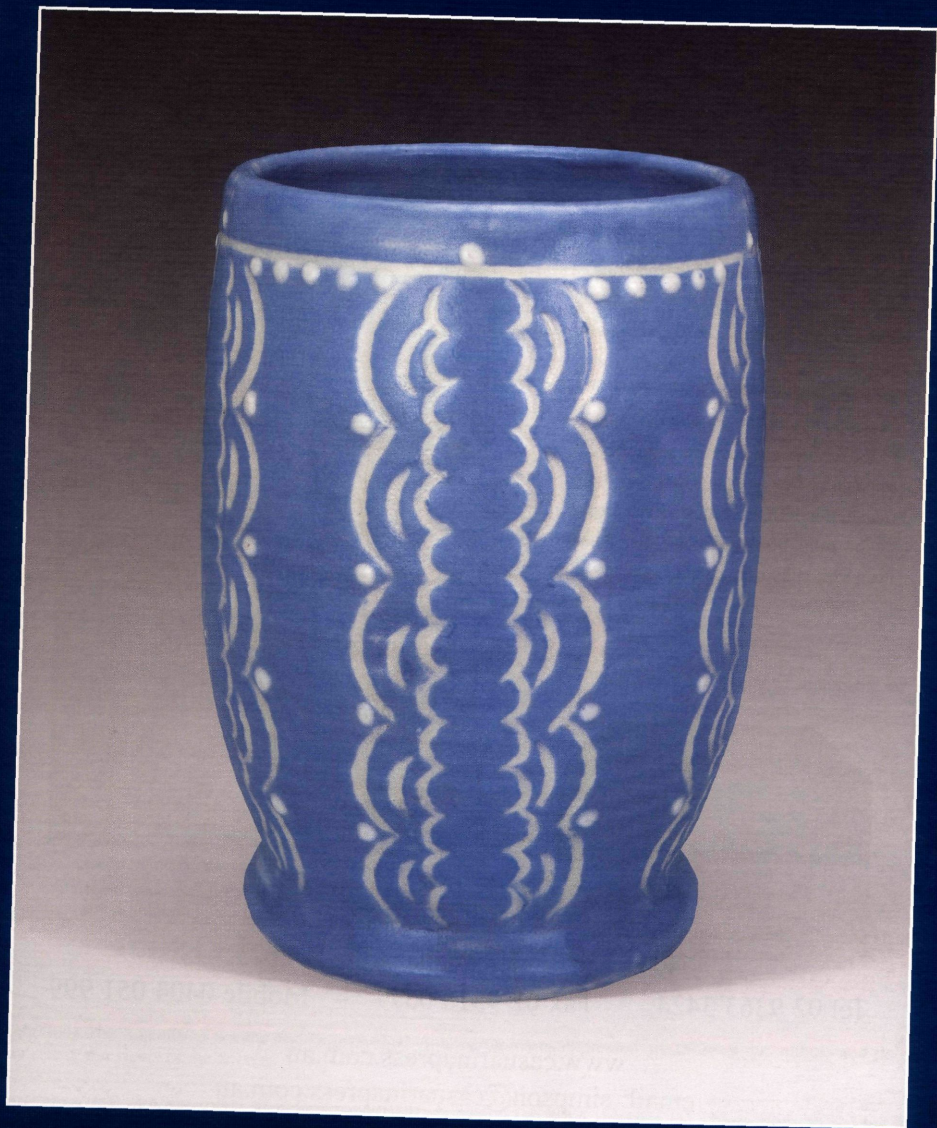


# Australiana

FEBRUARY 2003 Vol. 25 No. 1



CELEBRATING 25 YEARS IN 2003



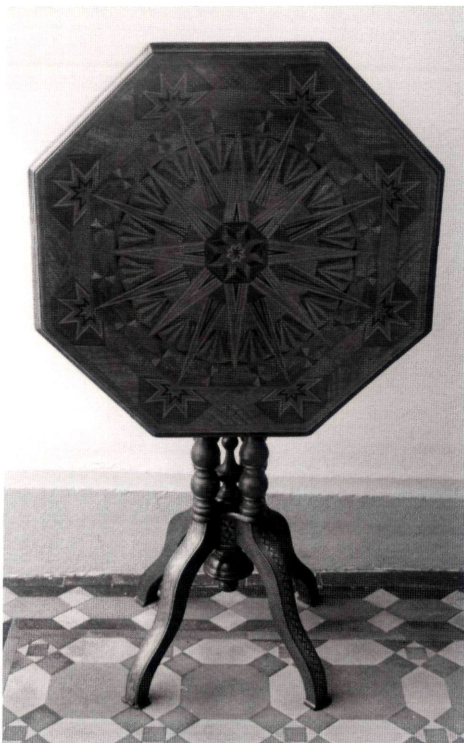
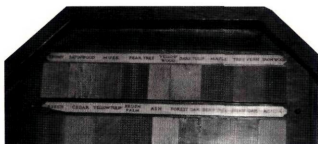
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An Australian-made inlaid Occasional Table, attributed to Joseph Sobluski of Bundaberg, Queensland, incorporating various colonial timbers. Original 19th century patina, c. 1870.

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CELEBRATING 25 YEARS IN 2003

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**COVER:** Nell Holden (1892-1980),  *vase*, c. 1940. Wheel-thrown earthenware with carved slip decoration, clear glaze, 13.5 x 9.5 cm. Incised on base 'Nell (in a leaf) Holden'. In its sky blue colour and use of simple slip decoration this vase might be considered a quintessential piece of Nell Holden pottery. Private collection, photograph Andrew Simpson. Courtesy Casuarina Press, from the forthcoming book *Australian Art Pottery 1900-1950*.

# THE VALUE OF LAND RECORDS IN RESEARCH

Michel Reymond

*Though this article was first published in 1978 when the writer was a member of the National Trust (NSW) Historic Buildings Committee, it is still relevant today. It hints at the tendency to date buildings to an earlier date or period, when if properly researched that conclusion might not necessarily follow.*

Surprisingly, the importance of land records in the dating of historic buildings is very often overlooked by researchers.

Primarily these records are concerned with the ownership of land and dealings with it. The most important are plans concerned with the subdivision of land, especially in the case of city, suburban or town lands, where frequent subdivisions have often occurred over a long period. In most cases these plans survive today, often with the building illustrated on the plan. Thus by compiling a list of plans and landowners and any other relevant dealings, it is possible to build a sound and proper foundation upon which further research can be undertaken.

Without consulting these records, the attribution of any particular date or period within which a building might have been constructed, in the absence of contemporary plans signed and dated by an architect or builder, has in most cases depended primarily upon the evidence gleaned from an architectural examination of a building and its fabric.

Thus the discovery of an original colour scheme or wallpaper, the materials used in the building's construction and the general design and shape of a building, supplemented by perhaps letter books, old photographs, contemporary descriptions from letters, diaries, newspapers or family legend, to name only a few sources, have all too often been the only material consulted to provide an approximate date when a building was erected.

As a result it is not uncommon to find a building is described simply as, say, circa 1840 or in the style of buildings of the 1840s. A good example is *Beggan Beggan*, 20 km southwest of Harden in southern NSW, a two-storey homestead stylistically of the 1840s-1850s. When land records were consulted, it was found to have been built between the years 1863-1865.

While in some cases land records may provide little additional information, in most cases they provide valuable and often vital information, mostly first-hand and of a contemporary

nature. In the case of *Elizabeth Bay House*, these records turned up in a hitherto unknown room-by-room inventory of furniture dated 1 February 1845.

In recent times, the date of construction of many historic buildings has had to be revised in the light of information gained from these records.

*Don Bank* at North Sydney was thought for some time to have been built in the 1820s by merchants Edward Wollstonecraft or Alexander Berry. When land records were used, the site was found to have been vacant land until 1854 when Charlotte Carr, the wife of a Sydney solicitor William Carr, had this house built. In the case of *Don Bank*, these records not only led to the discovery of additional material, but helped to explain other records which provided vital clues assisting in the dating of this building.



*Cleveland House*, Bedford St, Surry Hills, probably designed by Francis Greenway, 1823-24. Photograph John Wade 2003.



For over 30 years, *Cleveland House* in Bedford Street, Surry Hills was considered to have been built in 1810 for Thomas Sadler Cleaveland. An examination of these land records, supplemented by other material, led to the conclusion that the house was built in 1823-24 for Daniel Cooper, and that the architect was probably Francis Greenway.<sup>1</sup>

Perhaps one of the most interesting discoveries was an Edmund Blacket plan for additions to the *Octagon Tower* at Darling Point.<sup>2</sup> Built in 1832 as a Constable's house, the *Octagon Tower* was the first building erected on Darling Point, and not *Lindesay* (begun 1834) as has been sometimes claimed. Apart from being unique in that respect, it is thought to be the only surviving government building designed by Ambrose Hallen when he was Colonial Architect.

Yet another interesting discovery was John Verge's *Rose Bay Lodge*, erected in 1834 and said long ago to have been demolished. An examination of land records, in the light of Verge's ledger and an architectural examination of the building, provided the missing clues which proved conclusively that the building had not been demolished but was still extant in Salisbury Road, Rose Bay. It has since been restored.

In almost every case land records have either provided very strong evidence or proved conclusively the exact date of construction of an historic building. This is quite apart from establishing the earliest possible date or the latest possible date a building might have been constructed. These dates have in almost every case been supported by an architect's visual examination of the building.

The importance of such records, particularly plans, and their preservation cannot be overemphasised. It is to be hoped that in future research into the dating of historic buildings, such records will be more readily consulted.

Interestingly, the recent article on *Clyde Bank*,<sup>3</sup> a beautifully restored and presented early colonial townhouse in Sydney's Rocks, indicated that of the 'two adjoining nearly identical' houses built on the grantee Robert Crawford's land grant, which was the original *Clyde Bank*, was a matter 'open to further investigation'.<sup>4</sup> That might include an examination of the little known City of Sydney section plans which invariably show the location of the original grantee's house, and when used in conjunction with any later subdivision plans, might well in the case of *Clyde Bank* reveal which of the 'nearly identical' houses was the first one built.

MICHEL REYMOND is a solicitor, North Sydney Councillor, Australiana Fund Member, writer and researcher on Australiana and a former President of the Australiana Society.

#### Notes

<sup>1</sup> Max Dupain, introduction by J.M. Freeland, *Francis Greenway a celebration*, Cassell Australia, Sydney 1980, pp. 90-98.

<sup>2</sup> Now in the grounds of Ascham School.

<sup>3</sup> John Hawkins, 'Clyde Bank', *Australiana* vol 24 no 4, November 2002, pp. 100-108.

<sup>4</sup> *Ibid.* p. 106.



*Rose Bay Lodge*, Salisbury Rd, Rose Bay, designed by John Verge, 1834. Photograph John Wade 2003.

THE SIGNIFICANCE OF A STUDIO

# NELL HOLDEN & *THE CHALET*

Megan Martin



*The Chalet*, 12 Winton Street Warrawee, c.1925.





Nell Holden digging clay at Warrawee, December 1933. Although this photograph is clearly posed for the camera, Nell did experiment with locally dug clay and at least one of her pots is marked 'French's Forest clay'. Photograph *The Sun* Feature Bureau.

In 2002 the studio of one of Sydney's best-known studio potters of the 1930s was sentenced to demolition. The potter was Nell Holden (1892-1980) and her erstwhile studio is in the garden of the former Holden family home at Warrawee. It is a significant place in Sydney's cultural history and was as well known in the 1930s as the potter and her pots, but its value as a place has been unrecognised within the framework of the local heritage process.

Nell Turner Holden was born in Adelaide in December 1892, daughter of Hubert William (Bill) Holden and his wife Annie Maria Turner. Nell had two younger brothers, Leslie, a decorated World War I air ace, and James, at one time director of General Motors-Holden, the company formed by Nell's cousin Edward and her uncle H.J. Holden. Nell's youngest sibling was her sister Winfred [sic] Turner Holden, born in Adelaide in October 1904. Soon after Win's birth the family moved to Sydney where Bill Holden and his brother-in-law Herbert Preston established the Australian subsidiary of the Nestlé Swiss Milk Company.

