronicled the iniquities he believed had been visited upon him and his family. But at this desperate denouement, when he had no reason to conceal any treasonous intentions, Kelly's letters contained absolutely no reference to any proposed succession or republic.

Anti-Social Features of Kelly's Psychopathy

Kelly's anti-social traits first manifest in his late adolescence. In the chaos of an adverse early development which was devoid of nurturing and which lacked the presence of strong, responsible male role models, Kelly modelled the social delinquency and disrespect for order and authority of his extended family and their anti-social associates. The crushing poverty, disadvantage and insecurity that his family experienced as poor Irish-Australian selectors, can be speculated to have imbued the young Kelly with an angry, defiant disposition and an aggrieved perspective on society and its norms and rules.

Another important factor contributing to Kelly's anti-social behaviour stems from the poor relations between Australian-born Irish selectors and the police. Since the gold rush, the Victoria Police suffered the serious malaise of poor morale and low public esteem. Just as the origins of the Ovens Riot in 1853 and the later uprising at Eureka lay in allegations of police corruption and the harsh measures employed by police to check mining licences,[116] the reputation of police later suffered from a perception that local police were corrupt and too close to the publican and brothel trade. Also, whilst some of the police rank and file included those born in the colony, the officers were largely drawn from outside the colony, some of whom were English-born or had served with the notorious Royal Irish Constabulary. The reputation of the Royal Irish Constabulary in putting down unrest among the rural poor and the bloody confrontations during the Tithe Wars (1830 and 1836) in rural Ireland were well known to Irish-Australians.[117]

Following the death of his alcoholic father when Kelly was aged 12, further recruitment of adversity, compounded by the absence of opportunity and advancement, would have made it difficult for an even better man, with a stronger sense of self actualisation and internalised pro-social values, to have prevailed and prospered.

In 1870, when Kelly was aged 16, his mother was arrested with others and charged with operating a sly grog shop from the family shack. The charge was dismissed after the revenue officer could not positively identify who had actually sold him grog at the Kelly shack.[118] On an inspection tour in April 1877, Inspecting Superintendent Charles Nicolson of the Victoria Police reported on his observation of the house of the "notorious Mrs Kelly" at the Eleven Mile Creek:

> [Mrs Kelly] . . . lived on a piece of cleared and partly cultivated land on the roadside in an old wooden hut with a large bark roof. The dwelling was divided into five compartments by partitions of blanketing, rugs, etc. There were no men in the house – only children and two girls about fourteen years of age, said to be her daughters. They all appeared to be existing in poverty and squalor. She said her sons were out at work, but did not indicate where, and that their relatives seldom came near them. However, their communications with each other are known to the police.[119]

During his formative late adolescence, Kelly was influenced by the "Greta Mob", which consisted of youths of Kelly's

extended family and their retinue who developed a reputation as "flash" exhibitionists. As well as being notorious for their ostentation as horsemen and fighters, the truculent youths were reviled in the local community for their violence and drunkenness and the curious affectation by which they wore their hat chinstraps beneath their noses. Referring to the influence of the extended family during Kelly's adolescence, McQuilton wrote:

> It is impossible to fully assess the importance of the influence of the clan on the adolescent Ned Kelly. The comings and goings of his uncles, the arrests, the bog-Irish element where internal clan arguments were settled without outside influence, and a growing sense of a "down" on the clan contributed to a negative view of the authorities on his part. And he had seen his father arrested, jailed and buried. There is little doubt that he followed the example of his cousins and earned "pocket money" by planting horses for the reward.[120]

In his late adolescence, Kelly and his siblings became adept at stock "lifting" – hiding cattle or horses and only producing them for a reward. "The 'boy lifters' as the Kellys were called, were the terror of the carriers and drovers who had to pass through that district. Horse 'lifting' was for the Kellys, while yet boys, the natural preliminary to horse stealing."[121]

In his early adulthood, instead of experiencing a general sense of productivity with meaningful friendships, intimacy and rewarding work, Kelly would have felt isolation and a separation from others and his poor behavioural controls would have manifested as anger, suspicion, vindictiveness and a disregard for the rights of others.

