**On Agnes Smith, Agnes Eliza Smith MacDonald, and Captain McDonald**

**I made reference earlier to the personal business colleague (Etienne Bonnet) I had during my years with the bar-coding organization in Brussels and his acquaintance (Mr Gie Stappaerts) who worked as a historian/librarian administrator in the Antwerp City archives repository. At my request after providing him with the anecdotal information held in our records, the associate was able to locate the precise records about Agnes Eliza’a birth. Provided to me initially in Flemish and the essentials later translated into English by my Brussels colleague, then more fully translated by a professional translater.**

**As to the related legend of the ‘Keys of the City’ (a frequent legendary story around the family) record lost in the Table Hill fire, the Antwerp associate was able to advise that it was standard practice at that time, Britain being a close ally of Belgium (versus Holland and France), to entertain and pay honour to the captain and officers of British ships (military and merchant) by invitation to formally dine as their guest at the City’s main administrative facility with the City officials; the Mayor and related officials.**

**Whilst no record of this event could be found in the archives by the associate he advised he was certain that Captain MacDonald would have been afforded this honour, and it would be no surprise that recognition of the birth of his ‘daughter’ would have also taken place, with some form of documentation of the occasion presented to the Captain and his family. The archivist’s report in its Flemish version is appended in Appendix K ; a quick summary translation of a few essential elements of the report which was sent in advance to me by my Brussels colleague (Bonnet) states as follows:-**

**# the exact date and time of birth of Agnes MacDonald was 7pm, Saturday 31st, 1831**

**# her father, William MacDonald, the captain of the ship was 42 years old, born in St Ives in England and registered as a citizen of Falmouth**

**# her mother Agnes Smith was 19 years old and born in Liverpool**

**# the name of the ship was ‘Good Intent’ (***and not the Britomart as we had supposed***)**

**[Note: A subsequent professional translation (via a paid translation service arranged by me) indicates that Etienne was incorrect about the date – the birth date was Saturday the 3rd of December, not the 31st (which was also a Saturday), and the registration by the Alderman was two days later on Monday 5th December – Etienne confused year & date]**

**The record, whilst describing Agnes as his spouse, does not state they were married but it does refer to baby Agnes as ‘legally’ the daughter of Captain MacDonald. The use of this word is intriguing and can be interpreted to mean ‘legitimate’ ie William & Agnes were married, or were accepted as being married albeit ‘defacto in nature; and/or it could mean simply that he was accepted as the biological father; and/or it could mean he was accepted as the legal guardian particularly as Agnes may not have been regarded as of age at 19.**

**There is no evidence in the Antwerp report which indicates whether marriage documents were presented or not, rather it seems likely this was either an assumption or was word of mouth presumably by Captain MacDonald – other later evidence available indicates that they were never married.**

**The full literal translation of the Antwerp report by Mr Stappaerts is presented here:-**

The Brief

So, Laurie Mc Donald (*sic – should read Laurie Wilson*) is looking for information about his/her great-grandmother Agnes Eliza Mac Donald, born on a British merchant ship in the port of Antwerp. Her father, Will Mac Donald, native of St. Ives, Cornwall, would have been captain on a ship, which we called "Britomart". Her mother, possibly unmarried to the father, was named Agnes Smith and was from Liverpool, England.

The story alleges that the “governor” honored them with “keys to the city “ or the '”freedom of the city” and that there was documentation of that fact. However, many years later, the document would somehow go missing after their arrival in Victoria, Australia.

It wasn’t immediately clear to me whether genealogical information was being sought or whether it was about the “keys” or the “freedom of the city “.

The Result

After quite a bit of digging, I found birth certificate no. 2021 dating back to 1831. The text reads as follows: "This fifth day of the month of December in the year one thousand, eight hundred and thirty one, in the afternoon. Birth Certificate of Agnes MacDonald, born here on the English Ship “Good Intent” on the third of December of this year, at seven o’clock p.m., **legally** (*my highlighting*) the daughter of William MacDonald, ship captain, forty two years of age, born in Saint Ives England, with residence in Falmouth, and of Agnes Smith, his spouse, nineteen years of age, born in Liverpool England, in the presence of Samuel Solomon, shop owner, thirty years of age, and of Josephus Petrus Henderickx, Clerk, twenty years of age, both domiciled here.