The Holden family lived for a time at Mosman before moving around 1911 to a house called *Lynwood* on a large block of land in Winton Street, Warrawee. Family life at *Lynwood* was comfortable, stimulated by the pleasures of a large garden and enlivened by regular tennis parties, but as a young woman Nell found herself stifled by her father's traditional middle-class ideas about women's roles. During the First World War she was in charge of a Voluntary Aid Detachment of the Red Cross that established a nursery in Turramurra, growing cut flowers and raising seedlings for sale to raise funds for the war effort. After the war, however, Nell's plan to achieve financial independence by taking up commercial art was vetoed by her father.

Around 1926 Nell and her sister Win became interested in making pottery, perhaps inspired in Nell's case by the British studio and industrial pottery that she had seen on a visit to England in 1925. Pottery was an acceptable hobby for young ladies, its respectability ensured by vice-regal patronage of the Society of Arts and Crafts of New South Wales; the Society's

annual exhibitions were important black-tie events on the Sydney social calendar in the 1920s. This time the obstacle to Nell's ambitions came not from her father but instead from the difficulty of finding adequate instruction.

A resolution came through temporary relocation. Bill Holden subdivided the Warrawee land and sold *Lynwood* in late 1926, retaining ownership of part of the property with a small house that he had built as a gardener's cottage at the bottom of the *Lynwood* garden, beyond the orchard and the tennis court. This was a Swiss chalet that been sent to Sydney from Switzerland in the early 1920s to be used as a pavilion for Nestlé at Sydney's Royal Easter Show.<sup>1</sup> After a few years in this role, the building was dismantled and taken to Warrawee where in 1925 it was re-erected, with additions.

The family moved to Edgecliff Road, Woollahra in 1927 from where Nell and Win were able to enrol at East Sydney Technical College. Here Phyllis Shillito taught them design and J. Arthur Peach instructed them in china painting and pottery. The Holden sisters soon found that Mr Peach knew more about china painting than pottery. When they joined the Society of Arts and Crafts in 1928 and exhibited at the Society's annual exhibition<sup>2</sup>, they were highly critical at seeing the same old Technical College mould shapes produced by several of their fellow exhibitors. Nell and Win wanted to throw their own shapes but the College wheel was rarely used and not in good order. They took private lessons from Mr Guthrie who worked as a thrower at Fowler's commercial pottery and they fired their work in a kiln built in their aunt Win Preston's garden studio in



Left: Nell Holden (1892-1980), *banksia jug*, c. 1945. Slip-cast earthenware in the form of a banksia seed pod with leaves, 15 x 13 cm. Incised on base 'Nell (in a leaf) Holden/Banksia Australia'. Although Nell Holden's pots were mostly wheel-thrown, her repertoire included a number of hand-modelled figures and some slip-cast pieces, including a frog, lyrebird bookends and this banksia jug. It seems likely that the banksia jug was one of the forms bought by those American nurses and soldiers who visited Nell's studio during the Second World War. Private collection, photograph Andrew Simpson.

Top right: Nell Holden (1892-1980), *vase*, c. 1940. Wheel-thrown earthenware with trailed slip and finger-wiped decoration, clear glaze, 9 x 12 cm. Incised on base 'Nell (in a leaf) Holden'. Private collection, photograph Andrew Simpson.

Below right: Nell Holden (1892-1980), *vase*, c. 1934. Coil-built earthenware with coil-built handles applied to shoulder, coloured and clear glazes, 25 x 21.5 cm. Incised on base 'Nell (in a leaf) Holden'. Private collection, photograph Andrew Simpson.





Top: Nell Holden (1892-1980), three *bowls* 1940s. Earthenware, underglaze colour with clear glaze, incised on base 'WHN' monogram, each 4.5 x 10 cm. Powerhouse Museum, Sydney, gift of Ray Freeman, 1985, photograph Marince Kojdanovski

Middle: Nell Holden (1892-1980), three *plates*, 1940s. Earthenware, underglaze colour with clear glaze, incised on base 'WHN' monogram, each 2.5 x 22 cm. Powerhouse Museum, Sydney, gift of Ray Freeman, 1985, photograph Marince Kojdanovski.

Below left: Wynnel, vase, c. 1933. Wheel-thrown earthenware with dull reddish glaze, incised on base 'Wynnel (in a leaf)', 7 x 12 cm. Nell Holden bought glazes and colours from Wengers Ltd and experimented with various metal oxides to achieve the desired effect. Powerhouse Museum, Sydney, gift of John Shorter 1943. Right: Wynnel, vase, 1932. Wheel-thrown earthenware, bronze and turquoise glazes, 11.1 x 11 cm. Incised on base 'Wynnel (in a leaf)'. This vase was one of two Wynnel pots bought by the Curator of the Technological Museum at the Society of Arts and Crafts annual exhibition in October 1932. Powerhouse Museum, Sydney, photograph Marince Kojdanovski.



Nell Holden building a coil pot outside the studio, December 1933. Photograph *The Sun* Feature Bureau. The Wynnel potters exhibited coil-built pots and vases in the 1933 and 1934 exhibitions of the Society of Arts and Crafts and sold them through the Society's shop in Rowe Street, Sydney. Nell believed that these coil pots were among the first of their kind to be made in Sydney.

Shellcove Road, Kurraba Point. Win Preston was an enthusiastic dabbler in various artistic pursuits, including painting and sketching in company with May Gibbs, a Holden relation by marriage. The Kurraba Point kiln was short-lived – in Nell's words 'it smoked like a warship', and the neighbours complained.

In 1929 Nell Holden travelled abroad again, in company with Win and their mother, visiting technical colleges and potteries in England and gathering information about kilns, glazes and wheels. Nell made arrangements for the English Gas Light & Coke Company to send plans and diagrams of a suitable gas-fired kiln to the general manager of the Australian Gas Light Company in Sydney and asked her father to persuade AGL to build an experimental kiln on their behalf.

Late in 1929 Bill, Annie and Win Holden returned to *The Chalet* in Winton Street, Warrawee and Nell joined them there twelve months later. In the meantime the Australian Gas Light Company had taken up the challenge to produce a kiln for the Holden sisters, although it took them nearly twelve months to get the details right. The company's achievement was publicised in the trade journal *Building* in December 1931, illustrated with a photograph of Win and Nell Holden loading their



Win Holden at the kiln, December 1933. Photograph *The Sun* Feature Bureau.



new kiln at Warrawee.<sup>3</sup> A couple of weeks later the magazine *Woman's Budget* carried a similar story.<sup>4</sup> AGL reprinted the *Building* story in a brochure promoting its product, illustrated with photographs of Nell and Win in the studio.

It was named the Wynnel Pottery Studio and consisted at first of a workroom housing the kiln as well as a potter's wheel run by electricity, work benches for preparing clay, stocks of glazes, colours etc. It was built just behind *The Chalet*. In November 1933 a showroom, architecturally in sympathy with the house and connected to it by a stone-flagged path bordered with Japanese iris, was added at right angles to the workroom. The showroom was panelled in dark timber and had a large open fireplace. One wall was lined with cream enamelled shelves to display the finished pots. Cream-framed windows were hung with maize coloured curtains over split bamboo blinds and the windowsills were crowded with pots of lobelia, nasturtium and candytuft.

The extended studio was launched publicly in December 1933 with a Christmas exhibition. It immediately caught the attention of the Sydney press and the *Daily Telegraph* published several photographs of Nell and Win Holden at work in the studio, observing that 'seldom have craft workers possessed such an ideal and artistic setting for their work'.<sup>5</sup>

A similar story followed in *Woman's Budget* in August 1934. The *Budget* article noted that the studio and workroom as well as the equipment – which by this time included an electric

mixer for grinding colours – had been financed by the proceeds of the sale of pottery.<sup>6</sup> In December 1934 the *Sydney Morning Herald* published another short article about the studio at the time of the second Christmas exhibition and followed it up a month later with a full-page feature on *The Chalet* itself.<sup>7</sup>

The Wynnel Pottery Studio was by no means the first potter's studio in Sydney. Ernest Finlay had set up the Gika-Gika Pottery in Lane Cove around 1920, fitted out with a kiln that he had built himself and his own home-made potter's wheel. Hetty Hirst's studio in the Strand Arcade was illustrated in the magazine *Woman's World* in October 1923. Daisy Dowse had a studio in Rose Bay that was described in the same magazine in 1928, and at the same time Vi Eyre had a studio in the city and a kiln at her home in Coogee. The Ceramic Art Studio partnership of Ada Newman and Ethel Atkinson similarly had city and suburban premises, as did Nell McCredie from around 1933. Grace Seccombe had a studio at Eastwood, equipped with a kiln, by early 1931.

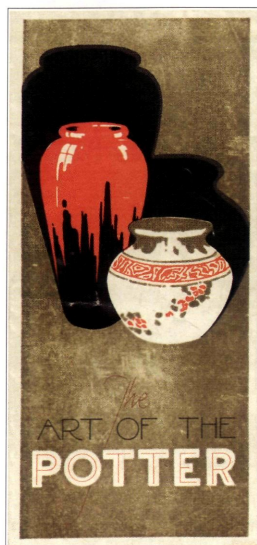
None of these studios received the same level of press coverage in the 1930s as the Holden studio at Warrawee. Even when Win Holden's involvement with the studio lessened and eventually ceased within a few years of her marriage in 1932, the Wynnel Pottery Studio continued to be a staple component of press stories about artists' studios. A *Sydney Morning Herald* story entitled 'Three picturesque settings for women artists studios' in November 1936 featured Nell's studio at Warrawee



Nell and Win outside the Wynnel Pottery Studio, December 1933. The part of the building with the chimney is the newly-completed showroom and the other part is the workroom running back towards the house proper. The showroom had its own entrance to the left of the chimney. Photograph *The Sun* Feature Bureau.



Nell Holden examining pottery at the biscuit stage in the Wynnel Pottery Studio at Warrawee in 1931. Under her arm she has a catalogue from Wengers Ltd, English suppliers of glazes and colours. Win Holden is just visible in the background at the kiln. Photograph E. A. Bradford.



Left: *The Art of the Potter*, brochure published by the Australian Gas Light Co. c. 1932, illustrated with photographs of Nell and Win Holden in their Warrawee studio and designed to promote the AGL's new gas-fired pottery kiln.

alongside the studio of the painter Hilda Rix Nicholas (Mrs Edgar Wright) in the garden of the Wright family property in the Monaro district of southern New South Wales and that of Maie Casey, wife of the then Commonwealth Treasurer R.G. (later Baron) Casey in the garden of her Canberra home, one of the houses built for officers at the Royal Military College, *Duntroon*.<sup>8</sup>

Another full-page photo story in *The Sun* in April 1940 headed 'Art in artistic surrounds' featured five Sydney studios, including Nell's. One of the others was that of the painter Grace Crowley who had an open-air studio outside her city penthouse, surrounded by grapevines and wax plants. The painter Harold Abbott had a studio in the garden of 'his mother's lovely home at Vaucluse' with a view to the harbour through an avenue of gum trees.<sup>9</sup>

The regular inclusion of the Warrawee studio in such features was a measure not only of the picturesque character of the place but also of the reputation that Nell Holden had established as a potter within the crafts movement. From her very first exhibition of pottery in 1931 Nell Holden's work differed in important ways from that of most other Sydney potters up until that time. One difference was that most of her work was wheel-thrown and not produced from a mould. When the Holden sisters had visited the Camberwell Technical School in London in 1929 Nell had been impressed not only by the widespread use of throwing wheels





Top: *The Chalet*, February 2003. Photograph John Wade.



Left: *The Chalet*, c. 1966. Photograph Ray Bean.