In the "Jerilderie letter", Kelly boasted:

> [In 1871] I was found guilty of receiving and got 3 years [sic] experience in Beechworth Pentridges dungeons. This is therefore the only charge ever proved against me. Therefore I can say I never was convicted of horse or cattle stealing.[122]

Kelly's subsequent criminal versatility showed in his range of offending from public nuisance, assault, stock theft, armed robbery and finally murder. Despite repeated periods of imprisonment from an early age, Kelly continued to reoffend and his criminal trajectory steepened ominously until his capture at Glenrowan after his plan to massacre a trainload of police was aborted.

Discussion

Kelly has been romanticised as a heroic archetype, embodying the virtues of endurance and self-reliance and personifying "mateship" and libertarian ideals pitted against an oppressive colonial system. But in any objective and comprehensive review of his turbulent life, it is most relevant to pose the question: Was Kelly really left no other choice than to turn from stock theft to armed robbery and murder?

Unlike with many other psychological assessments which consider dynamic and current clinical factors as well as historical features, an assessment for psychopathy considers only specific, historical features. Whilst behavioural observations and informal interactions with the subject are ideal, an assessment for psychopathy does not require a clinical interview of the subject. Nor does an assessment for psychopathy require the subject's self report.[123] Particularly in instances of putatively psychopathic subjects, who may be unreliable or selective historians, a clinician completing an assessment for psychopathy can consider any reliable archival material and any relevant collateral information from any source.

Retrospectively assessing an historical figure without the benefit of direct observation of the person's interactional style and demeanour may impose limitations upon any conclusions. However, in Kelly's case, there is more than sufficient high quality collateral information, particularly when Kelly's own documented florid diatribes and grandiose correspondence are included, to conclude

that he demonstrated prominent psychopathic features.

Rather than cravenly accept the hagiography and romanticism that Kelly was a "wronged man" driven to lawlessness by police persecution, it is more appropriate in this era to keep in perspective Kelly's pathological lying, his parasitic lifestyle and his callous traits. On any dispassionate clinical assessment, Kelly was a violent psychopath who terrorised colonial Victoria with little concern other than for his own needs, aggrandisement and self-justification.

