

# “NO HOPE OF MERCY” FOR THE BORGIA OF BOTANY BAY: LOUISA MAY COLLINS, THE LAST WOMAN EXECUTED IN NSW, 1889

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**Sir Henry Parkes:** I believe that the women of the country would vote for her being hanged!

**Mr Hassall** would hurl such a slander back in the teeth of the man who uttered it. The women of Australia were not so depraved as to desire anything of the sort. He was astonished at a man like the Premier uttering such a slander on the woman of Australia.

**Sir Henry Parkes:** They do not approve of wives poisoning their husbands! <sup>1</sup>

When these words rang throughout the Colonial New South Wales Parliament on the evening of 19 December 1888,<sup>2</sup> what had initially commenced as a debate amongst parliamentary members regarding the financial estimates for the Department of Justice, instead, had become a heated exchange regarding the fate of Louisa May Collins.<sup>3</sup> Louisa Collins was, at that time, incarcerated in Darlinghurst Gaol. She was awaiting her execution by hanging for the murder of her second husband Michael Peter Collins. Her journey through the colonial justice system had been described to Parliament that evening by the honourable member for Northumberland, Mr Melville, as ‘an unfortunate exhibition of what was called justice.’<sup>4</sup>

Louisa Collins had faced a series of enormous ordeals, namely, four trials for murder. The first three juries that tried her had returned as hung juries. In the fourth trial, the Crown finally secured a conviction. The jury found Louisa May Collins guilty for the wilful murder of her second husband Michael Peter Collins.<sup>5</sup> Overall, Louisa had faced three trials for the alleged murder of Michael Peter Collins (her second husband) and one trial for the murder of Charles Andrews (Louisa’s first husband).

Louisa’s story, as it had unfolded in the New South Wales justice system, had been heavily reported in newspapers throughout the colony of Australia.<sup>6</sup> There was fierce public debate about the evidence led in the case,<sup>7</sup> the way the Crown had conducted itself in its ardent pursuit of justice, and the fact that New South Wales was set to execute a woman. This paper aims to provide a narrative about Louisa’s journey through the colonial justice system and seeks to highlight the legal processes in operation in 1888-1889.

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<sup>1</sup> NSW *Parliamentary Debates*, 19 December 1888, 1338 (Henry Parkes, Premier, Thomas Hassall, Minister).

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*, 1319-1343.

<sup>4</sup> *Ibid.*, 1319.

<sup>5</sup> ‘Louisa Collins Sentenced To Death’, *Sydney Morning Herald* (NSW), 10 December 1888, 11.

<sup>6</sup> See *Search Results for Louisa Collins + NSW* (2011) National Library of Australia

<<http://trove.nla.gov.au/newspaper/result?q=louisa+collins+%2B+nsw>>.

<sup>7</sup> *Ibid.*

## I LOUISA MAY COLLINS: TWO INQUESTS, FOUR TRIALS AND AN APPEAL

### A The Coronial inquests

On 10 July, 1888, a coronial inquest led by Sydney City Coroner, Mr Henry Shiell JP, at the South Sydney Morgue, was opened into the death of Michael Peter Collins.<sup>8</sup> Michael Collins had died on 8 July 1888, in suspicious circumstances. He was Louisa Collins' second husband, a wool washer by trade and had resided with Louisa and five of her children<sup>9</sup> at No 1 Popples Terrace, Botany, a Southern Sydney suburb in New South Wales.<sup>10</sup> Coroner Shiell swore and empanelled a jury of twelve men of the colony to inquire into when, how and by what means Michael Collins came by his death.<sup>11</sup>

On the first day of the inquest, Louisa Collins was sworn and gave evidence.<sup>11</sup> She was not then in custody. Dr Marshall and Dr Milford, the latter the medical practitioner who had assisted Dr Marshall with the post-mortem, also gave evidence on the same day. The Coroner then adjourned the matter until 17 July 1888, to enable a chemical analysis of the deceased's stomach.<sup>12</sup> On Thursday, 12 July 1888, the Government Analyst, Mr Hamlet, told the Coroner that he had completed his analysis of the deceased's stomach and had discovered a quantity of arsenic sufficient to cause death.<sup>13</sup> The Coroner ordered the apprehension of Mrs Collins.<sup>14</sup>

Later that evening Louisa Collins was taken into custody, though not under a warrant,<sup>15</sup> and held on suspicion of having caused the death of her husband.<sup>16</sup> The police had arrived at a 'few minutes to six o'clock'.<sup>17</sup> Louisa had been having dinner with her five children.<sup>18</sup> Allegedly under the influence of drink, she had asked the police officers if she would be returning to her house. The officers did not reply and Louisa then 'put her hands over her face and said I know I am not coming back again.'<sup>19</sup> Louisa was right. Her life story from this time onwards would become a unique and tragic tale about the process of criminal justice in colonial New South Wales.

Questions surrounding the conduct of Louisa had been raised in early July when Dr George Marshall, the doctor who was treating Michael Collins for a suspected cold and gastro-duodenal catarrh, spoke with his colleague Dr Thomas Martin. Dr Marshall mentioned that he

<sup>8</sup> Central Criminal Court Papers, July 1888, Inquest No 786, *Regina v Louisa Collins* AONSW 9/6758 6-149; 'Coroner's Inquests. Suspicious Death of a Man at Botany' *Sydney Morning Herald* (NSW), 11 July 1888, 7.

<sup>9</sup> 'Central Criminal Court Papers', above n 8, 36. It is indicated that there were five children living at home, however Louisa was the mother of 'seven children'. See the Colonial Secretary's Special Bundle AONSW 4/895.1.

<sup>10</sup> 'Central Criminal Court Papers', above n 8, page unknown.

<sup>11</sup> *Ibid*

<sup>12</sup> 'Central Criminal Court Papers', above n 8, 55-60.

<sup>13</sup> 'Suspicious Deaths at Botany', *The Maitland Mercury and Hunter River General Advertiser* (NSW), 17 July 1888, 6.

<sup>14</sup> *Ibid*; 'Central Criminal Court Papers', above n 8, 60.

<sup>15</sup> *Ibid*.

<sup>16</sup> *Ibid*, 80.

<sup>17</sup> *Ibid*.

<sup>18</sup> *Ibid*.

