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William Adams Brodribb, a Transported Attorney

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By W. JOHN LYES

In January 1816 there was a skirmish between a number of men from the Thornbury district and gamekeepers from neighbouring game preserves. It took place in a wood at Catgrove in the parish of Hill on Colonel William Fitzhardinge Berkeley's estate and it resulted in the death of a gamekeeper. The episode, which became known as 'the Berkeley Poaching Affray', was doubtless of great interest to the inhabitants of Thornbury and Berkeley, and the involvement of William Adams Brodribb (Fig. 1), an attorney, ensured an even wider interest. The aftermath of the incident, the ensuing trial, illustrates the manner in which justice was administered and the speed with which it was despatched.

Unfortunately, the materials for a narrative are not entirely trustworthy, the chief evidence at the trial being given by, probably, one of the worst criminals . . . while the only personal testimony on the other side is a statement alleged . . . to have been made in old age by one of the poachers who succeeded in effecting his escape.

So wrote John Latimer in 1887.¹ Latimer's account, together with a note by Edward Peacock written in the same year,² is based on contemporary press accounts and a pamphlet published shortly after the trial (Fig. 2). The personal testimony of one of the poachers referred to by Latimer is contained in the *Bristol Times and Mirror* of 8 January 1876 and is entitled 'The Great Berkeley Poaching Affray 1818'. Other sources have since become available and these, together with those already referred to, assist in the task of recording Brodribb's part in the affair. It has also become possible to give an account of his activities after conviction.³

All accounts agree that the incident that triggered the affray was the death of Thomas Till some two months previously. In the early hours of 25 November 1815 Till, a twenty-eight year old labourer from Thornbury, was killed by the discharge of a spring gun in Prestwood, a game preserve in Cromhall belonging to Lord Ducie. In the early years of the century courts generally upheld the right of landowners to place man-traps and spring guns on their property. In 1820 a judge commented:

If you do not allow men of landed estate to preserve their game you will not prevail on them to reside in the country. Their poor neighbours will thus lose their protection and kind offices; and the Government the support it derives from an independent, enlightened and unpaid magistracy.⁴

However, in 1826 a Scottish court held that causing death by means of a spring gun could support a charge of murder against the gamekeeper who set the gun.⁵ In 1827 Parliament enacted that persons setting spring guns and man-traps calculated to destroy human life were guilty of a misdemeanour.⁶ The day after the Prestwood incident William Joyner of Berkeley, the coroner, held an inquest at the Royal Oak inn at Cromhall and evidence was given to support the fact that Till had been poaching and that notices warning of the presence of spring guns had been posted



Fig. 1. Portrait of William Adams Brodribb by Thomas G. Wainwright.

on boards outside the wood. As the *Gloucester Journal* reported on 4 December 1815 Till 'had left a wife and two children to lament his loss. After a full investigation which occupied a great part of the day a respectable jury found a verdict of accidental death'. Latimer commented that the 'defeat of justice so exasperated many young men of the district . . . that they resolved upon an act of frantic foolhardiness'.

It was apparently widely known in the Thornbury district that a number of young men intended to challenge the authority of gamekeepers and their employers, and on the night of 18 January

1816 a party gathered at the house John Allen of Moreton, a hamlet just north of Thornbury, for that purpose. It was joined by William Adams Brodrigg and two companions. Brodrigg was an attorney who lived nearby and Allen was a friend and client of his; at this time he was aged 27 and had been admitted as an attorney in 1811. Of the men who were with the attorney one was named Kean; he was described at the trial as a medical man from Bristol. The other man was William Purnell Hasell, also an attorney. They were almost certainly relations of Brodrigg. His wife's maiden name was Kean;⁷ he had been articled to Hasell's father⁸ and his and the younger Hasell's grandmothers were sisters.⁹ Brodrigg claimed at his trial that he called at Allen's house on professional business despite the fact that, if that had been the purpose of his visit, it is unlikely that he would have taken companions with him. It seems more likely that the young professionals had learned of the proposed sortie and went to Allen's house out of curiosity and, perhaps, to lend some encouragement. Greenaway, the member of the gang who, in exchange for a pardon, gave evidence for the prosecution, averred that Brodrigg had commented that one poacher would beat two or three keepers and also described how Kean had helped some of the men chalk their hats. At all events, before they set off a request was made that Brodrigg should administer an oath that none of the party would betray his companions. This Brodrigg did, albeit, he claimed, reluctantly, but in what almost amounts to an element of farce he administered the oath not on a New Testament but on a book entitled *The Young Man's Best Companion*, apparently considering the oath would not have the same binding effect as one administered on a Testament. Peacock (the later author) went to the trouble of asking a friend to search for the book in the British Museum and he reported that it was 'a volume containing much information on a great variety of subjects such as grammar, arithmetic, geography etc' but that it did not in any way touch on religion. Peacock also commented critically that 'the ignorance of the nature of an oath shown by this evasion is remarkable' and compared Brodrigg's action with that of William of Normandy extracting an oath from Harold on concealed relics.