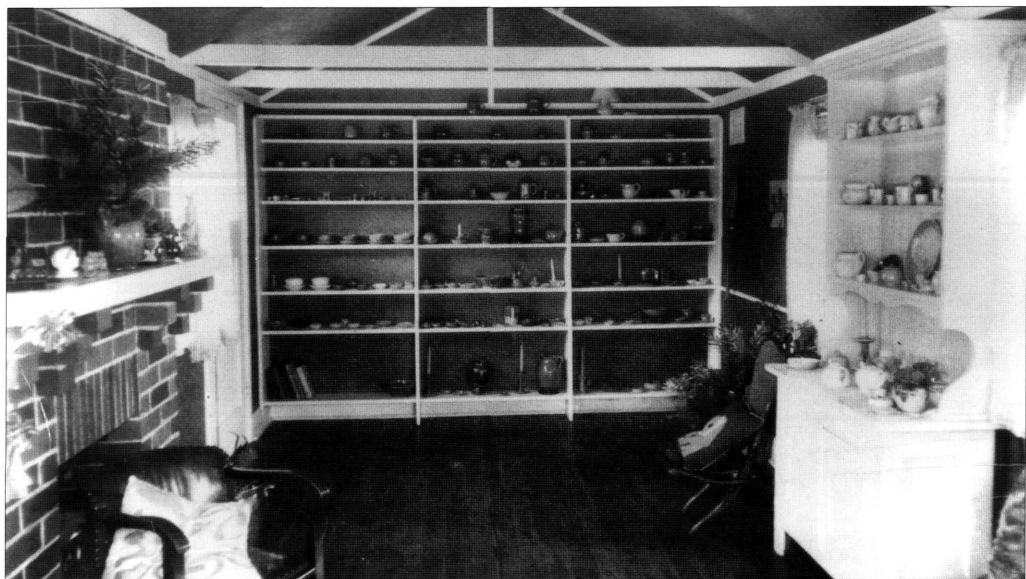
but also by how little decoration was used on the pots and how much emphasis was placed on coloured glaze effects. This example had a strong influence on much of Nell's early work, produced in collaboration with her sister and inscribed 'Wynnel'. Many of these early pieces are glazed with a single colour and have simple forms clearly influenced by the modernist values of simplicity and respect for functionalism. It was this overture towards modernism that also set Nell Holden apart since it was partly the reliance on moulds that had obliged many Sydney potters of the 1920s to seek avenues for individual expression in their work through a concentration on painted or applied decoration.

In the later thirties Nell became known for her plain cream coloured glazes. By that time she had also developed a speciality in trailed slip decoration, an old English country pottery tradition that was being rediscovered around that time and reviewed in English art magazines like *The Studio*, to which Nell subscribed. By 1940 Nell Holden was one of the largest exhibitors at the Society of Arts and Crafts annual exhibitions. She maintained the tradition of her annual Christmas exhibition at *The Chalet* and her pots were frequently illustrated in magazines and newspapers. During the Second World War restrictions on imports combined with a wartime directive limiting the production of pottery to the manufacture of utility ware meant that Nell Holden made 'endless cups and saucers, teapots etc'.<sup>10</sup> American nurses and soldiers visited the studio and Nell found herself posting off 'many parcels of pottery to America from the special American Post Office in Kent Street'.

Nell Holden was twice winner of the Elizabeth Soderberg Award at the Society of Arts and Crafts annual exhibitions, in 1954 and 1956. She remained committed to the Society of Arts and Crafts throughout her pottery career, serving on its committees for many years and as its President from 1966 to 1968. In 1968 she sold *The Chalet* and retired from pottery production.

In 1986 *The Chalet* was identified as an item of local architectural significance in the Heritage Study of the Municipality of Ku-ring-gai, although the articulation of its





Display shelves in the studio showroom, first published in *Woman's Budget* 1 August 1934 p. 9.

Right: Win Holden at the potter's wheel, 1931. Photograph E. A. Bradford.

significance was restricted to the original, so-called 'kit' component of the building, with no appreciation of its context and its multi-layered associations. It was that limited, solely architectural, recognition of its value that has allowed the studio to be scheduled for demolition in the face of recent development pressures on the site, and which led in 2002 to a recommendation from the Land and Environment Court that the original *Chalet* building could be dismantled and re-erected elsewhere. A sadly uncertain future for such a special place.

MEGAN MARTIN is Curator, Library & Conservation Resource Centre at the Historic Houses Trust of NSW. She is a contributor to the forthcoming book on *Australian Art Pottery: 1900-1950*, to be published by Casuarina Press in 2003.

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 Papers of The Society of Arts and Crafts of NSW: Mitchell Library, State Library of NSW ML MSS 3645  
 Registers of building applications, Ku-ring-gai Municipal Council.  
 Information from Anne Cooke & Pat Locke, daughters of Win Graham, nee Holden.  
 Photographs of *The Chalet* and the Wynnel Pottery Studio courtesy of Anne Cooke.

## Notes

- <sup>1</sup> *Sydney Mail* 19 April 1922 p. 20.
- <sup>2</sup> Neither Nell nor Win Holden exhibited pottery at this exhibition. Nell exhibited a pewter bowl and two raffia baskets while Win exhibited raffia baskets and raffia fans.
- <sup>3</sup> 'Gas-fired pottery kilns: the art of the potter' *Building* 12 December 1931 pp. 15-16.
- <sup>4</sup> 'The potters art' *Woman's Budget* 30 December 1931 p. 35.
- <sup>5</sup> 'Girl potters at work in Killara [sic] studio' *The Telegraph* 9 December 1933 p. 4.
- <sup>6</sup> 'The potter's wheel' *Woman's Budget* 1 August 1934 p. 9.
- <sup>7</sup> 'Exhibition in a garden studio' *Sydney Morning Herald* 16 November 1934 p. 4; 'Swiss chalet with additions' *Sydney Morning Herald Women's Supplement* 17 January 1935 p. 17.
- <sup>8</sup> 'Three picturesque settings for women artists' studios' *Sydney Morning Herald* 19 November 1936 p. 19.
- <sup>9</sup> 'Art in artistic surrounds' *The Sun* 18 April 1940 p. 25.
- <sup>10</sup> Transcript of a 'Talk by Miss Nell Holden on her early potting days' September 1972, originally given to the Annual General Meeting of the Society of Arts and Crafts in November 1971.



# MONETARIUM

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## 1893 Sydney Veiled Head Half Sovereign

AUSTRALIA. 1893 GOLD HALF SOVEREIGN. Extremely rare. A near flawless example. Full lustrous, superbly struck both sides.

**OBVERSE :** Veiled bust of Queen Victoria to left, legend around.

**REVERSE :** St. George slaying dragon, date and mintmark in exergue.

The 1893 Sydney half sovereign is just one of five half sovereigns struck by the Sydney Mint during the economic turbulence present in Australia in the last decade of the 19th century. Very few remain in existence in pristine condition, it is a coin highly prized by collectors for its rarity and historical importance.

Vast amounts of capital flowed to Australia from Great Britain in the late 19th century, with individual investors and institutions eager to profit from a boom in land prices, both rural and suburban. The initial strong rates of return were not sustainable however, and as funds were repatriated to England, the Australian economy collapsed into depression. Economic activity stalled, reducing the demand for circulating coinage.

While the volume of sovereigns produced in any one year was by and large dependent on the amount of gold presented to the mint, half sovereigns were produced solely to fill an economic need for circulating currency. Production runs of half sovereigns during the Depression of the early 1890's was infrequent, when they were minted it was always in very limited numbers. Financial hardship meant that most of the coins issued into circulation during this period were passed in trade immediately, it would have been a wealthy individual indeed that had sufficient reserves to keep any hard money from the ravages of circulation.

*We believe this coin could only remain in such impeccable condition if it were hoarded by a wealthy individual as soon as it was issued.*

The reverse of this coin has been superbly struck, the level of detail in each single design feature is extremely high - the cape and boot of *St. George*, the horse's tail and reins and the body of the dragon. The reverse rim is quite raised, while the reverse fields are entirely devoid of any contact marks.

Each high point on the obverse remains clear and distinct. Lustre abounds all over, and an interesting die crack runs from the right hand rim to the rear of the portrait - clear testament to the force with which this coin was struck.

This example rates among the finest known of its type - just one better coin has been seen at auction in the past 30 years, albeit on three separate occasions. The only equivalent coin was auctioned in April 1999. Our own sales of similar coins over the past seven years have been slightly higher, although we have not handled one this good since January 2001. Of note is that that coin went into the *Quartermaster* collection, the finest set of Australian gold coins ever formed. **Choice Uncirculated** **\$4,500**



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# DID THE PAWNBROKER GET OFF?

RUTH DWYER

*Next to a cemetery, 'in a quiet neighbourhood' a pawnbroker's shop is the most melancholy place possible. The chest of drawers, the silver spoons arranged starwise in the window, the china punch-bowl, . . . the gold moidores, once the property of swarthy sailors, now repose intermingled with the Brummagem jewellery of some unlucky 'mobsmen', yon gold watch, that once ticked at the waist of beauty . . . All the odds and ends, the waifs and strays of civilization find their way here.<sup>1</sup>*

The police list was circulated. Harriet and Josiah Chapman's<sup>2</sup> stolen possessions were included. Her missing mourning attire was listed, including her black silk skirt, piped with white silk and trimmed with velvet, her two black mantles, one of silk, trimmed with Maltese lace and bugle gimp, the other a circular lace garment, and a pair of long jet earrings mounted in gold. Other jewellery missing included a diamond ring, one of three emeralds and five diamonds, another set with a single emerald, the stone being chipped, and a colonial gold cameo brooch, the cameo representing Flora. A pair of bronze kid boots, size six, several dresses, and three missing gold coins were also listed. One of the coins was marked 'J.M.C.' Property to the value of £100 was stolen.<sup>3</sup>

After being arrested by Detectives Black and Williams,<sup>4</sup> the pawnbroker, Jacob Andrade Isaacs<sup>5</sup>, of Lonsdale Street East, Melbourne, was charged with feloniously receiving stolen goods. After an appearance in the City Police Court, Isaacs was committed to stand trial. The case was set down to be heard

before a sitting of Melbourne Criminal Sessions in February 1867. Bail was refused. Isaacs was then lodged in the Swanston Street lockup.<sup>6</sup>

The case opened on 15 February 1867 before His Honour, the Chief Justice of Victoria, Sir William Stawell, and a jury of twelve. The Crown opened the case with the witness Mr Josiah Chapman stating that on the 26 November 1866 he had returned to his residence in Mort Street, St Kilda, to find it had been entered. One of the windows had been forced.

Mrs Harriet Chapman then identified some of the stolen jewellery produced as evidence, in particular the emerald ring with the chipped stone, the skirt, mantles, dresses and the boots. She stated that the black silk skirt was not now in the same state. Some velvet trimming and piping had been removed. Two seamstresses from Buckley and Nunn, Eliza Barrett and Catherine Delaney, testified that the black silk skirt with the white piping and velvet trim had been made by Delaney, under the supervision of Barrett, to Mrs Chapman's order.

The principal witness for the Crown, George Hunter, alias Adams, was then a prisoner in the Melbourne Gaol. Hunter deposed that he had effected entry to the Chapman dwelling in St Kilda and had stolen various pieces of jewellery, clothing and boots. He stated that he was in the habit of doing business with Isaacs, and had done so on this occasion. He 'planted' the jewellery near the Fitzroy Gardens until dusk, and took the clothing and boots to Jacob Isaacs's pawnshop at the sign of the three golden balls<sup>7</sup>. Witness handed the bundle to Isaacs.

"What do you want for them? They are sure to be 'chanted'."

"Three pounds."

"One pound."

"I also have some jewellery to pawn."

"Where?"

"In plant."

"When will you bring the 'ridge' to the 'pop-shop'?"

"In the evening."

"Here's the pound. Be off now, the stolen property list is coming round. Come afterwards. I will give you a 'bob-a-nob.'" Hunter returned at dusk, and emptied his 'cly of ridge'.

"I am asking a pound for them."

"I will give you seven and six."<sup>8</sup>

"The rings are set with diamonds and emeralds. The cameo brooch is set in gold. The three gold coins alone are worth more than seven and six."

"The stones are glass. The three coins would 'lag a nation.'"

"You got the other articles cheap; one dress alone was worth seven or eight pounds."

"I would rather have had some Crimean shirts or trousers; they can be disposed of without alteration. Take it or leave it. Keep the coins."

"Give me the seven and six."

With the light fading, Hunter then left the premises by the right-of-way avoiding Tommy the Bobby on his beat.

Called to testify, Detective Christen deposed that he had been to Isaacs's shop with the stolen property list, and had specifically asked Isaacs if he had seen any of the articles stolen from the Chapman dwelling, listed as E 38-55. The accused denied all knowledge of the content of the list saying that none of Harriet Chapman's things had been offered for sale or pledge. Detective Black subsequently obtained a search warrant. The black silk skirt with the trimmings removed was found upstairs bundled up with a number of others in a box of lumber. The boots and a quantity of the missing jewellery were also found on Isaacs's premises, including the emerald ring with the chipped stone. This concluded the case for the Crown.

