

*FOUR EARLY SCOTTISH GOVERNORS: THEIR IMPACTS IN THE FORMATION OF THE COLONY, THEIR ATTITUDES TO PUNISHMENT AND TO THE DISPOSSESSION OF INDIGENOUS AUSTRALIANS*

**Wal Walker**

*INTRODUCTION*

*Contemporary prison reformer John Howard, High Sheriff of Bedfordshire*

John Howard, born in 1726, was appointed High Sheriff of Bedfordshire in 1773, initially for a one-year period. Rather than delegating his duties to the under-sheriff as was customary, Howard inspected the county prisons himself. He was shocked by what he found, 'and spurred into' action to inspect prisons throughout England. Of particular concern to Howard were those prisoners who were held because they could not pay the jailer's fee, an amount paid to the owner or keeper of the prison for upkeep. He took this issue to Parliament, and in 1774 was called to give evidence on prison conditions to a House of Commons Select Committee. His evidence to the Committee led to two Acts of Parliament that aimed to improve conditions in gaols. Unusually, Howard was called to the bar of the House of Commons and publicly thanked for his "*humanity and zeal*". His published writings on the subject were widely read; his detailed accounts of inhumane conditions caused dismay.

In 1786, whilst at Kherson, in the Ukraine, John Howard aged 63, died, after he contracted typhus on a prison visit. He had travelled 68,000 kilometres on his visits to inspect jails, lazarettos and hospitals where prisoners and slaves were held. He had raised the fate of prisoners on-sold as slaves to Americans. He campaigned throughout Europe and England to get better conditions in prisons, in the hulks on the Thames, and during convict transportation. He had travelled much of Europe, Russia and Turkey, pressing for penal reforms and for recognition of prisoners as human beings, with a right to live; arguing that their punishment was the loss of freedom, that they should not be subjected to unnecessary pain or torture. Howard was one of several contemporary reformers who were looking at the Justice system. The included his cousin, Samuel Whitbread, the brewer, Jeremy Bentham, and later Elizabeth Fry. These reformers were effective, their voices brought change.

Howard inspected the First Fleet at Southampton, to ensure the wellbeing of the convicts during their transportation. He insisted on the walls of their quarters being lime-washed, to prevent prison fever, and that they would be well looked after. He worked with Captain Arthur Phillip and Duncan Campbell, Master of the Convict Hulks, to this end. His

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ideas were embraced in the Colony by Macquarie, Wentworth and Redfern who insisted that the prisoners on convict transports were properly treated.<sup>1</sup>

### *The Commission of Appointment and the Natives*

All Governors appointed to British colonies and dominions were given Instructions in regard to the Indigenous people, as part of their Commission of Appointment, that stated “You are to endeavour by every means to open intercourse with the Natives; and to conciliate their affections, enjoying all subjects to live in amity and kindness with them.”<sup>2</sup>

### *THE FOUR SCOTTISH GOVERNORS*

#### *William Paterson - 17 December 1794 to 6 September 1795*

Born at Montrose, Scotland in 1755, William Paterson joined the Army in 1781 as an ensign. He served in Africa and America, but his main interest was always in botany. He had been trained at Syon House in London and was a great collector of plant species, many given to Sir Joseph Banks. Paterson dedicated a book to Banks, that ensured Banks’ patronage, and facilitated Paterson’s military promotion. In June 1789, he was gazetted as a Captain in the New South Wales Corps. In 1791, he was assigned to Norfolk Island, and he remained there until 1793. On 17 December 1794, Acting Governor, Francis Grose, returned to England, suffering from the wounds he received in the American Revolutionary War. As the next highest Army Officer in the Colony, Paterson became the Acting Governor. He served for nine months until Captain John Hunter’s arrival on 7 September 1795, to officially replace Governor Phillip.<sup>3</sup>

In May 1795, after two settlers were killed, allegedly by Indigenous Australians, conflict flared up along the Hawkesbury. Paterson sent two officers and sixty soldiers to restore order.<sup>4</sup> Seven or eight Bidjigal people were killed and a group of women, children and a crippled man were taken prisoner. One woman and her baby had serious gunshot wounds, and not long after the group was brought to Sydney, the child and a new born baby died. During his nine months in charge of the Colony, Paterson made land grants of almost 5,000 acres. In June 1795, he advised the Home Office that there were almost four hundred settlers and their families on land extending thirty miles along the Hawkesbury.<sup>5</sup>

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<sup>1</sup> D. L. Howard, *John Howard, Prison Reformer* (London: Christopher Johnson, 1958).