Notes

1. C Turnbull (ed), *Ned Kelly: Being His Own Story of His Life and Crimes* (Hawthorne Press, Melbourne 1942).
2. *Melbourne Punch,* 1 July 1880, cited in B Carroll, *Ned Kelly Bushranger* (Lansdowne Press, NSW, Australia, 1976) (192—195).
3. M Cannon and I MacFarlane (eds), *Historical Records of Victoria — Vol 6: The Crown, the Land and the Squatter 1935—1840* (Melbourne University Press, Melbourne 1991).
4. See also G Partington, *The Australian Nation: Its British and Irish Roots* (Australian Scholarly Publishing, Melbourne 1994); M Wesley, 'Nationalism and Globalisation in Australia' in L Suryadinata (ed), *Nationalism and Globalisation* (Institute of Southeast Asian Studies, Singapore 2000); J Hirst, *Australians: Insiders and Outsiders on the National Character Since 1770* (Black Inc, Melbourne 2007).
5. GE Boxhall, *The Story of Australian Bushrangers* (Swann Sonnenschein & Co, London 1899); HG Turner, *A History of the Colony of Victoria, vol 2* (Longmans, Green and Co, London 1904); RJ Clow, *The Causes of Kelly: A Complete History of the Primitive Colonial War Between the Kelly Family and the Police in Blank Verse* (Baxter and Stubbs, Ballarat 1919).
6. F Hare, *The Last of the Bushrangers: An Account of the Capture of the Kelly Gang* (The Naval and Military Press, UK 2006, originally published 1892); JJ Kenneally, *The Complete Inner History of the Kelly Gang and Their Pursuers* (The Kelly Gang Publishing Company Pty Ltd, Moe, Victoria 1969, first published 1929); F Clune, *A Noose for Ned* (Hawthorne Press, Melbourne 1948); F Clune, *The Kelly Hunters* (Angus and Robertson, Sydney 1954); F Clune, *Ned Kelly's Last Stand: The Life and Times of Australia's Ironclad Outlaw Hunters* (Angus and Robertson, Sydney 1962); MJ Jennings, *Ned Kelly, the Legend and the Man* (Hill of Content Pub Co, Melbourne 1968); P O'Malley, 'Class Conflict, Land and Social Banditry: Bushranging in Nineteenth Century Australia' (1979) 26 *Social Problems* 271—83; EJ Hobsbawn, *Bandits* (Pelican, Ringwood 1972); EF Penzig, *Bushrangers: Heroes or Villains* (Katoomba, Tranter 1988); G Seal, *The Outlaw Legend: A Cultural Tradition in Britain, America and Australia* (CUP 1996); Keith Dunstan, *Saint Ned* (Methuen, Sydney, Australia 1980); J Sadleir, *Recollections of a Victorian Police Officer* (George Robertson & Co, Melbourne 1913, facsimile reprint Penguin Books 1973); Deakin University, *The Kelly Outbreak Reader* (Deakin University, Geelong 1995).
7. J McQuilton, *The Kelly Outbreak 1878—1880: The Geographical Dimension of Social Banditry* (Melbourne University Press, Melbourne 1987).
8. G Jones, *Ned Kelly: The Larrikin Years* (Charquin Hill Publishing, Victoria 1990) 42.
9. J Ryan, 'Ned Kelly: The Flight of the Legend' (1967) 3 *Australian Literary Studies 98; Ned Kelly in Pictures: The Man who became an Australian Legend* (Southdown Press, Melbourne 1968); K Dunstan, *Saint Ned: The Story of the Near Sanctification of an Australian Outlaw* (Methuen, Australia 1980); G Seal, *Ned Kelly in Popular Tradition* (Hyland House, Melbourne 1980); K Crawford, *Australia's Greatest Folk Hero* (C & C, Melbourne 1993); G Huggan, 'Cultural Memory in Post-Colonial Fiction: The Uses and Abuses of Ned Kelly' (2002) 20 *Australian Literary Studies* 132; A Holland and C Williamson, *Kelly Culture: Reconstructing Ned Kelly* (State Library of Victoria 2003); B Tranter and J Donoghue 'Colonial and Postcolonial Aspects of Australian Identity' (2007) 58 *British Journal of Sociology* 165; B Tranter and J Donoghue 'Bushrangers: Ned Kelly and Australian Identity' (2008) 44 *Journal of Sociology* 373; B Tranter and J Donoghue, 'Ned Kelly: Armoured Icon' (2010) 46 *Journal of*

Sociology 187; L Basu, *Remembering an Iron Outlaw – The Cultural Memory of Ned Kelly and the Development of Australian Identities* (Walter de Gruyter & Co, USA 2012).