Mr Aspinall, for the accused, then addressed the jury, contending that the evidence of the principal Crown witness, Hunter, was most unreliable. Moreover his client, Isaacs, denied using the 'flash' language attributed to him. Witnesses as to character were then called. They had known Isaacs over a period of 19 or 20 years in South Australia, New Zealand and Victoria. Mr F. Blackham, manager of the *Age* printing office, stated that he had known the accused both in Melbourne and Adelaide, where Isaacs had had a chemist's shop. Mr Blackham

testified that he had found Isaacs to be an honest, respectable and industrious man. Dr Eades stated that he had known Isaacs for seventeen or eighteen years. In Adelaide and Melbourne he too had found the accused to be honest, respectable and industrious. Dr Eades had not known Isaacs for the two years past. Mr W. Clarke, gold broker, Mr A. Joske, merchant, and a number of others including the J.P., Edward Cohen, testified similarly as to good character. Isaacs had been a pawnbroker for only about a year. His Honour then summed up and the jury retired. A verdict of guilty against Isaacs was brought down with a recommendation of mercy because of his previous good character. Mr. Justice Stawell deferred sentence until the following sitting.<sup>9</sup> On the 18 February 1867, the sentence was brought down, two years' imprisonment with hard labour.<sup>10</sup>

There is no trace of Jacob Andrade Isaacs in Victorian prison records.<sup>11</sup>

Did the pawnbroker get off?

In February 1868 -

*At the door of one of the pawnshops stands an old man, with a face like a caricature of Ernest Grisct's . . . That is Jacob . . . He is the most knowing and artistic 'fence' in Melbourne. Like Shakespeare's apothecary, his shop shows but a beggarly account of empty boxes, but he has a store of wealth somewhere hidden. His shop has a back entry, where many a case of jewellery or watches has entered, never to return again. Old Jacob is 'friends' to a certain extent with the police; and his old wife, a Tasmanian Jewess - professes much affection for the members of the D division.<sup>12</sup>*

GLOSSARY - with gratitude to the convict James Hardy Vaux, b. 1782, and transported severally to New South Wales, for *The Memoirs of James Hardy Vaux including his Vocabulary of the Flash Language*, edited and with an Introduction and Notes by Noel McLachlan, Heinemann, London, 1964.

1. mobsman - swell pickpocket.
2. plant - to hide or conceal any person or thing; such an article is said to be 'in plant'.
3. chanted - published in the stolen property list issued by the police.
4. ridge - gold, whether in coin, jewellery, or any other form.
5. pop-shop - pawnbroker's shop, a term possibly in use only in Melbourne.
6. bob-a-nob - a shilling (10 cents) a piece.
7. cly of ridge - a pocket full of gold or jewellery.
8. lag a nation - to transport the nation for 7 years or upwards.
9. flash, of language - the cant used by transgressors of the law, compiled by Vaux for the benefit of magistrates.

## Notes

- <sup>1</sup> *Argus*, 6 March 1868, p. 6. Moidores are Portuguese coins.
- <sup>2</sup> Harriet Chapman, formerly Harvey, born c.1831, Essex, died as Harriet Wilson, 1901, and Josiah Chapman, born Essex c.1826-1879, of Mort Street, St Kilda, emigrated from London on board the *Negotiator* arriving in Melbourne in June 1857. Josiah has been variously described as a wheelwright or coachbuilder, the relevant business being situated at 144 High Street, St Kilda, in 1867.
- <sup>3</sup> *Victoria Police Gazette*, 6 December 1866, p. 447.
- <sup>4</sup> *Victoria Police Gazette*, 4 April 1867, p. 135. Detective Charles Black, No. 83, and Detective John Williams, No. 1298. Both were 1st class detectives and were awarded \$5 each 'in acknowledgement of their services in the arrest and prosecution of Jacob Isaacs, sentenced to 2 years imprisonment for feloniously receiving stolen property'. The practice of issuing such rewards in Victoria ceased in January, 1874.
- <sup>5</sup> Jacob Andrade Isaacs was born in London, c.1831, the son of Jewish parents, Israel Isaacs and Rachel, formerly Andrade. He immigrated initially to Adelaide where he kept a chemist's shop. Later in Victoria, possibly in 1861, he became a licensed victualler at the Foundry Hotel, King Street, Melbourne, becoming insolvent in that year. The licence for the Foundry Hotel passed to Patrick King on 4 September 1861. Subsequently, Jacob Isaacs disappears from the Melbourne Directories until 1867 during which time he may have gone to New Zealand. In 1867, he is first listed as a pawnbroker, at 108 Lonsdale Street East, occupying premises with W.T. Griffiths, watchmaker and jeweller. Isaacs next appears in 1873 as licensee of the Star Hotel, corner Swanston and Little Bourke Streets, Melbourne. He died on 25 August 1876 while in occupation of the Newmarket Hotel in Flemington, leaving a spouse, Agnes, formerly Hart, and a number of young children in impoverished circumstances.
- <sup>6</sup> *Argus*, 1 December 1866, p. 6; *Prabran Telegraph*, 1 December 1866, p. 2.
- <sup>7</sup> *Argus*, 12 October 1868, p. 5. A sign of the three golden balls, used in Melbourne, and indicative of a pawnbroker's premises, was stolen and affixed to the Victorian Treasury Building in Spring Street, at a time when the McCulloch government, unable to obtain supply, predicted financial disaster for the state. This sign was the property of Mr. Marks, pawnbroker and moneylender of Collins Street. It was returned to him.
- <sup>8</sup> Seven shillings and six pence (75 cents.)
- <sup>9</sup> *Age*, 16 February 1867, p. 6; *Argus*, 16 February 1867, p. 6.
- <sup>10</sup> *Argus*, 19 February 1867, p. 6.
- <sup>11</sup> No evidence of his incarceration or release from prison was found in the *Victoria Police Gazette*. No alias has been recorded. No full transcript of his trial in Criminal Sessions, the intermediate criminal court, has survived in the Victorian Archives, nor indeed evidence of a possible appeal to the Supreme Court of Victoria. The Supreme Court lists and indices of the newspapers contain no evidence of such an appeal despite a search of some years. The Index to the Registers of Prisoners held in Victorian Penal Establishments does not contain an entry for Jacob Andrade Isaacs. As he was sentenced in 1867, the relevant Register containing photographs and personal descriptions, with listings of the crimes committed, consequent sentences and details of release, is PROV VPRS 515 Unit 11. This has been indexed. The actual Register has since been withdrawn from public use because of the need for conservation. Therefore, at present, there is no way of checking a possible omission from the Index. Jacob Andrade Isaacs is not listed in the Melbourne Directories from 1868 to 1872 inclusive.
- <sup>12</sup> *Argus*, 28 February 1868, p. 6.

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# MISDESCRIPTION AT AUCTION: WHOSE RESPONSIBILITY?

David St L. Kelly and Helen J. Kelly

## 1 AUCTIONEER'S CONDITIONS: THE FINAL WORD ON MISDESCRIPTION?

Auctions constitute a valuable source of items for collectors of, and dealers in, all forms of Australian. In most cases, sales by auction are completed without any question arising about the accuracy of the description (including any provenance) provided by the auctioneer in relation to the relevant item.<sup>1</sup> In the infrequent cases when that question does arise, it is important for both auctioneer and buyer to know what their legal rights are.<sup>2</sup>

Their first port of call is likely to be the auctioneer's Auction Conditions—a set of conditions that claim to govern the auction. These are regularly contained in the auctioneer's catalogue for the relevant sale, or (much less frequently) posted conspicuously somewhere in the auction rooms.<sup>3</sup> Unfortunately, these conditions can often mislead both parties about their rights. While many people think that they govern the parties' rights, that is simply not correct. The purpose of this article is explain why that is so, and to explain what the rights of auctioneer and buyer actually are in respect of misdescription at auction.<sup>4</sup>

## 2 AUCTION CONDITIONS INEFFECTIVE UNDER THE TRADE PRACTICES ACT

Auction Conditions regularly deal with the issue of misdescription by seeking to absolve the auctioneer from all responsibility for it, and by imposing on the buyer the obligation to inspect the item and ensure that it is true to the auctioneer's description.

So, for example:

Neither the auctioneer nor the seller shall be responsible for any defects or faults in any lot or for any errors of description or for genuineness or authenticity of any lot and no compensation shall be paid in respect of same.

And again:

All lots are open to inspection prior to sale and sold with faults if any. No errors or misdescriptions shall annul that sale, and the purchaser shall be bound to take delivery of the goods sold without allowance or diminishing in price.

And finally:

You undertake to inspect and satisfy yourself before sale as to the condition and description of the lot, to rely on your own judgment as to whether the lot accords with the description; and to seek any independent advice

reasonable in light of your particular expertise and the value of the lot to satisfy yourself as to the authorship, attribution, authenticity, genuineness, origin, date, age, provenance or condition of the lot.

Before the passing of the Commonwealth's *Trade Practices Act* in 1974, these and similar conditions would probably have governed the relevant auction sales. However, we believe that they are now ineffective in relation to most sales by auction. The reason is that they are inconsistent with the Commonwealth *Act*.

First, a combination of sections 74 and 68 of that *Act* makes them ineffective in so far as they attempt to exclude liability for *negligent* misdescriptions. Secondly, section 52 makes them ineffective in relation to *all* misdescriptions, whether negligent or not.

Although section 74 applies only in relation to 'consumers', that term is defined very widely in the *Act*, covering many services supplied to businesses as well as those supplied to consumers in the narrow sense. Services are covered if they are either:

- of a type that are normally acquired for personal, domestic or household use or consumption; or
- they are acquired for a consideration (i.e. price) that is no more than \$40,000.<sup>5</sup>

On the latter basis, most transactions at auction are covered by section 74. If a sale is for more than \$40,000, it is excluded from the operation of the relevant sections. Any other sale is covered. Whether the buyer is a dealer or simply a private collector is irrelevant.

Unlike section 74, section 52 is not specifically limited to consumers. Although it appears in a Part of the *Act* headed 'Consumer Protection', it is now widely accepted that that heading does not have the effect of limiting its application to consumers. It is one of the mainstays of the protection for businesses that is provided under the *Trade Practices Act*.

## 3 TRADE PRACTICES ACT MAKES AUCTIONEERS RESPONSIBLE FOR NEGLIGENT MISDESCRIPTION

Section 74 implies into a contract for the supply of services to a consumer a warranty (i.e. a contractually enforceable promise) by the supplier.<sup>6</sup> The warranty is that the services will be rendered with due care and skill.<sup>7</sup> There is clearly a contract between the auctioneer and the buyer for the supply of services to the buyer.<sup>8</sup> The relatively recent practice under which auctioneers charge buyers as well as vendors a commission simply reinforces that view. The services provided under the

contract presumably include the provision of a description of the item bought. If that is so, the warranty implied into contracts by section 74 of the *Trade Practices Act* is implied into the contract between auctioneer and buyer.

So, if an auctioneer negligently misdescribes an item, it is in breach of the warranty implied by section 74. Under section 68, the parties cannot contract out of section 74. Consequently, the Auction Conditions do not affect the matter.

That does not automatically mean that the buyer can successfully sue a negligent auctioneer. That depends on whether the buyer has suffered any loss and on whether the negligence caused that loss. If the buyer is experienced in the relevant area, and relied on his or her own judgment *instead of* the auctioneer's misdescription, the auctioneer will not be liable. However, if the buyer is experienced in the relevant area, but relied on the auctioneer's description *as well as* his or her own judgment, the auctioneer will be liable. The issue is simply one of causation, not of the buyer's experience. If the auctioneer's negligence caused the buyer loss, the auctioneer will be liable. Nothing in the Auction Conditions that denies that liability will be effective.

The Auction Conditions of some larger auction houses recognise this precedence of section 74 over Auction Conditions. However, they do so only indirectly, and in surprisingly uninformative language. For example:

implied warranties are excluded (save insofar as such obligations cannot be excluded by statute).<sup>9</sup>

The best that can be said for conditions of that type is that they do nothing to inform auctioneers and buyers of their rights. They obscure rights rather than communicate them. They do little to help the parties to resolve a dispute over misdescription.

#### **4 TRADE PRACTICES ACT MAKES AUCTIONEERS RESPONSIBLE FOR ALL MISDESCRIPTIONS, WHETHER NEGLIGENT OR NOT**

Section 52 goes much further than section 74. It has a quite profound, and rarely recognised, effect on Auction Conditions. In particular, it applies to all misdescriptions, whether they are negligent or not.

Section 52 prohibits conduct that is misleading or deceptive or is likely to mislead or deceive. An auctioneer may be in breach of this section even if it has acted honestly, in good faith, and without negligence.<sup>10</sup> It is the effect of the conduct on those affected by it that is the focus of the section. If a description is wrong, it is misleading or deceptive. And that is that.