<sup>2</sup> ‘Arthur Phillip’s Commission’, *Historical Records of Australia*, Vol. 1 (Sydney : The Library Committee of the Commonwealth Parliament, 1914), p. 13.

<sup>3</sup> ‘Capt. Paterson to Dundas, 21 March 1795’, *Historical Records of Australia*, Vol. 1 (Sydney: The Library Committee of the Commonwealth Parliament, 1914), p. 89.

<sup>4</sup> ‘Paterson to Dundas, 15 June 1795’, *Historical Records of Australia*, Vol. 1 (Sydney : The Library Committee of the Commonwealth Parliament, 1914), p. 499.

<sup>5</sup> ‘State of Settlement at Sydney, Parramatta, etc’, *Historical Records of Australia*, Vol. 1 (Sydney: The Library Committee of the Commonwealth Parliament, 1914), p. 493.

*John Hunter - 7 September 1795 to 27 September 1800*

John Hunter was born at Leith, on 29 August 1737. He came to Australia on the First Fleet, as the second captain of *HMS Sirius*, under Arthur Phillip. Governor Phillip left New South Wales on 11 December 1792, sick and exhausted. In February 1794, Hunter was appointed his successor. He was to return on the *Reliance* but she was thrown ashore at Plymouth in wild weather, and it was over a year before he sailed.

After many delays, *HMS Reliance* and *HMS Supply* left port on 2 March 1795. It was snowing when they sailed, the Thames was frozen. Hunter was concerned for the well being of Bennelong, who was ill and on board, returning home. Surgeon George Bass cared for Bennelong, and he had recovered his health by the time they reached Rio de Janeiro on 5 April. Bass had learnt some of the Eora language. Hunter arrived as Governor on 7 September 1795.<sup>6</sup> In the period of nearly three years since Governor Phillip's departure, the good order that Phillip had been put in place in the Colony had deteriorated under the two Acting Governors, Francis Grose and William Paterson.<sup>7</sup> During his two years as Acting Governor, Grose had allowed the military to take power, running the Courts, the administration and trade. Paterson found it difficult to regain control. A group of army officers led by John Macarthur had control of the Colony.

Macarthur saw himself as the de facto governor; he was Pay Master, with access to funds at his disposal, and he had been made Inspector of Works by Grose,<sup>8</sup> in charge of public works and the allocation of convict labour. John Hunter, a naval officer, found it very difficult to reclaim control. Hunter took the courts out of the hands of the military,<sup>9</sup> he improved conditions for the convicts, they were underfed and he got blankets and clothing sent from London so they no longer worked naked in the fields. Macarthur relinquished his position as Inspector of Works, but the military still had monopoly control over much of the rum and goods flowing into the Colony.

On 15 May 1797, three people, William Clarke and two others, were brought into Sydney from the cliffs at Wattamolla; survivors of two shipwrecks. The *Sydney Cove*, carrying rum and supplies to Sydney from *Campbell, Clarke & Co.* of Calcutta, had foundered at Preservation Island in Bass Strait. Fifteen people had sailed on the long boat to get help in Sydney. Their longboat was swept onto Seventy Mile Beach, and in ever diminishing numbers, the crew had trundled on though hundreds of miles of rugged coastal

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<sup>6</sup> 'Hunter to Portland, 11 September 1795', *Historical Records of Australia*, Vol. 1 (Sydney: The Library Committee of the Commonwealth Parliament, 1914), p. 528.

<sup>7</sup> 'Hunter to Portland, 12 November 1796', *Historical Records of Australia*, Vol. 1 (Sydney: The Library Committee of the Commonwealth Parliament, 1914), p. 666.

<sup>8</sup> 'Macarthur appointed Inspector of Works', *Historical Records of Australia*, Vol. 1 (Sydney: The Library Committee of the Commonwealth Parliament, 1914), pp. 532-533.

