

HEYWARD ATKINS

HEYWARD WAS A LITTLE WAYWARD THE PUZZLING CASE OF ALBURY'S FIRST POLICE MAGISTRATE

Heyward St Leger Atkins (1812-1890) was born in County Cork, Ireland, and died at St Helier, Jersey. He spent some 28 years in Australia, and was Albury's first resident police magistrate from 1853 to 1860. There are two puzzles about Atkins: 1. Why did he live with a woman for years and then abandon her and their children before marrying another woman? 2. What made him suddenly leave Albury and Australia without any explanation, never to return?

Atkins came from two Anglo-Irish Protestant families of landed gentry, the Atkins of Waterpark, near Cork, and the St Legers. Their estates were in the hands of richer relatives when Atkins left Ireland for Australia about 1832.

A CAREER IN THE LAW

Atkins first appears in NSW records as a junior clerk in the Sheriff's Office in Sydney in 1833, aged about 21.

In 1834 he began living with the daughter of two transported convicts, Ann Louise Gray, when she was about 19. Ann already had a daughter, Marion, with a John Billing. She and Atkins had four children but they apparently never married and eventually parted.

Atkins was promoted to the Solicitor-General's Office in 1834 and then in 1836 became a clerk to the Attorney General.

In 1840, he was appointed Police Magistrate at Hartley in 1840 when the township west of the Blue Mountains was developing. Still in his 20s, he had to handle matters from bushranging to drunks, hold inquests and supervise land tenure issues.

In 1841 the government gave him 50 blankets to be distributed to Aborigines but he advised 80 would be needed in 1842. He suggested the government should also supply tomahawks to the Aborigines as he thought they were the most useful article that could be supplied to them. However, the numbers of Aborigines in the district fell rapidly so that by mid-1846 the whole tribe numbered fewer than 20 (Source: *Hartley and its Court House*).

In 1850 the NSW government appointed Atkins the provincial police inspector in charge of Moreton Bay district (Brisbane) from January 1, 1851 at a salary of £400 a year. Hartley's law-abiding citizens were sorry to see him go and gave him a gold watch and chain, a double-barrel rifle and a brace of pistols.

MARRIED AT LAST

Some time before going to Moreton Bay, Atkins had abandoned Ann Louise and his four children. ("Ann Louise Atkins" died in Sydney in 1874, aged 59).

In Brisbane on July 15, 1851, Atkins married Grace Amy Wyatt, a widow, aged 33. She was a daughter of Samuel North, a prominent Sydney police magistrate born in Ireland. Heyward and Grace Atkins had a daughter, Amy, born in September 1852.

The NSW government abolished the posts of provincial police inspectors in 1852 and assigned Atkins to be Police Magistrate of Ipswich, which had only a 1000 population but was growing fast.

ALBURY POLICE MAGISTRATE

However, in March, 1853 he was appointed the first resident Police Magistrate at Albury at £350 a year. Albury was even smaller than Ipswich but the discovery of gold at Beechworth in 1852 had caused a big increase in the number of travellers crossing the Murray. Gold had also been found on the Black Range in 1852.

Whether Grace's father or someone else in authority in Sydney had found out about Atkins' first family is unclear, but Albury was then conveniently distant from Sydney, a journey taking many days or weeks.

The Atkins family lived in a house called Bungamba Terrace, overlooking Dean Street and a swamp that became the Botanic Gardens.

From 1853 until a town council and mayor were elected in 1859, Atkins was not only the senior government official but the leading citizen, the chief spokesman for the town.

For Atkins' first 18 months in Albury, the clerk of petty sessions was a Mr Oliphant. However, in 1854, Oliphant was replaced by Atkins' brother-in-law, Samuel Charles Valentine North (1832-1921), who was only 22. North later became an auctioneer and agent, an alderman and mayor in 1865.

Atkins' duties were many and varied. In April 1855, he was appointed a trustee of the first Albury Benevolent Society (for the relief of destitute people), a forerunner of a hospital.

On October 6, 1855, Atkins went on board the paddlesteamer *Albury* leading a deputation to congratulate Capt George Johnstone on bringing the first Murray River paddlesteamer to Albury. A year later he welcomed the South Australian Governor, Sir Richard Macdonnell, and Capt Francis Cadell to Albury, and chaired a vice-regal banquet.

Atkins' powers as a paid Police Magistrate to handle court cases were, of course, limited. More serious cases such as robbery or bushranging, had to be sent to a Circuit Court judge at Goulburn, many days' ride away. In November, 1856, Atkins chaired a town meeting that petitioned for an assize court and a bridge on the Murray River at Albury

When the Victorian Governor, Sir Henry Barkly, arrived in Albury from Beechworth in June 1857, Atkins led a deputation seeking the governor's help in getting Victoria and NSW to agree on measures, such as bridging the Murray.

In July 1857, Charles Lockhart, the Crown lands commissioner at Tumut, was robbed at Mullengandra. Next day Atkins personally escorted the mail cart on the Sydney road, armed with the guns he had received from Hartley.

From various sources, we know Heyward and Grace Atkins grew strawberries and passionfruit and that Atkins was a steward for early horseracing. On Boxing Day in 1857, someone stole his grey pony and he offered a £10 reward on conviction of the thief, or £5 if the animal was recovered.

