

THE CHILD WHOSE ABUSE TOUCHED THE **CONSCIENCE OF A NATION**

“MARY ELLEN, THE CHILD WHO WAS NEVER HUGGED”

By John Crawford, former NSW Children’s Magistrate

The child, Mary Ellen Wilson, was born in New York probably in March 1864. While no doubt children had long been suffering serious physical abuse at the hands of carers, the extent of the abuse and efforts to rescue Mary Ellen from her plight, touched the conscience of America. This fed into the beginnings of the “child saving” movement and in turn led to a better and safer life for many children.

Whilst there were isolated instances of prosecutions for the death or serious injury of a child, there persisted, in America, a strong belief that responsibility for raising children rested with parents. Parents were at liberty to raise their child as they wished and without outside interference. Intervention was generally confined to children who were orphaned or abandoned and addressed through what was a proliferation of charitable organisations or the like. State intervention was generally restricted to children who had committed crimes or for behaviour under the broad term of “delinquent”. Generalisations are however difficult in the American situation, in the absence of any overarching Federal legislation. Child welfare and protection laws and practices (such as they were), varied from state to state in America. The situation in Australia was not greatly different.

Mary Ellen’s Parents

Mary Ellen was born in New York in an area called Hell’s Kitchen, an especially poor tenement area. Mary Ellen’s mother was Frances (Fanny) Connor Wilson. Fanny had come with an uncle from England to start a new life in 1858. She was 29 when Mary Ellen was born. Mary was the name of her maternal grandmother and Ellen her maternal aunt. Mary Ellen’s father was Thomas Wilson. He had come from Ireland along with so many others during the potato famine. He was aged 31 when Mary Ellen was born. The couple married in April 1862. They were ‘battlers’ having met while each working in a hotel in New York. Thomas worked as a kitchen hand and oyster opener. Fanny worked in the laundry and took in sewing at night.

It was during the Civil War and perhaps needing extra money, Thomas either volunteered or was drafted for a second tour of duty in the Union army. When Mary Ellen was about 2 months old Thomas was killed. It is not known if he ever saw his daughter. Fanny was left in a

desperate situation. A small veteran's pension (\$8 per month) was not enough to live on. Needing to work, Fanny placed the child temporarily with a child carer Martha Stone (sometimes referred to as Mrs Score) upon payment of \$2 a week (the full widows' pension). For whatever reason (likely the loss of her job), Fanny stopped making payments, visits were missed and ultimately Fanny disappeared from Mary Ellen's life. Mary Ellen believed each of her parents was dead. A relative later claimed that Fanny had returned to reclaim Mary Ellen but was told the child had died.

In difficult financial circumstances herself, Martha Stone handed the care of Mary Ellen to the New York Department of Public Charities and Corrections. Mary Ellen became a child under State control.

The (Illegal?) Adoption

A married couple Thomas and Mary McCormack had three children all of whom had died of disease. Thomas especially wished to adopt a child. They approached the Department and in circumstances that seem both unclear and unsatisfactory, managed to convince the Department that he, Thomas, was the child's real father, having had a relationship with several women of which Mary Ellen was the result. They further convinced the Department that Mary's mother was confined to a mental asylum. Based on his claims, and with a character letter from a doctor, Mary Ellen was handed over to the couple in January 1866. The arrangement legally was closer to fostering than adoption as we would know it. Under the arrangement the McCormack's were to report to the Department on the child's condition on an annual basis. This did not occur and there was no follow up by the authority.

Thomas apparently doted on the young Mary Ellen but not so his wife. Maybe she resented the story of the affair or resented that her children were dead, and this child was not. Unfortunately for Mary Ellen, Thomas died about 6 months after she came into their care. Mary McCormack remarried a Francis Connolly.

Etta Wheeler – Suburban Missionary

Marietta Angell Wheeler ("Etta") was born 14 June 1834 in Rochester, New York.

