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I

MAKING UP HISTORY

For some hours after the discovery of the murder no methodical inquiry was prosecuted. The family were paralysed with horror. The blow which had fallen on the father stupefied and confused him. His children and servants were equally terrified and powerless.¹

[Joseph Stapleton, *The Great Crime of 1860*, 1861.]

In the 148 years since the morning of 30th June 1860, when the tiny body of Francis Savill Kent was found stuffed down an unused privy in the grounds of the family home, the Kent family, and more especially Constance Kent, have rarely been able to escape some writer's pen. The scale of the published material is overwhelming. Beginning with *The Great Crime of 1860* (1861) there are at least fifteen substantive works, innumerable newspaper articles, several novels and thousands of websites. Wilkie Collins used elements of what became known as the Road Murder in *The Moonstone* (1868) and it is thought Constance Kent prompted the character of Helen Landless in Charles Dicken's last novel *The Mystery of Edwin Drood* (1870). In 1947 Mary Hayley Bell, the wife of actor John Mills, presented her play *Angel*, based on Constance Kent and the Road Murder, at the Strand Theatre, London, although it closed after a few performances.

Constance Kent's story is said to have inspired Norah Loft's *Charlotte* (1972) and James Friel's *Taking the Veil* (1989), and there have been innumerable articles and books and latterly television programs based on her life and the crime. Jean Plaidy (writing under one of her pseudonyms 'Elbur Ford') based the book *Such bitter business* (1953) on the case of Constance Kent. Wendy Walker selected one word from every line in Stapleton's book and interposed these with words and phrases from other texts for her installation at Brooklyn Public Library in 2001/2002. To this Walker added photographs and other images for the work titled *Screen Memories*. In her exhibition notes, Walker argues that Constance Kent's confession was false and that the likely murderer was the father, Samuel Savill Kent. Walker's work follows Yseult Bridges' *Saint with red hands* (1954), arguing Constance was not guilty of the crime.² Typing Constance Kent's name into Google elicits more than 8,000 sites. Many of these sites are bizarre, most are inaccurate and are generally sensationalised versions of some aspect of the crime. They repeat, *ad nauseum*, the horrific details of the crime and the incarceration of Constance Kent for it. Like most 'true crime' summaries, however, they do not proceed beyond the trial and imprisonment and have little to say about what happened to this large middle class family after that terrible event.

True crime writers aim to 'solve' their case. And this remains the *raison d'être* of writers and enthusiasts of the Road Murder and the story of Constance Kent. It seems that about every twenty-five or thirty years, another writer does just this, with works spaced roughly that far apart. We find Stapleton (1861), Atlay (1899), Rhode (1928), Bridges (1954), Taylor (1979) and then Summerscale (2008). Often these writers linger on the darkness of the house or the weather (usually stormy), the terror and the danger lurking in every corner of Road Hill House that night. It was summer, of course, not stormy and an unusually balmy night! It is this version, however, that is dominant in the works about Constance Kent. It mimics the brash, confronting and sensational view of crime and murder we see portrayed on television, in the movies, crime fiction and true crime. None of this is necessarily representative of the reality of crime and its aftermath.

The Road Murder and the case of Constance Kent is also about women, a young woman, and a gruesome murder. And not surprisingly for women

and crime, the story becomes even more bizarre. Nerida Campbell, in her recent exhibition at the Justice and Police Museum, Sydney, demonstrates the incongruity of how female criminals have been portrayed in books, film and the mass media and juxtaposes these against the reality. She compares the:

... impossibly glamorous representations of fictitious femme fatales with photographs of inmates taken at the reformatory³ between 1914 and 19430.⁴

The incongruity is described by Rosemary Neill as she scrutinised the female prisoners depicted by Campbell in her review of Campbell's accompanying book titled also *Femme Fatale*:

Staring at the camera with mournful eyes and tight, grim mouths, the prisoners seem far removed from the wicked glamour girls of the silver screen with their throbbing red lips, couture gowns and permanent attitude of defiance.⁵

Judith Allen, writing about female offenders (women incarcerated for petty theft, abortion, prostitution, vagrancy and, more rarely, murder) argues they were women caught in poverty, petty crime, violence and what Judith Allen terms the 'social and sexual control of women'.⁶ But still, the mythology of women who commit crime continues to frame everything that is written about this case.