<sup>9</sup> 'Return of civil government, Hunter to Portland 23 July 1795', *Historical Records of Australia*, Vol. 2 (Sydney: The Library Committee of the Commonwealth Parliament, 1914), p. 165.

forest. The three fortunate survivors found near Wattamolla had survived through the assistance of several tribes en route.<sup>10</sup>

Governor Hunter had a near impossible job. His efforts to improve and develop a more harmonious Colony were effective despite a barrage of confected complaints being sent to London. Hunter had no support from Lord Portland, the Secretary of State for War and the Colonies who recalled him and continued to denounce him.<sup>11</sup>

*William Paterson (for a second time) - 1 December 1809 to 31 December 1809*

During Governor King's term, Paterson was appointed Lieutenant Governor, and King, responding to the fear that the French might wish to establish a base at Port Dalrymple, sent Paterson, in November 1804, with a small contingent to Van Diemen's Land, to take possession and establish a settlement there.<sup>12</sup> King attempted to stop the vessels bringing rum to Sydney. This resulted in many whalers and other vessels landing rum in other ports, such as Port Dalrymple. He and Alexander Riley, a magistrate and commissary, worked together to exploit the opportunity.<sup>13</sup>

Paterson had no ambition to return to the stressful Sydney scene. He was happy to be in control of a successful settlement with good flat land, suitable for grain crops and an ever growing numbers of sheep and cattle that offered him additional income. In 1806, as Commander of the New South Wales Corps, Paterson returned to Sydney, but in 1807, went back to Port Dalrymple, where he remained until he was summoned back. In the interim, Major Joseph Foveaux returned from London in July 1808. He found Governor William Bligh was under arrest following the *Rum Rebellion*, engineered by a clique of officers of the New South Wales Corps, led by John Macarthur.<sup>14</sup> Foveaux took charge temporarily. He refused to relieve Bligh of house arrest and he sent for Lieutenant Colonel Paterson, who as the senior officer in the Colony would take charge as Acting Governor.<sup>15</sup>

On 1 January 1809, Paterson finally left Port Dalrymple. He assumed office in Sydney nine days later as Acting Governor. Like Foveaux, Paterson refused to reinstate

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<sup>10</sup> 'Hunter to Portland, 18 July 1797', *Historical Records of Australia*, Vol. 2 (Sydney: The Library Committee of the Commonwealth Parliament, 1914), p. 82; Max Jeffreys, *The Wreck of the Sydney Cove* (Sydney: New Holland, 1997), p. 141.

<sup>11</sup> 'Introduction', *Historical Records of Australia*, Vol. 2 (Sydney: The Library Committee of the Commonwealth Parliament, 1914), p. xx.

<sup>12</sup> 'King to Sullivan, 15 May 1804', *Historical Records of Australia*, Vol. 4 (Sydney: The Library Committee of the Commonwealth Parliament, 1914), p. 639.

<sup>13</sup> Janette Holcomb, *Early Merchants Families of Sydney: Speculation and Risk Management on the Fringes of Empire* (Melbourne: Anthem Press, 2013), p. 75.

<sup>14</sup> 'Bligh to Castlereagh, 31 August 1808', *Historical Records of Australia*, Vol. 6 (Sydney: The Library Committee of the Commonwealth Parliament, 1914), p. 588.

<sup>15</sup> 'Bligh to Castlereagh, 31 August 1808', p. 589

Bligh, and he insisted that Bligh and Major George Johnston should return to England.<sup>16</sup> Even as a reluctant Acting Governor, he made the decision that the legality of overthrowing Bligh should be determined by the authorities in Britain. Paterson had brought Alexander Riley with him from Tasmania, as his secretary.<sup>17</sup> Riley stayed on in Sydney taking up land at Liverpool, which he named *Raby*, and he became an early Sydney merchant.

