The Avery Researches

John Avery the great, great, great grandson of Benjamin AVERY, (very possibly the smuggler who features in our smuggling articles THE SEA/SMUGGLING **The Times 'The Happy-Go-Lucky'** and again in ARCHIVE/NEWSPAPERS). He has contacted the RHG giving permission to reproduce the archive material he has researched. The information itself is fascinating. The process by which John went about his searches will be of interest to anyone who seeks to find out more concerning the service of a past relative who served in the Royal Navy.

Here the process is elaborated:

"My interest in Family History started when an uncle gave me a rather rambling history of our family as he knew it. This went back about 125 years and centred on London's east end. He mentioned a family-run draper's shop in Shoreditch and I looked up the (pre-computer) Census Returns. There where my clan and I then did all the usual research of General Register Office, Parish Records, Voting lists, Trade Directories, wills and more Census Returns. On one Census Return a male ancestor, **(Avery)** had stated his place of birth as 'Maker' so I was back to my West Country roots. This started the research process all over again and I discovered **Benjamin**, fisherman (and possible smuggler) 1763-1847.

I was in touch with a number of Avery descendants around the world so enlarged my research on the wider local Avery family as I was local(ish) but as yet never been to Maker. I knew that SCA 1799-1882. **Benjamin's** youngest seventh son, was a 'local boy made good' having started in Maker and then becoming a bacon factor in Devonport.

Then we visited Maker and saw the Memorial Inscription in the Church. I wanted to find out more about the people worthy of such an honour. The only other detail I found concerning SCA was his Probate Index listing which shows that he left £1,102 5s 0d in 1882.

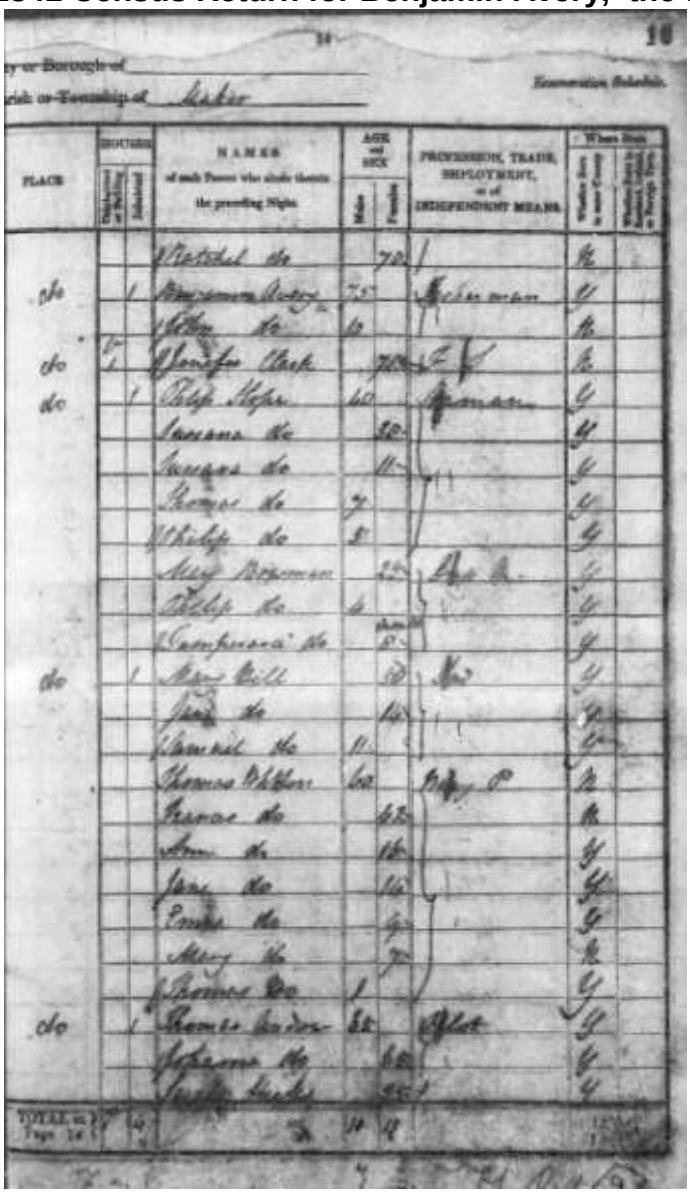


It was this memorial to S C Avery & Thomas Prior that started my further research.

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Then, some time ago a Mrs Susan Down (nee Avery) emailed me from her new home in America asking for help with her family history which she knew had roots in Maker. The link between us was Benjamin Avery, 1763-1847, the fisherman and possible smuggler. His last census record appears below:

1841 Census Return for Benjamin Avery, the fisherman



Typed Transcript of Census page

Civil Parish	Maker
Hundred	Roborough
Registration District	St Germans (Antony)

Name	***Relation***	***Status***	***Age***
6 June 1841			
Strand			
Benjamin AVERY			75
John AVERY			10

1841 Census return for the Strand Kingsand - now the Cleave , or what is now Market Street?

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Mrs Susan Down's (nee Avery) husband had an ancestor called Thomas Down who had served as a Marine and died in 1849. I offered to see what could be found out at Kew

Although Thomas Down is possibly only of marginal relevance to Rame, his details might serve to help others on a similar project. Some of the documents I discovered are fascinating in their own right.

I discover a distant Royal Navy Captain relative before seeing the Memorial in Maker Church, Thomas Henry Prior was an unknown but he has a connection to Rame and Maker church in particular and the research is possibly interesting for those with similar projects.

He had been a Commander in the Royal Navy and was not a marine like Thomas Down.

It was time to consult the Naval records at The National Archives at Kew.

I started by finding Thomas Down's **'Description**' and Thomas Prior's **'Passing Certificate'** and **'Service Record'** . This then pointed to the **Ships' Musters**. These four documents are key to making a search.

