

## Esau Wetherall – Scindian Convict #54

Esau Wetherall was born to parents James and Mary Wetherall in Dinnington, Somerset around 1816. He was a 31-year-old, unmarried, labourer at the time of his conviction at the Somerset Taunton Assizes on 31 March 1847 for horse stealing. His co-accused, Henry Mills, was sentenced to 18 months with hard labour, however, Wetherall, who had been previously convicted, was sentenced to 15 years' transportation. The previous conviction for Wetherall was bestowed for a crime considered at trial in April 1844 which also involved Henry Wells. Wetherall stole two five-pound notes and passed them to Mills, who got away without a conviction. In 1847, on leaving the dock after his sentence of transportation was passed, Wetherall cried out, "Please my Lord, he (Mills) done it all, and I'm made to suffer for it." And I am inclined to agree with him.

This is how it was reported in the local newspapers:

*The Western Flying Post; or, Sherborne and Yeovil Mercury*, Saturday, April 10, 1847; pg. 2:

*"HORSE-STEALING – Henry Mills and Esau Wetherall were charged with stealing a bay gelding, the property of John Budd, of Crewkerne. Evidence having been given that the horse was in a field called Marsh Common on the 19<sup>th</sup> December, and that it was missed on the following day, a blacksmith of Crewkerne deposed to seeing both the prisoners together at the Cross-keys, public house, Crewkerne, in the evening of that day when Mills had with him a saddle and bridle. James Bull was with the prisoner Mills on the day in question, and saw the horse which was afterwards stolen. Mills asked him who the horse belonged to, whether it was an old horse, and whether Mr. Budd was worth any money; witness came into Crewkerne with Mills, and left him at the door of the Cross keys public house. Joseph Dashwood saw both the prisoners leave the Cross-keys public house together, about 9 o'clock on the evening of the 19<sup>th</sup> December. Joseph Bliss, ostler, at the Cross-keys, Lydford, saw both the prisoners at the house, about one o'clock in the morning of the 20<sup>th</sup> of December. They had a horse with them then, which was covered with mud. Mills said it was his horse; in the morning, about 5 o'clock, Wetherall rode away on the horse in the direction of Bristol; Mills went off in one of the coal carts... William Rowland a horse and cattle-dealer, living in Cardiganshire, met both prisoners on board the Bristol and Newport packet on 21<sup>st</sup> December. They had the horse with them at that time, and sold it to the witness, at Newport, for £10, 10s. Perceiving afterwards that the horse was lame in the hind leg, Rowland declared "off" the bargain, but eventually purchased it for £8."*

The reports indicate that Mills was the one who had seen the horse and conceived of the theft and that he brought Wetherall in with him to help steal the horse and then get it from Crewkerne to Newport in Wales where it could be sold. They were arrested and imprisoned in Yeovil, and while awaiting trial, Wetherall escaped custody, soon after being recaptured. The pair's thieving days were over. Wetherall spent 6 months in the notorious Millbank Prison in London, before being moved to Wakefield Prison in West Yorkshire, with his final move being to Portland Prison 14 months later in readiness for transportation. It was noted on the Portland Prison register that he received a visit from relative Edward Edmunds on 26 June

1849. Wetherall was transported to Western Australia aboard the first convict ship the *Scindian*, arriving 1 June 1850.

On arrival in the colony, Esau's physical appearance was described as being 5' 3 1/2" in height with light brown hair, grey eyes, an oval visage, of fair complexion and being of stout build. Shortly after arrival he was assigned to employer A. Lawrence (possibly Ambrose Lawrence) in Fremantle to work as a mason. (Samuel Diggle #58 *Scindian* convict was also employed by Lawrence at this time.) Records indicate that by the following year Wetherall was working for himself in Toodyay.

Wetherall was known to have a building partnership with *Marion* convict #1225 George Hasell. Esau worked as a stonemason and contributed to the construction of many buildings in the Toodyay and York districts from the 1850s to the 1870s, employing, together with Hasell, 13 ticket-of-leave men during this period. Two *Scindian* convict ex-pirees known to have worked with them both on St. Stephen's Anglican Church between April and December 1861 were #58 Samuel Diggle, and #11 Thomas Trott. It is likely Hasell and Wetherall worked as partners constructing in full or part:

“the Convict Depot buildings (1852-1857); [Samuel] Phillips' 'Culham' (1855); Newgain Granary (1855-1856); Drummond's Steam Mill (1856-1857); Braybrook (c1856-1857; 1862); St. Stephens Church (1861-1862); Donegan's and Parker's Cottages (c1862-1864); Newcastle Gaol (1862-1865); Drummond's 'Hawthornden' (1865); Conner's Mill (1870); and the Mechanics Institute (1874).”

Heritage Council of WA Assessment documentation for Hasell's cottage, 27/11/1998.