Drawn up in duplicate in the Town Hall, undersigned by me, Alderman of the city of Antwerp, duly delegated as Registrar of Births, Marriages and Deeds, with the child having been shown to me and acknowledged to be of the female sex, with the aforementioned father reporting all that pertaining to the birth, as required, and upon reading this to those party forthwith, they as well as I have set our hands hereunto accordingly. "

The story about her being honored with the “keys to the city” or the “freedom of the city "might refer to a reception at the Town Hall. Dossiers in this regard are filed in the modern archive (MA), i.e. files concerning “visits and receptions”.

However, only visits from the Royal family and foreign heads of State were mentioned. From the outdated use of warship crews visiting the city, to be received at City Hall, there are certainly MA-files under the designation “warships-receptions-visits”, but they only contain information from the 20th century.

The legend that the “governor” honored her with the “keys to the city” or the “freedom of the city” could very well be connected to the Belgian government that had just been formed at the time and the first anniversary celebrating Antwerp's independence.

**So in this we have primary and officially recorded evidence which basically confirms what had long been passed down about an ‘on ship’ Antwerp birth, via legendary anecdote within various arms of our family. Only use of the word ‘legally’ if taken to imply they were married is challengeable as later evidence indicates.**

**Whether the child Agnes Eliza Smith MacDonald was the child of Captain MacDonald remains open on this evidence; later evidence indicates they were not married – William’s Will seems explicit on this, and indicates Agnes had not been previously married. Whether Agnes Eliza was his biological child is uncertain but his Will can be interpreted to indicate she was not.**

**Glenden Andrews, one of our research group, identified the christening in 1832 of an Agnes Eliza McDonald Smith at St Mary Major Church, Exeter**, **not too far from Falmouth; the location, the timing and particularly the identical fullness of the name in this record appears most likely to mean it is our Agnes Eliza. A copy of the birth certificate is appended – note only the mother’s name is listed and William’s name is not mentioned. Glenden’s research conducted in Falmouth also confirmed that William owned the Good Intent with some other equity partners.**

**I suspect we can conclude that baby Agnes Eliza MacDonald Smith was honoured with perhaps the most unique birth experience and recognition of any of our forebears, and possibly their descendants too.**

**Further, Jenny Gould had previously identified the marriage of William MacDonald to a Mary Rowe on July 15th, 1810 in Falmouth; there was one child from this union, William Henry MacDonald b. 23rd June 1812. It was the only MacDonald record at Falmouth.**

**These discoveries suggest that Captain MacDonald was already married, had separated but most probably did not divorce (an extremely costly and difficult process in those days), and later took up with Agnes Smith.**

**Possibly (there is room for considerable doubt on this – study the Captain’s Will which appears below) he fathered the child Agnes Eliza with Agnes; Agnes Eliza was born as said on Good Intent in 1831 and was later christened in Exeter, England in 1832.**

**They did not marry because of his married status, and the Will describing their relationship as ‘a fac law’, ie, defacto, and referring to Agnes as a spinster, together with other statements it contains, effectively confirms this (to my satisfaction, at least).**

**Several years after settling in Tasmania William, about 1836, together with Agnes and Agnes Eliza went back to England on board the Britomart which he also owned and by which ship they had originally come to Tasmania in 1832, returning some 18 months later. Did they go to sort out matters with William’s family in St Ives, and with his wife and son in Falmouth – this is distinctly possible one would think – perhaps to seek, unsuccessfully, a divorce so he and Agnes might marry. We may only speculate for now.**

**Research notes and documents by Glenden and Jenny on these aspects of Captain MacDonald, Agnes and Agnes Eliza are included in Appendix K. Other information is in my general files on ‘McDonald’. The seafaring life of Captain McDonald is covered more fully further along.**

**On Agnes Smith of Liverpool**

**We know little more to date about Agnes Eliza’s mother Agnes Smith; just who she was and what of her family, presumably in Liverpool – Agnes’ heritage remains open for future research. On Captain MacDonald’s seafaring life there is much more extremely interesting information to be found further on in this treatise.**

**THE LAST WILL & TESTAMENT OF CAPTAIN WILLIAM McDONALD**

THIS IS THE LAST WILL & TESTAMENT OF ME WILLIAM McDONALD OF HOBART TOWN IN VAN DIEMENS LAND, MASTER MARINER.