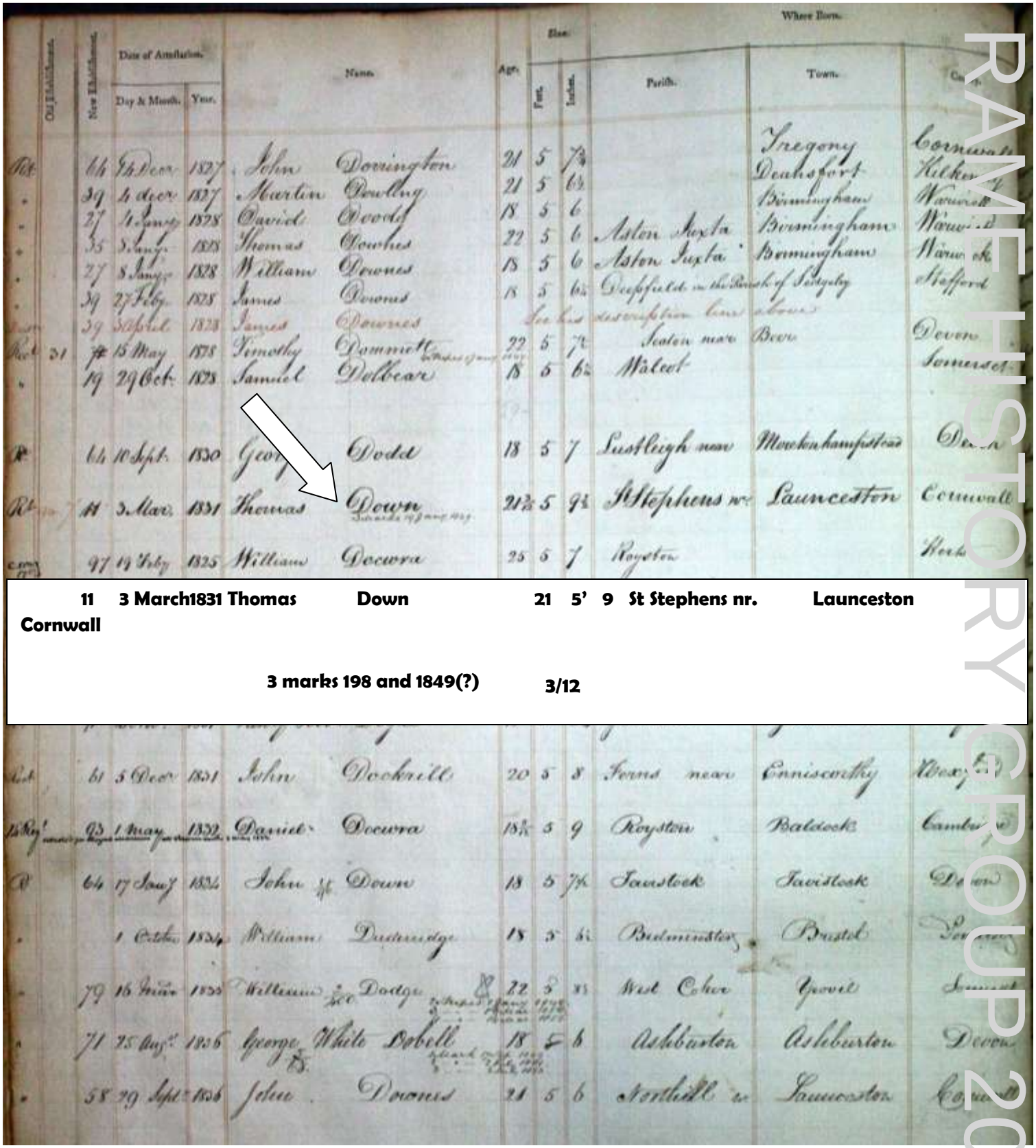
The **Passing Certificate** and **Service Record** were in effect an early example of CVs and lead to the **Ship's Musters** (who was on board on a given date).

Not all documents have survived, but what does, brings our ancestors to life. It is interesting to see physical characteristics for instance. Some of the legwork can be done in advance on the National Archive Website : http://www.nationalarchives.gov.uk/a2a/ All documents have a reference number it saves a lot of time if these can be discovered before visiting

The first document found was Thomas Down's '**Description**' This document is kept at Kew (National Archives) and is in Series ADM 158. This gives a 'snapshop' of him in 1831. It is worth noting how comparatively short the men were and the variety of reasons for discharge. This gave his reason for discharge as death from cholera in 1849 on the 'Impregnable' See Below:

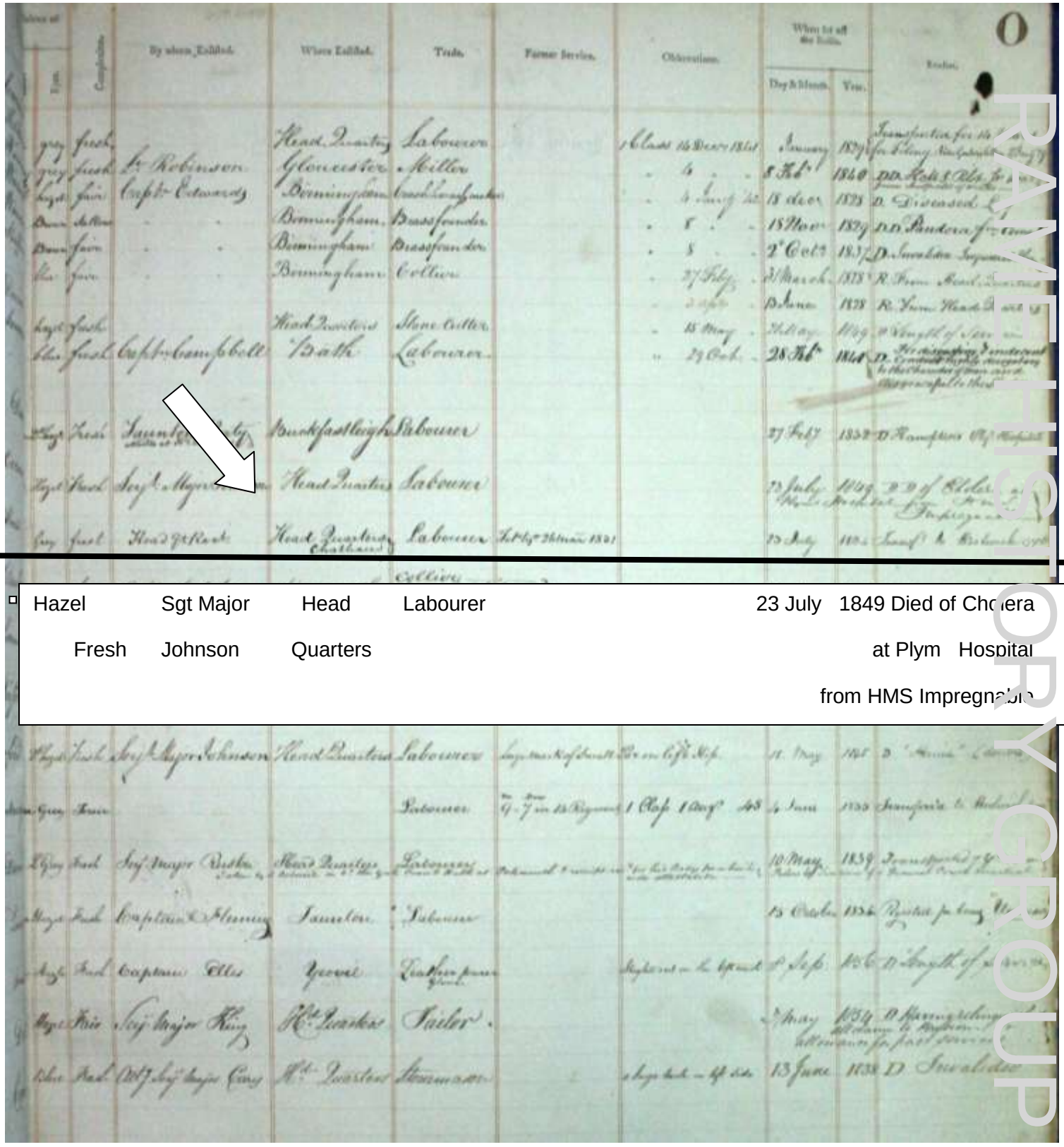
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The following are the left and right hand pages come from Thomas Down's **Description** entry in Series ADM 158/218. Note



11	3 March	1831	Thomas	Down	21	5'	9	St Stephens nr.	Launceston	Cornwall		
				3 marks 198 and 1849(?)		3/12						

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Hazel	Sgt Major	Head	Labourer		23 July	1849	Died of Cholera at Plym Hospital from HMS Impregnable
Fresh	Johnson	Quarters					

Note the relatively short average heights and varied reasons for leaving the service.