Wetherall's industry brought rewards. By 1856, as reported in the third annual report of the Committee of the Northam, Toodyay and Victoria Plains Agricultural Society, Wetherall was farming 14 acres of land as a tenant of James Drummond Jnr., the acting Resident Magistrate in Toodyay at that time.

At the age of 41 in 1857, Esau was granted permission to wed 24-year-old, Irish-born Mary Mallaby. They married in Toodyay and had five children together over the next seven years, three daughters and twin sons. Sarah, their first child, born in 1858, died of diphtheria at the age of 16 years in 1874; Mary Ann was born in 1859, Ellen in 1861 and then twin sons, Frederick and Edwin were born in January 1864. Sadly, Mary died on 13 January 1864, likely from complications of childbirth, and the two sons lived only a few weeks.

With three young children to care for, Esau wasted no time in re-marrying, this time to Caroline Emily Wells, the widow of convict guard and Crimean War veteran, Alexander Wells. Caroline and Alexander Wells had travelled to Western Australia aboard the convict transport *Clara* in 1857 with their daughter Martha, their son Alfred being born during the voyage. After arrival in the new colony, three more daughters were born to the couple, before Alexander's untimely death, aged 45, on 30 June 1863. The marriage of Esau Wetherall and Caroline Wells in March 1864 was a necessary one for both of them. Stillborn twins were possibly born to them in 1865, however, no other children followed. By this time Esau was 49 years old.

As an ex-piree, in October 1861 Esau was charged with stealing and killing an ox, the property of James Everett. The case was tried at the Supreme Court in Perth, where Esau was found

not guilty, some of the witnesses' testimony being doubtful and the evidence circumstantial. He was discharged from prison on 2 January 1862. The problems between Wetherall and Everett over the bullock 'Lofty' continued, as in April 1867, Wetherall found himself in the Supreme Court together with Job Ridout, both charged with stealing and killing the animal. In the end Wetherall was found not guilty and Ridout guilty, sentenced to 5 years' penal servitude.

Esau continued farming and by 1867 is known to have had 40 acres (Avon Location 415) and a town lot in Toodyay of 2 acres (Lot 2). He died on 12 January 1889, aged around 73 years and the extent of his property was listed in an advertisement in the *Eastern Districts Chronicle* on 12 December 1891 as his widow Caroline sought to have the property transferred into her name.

No. 177/91. TRANSFER of Land Act, 1874.

*TAKE NOTICE that Caroline Wetherall of Newcastle, widow, administratrix of the estate of Esau Wetherall deceased, has made application to be registered as the proprietor of an estate in fee simple in possession in the following parcels of land, via Toodyay Suburban Lot 2, and Avon Location 415.*

*Toodyay Suburban, Lot 2 (2 acres), Bounded on the West by 7 chains 60 links of the West boundary of Toodyay townsite, extending North-South-East from a spot 7 chains South-South-East from East corner of Avon Location 261, On the North by an East-North-East line of 2 chains 63 links from spot aforesaid, and by opposite boundaries parallel and equal.*

*Avon Location 416 (40 acres), Bounded on the West by a North-North-West line of 15 chains - 40 links from East corner of Location 301, On the South by an East-North-East line of 17 chains from said corner on the North by an East-North-East line of 33 chains 33 links to South corner of Toodyay Suburban Lot 2, On the East by a South-South-East line of 1 chain 9 links from corner last aforesaid, And On the South-East by a straight line between the ends of the South and East boundaries.*

*And FURTHER TAKE NOTICE that all persons other than the applicant claiming to have any estate right title or interest in the above parcels of land ARE HEREBY REQUIRED to lodge in this Office on or before the 26th day of December next a caveat forbidding the same from being brought under the operation of the Act.*

*ALFRED E. BURT, Registrar of Titles, Land Titles' Office, Perth, Dec. 4, 1891.*

Esau's daughters, Mary Ann and Ellen both married and had several children of their own. Ellen married Thomas Henry McKnoe in Newcastle (Toodyay) in 1879 and they had ten

children. Mary married Donald Lee in Newcastle in 1877 and the pair had 12 children. Caroline's daughter Martha Wells married John Houlahan in Geraldton in 1872, the son of an Enrolled Pensioner Force convict guard (John Houlahan Snr) who had arrived in Western Australia aboard the convict transport the *William Hammond* in March 1856. On 12 March 1877 Alfred Wells married Sarah Doust and on 17 April 1879, Ellen Wells married Alfred Hutchings, both marriages were conducted in St Stephen's Church, Toodyay, the church their step-father Esau had helped to build. Caroline Wetherall died on 5 July 1905 in Fremantle, aged 75 years.

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Toodyay Historical Society and Shire of Toodyay, Museum Curator Margaret Eberle, profile on Esau Wetherall;

Toodyay Ticket of Leave and Convict Database, July 2019 (Courtesy Beth Frayne, Toodyay Historical Society).