10. GW Hall, *The Kelly Gang: Outlaws of the Wombat Ranges,* reprinted B McDonald (ed), (Bondi, NSW Australian History Promotions, Melbourne 1879).
11. J Bradshaw, *The Only True Account of the Kelly Gang Leading up to Their Capture and Death By Perfect Authority* (Advocate Printers, Orange 1912); CH Chomley, *The True Story of the Kelly Gang of Bushrangers* (Wyatt & Watts, Melbourne 1930, first published 1900); C Turnbull, *Kellyana: A Bibliography of the Kelly Gang* (Hawthorne Press, Melbourne 1943); G Bond, *Ned Kelly: The Armoured Outlaw* (Arco, London 1961); HJF Lofting, *Bail up! Ned Kelly, Bushranger* (New Century Press, Sydney 1939); R Melville, *The Legend of Ned Kelly: Australia's Outlaw Hero* (Viking Press, New York 1964); D Stewart, *Ned Kelly* (Penguin, Ringwood, Victoria 1965); B Wannan, *Tell 'em I Died Game* (Landsdowne Press, Melbourne 1967); C Cave (ed), *Ned Kelly: Man and Myth* (Cassell, Australia 1980, first published 1968); MJ Jennings, *Ned Kelly: The Legend and the Man* (Hill of Content, Melbourne 1986); C Osborne, *Ned Kelly* (Anthony Blond Ltd, London 1970), F Hatherley, *Ned Kelly* (Longman, New York & London 1970), G Farwell, *Ned Kelly: The Life and Adventures of Australia's Notorious Bushranger* (F W Cheshire Publishing, Melbourne 1970); B Carroll, *Ned Kelly: Bushranger* (Landsdowne Press, Sydney 1976), N Keesing (ed), *The Kelly Gang* (Summit Books, Sydney 1975); A Brierley, *An Illustrated History of the Kelly Gang* (Melbourne University Press, Melbourne 1976); DJ Morrissey, 'Ned Kelly's Sympathisers' (1978) 18 *Australian Historical Studies* 71; G Jones and J Bassett, *The Kelly Years* (Charquin Hill Publishing, Victoria 1980); GE Boxall, *Ned Kelly: A Pictorial History* (Currey O'Neil Publishers, Melbourne 1980); G Seal, *Ned Kelly in Popular Tradition* (Hyland House, Melbourne 1980); J Meredith and B Scott, *Ned Kelly: After a Century of Acrimony* (Landsdowne Press, Sydney, NSW 1980); JH Phillips, *The Trial of Ned Kelly* (Law Book Co, Sydney 1987); DJ Morrissey, 'Ned Kelly and Horse and Cattle Stealing' (1995) 66 *Victorian Historical Journal* 29; G Jones, *Ned Kelly: The Larrikin Years*: *The Rise and Fall of the Prince of Larrikins* (Charquin Hill Publishing, Wangaratta, Victoria 1990); *Tragedy at Stringybark Creek: The Kelly Gang* (Mansfield Historical Society 2000, rev edn, first published 1930); W Morgan, *Ned Kelly Reconstructed* (CUP, Melbourne 1994); D Balcarek and G Dean, *Ned and the Others* (Glenrowan Cobb & Co, Australia 1999), I Jones *The Friendship That Destroyed Ned Kelly, Joe Byrne and Aaron Sherritt* (Hachette, Australia 1992); B Sheppard, *Ned Kelly* (Heinemann, Port Macquarie 2000); J Molony, *Ned Kelly* (Melbourne University Press, Melbourne 2001); K McMenomy, *Ned Kelly: The Authentic Illustrated Story* (Hardie Grant Books, Melbourne 2001, 2nd edn); I Jones, *Ned Kelly: A Short Life* (Lothian Books, Melbourne 2002, rev edn 2003, first published 1995), G Seal, *Tell 'em I Died Game: The Legend of Ned Kelly* (Hyland House Publishing Pty Ltd, Australia 2002); JC Corfield, *The Ned Kelly Encyclopaedia* (Lothian Books, Melbourne 2003); G Hocking, *The War Against the Kellys* (Waverton Press, Australia 2003); C Thomas, *Ned Kelly: The Last Stand* (Hachette, Australia 2003); GB Davey and G Seal, *A Guide to Australian Folklore: From Ned Kelly to Aeroplane Jelly* (Australia Kangaroo Press, East Roseville, NSW 2003); I Jones, *Ned Kelly: The Last Stand* (Lothian Books, Melbourne 2003); B Collett, *The Accidental Outlaw of Glenrowan: Steve Hart of the Kelly Gang* (Hudson Publishing Services Pty Ltd, Australia 2004; K McMenomy, *Ned Kelly* (Hardie Grant Books, Australia 2004); AN Baron, *Blood in the Dust: Inside the Minds of Ned Kelly and Joe Byrne* (Network Creative Services, Greensborough, Victoria 2004); B McDonald (comp & ed), *The Kelly Gang from Within: Articles Written by Brian W Cookson for the Sydney 'Sun' 27 August to 24 September 1900* (Australian History Promotions 2005); A Castles, *Ned Kelly's Last Days: Setting the Record Straight on the Death of an Outlaw* (Allen & Unwin, Sydney 2005); C Lindop, *Ned Kelly: A True Story* (OUP, Australia 2007); L Innes, *Ned Kelly, Icon of Modern Culture (Icons of Modern Culture)* (Helm Information Ltd, Australia 2008); I Jones, *Ned Kelly: A Short Life* (Hachette, Australia 2008), P Hunt, *The Story of Ned Kelly* (Black Dog Books 2009), IW Shaw,

Glenrowan, *The Legend of Ned Kelly and the Siege That Shaped a Nation* (Macmillan, Australia 2012); P Terry, *The True Story of Ned Kelly's Last Stand* (Allen & Unwin, Australia 2012); *The Jerilderie Letter: Text Classics* (Text Publishing Company 2012).