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Next, I looked up the **Ship's Muster** in Series ADM 38 for that year. It was then a matter of working backwards to see where he was prior to that entry

That is as far as I went with researching Thomas Down.

Thomas Prior was the brother-in-law of Sampson Coombe Avery was the brother of John Avery

At Kew I found Thomas Prior's **Passing Certificate** in Series ADM 107, **Service Record** in Series ADM 196 and entry on one of the **Ship's Musters** in Series ADM 37. Reading around the subject I have discovered that his was a typical naval career. He started as a boy aged 12, trained on the job, and rose through the ranks. I have just looked at the **Probate Index** for 1882, where he is styled 'retired Captain', finding he left a staggering £11,902 6s 11d. Now that I know that I may get an actual copy of the will to see more detail (three codicils are mentioned). ****Now found see below****

. The next image is of Thomas Prior's **Passing Certificate** from ADM 158/53 p83. This is really a summary of the postings of an Officer throughout his service. It is then possible to back track to the records of each vessel mentioned and discover more.

Note the attachment of a copy of his baptismal certificate.

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1780 Baptisms in St. John's Chapel. 82

Aug 20. Reinar Henry S. of Thomas and Ann Maria Prior.

THIS is a true Copy of an Entry in the Register-Book of the Parish of Portsea, in the County of Southampton, extracted this 11th Day of Jan. 1845

by me [illegible] Curate.

83

						Discharge.		Time.			
						...ue.	Cause.	Y.	M.	W.	D.
Quadruple		Plymouth	12	21 Dec 1806	Boy 2d Class	21 Dec 1807		2	–	–	1
Do				1 May 1809	Able	31 Dec 1810		2	–	–	–
Do				1 May 1811	Mid	9 Feby 1812		1	1	1	4
Ocean				9 Feby 1812	Mid	3 Aug 1812		–	1	3	6
Union		Portsea	14	4 Aug 1812	Mid	18 May 1812		–	1	1	6
Salvador				18 May 1812	Lieut	9 Sept 1812		–	4	–	5
Boyne				9 Sept 1812	Mid	9 Sept 1814	Com	1	12	3	3
Prince		Portsmouth									
Commwallis				2 Nov 1814	Mid	29 Nov 1815	Wellesley	–	12	1	–
Wellesley				1 Nov 1815	Mid	10 June 1816	Pd Off.	–	7	3	5
								9	3	–	2

Vessel	signed on	Rank	Signed off	Service Total
Served in				Y M W D

NAVY-OFFICE, 27 April 1821

THESE are to Certify, that Mr Thomas H Prior is borne on the Books of His Majesty's Ships abovementioned, the Place where born, Age at time of Entry in each Ship, Qualities and Cause of Discharge, as therein expressed, being, Nine Years, Three Months & Four Days

William Hodgson

For Secretary

RAME HISTORY GROUP 2011

The following is Thomas Prior's request for his **Service Record**. He took the classical route to beco nir g a Midshipman on the 'Dreadnought' which had earlier seen service at Trafalgar.



Thomas Henry Prior

Mail Agent

1841. 1844

Please state his service

4 Dec. 1860

Mr. Davis.

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This next page, is a copy of Thomas Prior's **Service Record** Series ADM 196/2/406 tells us…about his career after becoming an Officer. Showing:
Ships (served on) **Entry date** (to each ship) **Quality** (or 'rank') **Discharge** (date) **Duration of service**.
.



425

Ships	Entry	Quality	Discharge	Time Years	Time Days
Severn	25 Dec 1820	Midd	4 April 1822	–	101
Forte	13 July 22 / 8 June 1823	Midd. 2nd Master	8 June 1823 / 1st Oct 1824	2	89
Tyne	2 Oct 1824	Act Mast	31 Dec 1824	–	35
Severn	1 Jan 1825	– –	27 March 1825 / 30 Feb 1825	1	199
Helicon	28 Feb 25 / 28 July	Lieut	Orders dis	11	59
Cornwall	29 Sept 1825	– –	Paid dis 6-315	–	80
Ist. Agent	1 Sept 1826	–	13 June 1826	2	108
				2	277
				5	110
1827	16 a. mate				
	6/ dis Rate		Temp & whilst on Jy Seconment Roll	10	Dow 18
	6/6 Prove				

ADMIRALTY, 18

These are to Certify, That Thomas Henry Prior
is borne on the Books of Her Majesty's Ships above mentioned the Time and in the Qualities there
expressed, being

To Passed Servant as Lieutenant
2 May 1827
23 Sept 1829

Although not a Rame resident, the documents that follow for Thomas Down confirms the historical documents that await a researcher visiting Kew in search of an individual's naval history.

Thomas Down was an ancestor of an Avery relative from Devon now living in America. Attached is his description which was documented for all navy entrants at the time.

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Next come the **Ship's Muster** records for Thomas Prior, these would have been recorded whenever a Naval Vessel engaged a crew for a specific short period. I am not clear what the time periods represent but they may be the duration of voyages. (between commissions?)

Thomas Prior listed as a Petty Officer on the *Forte* in 1822 - ADM37/6557.

Thomas Prior listed as a Petty Officer on the *Scylla* in 1824 - ADM37/7249.

Muster Table for the *Scylla* in 1824 - ADM37/7249.

Muster Table for the *San Josef* in 1837 - ADM38/1685.

Thomas Down listed as a Marine on the *San Josef* in 1838 - ADM38/1688.