Etta Wheeler was a religious woman and a voluntary missionary worker of the Methodist St. Luke's Mission. She would visit the homes of the many poor in the area providing meals, supplies, company and seeking donations. Her assigned area was Hell's Kitchen.

She had married a Charles Wheeler, a journalist with the New York Daily News. They had no children.

Whilst making one of her missionary visits, a former landlady, of the Connolly's, Mrs Bingham, approached Etta with her concerns for a child of that family. Mrs Bingham had noticed how cruelly their child was treated.

Mrs Bingham said the child was a prisoner who had only been seen once, who was left alone all day with windows darkened and locked in an internal room. Further, that the child had been cruelly whipped and her screams heard. Mrs Bingham warned the Connolly's the abuse would have to stop or they would be evicted. The Connolly's left.

Etta encountered the Connolly family on the pretext of having someone look in on a neighbour who was dying and spoke to Mrs Connolly. In the background Etta saw Mary Ellen and was shocked by what she saw.

"I saw a pale, thin child, barefoot, in a thin, scanty dress so tattered I could see she wore but one garment besides. Across the table lay a brutal whip of leather strands and the child's meagre arms and legs bore many marks of its use".¹ This visit was made during winter when it was bitterly cold.

Etta was perplexed as to how to respond. As a missionary she had often seen poverty. This was very different. She was concerned if the Connolly's became aware she was trying to intervene they would simply move again. During a three-month period, Etta approached over 20 charities seeking assistance to take the child in and she also approached the police. Whether due to want of authority or want of will, she received no assistance at all.

Etta, being a very religious woman, was to comment that if she were to die, she could not rest in peace without having helped remove the child from this abuse. In desperation she was tempted to ask for assistance from Mr Bergh, then, a well know figure for his campaigning to protect animals from ill-treatment though dismissed the thought as ridiculous. However, her niece thought otherwise. Whether real or fiction, the niece is reported to have said *"You are so troubled over that abused child, why not go to Mr Bergh? She is a little animal surely"*. Etta presented her account to Bergh.

Henry Bergh

Henry Bergh was an influential businessman from a well-connected family of shipbuilders. He briefly served as an American diplomat to Russia where he was greatly distressed by his witnessing of the ill-treatment of animals. He resigned his post. Influenced by the formation of

¹ American Heritage vol 41, The First Chapter of Children's Rights (July 1990).

the English Royal Society for the Prevention of Cruelty to Animals, he was determined to establish a like society in America.

The American Society for the Prevention of Cruelty to Animals was formed In New York on the 10 April 1866, the first such society in America.

Bergh was willing to assist with the case of Mary Ellen but only in a private capacity and only on strong evidence. He engaged a lawyer Elbridge T Gerry and independent investigations yielded the necessary evidence. Under the guise of carrying out a census, access was gained to the Connolly's home by a private detective and additional statements were taken from neighbours.

By way of an aside, Elbridge T Gerry was the grandson of a former Governor Elbridge Gerry whose political exploits gave rise to the term "gerrymander".

Then, in possession of the necessary evidence and a concern that Mary Ellen would be killed unless she was removed, Mr Gerry petitioned the Supreme Court.

The challenge was that there seemed to be no precedent to remove a child against the opposition of the parent and there was a concern that, on notice of the Supreme Court petition, the Connolly's would take flight.

Judge Abraham R. Lawrence issued a novel and unusual warrant in the nature of habeas corpus - writ de *homine replegiando* (a writ to bail out one wrongfully imprisoned or in private custody).

Mary Ellen was taken into custody by the police and presented to Judge Lawrence, barefoot, in poor tattered clothing and wrapped in a carriage blanket provided to her by the police. She presented as an intelligent child but with a "*care-worn, stunted and prematurely old look*".

A reporter Jacob Riis present in court wrote, "*I saw a child brought in, at the sight of which men wept aloud and I heard the story of the little Mary Ellen told...that stirred the soul of a city and roused the conscience of a world that had forgotten*". Mary Ellen was then aged 10 years.

