

ROBERT KAY (1826 - ?)

Convict Number 6172

Document kindly shared by Irma Walter

Robert Kay was born at Alloa in Clackmannanshire, Scotland on 14 August 1826, to parents John Kay and Catherine (née Sharp). His baptism took place on 3 September that year.¹

At the time of the 1841 Census, Robert Kay, aged 15, was living with his father John Kay, aged 50, his mother Catherine, aged 45, his sister Jane, also aged 15, and two others, William Carmichael and Janet Dick.

The 1851 Census shows Robert Kay, aged 24, born in Clackmannanshire, as an inmate of Alloa Prison.²

Record of Robert Kay's Offences in Scotland

20 March 1848 – Theft – eight months.

9 May 1850 – Assault – one month.

18 April 1851 – Theft and Assault – seven years' transportation.

30 August 1854 – Released on Licence due to exemplary conduct.

7 July 1856 – Assault – four months.

8 January 1859 – Taken to Alloa Prison and charged with opening lock-fast places plus a previous conviction.

12 April 1859 – Convicted at Stirling Circuit Court. Admitted stealing but denied entering lock-fast places.

The above offences were all directed towards Robert's own family members. Their relationship was evidently a troubled one. Robert lived at home and learnt the coopering trade from his father. The 1851 offence which earned Robert a sentence of seven years was the most serious, involving the theft of coopering equipment from his father's premises and assault against his father, who received serious injuries when attacked with part of a wooden door. Kay's sister ran off to seek assistance for her father, but Kay locked the door and proceeded to kick the older man and struck him again with a wooden broom.³ During the trial at the High Court in Stirling, Robert admitted the charge of theft, but denied the assault. He was sentenced to seven years' transportation.⁴ He was not transported for this crime but served part of his term in Millbank Prison before being transferred to Portland Prison on 19 May 1852.⁵

Kay was released early on Licence in August 1854 for good behaviour and returned to Alloa. However on 18 January 1856 he was charged with committing another assault, this time against his mother, by striking her in the face. Kay was released on bail but failed to appear in Court and was later taken into custody. During his trial in July the judge stated that although there was an absence of serious injury inflicted during the attack, Kay had exhibited great disrespect towards his mother. Due to his two previous convictions of assault against his father, he was sentenced to four months in prison.⁶

Facing trial again in 1859 Robert Kay was labelled 'a returned convict', charged with breaking into a chest of drawers at the house of his brother and stealing therefrom a silk

¹ FHL Film Number 1040207, <https://www.ancestry.com.au/>

² <https://search.findmypast.com.au/search-world-records-in-census-land-and-surveys>

³ *Falkirk Herald*, 24 April 1851.

⁴ National Records of Scotland, Ref. No. JC26/1851/251

⁵ England & Wales, Crimes, Prisons, etc., Series HO24, Piece No. 5.

⁶ *Alloa Advertiser*, 12 July 1856.

gown. He admitted the theft and due to his previous convictions, was sentenced to penal servitude for eight years.⁷ This time he was transported to Western Australia.

Prison record while awaiting transportation –

Conduct at Wakefield Prison – Indifferent.

At Portland Prison – Very Good. Category 1st Class at time of embarkation.

From Portland Prison, he was taken on board the convict ship *Lincelles*, arriving at Fremantle on 28 January 1862. His conduct during the voyage earned him fourteen days' remission.⁸

Record in WA

On arrival in Western Australia Robert Kay was described as a cooper, aged 32, 5'6½" tall, with dark brown hair, blue eyes, a fresh complexion, oval face, of medium stout build, and a wart on his left temple. Robert was released on Ticket of Leave soon after disembarking. He was not afraid of hard work, being employed variously in the mining and whaling industries, and in the coopering, blacksmithing and carpentry trades –

2/8/62 – Discharged to Ticket of Leave.

4/8/62 – RM Fremantle – Drunk. Fined 5/-.

June '62 - Earned remission for fire at Comptroller General's Office at Fremantle Prison.
(*Vide* 453/4)⁹

30/6/63 – Miner, 6/- per day, Victoria District, (?) Mining Company.

31/12/63 – Labourer, Victoria District, Chapman & Co.

26/2 64 – Carpenter, piece work, Jas. Miller, Geraldton.

8/3/64 – Victoria District to Fremantle.

18/3/64 – Cooper, at Fremantle, John Bateman.

30/5/64 – Fremantle to Victoria District.

30/5/64 – Whaling, shares, Victoria District, J & W Bateman, Port Gregory.

14/7/64 – RM Fremantle – Drunk. Fined 10/-.

15/7/64 – Whaling, shares, ditto, Fremantle.

6/8/64 – To Hospital, Convict Establishment. Hospital bill 19/6d. Paid 28/10/65.

22/8/64 – Labourer, 30/- per month, Bateman, Fremantle.

24/9/64 – RM York – Drunk. Fined 7/6.

31/12/64 – Boating £6 per month, Bateman, Fremantle.

2/2/65 – Conditional Pardon issued.

11/5/65 – Cooper, piece work, D. Edgar, York.

14/6/65 – RM York – Larceny. One month in Lock-up.

26/9/65 – Labourer, 20/- per month, Reynolds, York, Salt R.....(?)