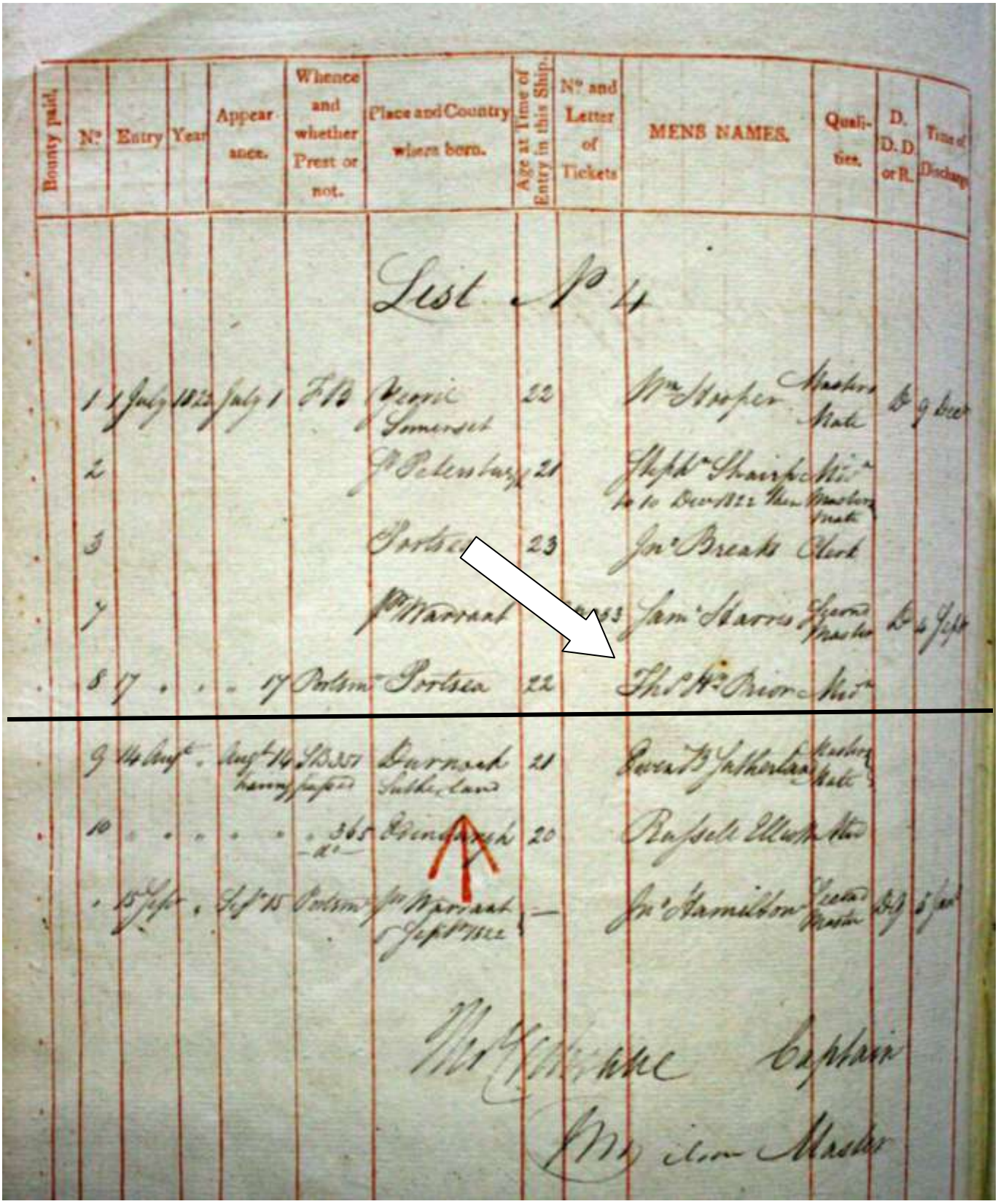
Typical *Muster Book* cover for the *San Josef* in 1839 - ADM38/1691.

Thomas Down listed as a Marine 3rd Class on the *San Josef* in 1839 - ADM38/1691.

Typical *Muster Book* cover for the *Impregnable* in 1849 - ADM38/3833.

Thomas Down listed as a Marine 1st Class (promotion!) on the *Impregnable* in 1849 - ADM38/3833.

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Bounty paid.	No.	Entry	Year	Appearance.	Whence and whether Prest or not.	Place and Country where born.	Age at Time of Entry in this Ship.	No. and Letter of Tickets	MENS NAMES.	Quali-ties.	D. D. D. or R.	Time of Discharge
						List No 4						
	1	4 July	1822	July 1	Ship	George Somerset	22		Wm Hooper	Master Mate	D	9 Dec
	2					St Petersburg	21		Stephn Shairp	Mate Master Mate		
	3					Portsea	23		Jno Breaks	Clerk		
	4					Warrant		93	Sam Stevens	Second Master	D	4 Sept
	8	17			17	Portsm Portsea	22		Thos Wm Brion	Mate		
	9	14 Augt		Augt 14	Ship	Barnack Suffolk Land	21		Robert Bysshe Lee	Master Mate		
	10					365	20		Russell Elliott	Mate		
		15 Sept		Sept 15	Portsm	Warrant Sept 1822			Jno Hamilton	Second Master	D	5 Jan

Wm White Captain

Jno Jun Master

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H. M. S. Scylla.
Complement 104 Men

Began Wages and Sea Victualling the 17th day of September 1824
On the New System

MUSTER-TABLE of His Majesty's Ship the Scylla between the 1st December and the 31st December 1824.

Time when Mustered.	Place Where.	By whom	Muster Letter	Complement	Ship's Company				Volunteers and Boys				Marines Part of Complement				Supernumeraries for Wages.				Supernumeraries for Victuals.			
					Borne	Mustered	Checqued	Sick	Borne	Mustered	Checqued	Sick	Borne	Mustered	Checqued	Sick	Borne	Mustered	Checqued	Sick	Borne	Mustered	Checqued	Sick
3 December 1824	Plymouth	Capt Thomas	A	104	66	56	8	2	8 6	8 6	-	-	15	15	-	-	-	-	-	-	-	-	-	-
11th "	"	"	"	104	69	64	4	1	8 6	8 6	-	-	15	16	-	-	"	"	"	"	"	"	"	"
19 "	"	"	E	104	70	63	6	1	8 6	8 6	-	-	15	15	-	-	"	"	"	"	"	"	"	"

RAMC HISTORY GROUP 2011

Outside. (No. 5)

RATE Third.
COMPLEMENT 327

Began WAGES the 1st of August 1836
and VICTUALLING the 1st of September 1836.

MUSTER TABLE of His Majesty's Ship San Josef between the 1st of July and the 30th of September 1837

Time when Mustered	Place where	By whom	Whole Complement	Ship's Company: Boys	Rated	Claimed	Sick	Marines: Boys	Rated	Claimed	Sick	Boys: Boys	Rated	Claimed	Sick	Supernumeraries for Wages: Boys	Rated	Claimed	Sick	Supernumeraries for Victuals: Boys	Rated	Claimed	Sick	Total Number Victualled	Captain's or Commander's Signature to each Muster
1st July	Sea	Capt Thomas	327	3	279	38	1	2	2	-	-	121	116	5	-	16	12	-	4	12	12	-	-	334	John Hamond
1st Aug.		Do	327	3	279	38	1	2	2	-	-	121	116	5	-	16	12	-	4	1	-	-	-	322	John Hamond
1st Sept.		do	327	3	279	38	1	2	2	-	-	121	116	5	-	16	12	-	4	3	-	-	-	324	John Hamond

353
25
121
161
660

GENERAL CERTIFICATE.

WE the signing Officers of His Majesty's Ship San Josef hereby certify,

THAT the Articles of War and the Abstract of the Acts of Parliament have been read to the Ship's Company agreeably to the General Printed Instructions.

THAT the Carpenter, Carpenter's Mates, and Crew are in possession of a complete set of Tools, and that the Ship's Cook, Purser's Steward, and Caupet, have satisfactorily performed their respective Duties.

THAT Monthly Allowance* Rad been paid to the Crew during the Period of this Book, to the Amount of Five hundred & Sixty Pounds Two Shillings, and Nine Pence.

THAT the Supernumeraries contained in the List, beginning with the Name Wm Pike and ending with the Name Richard Parker being Three in number, were actually Victualled at whole Allowance of all species of Provisions for the time, and from the Dates set against their respective Names in the List, and that they were employed in the Ordinary Duties of the Ship.

THAT the Supernumeraries contained in the List, beginning with the Name [illegible] and ending with the Name Geo Ford being Six or thereby, were actually Victualled at two-thirds Allowance of all species of Provisions for the time, and from the Days set against their respective Names in the List.

THAT we have examined the number of Cloaks and Boys borne at each Muster on the Date set forth in this Book, and that all Entries, Appearances, and Checks have been compared since last Muster.

THAT Four Men and Boys have deserted, that Six Men and Boys have been discharged with disgrace, and that Two Men and Boys have died during the Period of this Book.

* Rad or has not.

John Hamond. Captain.
Wm Rowe Master.
John Elliott Purser.
[illegible] Clerk.