As in the case of section 74, it does not automatically follow that the buyer can successfully sue the auctioneer. That depends on whether the buyer has suffered any loss and on whether the misdescription caused that loss. If the buyer is experienced in the relevant area, and relied on his or her own judgment *instead of* the auctioneer's misdescription, the auctioneer will not be liable. However, if the buyer is experienced in the relevant area, but relied on the auctioneer's description *as well as* his or her own judgment, the auctioneer will be liable. The issue is simply one of causation, not of the

buyer's experience. If the auctioneer's negligence caused the buyer loss, the auctioneer will be liable. Nothing in the Auction Conditions that denies that liability will be effective.<sup>11</sup>

For completeness, we must note the possibility that an auctioneer might be able to limit the effect of section 52 in relation to misdescriptions by clearly indicating that, in describing items offered for sale, it is only offering an 'opinion' on those items and is not claiming that its opinions are accurate; and that it is up to the buyer to make up his or her own mind on the accuracy of the description provided. The argument is that, in offering an opinion, all that the auctioneer is saying is that it holds the particular opinion. It is not saying that its opinion is accurate. If the opinion is, in fact, inaccurate, the auctioneer is not guilty of misleading conduct because its only claim is that it holds the relevant opinion—which it did!<sup>12</sup>

To make a strategem like this effective, the auctioneer might have to make it embarrassingly clear that its descriptions should not be relied on.<sup>13</sup> There are strong commercial reasons for not doing so. Moreover, we doubt whether that strategem would cut much ice in a court of law, particularly in the case of a leading auction house that claims expertise in the relevant area. The auctioneer is not offering its opinion for nothing; and it knows that, in most cases, bidders will rely on its 'opinions' to a greater or lesser extent. And even the offering of a mere 'opinion' surely impliedly asserts that the auctioneer has the necessary knowledge and experience to put the opinion forward, as well as reasonable grounds for that opinion and for putting it forward. Why else would the auctioneer express it?

To be fair, some Auction Conditions deal with the issue of misdescription in a much more sophisticated way than by simply denying responsibility. In some cases, they indicate a willingness to accept responsibility for misdescriptions. However, the qualifications that are attached to that recognition of responsibility may themselves be inconsistent with section 52. For example, a promise to take back items that have been misdescribed provided the buyer can meet certain conditions is simply ineffective. Under section 52, there are no conditions, except satisfaction of the section itself.

The Auction Conditions recently used by one leading auction house, for example, accept responsibility to make a refund for what they describe as 'counterfeits' (in the auctioneer's opinion, deliberate modern forgeries, post-1870). But they do so only if certain conditions are met. These include the buyer:

- notifying the auctioneer within five years
- returning the lot in the same condition
- being able to transfer title back to the auctioneer without any third party claim
- obtaining, if the auctioneer requests it, two independent expert opinions that the item is counterfeit.

Moreover, the Conditions state that there will be no refund if the catalogue description was in accordance with the general opinion of scholars at the time of the sale, or if the catalogue indicated that there was a conflict of opinions; or if the fact that the item is counterfeit can only be established by processes that were unavailable or unreasonably expensive at the time of the sale.

Subject to the 'opinion' possibility discussed earlier, these limitations are inconsistent with section 52, and are to that extent ineffective.

## 5 AUCTIONEERS SHOULD REVIEW THEIR AUCTION CONDITIONS

If our reasoning is correct, neither auctioneers nor buyers can confidently rely on Auction Conditions as a source of their rights in relation to misdescription<sup>14</sup> at auction. Most cases of misdescription are governed by the *Trade Practices Act* rather than by Auction Conditions. Subject to the qualifications outlined in this article, an auctioneer is responsible for a misdescription, and a buyer who relies to his or her detriment on that misdescription may have remedies under the *Act*, including a right to a refund of the price paid, and in some cases damages.

In writing this article, we are, of course, not giving legal advice, either to auctioneers or to buyers. But auctioneers might profitably ask their lawyers to consider the effect of the *Trade Practices Act* and to advise them on any changes that seem desirable to their existing Auction Conditions. No one benefits from widespread misdescriptions of the rights of the parties to an auction transaction.

And there is another, hopefully more compelling, reason why auctioneers should review their auction conditions in relation to misdescription. The inclusion in a catalogue or notice of at least some of the Auction Conditions considered in this article may itself be a breach of the *Act*. Section 53 (g) specifically forbids the making of:

a false or misleading representation concerning the existence, exclusion or effect of any condition, warranty, guarantee, right or remedy.

As we have pointed out, some of the passages quoted in this article do precisely that.

## 6 OTHER ISSUES DESERVE CONSIDERATION

This article has dealt with only one of the main legal problems that arise from auction sales. Other issues abound, including:

- the sale by auctioneers of items they own or in which they have an interest
- vendor bidding either by the vendor or his or her agent or by the auctioneer on behalf of the vendor.<sup>15</sup>

The first gives rise to obvious conflicts of interest that can only be resolved by either discontinuance of the practice or full disclosure at auction. It is difficult to reconcile with section 52 of the *Trade Practices Act*, particularly if the auctioneer claims that the auction items are being sold 'under the instructions of various estates and other vendors'.<sup>16</sup>

The second is clearly a problem in the same context. It is worth noting that, in relation to auctions of real estate, there is a Bill before the Victorian Parliament that would ban vendor bidding except through the auctioneer.<sup>17</sup> Vendor bidding through the auctioneer would have to be disclosed as such at the auction. The *Trade Practices Act* may already impliedly

require some form of disclosure in relation to auction sales of other property as well. Whether that is so or not, we suspect that State and Territorial legislation may eventually follow the Victorian model, and apply it to all forms of property. We leave these and similar issues for consideration in a later article.

DAVID St.L. Kelly and Helen J. Kelly are proprietors of Colonial Hill Antiques in Richmond, Victoria. As dealers, they are liable for any misdescription by them of the goods they sell if that misdescription causes a buyer loss. They believe that is a sufficient protection for any buyer.

## Notes

- <sup>1</sup> That does not necessarily mean that the auctioneer's description was correct. Some buyers remain ignorant of misdescriptions. Others buy on the basis of their own knowledge and disregard known misdescriptions.
- <sup>2</sup> Fortunately, problems are often resolved between buyer and auctioneer without either appealing to strict legal rights. But that is by no means always the case.
- <sup>3</sup> In one recent case, the conditions posted in the auction room were different from those in the catalogue!
- <sup>4</sup> We use 'misdescription' to cover misdescription in a catalogue as well as oral misdescription before the sale is completed. We also use it to cover an inaccurate provenance as well as misdescription of the item itself. In the case of provenance, in particular, the auctioneer may well rely on what it is told by the vendor. If an auctioneer incurs a liability in respect of misdescription of provenance, it may have rights against the vendor. We do not deal with that issue in this article.
- <sup>5</sup> Section 4B.
- <sup>6</sup> As widely defined by the *Act*.
- <sup>7</sup> There is an ancillary warranty as well, but it is not relevant to the present discussion.
- <sup>8</sup> Because the auctioneer is the agent of the vendor, the contract of sale itself is not between the auctioneer and the buyer, but between the vendor and the buyer.
- <sup>9</sup> The wording is seriously awry. Even preserving its archaic language, the parenthesis should read: '(save in so far as, by statute, such obligations cannot be excluded)'.
- <sup>10</sup> See Heydon, *Trade Practices Law*, 5531.
- <sup>11</sup> As, for example, where the buyer is uncertain about whether a chair is made of cedar or of mahogany, and relies on the auctioneer's description to resolve the uncertainty; or relies on an extensive but erroneous provenance provided by the auctioneer to dismiss from his or her mind the possibility that the chair was made recently rather than 100 years ago.
- <sup>12</sup> The argument is based—rather optimistically, in our view—on comments in the *Leisure Industries Case* (1991) 28 FCR 151 at 167.
- <sup>13</sup> It has been said (see Heydon, *Trade Practices Act*, 5675-6) that the 'disclaimer' could not be just in the 'fine print', and would have to be as prominent as the misdescription—a condition certainly not fulfilled in the case of auction conditions we are familiar with.
- <sup>14</sup> Again, we use 'misdescription at auction' to cover misdescription in a catalogue as well as oral misdescription before the sale is completed. We also use it to cover an inaccurate provenance as well as misdescription of the item itself.
- <sup>15</sup> Some leading auctioneers specifically prohibit bidding for the vendor, except by the auctioneer.
- <sup>16</sup> The auctioneer can hardly claim to have instructed itself!
- <sup>17</sup> *Estate Agents and Sale of Land Acts (Amendment) Bill 2002*.



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# THE SOBRAON WONDER BERNARD BEDE (BARNEY) KIERAN

Laurie Fromholtz

The centenary of the death of this great, but little known, Australian will be marked on 22 December 2005. At the time of his death, aged 19, he held every world swimming record from 200yds yards to one mile.

Born in Sydney, on 6 October 1886, Barney was raised in Cumberland Street in Sydney's Rocks area. His father Patrick was a sea captain who was accidentally killed at sea in 1891, and his mother Annie was left to raise six small children. She married again to Matthew Conlan, bearing five more children to that marriage. With Matthew often away at sea, thirteen-year-old Barney, who was keeping some unsatisfactory company, became too much of a handful for Annie. In 1900 she had him committed to the nautical school ship *Sobraon*, provided by the NSW Education Department as a home for the growing band of homeless boys in the Great Depression of the nineties.

Prior to its purchase by the Government, the *Sobraon* had a colourful history as one of the finest sailing ships to ply between England and Australia. As long as a football field, she carried over half a hectare of sail and held numerous speed records. The *Sobraon* outlasted her peers and competed for many years in the steam age.

Much inaccurate information has been written about this wonderful ship, often claimed to be a reformatory with criminals aboard and surrounded by an air of dark secrets. Nothing could be further from the truth. This proud ship was a home and alma mater to 4,000 boys between 1891 and 1911 and encouraged achievement and manly values, by well-being and a unique form of discipline. The boys were divided into classes and as achievement and behaviour advanced them, their privileges were extended. Similarly, a fall from grace was accompanied by loss of privilege. Barney moved through the classes to become head boy, in which position he played an important role in the running of the ship.

Education was provided in a well-equipped schoolroom and boys were encouraged in sport. Good facilities existed on shore at Cockatoo Island where the ship was permanently at anchor.

The ship had a military band of considerable quality, which often played in the public arena.

Boys were taught nautical skills and taught a trade to equip them for later life. Barney chose carpentry and his later employment may have been in the Department's furniture workshops.

Swimming was an important sport on the *Sobraon* with a good pool provided ashore. Barney's skills in this sport were quickly noticed. He was coached by Officer W. Hilton Mitchell and later came to the notice of Australian freestyle champion Bob Craig, who enrolled him in his own club, Mort's Dock, and almost immediately his fabulous career began. In 1904, in his first major race, the 440 yard championship of NSW, he swam second to Dick Cavill (1884-1938), outstanding distance racer even at world standard, with rising star Harold Baker third. This performance took the swimming world by storm, as there was a prospect of real competition for Cavill.

Swimming in those days was an exciting new sport and the venues, usually tidal pools, were mainly provided by entrepreneurs, and supported by amateur swimming clubs, whose carnivals were well publicised and colourful including considerable entertainment. There were novelty events and bands often provided good quality music. The *Sobraon* band often featured at these meetings. There was usually a feature race, being a State or Australian Championship at some distance and there was a huge interest in the times—the crowd, as they are now, hungry for records. Kieran was to attract such interest that crowds were greatly enhanced and following of the sport was intensified. By the end of the 1903/04 season Barney was Australian champion at 880 yards and one mile.

The 1904/05 season saw him add wins at 200 yards, 220 yards, 300 yards, 440 yards, 500 yards and 1000 yards.

In October 1904 Barney completed his period on the *Sobraon* and went to live with his family who had relocated to North Sydney. He continued to swim for the *Sobraon* Club, which had been newly formed due mainly to his influence, completing the 1904/05 season, when he joined the North Sydney Club.