POWERS IN VICTORIA

The original Albury Court of Petty Sessions established in 1847 with the former explorer John Roper as clerk covered both sides of the Murray. Its justices of the justice of the peace were drawn from both sides. After Victoria separated from NSW in 1850, the Beechworth-based Resident Warden acted as Police Magistrate for the district. In 1858, Victoria created a Belvoir Police Court for the

rising township of Wodonga. To save the expense of paying a new resident magistrate, Victoria appointed Heyward Atkins to preside there part-time and to hold inquests.

FRIEND OF JOHN ROPER

Atkins formed a close friendship with John Roper, who had been the court clerk before Oliphant and Atkins arrived in 1853. Roper was justice of the peace in Albury from 1857.

In July 1858, Atkins and Roper were among five men appointed trustees of the St Matthew's Church building fund. Grace Atkins chaired a bazaar ladies' fundraising committee. In March, 1859, when the church opened, Atkins and John Walker Jones, bank manager, were appointed the two churchwardens. When the church was unable to pay its priest and appealed for donation for a stipend fund, Atkins promised £12, more than a week's wages for him.

In April 1859, Atkins was appointed a trustee of the planned Albury hospital and in January 1860 was elected first president of the board.

In July 1859, Atkins was returning officer for the first municipal election in Albury. Among the new aldermen were Roper and a former convict, Lewis Jones. It is doubtful if Atkins knew Jones had been transported for pick-pocketing in London.

Judge Callaghan held the first Quarter Sessions in Albury in 1859 and was appalled by the lock-up at Albury, being far too small, filthy and insanitary. He found eight men "huddled together in like slaves in a galley" and described it as "a black hole".

Atkins didn't escape the judge's attention. In his address that was widely reported across Australia, the judge said he had mentioned the state of the lock-up to Atkins, "and that gentleman had assured him that he had long ago represented to the government the total unfitness of the building for the purpose to which it had been applied. Finding these representations had remained unheeded, he (Atkins) had declined to have anything to do with the charge of the gaol, which was consequently under the management of the sheriff."

Atkins responded that if his advice had been acted upon the old lock-up would never have been used as a gaol. Judge Callaghan immediately told the government an Albury Gaol was needed at once, though one wasn't started until 1861 and not opened until 1862. Meanwhile, a new courthouse was being built in Dean Street but Atkins was not to see it completed in August, 1860.

In February, 1860, William MacDonagh, a former clerk of petty sessions at Braidwood, tried to get Roper struck off the roll of JPs for "living in a state of undisguised and shameless adultery' with his housekeeper." In the NSW Parliament, local member Morris Asher urged the government to make inquiries as to Roper's fitness to be a JP. It was alleged several children had been born to the woman while she lived with Roper.

The government requested a report from Atkins, who, of course, had himself lived with a woman and had children without being married. Atkins advised the government that "improper intimacy" between Roper and the woman had not affected Roper's social position.

Atkins's Irish roots were recalled when he was a judge for the first Albury Regatta held on the river on St Patrick's Day, 1860.

FAREWELL TO ALBURY

Atkins' surprise departure in late June was much regretted, according to newspapers. His last court case in Albury was dealing with a drunk on June 23. He did not show up to lay the foundation stone of the Albury hospital on June 28, and a local JP did the job.

A week later, John Roper was compelled to hold the court in the absence of Atkins, who never appeared in Albury again. His resignation as police magistrate in Albury and Wodonga was confirmed in July. In August the government appointed a replacement, Capt Marcus Brownrigg, a former naval officer and another Anglican Irishman.

By leaving, Atkins missed out several key events, eg the opening of the Union Bridge, the courthouse, the hospital and the gaol. One of the last public notices he signed was to call tenders for a new National School in Olive Street, but others had to deal with that. Also in 1860 he became a director of the Murray Valley Vineyard Association and a trustee of the Albury Jockey Club, giving no hint of departure.

Oddly, Grace Atkins remained in Albury for over a year. There never was a public statement explaining why her husband had left town. Friends raised £150 in a testimonial fund of which John Roper was secretary. This was handed over to Grace in Albury on October 23, 1861 on her departure.

The *Sydney Mail* of October 26 noted that the people of Albury appreciated Atkins' valuable services: "The name of Mr Atkins is most intimately associated with the early history of the town, much of the progress of which is attributable to his exertions. To his efforts and personal liberality was the erection of the Episcopalian Church (St Matthew's) mainly due, as well as the founding of a benevolent asylum (the hospital). About three years ago, in recognition of his worthy conduct in apprehending mail robbers, the inhabitants of Albury presented him with a handsome and valuable service of plate. Mr Atkins appears to have been one of the earliest promoters of the social interests of this town and district."

Atkins' last known contact with Albury was a letter he wrote from London on January 27, 1862, thanking John Roper and others for their address and money, presumably taken to England by his wife.

Heyward, Grace and Amy were at St Helier, Jersey, by 1871, assisted by an English servant girl. Grace died at St Helier on August 16, 1872.

In 1881, Atkins, aged 69, was listed at St Helier as a widower living on investments and with a housekeeper. He died there in 1891, aged about 79, leaving his investments in Australian banks and other financial institutions to his daughter, Amy.

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