

February 1869; and CO 234/23, War Office to Governor Blackall, 2 March 1869.

<sup>25</sup> *Moreton Bay Courier*, 7 September 1859.

<sup>26</sup> Both authors had planned a history of the Royal Marines detachment which served at Somerset during 1864-67, especially as it is the largely forgotten imperial force in the colony of Queensland during the 1860s. It is the intention of Jeff Hopkins-Weise that this will indeed be compiled as a future article to better document all the imperial forces which served in Queensland during the nineteenth century.

<sup>27</sup> See Pratt and Hopkins-Weise, 'Redcoats in the 1840s Moreton Bay and New Zealand frontier wars', pp. 32-52.

<sup>28</sup> Patrick Clancy's case study is derived from both authors' earlier research and publication, Rod Pratt and Jeff Hopkins-Weise, *Brisbane's 1st Battalion: 12th (East Suffolk) Regiment Detachments, 1860-66* (Brisbane, 2005), pp. 22-23, 41-43, 51-60, 71, and 119-29.

<sup>29</sup> This article is based on the collective research of both authors, which apart from sources already cited elsewhere in this article include: Rod Pratt "'A brace of pistols in my pocket ... and a cutlass in my hand": Corporal Archibald Campbell's military service in Australia, 1832-1837', *Journal of the Royal Historical Society of Queensland*, 16 (1997), pp. 343-52; Jeff Hopkins-Weise and Rod Pratt, 'The Scarlet Legacy: The British Army's forgotten presence in Moreton Bay, 1860-69', *Sabretache: The Journal and Proceedings of the Military Historical Society of Australia*, 42 (2001), pp. 3-38, and editor's Correction, 42 (2001), p. 1; Jeff Hopkins-Weise and Rod Pratt, 'The 50th (Queen's Own) Regiment Military Guard at the St Helena Penal Establishment, Moreton Bay, 1867-69', *Journal of the Royal Historical Society of Queensland*, 18 (2002), pp. 97-114; Jeff Hopkins-Weise and Rod Pratt, 'New Directions in Australian Colonial Historiography: A Call for the Timely Reintegration of the British Army, Frontier Conflict, and Involvement in Wars of Empire', in C. Dixon and L. Auton, eds., *War, Society, and Culture: Approaches and Issues: Selected Papers from the November 2001 Symposium organised by the Research Group for War, Society, and Culture* (Callaghan, New South Wales, Research Group for War, Society, and Culture (School of Liberal Arts), The University of Newcastle, 2002), pp. 105-116; Jeff Hopkins-Weise, 'Queensland and the New Zealand Wars of the 1860s', *Journal of the Royal Historical Society of Queensland*, 18 (2003), pp. 209-31; Jeff Hopkins-Weise and Rod Pratt, *Brisbane's 50th (Queen's Own) Regiment Detachments, 1866-69: & the Saint Helena Penal Establishment Military Guard* (Brisbane, 2004); Jeff Hopkins-Weise, *Blood Brothers: The Anzac Genesis* (Rosedale, North Shore: Penguin Books, 2009); and Rod Pratt, 'The Military at Moreton Bay, 1825-1842', *Queensland History Journal*, 21 (2015), pp. 819-26.

## **“To Rid of Their Regiment”: Soldiers as Convicts at Moreton Bay Penal Settlement, 1826-1830**

JENNIFER HARRISON

Between 8 and 9 o'clock on the evening of 20 September 1826, Joseph Sudds and Patrick Thompson robbed a York Street shop in Sydney, New South Wales of twelve yards of calico shirting. The two offenders were quickly apprehended and identified as private soldiers of the 57<sup>th</sup> Regiment who had acted quite deliberately having a “fixed determination to commit some species of theft with which they would be transported, *to rid of their regiment*”.<sup>1</sup> According to Lieutenant-General Ralph Darling, Governor of New South Wales, “Several men of the 57<sup>th</sup> Regiment (seven in number) having committed robberies and maimed themselves with the avowed intent of obtaining their discharge from the service, I judged it necessary to take such steps as might have the effect of deterring others from any similar attempt.”<sup>2</sup> Wishing to act decisively when facing this first crisis of his governorship, Darling could not anticipate that his resolution to exceed the defined boundaries of his commission would generate such consequences, censure and criticism.<sup>3</sup>