NOTE.—It is to be understood, that the signing Officers in subscribing to the above Certificate, will be held responsible only for that portion which relates to their respective Duties.

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ADM 38/1691

San Josef
1 April
30 June } 1839.

MUSTER BOOK

OF

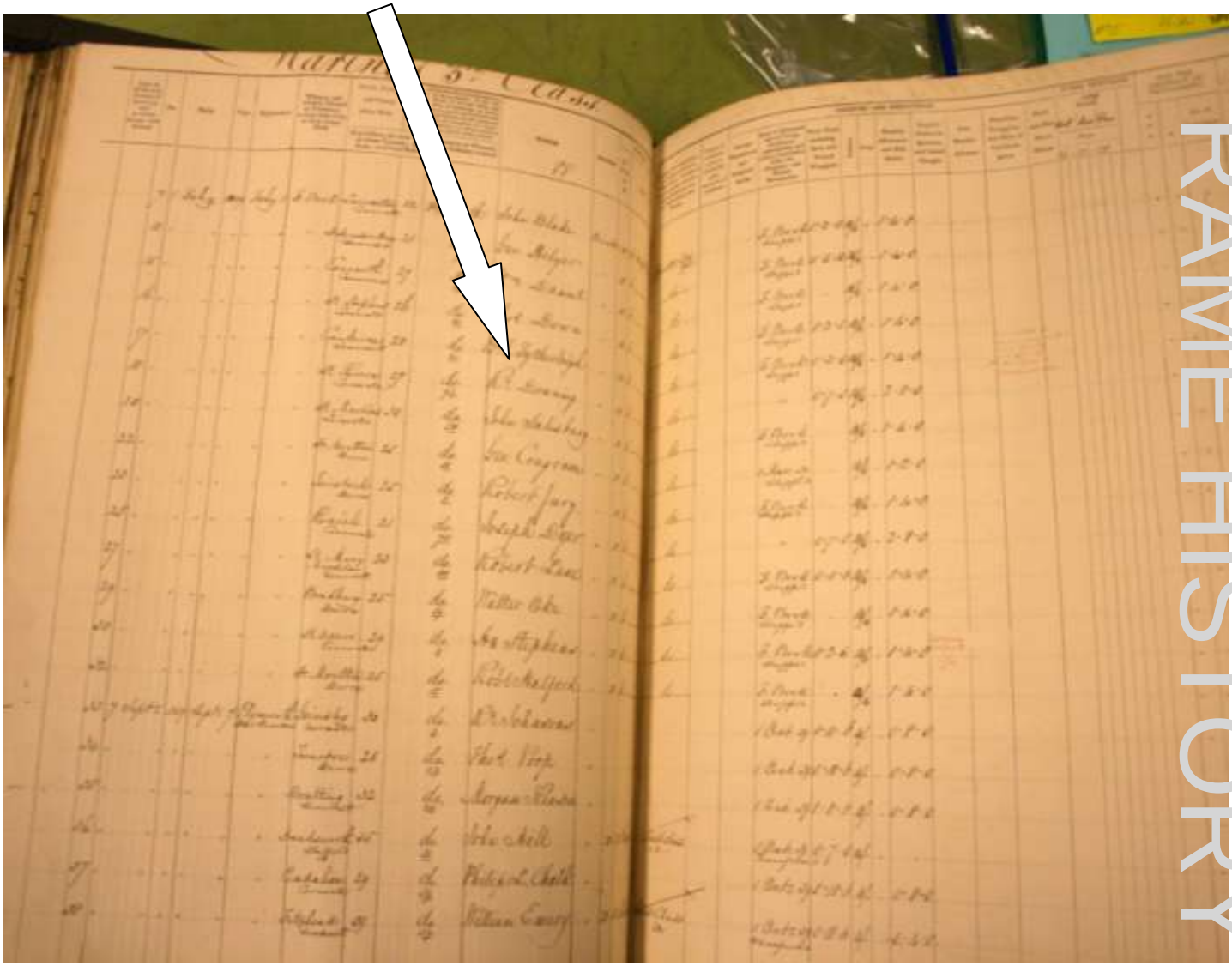
HER MAJESTY'S SHIP

San Josef

Commencing 1 April

Ending 30 June } 1839

RAME HISTORY GROUP 2011



Headings:

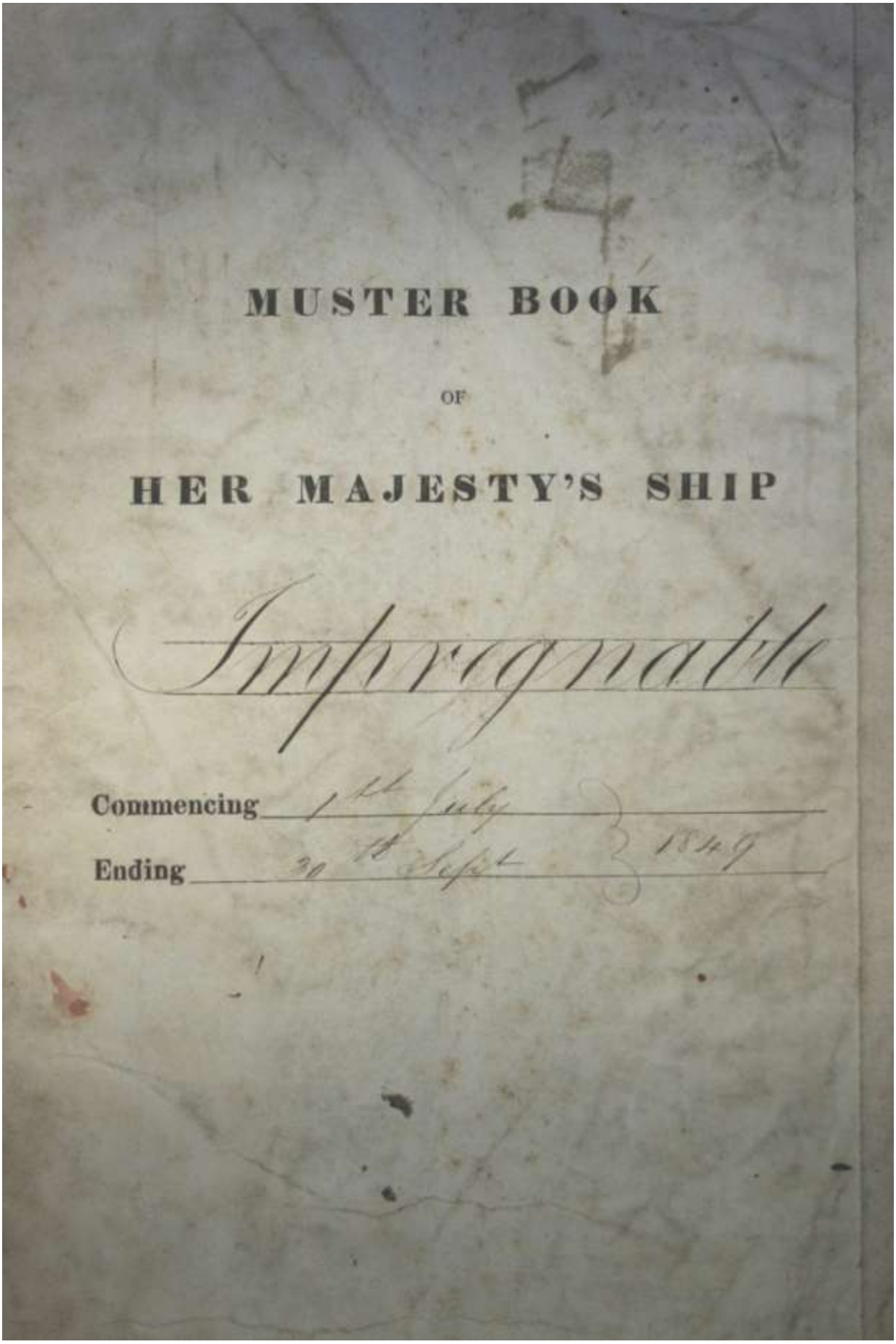
No Entry Appearance Parish Age From Name date of/slops/tobacco/allowance Allotment

Entry

16 1 Aug 1838 Aug 1 St Stephens/Ply 22 93 Thos Down 1.10.38 10 29/4 2.12.0

From 1849……..