There are inaccuracies about family events and Constance's character (then and later). There is rarely detailed research into specific aspects of Constance's or the Kent family's life events, as these characters age, change and live their later long, complex lives. It is true that previous writers have had to rely on limited availability of primary sources. More recent research, including my own, has benefited from the release of useful indexes, greater accessibility to and knowledge about prison files, and improved openness of immigration and shipping records. Many of the records useful to fill in the gaps in Constance's life, especially after she walked into Millbank Prison and then emigrated to Australia, are certainly more accessible and much more easily found now than they were pre-1980. On the other hand, researching the prison years and Constance's Australian life story was not pursued without considerable

difficulty. Constance Kent did not want to be found and she continued to live as secretly and anonymously as she could.

In published works about the case there is also the dilemma of time. The murder that began this publishing tradition happened a very long time ago. The investigation of it was done when all that could be used to ascertain guilt or innocence was the existence or not of blood and/or bloodstains, observation of sites and people and interviews of often very unreliable witnesses. At the time, nothing conclusive was drawn from any of these. The passing of time, lack of professionalism within the legal, judicial and police ranks and the ability of this middle class family to avoid scrutiny is well known. The not insubstantial efforts of Samuel Savill Kent to successfully keep police and other investigators away from the house, who protected family members fiercely and did his utmost to hinder any significant detailed investigations, made the job of solving the crime well nigh impossible at the time. It has been almost as impossible for writers since to come to any useful conclusion about the case. Debate continues about it and no doubt will continue long into the future.

There is, of course, useful and thoughtful writing on this topic. Knelman's *Twisting in the Wind* (1998) and Keith Skinner's⁷ work provide significant insights into Constance Kent and her family as well as aspects of the murder and its aftermath. Mary Hartman and others have written interesting papers on the case.⁸ Also, in the true crime genre, Bernard Taylor's *Cruelly Murdered* is a considered and valuable work. Kate Summerscale's work is a fine study of Inspector Jonathon Whicher, the first inspector from Scotland Yard whose career foundered on the case of Constance Kent. At the same time, it is true to say that most works, well researched or not, rely on secondary material and past assumptions that have become standard fare. Works written soon after the crime (Stapleton and Rhode) are notable for their specificity in reportage and attention to detail. There is bias, prejudice and inaccuracy in their reporting, but not necessarily much fiction. The further one looks down the years, however, to the books about the crime today, the more 'fictionalised' they are.

This trend reflects the movement in published literature toward what is termed 'creative non-fiction'; that blurring of lines between the novelist and the non-fiction writer and where 'popular history and the misery memoir' now reign supreme.⁹ And, with Constance Kent and the Road Murder we have a

version of history that has at its centre a careless disregard of historical research and seemingly little desire for critical, credible history. This is not to suggest that works on the case are not insightful, interesting and fascinating to read. They are. However, by its nature, true crime writing is not seeking historical truth. Nor is it, as already noted, interested in looking at a whole life, but rather at a slice, usually one that will shock and thrill. Generally, the true crime story ends pretty much as the prison gate clangs shut. It is as though the family have died. There is no story left to tell. In other words, the narrative is no longer interesting once the killer is caught, tried and sent to prison. There is said to be no interest from a 'contemporary audience' in historical accuracy, nor the historical research attached. And what the writer cannot be bothered to research more thoroughly can simply be made up for the 'absorbing' or 'thrilling' story the market now demands.

The reader, too, would appear to prefer the rollicking yarn and is less concerned, or at best unaware, of how history can be trivialised, as it is merrily made up. Thus, if you cannot find the ship or the arrival date for a person, why bother wasting time and money trying to find out? Make it up. Blur, obscure, skim, be vague or simply avoid that difficult piece of history. If the writer is not prepared to obtain the detail of children's births or deaths, no matter. Just take the word of someone like Stapleton, who simply wrote down what his friend Samuel Kent told him (remembering that the mother, the first wife, was dead and not able to dispute it). Do not know what happened on the night of the murder? No one does, of course. And yes, it is acceptable to speculate, imagine, and draw conclusions from what is known about that night. But is it acceptable to fictionalise (unless one is writing fiction), is it acceptable to construct dialogue (as though these words were spoken), and is it acceptable to 'make up' the parts of the story that are not known? Drusilla Modjeska told the reader that *Poppy* was not a biography but a mixture of "fact and fiction, biography and novel".¹⁰ Her book has been no less a success because of such honesty, garnering awards, accolades and widespread praise, and also sales. Nonetheless, novelists who crave to be historians¹¹ but who do not cite their work as bogus or made up, or as simply untrue, are under no obligation to be upfront with their readers. Making up history sells and parading fiction as 'true' has become the *sine qua non* of publishing in recent decades.