12. J Molony, *I Am Ned Kelly* (Penguin Books, Australia 1980); P Stafford, *Ned Kelly's Helmet* (Crawford House, Belair, SA 1989); J Merkur, *Livewire Real Lives Ned Kelly* (CUP 1999); B Ridden, *Whistle Man* (Lothian Books, Melbourne 2000); C Wilkinson, *Black Snake: The Daring of Ned Kelly* (Black Dogs Books, Fitzroy, Victoria 2002); R Drewe, *Our Sunshine* (Penguin Books, Australia 2003); J Douthie (Mortimer), *I Was at the Kelly Gang Round-Up* (Network Creative Services Greensborough, Victoria 2007); P Willims, Matthew Brady and Ned Kelly, *Kindred Spirits, Kindred Souls* (Arcadia, Mount Pleasant, USA 2007); R Schultze, *Ned Kelly in Fiction* (GRIN Verlag OHG, Munich, Germany 2011); S Masson, *Ned Kelly's Secret* (Scholastic, Australia 2012); P Carey, *The True History Of The Kelly Gang* (Random House, Australia 2012); S Masson, *The Hunt for Ned Kelly: My Australian Story* (Scholastic, Australia 2012); D Shannon, *A Plea for Freedom from Dan and Ned Kelly: Encounters with the Kellys* (Balboa Press, Australia 2012).
13. M Webb, *Ned Kelly* (Comicoz 2014)
14. S Nolan, L Elwyn and S Bruce, *Sidney Nolan's Ned Kelly: The Ned Kelly Paintings in the Australian National Gallery and a Selection of the Artist's Sketches for the Series* (Canberra Australian National Gallery 1985).
15. <http://australia.gov.au/about-australia/australian-story/ned-kelly>, accessed July 2014.
16. Corfield (n 11) 261.
17. I MacFarlane, *The Kelly Gang Unmasked* (OUP, Melbourne 2012) 37.
18. Public Record Office Victoria, Victorian Public Records Series 7395/P1: Beechworth (Asylum 1867—1905): Case Books of Male Patients: James Kelly: unit 1 (28).
19. McMenomy, 2001 (n11) 72 Map of Winton Agricultural Area.
20. Ibid 49.
21. *Victorian Police Gazette* 21 October 1871. Police Commission, Evidence, Q 1024 Nicholson, Pioneer Edition. cited in J McQuilton, *The Kelly Outbreak 1878 — 1880: The Geographical Dimension of Social Banditry* (Melbourne University Press, Melbourne 1987) (76). (The Kelly selection file has disappeared from the Victorian Lands Department files).
22. F Cathcart, *Pictures on My Screen: Growing up in Kelly Country* (Spectrum Publications, Melbourne 1989) 23.
23. McMenomy, 2001 (n 11) 50.
24. Royal Commission on the Police Force of Victoria 1881: Minutes of Evidence, Appendices and Tables (John Ferres, Government Printer, Melbourne 1881) at RC 1024, 1025 and 1028.
25. *Benalla Ensign*, 29 October 1868.
26. *The Ovens and Murray Advertiser*, 10 May 1870.
27. Public Record Office Victoria, Victorian Public Records Series 4969: Kelly Historical Collection — Part 5: Miscellaneous Records: unit 3: item 88.
28. *The Ovens and Murray Advertiser*, 5 August 1871.
29. J McQuilton, *The Kelly Outbreak 1878—1880: The Geographical Dimension of Social Banditry* (Melbourne University Press, Melbourne 1987) 64.
30. I Jones, 1990 (n 11) 148.
31. Cited in GW Hall, *The Kelly Gang* (1879) 26.
32. *Beechworth Advertiser*, 2 October 1877.
33. *The Argus*, 29 October 1880 (8).
34. 'The Jerilderie Letter', State Library of Victoria (15—16), *The Jerilderie Letter*, edited and introduced by Alex McDermott (Text Publishing, Melbourne 2001).
35. *The Ovens and Murray Advertiser*, 10 October 1878.
36. Public Record Office Victoria, Victorian Public Records Series 4966: Kelly Historical Collection — Part 2: Crown Law Department: unit 1: item 4.
37. <http://ergo.slv.vic.gov.au/explore-history/rebels-outlaws/bushrangers/ned-kellys-death-mask> accessed 1 July 2014.
38. *The Ovens and Murray Advertiser*, 15 October 1878.
39. JJ Kenneally, *The Complete Inner History of the Kelly Gang and Their Pursuers* (The Kelly Gang Publishing Company Pty Ltd, Moe, Victoria 1969, first published 1929).
40. Ellen Kelly, William Skillion and Brickey Williamson committed for trial by Benalla Police Court, 27 May 1878. Tried at Beechworth Assizes 9 October 1878: Witnesses Const Alexander Fitzpatrick, Dr John Nicholson, Winton