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The sites below have a lot of detail about Naval records and shows what ship was where and when.

http://www.pbenyon.plus.com/ or try http://www.mariners-l.co.uk/UKRoyalNavyIndex.html

Benjamin Avery - his will

This is the last Will and Testament of me **Benjamin Avery** of Kingsland within that part of the Parish of Maker which lies in the County of Devon Fisherman made and published the twenty fourth day of September in the year of our Lord one thousand eight hundred and forty-six whilst in health of body and of sound and disposing mind and understanding I give and bequeath and acquit and release unto my son **Benjamin Avery** the younger his executors and administrators the debt or sum of *Two Hundred pounds* owing to me by him on mortgages of property at Portsea in the County of Hants and also all other debts or sums of money which at the time of my decease he may be indebted to me on Promissory notes or otherwise and which I consider irrespective of the said mortgage debt to amount at this time to about *Three Hundred Pounds* and do also give devise and bequeath to him the said **Benjamin Avery** all the estate and interest vested in me in the aforesaid property under and by virtue of the aforesaid mortgage and to his heirs and assigns for ever provided always and do hereby declare it to be my Will and I do hereby direct that on division of my residuary estate and effects hereinafter bequeathed between the parties that may be certified thereto under this my Will the said debts or sums as aforesaid released to my he said **Benjamin Avery** shall be reconsidered and taken as part of his and his children's share as the case may be and that in respect thereof the sum of *Three Hundred Pounds* and no more or less shall be accounted therefrom or allowed accordingly I give and bequeath unto my son **Sampson Avery** his executors administrators and assigns all that my leasehold Messuage or dwellinghouse and shop situate and being in Market Street in the Borough of Devonport in the said County of Devon and now in his occupation and all other my leasehold property in Devonport aforesaid with their respective apportionment for all the estate and interest that I shall have at the time of my decease to and for his and their own use and benefit and I also give and bequeath unto my said son **Sampson Avery** the sum of *Sixty Pounds* of sterling to be paid to him within six calendar months next after my decease and in case the said son **Sampson Avery** shall die before me then and in that case I do hereby give and bequeath that same dwellinghouses and said property and premises and legacy of *Sixty Pounds* to my Executors hereinafter named in trust for all and every children which herein said **Sampson Avery** shall happen to leave behind him and for their respective executors administrators and associates equally to be divided between or among them share and share alike as equals in common and not as joint tenants with full benefit of survivorship and accrual in case of the death of any or either of the said children under the age of twenty-one years the rent income and yearly proceeds in the mean time to be applied in and towards their respective maintenance and education in such a manner as my Executors shall see fit I also give and bequeath and acquit and release unto my said son **Sampson Avery** his executors and administrators all debts or sums of money which at the time of my decease he may be indebted to me on promissory notes or for rent or otherwise and which I consider to amount to at this time to about *Two Hundred and Fifty Pounds* more or less and I have not given my said son **Sampson Avery** anywhere in my residuary estate and effects as I consider that he has had and is hereinbefore bequeathed to him in his fair proportion I give and bequeath and acquit and release unto my son **Thomas Avery** his executors and administrators the debt or sum of *fifty-seven Pound and Five Shillings* owing to me for money advanced and I do hereby declare it to be my will and I do hereby direct that on a division of my said residuary estate and effects between the parties that may be certified under this my Will the said last mentioned debt or sum as aforesaid released to my said son **Richard Avery** shall be considered and taken as part of his or his children's share as the case may be and be deducted therefrom or allowed accordingly I give and bequeath and acquit and declare unto my son **John Avery** his executors and administrators the debt or sum of *Fifty Pounds* owing to me by him for money advanced and I hereby declare it to be my will and I do hereby direct that on a division of my said residuary estate and effects between the parties that may be certified hereto under my this my Will the said last mentioned debt or sum do as aforesaid released to my said son **John Avery** shall be considered and taken as part of his or his children's share therein as the case may be and be detracted therefrom or allowed accordingly I give and bequeath to my Granddaughter **Mary Ann Phillips** one of the children of my late son **Thomas Avery** deceased the sum of *Nineteen Pounds and nineteen shillings* sterling to be paid out of the share of the residue hereinafter intended for the brothers and sisters within six calendar months next after my decease unless she shall be then under the age of twenty-one years in which case the said legacy is to be paid to her as soon after the expiration of such six months as she shall attain that age