I BEQUEATH UNTO AGNES SMITH OF HOBART TOWN, ***a fac law SPINSTER***, ABSOLUTELY THE SWORD PRESENTED TO ME BY THE PASSENGERS OF MY SHIP, THE DUKE OF MARLBOROUGH, AND ALSO THE TEN PIECES OF PLATE NOW IN MY HOUSE AND WHICH WERE PRESENTED TO ME BY THE MERCHANTS OF THE CITY OF LISBON. I DEVISE ALL THE REAL ESTATES WHICH SHALL AT MY DECEASE BE VESTED IN ME AS A MORTGAGEE OR TRUSTEE IN FEE UNTO THE SAID AGNES SMITH AND TO GEORGE WILSON OF HOBART TOWN AFORESAID TOBACCONIST UPON SUCH TRUSTS AND SUBJECT TO SUCH EQUITIES AS SHALL AT MY DECEASE BE SUBSISTING CONCERNING THE SAME RESPECTIVELY.

I DEVISE ALL THE OTHER REAL ESTATE AND BEQUEATH ALL THE PERSONAL ESTATE WHICH SHALL BELONG TO ME AT MY DECEASE TO THE SAID AGNES SMITH AND GEORGE WILSON UPON TRUST TO SELL MY REAL ESTATE AND TO GET IN MY PERSONAL ESTATE WHEN AND AT THE TRUSTEES OR TRUSTEE FOR THE TIME BEING OF MY WILL SHALL IN THEIR OR HIS DISCRETION DEEM IT MOST ADVANTAGEOUS SO TO DO.

AND UPON FURTHER TRUST TO PAY ONE MOIETY OF THE MONEY TO ARISE FROM THE REAL AND PERSONAL ESTATE TO BE SOLD AND GOTTEN IN AS AFORESAID UNTO THE SAID AGNES SMITH FOR HER OWN USE AND BENEFIT AND TO INVEST THE OTHER OR REMAINING MOIETY OF THE MONEY TO ARISE AS AFORESAID IN THE NAMES OR NAME OF THE SAID TRUSTEES OR TRUSTEE IN OR UPON FIRST MORTGAGES OF REAL ESTATE IN ENGLAND OR VAN DIEMENS LAND WITH LIBERTY TO VARY OR TRANSPOSE THE INVESTMENT FROM TIME TO TIME AT THE DISCRETION OF THE SAID TRUSTEES OR TRUSTEE FOR ANY OTHER INVESTMENT OF THE LIKE DESCRIPTION AND UPON TRUST TO APPLY THE INCOME OF SUCH INVESTMENT OR A SUFFICIENT PART THEREOF IN OR TOWARD THE MAINTENANCE AND EDUCATION OF ***AGNES ELIZA McDONALD SMITH, THE DAUGHTER OF THE SAID AGNES SMITH*** (AND WHICH SAID AGNES ELIZA McDONALD SMITH IS NOW OF THE AGE OF FOURTEEN YEARS OR THEREABOUTS AND ***WAS BAPTISED AS AGNES ELIZA McDONALD***) UNTIL SHE THE SAID AGNES ELIZA McDONALD SMITH SHALL ATTAIN THE AGE OF TWENTY ONE YEARS OR MARRY WITH THE CONSENT OF HER SAID MOTHER.

**(The word ‘Moiety’ is an old legal expression for ‘half share’)**

AND I DIRECT MY SAID TRUSTEES OR TRUSTEE TO ACCUMULATE THE UNAPPLIED SURPLUS OF SUCH INCOME BY INVESTMENTS CONFORMABLY TO THE TRUST FOR INVESTMENT HEREINBEFORE CONTAINED IN AUGMENTATION OF THE CAPITAL WHENCE THE SAME INCOME SHALL HAVE PROCEEDED.

AND I DIRECT THAT SUBJECT TO THE PRECEDING DIRECTIONS AS TO THE INVESTMENT OF THE SAID MORETY OF THE MONEY TO ARISE FROM MY REAL AND PERSONAL ESTATE AS AFORESAID MY SAID TRUSTEES AND TRUSTEE SHALL HOLD THE SAME MORETY AND THE ACCUMULATIONS THEREOF IF ANY UPON TRUST FOR THE ABSOLUTE USE AND BENEFIT OF THE SAID AGNES ELIZA McDONALD SMITH UPON HER ATTAINING THE AGE OF TWENTY ONE YEARS OR MARRYING WITH THE CONSENT OF SAID MOTHER AND TO PAY OR TRANSFER THE SAME MORETY ACCORDINGLY.