<sup>19</sup> *Ibid*, 82.

had been treating a patient named Collins at Botany.<sup>20</sup> On hearing this, Dr Martin alerted Dr Marshall to the fact that Louisa Collins had mourned the death of her first husband Charles Andrews in February 1887 following a strange illness with symptoms similar to those now present in Mr Collins.<sup>21</sup> Dr Martin having previously attended Charles Andrews now harboured grave concerns for Michael Collins and shortly after this conversation they both decided it was appropriate to report 'the matter to the police.'<sup>22</sup>

In the evidence presented to the coronial inquest, it was clear that in his final week Michael Collins received many visitors.<sup>23</sup> This was not a case where a wife slowly poisoned her husband in the privacy and secrecy of the family home with attention being drawn to the household after the death. The neighbours called at the house, any time day or night, to assist in the care of Mr Collins, and the attentions of both the police and medical profession, according to archival sources, were already focused upon the married couple. If Louisa was poisoning her husband why would she initially invite doctors and neighbours into her house? Undoubtedly, if Louisa did poison her second husband then, under circumstances of such close scrutiny, she was incredibly brazen to do so.

Michael Collins had been feeling unwell with cold-like symptoms for at least the month of June and took to his bed on 3 July, 1888, with severe vomiting and pain. Louisa requested Dr Marshall to call on her husband, which he did. On the same day, Constable Jeffes of the local police constabulary was passing the house. Constable Jeffes knew the couple and had been friendly with Louisa's first husband Charles Andrews. Constable Jeffes, aware of Michael's illness, allegedly stopped to speak with Louisa and Michael.<sup>24</sup> Michael called Constable Jeffes up to his bedside and reported that he 'could not keep anything down' but that he would be 'up in a day or two.'<sup>25</sup> Constable Jeffes left promising to call back at a later date.

The next day, 4 July 1888, Dr Marshall returned to check on his patient. He was suspicious,<sup>26</sup> so collected samples of urine and vomit and took a bottle of brandy and a medicine bottle from next to Collins' bed. Dr Marshall conducted a rough analysis of these substances but did not detect anything suspicious.<sup>27</sup> He returned to the house on 6 July, and upon seeing that Michael Collins had not improved, he asked Louisa to take him to hospital. Louisa allegedly stated that 'it was better for him to die at home as she believed people always died when sent to hospital.'<sup>28</sup> Dr Marshall told the coronial inquest that he said to Louisa that Michael would be well cared for and that he saw no reason to suppose he would die.<sup>29</sup>

The following day, 7 July 1888, Louisa sent her son to Dr Marshall reporting that her husband was dying. At 10pm that evening Dr Marshall and Dr Martin called upon Michael Collins. At 11pm that same evening Constable Jeffes and Senior Constable Sherwood also checked upon Michael. They found him still in bed, this time complaining of pain in his left

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<sup>20</sup> 'Central Criminal Court Papers', above n 8, 14.

<sup>21</sup> *Ibid.*, 18.

<sup>22</sup> *Ibid.*

<sup>23</sup> *Ibid.*, 35-51.

<sup>24</sup> *Ibid.*, 36.

<sup>25</sup> 'Central Criminal Court Papers', above n 8, 37.

<sup>26</sup> *Ibid.*, 23.

<sup>27</sup> *Ibid.*, 13.

<sup>28</sup> *Ibid.*, 16.

<sup>29</sup> *Ibid.*

shoulder.<sup>30</sup> At this point Senior Constable Sherwood asked Michael if he had taken any other medicine. Michael and Louisa both stated that he had not. Sherwood then asked 'if he suspected any person had given him anything to make him ill.'<sup>31</sup> Michael said 'no' and stated 'I'll be up and all right in a few days'.<sup>32</sup>

On Sunday, 8 July 1888, Senior Constable Sherwood returned to the house and put the same questions to Michael Collins again in the presence of Louisa. Michael said 'no' to both questions.<sup>33</sup> Dr Marshall and Dr Martin also called upon Michael on Sunday afternoon they found that he was close to death being 'quite pulseless'<sup>34</sup> with a low body temperature.<sup>35</sup> Michael Collins died later that afternoon. Constable Jeffes called upon the house within half an hour of Michael's death. Upon finding Michael dead and hearing that Dr Marshall had refused to give a certificate of death he began searching the house and collecting evidence, including a part filled glass tumbler taken from beside the bed the contents of which were later tested and found to contain arsenic.<sup>36</sup>

The inquest into Michael Collins' suspicious death established that, based on the symptoms of his illness and the results of the autopsy,<sup>37</sup> Michael had died of 'arsenical poisoning'<sup>38</sup> through the administration by his wife of an arsenic rat poison known as 'Rough on Rats'.<sup>39</sup> The poison had been mixed with milk.<sup>40</sup>

During the coronial inquest into the death of Michael, attention had also turned to the earlier passing of Charles Andrews, Louisa's first husband who had died in February 1887.<sup>41</sup> On Saturday, 14 July 1888, the Coroner opened a second inquest and also issued a warrant to exhume the bodies of Charles Andrews and John Collins, Louisa's infant son by her second husband.<sup>42</sup> Upon examination Charles Andrews' body was found to contain faint traces of arsenic. There were no traces of arsenic in the body of the child.<sup>43</sup>

During the first inquest (the death of Michael Collins), Louisa gave a statement that her husband had been 'downcast for sometime'<sup>44</sup> and had self-administered a medication for 'a

<sup>30</sup> 'Central Criminal Court Papers', above n 8, 38.

<sup>31</sup> *Ibid.*, 71.

<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*, 72.

<sup>34</sup> *Ibid.*, 19.

<sup>35</sup> *Ibid.*, 19, 66.

<sup>36</sup> *Ibid.*, 37-45.

<sup>37</sup> 'Central Criminal Court Papers', above n 8, 1-30.

<sup>38</sup> 'Central Criminal Court Papers', above n 8, page unknown.

<sup>39</sup> *Ibid.*, 56.

<sup>40</sup> *Ibid.*

<sup>41</sup> *Ibid.*, 18.

<sup>42</sup> 'Intercolonial (from our correspondents) New South Wales, Sydney, July 15' *The Brisbane Courier* (Qld), Monday 16 July 1888, 5; 'The Botany Poisoning Case, Second Verdict of Murder' (by electronic telegraph from our own correspondent, Sydney, August 5), *The Brisbane Courier* (Qld), 7 August 1888, 5.