RAMESGATE PROBATE

All the Rest Residue and Remainder of my leaseholds Messuages and Lands Covenants and Hereditaments and parts and shares of leasehold Messuages Lands covenants and Hereditaments whatsoever and wheresoever and all the rest residue and remainder of my monies and securities for money goods chattels estate and effects whatsoever and wheresoever subject nevertheless to the payment of my just debts and funeral and testamentary expenses I do hereby give and devise and bequeath unto such of my sons the said **Benjamin Avery** the younger the said **Richard Avery Daniel Avery** and the said **John Avery** as shall survive and outlive me and to the children of such of them my said last mentioned sons as shall die before me and also to such of the children of my said late son **Thomas Avery** as shall survive and outlive me other than and except the said **Mary Ann Phillips** who is to have no further benefit under this my Will than the legacy hereinbefore bequeathed to her such children of the said **Thomas Avery** to stand in his place and take the one fifth part or share that would have been appropriated to their father if alive and such children of my said other sons who shall die before me to stand in the place of their respective fathers and to take the share or respective shares that would otherwise have gone to them respectively if alive and no more share and share alike as tenants in common and not as joint tenants and to their respective heirs executors administrators and assigns for ever with full benefit of survivorship and accrual from time to time accruing of any of the children of my said deceased or otherwise respectively in the event of any or either of such children dying under the age of twenty-one years thereunto interest and yearly proceeds in the mean time (except as to the share or shares of the children of my said son **Thomas Avery** as to whom a more particular provision is hereinafter made) to be applied in and towards their respective maintenance and education provided always and I hereby declare it to be my will that my Grandson **John Avery** one of the children of my said deceased son **Thomas Avery** shall on division between himself and brothers and sisters have and receive the sum of *Sixty pounds* over and beyond his said brothers and sisters provided always and I do hereby direct that the share so as aforesaid intended for my said son **Thomas Avery** of and in my said residuary estate and effects shall not be actually paid assigned and transferred by my inheritors hereinafter named to him when the said residuary estate and effects are divided between the parties certified hereto under this my Will but the same shall be retained by my said sons **Benjamin Avery** the younger **John Avery** and **Sampson Avery** upon trust to pay the said **Richard Avery** or his assigns the interest dividends and annual proceeds thereof and also not excluding the share of *Ten Pounds* half yearly of that principal during his natural life and from and after the decease of the said **Richard Avery** upon trust as to the remaining applied capital or principal to pay and devise the same unto said equally amongst all and every children of the said **Richard Avery** living at the time of my decease and where then they shall respectively attain their respective ages of twenty-one with full benefit of survivorship and shared amongst surviving children in case of any child dying under the said age of twenty-one years and with full power to apply the interest in the mean time in and towards their respective maintenance and education in such manner as they shall see fit provided always also and I do hereby direct that the share or shares so as aforesaid intended for the children of my and the survivors and survivor of them his heirs executors or administrators of and in my said estate and effects shall be paid assigned transferred by my Executors hereinafter named within a covenant next after my decease unto my said sons **Benjamin Avery** the younger **John Avery** and **Sampson Avery** to be held upon trust for the benefit of such children and the survivor and survivors of them as hereinbefore mentioned and I do hereby fully authorise and empower the said sons **Benjamin Avery** the younger **John Avery** and **Sampson Avery** to **John Avery** and **Sampson Avery** to convert that part of the shares of my said son **Thomas Avery** as shall not consist of money into money and to make and execute all necessary conveyances and assignments thereof to any person or persons who shall be willing to purchase the same and declare that the receipt or receipts of the s **Benjamin Avery** the younger **John Avery** and **Sampson Avery** and the survivors and survivor of them his heirs executors or administrators shall be a sufficient discharge to any purchaser or purchasers who shall not be obliged to see to the application of such purchase money and shall not be accommitable for the misapplication or non application thereof and I do hereby further authorise and empower the said **Benjamin Avery** the younger **John Avery** and **Sampson Avery** and the survivors and survivor of them his heirs executors or administrators to share out any monies that may count to their shares as such trustees as aforesaid in or upon government or real or personal security at interest and from time to time to call in and share the said out on that securities of the like nature as often as they or he shall think fit and also as to the share of the children of my said son **Thomas Avery** to apply the interest and yearly proceeds and any part of the principal or capital not excluding in the whole the sum of *Thirty-five Pounds* in any one year in and for the maintenance education and bringing up of such children or any or either of them that may most need the share during their respective

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minority in such manner as they or he shall think best provided also and I do declare and direct that the said **Benjamin Avery John Avery** and **Sampson Avery** respectively shall not be answerable for the acts or defaults of each other or for any involuntary loss that may happen to the said trust promises and that they shall be at liberty to retain out of the trust promises all expenses that they may incur in or about the execution of the said trusts and I do hereby nominate constitute and appoint unto my said sons **Benjamin Avery** the younger **John Avery** and **Sampson Avery** *Joint Executors* of this my Will hereby revoking all former Wills by me at any time heretofore made in witness whereof I the said **Benjamin Avery** the Testator have to this my last Will and testament contained in this and the previous four sheets of paper accounted annexed set my hand and seal that is to say my hand at the bottom of each of the previous sheets my hand and seal to this last sheet and my seal at the top of the first of the said previous sheets whereat the said sheets are fastened together the day and year before written ***Benjamin Avery*** - signed sealed published and declared by the said **Benjamin Avery** the testator as and for his last Will and Testament in the presence of us that at his request in his presence and in the presence of each other have hereto subscribed our names as witnesses ***P M Little*** Solicitor Devonport - ***W Youlton*** Clerk to Messiurs Little and Woolcombe Solicitors Devonport.

Proved at London 16th Novr 1847 before the Judge by the oaths of **Benjamin Avery** (hereinbefore the younger) **Daniel Avery John Avery** and **Sampson Avery** the sons the Executors to whom admon was granted having been first sworn by caution duly to indent.

The 1841 Census confirms Benjamin Avery (aged 75 – fisherman) living in the Strand, Kingsand (The Cleave??)

He may well have been the Benjamin Avery involved in the 'Happy Go Lucky' affair of 1786 as he would have been about the age reported. (See SMUGGLING and NEWSPAPER CUTTINGS pages on this website)

His youngest son, Sampson Coombe Avery, has a memorial in Maker Church.

Reproduced with kind permission of John Avery, whose GGGG-grandfather, Benjamin Avery (~1763-1847), lived in Maker

And now the last will, three codecils and final proving of the will of Thomas Henry Prior:

This is the last Will and Testament of me ***Thomas Henry Prior*** of Plymouth in the County of Devon a Captain in the Royal Navy. I bequeath unto my Niece *Maria Louisa Avery* the portrait of my late dear Wife *Mary Ann Prior* and to my Niece *Caroline Mary Avery* my diamond ring and the portrait of myself. I bequeath unto my friend *Thomas Philip* of Castle Street Liverpool, Stationer, the painting of *Sisera and Jael.* I bequeath my Gold Watch and Chain and my ring bearing my coat of arms unto my Nephew *John James Lancaster.* I bequeath my small measuring ring unto my Nephew *Benjamin Avery.* I bequeath my Gold Ashantee Ring unto Mr *John Rattray* commanding a Mail Steamer out of Liverpool. I bequeath the following pecuniary legacies that is to say. To my Nephew the said *John James Lancaster* the sum of Five Hundred Pounds, to my Niece the said *Maria Louisa Avery* the sum of Eleven Hundred Pounds, to my Niece the said *Caroline Mary Avery* the sum of eleven hundred pounds, to my Niece *Elizabeth Shield* the sum of Five hundred pounds, to my Niece *Jane Rattray* the sum of Five Hundred Pounds, to my Niece *Mary Veale* the sum of five hundred pounds, to my Sister *Mrs Mary Lancaster* the sum of Five hundred pounds, to my Sister *Mrs Maria Avery* the sum of Two hundred pounds, to my late Wife's Sister *Susan Anna Macfadden* the sum of Two hundred and fifty pounds, to my late Wife's Nephew *Frederick Bone* the sum of Two hundred pounds, to my Cousin *Henry Prior Lowcay* the sum of One