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### Provenance:

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Bonhams, London, June 1986, Lot 83  
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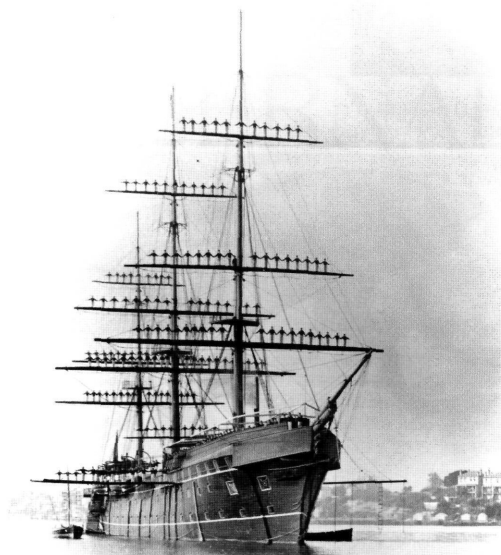
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Jack Spurling (1871-1933), *Sobraon*. Mitchell Library, Sydney.





*Sobraon* - Boys in the Rigging, from a contact print of the original large glass negatives from the Government Printer's Office collection, now housed in the Mitchell Library.

A move initiated by the North Sydney Swimming Club won the patronage of the NSW Amateur Swimming Association and the Royal Lifesaving Association. The proposal was to send

Kieran to England and Europe to contest various renowned events. An earlier tour in 1902 by Dick Cavill, Freddie Lane and George Read had met with great success.

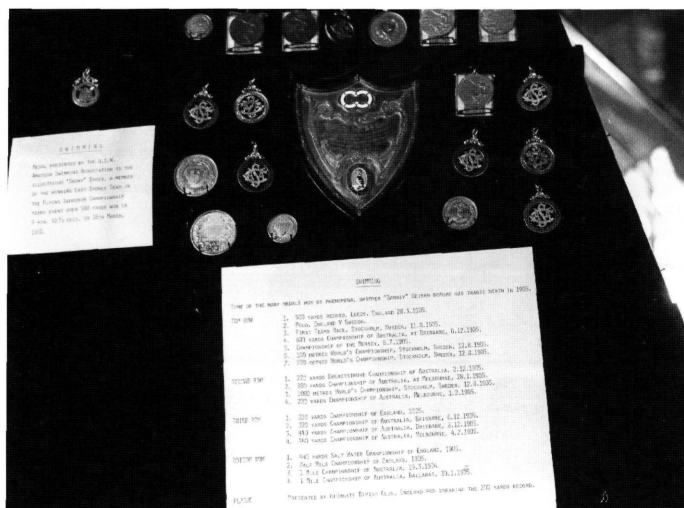
Barney's friend, advisor and ex-teacher from the *Sobraon*, Hilton Mitchell, was elected to accompany him on this tour. The impending visit attracted some English media speculation that Kieran's times would not stand up under English conditions. Despite the long sea journey and lack of training Barney proceeded to win many events and to set new records.

He had substantial competition in England with outstanding distance swimmer Dave Billington being his main rival. He competed in 19 major events between 26 June and 27 September in England, Ireland and Sweden, winning 14 of them. Distances ranged from 100 metres (Stockholm) to a long distance race from Kew to Putney. In the process he set four English records and three world records. His defeats were at the beginning of the tour while he was out of training.

On the day after his nineteenth birthday Barney was elected (in absentia) Captain of the North Sydney Swimming Club. He arrived back in Australia on 22 November 1905, having left England on 6 October and once again, deprived of fitness and training faced the 1905/06 Australian swimming season.

At this stage he held every world record between 200 yards and one mile except Freddie Lane's record for 220 yards, which they shared.

Kieran made an historic statement at this time 'I was sent to England to do my best for not only the State, but the whole of Australia, and I did my best.' In these early days of federation the word 'colony' was still being used and it was unusual to refer to the state, let alone Australia. Kieran was a very modest, taciturn young man and asked Hilton Mitchell to deliver this



Some of the trophies now held at the Sports Hall of Champions, NSW Sports Centre, Homebush Bay.

statement on his behalf at an East Sydney carnival, at which he observed with pleasure his old trainer Bob Craig win the 300 yards championship of New South Wales.

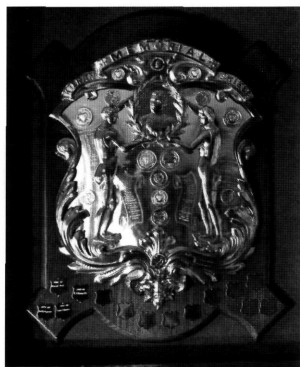
Next, Barney was to compete in the Australasian Championships in Brisbane. At this event he was to break the record for 220 yards giving him the last of the distance records. He now held every world record from 200 yards to one mile, making him unquestionably the greatest swimmer in the world. He also won the 440 yards championship, the 220 yards breaststroke and the 880 yards championship. Following his 220 yard record-breaking swim on 8 December, he became ill and was unable to compete in the mile championship. He was admitted to hospital and operated on for appendicitis next day. While appearing to be recovering well, he suffered a relapse on 21 December and at 10.40 p.m. on Friday 22 December 1905 he died.

An inexpressible sadness gripped the nation and large crowds of mourners and officials met the train conveying his body home at Ipswich, Toowoomba, Newcastle and Redfern.

On 26 December 1905, after a short service at his home at 20 Burton St, North Sydney, his cortege proceeded to Gore Hill Cemetery, led by the *Sobraon* band and followed by 300 representatives of sporting organisations, friends and relatives. For the whole four kilometres crowds lined the streets despite the very hot weather and then followed on to the cemetery where an estimated 30,000 people surrounded the graveside and cemetery.

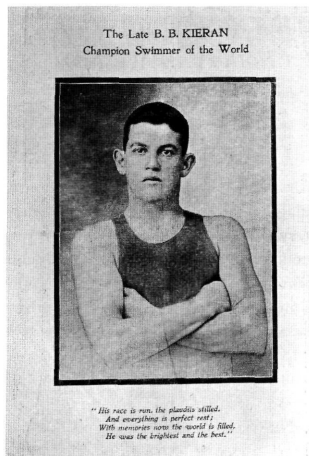
On 19 August 1906 a monument was dedicated over Barney's grave on which was inscribed in part 'Bernard Bede Kieran, Champion Swimmer of the World'. This monument has recently been restored by a dedicated group of admirers after being badly vandalised.

The memory of this fine Australian dimmed and has been forgotten by most, although his name is occasionally remembered with the presentation of the Kieran Shield awarded to the State with the greatest number of firsts at the Australian Championships each year. His exploits are recognised in the New South Wales Hall of Champions, the International Swimming Hall of Fame in Florida and at the Sydney Aquatic Centre at Homebush.

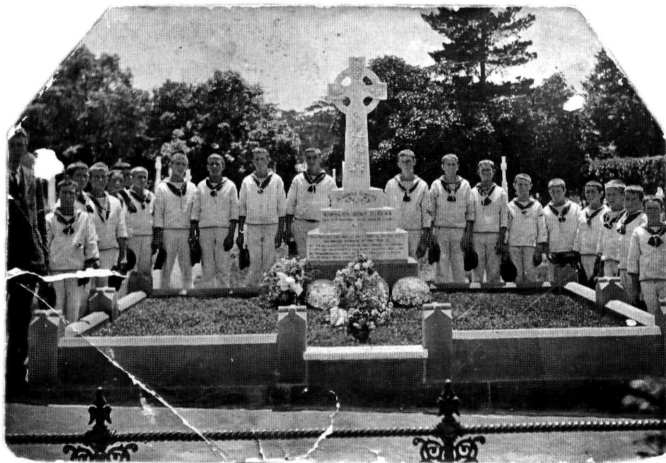


Memorial Shield - replica held at North Sydney Olympic Pool.

This article is drawn from the book by Laurie Fromholtz, *The Sobraon Wonder—A biography of Bernard Bede (Barney) Kieran*. ISBN 0 646 05192 x and ISBN 0 646 05341 8 (pbk).



Champion Swimmer of the World. Taken from a carnival program, this captures his character best.



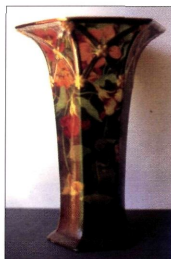
Dedication of the Monument. A copy of the damaged print held by an elderly member of the North Sydney Swimming Club.

# COMMERCIAL ART POTTERY IN WESTERN AUSTRALIA 1920s-1960s

Dorothy Erickson



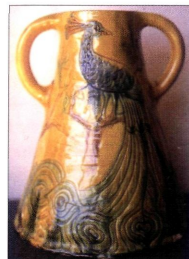
Flora Landells (1888-1981), *Glasgow Rose bowl*, c. 1914, china painting. Private collection.



Flora Landells (1888-1981), *Nasturtium vase*, c. 1920s china painting. Private collection.



Flora Landells (1888-1981), *Sturt's Desert Pea teapot*, 1920s, china painting. National Gallery of Australia.



Flora Landells (1888-1981), *Peacock vase*, 1930s, handbuilt and glazed. Private collection.

*Before and after World War II, commercial art potteries sprang up in Western Australia, in part supplying substitutes for imports disrupted by war in Europe and Asia. Four small potteries are dealt with here, while the large industrial potteries were covered in an earlier article, 'Industrial Art Pottery in Western Australia', Australiana vol. 24 no. 1, November 2002.*

Pottery as such was not taught in the art department of the Perth Technical School until after World War II. Those in Western Australia who found clay modelling interesting and wished to be potters had to find other ways of acquiring the knowledge.

In the late 1920s Flora Landells learnt wheel throwing from Frederick Piercy in his factory (by then H.L. Brisbane & Co) and the situation was not much better by the 1950s. Potter and teacher John Fawcett learnt throwing from Grenville Courtland in his factory. In between, those who wished to pot learnt any way they could. Flora taught some at her Maylands School of Art and at various secondary schools, while members of the West Australian Women Painters and Applied Arts Society (later called the WA Women's Society of Fine Arts and Crafts) taught other members in their clubrooms.

In 1949 however, classes began at Fremantle Technical School under the tutelage of Erna Manners, a former employee of Poole Pottery in Dorset, who was followed in the 1950s by Francis Kotai from Hungary, Heather McSwain from Swinbourne and Bruno Guigliarelli from Italy. Their students were more interested in self-expression than commercial concerns.

Those who made their living as artist-potters were few. Flora Landells continued as painter, teacher and potter. Post WWII, returned serviceman Guy Grey Smith, who had trained in art school in England, entered the field, while Jean Darbyshire, the Kohlers and the Barker/Leach group at Narrogin pursued more commercial aims. This is the story of Flora Landells and the three commercial concerns.



### LANDELLS' POTTERY (1920S-1960)

In the 1920s, under the influence of A.B. Webb and others, the Perth art world had shown an interest in what is now known as Modernism. The community was aware that artists were in the vanguard of industrial reform, applying artistic principles to utilitarian objects.<sup>1</sup> At the same time studio pottery became popular in Europe and much space had been devoted to it at the 1925 exhibition in Paris. It was in such a climate that the Landells Pottery came into being.

Flora (*née* Le Cornu, 1888-1981) and her husband Reginald Landells set up one of the first completely self-sufficient studio potteries in Australia. The Landells not only made all their own clays and glazes but fired in their own kilns. The Great Depression soon after they started was followed by World War II. Although this curtailed the making of some artwares, it gave the Landells the opportunity to make utilitarian wares. They moved into industrial techniques to supply the market for domestic china during the war years. However we may view their work today, the practitioners of the time saw their work as modern. Like many other Western Australians in the art world, Flora was an avid reader of the international magazines.<sup>2</sup> Isolation in this way had the effect of ensuring a broad knowledge of what was happening in the world. In the mid 1930s the celebration of the centenary of the birth of William Morris and the arrival of some medieval pots at the Art Gallery of WA had traceable results, but by far the greatest influence was the studio pottery movement in France and the incised surfaces used by members of this movement.

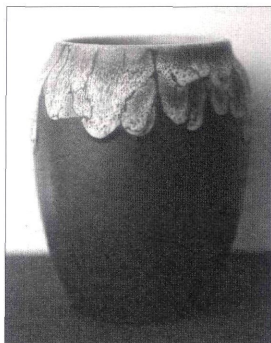
Flora, a painter, china painter and teacher was an early graduate of Perth Technical School. She taught privately from 1906, and in 1909 started the art department at Midland Technical School. She married Reginald Landells, an industrial chemist, in 1911 and in 1925 set up her Maylands School of Art. She was an influential teacher and role model to several generations. The exercises in the private classes mirrored those she taught in the Techs. In her own practice, Flora dominated

art ceramics in Western Australia until 1960 when, following her husband's death, she ceased potting and concentrated on china painting. With a career that spanned nearly 80 years, she taught three generations of Western Australians. Although denigrated by the New Wave potters of the 1970s and 1980s, Landells remains a most important and influential teacher.