storekeeper David Lindsay, Sgt Steele, Constables Ernest Flood and George Robinson: Public Record Office Victoria, Victorian Public Records Series 4966: Kelly Historical Collection – Part 2: Crown Law Department: Prosecution brief *Queen v Ellen Kelly et al:* unit 1: item 4, details the Benalla committal proceedings.

41. Dr Nicholson's Deposition, 17 May 1878, Public Record Office Victoria, Victorian Public Records Series 4966: Kelly Historical Collection – Part 2: Crown Law Department: Prosecution brief *Queen v Ellen Kelly et al:* unit 1: item 4, details the Benalla committal proceedings; I Jones, 2008 (n 11).
42. Public Record Office Victoria, Victorian Public Records Series 4969: Kelly Historical Collection – Part 5: Miscellaneous Records: unit 1: item 16.
43. I Jones, 2008 (n 11) 133–147.
44. *The Argus*, 29 October 1878 (5).
45. 'The Cameron Letter' 14 December 1878, in J Meredith and B Scott, *Ned Kelly After a Century of Acrimony* (Lansdowne, Sydney 1980) 63–66.
46. TN McIntyre, 'A True Narrative of the Kelly Gang', unpublished manuscript, nd [c.1903], Victoria Police Museum (30).
47. Public Record Office Victoria: Victorian Public Record Series 4969: unit 1: item 23: McIntyre's deposition (11).
48. *The Argus,* 29 October 1880 (6).
49. 'The Cameron Letter' 14 December 1878, in J Meredith and B Scott, *Ned Kelly After a Century of Acrimony* (Lansdowne, Sydney 1980) 63–66.
50. Public Record Office Victoria, Victorian Public Records Series 4966: Kelly Historical Collection – Part 2: Crown Law Department: unit 1: item 2 McIntyre's Original Handwritten Account and an Official Copy: unit 1: item 23: Deposition of McIntyre, 29 October 1878 (11).
51. Public Record Office Victoria, Victorian Public Records Series 4969: Kelly Historical Collection – Part 2: Crown Law Department: unit 1: item 6 (20).
52. TN McIntyre, 'A True Narrative of the Kelly Gang' (unpublished manuscript, [c.1903] Victoria Police Museum) 30.
53. Cited in A Castles, *Ned Kelly's Last Days: Setting the Record Straight on the Death of an Outlaw* (Allen & Unwin, Sydney 2005) 72.
54. Public Record Office Victoria, Victorian Public Records Series 4969: Kelly Historical Collection – Part 5: Miscellaneous Records: unit 1: item 23: Deposition of McIntyre, 29 October 1878 (11).
55. McIntyre (n 49).
56. Public Record Office Victoria, Victorian Public Records Series 4966: Kelly Historical Collection – Part 2: Crown Law Department: Unit 1: item 6: Dr Samuel Reynolds's Deposition, Sworn Before Mansfield Justice of the Police, Henry Kitchen, 1 November 1878.
57. 'The Cameron Letter' 14 December 1878; Edward Kelly gives statement of his murders of Sergeant Kennedy and others and makes other threats, Victorian Public Records Series 4966 Unit 1: item 3: Record 1 Document: Euroa Letter 14 December 1880.
58. Victorian Public Record Service 4969: Kelly Historical Collection – Part 5: Miscellaneous Records: unit 1: item 61: Record 1 Document: Government Gazette: Kellys called on to surrender <http://prov.vic.gov.au/whats-on/exhibitions/ned-kelly/the-kelly-story/string-bark-creek/kellys-called-on-to-surrender> accessed 1 July 2014.
59. M Eburn, 'Outlawry in Colonial Australia: The Felons Apprehension Acts 1865–1899' (2005) *ANZLH E-Journal* 80 <http://www.anzlhsejournal.auckland.ac.nz/pdfs_2005/Eburn.pdf>
60. *The Ovens and Murray Advertiser*, 7 January 1879.
61. Cited in GW Hall, *The Kelly Gang* (1879).
62. MacFarlane (n 16) 18–34.
63. 'The Jerilderie Letter', State Library of Victoria (50–1).
64. M Brown, *Australian Son* (Georgian House, London 1948).
65. *The Ovens and Murray Advertiser*, 7 January 1879 (2).
66. Cited in DJ Morrissey, 'Selectors, Squatters and Stock Thieves: A Social History of Kelly Country' (PhD thesis submitted to the Department of History, La Trobe University 1987).
67. Public Record Office Victoria, Victorian Public Records Series 4966: Kelly Historical Collection – Part 2: Crown Law Department: unit 1: item 2 (Sgt Steele's statement).
68. *The Argus,* 28 June 1880 (5).
69. *The Argus,* 30 June 1880.
70. *The Argus*, 29 June 1880 (5).
71. *The Argus*, 29 June 1880.
72. United Press Association Melbourne, 4 August 1880, as reported in Wellington,