31/12/65 – Labourer, 30/- per month, AF Lee Steere, York.

30/6/66 – Ditto.

30/7/66 – York Depot.

3/8/66 – Drunk, exposing his person. Two months' Hard Labour.

6/8/66 – Hospital, York.

26/10/66 – Ticket of Leave forwarded to RM at York.¹⁰

31/10/66 – RM York – Drunk, etc., Twelve months' Hard Labour at Convict Establishment.

5/11/66 – Discharged from Fremantle Prison to York.¹¹

26/2/67 – Remission not recommended, due to Kay not having done half his sentence. (*Vide*

⁷ *Stirling Observer*, 14 April 1859.

⁸ Convict Department, General Register (R11)

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ Convict Establishment Receipts & Discharges (RD5-RD7)

8375/2)

25/4/67 – Any remission not recommended. (*Vide 8553/10*)
6/5/67 – Fremantle to Perth. Unexpired portion of his sentence remitted. (*Vide 8375/47*)
8/5/67 – Discharged to Ticket of Leave.¹²
16/5/67 – Mt. Eliza Depot.
25/5/67 – Perth to Guildford.
25/5/67 – Blacksmith, 40/- per month, Ed. Chatterton, York.
8/7/67 – RM Swan – Assault. Fined £2.
2/8/67 – Drunk. Fined 5/-.
15/10/67 – Stealing two bottles of gin. Six months' Hard Labour at Fremantle Prison.
1/1/68 – Appeal. The circumstances of the case do not justify the recommendation of remission.
8/1/68 – RM Fremantle – Writing anonymous letters. Three days Bread & Water.
18/4/68 – To Mt Eliza Depot from Fremantle Prison.
26/4/68 – Bunbury Depot.
30/4/68 – Ditto.
3/6/68 – Cooper, 40/- per month, Jno. Kelly, Bunbury.
22/6/68 – If he continues from further report until 13 January 1869, his Certificate of Freedom will be forwarded for issue to RM Bunbury. (*Vide 6189/13*)
26/6/68 – Cooper, 40/- per month, Hay & Son, Bunbury.
17/7/68 – Certificate of Freedom forwarded.
30/6/68 – Cooper, 40/- per month, Hay & Son, Bunbury..¹³
3/9/68 – George Eliot, RM Bunbury - Robert Kay charged with stealing two keys, to serve six months, under Local Prisoner No.1878.¹⁴
30/6/71 – Blacksmith, 40/- per month, Ed. Chatterton, York.¹⁵

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No more is known about Robert Kay in Western Australia. No death has been recorded for Robert Kay in the WA Death Index. He may have left the Colony.

Claim to His Estate

An unusual notice appeared in the *West Australian* in April 1882, whereby Robert Kay's sister Jean was laying claim to his estate. This was made possible by an Act passed in the Scottish Parliament in 1881, whereby an heir could lay claim to property owned by a relative who was declared missing for upwards of seven years and could be assumed to be dead.

[Whether Robert Kay was ever in touch with his family is not known.] –

ROBERT KAY.

NOTICE IS HEREBY GIVEN that a Petition has been presented to the Sheriff of Stirling, Dumbarton, and Clackmannan, at Stirling, by Jean Kay, residing at Old Bridge Street, Alloa, in terms of "The Presumption of Life Limitation Scotland Act, 1881," praying the Court for authority to her to uplift and enjoy the yearly income of the moveable estate of her brother ROBERT KAY, cooper, formerly of Alloa, who was transported to Western Australia, and received a Certificate of Freedom in July, 1868, all as set forth in the Petition, and the Sheriff Substitute, by Interlocutor dated 16th February, 1882, has ordered intimation of the Petition in terms of the said statute, and ordained all parties having interest to enter appearance with

¹² Convict Department General Register (R11)

¹³ Convict Department, General Register (R11)

¹⁴ Convict Establishment Miscellaneous, Local Prisoners Registers (V16A – V16C)

¹⁵ *Ibid.*

the Sheriff Clerk. County Buildings, Stirling, within six months from the date of said Interlocutor.

*DAVIDSON A STEVENSON,
Solicitors, Stirling, Petitioner's Agents.¹⁶*

The above notice had also appeared in the *Geelong Advertiser* on 6 April 1882.

The following year part of an article published in British newspapers was re-printed in a Perth paper in 1883 –

In a list of "missing Scotchmen and their heirs," published in the English papers, appears the name of Robert Kay, who, it is stated, was transported to Western Australia, and who received his certificate of freedom in 1866.¹⁷

The said article which was published in Britain, entitled ‘Missing Scotchmen and Their Heirs’, came from the Next-of-Kin Office in London, and explained the details of the Act. It quoted the names of 25 people and their last known whereabouts as examples of missing persons. Several of those named had gone to the Californian or Australian goldfields, but Robert Kay was the only one listed as a former convict sent to Australia. The article concluded by saying that it was not impossible that some of the people listed might at some stage turn up and find that their heirs had taken lawful possession of their estates.

[No further mention of Robert Kay’s whereabouts were published as a result. Whether he had died by this time or owned any property in Western Australia is not known.]

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¹⁶ *West Australian*, 22 April 1882.

¹⁷ *Daily News*, 19 February 1883.