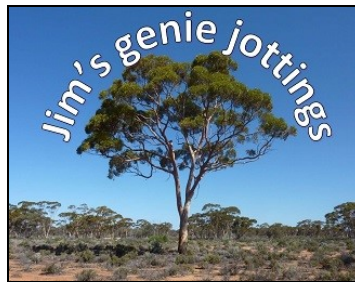


Criminal or victim?

by James Michael Fleming

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This story was entered in the
2014 Croker Prize
essay competition run by the
[Society of Australian Genealogists](#).
The topic was “The blackest sheep”



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Researching: Bowen, Flowerdew, Gardner, Gordon, Grady, Hanrahan, Jolliffe, Kemp, Kessey, Murphy, Poulton, Press and so many more!

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The blackest sheep in my family's flock was my GG Grandfather, John Kessey who engaged in livestock theft from an early age. While the law caught up with him on three occasions and he was sentenced to a total of 5½ years gaol, he never reformed his ways; he continued to offend until his dying day.

John's father, Thomas Casey¹, ran a carrying business between Sydney and Bathurst from about 1826². He had gained experience in this business from his life in Edmonton, Middlesex (where he was a driver³) and from his work as an assigned convict in the New South Wales Commissariat⁴. In December 1832 he was married at Bathurst to 17 year old Julia Grady⁵, the daughter of ex convict Patrick Grady and his wife Margaret⁶ (nee Whalan).

The first child of the marriage (Thomas) was born the following year. John Kessey, their second son, was born in 1837⁷. A third son, James, was born at Kelso four years later. Eventually Thomas and Julia had four sons and eight daughters⁸.

The carrying business meant that Thomas senior was away from home for long periods. It made sense for Thomas and Julia to establish their home near Julia's parents and siblings because Thomas had no family in Australia. Julia was thus able to rely on them for support during her husband's long absences.

When John was nine years old, his uncle Patrick Grady was convicted of taking part in the theft of a dray and sentenced to two years gaol²⁶. Six years later, His uncle James Grady was tried for cattle theft but acquitted⁹. In that same year, 1851, Edward Hargraves discovered gold near Bathurst. Soon, the area was the centre of a gold rush.

At around this time, the teenaged John Kessey travelled away from his home district for a couple of years¹⁰. He worked as a driver for his father and probably found work as a farm labourer also¹¹.. Aside from this short period, John lived his whole life in the district south and east of Bathurst NSW. Siblings were born at Kelso, Brisbane Valley (near Essington), Campbell's River (near Mount David and Rockley) and Vale Creek (near Perthville). The extended Grady clan was based in this area and around nearby Oberon and Black Springs.

In August 1857, just two months after the death of his grandmother Margaret Grady, John Kessey married Mary Ann Hanrahan at Bathurst¹². She was a daughter of ex-convict Patrick Hanrahan and Catherine (nee Hogan) of Black Springs¹³. The new couple had their first child in June 1858: a son named James who was born at Burnt Flat near Bathurst¹⁴. Three more children followed quickly: Phillip (1861) and twins Thomas and John Michael (1863)⁸.

In 1864, John's older brother (Thomas) was arrested and charged in relation to several armed robberies in the Bathurst district¹⁵. He and two other men robbed the Bathurst-Orange "up" coach at night and held the passengers at gunpoint for seven hours while awaiting the morning "down" coach which they then robbed. A few days later the same three men robbed a farmer on the Limekilns road. Thomas was positively identified by three of the victims, but his brother-in-law Shadrach Grose was acquitted, as was Frederick Piesley. John Kessey's younger brother, James, was also found guilty of possessing one of the stolen items. John's brothers were each sentenced to 10 years gaol.

Five years later, in 1869, John Kessey himself was convicted of cattle stealing. His daughter Emily was born soon after he started his three-year sentence in Bathurst Gaol on 11 February 1870¹⁶. (Her older sister Elizabeth had preceded her by three years⁸.) Later that year, his two brothers were released after serving about seven years of their gaol sentences. Neither of them was ever convicted of another offence¹⁷.

John and Mary Ann Kessey produced four sons and three daughters altogether; the youngest (Ethel) was born in 1877⁸.

John and his family continued a farming lifestyle on his land near Rockley and on Mary Ann's land near Black Springs. Their sons also moved into the farming business with their own holdings.

Arthur Budden sued John in 1887 for a debt of £1/12/4, his accumulated tab at Budden's store at Rockley¹⁸. By the time the case came to court, John had found the money and settled the debt; Budden was left to pay court costs! But Budden won the second round twelve months later when he sued John for a debt of £1/3/6. This time John was ordered to pay the account plus court costs of 17 shillings¹⁹. John was obviously having financial difficulties.