The account of the affair contained in the *Bristol Times and Mirror* on 8 January 1876 is based upon the recollection of an unknown author. He had heard it from one of the poachers who escaped overseas and subsequently returned. In 1876 the poacher had been dead for some years. That the article erroneously refers to the affray having taken place in 1818 does not inspire confidence in its accuracy. While it may be useful to convey the atmosphere of the period, it is certainly not reliable on the detail. 'The first thing we did on leaving Allen's house' it recounts 'was to go to that of a lawyer's in the village, a man named Brodrigg'. Despite the fact that all contemporary evidence confirms that Brodrigg went to Allen's house and not vice versa, there follows a description of the Brodrigg residence as 'an old-fashioned thatched house – a picturesque, well-cared for old place, the abode as you would have supposed, of innocence and peace . . . comfortably and cosily sheltered by the spreading branches of tall elms'.

After administering the oath Brodrigg and his two companions returned home while Allen and the others set out to seek a confrontation. The subsequent affray resulted in the fatal shooting of William Ingram, one of Colonel Berkeley's gamekeepers. Not surprisingly Berkeley was prominent in the search for the offenders and as the *Gloucester Journal* commented on 5 February 1816

It would be very difficult to bestow sufficient praise on Col. Berkeley for his very active and intrepid exertion in the discovery of the offenders of this bloody affray. He was on the alert night and day and led the party wherever there was the appearance of resistance or danger. And he entreated that no one would follow him who felt diffidence to the service, generously offering at the same time to provide for such as might meet with any accident on so necessary an enterprise.