I DIRECT THAT PURCHASERS AND OTHERS TAKING THE RECEIPT OF MY TRUSTEES ON THE PAYMENT OR TRANSFER TO THEM OF ANY MONEY OR EFFECTS SHALL BE THEREBY EXONERATED FROM ALL LIABILITY IN RESPECT OF THE APPLICATION THEREOF. I DIRECT THAT MY TRUSTEES MAY RETAIN AND MUTUALLY ALLOW TO EACH OTHER ALL DISBURSEMENTS AND EXPENSES INCIDENT TO THE EXECUTION OF MY WILL AND SHALL BE RESPONSIBLE EACH FOR HER AND HIS OWN ACTS AND DEFAULTS ONLY AND IRRESPONSIBLE FOR LOSSES OCCURING WITHOUT WILLFUL NEGLECT OR DEFAULT AND SHALL BE INDEMNIFIED WITH OR OUT OF MY TRUST PROPERTY AGAINST ALL LIABILITIES CONSEQUENT ON THE EXECUTION OF MY WILL.

I APPOINT THE SAID AGNES SMITH AND GEORGE WILSON TO BE TRUSTEES OF THIS MY WILL FOR ALL PURPOSES THEREOF. I DIRECT THAT IF THE SAID TRUSTEES OR EITHER OF THEM SHALL DISCLAIM OR THEY OR EITHER OF THEM OR ANY TRUSTEES OR TRUSTEE TO BE APPOINTED UNDER THIS CLAUSE SHALL DIE OR SHALL DECLINE OR BECOME INCOMPETENT TO ACT AS TRUSTEES OR TRUSTEE OF MY WILL IT SHALL BE LAWFUL FOR THE TRUSTEES OR TRUSTEE FOR THE TIME BEING OF MY WILL COMPETENT TO ACT WHETHER DISCLAIMING OR DECLINING FURTHER TO ACT OR NOT OR IF NONE OF MY EXECUTORS OR ADMINISTRATORS FOR THE TIME BEING OR EITHER OR ANY OF THEM BY ANY *(illegible)* IN WRITING TO APPOINT ANY PERSON OR PERSONS TO BE TRUSTEES OR TRUSTEE IN THE PLACE OF THE TRUSTEES OR TRUSTEE DISCLAIMING, DYING OR DECLINING OR BECOMING INCOMPETENT TO ACT AND I DECLARE THAT ALL OF THE CLAUSES OF MY WILL CONCERNING MY TRUSTEES HEREBEFORE NAMED SHALL EXTEND AND BE APPLIED TO THE TRUSTEES OR TRUSTEE FOR THE TIME BEING OF MY WILL.

LASTLY I APPOINT THE SAID AGNES SMITH TO BE THE EXECUTRIX AND THE SAID GEORGE WILSON TO BE EXECUTOR OF THIS MY WILL. IN WITNESS WHEREOF I HAVE TO THIS MY SAID LAST WILL CONTAINED IN TWO SHEETS OF PAPER SET MY HAND THIS TWENTY FOURTH DAY OF AUGUST IN THE YEAR OF OUR LORD, ONE THOUSAND EIGHT HUNDRED AND FORTY SIX.

[SIGNED BY WILLIAM McDONALD AND WITNESSED BY W. NUTT (?), SOLICITOR, HOBART TOWN]

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**[Note on the phrase - ‘a fac law’. Some years ago I asked two legal persons, one a solicitor, the other a retired County Court Justice (they are husband and wife) what it meant in law. It’s a rough equivalent form of today’s expression ‘defacto’, meaning accepted as a fact in law. Applied as it is with the word ‘spinster’ it means Agnes was never married to William – that legally, or in law, she was still a spinster, and declared by William as such.]**

**Postcript on Captain McDonald**

**Shirley Davies in her examination of the Will points out the following very interesting observation *-”****On page 1 of the Will (about the middle of the longer paragraph) it mentions.....or upon first mortgages of real estate in England or Van Diemens Land with liberty...."*

**This sounds like he had some real estate in England and would add to the reasons as to why William with Agnes and Agnes Eliza returned to England in 1836 and remained there for some eighteen months or so before returning to Tasmania. More UK research is required.**

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Laurie Wilson, June 2014, Excerpt from ‘Reminiscences’