Paterson was at heart a botanist not an administrator. He had been shot in the shoulder in a duel with Macarthur in 1801 and was not interested in attempting to exert authority over those involved in the Rum Rebellion.<sup>18</sup>

In poor health, Paterson never had control; the clique that had overthrown Bligh continued to dominate the Colony. The only alternate authority remained with Foveaux.<sup>19</sup>

Despite this, Paterson was generous; he gave grants of land to almost every person who asked, without regard to their merits or pretensions. In twelve months, he granted 67,000 acres (27,114 ha) to military officers, settlers and emancipists, former convicts who had served their time. It was more than Governor King had granted in six years. Macquarie said of Paterson, that he was “such an easy, good-natured, thoughtless man.” Paterson died in May 1810, returning home on the *Dromedary* as she rounded Cape Horn. His wife, Elizabeth, continued on to England, where she later married Major Francis Grose.

#### *Lachlan Macquarie - 1 January 1810 to 1 December 1821*

Macquarie was born at Ulva, the Inner Hebrides on 31 January 1762. Macquarie was welcomed by Foveaux and before he had disembarked from the *Dromedary*, Macquarie had been fully briefed by him. In his briefing, Foveaux advised Macquarie that he needed to work with some of the former convicts who had special skills. There was a shortage of talent, and many of these emancipists had proved successful in public sector administration and as businessmen.<sup>20</sup> One person he recommended was D’Arcy Wentworth, the acting Chief Surgeon. Macquarie needed little encouragement. Lord Castlereagh had appointed him on merit, confident in Macquarie’s ability to progress the Colony, and at the same time bring stability and some semblance of peace among the disparate groups.<sup>21</sup>

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<sup>16</sup> ‘Foveaux to Castlereagh, 20 February 1809’, *Historical Records of Australia*, Vol. 7 (Sydney: The Library Committee of the Commonwealth Parliament, 1914), p. 3.

<sup>17</sup> ‘Foveaux to Paterson, 27 October 1808’, *Historical Records of Australia*, Vol. 6 (Sydney: The Library Committee of the Commonwealth Parliament, 1914), p. 699.

<sup>18</sup> King to Portland, 5 November 1801, *Historical Records of Australia*, Vol. 3 (Sydney: The Library Committee of the Commonwealth Parliament, 1914), pp. 280-286.

<sup>19</sup> ‘Foveaux to Castlereagh, 4 September 1808’, *Historical Records of Australia*, Vol. 6 (Sydney: The Library Committee of the Commonwealth Parliament, 1914), p. 624.

<sup>20</sup> ‘Macquarie to Castlereagh, 8 March 1810’, *Historical Records of Australia*, Vol. 7 (Sydney: The Library Committee of the Commonwealth Parliament, 1914), p. 221.

<sup>21</sup> M. H. Ellis, *Lachlan Macquarie, His life and Times* (Sydney: Angus & Robertson, 1947), p. 167.

Over time, the dividing line between the established ex-military and exclusive settlers on one hand and the successful former convicts on the other, had become more pronounced. Macquarie wished to improve the life of the convicts, and he accepted the emancipated convicts into society without the stigma of their past crimes. Macquarie also wanted to incorporate the Indigenous Australian into the life of the Colony. He created an Institution for their education and granted them farms and land on which they could settle. He held an annual meeting, a *Jirga*, on 28 December each year at Parramatta,<sup>22</sup> where he met them all at a feast. The Indigenous Australians were given a voice; they were encouraged to discuss their problems and raise their concerns with the Governor at this meeting.

Initially the Bedjigal, led by Pemulwuy, had proved the most vocal and warlike of the Indigenous tribes for Governors Phillip and King., but under Macquarie it was the Gandangara people who lived on the slopes of the Blue Mountains, who came down from the mountains on the west and southwest of Sydney during winter and when food was scarce. They would attack the settlers, and they lived and moved with the other Eora people on the Cumberland Plains. The anger of the settlers and the demands of the military for a response for these attacks resulted in Macquarie sending out various parties, including Captain Wallis, who was responsible for the death of fourteen Indigenous people.<sup>23</sup>