In 1893, John was committed for trial at Burruga on charges of false pretences²⁰. Fortunately, for him, the evidence was not strong enough and the case didn't proceed to trial. But his luck ran out in the following year. This time he was charged with stealing nine pigs from a neighbour, Mrs McPhee, who told the court, "*I know the accused, to my sorrow*". They had been neighbours for over 40 years. When asked if she would like to be rid of him she replied, "*Want to get rid of him? He wants to get rid of himself!*"²¹ The jury returned a guilty verdict and Judge Docker sentenced John to nine months hard labour.

Five years later (in 1898) John was in trouble with the law again. When questioned by a constable at Tillsbury (near Black Springs) about a cow hide that he had recently sold, John acted suspiciously and then disappeared, abandoning his team of horses. Constable Tapley visited John's house several times over the next six months, but John was never at home when he called! Eventually the wily policeman turned up before breakfast and conducted a thorough search. He eventually lifted some suspiciously loose floorboards under the empty warm bed and found John lying in a shallow hole scooped out of the dirt under the house. He was, with difficulty, dragged out and arrested²².

When he was sentenced to 20 months gaol for stealing the cow from his neighbour, John Durack, the judge said that the sentence would have been much heavier "*were it not for the extreme old age of the prisoner.*"²³ John was 62 years old²⁴.

Less than two years after the completion of his sentence, John died of cholera on his farm at Black Springs at 65 years of age.

What drove John to commit so much crime? Was it the culture of the section of society from which he came (poor rural labourers on the frontiers of European settlement in NSW)? Or could John's failings be a result of earlier family trauma?

The incidence of property crime may have been particularly high in the most isolated communities of NSW where John Kessey was born and lived his whole life. This may have been exacerbated for John because his formative adult years coincided with the lawless gold rush era in his district. Nevertheless, only a minority of poor rural labourers committed property crimes. The general community was outraged at the antisocial behaviour and anarchic attitudes of the criminal elements. The frontier lifestyle is, therefore, no excuse for John Kessey to have engaged in criminal activity.

It is more likely that John's errant ways were a result of his close and life-long association with his mother's extended family²⁵. While he is the blackest sheep among my direct ancestors, crime was commonplace in his generation of the Grady/Kessey family. Several of his brothers and cousins were also felons; they were sentenced to a total of more than 55 years gaol for crimes ranging from theft to armed robbery²⁶.

John's generation was raised by five Grady siblings who had come to NSW from Ireland in 1828 with their mother²⁷. They had been left destitute²⁸ in Ireland when their father Patrick Grady was convicted and sentenced to transportation to NSW in 1823²⁹. For five years, Margaret Grady had to fend for herself and her five children. While she focussed on earning some sort of living, she would have had to rely heavily on her eldest child Mary (just thirteen years old) to assist with the younger Grady children. They may have resorted to crime in Ireland in order to secure the necessities of life.

These upheavals in the lives of the young Grady brood seem to have resulted in dysfunctional family dynamics. Once in NSW, several of them married young and started having children while still teenagers⁸. The first Australian generation (John Kessey, his siblings and first cousins) were raised by this dysfunctional generation of the Grady family resulting in further dysfunction. By the 1850s the family had a bad reputation in the local area³⁰.

John Kessey's life of crime was likely an outcome of the trauma experienced by the previous generation of his mother's family following the transportation of his grandfather, Patrick Grady.

***_**

No. 1294 Name John Kessey Sen
Bathurst Date when portrait was taken 3.10.99

Native place Bathurst
Year of birth 1837
Arrived in) Ship
Colony) Year B.S.
Trade or occupation)
previous to conviction)
Religion R.C.
Education, degree of R.C.
Height, without shoes, 6 feet 4 inches
Weight) On committal 160
in lbs.) On discharge
Color of hair Brown & Gray
Color of eyes Hazel
Marks or special features Deaf
Scar on face in left cheek, thick
side face little finger
right hand contracted

(No. of previous Portrait) 909 Bathurst

CONVICTIONS.

Where and When	Offence	Sentence
Bathurst B.S. 11 2 90	Cattle Stealing	3 Years & L.
" " 6 2 94	Stealing pigs	9 Months & L.
" " 1 8 99	Cattle Stealing	1 year & L. & L.

The Bathurst gaol Photograph Description Book record for John Kessey in 1899¹⁶. It records that he was deaf (although he vainly disputed this³¹) and that his right little finger was contracted³².

¹ In about 1847, Thomas Casey was motivated to change the family name to Kessey. The new surname was well-established by 1851 and the old name was never again used by the family. This may have been an attempt to "hide the convict stain". It may have been prompted by the belated publication in the Sydney Morning Herald of Thomas Casey's Conditional pardon in 1847. "Conditional Pardons" *The Sydney Morning Herald* (NSW: 1842 – 1954) 17 February 1847 p2. <http://nla.gov.au/nla.news-article12893814>.