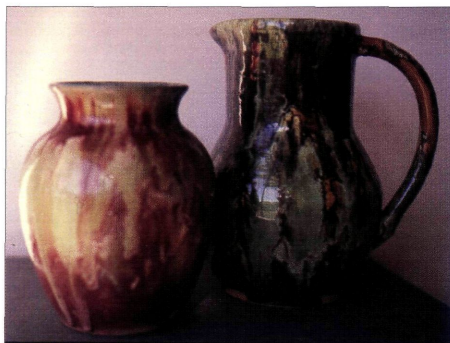
The combination of Reg and Flora Landells was fortuitous—the chemist-engineer with the artist—the perfect foils for each other in pioneering such a venture. Most of what they used, such as the minerals feldspar and quartz, was sourced in Western Australia. Clay was dug from pits at Kalamunda, Collie, Pinjarra or Popanyinning. They left it to weather in heaps beside the studio. Special samples were stored in bags under the studio until Reg prepared the clay in the crusher, rollers and filter press. He then wedged it and undertook some throwing and glazing. He developed glazes to suit their high firing temperatures of 1100°.

The Landells had acquired some of the equipment of the failed Calyx Porcelain Works. This Reg recycled for their use, building a blunger, clay crusher, pug mill and filter press. He made power-driven pottery wheels and a huge walk-in kiln which was wood fired. He then built a smaller oil-fired kiln for more frequent use, as the large kiln took months to fill.<sup>3</sup>

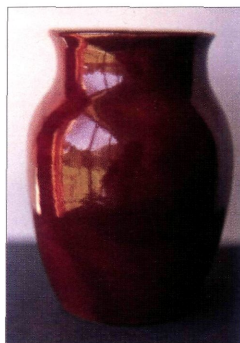
The pottery grew, becoming an essential industry during World War II when Landells changed the major thrust of her work from hand-built art-works to jigger and jolly slip-cast ware. The War cut off supplies of imported china, and for the duration their production changed from unique pieces to a mass market range for Harris Scarfe & Sandover. These were simple utilitarian wares of a modern shape coloured with slip. The plain glazing was a joint affair; the National Gallery of Australia has a set of six cups and saucers of this ware. Following WW II, the Landells interest in Chinese ceramics saw plainer works glazed with red *sang-de-boeuf* and simpler colour schemes.



Landells Pottery, wheel thrown pottery with blue glaze, 1951. Private collection.



Landells Pottery, wheel thrown pottery, 1950s. Private collection.



Landells Pottery, wheel thrown pottery with red *sang-de-boeuf* glaze, 1950s. Private collection.



Flora Landells setting up a display at the Maylands School of Art, 1930s.



Flora Landells' display at Maylands School of Art, 1930

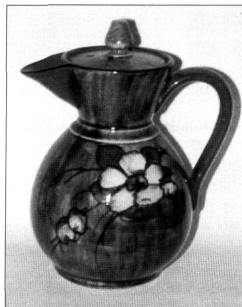
#### NARROGIN POTTERIES (ACTIVE 1924-C. 1929)

Less successful were the Narrogin Potteries set up in the 1920s by the Leach sisters Harriet and Maude from Leeds, Yorkshire and their husbands Alan Bednall and John Barker.<sup>3</sup> The Leach girls were trained decorators brought up by their uncle Harold Leach at his Burmantofts Pottery, Leeds. It is thought a legacy was used to fund the venture. They were attracted to the inland town of Narrogin by deposits of kaolin at nearby Popanyinning. However problems of an undeveloped market structure, competitive imports and the onset of the Depression exacerbated problems within the family group and the venture ended after about five years.

The best known of the group is John Barker who was born 1867 in Yorkshire, eldest son of a bankrupt agricultural machinery dealer. He was educated at the Primitive Methodist Jubilee School Elmfield, York. Apprenticed in 1884 to John W. Knowles, a glass painter and decorator of churches, he worked as a glass painter and decorator and studied at York School of Art in the 1890s. In 1893 he married seventeen-year-old Maud Leach (b. 1876). At this time he was recorded as a 'Pottery artist of Hunslet, Leeds' where he was working for her uncle. They had two sons, Leolin (Leo) born 1895 and John Leach born 1897 (known as Leach). John senior earned his living as a broad-based professional potter, painter, art



John Barker (1867-1943).



Jug featuring Alexandria Rose design by the Barkers, made in England. Private collection, photograph courtesy Helen Ross.



John Barker, vase with moonlight and trees, made in England. Private collection, photograph courtesy Helen Ross.



Narrogin Potteries, jug with cat and 'I cum from Narrogin' jug, 1924-29. Narrogin Museum.

teacher in Leeds, Derbyshire, Burton-on-Trent and Torquay until 1924. In Torquay he worked at the Ulla Vale Pottery and then was designer-manager at Watcombe Pottery. In 1914 he had attempted to set up his own pottery Torvale but World War I ruined that effort. He was then involved with setting up a Devon souvenir pottery with decoration known as *scandi*. His work at Narrogin had echoes of this. Barker had a reputation as an excellent glaze technician.

Both sons served in World War I and took returned servicemen's packages to emigrate to Western Australia about 1922. Leo was in Narrogin. Nearby at Popanyinning were good kaolin deposits, which had been identified in Government research undertaken by the Geological Survey in 1917. The economy was poor in England in 1924 and the senior Barkers decided to join the sons. Maud's sister Harriet Leach had married Alan Bednall. The Bednalls and Leo Barker set up the pottery as a company. The prospectus announced 'The Company is fortunate in securing the services of two such fine craftsmen as Messrs Barker Senior and Junior. They are noted for many original designs they have created including the now world famous "Alexandra Rose"'. The Barkers arrived in Australia in 1924 and went to Narrogin on 24 September 1924 to join Leo and the Bednalls.

John Barker was a typical turn-of-the-century artist willing or able to

undertake any type of decorative art. Tall, straight-sided jugs humorously decorated with cats and the inscription 'I cum from Narrogin' were illustrated in the catalogue of his retrospective; another exhibited had 'Never say die, up man and try'.

Following the Wall Street crash, with friction within the family, the short-lived venture failed. Barker then painted and taught pottery and drawing. They moved to Albany in 1929 to stay with Leo and his wife Maree. He concentrated on painting and teaching painting, exhibiting with the Perth Society of Artists. Articles from the pottery are in the collection of the Narrogin Museum.



Darbyshire display in Levinsons' the jewellers in Perth in the 1950s.



Darbyshire display in Boan's department store in Perth, 1950s.

#### DARBYSHIRE POTTERIES (ACTIVE 1948-1959)

Jean Darbyshire *née* Elliott, daughter of Goldfields MLA Charles Elliott, was born in Kalgoorlie about 1900, where she grew up. Her father had managed a gold battery at Joodoorbie before going into politics and the family had many Aboriginal friends. This was to impact on her later work. The family was musical and artistic, and after schooling in Kalgoorlie she started work in the Mechanics' Institute Library in Kalgoorlie, then married an engineer in 1921. Jean and her husband moved to Perth in 1934 where in 1936 Jean studied pottery under Flora Landells. She met Squadron Leader Bill Darbyshire and was divorced from her husband. With the advent of War in





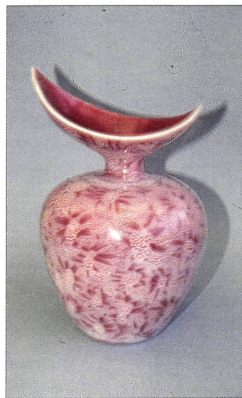
Darbyshire Aboriginal figure, 1950s. Private collection.



Darbyshire Aboriginal figure, 1950s. Private collection.



Darbyshire sculpture 1950s.  
Private collection.



Darbyshire vase, 1950s, Jean's  
favourite piece. Private collection.



Darbyshire orchid cruets 1950s. Private collection.



Kohler figurines. Private collection.



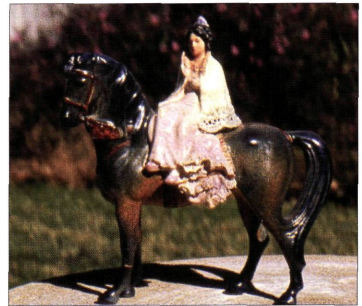
Angel vase by the Kohlers. Private collection.



Edward Kohler, beer jug, 1950s, slip cast. Private collection.



Kohlenware, bases of the two baskets marked *KS Kohler Statuary* and handwritten with Kohler 1955. The 1955 piece is presumed to be a test piece for Brisbane & Wunderlich. Collection Kathy Kohler.



Edward & Eileen Kohler, Spanish horse and rider figurine, 1950s. Collection Kathy Kohler.



Eileen Kohler (1906-1991), two flower baskets, 1950s, hand modelled. Collection Kathy Kohler.



the Pacific she joined the RAAF, becoming a Flight Lieutenant.

When they were demobbed she and Darbyshire decided to go into business for themselves. A short sculpture course from the Repatriation Department, some training as a modeller for a jewellery manufacturer, then shared workshops with other ex-service personnel quickly evolved into a large operation.

They actively set out to seek and utilise skilled migrants in their Darbyshire Pottery, which operated from 1948 to 1959. In 1948 they were quartered in 708 Wellington Street in Perth, employing ten staff casting, making moulds, glazing and colouring. The figurines and fancy goods were sold to agents in the eastern states who placed them in the large department stores and gift shops. The venture was so successful that in 1952 they moved to a new purpose-built factory at 17 Government Road, Innaloo making many varieties of salt and pepper shaker.

Jean was typical of the entrepreneurial spirit seen at the time in Western Australia. She learnt most of her slipcast techniques from books and proceeded with the help of violin maker Cyril Phillips, formerly head mould maker at Calyx. Her reference books included Rosenthal's *Pottery and Ceramics*, Lockrey's *Plastics in the School and Home Workshop and Plaster Casting for the Student Sculptor* by Victor Wager. Four electric kilns were purchased from Melbourne. Processed clay was bought by the ton from Brisbane & Wunderlich. Colours were sprayed on the pieces, then they were dipped in the clear glaze. Darbyshire developed her own glazes. Like the Wembley Ware producers they were making the most of post-war shortages, producing both decorative and functional items. Salt and pepper shakers in 60 styles were a staple item, modelled to resemble fruit, vegetables, animals and other exotic subjects. Aboriginal figurines were their best-known line. Other productions included the cartoonist Rigby's urchin, made and sold in all the West Australian football team colours and May Gibbs' gumnut babies, Snugglepot and Cuddlepie. There were some 30 types of animal ornaments.

Functional ware attracted only a low sales tax and was the major money-spinner. Ornaments had a high sales tax and went to a more exclusive market—95% of the work went to the eastern states and New Guinea. At one stage their work was displayed in five shopfronts along Bourke Street in Melbourne. In Perth work was sold at Levinson's, Boan's and Ahern's. Aboriginal sculptures, their most expensive line, sold much better in the eastern states than the west. In the east they had a full time agent, Arthur Fuhrman.

The standard of modelling was high as the firm employed postwar European migrants trained as artists, sculptors and ceramic technicians. The classically-trained Russian Schura Berusowski, more used to monumental sculpture, was there from 1948-c. 1951 and made the early Aboriginal figures. From 1952 the sculptor Bruno Guigliarelli modelled the Aboriginal figurines—rather different to the 75 metre statue of Mussolini he had been engaged on in Italy. He worked 3-4 nights a week for eight hours. Darbyshire, who had grown up with Aborigines, directed Guigliarelli when he was modelling the pieces. German

Stephan Ostaffi packed the kiln while his ceramics-trained wife Herta made the flowers for the salt cellars and vases, and trained other staff. Dudley North became a mould maker while another worker named Vera cast the salt shakers. Other employees were Dutch ceramic chemist Pia Shrikker, Frank Over, Wickie Duyker, Ratas—a Rumanian—and Frank Haldsdane, a commercial artist who modelled animals and abstract vases. A young Melbourne girl modelled the animal figurines and a young Czech woman the orchids. Boris Cunovas, a Russian ballet dancer with the WA Ballet, made moulds before going on to Wembley Ware.