Today, this is seen by many as a reason to completely damn the record of Macquarie as Governor. They refuse to see him and his wife Elizabeth, as the great and thoughtful contributors who had worked to improve the welfare of the Indigenous Australians, convicts and emancipists. In the city of Sydney, the Indigenous Australians were able to call on Macquarie's right hand man, D'Arcy Wentworth, the Police Magistrate and Superintendent of Police when they were threatened by aggressive soldiers or settlers,<sup>24</sup> and this they did.<sup>25</sup> In the small community, people both Indigenous and white recognised each other. D'Arcy's two sons, John and D'Arcy Jnr. spent much time with groups of Aborigines, exploring the south and west of Sydney.<sup>26</sup>

Macquarie encouraged the emancipated convicts. He recognised and welcomed them into his orbit and to Government House. Macquarie used the convicts on Government projects, in improving the presentation of Sydney, as surveyors to lay out new towns, build roads and bridges, and public buildings. He rewarded the convicts for good behaviour with

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<sup>22</sup> 'Proclamations, 8 June 1816', '4 April 1817', *Historical Records of Australia*, Vol. 9 (Sydney: The Library Committee of the Commonwealth Parliament, 1914), p. 145; '4 April 1817', *Historical Records of Australia*, Vol. 9 (Sydney: The Library Committee of the Commonwealth Parliament, 1914), p. 366.

<sup>23</sup> 'Macquarie to Bathurst, 8 June 1816', *Historical Records of Australia*, Vol. 9 (Sydney: The Library Committee of the Commonwealth Parliament, 1914), pp. 139-140.

<sup>24</sup> 'Appointments by Macquarie', *Historical Records of Australia*, Vol. 7 (Sydney: The Library Committee of the Commonwealth Parliament, 1914), pp. 362; 386.

<sup>25</sup> Peter Cunningham, *Two Years in New South Wales* (London: H. Colburn, 1827), as quoted in Paul Irish, *Hidden in Plain View* (Sydney: New South Books, 2017), p. 53.

<sup>26</sup> Irish, *Hidden in Plain View*, pp. 53-55.

remissions on their sentences and Tickets of Leave.<sup>27</sup> Many of the exclusives in the Colony resented the emancipists newfound recognition, and they complained vociferously to London. Macquarie's greatest success was in establishing an economy, using money, rather than rum as a means of payment. He brought in 40,000 Spanish dollars from India, to improve the circulation of money:

Who but a Scot, when faced with the problem of keeping a new silver coinage in the Colony, would have solved it by ordering a capable criminal to remove the centre from each coin, labelling it 1s.3d., while foisting the outer residual ring upon the public at the original value of the whole, thus obtaining from five shilling worth of Spanish dollar, six-and-threepence worth of local coinage.<sup>28</sup>

Macquarie created a bank in 1817, he used the Police Fund as the means to pay for schemes the British Government would not fund, including a hospital, wages for doctors and apprentice doctors, and sundry projects. The result was that the Colony became stronger and better organised, especially with the growing export of wool. The increase in export incomes worked to encourage commerce and trade.

Under Macquarie's administration, the income stream improved, with money from tolls on roads, licenses on hotels and markets, and excise effectively collected on imports. Macquarie encouraged a range of entertainments, such as race meetings, celebrations, theatre and involved convict artists, like Lycett and Lewin and architects like Greenway. He was a most successful governor.

### *Commissioner Bigge*

In Britain, two things concerned the Parliament. Firstly, with the ending of the wars with France, the downsizing of the army had discharged many soldiers into the ranks of the unemployed and contributed to an increasing crime rate. Many parliamentarians believed that the penal settlement of New South Wales was no longer acting as a deterrent to crime in Britain and was responsible for the increasing crime rate in Britain.<sup>29</sup> Secondly, complaints to London coming from the Colony, from Macarthur and other exclusive settlers, and from Rev. Samuel Marsden, denigrated the efforts of Macquarie. They complained that the punishment of the convicts was too lenient, and that former convicts had been given positions in the administration and recognised in society on an equal footing as the free citizens.<sup>30</sup> Parliament appointed John Bigge, as commissioner, with instructions to look at all aspects of the colony, and provide a written report. His real function was to remove Macquarie and put an end to his

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<sup>27</sup> 'Macquarie to Bathurst, 27 July 1822', *Historical Records of Australia*, Vol. 10 (Sydney: The Library Committee of the Commonwealth Parliament, 1914), p. 736.