It seems there were two hearings the first where Mary Ellen was removed from the care of the Connelly's. Mary Ellen also gave evidence against her foster mother in a criminal hearing before a jury.

Etta attended the hearings.

The hearings attracted enormous the public attention. Bergh, already a public figure, had contacted journalists with the New York Times who attended the hearing.² Etta's husband, a journalist with another paper meant further newspaper interest.

It was not lost on the public attention that it had taken persons of good will associated with the Society for the Prevention of Cruelty to Animals to act to protect a cruelly abused child when other authorities could not or would not.

The statement made and confirmed by Mary Ellen in the chambers of Judge Abraham Lawrence on the 9 April 1874 is reproduced below.

“My name is Mary Ellen McCormack. I don't know how old I am. My mother and father are both dead. I have no recollection of a time when I did not live with the McConnollys; I call Mrs McConnolly mama: I have never had but one pair of shoes, but I don't recall when that was. I have had no shoes or stockings this winter. I have never been allowed to go out of the rooms where the McConnollys live except in the nighttime, and then only in the yard; I have never had on a particle of flannel. My bed at night is only a piece of carpet, stretched on the floor underneath the window and I sleep in my little undergarments with a quilt over me. I am never allowed to play with any children or have any company whatsoever. Mama has been in the habit of whipping me and beating me almost every day. She used to whip me with a twisted whip, a raw hide. The whip always left black and blue marks on my body. I have now on my head two black and blue marks which were made by mama with the whip, and a cut on the left of my forehead which was made by a pair of scissors in mama's hand. She struck me with the scissors and cut me. I have no recollection of ever having been kissed, and never have been kissed by mama. I have never been taken on my mama's lap or caressed or petted. I have never dared to speak to anybody because if I did, I would get whipped, I have never had, in my recollection, any more clothes than I have at present, a calico dress and skirt. I have some stockings and other clothes in my room, but am not allowed to put them on, whenever mama went out I was locked up in the bedroom; the scissors with which mama struck me are those now shown by Mr Evans, I don't know for what I was whipped; mama never said anything to me when she whipped me: I do not want to go back to live with mama, because she beats me so; I have no recollection having been in the street in my life.”

Mrs Connolly in the criminal matter gave evidence in her own defence. She was taking no backwards steps. She complained that Mr Gerry (as prosecutor) was “ignorant of the

² New York Times, 10 April 1874.

difficulties in bringing up and governing children". It took no more than a matter of minutes for the jury to reach a verdict. Mrs Connolly was found guilty of felonious assault and sentenced to one year imprisonment with hard labour.

Mary Ellen becomes a Ward of the Court

Mary Ellen was made a ward of the court. However, the outcome did not immediately lead to the improvement in her life that Etta had hoped. Mr Gerry had asked the court to place the child in the care of some a suitable person or with a charitable organisation (then to be fostered with a caring family). Instead, Mary Ellen was placed in an institution for older mostly delinquent adolescent girls. Etta was shocked by this development and returned to petition Judge Lawrence for Mary Ellen to be placed with her own family. Judge Lawrence agreed. As Etta was fully engaged in her missionary work and wished to continue that work, Mary Ellen went to live in a caring placement with Etta's mother, Mrs Sally Angell Spencer. There, Mary Ellen had to adapt to a 'normal' and 'caring' life she had never known, such as having to learn to walk on uneven grass as she had only walked on flat boards and having to learn to read and play with other children. Unfortunately, Mrs Spencer died some six months later. Mary Ellen then went to live with Etta's younger sister Elizabeth, her husband, and children. Mary Ellen remained living in that normal, happy home, until she married.

Mary Ellen's Later Life

In 1888 when aged 24, Mary Ellen married a Lewis Schutt, a respectable widower with three children. He was some years older than her. The couple had two daughters, Etta, named after the woman who had rescued her, and Florence. They also adopted an orphaned girl, Eunice. Mary Ellen pursued a life largely out of the public spotlight. Etta and Florence became teachers.