Darbyshire was the production manager while her husband undertook the clerical side. Lines were made to order. The Aboriginal statuettes, wholesale price £8/1/3, sold particularly well in the eastern states. The Duke of Edinburgh, who was often in WA on bird watching trips, purchased a whole set. Large orders were undertaken for the Olympic Games in Melbourne in 1956.

Jean Darbyshire visited Japan in the early 1950s to study production methods. She was interested particularly in the Noritake factory and used this knowledge to increase her own output. The project foundered when Europe recovered from the War and commenced exporting again.<sup>5</sup> According to Darbyshire, the banks that underwrote the big shops and their European buyers insisted, to protect their interests, that no local work was to be purchased. Darbyshire's order books suddenly were empty and, heartbroken, they closed the venture in 1959. The factory employed 64 people at the time. Jean Darbyshire died in 1997.

Bruno Guigliarelli, who worked for Darbyshire, was born in Perugia, Italy in 1908. One school holidays, he went to the pottery of Gino Ciettia and while playing around made a bust of his father. The owner was impressed and wrote a letter of recommendation to a sculptor of note, Guiseppe Fraguelli. From there he went to the Fine Arts Academy at Perugia in 1930-31, studying under Pietro Vanucci and after graduation to work in Rome for another sculptor. In 1938 and 1939 he won awards for sculpture and received very many commissions. The Italian Government's 'per cent for art' scheme opened opportunities for many artists. He worked on the marble statues for Mussolini's Olympic Stadium in Rome, and was employed on a statue of Mussolini. War broke out and it was never finished. He made bas-reliefs for the Italian Government for the New York World's Fair in 1939 and the 1942 International Exhibition in Rome. The latter was destroyed by the Nazis and his career went into a decline.

He emigrated to Australia in 1949 and worked as a stonemason by day. Four nights a week, he worked as a modeller for Darbyshire Potteries from 1952-1959, modelling many Aboriginal sculptures. He was invited to teach clay modelling at Fremantle Technical School in 1958 and when the students discovered he was a sculptor this side of their work increased. He stayed for fifteen years until retiring in 1973. In 1970 he won a competition for a sculpture for Perth's Commonwealth Centre, his last major commission. In 1989 he was invited to exhibit at Fremantle Arts Centre with George



Haynes and Roy Churcher, in an exhibition which brought him late recognition. He said of his work 'The idea comes. Then slowly, slowly it develops from the subconscious, from the inner part of me.'<sup>6</sup>

#### KOHLERWARE (C. 1950 – C. 1964)

At this time too, another couple was making sculptural ceramics as a sideline. Edward and Eileen Kohler had worked for Ajax Plaster Works and were producing cast ceramic decorative wares and religious commissions. Edward Kohler (1890-1964) was a sculptor of note. His wife Eileen was trained at Perth Technical School under Linton and the dainty floral work is from her hand.

Edward Kohler was born in Queensland in 1890. He served in World War I, then trained as a sculptor at Lille Academy of Beaux Arts. He returned to Australia in 1932 and became the chief modeller for the Ajax Plaster Works. His works for buildings have almost all been destroyed although the bas relief wall for the Metro Cinema is to be found in a new nightclub location. He is best known for the large bronze equestrian statue of King George V erected in 1938 outside Brisbane City Hall in Queensland.<sup>7</sup>

After his retirement he undertook many ecclesiastical commissions, modelled samples for Brisbane & Wunderlich and set up a small production factory in their home in Gosnells. His wife's brother built two kilns in 1950. Kohler had been taught how to mould by Alf Horrocks at Ajax. One production range was of angel vases, others were equestrienne statues, Spanish ladies and delicate flower baskets.

Eileen Cook (Mrs Edward Kohler, 1906-1991) was the daughter of Dr Leigh Cook of Claremont. As the eldest daughter, Eileen was required to look after her delicate mother and sisters and could only attend Perth Technical School intermittently between 1924 and 1928. She took classes in Dress Cutting & Design, as well as art classes in Life Drawing, Light & Shade and Landscape. She earned her living as a commercial artist, primarily as an illustrator drawing advertisements for the jewellers Levinson's and Caris Bros and for Foy & Gibson's department store. She painted white furniture and wooden

objects with wildflowers for the tourist industry, and designed and screened curtain fabric. She later became 'Head of the Art Department' at Ajax Plaster Co before marrying the sculptor Edward Kohler who, after returning from Europe, became the head modeller at Ajax. After her marriage she made small clay models and figurines (in collaboration with her husband) as samples for Brisbane & Wunderlich and developed their Kohlerware range.<sup>8</sup>

These are the stories of the artist potters of Western Australia before the Craft Revival of the late 1950s-1980s. Following the commencement of classes at Fremantle Technical College there was soon a thriving movement in art pottery in Western Australia. Francis Kotai, Eileen Keyes, Jean Ewers, Heather McSwain, Teddye McDiven, Doris Harms and others are part of another story.

DR DOROTHY ERICKSON is a Perth-based researcher, writer and distinguished working jeweller who exhibits in Australia and overseas.

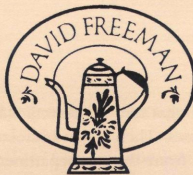
#### Notes

- <sup>1</sup> *The West Australian* 2 December 1997, p. 4.
- <sup>2</sup> *Ceramic Studio* from New York was one. *The Studio* would have been another as well as *The Magazine of Art* and the *Art Worker's Quarterly*.
- <sup>3</sup> For much of the detailed information on Flora I am indebted to her nephew the late Arthur Dall who lived and worked with them.
- <sup>4</sup> This information is primarily drawn from a catalogue produced by Dr David Bromfield for an exhibition he staged on Barker in 1986.
- <sup>5</sup> For this information I am grateful to Helen Ross who researched Western Australian pottery at Curtin University.
- <sup>6</sup> Janice Jackson, 'A Renewed Expression', *Fremantle Art Review*, January 1989, p. 13.
- <sup>7</sup> Robyn Taylor, *One Hundred Years of Western Australian Sculpture 1895-1995*. Art Gallery of WA, Perth 1995, pp. 17-19; Judith McKay, *Brisbane Sculpture Walk*, Queensland Society of Sculptors, Brisbane, 1988, p. 2.
- <sup>8</sup> Information from Robyn Taylor obtained from Eileen Kohler.

## Peter R Walker Australiana Writing Award

Peter R. Walker Pty Ltd, Dealers in Fine Art, generously continue to sponsor a cash award of \$250 for the best article submitted to *Australiana* this year. All articles appearing in *Australiana* Volume 25 are eligible to receive the 2003 award.

Winners of the 2002 Award were Robyn Lake and Therese Mulford for the definitive study 'A stranger to the town: the life of colonial painter Frederick Strange' which appeared in August.



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# A WHALE OIL LAMP FOR RUNNYMEDE

Warwick Oakman



Pewter whale oil lamp, mid 19<sup>th</sup> century, ht 30 cm, possibly of colonial manufacture.  
Private collection on loan to *Runnymede*, Hobart.



*Runnymede* is one of the villas of Hobart's New Town, built in 1843 overlooking the Derwent River. It was the home from 1864 of Captain Charles Bayley and his family. Succeeding generations occupied the house until 1965, when Miss Bayley gave it to the Tasmanian Government, which now leases it to the National Trust. With that gift came more than a century of Bayley decorative arts, personal collections and household goods.

Sourcing authentic lighting for house museums is one of the most difficult tasks. Fortunately, Mr Peter Woof of Evandale, Tasmania, has lent *Runnymede* a very rare pewter lamp for burning whale oil. The lamp is most likely of colonial manufacture and would date around 1840. It is an example of the most rudimentary form of whale oil light and would have performed its function in service rather than served areas.

It is a marvellous antidote to the very grand lamps more often seen in house museums. Its form is similar to published examples manufactured in America at that time. With the advent of mass-produced kerosene lighting fixtures in the 1860s, its survival was most unlikely.

Captain Charles Bayley and his brother James were whalers and merchants of Hobart.<sup>1</sup> Their clippers, whalers and frigates operated in the South China Sea and the Derwent Estuary. *Runnymede* shows paintings commissioned in China of the ships *Runnymede*, *Hally Bayley*, *Fortitude*, *Flying Childers* and *Lufra* among others. It owns the pennant of the *Runnymede*, whale hunting and processing implements, items removed from the ships and scrimshaw made by members of the Bayley family. These unique collections combine to give a wonderful microcosm of Hobart in the 19<sup>th</sup> century.

What was the point of whaling? Certainly scrimshaw was a popular by-product of the enormous physical remains of the whale. Scrimshaw focuses on making useful souvenirs of the bone, ivory teeth and baleen of whales, and is highly regarded by social historians and collectors. But the point of the exercise was chiefly to obtain whale oil as a fuel for lighting, for a plethora of newly-invented lighting devices that sought to make interiors from the late 18<sup>th</sup> to the mid 19<sup>th</sup> century lighter and brighter by night. Whale oil was widely used for lighting and exported to America, Britain and NSW, as well as being used as a base for perfumes and tallow for candles. That whaling continued in Hobart until the 1890s is a telling note on the slow acceptance of new technologies.

In the 18th century came the first significant improvement on oil lamps since Roman times, with a series of often ungainly and expensive inventions beginning in 1783 with French physicist Aimé Argand (1750-1803). His Argand lamp was a device that allowed oil to be stored above the wick, with a circular, tubular wick that created a draft up the centre. The result was a device twelve times more luminous than candlepower. Other devices patented worked on clockwork pumps, pistons or unusual forms of feeding the supply. Almost without exception, these devices have ceased to exist. Whale oil and colza oil (from the rapeseed plant) were viscous, slow-burning fuels with a low ignitability. It

was generally a sustainable and safe form of fuel. With a whale oil lamp, if it was knocked over or fuel was spilt, it simply went out.

Ladies, used to whale oil lamps, initially suffered terrible burns in the first days of kerosene. When a kerosene lamp was knocked over, the flames spread rapidly across the table, carpet, over the floors and up the voluminous skirts of the drawing room hostess and her charges.

With the processing of kerosene from shale and oil, and the development of gas and acetylene generators in towns by the mid-19<sup>th</sup> century, oil lighting and its respective devices became increasingly unfashionable. Unfortunately, *Runnymede* had lost its original whale oil lamps.

Just under 300 mm (12 inches) high, the pewter whale oil lamp has a circular base and tapered shaft supporting a bowl containing a pair of wick holders. As for a Roman oil lamp, the bowl would be filled with whale oil, and a pair of cloth wicks threaded through the wick holders to provide a double flame. The American scientist Benjamin Franklin (1706-90) is credited with the discovery that a double wick gives more than twice the light. A circular shade or chimney would have been fitted to the rim to protect the device from draughts, while a circular vent at the top allowed an upward convection. This device would have provided four times the illumination of a candle.

This whale oil lamp is made of the cheapest possible material – pewter – and is almost devoid of decoration other than two turned lines to the foot rim. Such a device typically would have belonged to a household or establishment that had access to whale oil. However, its form would never have graced any space other than a service area or servant's quarters. Such a device can now be used effectively with canola oil for demonstrating the principle to school children and visitors. In a household such as *Runnymede*, this humble object is a very valuable tool in demonstrating the why and how.

WARWICK OAKMAN has a Bachelor of Design (Hons) from the University of Technology Sydney, established an antique business in Hobart in 1998, and is a third generation antique dealer. He lives in one of the villas of Hobart's New Town.

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- <sup>1</sup> Peter Mercer, *A Most Dangerous Occupation. Whaling, Whalers and the Bayleys: Runnymede's Maritime Heritage*, Hobart, National Trust, 2002.

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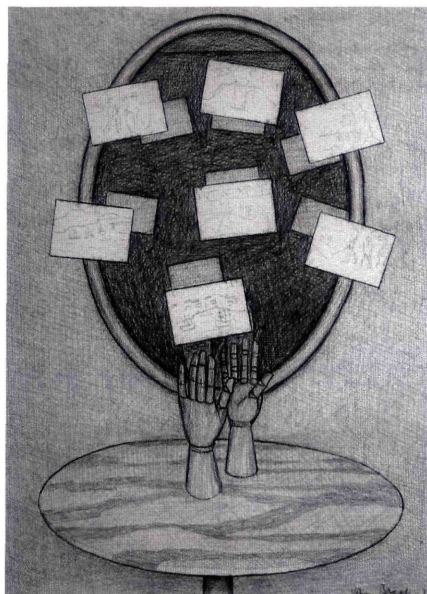
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