<sup>28</sup> Ellis, *Lachlan Macquarie, His life and Times*, p. 350.

<sup>29</sup> Ellis, *Lachlan Macquarie, His life and Times*, pp. 391-392

<sup>30</sup> Ellis, *Lachlan Macquarie, His life and Times*, p. 402.

reforms that encouraged the integration of the former convicts into society, and to return the colony into a place of *salutory terror*.<sup>31</sup>

Bigge did extensive inquiries, he endeavoured to collect as much material as possible that would give strength to the prejudicial instructions given to him by Earl Bathurst:

There is one point also, which I cannot avoid recommending to your consideration, though I fear there is not much prospect of your being able to reconcile that difference of opinion which has prevailed in the Colony. I allude to the propriety of admitting into Society Persons, who originally came to the Settlement as Convicts.<sup>32</sup>

After spending seventeen months travelling the Colony, Bigge presented his report in three separate parts to the Westminster Parliament. Many aspects of the Bigge Report were framed to align with John Macarthur's attitudes and self interest. John Macarthur had provided Bigge with ideas, a house and fine horses for him and his Secretary, John Hobbes Scott.

In his instructions, Bigge was to report on all aspects of the Colony, but he did not make any reference to the Indigenous Australians, other than that they could be used to capture escaping convicts. In the legislation and policies that followed the Bigge Report, the Aborigines were given no status, they could not give evidence in Court, they had no rights to take cases to court or for their grievances to be heard. Bigge knew of their discontent over their dispossession and their inability to survive; he was aware of major concerns over the ever-growing conflict between the races regarding the access to and ownership of land. Bigge ensured that all his recommendations would benefit one group, the exclusives.

#### *SIR THOMAS BRISBANE - 1 DECEMBER 1821 TO DECEMBER 1825*

Brisbane was born near Largs in Ayrshire on 23 July 1773. In Paris, in 1815, Brisbane told Wellington that he "would gladly serve His Majesty in New South Wales. Wellington quipped that my Lord Bathurst would be looking for someone who could govern not the heavens but the earth of New South Wales."<sup>33</sup> Brisbane was a dedicated astronomer, and in 1820, his appointment was confirmed. Brisbane brought with him a telescope that he mounted in the grounds of Government House at Parramatta and two astronomers, Runker and Dunlop, to explore and map the southern skies. It was Brisbane's responsibility to action the instructions sent to him from London that arose from the Bigge report. One consequence was the arrival of many wealthy new immigrants from England expecting to be granted land and assigned convict labour to work it.

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<sup>31</sup> 'Bathurst to Bigge, 6 January 1819', *Historical Records of Australia* (Sydney: The Library Committee of the Commonwealth Parliament, 1914); 'Bathurst to Macquarie, 30 Jan 1819', *Historical Records of Australia*, Series 4, Vol.1 (Sydney: The Library Committee of the Commonwealth Parliament, 1914), pp. 4-8.

<sup>32</sup> 'Bathurst to Bigge, 30 January 1819, Private letter', *Historical Records of Australia*, Vol. 10 (Sydney: The Library Committee of the Commonwealth Parliament, 1914), p. 11.

<sup>33</sup> Manning Clark, *A History of Australia: Volume 2* (London: Harper, 1979), p. 22.



Brisbane set conditions for the grants, the settlers were required to accommodate one convict for every hundred acres of land granted; they would relieve the Government of the cost of looking after their convict servants. Many new settlers had no thought or understanding for the Indigenous people they pushed off their newly acquired land. Much of the land granted was in the newly settled Bathurst area that was opened up following Governor Macquarie's visit in 1815. The first Commandant of Bathurst, William 'Iron Bark' Lawson, had been granted land there on, Wiradjuri country, following his success as one of the three explorers to cross the Blue Mountain range. Lawson's seven years as Commandant saw very few skirmishes in the Bathurst area. From 1824, when Lawson was succeeded by Major James Morisset as Commandant, the skirmishes with the Wiradjuri escalated.