NZ, *The Evening Post*, 11 August 1880 (2), Public Record Office Victoria: Victorian Public Record Series: 4966: unit 1: item 2: Sgt Steel's Statement.
73. *The Argus*, 9 August 1880 (8).
74. Public Record Office Victoria, Victorian Public Records Series 4969: Kelly Historical Collection – Part 5: Miscellaneous Records: unit 1: item 16.
75. *The Argus*, 5 July 1880 (5).
76. *The Age*, 9 August 1880.
77. *The Ovens and Murray Advertiser*, 17 August 1880.
78. *The Argus*, 12 August 1880 (5).
79. *The Argus*, 29 October 1880 (6).
80. *The Argus*, 30 October 1880 (8).
81. *The Argus*, 30 October 1880.
82. *The Argus*, 30 October 1880.
83. MacFarlane (n 16) 151.
84. *The Sydney Morning Herald*, 9 November 1880 (6).
85. Public Record Office Victoria: Victorian Public Record Series 4966: Kelly Historical Collection – Part 2: Crown Law Department: unit 1: item 10.
86. Between 20 January 1842 and 3 February 1967, the colony and State of Victoria executed 186 convicted criminals. In 1842, three Aborigines and three bushrangers were executed before crowds including women and children: I MacFarlane, *1842: The Public Executions at Melbourne* (VGPO, Melbourne 1984) 14, 15, 35, 55. Until 1855, prisoners condemned to death continued to be hanged publicly. After Ned Kelly's execution on 11 November 1880, there were 55 executions, including one US serviceman in WWII executed by US Army personnel: I Potas and J Walker, 'Capital Punishment' (1987) 3 *Trends and Issues in Criminal Justice*, Australian Institute of Criminology, 2. Ronald Ryan, who was hanged on 3 February 1967 at Melbourne, was the last person executed in Australia. Capital punishment in Victoria was abolished by the Crimes (Capital Offences) Act 1975 (Vic). The Crimes Legislation Amendment (Torture Prohibition and Death Penalty Abolition) Act 2010 (Cth) prevents any state or territory reintroducing capital punishment: G Williams and J Lennan, 'The Death Penalty in Australian Law' (2012) 34 *Sydney Law Review* 659.
87. <http://www.theage.com.au/victoria/ned-kellys-remains-found-20110901-1jmqi.html#ixzz35p1dww1q> accessed 1 July 2014.
88. <http://www.theaustralian.com.au/news/nation/ned-kellys-remains-to-be-buried-but-family-pleads-for-skull/story-e6frg6nf> accessed 1 July 2014.
89. *The Age*, 16 September 1976 (1).
90. MacFarlane (n 16) 218.
91. R Scott, '*Psychopathy – An Evolving and Controversial Construct*' (2014) *Psychiatry, Psychology and Law* doi: 10.1080/13218719.2014.911056
92. Cited in Corfield (n 11) 427.
93. Mrs Scott, 'The Kelly Gang at Euroa' transcript, Mitchell Library MS Collection, cited in J McQuilton, *The Kelly Outbreak 1878–1880: The Geographical Dimension of Social Banditry* (Melbourne University Press, Melbourne 1987).
94. 'Mrs Jones to Montford', 5 December 1882, Kelly Collection, PRO; J McQuilton, *The Kelly Outbreak 1878–1880: The Geographical Dimension of Social Banditry* (Melbourne University Press, Melbourne 1987).
95. Mitchell Library, Sydney: A 883 (Vol 13) copied on volume CYA 883 or microfilm CY35 (236–238, or frame nos 239–241).
96. Public Record Office Victoria, Victorian Public Records Series 4969: Kelly Historical Collection – Part 5: Miscellaneous Records: unit 1: item 16.
97. *The Argus*, 12 August 1880 (5) col 1.
98. Quoted in I Jones, 2002 (n 11) 141.
99. *The Argus*, 6 November 1880 (6), col 7.
100. *Maitland Mercury & Hunter River General Advertiser*, 13 November 1880 (7), supplement.
101. *The Argus*, 16 November 1880 (7) col 2.
102. A McIntyre 'Ned Kelly: A Psycho-History' (1979) 23 *Quadrant* 27.
103. *The Argus,* 10 August 1880 (7).
104. *The Argus*, 29 October 1880 (6).
105. Public Record Office Victoria, Victorian Public Records Series 4966: Kelly Historical Collection – Part 2: Crown Law Department: unit 1: item 10: Letter to Governor of Victoria Dictated by Edward Kelly: 10 November 1880.
106. 'Jerilderie Letter', State Library of Victoria 42–43.
107. 'Letter to Chief Secretary of Victoria' January 1879, Copy in Burke Museum, Beechworth.
108. TN McIntyre, 'A True Narrative of the Kelly Gang' (unpublished manuscript [c.1903] Victoria Police Museum) 17.
109. Ibid 97.