Another account reported

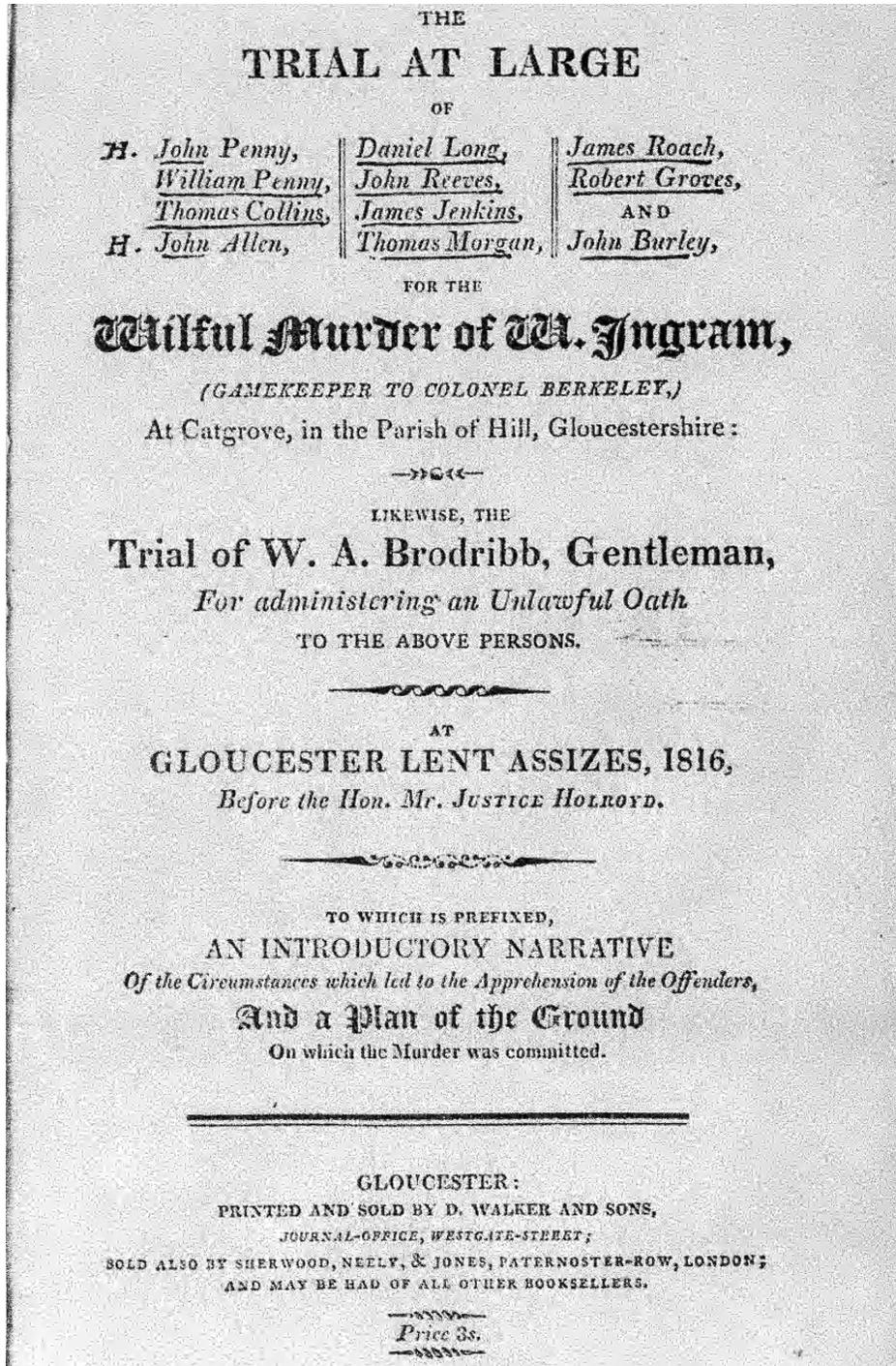


Fig. 2. Title page of a pamphlet, published at Gloucester in 1816, describing the trials of William Adam Brodribb and others involved in the Berkeley poaching affray of that year.

Five of the gang have, we learn, been secured. One of them Colonel Berkeley traced into a public house and, after a desperate pugilistic encounter, in which the science and bottom of the Colonel were pre-eminent, he defeated and secured the villain. A troop of the 14th Light Dragoons left this garrison on Monday to assist in scouring the country which gave rise to reports of rioting in the County of Gloucester which, we are happy to say, have no foundation.¹⁰

The colonel's efforts soon resulted in the arrest of Allen, who, when questioned as to his activities on the night of the affray, claimed to have been with Brodrigg and his two companions. The attorney was asked to give his account of the evening to a magistrate and he went to Berkeley Castle for that purpose. He did not confirm Allen's alibi but, in passing, observed to the magistrate, Revd. J.B. Cheston, that Lord Ducie and Colonel Berkeley had brought it all on themselves by setting the traps; no doubt this comment did not endear him to those in authority. Greenaway subsequently made a full statement, which included a description of the administration of the oath, and a warrant was issued for Brodrigg's arrest. He had infringed a statute passed some twenty years previously providing that any person administering an oath binding a person not to inform or give evidence against an associate or not to reveal an illegal act was guilty of an offence.¹¹ In addressing the jury at Brodrigg's subsequent trial counsel for the prosecution referred to the statute in the following terms:

It is some years since the sad practice was introduced, of binding men by oaths to the performance, or to the concealment, of illegal acts. It is not material now to enquire, to what species of associations the statute against these engagements owed its origin; for it does not confine itself to the case which gave it birth, but in large terms prohibits all oaths and engagements of this tendency. Its benefits have been felt from the centre to the extremities of this kingdom; from the Nore, the scene of the memorable mutiny, to the districts of the North, where those enormities were lately committed, which the belief of mutual safety through such oaths contributed in no slight degree to produce. An attempt has now been made to introduce the practice into this country, I hope for the first time.

The 'enormities in the North' may well have referred to the spate of machine breaking that occurred in the north of England and the Midlands between 1811 and 1816. The same Act was used to prosecute the Tolpuddle labourers in 1834.

John Vickery, from Bow Street, whose assistance was enlisted by Colonel Berkeley, arrested Brodrigg on 28 January 1816. The attorney was taken to the county gaol in Gloucester; he never saw Moreton again. He was lodged in a gentleman debtor's room¹² and visited regularly by the prison chaplain who lent him books from his own library.¹³ No doubt his regime was more tranquil than that in the remainder of the gaol; in February Allen and some of the others had to be put in irons for rioting. The final examination of the prisoners took place in the gaol at the beginning of February

in the presence of about twenty magistrates and a number of other gentlemen. The investigation which occupied about six hours was ably and judicially conducted by Rev. J.B. Cheston, the Chairman, who had taken all the previous depositions and from being so completely possessed of the subject elicited some important evidence from an unexpected and most reluctant witness who was bound over to appear at the trial.¹⁴

This latter witness was probably William Purnell Hasell whose deposition is contained in a document that was not available to Latimer or Peacock. It appears to be the brief for the prosecution of the poachers, or a draft or copy of it, and was deposited at the Gloucestershire Record Office¹⁵ by the successors to the practice of Bloxome & Wells of Dursley, the solicitors for the prosecution. Hasell certainly appears to have been a reluctant witness; he confirmed that he was present with Brodrigg at Allen's house but heard nothing of the conversation that took place and only saw one double-barrelled shotgun. He heard something being said about someone being sworn but did not believe that Brodrigg did it. He was not called upon to give evidence at Brodrigg's trial.