<sup>43</sup> 'The Botany Poisoning Case, Second Verdict of Murder' (by electronic telegraph from our own correspondent, Sydney, August 5), *The Brisbane Courier* (Qld), 7 August 1888, 5. The report in this newspaper about the findings of the inquest on the exhumed bodies states 'the coroner summed up strongly against the prisoner, and the jury, after a short deliberation found that the child, John Collins, died from natural causes, but that Charles Andrew met his death by arsenical poisoning, and that the poison was administered by his wife, Louisa Collins, who was guilty of murder. The prisoner was then committed for trial'.

<sup>44</sup> 'The Botany Poisoning Case' *The Brisbane Courier* (Qld), 27 July 1888, 5.

lump in the groin'<sup>45</sup> that must have contained 'arsenic.'<sup>46</sup> The implication being made by Louisa was therefore one of suicide. However, this view was not supported by others present during the last weeks of Michael Collins' life.

The depiction of Louisa Collins throughout the coronial inquisitions is particularly telling. There was a lot of interest in Louisa's character. The main consulting doctor for the duration of Michael Collins' illness until his death, Dr Marshall, gave evidence to the Coroner that was particularly damning. He described Louisa's attitude towards her husband's care as 'apathetic'<sup>47</sup> and he complained that 'she did not appear to pay proper attention.'<sup>48</sup> He also put to Louisa in his statements before the Coroner, 'you never asked once what was the matter with your husband or what was the cause of his death.'<sup>49</sup> Later in the first trial, he would further allege that on the Monday after Michael's death, Louisa was 'under the influence of liquor'<sup>50</sup> displaying what Dr Marshall referred to as an 'excited manner',<sup>51</sup> with her breath smelling of 'alcohol'.<sup>52</sup>

Other observations on Louisa's manner put before the Coroner reveal that on the day of Michael's death Louisa smelt of drink<sup>53</sup> and tried 'two or three times'<sup>54</sup> to get out of the house, saying 'she was tired of her life and would not live after tomorrow.'<sup>55</sup> Constable Jeffes and Louisa's son, Arthur Andrews, both told the coronial court that upon being asked by her son Arthur 'What are you talking about? What's going to become of the children?' Louisa said 'I don't care about them.'<sup>56</sup> This allegation, raising questions with regards to Louisa's dereliction of duties as a mother had a damning impact.

Moreover, throughout the inquest Louisa Collins declined to ask the witnesses any questions or show any emotion.<sup>57</sup> This silent stoicism came to be the dominant representation of Louisa Collins both in the courtrooms and then retold in newspapers around the colony. Ultimately, this 'unwomanly' trait played a significant role in her resulting execution. At the conclusion of both inquisitions, the jury had found that there was sufficient evidence to establish murder. Louisa Collins, a mother of seven children<sup>58</sup> and thirty-nine years of age,<sup>59</sup> was committed to stand trial for murder on 26 July 1888.<sup>60</sup>

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<sup>45</sup> Ibid.

<sup>46</sup> Ibid.

<sup>47</sup> 'Central Criminal Court Papers', above n 8, 17.

<sup>48</sup> Ibid.

<sup>49</sup> Ibid, 53.

<sup>50</sup> Ibid, 9.

<sup>51</sup> Ibid.

<sup>52</sup> Ibid, 10.

<sup>53</sup> Ibid, 79.

<sup>54</sup> Ibid, 35.

<sup>55</sup> Ibid.

<sup>56</sup> 'Central Criminal Court Papers', above n 8, 47-48, 126; 'Coroner's Inquests. The Botany Poisoning Case' *The Sydney Morning Herald* (NSW), 18 July 1888, 7.

<sup>57</sup> 'Central Criminal Court Papers', above n 8, 61, 63, 68, 93, 96, 104, 115, 118, 120, 149.

<sup>58</sup> The Colonial Secretary's Special Bundle AONSW 4/895.1, as discussed above n 9.

<sup>59</sup> AONSW 4335, Louisa Collins. Louisa May Collins's date of birth is recorded as 1849 (no date or month indicated) in the 'Darlinghurst Gaol Photo Description Book'. However the 'Particulars of Conviction and Prison History' prepared by the Deputy Governor of Sydney Gaol for her petition for the remission of sentence records the year of birth as 1857 (born in Scone, NSW) document dated 7 January 1889.

<sup>60</sup> Central Criminal Court Sydney, *Regina v Louisa Collins* AG No 114, document dated 30 July 1888.

## B First trial for the murder of Michael Collins

Louisa Collin's first criminal trial was heard in the Supreme Court of New South Wales on 6 August 1888, and was presided over by Justice Foster.<sup>61</sup> Justice Foster had only been appointed to the Supreme Court Bench in February previously having been the Attorney General for New South Wales.<sup>62</sup> In the first trial, Louisa was charged with the murder of her second husband, Michael Collins. We can observe that the colonial justice system moved swiftly at this time with the coronial inquest into Michael Collins' death concluding less than a fortnight before the trial. The evidence led in the first trial was generally consistent with the evidence that had been given in the coronial inquest.

A number of neighbours known to Collins gave evidence in Court. However, only one neighbour, Charles Sayers, a grocer at Botany, gave evidence of an emotional reaction in Louisa to her husband's illness. Charles told the court that 'while he [Michael] lay sick she was crying several times when I went in.'<sup>63</sup> He later elaborated stating 'I know she has taken liquor during Collins's illness, but she was not the worse for liquor – You could tell it by her flushed face and eyes – When I saw her crying she seemed so – I knew she had a glass of drink on each occasion.'<sup>64</sup> These statements were underlined in the Judges' notes.

Before the court, Dr Marshall gave slightly more favourable evidence on Louisa's character than he had given before the coronial inquest. Dr Marshall stated that 'so far as I saw she was kind and attentive to her husband.'<sup>65</sup> However, he had also argued that her 'manner was apathetic'<sup>66</sup> and that she did 'not appear distressed about his dying'.<sup>67</sup> There was no notation in the judge's notes next to the statement regarding Louisa's kindness, however, a notation remains highlighting Louisa's apathetic manner. The statement from Marshall about Collins not being distressed was underlined with a hand written comment stating, 'she did not appear distressed on the day.'<sup>68</sup> On the matter of Louisa not taking Michael Collins to hospital, Dr Marshall acknowledged before the court that prejudice against going to hospital was 'tolerably common'<sup>69</sup> at this time.