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hundred and fifty pounds, to my Godchild *Mary Ann Prior Gahan* the sum of Five hundred pounds, to my Godchild *Charlotte Evatt* the sum of Two hundred and fifty pounds, to my friend *Fanny Coutes* the sum of Two hundred pounds, to my friend *Addie Coutes* the sum of One and fifty hundred pounds, to *Alice Cook* daughter of my friend *Captain Gahan* the sum of One hundred pounds, to my friend *Thomas Ellard* of Stoke Damerel in the County of Devon, Paymaster in the Royal Navy, the sum of Five hundred and fifty pounds, to *Kate Evelina Greenway* daughter of my friend *John Greenway* of Plymouth, Solicitor, the sum of One hundred and fifty pounds, to my friend *the Reverend Isaac Hawker* of Plymouth the sum of One hundred pounds to be paid to him out of my pure personalty and to be disposed of by him for charitable purposes at his discretion And I direct that all the before mentioned legacies shall be paid to the respective legatees free of Legacy Duty. I devise and bequeath all my Real and personal Estate whatsoever except what I otherwise dispose of by this Will or any Codicil hereto unto and to the use of my friends the said *Thomas Ellwood* and *John Greenway* their heirs executors and administrators respectively upon trust that they the said *Thomas Ellard* and *John Greenway* or the survivor of them or the heirs executors or administrators (as the case may be) of such survivor shall in such manner and under such stipulations and upon such forms in all respects as they who shall the *asset* sell collect or otherwise convert into money (according to the nature of the premises) all such parts of the same premises as shall not consist of ready money and may buy in or rescind any contract for sale or of any other description and resell without being answerable for any loss and may for the purposes aforesaid execute and do all such assurances and purposes they or he shall think fit And shall out of the moneys to use from such sale collection and conversion and the money of which I shall be possessed at my death pay my funeral and testamentary expenses and dues and the legacies other than specific bequeathed by this my Will or any Codicil hereto And shall stand possessed of the residue of the said real Estate in trust for such of the Nephews and Nieces of myself and my late Wife to whom bequests have been given by this my Will as may be live at the time of my death in equal shares And if any of the said Nephews and Nieces shall have died previously leaving lawful issue living at my death then I declare that such issue shall have the legacy and share in my residuary trust Estate which the parent would have taken had he or she survived me and if more than one in equal shares And I declare that the legacies to or any interest taken by any female under this my Will shall be for her specific use free from the debts control and engagement of any husband with whom she may have intermarried or may intermarry. I devise all freehold and copyhold hereditaments vested in me upon trust or mortgage unto the said *Thomas Ellard* and *John Greenway* their heirs and assigns upon the trusts and subject the equity of redemption subsisting thereon respectively but the money secured on such mortgages shall be considered as part of my personal Estate. And I appoint the said *Thomas Ellard* and *John Greenway* Executors of this my Will And I declare the said *John Greenway* may act as Solicitor for or in relation to my Estate and shall be entitled to charge and shall be paid for all business done by him as such Solicitor in the same manner as if he had not been an *Executor* and *Trustee. In Witness* thereof I have to this my last Will and Testament contained in this and the two proceeding sheets of Paper set my hand this twelfth day of June One thousand eight hundred and eighty.

Signed and acknowledged by the above named Testator Thomas Henry Prior as and for his last Will and Testament in the presence of us present at the same time and who at his request in his presence and in the presence of each other have thereunto subscribed our names as witnesses.

T H Prior

J Henry Square May M K C S Eng Plymouth

Ann Miller Nurse

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This *is a Codicil* to the last Will and Testament of me *Thomas Henry Prior* of Plymouth in the County Of Devon a Captain in the Royal Navy dated the twelfth day of June One thousand eight hundred and eighty. Whereas by my said Will I have bequeathed a legacy of Three hundred and fifty pounds to my friend *Thomas Ellard* of Stoke Damerel now I do now give and bequeath unto the said *Thomas Ellard* the sum of Six hundred and fifty pounds in the place instead of the sum of Three hundred and fifty pounds bequeathed by my said Will And in all respects I confirm my said Will. *In Witness* whereof I have hereunto set my hand this eighth day of February One thousand eight hundred and eighty one.

Signed by the said Thomas Henry Prior as a Codicil to his last Will and Testament in the presence of us present at the same time and who at his request in his presence and in the presence of each other have thereu[illegible] witnesses.

T H Prior

Alfred Frethway

Frederick Clements Clerks to Mr John Greenway, Solicitor, Plymouth

This *is a second Codicil* to the last Will and Testament of me *Thomas Henry Prior* of Plymouth in the County Of Devon a Captain in the Royal Navy dated the twelfth day of June One thousand eight hundred and eighty. Whereas by my said Will I have bequeathed the following legacies namely to *Henry Prior Lowcay* the sum of One hundred and fifty pounds, to *Alice Cook* the sum of One hundred pounds and to *the Reverend Isaac Hawker* the sum of One hundred pounds to be disposed of by him for charitable purposes and by my said Will have devised that my Trustees therein names should stand possessed of the residue of my trust Estate in trust for such of the nephews and nieces of myself and my late wife to whom legacies had been given by my said Will as might be living at the time of my death in equal shares now I do hereby revoke the said legacies to the said *Henry Prior Lowcay, Alice Cook and Isaac Hawker* and I do also hereby revoke the disposition of the residue of my trust Estate in favour of the nephews and nieces of myself and my late wife. I bequeath unto my Sister *Mary Ann Bone* of Portsmouth the sum of Three hundred pounds And I direct that the Trustees or Trustee of my said Will shall after payment of my funeral and testamentary expenses and debts and the legacies other than specific stand possessed of the residue of my trust Estate In trust for such of my nephews and nieces *John James Lancaster, Maria Louisa Avery Caroline Mary Avery, Elizabeth Shield, Jane Rattray and Mary Veale* as may be living at the time of my death in equal shares And any of the many said Nephews and Nieces shall have died previously leaving lawful issue living at my death then I declare such issue shall take the legacy and also the share in my residuary trust Estate which the parent would have taken had he or she survived me and if more than one in equal shares. And in all other respects I confirm my said Will except as altered by a first Codicil thereto dated the eighth day of February One thousand and eight hundred and eighty one *In Witness* thereof I have to this my last Will and Testament contained in this and the two proceeding sheets of Paper set my hand this twelfth day of June One thousand eight hundred and eighty.

Signed by the said Thomas Henry Prior as a second Codicil to his last Will and Testament in the presence of us present at the same time and who at his request in his presence and in the presence of each other have thereu[illegible] witnesses.

T H Prior

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J Henry Square May Surgeon in Melford House Plymouth

Alfred Kerwood Solicitor, Clerk to Mr John Greenway, Solicitor Plymouth

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This *is a third Codicil* to the last Will and Testament of me *Thomas Henry Prior* of Plymouth in the County Of Devon a Captain in the Royal Navy in the Royal Navy dated the twelfth of June One thousand eight hundred and eighty. I bequeath to such of my Nieces *Maria Louisa Avery and Caroline Mary Avery* the sum of One thousand five hundred pounds in addition to the legacies of Eleven hundred pounds bequeathed to each of them by my said Will the said respective legacies of One thousand five hundred pounds as well as all interest taken by the said *Louisa Avery and Caroline Mary Avery* under my said Will as altered by a first Codicil thereto dated the eighth day of February One thousand eight hundred and eighty one and by a second Codicil thereto dated the twenty second day of June One thousand eight hundred and eighty one. *In Witness* thereof I have to this my last Will and Testament contained in this and the two proceeding sheets of Paper set my hand this second day of November One thousand eight hundred and eighty one.

Signed and acknowledged by the said Thomas Henry Prior as a third Codicil to his last Will and Testament in the presence of us present at the same time and who at his request in his presence and in the presence of each other have thereunto subscribed our names as witnesses.

T H Prior

John Greenway Solicitor Plymouth

Alfred Fretheway Clerk to Mr John Greenway

Proved with three Codicils at Exeter the twenty first day of September 1886 by the Oath of *John Greenway* the surviving Executor, named in the Will, to whom Administration was granted.

The Testator Thomas Henry Prior was late of 8 Woodland Terrace, Plymouth in the County of Devon, retired Captain R.N. and died on the twelfth day of August 1882 at 8 Woodland Terrace aforesaid.

Gross Value £11904.6.11

(*John Greenway* of Plymouth Sol on his own behalf)

I certify that the foregoing are correct copies of the original Will and three Codicils of Thomas Henry Prior, deceased.

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