The trial of Allen and his ten companions took place on 9 and 10 April 1816. They were all convicted and Allen and John Penny (who fired the fatal shot) were hanged on the Saturday following the trial. The sentences of the others were commuted to transportation for life.

Brodribb stood trial on 11 April 1816; he was described in the report in the *Bristol Gazette* as 'a genteel looking man . . . dressed in black'.¹⁶ His defence was prepared by William Hasell (to whom he had been articled) and he was represented by Mr. Taunton and Mr. Ludlow. There could have been very little room for Brodribb's representatives to challenge the information that he had administered the oath to the poachers. Although Latimer commented that Brodribb had been convicted on Greenaway's testimony, it cannot be disputed that the attorney himself had admitted his administration of the oath to the magistrate and at his trial. His counsel raised technical objections to the form of the indictment but these were given short shrift by Mr. Justice Holroyd. On some occasions, when sympathy was with the accused, courts were prepared to acquit on what to a 21st-century lawyer or layman would appear to be the flimsiest of technicalities. At Wells Assizes in August 1820 the jury, with the judge's encouragement, discharged an attorney charged with perjury because the indictment omitted four words contained in the affidavit in support of it.¹⁷ In Brodribb's case, however, there was no sympathy for him in the assize court and, after a retirement of only a few minutes, the jury returned a guilty verdict. Addressing the prisoner, the judge commented that from his education and profession he should have known better and that he was instrumental in the fatal consequences that resulted from the affray. By his act the poachers had considered themselves safe from detection in the perpetration of the outrage which they committed. The judge added 'when I consider the circumstances of your conduct I cannot think myself justified in stopping short of the full punishment of the law. I therefore sentence you to be transported beyond the seas for the term of seven years'.¹⁸

The day after his conviction Brodribb was taken off his 'bread and pence allowance' as he expressed a preference to receive the customary allowance of 2s. 6d. a week and maintain and clothe himself.¹⁹ The submission of a petition for clemency is recorded²⁰ but neither the petition nor the letters in support have survived. They are referred to in a letter to the Home Office on 10 May 1816 from R. Bransby Cooper, one of the visiting magistrates.²¹ He wrote

Strong application was made on his behalf by his parents & friends to the Prosecutor and the Bishop of Gloucester and though the offence might be deemed of such a nature as to preclude all hopes of remission of sentence, yet at all events they earnestly deprecated his being sent to the Hulks.

Some prisoners sentenced to transportation served the whole of their sentence in a prison hulk in extremely unpleasant conditions. That was not to be Brodribb's fate. He left the county gaol before the end of May and was sent to the hulk *Justicia* at Woolwich, but he did not remain there for he left England on board *Sir William Bensley*, which sailed from Spithead on 9 October 1816.

Brodribb arrived at Sydney, New South Wales, in March 1817. On account of his legal training Governor Lachlan Mcquarie sent him in the suite of Lieutenant-Governor Sorrell to Hobart, Van Diemen's Land (now Tasmania), where two months later he was appointed clerk to the magistrates. He was pardoned fully on 7 August 1821. Mrs. Brodribb must have been a determined and resourceful lady for in February 1818 she arrived at Hobart on the *Duke of Wellington* together with their four children.²²

Brodribb was allowed to practise as an attorney but, apparently, with some reluctance. The *Hobart Town Gazette* reported on 23 January 1819 that

the Judge . . . regretted the absence of solicitors, whose arrival was hourly expected from Sydney, but as a necessary expedient for the accommodation of suitors and for the more effective administration of justice, the court were pleased to accede to the application of Mr. William Adams Brodribb . . . to act as an Attorney in the Court pro tempore.