The more books that I read about this crime the more evident it seemed to me that each of them relied heavily on Stapleton's *The great crime of 1860* (published 1861) and contemporary writing about the crime. In many cases, long slabs of text are repeated from previous works with little acknowledgement and certainly without accurate or detailed footnotes. It is almost impossible to check specific information when it is presented without sources, without footnotes and without acknowledgement. Even when sources are listed, they are provided in a general list that is meaningless. However, it is relatively easy to see the repeated text, as each time a writer uses the case, it is presented as an example in a chapter, article or book. There is nothing wrong, of course, in the use of previous publications in a work. But, as any first year student of history will attest, incorporating other work into your own without precise acknowledgement contravenes two aspects of history writing. One is proper acknowledgement of the source. The other is to provide a note (i.e. a footnote) for researchers/readers who might want to follow your research trail and use that material and/or interrogate it further.

It took some time to sort out the many sources in these books and to match up stories, text, characters and events. I also had to research the myriad primary sources in England and Australia that focused on the case. The prison files and licence papers upon which Constance was released from prison in 1885 had not been previously accessed and these were to prove very useful for this book. I completed research on all of her siblings and half siblings, both in England and Australia. I travelled to England in 2005 to do a 'footsteps' tour of the places that Constance and her family lived and where the various prisons were located. I talked to the family of Ivor Cantle, a researcher for Bridges, who completed much early research of substance for the case. Ivor's family kindly gave me his research material, photographs and letters, which provided useful insights into the case. I have tracked all of the descendants of the Kent family and gathered letters and photographs of interest from them. I have been contacted by and helped in this research by interested individuals from all parts of the globe. The case of Constance Kent and the Road Murder remains an obsession for researchers all over the Western world.

Constance Kent's story first emerged from my research into the lives and careers of Australian women educators. Constance, in her guise as Emilie Kaye,¹²

was working quietly in Parramatta for the New South Wales government. I wrote about her then as a senior public servant along with other women¹³ who achieved highly paid and relatively significant government positions and some status, at a time when promotion and recognition for women in top public roles was almost non-existent. I did not write then about the murder. I knew about it. I had found Bernard Taylor's *Cruelly Murdered* at the Mitchell Library and read it and marvelled at the horror of it. But I did not pursue it. It has not been easy to sort through and unpack the maze of fact and fiction that now clouds this woman's long, eventful life. There is no doubt that tracking the stories of Constance Kent is a genealogy of how the writing of history, true crime and fiction have changed and are changing still. It is also a history of how lives, in particular women's lives, become distorted and are shaped for the publishing industry, for marketing and for the aggrandisement of writers. A salient point is that it is unlikely we could reconstruct those events with any accuracy so as to 'solve' anything about the Road Murder. We have no eye witnesses who can tell us what happened, we have no way of knowing what in fact happened and no way of gaining new evidence about it. No, what has fascinated me about these events was the family. I wanted to know how they had fared since. I wanted to find out about the keeping of the secret of that night, the impact of it on their lives since, about the trauma and grief of damaged lives for a family in flight from the worst nightmare of their lives.

This book tells that story. It also takes a historical tour through the non-fictional and fictional publications around the life of Constance Kent and the Road Murder and outlines how each publication, one after the other, makes up, obscures and generally misrepresents history. Women who kill are a sensational topic. The name Constance Kent still conjures up for most reporters of it a version of Victorian middle class family life at its worst. The Road Murder was a rare case of fratricide; there was family scandal, larger than life characters, inept and incompetent police and a middle class dysfunctional family. All of these aspects of murder, women, children and unhappy Victorian family life have been easy fodder for journalists and writers since.