Florence described her mother as a "*solemn woman who came alive whenever she listened to Irish music, unfailingly generous with her time and affection*". Mary Ellen was reluctant to speak about her early years but did show the girls scars on her arms from hot irons and a scissors scar still evident across her face.³

Mary Ellen died on 30 October 1956 aged 92.

Etta Wheeler died on 5 December 1921 at the home of her niece in New York.

³ The Mary Ellen child abuse case and the Beginning of Children's Rights in 19th century America " E.A Shelman and S Lazacit, forward 2005.

The New York Royal Society for the Prevention of Cruelty to Children

Following the hearing, Etta implored Bergh to form an organisation for the protection of children as he had so successfully done for the protection of animals. Bergh took up the suggestion. The New York Society for the Prevention of Cruelty to Children (NYSPCC) was formed in 1874, the first of its kind in the world. The first president was Quaker philanthropist John Wright with Bergh and Gerry as vice-presidents. Gerry went on to become the president of the society a couple of years later. Bergh formed a like society in Massachusetts. By 1880 there were 37 societies in America and by 1901, 162 societies. As a lobby group, their influence on law reform and practice was incalculable. On occasions societies were criticised for confusing poverty with abusive parenting. However, there is little doubt their actions provided many children with a safer and better life. This movement began with one little girl and one caring and persistent woman.

Of Henry Bergh it has been written, "*A man with neither pets nor children embarks on a crusade that will forever change the way we view and treat the most vulnerable members of our household and communities.*"⁴

Societies for the Prevention of Cruelty to Children were established, in New South Wales, Victoria and Queensland. In New South Wales the society was established about 1888. It advertised to employ a Vigilance Officer and Inspector. The role seemed to include investigating claims of abuse made to the society and to give warnings to errant parents. At least in other states there may have been prosecutions. The active work seemed to have ceased in favour of the Children's Relief Department not long after its formation. The Society continued with a small membership largely as a lobby group and, in 1927 reported to having been in existence for 36 years and then with 45 members.⁵

Lessons Learned

The publicity that accompanied the court hearing relating to Mary Ellen, the extent of brutality she suffered, and the impotence of authorities caused the public to critically reflect on what should be the proper role of society in the parental/child relationship. Society needed to do better. Clearly Mary Ellen was not an isolated case then or now. It was recognised that authorities had an obligation to validate and monitor her fostering placement, yet they did not. Mary Ellen's story was there to be heard but it was not until the chance involvement of Etta. Likewise, her cuts and bruises were there to be seen but no one looked. Mary Ellen was

⁴ The Mary Ellen child abuse case and the Beginning of Children's Rights in 19th century America " E.A Shelman and S Lazacit, forward 2005.

⁵ The Sydney Morning Herald, 17 February 1927.

fortunate for the missionary worker Etta and her persistent in efforts to save her. Unfortunately, every abused child does not have an Etta. Mary Ellen was fortunate to have the financial and other resources of a Mr Bergh and the ingenuity of the lawyer Elbridge Gerry. The Mary Ellen case coincided in America with a time when public and private institutions in America were coming under increased scrutiny. Good intentions alone cannot be assumed to be enough.

Legislation and practices have changed for the better since those times. Tolerance for physical and emotional abuse of children is less so as society is now more enlightened. When Etta first visited the apartment and saw Mary Ellen in the background, a small, cold, frail and beaten child, that report should have been enough to spur authorities into action. The child being seen was of critical importance. Is there a lesson for caseworkers today investigating a notification or preparing a report? That lesson is, no matter the child's age, no matter the inconvenience, no matter what excuses the carer may offer as to why the child is not available, persist and see the child, observe and note.

I conclude with Etta's words of Mary Ellen's experience, *"If the memory of her earliest years is sad, there is this comfort that the cry of her wrongs awoke the world to the need for organized relief for neglected and abused children"*.⁶

References

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⁶ St.Christophers. <https://mystchristophers.org/about-us/our-founder-legacy>.