110. Public Record Office Victoria, Victorian Public Records Series 4966: Kelly Historical Collection – Part 2: Crown Law Department: unit 1: item 10: Letter to Governor of Victoria Dictated by Edward Kelly: 10 November 1880.
111. Ibid.
112. *The Argus*, 7 July 1880.
113. Public Record Office Victoria, Victorian Public Records Series 4969: Kelly Historical Collection – Part 5: Chief Secretary's Office, Police Branch and other Agencies: unit 2: item 74.
114. MM Brown, *Ned Kelly: Australian Son* (Angus & Robertson, Sydney 1986, first published 1948 under the title *Australian Son*; rev edn first published 1981).
114. I McFarlane, *Eureka: From the Official Records* (1993, in three editions) Public Record Office Victoria.
116. Ibid, chapter two 'The Ballarat Administration'.
117. WF Adams, *Ireland and Irish Emigration to the New World from 1815 to the Famine* (Genealogical Publishing Company, Baltimore, Maryland 1980).
118. Corfield (n 11) 279–280.
119. Carroll (n 11) 46.
120. McQuilton (1979) 76.
121. *Euroa Advertiser*, 24 September 1909 (6).
122. 'Jerilderie Letter', State Library of Victoria, 12.
123. S Wong, 'Is Hare's Psychopathy Checklist Reliable Without Interview?' (1988) 62 *Psychological Reports* 931; M Grann, N Langstrom, A Tengstrom and EG Stalenheim, 'Reliability of File-Based Retrospective Ratings of Psychopathy with the PCL-R' (1998) 70 *Journal of Personality Assessment* 416.