Perhaps not surprisingly there was a prejudice against convict attorneys. In 1814 Judge Brent in Sydney refused to admit three transported attorneys to practise in New South Wales and in 1838 the judges in the Supreme Court in Sydney ordered that ‘from and after January 1838 no attorney . . . of the Supreme Court shall employ . . . any person who hath been transported to this colony’.²³ The arrival in Hobart from 1820 onwards of solicitors without a criminal past created difficulties for Brodrigg. Hitherto he had been described in court records as acting ‘as agent’ for litigants, but a sitting of the Lieutenant-Governor’s court in 1823 admitted properly qualified lawyers and ‘agents’ ceased to be allowed to represent suitors. Shortly after his arrival Brodrigg had been appointed deputy provost marshal but under the governorship of George Arthur (Sorrell’s successor) he was barred, because of his convict past, from some of the offices he had previously held. In February 1831 he applied for the position of deputy sheriff, pleading the need to educate his numerous children as his excuse for troubling the Lieutenant-Governor, but his application was rejected.²⁴

The prejudice against convict attorneys did not, however, adversely affect Brodrigg’s son Kenric Edmund, who was admitted to practise as an attorney in Van Diemen’s Land on 20 December 1847 and in Victoria on 17 August 1852.²⁵ Another son William Adams was a sheep and cattle farmer and a politician. He became a member of the Legislative Assembly of New South Wales and travelled to England on two occasions. The first was in 1862 when, with his wife, their six children, a governess, her sister and a servant maid, he visited the International Exhibition at Crystal Palace. He also took the opportunity to become involved with the National Colonial Emigration Society. The second visit took place in 1873 when he came to investigate complaints by colonial wool growers about the manner in which their consignments were treated in London.²⁶ Frederick George, another son, was born in Hobart in 1818 and was appointed as an assistant surgeon in 1840 but died, apparently from typhoid, within a few weeks of having qualified as a surgeon.²⁷

As his legal practice dwindled Brodrigg senior must have had to rely more on other sources of income. He had a farm at New Town, Tasmania, and carried on a long correspondence seeking compensation from the local authorities for a new road that he claimed had cut through his garden. He was the subject of complaints from employees who claimed that he had not paid them sufficient wages. The last recorded incident was in June 1832 when it was stated that he had not supplied Peter Hewitt with sufficient rations or with comfortable lodging and had compelled him to work on a Sunday. Brodrigg spent his later years with his daughter Lavinia Hasell Bennett near Brighton, in Victoria, educating her children. He died there on 1 July 1861.²⁸

Acknowledgement

I am obliged to Mrs. Jo Watson for permission to reproduce her copy of Wainwright’s portrait of William Adams Brodrigg.

Notes

1. J. Latimer, ‘The Great Berkeley Poaching Affray, 1816’, *Glos. Notes and Queries* 3 (1887), 616–18.
2. *Notes and Queries* 7th series 3 (1887), 221.
3. A pamphlet entitled *The Poaching Affray of 1816* was published by the Thornbury Society in 1962.
4. ‘Ilott v. Wilkes’, *English Reports* 106 (1910), p. 674.
5. ‘James Crowe’, *Syme’s Justiciary Reports* (1826–9), 188 & 210.
6. 7 & 8 Geo. IV, c. 18.
7. He married Prudence Kean at Holy Trinity, Horfield, on 19 September 1808: Bristol Record Office, P/HOR/R/3(b).

8. The National Archives (formerly Public Record Office) (PRO), KB 105/21/76310.
9. *Burke's Colonial Gentry* (1891–5), 442. Whilst living in Australia Brodribb's eldest daughter Lavinia Hasell Bennett called her house 'Hasellwood'.
10. *Felix Farley's Bristol Jnl.* 27 January 1816.
11. 37 Geo. III, c. 123.
12. Gloucestershire Record Office (GRO), Q/Gc/3/8.
13. *Ibid.* 31/1.
14. *Glouc. Jnl.* 5 February 1816.
15. GRO, D 1229, bundle 42.
16. 18 April 1816.
17. 'Alfred Coombe of Taunton, a Perjuring Solicitor?', *Somerset and Dorset Notes and Queries* 34 (March 1999), 282.
18. *Glouc. Jnl.* 15 April 1816.
19. GRO, Q/Gc/3/8.
20. PRO, HO 19/3.
21. *Ibid.* HO 6/1.
22. *Australian Dictionary of Biography* (1851–90), III, 237.
23. *Bristol Gazette & Public Advertiser* 20 December 1838.
24. Information from the Tasmanian Archives Office.
25. Information from the Law Institute of Victoria.
26. For the autobiography of the younger W.A. Brodribb, *An Australian Squatter, or Leaves from My Journal since 1835* (Sydney 1883).
27. Information from the Tasmanian Archives Office.
28. Information in this paragraph is from the Tasmanian Archives Office.