The first know use of "Kessey" was as early as 1840 for the birth record of John's brother, James Kessey. NSW Birth Certificate V18402228 162B/1840.

The new name was used universally after 1851 (except for a handful of official birth records where the old spelling was recorded by the clerk). Thomas Casey was routinely using "TK" as his cattle brand before 1851. "£1 Reward" *Bathurst Free Press and Mining Journal* (NSW: 1851-1904) 6 September 1851, p5. <http://nla.gov.au/nla.news-article62519912>.

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- Thomas Kessey is listed as a creditor in a Supreme Court advertisement re estate of John Humphreys *The Sydney Morning Herald* (NSW: 1842 – 1954) 8 February 1851 p5. <http://nla.gov.au/nla.news-article12924653>.
- He was also referred to as Thomas Kessey in another newspaper entry in 1851. “Cattle Stealing” *The Sydney Morning Herald* (NSW: 1842-1954 27 August 1851, p2. <http://nla.gov.au/nla.news-article12929816>.
- ² Advertisement by William Boyles and Thomas Casey, *The Sydney Gazette and NSW Advertiser* (NSW: 1803-1842) 16 December 1826. <http://nla.gov.au/nla.news-article2187129>. Also “Commissariat Department”. *The Sydney Gazette and NSW Advertiser* (NSW: 1803-1842) 30 December 1830 <http://nla.gov.au/nla.news-article2196898>. Also “Commissariat” *The Sydney Herald* (NSW: 1831-1842) 2 January 1832 <http://nla.gov.au/nla.news-article28654076>.
- Also “Commissariat Department” *The Sydney Gazette and NSW Advertiser* (NSW: 1803-1842) 1 December 1832 <http://nla.gov.au/nla.news-article2209698>.
- ³ Convict Indents, *General Stewart* arrived Sydney 31 December 1818, Archives Office of NSW 4/4006 p213 Reel 394.
- ⁴ Major Druitt Investigation, *Governor’s Court Case Papers 1815-1824*, Archives Office of NSW 4/7867 Case 470 NRS 4563, 1824.
- ⁵ Marriage Certificate Casey-Grady, NSW Registry of Births, Deaths and Marriages, V18321174 16/1832.
- ⁶ Death Certificate Julia Kessey, NSW Registry of Births, Deaths and Marriages, 1883/5709.
- ⁷ Death Certificate John Kessey, NSW Registry of Births, Deaths and Marriages, 1902/002534.
- ⁸ Birth records, NSW Registry of Births, Deaths and Marriages.
- ⁹ “Cattle Stealing” *The Sydney Morning Herald* (NSW: 1842-1954) 27 August 1851 p2. <http://nla.gov.au/nla.news-article12929816>.
- ¹⁰ “Kelaher v. Eviston and Others” *Bathurst Free Press and Mining Journal* (NSW: 1851-1904) p2. <http://nla.gov.au/nla.news-article65352878>.
- ¹¹ Throughout his life John Kessey supplemented the income from his own farm with income earned as a farm labourer. Even into his sixties he was employed thatching stacks at Brewongle. “Police Court.” *Bathurst Free Press and Mining Journal* (NSW: 1851 - 1904) 15 Jan 1894 p2. <http://nla.gov.au/nla.news-article62959390>.
- ¹² Marriage Certificate Kessey-Hanrahan, NSW Registry of Births, Deaths and Marriages, 1857/1385.
- ¹³ Death Certificate Mary Ann Kessey, NSW Registry of Births, Deaths and Marriages, 1907/010401.
- ¹⁴ Birth Certificate James Kessey, NSW Registry of Births, Deaths and Marriages, 1858/4602.
- ¹⁵ “Bathurst Circuit Court” *The Sydney Morning Herald* (NSW: 1842-1954) 22 October 1864 p4. <http://nla.gov.au/nla.news-article13103827>.
- ¹⁶ Bathurst Gaol Photograph Description Book, John Kessey 3 October 1899, Archives Office of NSW NRS 1998, 3/13073, p141, Photograph No 1294, Reel 5090. See illustration.
- ¹⁷ Thomas Kessey married Sarah Ann Grose in 1856 and they had 5 children before her death at Barrington in 1889. His death as a destitute “old aged pensioner” at Parramatta in 1903 prompted the coroner to call for the demolition of the boarding house where he lived with 18 other boarders. “Pensioners’ Farms” *The Cumberland Argus and Fruitgrowers Advocate* (Parramatta, NSW: 1888-1950) 13 June 1903. <http://nla.gov.au/nla.news-article85687437>. James Kessey married Mary Jane Pendergrass after his release from gaol and moved to the Maitland district. They had 16 children and James became a pillar of the Maitland community, receiving a farewell gift of a purse of sovereigns from its appreciative citizens when he moved back to Bathurst in 1911. “Presentation to Mr James Kessey” *The Maitland Daily Mercury* (NSW: 1894-1939) 18 July 1911 p2. <http://nla.gov.au/nla.news-article121458489>.
- ¹⁸ “Police Office Rockley” *Bathurst Free Press and Mining Journal* (NSW: 1851-1904) 6 August 1887 p2. <http://nla.gov.au/nla.news-article62222415>.
- ¹⁹ “Police Office” *Bathurst Free Press and Mining Journal* (NSW: 1851-1904) 9 June 1888 p2. <http://nla.gov.au/nla.news-article62216935>.
- ²⁰ “Nolle Prosequi” *Bathurst Free Press and Mining Journal* (NSW: 1851-1904) 2 August 1893 p2. <http://nla.gov.au/nla.news-article62180448>.
- ²¹ “Alleged pig stealing” *Bathurst Free Press and Mining Journal* (NSW: 1851-1904) 22 January 1894 p2. <http://nla.gov.au/nla.news-article62967133>.
- ²² “Country Sessions” *Evening News* (Sydney, NSW: 1869-1931) 3 August 1899 p3. <http://nla.gov.au/nla.news-article113264135>.
- ²³ “John Kessey sentenced” *Bathurst Free Press and Mining Journal* (NSW: 1851-1904) 3 August 1899 pp 2-3. <http://nla.gov.au/nla.news-article63908139>.
- ²⁴ To us, in the 21st century, 62 years does not qualify as extreme old age, but John Kessey had lived a life of hard toil on the land, through the extremes of heat and cold and with very little opportunity for rest or recuperation. Life for