On the cause of death, Dr Marshall stated to the court that the change in Michael was too dramatic for the natural course of a disease.<sup>70</sup> The other attending doctor, Dr Martin, on the other hand, stated that 'taking the symptoms only as I saw them they might have come from an ordinary attack of gastro-enteritis.'<sup>71</sup> Nonetheless, Dr Martin qualified this by stating that if arsenic were found in the stomach he would say that Michael Collins died from arsenic

<sup>61</sup> 'The Botany Mystery', *The Sydney Morning Herald* (NSW), 7 August 1888, 9.

<sup>62</sup> Mr Foster was the Attorney General for New South Wales from 1877 to 1878 and again in 1887. See NSW Government, Mr William John FOSTER (1831 - 1909), (2011) Parliament of NSW <<http://www.parliament.nsw.gov.au/prod/parlment/members.nsf/0/2045C87530F5BD44CA256E2B00086E36>>; NSW Government State Records, *Person Detail William John Foster* (2011) State Records Archives Investigator <<http://investigator.records.nsw.gov.au/Entity.aspx?Path=\Person\18>>.

<sup>63</sup> Central Criminal Court Papers, 'Copy Judges' Notes' for *Regina v Louisa Collins* (Supreme Court NSW, Foster J, 6 August 1888) 47.

<sup>64</sup> *Ibid*, 49.

<sup>65</sup> *Ibid*, 17.

<sup>66</sup> *Ibid*, 17.

<sup>67</sup> *Ibid*, 18.

<sup>68</sup> 'Central Criminal Court Papers', above n 63, 18.

<sup>69</sup> *Ibid*, 15.

<sup>70</sup> *Ibid*, 16.

<sup>71</sup> *Ibid*, 19.

poisoning and that the symptoms would be consistent with this.<sup>72</sup> The medical evidence did establish that Michael Collins had at least two grams of arsenic in his body and arsenic was also found in samples of Michael's vomit.<sup>73</sup> The tumbler of milk taken by Constable Jeffes was found to contain 1/10 of a gram of arsenic.<sup>74</sup> The police searched the house but found no arsenic.<sup>75</sup> Louisa had stated throughout the trial that she had given her husband some vomiting powder purchased from a Chemist at Botany Road. The chemists in area of Botany were all searched for arsenic and enquires were also made of any purchases of arsenic by anyone in the area. All of these enquires were unsuccessful.<sup>76</sup>

Louisa's 11 year-old daughter, May Andrews, also took the stand. May had not given a statement to the coronial inquest. May told the court that on the night of Michael Collins' death she was dusting in the kitchen and noticed a box was missing on the shelf that had been there the week before Michael died.<sup>77</sup> She graphically described the box to the court including that there were pictures of rats on it and it was 'Rough on Rats.'<sup>78</sup> She spelt out 'Rough on Rats' to the jury.<sup>79</sup> May had apparently drawn the box to her mother's attention and was uncertain that night whether she herself had misplaced the box. She told the Court that 'Mother did not take it — I forgot what I did with it'.<sup>80</sup> Perhaps naively unaware of what the implications of her comments, May further stated:

I would know a box like it — I had seen one like it before, when we lived in the paddock ... It was before my own father took sick — I saw the box first on the very top-shelf in the house, when we lived in the paddock about a year ago.<sup>81</sup>

This was new evidence in the case and it was particularly detrimental for her mother, Louisa.

The common law at the time required the jury to deliver a unanimous verdict either as to the prisoner's guilt or in order to acquit.<sup>82</sup> The case came to a close late on the evening of 7 August, 1888; the judge recorded in his notes that it was 6.45 pm when the defence addressed the jury. By 9 pm the jury asked Foster J if they could stop, feeling that they would be better able to consider the evidence tomorrow.<sup>83</sup> The case resumed at 9:30 am, it appears from the record that Justice Foster summed up the case until 1 pm and then the jury retired to consider their verdict. At 4:25 pm the jury returned to the Court stating that they could not agree. Justice Foster did not accept this and the jury agreed to be locked up until 9 am the following morning. On Thursday 9 August, 1888, the foreman informed the court 'there is no probability of an agreement — they are nearly equal.'<sup>84</sup> Unable to reach a verdict, Justice Foster discharged the jury.

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<sup>72</sup> Ibid.

<sup>73</sup> Ibid, 25.

<sup>74</sup> Ibid.

<sup>75</sup> Ibid, 44.

<sup>76</sup> Ibid.

<sup>77</sup> 'Central Criminal Court Papers', above n 63, 56.

<sup>78</sup> Ibid, 56.

<sup>79</sup> Ibid, 57.

<sup>80</sup> Ibid, 56.

<sup>81</sup> Ibid, 56-57.

<sup>82</sup> Sir Mathew Hale, *History of the Common Law of England* (1713) cited in New South Wales Law Reform Commission, *Criminal Procedure: The Jury in a Criminal Trial*, Report No 48 (1986) [9.2].

<sup>83</sup> 'Central Criminal Court Papers', above n 63, 63.

<sup>84</sup> Ibid, 64.

## C The second trial for the murder of Michael Collins

The second trial began just three months later (5 November 1888)<sup>85</sup> and was presided over by Justice Windeyer.<sup>86</sup> Justice Windeyer had significant public notoriety in the colony at this time for being tough in sentencing, having sentenced nine men to death in the Mount Rennie Rape Case.<sup>87</sup> On 8 November the case concluded. At 9:30 pm that evening the juryman reported that the jury were not agreed.<sup>88</sup> The jury were locked up for the night.<sup>89</sup> The following morning the juryman told the court 'that there was no probability of them agreeing upon a verdict.'<sup>90</sup> Once again a jury had failed to agree that Michael Collins had died of poisoning at the hands of his wife and were discharged.<sup>91</sup>

There was a great deal of uncertainty surrounding the case and these issues were being reported in the colonial newspapers.<sup>92</sup> Perhaps Michael Collins committed suicide,<sup>93</sup> he had been unemployed at the time of his illness and the family was said to be in financial difficulty. Perhaps the presence of arsenic in his body had nothing to do with his illness at all. It was known that wool washing could expose workers to green and dry sheepskins that were, from time to time, treated with arsenic by farmers.<sup>94</sup> Michael Collins may therefore have been exposed to arsenic from his previous employment. Medications in this era were also known to contain arsenic. So there was some uncertainty as to whether the medication Michael had purchased and taken for his early symptoms had contained arsenic or whether there was arsenic in the medication that Louisa purchased from the chemist.