On the advice from his Attorney-General, Saxe Bannister, Brisbane made a proclamation of Martial Law in the area beyond Mount York.<sup>34</sup> This gave the soldiers indemnity against being charged for the unlawful death of a British citizen, namely the Wiradjuri, and it gave the military power to use summary justice to suppress the Wiradjuri. Seventy-five soldiers were sent to Bathurst, they were divided into four contingents to pursue those Wiradjuri believed to be responsible for attacks on the settlers.<sup>35</sup>

Each contingent was under a magistrate and headed in different directions. When they returned and met up at Wallerawang they had seen only two Wiradjuri women. However, the skirmishes continued. The Reverend Threlkeld recorded that Morisset was responsible for the massacre of Aboriginal men, women and children. Forty-five heads were boiled down and packed up to be taken by Major Morisset to buyers in England on his return.<sup>36</sup>

Morisset requested a mounted cavalry be formed to replace the foot soldiers who had been ineffective in pursuing the Wiradjuri.<sup>37</sup> He returned to England on leave in February 1825. There, at the age of 43, he married Emily Louisa Vaux. While in England Morisset reported on convict control in New South Wales. He applied for the post of commandant of Norfolk Island that was to be re-established as a penal settlement for the most hardened convicts. He was recommended for this position by Lord Bathurst, the Secretary of State for War and the Colonies, and promoted to lieutenant colonel.

Brisbane opposed excessive corporal punishment, he gave reprieves to many convicts sentenced to death, and he suffered Bathurst's criticism for continuing Macquarie's practice of granting pardons. Brisbane allowed freedom the press, and he momentarily saw that punishment might not be an appropriate way of dealing with the Indigenous people, that it might be better to encourage them with gifts and negotiation.

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<sup>34</sup> 'Proclamation, 14 August 1824, Brisbane to Bathurst, 31 December 1824', *Historical Records of Australia*, Vol. 11 (Sydney: The Library Committee of the Commonwealth Parliament, 1914), p.431

<sup>35</sup> 'Brisbane to Bathurst, 31 December 1834', p. 431.

<sup>36</sup> Niel Gunson (ed.), *Australian reminiscences and papers of L. E. Threlkeld, missionary to the Aborigines, 1824-1859* (Canberra: AIATSIS, 1974), pp. 14; 49.

<sup>37</sup> 'Brisbane to Sir Thomas Taylor, 10 June 1824', *Historical Records of Australia*, Vol. 11 (Sydney: The Library Committee of the Commonwealth Parliament, 1914), p. 282; 'Brisbane to Bathurst, 18 June 1824', *Historical Records of Australia*, Vol. 11 (Sydney: The Library Committee of the Commonwealth Parliament, 1914), p. 283.

Brisbane faced innumerable complaints, he reported:

every person to whom a grant is made receives it as a payment of a debt; every one to whom one is refused turns my implacable enemy. Seated in this situation, I cannot but recall to mind the French King who exclaimed, from a similar feeling, "By every gift that I bestow I create one ungrateful person and ten enemies."<sup>38</sup>

Brisbane found himself in a similar situation to Macquarie. He realised that Bigge and Earl Bathurst's assessment of the Colony was wrong, New South Wales had matured with much of the colonial wealth, ability and energy, in the hands of the emancipists and former convicts who wanted to be free from the oppression of the Bigge Report and London. They wanted independence, with control of their own destiny.

Governor Brisbane acknowledged this at his farewell dinner at the Woolpack Hotel in Parramatta on 7 November 1825:

the Free Institutions of Great Britain should no longer be withheld from the Colony. I am decidedly of the opinion that it has arrived at state fit for their reception ... I shall conceive it my duty to make representations to His Majesty's Ministers. I have little doubt it will induce them to grant the full benefits of the privilege of Englishmen in the important brand of the British dominions.<sup>39</sup>

Britain's reply to the angst from the Colony was Brisbane's successor, Ralph Darling, a very vindictive Governor, appointed to remove from the convicts and the emancipated convicts any anticipation or expectation they could be returned to society with the rights of a free citizen, or admitted of Government employment. They were to remain tainted outcasts. In 1826, with the arrival of Governor Ralph Darling arrived, Major Morisset was appointed Superintendent of Police in Sydney. In 1814, Macquarie had issued an edict against the excessive flogging of convicts, he forbade "a magistrate sitting alone to inflict more than fifty lashes," adding the Governor recommends in the strongest manner that magistrates "inflict corporal punishment as seldom as possible."<sup>40</sup>