The events of the night of the murder are so well known so as to need little reiteration. In summary, Francis Savill Kent, aged three years and ten months, was found dead in an outside privy, his throat cut on the morning of 30 June

1860. The crime became a front-page story throughout England. The public were transfixed, enthralled, shocked; they could not get enough of it. The local police conducted an inept investigation and the Scotland Yard detectives brought in to help were unable to gain a conviction. In 1865 Constance Kent confessed and went to prison for twenty years. Debate has ensued since on whether Constance Kent was guilty. Some believe she took on the mantle of guilt to 'save' the family further harassment. Other writers point to the father or the nurse as possible suspects. In the end few can say what really happened. But the events of that night changed forever the lives of all within Road Hill House, guilty or not. When news of the crime broke on the day after the murder, the press, the public, neighbours and nearby villagers converged like vultures toward the house, they poured into the grounds, they peered into windows, they had to be held back by long suffering local police. No wonder the Kent family withdrew, that they closed ranks, began their secretive journey to keep out, not just these prying eyes but also to hide what actually happened on that previous night. Not that one of them was not guilty. One or two of them certainly were – everyone knew that. But proving it was another matter.

In the end it was not possible to read the literature associated with the crime, the initial inquest and police investigation, the various court hearings without forming a strong opinion about the case and the possible perpetrator of it. And it is not possible to interrogate the lives of Constance Kent and her family without beginning to know things about them. The events themselves were recorded meticulously and in inordinate detail at the time. This was a homicide. There was endless ruminating about the case by local and national press. Words, gestures, behaviour, motivation, opinion – these were written about at length. There was careful description of individuals, the crime scene, places and events. This was a time when photography was in its infancy, when instant replay of a video camera was not yet known, words and detailed descriptions were the main tools of investigators, the major form of reportage. Although it is still possible to look at the many press reports, reviews, books and other publications and develop a considered analysis, this is all that can be done.

The Road Murder became a sensational topic eight years before John Stuart Mill published *The Subjection of Women* and almost fifty years after Mary Wollstonecraft wrote her *Vindication on the Rights of Women*. It was Victorian

England and the childhood and growing up of Constance Kent, and the final tragedy of the Kent family made headlines beside great names and events: factory reform for women and children, the rise of mass elementary schooling, the rise of industry and commerce and urbanisation, and as Florence Nightingale shone her lamp on the confusion, misery and cesspools that passed for hospitals in England. Lower class families still lived in squalor and abject poverty where childhood and family life kept its harsh, unrelenting frame. The middle and upper class world of Constance Kent was healthier, cleaner, more congenial, but it might be argued it was also more isolated, just as likely to harbour morbid terrible family secrets.

This book is about those family secrets, the myths of women's lives and the making up of history. It is especially about the myths of women and murder and about women who murder. One of the great myths of this family is the theme of madness. It was accepted by doctors, judges, the press and contemporary commentators that Constance's mother (the first wife of Samuel Kent¹⁴) suffered from an unstable mind associated with some mental illness in her family. During the initial court case this madness was used to suggest that Constance was probably mad when the murder was carried out. The notion that a middle class woman could not commit murder without being crazy was widespread at the time. All writers on this topic then and since accept this theme of madness. The madwoman as murderess is a classic theme. Our story begins here.



Ivor Cantle, with statue of the murdered child's head, at Road Hill House in the 1970s.

[Larissa Roberts]

ENDNOTES

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10. Drusilla Modjeska, *Poppy*, McPhee Gribble/Penguin Books, Ringwood, 1990, p.93.
11. Camilla Nelson 'Faking it: History and Creative Writing', *TEXT*, Vol. 11, No. 2, October 2007, <http://www.textjournal.com.au>, p.7, sighted 8/4/08.
12. Constance Kent used the name Emily or Emilie Kent or King from as early as 1860 in an effort to escape public and press interest in her and the Road Murder. By the time she died in 1944 she was signing her name simply as Emilie Kaye.
13. Noeline Kyle, 'Agnes King Inter Alios: Reformatory School administrators in New South Wales, 1869 to 1904', *Journal of Australian Studies*, November, 1984, pp.59-68.
14. Mary Ann Kent died in 1852. Samuel Kent re-married one year later to Mary Drewe Pratt.