On the other hand, it was argued that Louisa was a cold and ruthless woman, known as the 'Borgia'<sup>95</sup> of Botany Bay, who had had an affair with Michael Collins when he had initially been a boarder in the family home when Louisa was married to Andrews. So, a rumour persisted that Louisa poisoned her first husband Charles Andrews, received his death benefit and married Michael Collins within a month. When newly married, the couple, who favoured a drink,<sup>96</sup> got into financial difficulties and it was alleged that Louisa then decided to poison her second husband, being tired of him.

<sup>85</sup> 'Intercolonial. New South Wales', *The Brisbane Courier* (QLD), 6 November 1888, 5.

<sup>86</sup> 'The Alleged Murder at Botany', *The Sydney Morning Herald* (NSW), 6 November 1888, 11.

<sup>87</sup> D Walker, 'Youth On Trial: The Mt Rennie Case' (1986) 48-51(50) *Labour History* 28.

<sup>88</sup> 'The Botany Poisoning Case', *The Brisbane Courier* (QLD), 9 November 1888, 5.

<sup>89</sup> *Ibid.*

<sup>90</sup> *Ibid.*

<sup>91</sup> *Ibid.*; see also 'The Alleged Murder At Botany', *The Sydney Morning Herald* (NSW), 9 November 1888, 4.

<sup>92</sup> See *Search Results*, above n 6.

<sup>93</sup> 'The Alleged Murder at Botany', *The Sydney Morning Herald* (NSW) 8 November 1888, 6.

<sup>94</sup> *Ibid.*

<sup>95</sup> Mr Walker likened Louisa's crime to Lady Macbeth and Lucrezia Borgia stating in NSW parliament that 'there was no character more sublimely or more fiendish, than that of Lucrezia Borgia'. See NSW *Parliamentary Debates*, 19 December 1888, 1325. (Thomas Walker, Member for Northumberland); The idea of Louisa being the Borgia of Botany Bay is also apparent in 19<sup>th</sup> century papers see further SLNSW 042P61, 'The Botany Poisoning Case', author unknown.

<sup>96</sup> A Sharpe, *Crimes That Shocked Australia* (Currawong Press, 1982) chapter 14; N Cushing, 'Woman As Murderer: The Defence Of Louisa Collins' (1996) 1(2) *Journal of Interdisciplinary Gender Studies* 147.



## D Trial for the murder of Charles Andrews

Quickly after the second trial, the Crown proceeded with a third trial (commencing on 19 November 1888),<sup>97</sup> but this time Louisa stood before Justice Innes for the murder of her first husband, Charles Andrews.<sup>98</sup> Louisa Collins had earlier been committed for trial for the murder of her first husband Charles Andrews following the inquest into Charles Andrews and John Collins's deaths on 6 August 1888.<sup>99</sup> According to convention, when two juries disagreed the Crown would abandon prosecution.<sup>100</sup> Perhaps this was the reason the Crown had not commenced a third trial against Louisa for the murder of Michael Collins at this time and instead charged Louisa with the murder of Charles Andrews and commenced prosecution.<sup>101</sup>

Charles Andrews had worked as a 'master butcher.'<sup>102</sup> Once again, Mr Lusk for the defence argued that there was exposure to arsenic because of his trade.<sup>103</sup> The defence also argued that the Crown could not establish beyond reasonable doubt that the arsenic had entered the body of Charles Andrews prior to his death. The traces of arsenic found in the remains may have come from the soil or materials of the coffin.<sup>104</sup> As only small traces of arsenic were found in Andrews' body when it had been exhumed it was difficult for the Crown to establish that Andrews had been deliberately poisoned. Therefore, a unanimous finding that Louisa was responsible for murder by arsenic poisoning once again proved to be an impossible task for the jury. In striking similarity to the previous two trials, the jury reported that they were unable to agree and were locked up overnight.<sup>105</sup> The following morning the foreman could do little but state to the Court that 'the jury had not agreed upon a verdict, and ... there was no chance of a verdict being agreed upon.'<sup>106</sup> As a consequence, the jury was discharged. This time the case against Louisa Collins for the murder of her first husband (Charles Andrews) was abandoned by the State.<sup>107</sup>

Louisa Collins had now faced three trials; one trial for the murder of her first husband and two trials for the murder of her second husband. All three trials had resulted in hung juries. As mentioned earlier in this paper, there was a well-established convention that following two trials which had resulted in hung juries the prosecution would abandon its prosecution of the case. The case against Louisa Collins for the murder of Michael Collins should therefore have been abandoned by the Crown. Although each jury had not agreed upon a verdict of not guilty, as a matter of common sense (rather than a principle of law) two hung juries were indicative of reasonable doubt as to Louisa's guilt. Underlying this was the convention

<sup>97</sup> 'Central Criminal Court Monday. The Alleged Murder at Botany', *The Sydney Morning Herald* (NSW), 20 November 1888, 3.

<sup>98</sup> Charles Andrews had died on 2 February 1887. 'The Alleged Murder at Botany', *The Sydney Morning Herald* (NSW), 20 November 1888, 3.

<sup>99</sup> 'The Poisoning case in Sydney. Second Verdict of Murder against Mrs Collins (By Special Wire)', *The Argus* (Vic), 6 August 1888, 8; 'The Botany Mystery. Verdict of Wilful Murder against Louisa Collins', *The Sydney Morning Herald* (NSW), 6 August 1888, 9.

<sup>100</sup> *NSW Parliamentary Debates* 19 December 1888, 1320 (Ninian Melville, Minister).

<sup>101</sup> 'Intercolonial. Supposed Poisoning Case', *The Western Australian* (WA), 15 November 1888, 3.

<sup>102</sup> J Holleridge, *Australia's Wicked Women* (Horwitz Publications, 1963) 80.