By contrast, on 30 October 1830, Darling issued a proclamation on flogging:

Regarding the infliction of corporal punishment at the penal settlements. It is here ordered that offenders shall not be whipped more than three times for any offence—that a greater number of lashes than a hundred should not be inflicted upon any offender in any one day—that no sentence of punishment, except solitary

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<sup>38</sup> 'Sir Thomas Makdougall Brisbane (1773-1860)', *Australian Dictionary of Biography*. At: <https://adb.anu.edu.au/lifefsummary/brisbane-sir-thomas-makdougall-1827>.

<sup>39</sup> 'Governor Brisbane, Reply to Address of Farewell, 26 October 1825', *Historical Records of Australia*, Vol. 1 (Sydney: The Library Committee of the Commonwealth Parliament, 1914), p. 629.

<sup>40</sup> 'Circular to Magistrates, 10 September 1814', *Historical Records of Australia*, Vol. 9 (Sydney: The Library Committee of the Commonwealth Parliament, 1914), p. 515.

confinement, shall be carried into effect without the consent of a medical officer –and no number of lashes beyond twenty five be inflicted without actual presence of a medical officer ... this will silence their slanderous tales which have been put forth regarding the murderous despotism of Commandants and Magistrates.<sup>41</sup>

Governor Darling was a sadist, he sought to oppress not only the convicts, and former convicts, but the soldiers as well. As a consequence, many soldiers attempted to be drummed out of the Army, with a number of them committing minor theft in public, intending to be caught, tried and convicted, to serve as convicts for seven years, and thus be liberated from their military service.

Darling's reaction was to make an example of two soldiers, Privates Sudds and Thompson, who had attempted this strategy to exit the army. He had them jailed, with iron neck braces with spikes that stopped them lying down and sleeping. After Sudds died, there was a public outcry in the press. Under Darling, convicts were not allowed to disembark on their arrival in Sydney, they were held on board ship until they could be removed from temptations of the town. Once on land they were marshalled into chain gangs to work on the roads, hundreds tethered together like animals, supervised by soldiers for a period, before being assigned to work for a settler.

Darling explained this approach to Bathurst:

Their employment on the roads in irons, in the first instance, would have rendered their assignment to the settlers a desirable release from painful and degrading situation; and in proportion to their dread of being so employed, they would have behaved to their masters so as to avoid being returned to the Government.<sup>42</sup>

Charles Darwin who visited N.S.W on the Beagle in 1836 observed:

The iron gangs, or parties of convicts, who have committed some trifling offence in this county, appeared the least like England: they were dressed in yellow and grey clothes, & were working in irons under the charge of sentrys with loaded arms.<sup>43</sup>

In Darwin's view, transportation to New South Wales had proved:

a means of making men outwardly honest- of converting vagabonds most useless in one hemisphere into active citizens in another, and thus giving birth to a new and

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<sup>41</sup> 'Governor Darling's Proclamation', *The Australian*, 29 October (1830). At: <https://trove.nla.gov.au/newspaper/article/36864953>.

<sup>42</sup> 'Darling to Bathurst, 1 March 1827', *Historical Records of Australia*, Vol. 13 (Sydney: The Library Committee of the Commonwealth Parliament, 1914), pp. 139-140.

<sup>43</sup> Richard Darwin Keynes (ed.), *Charles Darwin's Beagle Diary* (Cambridge: Cambridge University Press, 1988), p. 397.

splendid country- a grand centre of civilization – it had succeeded to a degree, perhaps, unparalleled in history.<sup>44</sup>

We can probably thank all the early Governors for their contributions, to this grand centre of civilisation. But we hold up Macquarie as the Father of Australia. It is in writing, on his headstone on the Isle of Mull.

*Here's to the Old Viceroy!*

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<sup>44</sup> Robert Fitzroy (ed.), *Charles Darwin's Diary: Narrative of the Surveying Voyage of His Majesty's Ships Adventure and Beagle between the years 1826 to 1836*, Vol. III (London: Henry Colbourn, 1839).