



AROUND THE GRAVES

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NEWSLETTER OF THE FRIENDS OF CHELTENHAM AND REGIONAL CEMETERIES INC.

In this issue of *Around the Graves* we look at some more characters who came before the Cheltenham Court...

"A Coward and a Dog"

Not all the market gardeners of the wider Moorabbin-Cheltenham district were saints. Some were downright sinners who tarnished the good reputation held by these hard working toilers of the land. Not once, but twice in the space of 15 months, **Samuel Edward Downton (Memorial Park, Meth "35" 33)** fronted the Cheltenham Court having assaulted his wife **Sarah Ellen Downton (Pioneer Cemetery, CofE "S" 37)**.

The Downtons were married on 3 February 1912 at Chorlton, Manchester, England. With their three children—Sarah, Edna and young Harry—they emigrated to Victoria on the *Themistocles* arriving in March 1921.



above:

Prison mug shot of Samuel Edward Downton, November 1925

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In the first case, Sarah Downton would tell the court;

"My husband wanted to see a bill I was sending my daughter to pay. When I refused he snatched it from me and tried to strike the child. When I interfered he struck me on the forehead, threw a lighted lamp at me, threw me on

the floor in the passage, struck me in the face, and half strangled me. Downton does not support me, and I have obtained an order for maintenance against him."

When asked by Senior-constable Thomas whether he had been "sponging" on his hard-working wife, Downton replied *"I have paid very little, but I only sleep there and take a cup of tea in the morning."*

Commenting on the case, **Michael Clements, J.P (Pioneer Cemetery, CofE "95" 25)** said that Downton *"acted as a*

coward and a dog" and fined him £1 or in default, four months' imprisonment.

Downton was again before the Court in February 1927 for assaulting his wife, resisting arrest and using obscene language. Sarah Downton told the Court;

"On Tuesday night Downton came to my home drunk, and started arguing. He wanted one of the children to open a bottle of beer he had bought. I refused to let the child do this, and he struck me on the arm and then pushed me through the door and threw a poker after me. Then he locked the door. I sent for the police."

Sarah obtained a court divorce from her husband in 1928 on the grounds of desertion. They both died four years apart in the 1940s; Sarah lies buried in the Pioneer Cemetery, and Samuel at the Memorial Park.

(Source: *The Argus* 5 Nov 1925 p17, 3 Feb 1927 p15 and 20 Jul 1928 p6)

Concealment of Birth

Cases before the Cheltenham Court give a glimpse of the past and how different social norms are today. Jane Hughan was charged with concealing the birth of her child who died stillborn and was buried on 12 April 1889 (Strangers Ground, Cheltenham Pioneer Cemetery). The bench, consisting of **William Ruse (Pioneer Cemetery, CofC "A" 22)** and **Hugh Brown (Pioneer Cemetery, Meth "E" 1)** patiently heard that Hughan was employed by the noted colonial artist **William Clarke (Pioneer Cemetery, Pres "A" 59)** then residing at Woodlands, Mordialloc and intended to bring the child to its father once she had sufficiently recovered. The charge could not be sustained and she was discharged.

(Source: *The Caulfield and Elsternwick Leader* 11 May 1889 p5; *Moorabbin Shire rate book*, 1889)

A Football Feud

One of the more unusual cases that came before the Cheltenham Court involved two footballers, John James

and **Stanley Smith (Memorial Park, Lawn "H1" Row J Grave 3)** arising from a match in 1931. At stake was a top four finish.

John W. James, poultry farmer, Cheltenham, told the court that at about 4.50pm on 25 July he was playing on the Mentone recreation ground with the Mentone football team against Black Rock. As captain he was playing on the westerly wing and was following the ball which went out of bounds and he ceased playing temporarily. Defendant Smith who was playing in the centre for Black Rock was in the vicinity, and was running for the ball. James was knocked down and on attempting to rise was knocked down again by Smith and also kicked by some person and struck in the face. He had no clear memory of who struck him after the first two blows, as he was rendered unconscious.

In the incident, James also suffered a fractured collarbone.

Senior Constable Drysdale witnessed the incident and backed the testimony given by James. He said;

"Smith collided with James and knocked him down. When he attempted to rise Smith again gave him his shoulder and again knocked him down. Smith then came at James in a threatening manner with clenched fists and whilst still on the ground struck him heavily in the face. Just before the blow James kicked at Smith to keep him off. He did not see Smith kick James. The first knock may have been in the rigor of the game."

The Court dismissed the case saying there was no evidence of unlawful assault.

(Source: Frankston & Somerville Standard 15 Aug 1931 p8)

Pawned his Faithful Dog

In another case before **William Ruse**, J.P. comes this gem from the *South Bourke and Mornington Journal*:

"From the evidence it appeared that the prisoner gave his name as William Rowe, and that he had on the morning of the 25 May 1881 left the Flemington saleyards with a flock of sheep to be driven to Mr. Jones' station at Somerville, near Frankston. Prisoner arrived at the Exchange hotel, Cheltenham, and violently persisted in driving the whole flock in Mr. John Morris' (Pioneer Cemetery, CofE "E" 254) bar with the avowed intention of giving them a drink. Mr. Morris repudiated the liberty with

indignation, and drove the sheep into his yard. On his return he found the prisoner shaking hands with a female in the Phillip Island coach, and making overtures to her of anything but a moral kind. A gentleman accompanying the lady jumped out of the coach for the avowed purpose of thrashing the prisoner, but found him instantaneously in the corner of the bar, a long stick in his hand, and a sheep dog at his feet. He kept all his pursuers at bay with the stick, which could soon have been overcome had it not been for fear of the dog. Constable Cowan eventually arrived on the scene, and secured the prisoner with handcuffs and took him to the lock-up. The same aperture admitting the prisoner to be dragged into this apartment allowed his faithful dog to enter without any compunction of conscience, and possibly with joy. As there is no provision made in the Justices' Statute to imprison a dog, a warrant of ejection was issued in the shape of a pitchfork by the Constable, and contented himself by laying at the watchhouse door...He was fined £3 or one month imprisonment. The faithful dog, which was valued at £10, was pawned for the amount of the fine, and the prisoner liberated."

(Source: South Bourke and Mornington Journal 1 June 1881 p3)

Nightsoil

Cases involving nightsoil (euphemism for "human excrement") were a dozen a dime. Typically they involved market gardeners who failed to observe the strict requirements of the Moorabbin Shire by-law that

compelled nightsoil be covered up with at least six inches of soil before 7.30 a.m. **Francis Blencowe (Pioneer Cemetery, Meth "13" 28)**, was

fined £1 with £1 1s costs in 1889 in breach of the by-law. Blencowe of Bay

road, Sandringham argued he was unaware of the by-law and the nightman was late in arriving.

(Source: The Caulfield and Elsternwick Leader 6 Apr 1889 p7)



above:
Gravesite of Francis Blencowe,
Cheltenham Pioneer Cemetery
(Meth "13" 28)

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