<sup>103</sup> 'Central Criminal Court – Wednesday. The Alleged Murder At Botany', *The Sydney Morning Herald* (NSW), 22 November 1888, 6.

<sup>104</sup> *Ibid.*

<sup>105</sup> *Ibid.*

<sup>106</sup> 'The Alleged Murder at Botany', *The Sydney Morning Herald* (NSW) 23 November 1888, 4.

<sup>107</sup> *Ibid.*

directing that the Crown should not relentlessly peruse a case against an accused where juries had repeatedly been unable to agree upon a verdict. While the case against Louisa Collins of the murder of Charles Andrew could have proceeded to a second trial, with only small trace amounts of arsenic found in the exhumed body of Mr Andrews in this matter there was no likelihood of establishing murder by arsenic poisoning at the hands of Louisa Collins beyond reasonable doubt.

### **E The third trial for the murder of Michael Collins**

In extraordinary circumstances, a fourth trial was ordered. The Crown returned to its original case and Louisa was tried for the third time for the wilful murder of her second husband Michael Collins. The fourth trial commenced on 6 December 1888 and was held before the Chief Justice of New South Wales, Fredrick Darley.<sup>108</sup> This time, two hours deliberation was sufficient for the jury to reach a unanimous verdict of guilty.<sup>109</sup>

In this trial, it was claimed that the suspicious circumstances surrounding the death of Louisa's second husband were made particularly clear by the Crown Prosecutor, and, unlike the earlier trials, it was successfully established during the trial that no arsenic was used in the day-to-day work in which Michael Collins had previously been employed.<sup>110</sup> The jury found that Michael Collins had died of arsenical poisoning and that the prisoner had administered the arsenic,<sup>111</sup> and on 8 December 1888,<sup>112</sup> Chief Justice Darley delivered his sentence. In addressing the prisoner he stated:

Louisa Collins, after a most careful trial, after being defended with much skill and ability, you have been found guilty of murder of your husband, Michael Peter Collins. ... no other verdict could be arrived at by a body of intelligent men such as those who have so carefully attended to this case throughout. The murder you have committed is one of peculiar atrocity. You were day by day giving poison to the man whom above all others you were bound to cherish and attend. You watched his slow torture and painful death, and this apparently without a moment's remorse. You were indifferent to his pain, and gained his confidence by your simulated affection. There is too much reason to fear that your first husband Andrews also met his death at your hands: that he, too, you watched to the end – saw his torture day after day, and added to its horror this crime. I hold out no hope of mercy to you on earth ... The sentence of the Court is that you be taken to the place from whence you came, and on a day hereafter to be named by the Governor in Council, that you be taken to the place of execution, and there be hanged by your neck until you are dead: and may the Lord have mercy on your soul.<sup>113</sup>

Chief Justice Darley's judgment was not only a reproach upon the prisoner it was also a carefully constructed statement to the Executive. The attentions of the colony were already focused upon the operation of the colonial justice system and demand for an appropriate administration of justice was apparent. There was public awareness of Louisa's inability to pay for legal counsel and concern for justice to be seen to be done in this case. Mr Lusk, a member of local legal profession, had represented Louisa at all four trials pro bono.<sup>114</sup> However, there was still disquietude that Mr Lusk was under a considerable disadvantage

<sup>108</sup> 'The Alleged Murder at Botany', *The Sydney Morning Herald* (NSW) 6 December 1888, 6.

<sup>109</sup> 'The Case of Louisa Collins', *The Daily Telegraph* (NSW), 10 December 1888, 6.

<sup>110</sup> 'Central Criminal Court – Thursday', *The Sydney Morning Herald* (NSW), 7 December 1888, 4.

<sup>111</sup> 'The Botany Poisoning Case' *The Brisbane Courier* (Qld) 11 December 1888, 5.

<sup>112</sup> It is interesting to note that this important judgment was delivered on a Saturday morning in the New South Wales Supreme Court.

<sup>113</sup> 'The Botany Murder. Louisa Collins Sentenced to Death' *Sydney Morning Herald* (NSW) 10 December 1888, 11.

<sup>114</sup> NSW *Parliamentary Debates*, 19 December 1888, 1320 (Ninian Melville, Minister).

with no funds to support Louisa's defence. The mood was so apparent that Henry Parkes had personally 'put close questions to his Honour the Chief Justice as to whether the prisoner had been ably defended.'<sup>115</sup> The Chief Justice believed that she had and these sentiments can be seen clearly expressed at the outset of his judgment.

Henry Parkes was also keen to know of the Chief Justice's opinion as to whether the Executive Council should take a merciful view in this case.<sup>116</sup> The Chief Justice held that there were no grounds for mercy and again this is clearly expressed in his judgment. Interestingly, Chief Justice Darley's harsh statement regarding mercy was recorded in the Prison records. In the Darlinghurst Goal Photo Description book, under the heading 'Remarks', the following hand written comment appears 'Executed 8<sup>th</sup> January 1889 His Honour the Chief Justice Darley said, 'I hold out no hope for mercy for you on earth!!!'<sup>117</sup> The Chief Justice of New South Wales had delivered a careful, deliberate and powerful judgment but the case had so captured the colony's attention that it was not to be the end of the matter.

Chief Justice Darley's decision was reported in newspapers throughout the colony.<sup>118</sup> Despite the finality in the case, which the Chief Justice had expressed, there were immediate rumblings for an appeal. On 20 December 1888, the honourable member for Mudgee, Mr Haynes, asked the Colonial Secretary in the New South Wales Parliament whether he would provide Louisa Collins legal counsel if she desired to appeal to the Full Court.<sup>119</sup> Mr Haynes noted that it was 'usual in capital cases for the Crown to assign counsel to a prisoner who is unable to obtain legal assistance.'<sup>120</sup> Sir Henry Parkes agreed that counsel would be paid, adding:

[i]n any case whatever where any attempt may be made to place the conduct of this unhappy woman in a better light, or to serve the ends of justice in her favour, the Government will render every conceivable assistance.<sup>121</sup>

The Government was clearly still under great pressure to ensure that justice be seen to be done in the Louisa Collins case.<sup>122</sup>

## **F The appeal**

The appeal was heard on 28 December 1888, just three days after Christmas.<sup>123</sup> The Full Court consisted of three judges who had all previously presided over her earlier trials: Foster J (first trial), Windeyer J (second trial) and Chief Justice Darley (fourth trial and having delivering a pejorative judgment at that time). There was no challenge to the composition of the bench. In particular the colonial newspapers, the Executive and Louisa's defence did not query the fact that Chief Justice Darley was hearing a case on appeal against a woman he had convicted; hearing an appeal against a case upon which you presided was clearly not

<sup>115</sup> Ibid, 1321 (Henry Parkes, Premier).