the settlers, including the Kessey and Grady families, involved unremitting hard work to transform native bush into productive farming land. These tribulations had taken their toll: he was worn out and looked older than his years.

- ²⁵ In some ways, John Kessey's urge to steal livestock could be seen as following in his father's footsteps. Thomas Casey had, in 1818, been sentenced at the old Bailey court in London to seven years transportation for stealing two sheep near his father's farm in Edmonton, Middlesex. But this interpretation may be unfair to Thomas who was never convicted of a crime in New South Wales. In fact, he proved to be industrious and successful in the carrying business that he established after serving his sentence.
- ²⁶ 1846 – Uncle Patrick Grady – 2 years for stealing a dray
1864 - Brothers Thomas and James – 10 each years for armed robbery
1865 – Cousin Phillip Foran – 2 months for possessing a stolen saddle
1865 – Cousin John Foran – 3 months for illegal use of a horse
1867 – Cousin John Foran – 15 years for armed robbery (with Lawrence Cummins who got 30 years)
1867 – Cousin Patrick Foran – 10 years for armed robbery (Cornelius Foran not convicted)
1867 – Uncle Patrick Grady – 7 years for horse theft
1868 – Cousin Phillip Foran – 12 months for possessing a stolen saddle
- “Grandsons of Patrick Grady and Margaret Whalan who were convicted bushrangers and/or committed crimes against the colony”, Carole and Steve Riley, <http://www.angelfire.com/my/familytreehouse/bushrangers.html>.
- ²⁷ *City of Edinburgh* arrived Sydney 12 November 1828. Archives Office NSW.
- ²⁸ When the family embarked on the ship for NSW their clothing (mere rags) was so bad that the family was issued with new clothing.
- ²⁹ Convict Indents, *Brampton* arrived Sydney 22 April 1823, Archives Office of NSW 4/4008 p309 Reel 396.
- ³⁰ John Kessey had to sign a pre-nuptial indenture prior to his marriage to Mary Ann Hanrahan in 1857. Mary Ann's wily father, Patrick Hanrahan, was ensuring that his wedding gift to Mary Ann (40 acres of land at Black Springs) would never become the property of her untrustworthy husband-to-be. *Deed: Hanrahan-Kessey*, Land Titles Office of NSW, No 921, Book 50 Settlers.
- ³¹ When giving evidence as a witness in an 1890 case, John contended that “*I am not deaf, but a little hard of hearing.*” “*Kelaher v. Eviston and Others*” *Bathurst Free Press and Mining Journal* (NSW: 1851-1904) p2. <http://nla.gov.au/nla.news-article65352878>.
- This is interesting because I know from oral history and personal observation that middle-aged hearing loss also afflicted his son James Kessey; grandson Halvar Kessey; G-Grandchildren James Kessey and Halvene Fleming; and is also a problem for GG-grandchild James Fleming (author of this article).
- ³² This was probably Dupuytren's contracture where the finger bends towards the palm and cannot be fully straightened. This is an inherited disease that is most common in people with Scandinavian ancestry. “*The Vikings and Baron Dupuytren's Disease*” Adrian E Flatt MD, *Proceedings (Baylor University Medical Centre)*. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1305903/>.