<sup>116</sup> Ibid.

<sup>117</sup> AONSW 4335, Louisa Collins, above n 59.

<sup>118</sup> See *Search Results*, above n 6.

<sup>119</sup> *NSW Parliamentary Debates*, 20 December 1888, 1386 (John Haynes, Minister)

<sup>120</sup> Ibid.

<sup>121</sup> Ibid.

<sup>122</sup> Ibid.

<sup>123</sup> 'Law Report. Regina v Louisa Collins', *The Sydney Morning Herald* (NSW), 29 December 1888, 8.

controversial at the time. The appeal to set aside Louisa's conviction failed.<sup>124</sup> Chief Justice Darley and Justices Foster and Windeyer held it was not sufficient grounds for appeal to argue that evidence regarding the death of Charles Andrews should not have been admitted in the trial for the murder of Michael Collins. The second ground for appeal concerned a telegram that had been delivered to a jury member during the fourth trial, the Court held that the telegram was unopened and therefore could not have any prejudicial effect on the verdict.<sup>125</sup> The Court confirmed the original findings to be correct and delivered their decision; 'no case against a prisoner could have been clearer.'<sup>126</sup>

## II THE EXECUTIVE COUNCIL

### A Governor Charles Robert Carrington

At the time of Louisa's four trials, Governor Charles Robert Carrington, the Marquess of Lincolnshire, had been in office for almost four years.<sup>127</sup> While Carrington's legacy is documented as being 'able and tactful'<sup>128</sup> in his dealings and as fulfilling his social role with 'warmth and generosity',<sup>129</sup> Carrington faced a difficult period throughout the Louisa Collins trials.

Public sentiment within the colony was now running high. By the beginning of January 1889, widespread public debate had arisen over the decision to condemn Louisa Collins to a death by hanging. The newspapers were literally flooded with correspondence arguing both for and against a reprieve on her behalf and advertisements for petitions to the Governor of New South Wales pleading for mercy on behalf of Louisa appeared in classified columns around Australia.<sup>130</sup>

There were a number of large petitions sent directly to the Governor of New South Wales in respect of the Louisa Collins case. Some of these petitions were made up of hundreds of signatures from the women and men of the colony.<sup>131</sup> These petitions, one of which came from the 'Citizens of Sydney and Colonists of New South Wales',<sup>132</sup> pleaded that 'mercy ... be extended to the prisoner' because there was 'no positive proof of the prisoner's guilt'<sup>133</sup> based on the uncertainty of three juries, '36 men of intelligence'.<sup>134</sup> Another, signed by over '1000 citizens',<sup>135</sup> asked for a reprieve on the grounds of 'hereditary moral incompatibility and insanity',<sup>136</sup> while a third, used the 'festive season and ... the beginning of our second

<sup>124</sup> Ibid; 'Supreme Court Proceedings', *The Town and Country Journal* (NSW) 5 January 1889, 12.

<sup>125</sup> Ibid.

<sup>126</sup> Ibid.

<sup>127</sup> AW Martin, *Carrington Charles Robert {Marquess of Lincolnshire} (1843-1928)* (2011) Australian Dictionary of Biography <<http://www.adb.online.anu.edu.au/biogs/A030334b.htm>>.

<sup>128</sup> Ibid.

<sup>129</sup> Ibid.

<sup>130</sup> For example see 'Meetings. The Case of Louisa Collins', *The Sydney Morning Herald* (NSW), 4 January 1889, 10. See further *Search Results*, above n 6.

<sup>131</sup> The Colonial Secretary's Special Bundle AONSW 4/895.1, above n 9, page numbers unknown.

<sup>132</sup> Ibid. Petition dated 4 January 1889.

<sup>133</sup> Ibid.

<sup>134</sup> Ibid.

<sup>135</sup> Ibid. Petition dated 7 January 1889.

<sup>136</sup> Ibid. This may have referred to the phrenological and physiognomical aspects of Louisa Collins which were explored at the time of her incarceration: above n 95.

Centennial year<sup>137</sup> to ‘cry out for the life of this wretched woman’<sup>138</sup> and that effective justice ‘to be effective, must be tempered with mercy ... by the exercise of ... Royal Prerogative.’<sup>139</sup>

On 12 January 1889, four days after the execution of Louisa Collins,<sup>140</sup> Carrington became the subject of a particularly shocking and graphic front page cartoon in *The Bulletin*, entitled ‘The Yawning Guv’nah and the Yawning Grave.’<sup>141</sup> The sketch portrayed Governor Carrington yawning while holding a reel of petitions for Louisa’s life in his hand. In the foreground Louisa Collins hangs from a gallows and the young men of the Mount Rennie Rape Case are also depicted, four hanging from gallows and a fifth being whipped.

As disturbing as the picture is, it also drew public attention to another aspect associated with Louisa’s tragic circumstances: Governor Carrington’s speech made to a deputation begging for a reprieve for Louisa’s life.<sup>142</sup> Targeting Carrington’s words from this address, which in essence had suggested that if he had known it was to be his duty to decide on the fate of an individual’s life then, ‘no power on earth would have induced him to come to the Colony.’<sup>143</sup> The newspaper offered its own translation for the reading public stating: ‘I had no idea I should ever be called upon to do anything responsible. I thought the position was to be purely ornamental – *Translation of the gubernatorial remarks aforesaid.*’<sup>144</sup> As the *Bulletin* had so graphically pointed out, the Governor’s post was not a position for the faint hearted and Governor Robert Carrington was certainly not the individual for the job.

At the time of Louisa’s incarceration, section 12 of the royal instructions issued to the Governor, set out the course to be taken in extending or withholding a reprieve to an offender. The prerogative of mercy was to be exercised by the Governor.<sup>145</sup> Section 12 stated that the decision was to be made ‘according to his own deliberate judgement.’<sup>146</sup> However, such a decision was to be reached upon the advice of the ‘Executive Council’<sup>147</sup> and with regard to a written report from the judge who presided over the trial.<sup>148</sup> Chief Justice Darley in his address to the Court, when sentencing Collins to death in her final trial, said that there were no grounds for merciful consideration in the Louisa Collins case.

## **B Premier Henry Parkes**

Henry Parkes, the then Premier of New South Wales, claimed to be opposed to capital punishment believing that ‘the deterrent effect of any kind of punishment was small.’<sup>149</sup> In December 1886 and again in early January 1887, Parkes had appealed to Governor

<sup>137</sup> Ibid. Petition undated.

<sup>138</sup> Ibid.

<sup>139</sup> Ibid.

<sup>140</sup> ‘The Execution of Louisa Collins’, *Sydney Mail* (NSW), 12 January 1889, 77.

<sup>141</sup> ‘THE YAWNING GUV’NAH and the YAWNING GRAVE’, *The Bulletin* (Sydney) 12 January 1889, 1.

<sup>142</sup> ‘The Case of Louisa Collins Deputation To The Governor’, *The Daily Telegraph* (NSW) 4 January 1889, 6.

<sup>143</sup> ‘THE YAWNING GUV’NAH and the YAWNING GRAVE’, above n 53, 1.

<sup>144</sup> Ibid.

<sup>145</sup> Also known at this time as the ‘prerogative of pardon’.

<sup>146</sup> *NSW Parliamentary Debates*, 19 December 1888, 1322, (Henry Parkes, Premier).

<sup>147</sup> Ibid.

<sup>148</sup> The Governor even had power to summon the judge to the meeting of the Executive Council and to produce his trial notes. See the 12<sup>th</sup> section of the royal instructions reported in *NSW Parliamentary Debates*, 19 December 1888, 1322 (Henry Parkes, Premier).

<sup>149</sup> Ibid, 1322.

Carrington to exercise the prerogative of mercy upon five of the youths sentenced in the Mount Rennie Rape Case.<sup>150</sup> Henry Parkes claimed to have been greatly influenced by powerful friends, including the Archbishop and was concerned by the spectacle and damage to the country that would arise from hanging nine young men. However, as the opening words of this article revealed, he was unmoved by the circumstances of Louisa Collins.<sup>151</sup>

Parkes firmly held that Louisa had received a fair and just trial and everything had been done in her defence that could be done. In this matter the Premier was unyielding in his view that there were no grounds for merciful consideration.<sup>152</sup> When the debate over the Louisa Collins case took place in the NSW Parliament on 19 December 1888, he had retorted to Parliament:

There is nothing more abhorrent to my sense of feeling than the strangling of a woman. A woman! from whose breast the nurture of life is drawn by the human family; a woman! who presides over the paths of our little children; a woman! who is the very centre of everything that is gentle and lovable in social life.<sup>153</sup>

Parkes argued firmly that the law made no distinction because of gender. It is clear from his comments that the law *would* judge Louisa against a carefully constructed concept of womanhood that expected a wife to take care of her husband and children.

As a female found guilty of poisoning her husband, Louisa threatened the fabric of the colony.<sup>154</sup> As a result, it was impossible to state as a mere matter of sentiment that because the prisoner was a woman her life should be spared, here she had acted against her sacred vows to 'love and cherish'.<sup>155</sup> It would seem that in Parkes' eyes there was no spectacle or damage to the country from hanging this unfortunate woman instead equality of justice must be seen to be done. In his words:

if we believed that she had committed this diabolical murder ... if we came to that conclusion, why should she, woman as she is, not suffer death as well as a person who happened to be of the opposite sex.<sup>156</sup>

Thus, any notion that because Louisa was female she should be treated more leniently was not going to be nor would it be, a persuasive argument before this Executive Council of colonial New South Wales.

### III CONCLUSION

Less than two days before her execution Louisa Collins wrote to Governor Carrington on official blue prison paper in her 'Prison's Application or Statement'.<sup>157</sup> Her words to this day are moving:

Oh my Lord. Pray have mercy and pity on me and spare my life. I beg and implore you ... have mercy on me for my child's sake. I have seven children ... spare me my Lord for their sake ... Oh

<sup>150</sup> Ibid, 1335 - 1336. In the Mount Rennie rape case nine youths were sentenced to be executed in January 1887.

<sup>151</sup> Ibid, 1336.

<sup>152</sup> NSW *Parliamentary Debates*, 19 December 1888, 1334, (Henry Parkes, Premier).

<sup>153</sup> Ibid.

<sup>154</sup> C Smart, *Women, Crime and Criminology A Feminist Critique* (Routledge and Kegan Paul, 1976); R Helfield, 'Female Poisoners of the Nineteenth Century: A Study of Gender Bias in the Application of the Law' (1990) 28(1) *Osgoode Hall Law Journal* 53; L Zedner, *Women, Crime and Custody in Victorian England* (Clarendon Press, 1991).

<sup>155</sup> NSW *Parliamentary Debates*, 19 December 1888, 1335, (Henry Parkes, Premier),

<sup>156</sup> Ibid, 1323.

<sup>157</sup> The Colonial Secretary's Special Bundle AONSW 4/895.1, above n 9.

my Lord my life is in your hands. I once again implore and humbly beg you to spare me my life  
...<sup>158</sup>

Louisa May Collins was executed just after 9 am on 8 January, 1889, at Darlinghurst Gaol.<sup>159</sup> Her unfortunate journey, at the hands of an early colonial criminal justice system, had ended. The Darlinghurst and Long Bay Goal Death Register records the cause of death was fractures of the neck and trachea, death instantaneous.<sup>160</sup>

This paper has told the story of Louisa Collins' journey through the colonial justice system and in its retelling it raises more questions than it answers. In extraordinary circumstances, even for the time, she faced four trials for murder and an unsuccessful appeal. The case against Louisa rose no higher than circumstantial evidence and unsurprisingly the first three trials had resulted in hung juries. In conclusion, the story of Louisa May Collins set in motion a movement against capital punishment which saw that no other woman was again executed in New South Wales.

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<sup>158</sup> Ibid.

<sup>159</sup> 'The Execution of Louisa Collins', above n 128.

<sup>160</sup> AONSW 'Darlinghurst and Long Bay Goal Death Register 1867-1926, Obituary 1889'.