This paper investigates examples of two categories of soldiers under punishment as convicts at Moreton Bay. Like Private Patrick Thompson, the first group comprises some who came free as military guards on male convict carriers, broke colonial law (sometimes quite intentionally), then after facing trials in Sydney courts were condemned to the penal settlement where fellow enlisted men from their own regiment were supervising. The second set samples others condemned to this station where they personally already had served with their regimental detachment in an administrative capacity.<sup>4</sup>

Martial law imposed on personnel within British army regiments ensured subservience and enforced respect for long established traditions. Offending or striking a senior officer, mutiny or desertion, absence without leave, intoxication and breaches of regional civil law constituted the main crimes for which miscreants were sentenced by courts martial. A General Court Martial was confined to hearing cases against commissioned officers. A General Regimental Court tried non-commissioned officers and other ranks, but could not order sentences

of death, transportation or more than 150 lashes. In these early nineteenth century years, punishment was harsh and severe with flogging, transportation or expulsion from the regiment usually enforced. These hearings typically were conducted at the local headquarters if serving abroad or the culprit might be sent back to Britain for judgement or to satisfy a transportation sentence. The sovereign's confirmation was required for an overseas decision to cashier an officer while other verdicts required approval from the area commander-in-chief or by the general officer commanding.<sup>5</sup>

Military men who perpetrated criminal acts in New South Wales wanting to leave the army, were motivated to do so mainly because they resented unsympathetic treatment within their own organization. Further, they considered their personal circumstances and conditions were scarcely better than those inflicted on the incorrigible and notorious characters they were policing. Both groups, restrained within separate hierarchical structures, were subjected to orders determining basic creature comforts involving dress, daily routines, food rations, and social behaviour. Although both sets enjoyed benefits such as medical care and religious consolation according to the rites of the Established Church, these advantages, being dependent on location and availability of appropriate personnel, might be accessible only intermittently and proved of limited value during times when many in each cohort adhered to the Roman Catholic faith. Some enlisted men could not resist temptation to steal or desert while others, no doubt encouraged by the alcoholic beverage customarily included within soldiers' daily rations, resorted to excessive drinking which inevitably encouraged brazen and shameless disruption by not only irresponsible but also unlawful conduct.

Only six in each hundred men were permitted to take wives and children on overseas postings.<sup>6</sup> With their colonel's permission several soldiers married in Sydney and many of these families came to Moreton Bay. On the other hand, initially only two convicts were accompanied by wives in 1825.<sup>7</sup> Darling and Logan encouragingly accepted further spouses until other complications such as rationing and the lack of suitable employment resulted in discontinuance of this practice.<sup>8</sup> Military authorities recalled the ineffective trial to improve living conditions by granting houses and/or land to both officers and the rank and file. Such benefits had proved impractical when initiated by John Macarthur between 1793-6 when Inspector of Public Works. At the time, David Collins, advocate general and secretary of the colony, warned in his *Account of the English Colony in New South Wales*, that as a property owner, a serving man, "might in course of

time, think of himself more as an independent citizen than as a subordinate soldier".<sup>9</sup>

Who then were the determined lawbreakers who dishonored their regiment by seemingly aberrant behaviour and with what consequences? By investigating a few individual cases, much information concerning daily life at a penal station emerged. Which role did these men assume, that of an abject prisoner or did they continue to respect authority? How did one gain preferment as an outcast at an outdoor gaol? Did their former friends help them escape or alleviate conditions? The opening example used to introduce this paper offers several insights, particularly exposing character traits of officials, newspaper editors, London authorities including parliamentarians. Was patronage and sponsorship as effective at an out-station as in Great Britain?

#### ***Privates Joseph Sudds and Patrick Thompson, 57<sup>th</sup> Regiment***

The scene of the crime for this widely publicised and divisive incident was a general store in the middle of Sydney's busy centre, owned by Michael Naphtali. This respectable merchant's past, replicating many Sydney shopkeepers, had criminal origins. As part of a gang he stole 101 glass illuminators in London, and then attempted to sell them as broken glass. Aged 27, the former glasscutter was sentenced to seven years transportation; travelling on the *Glory* which arrived in Port Jackson in 1818. After the mid-decade robbery by the two soldiers, Michael Naphtali, eventually the father of eleven children, eight years later became a publican but was a bankrupt prior to his death, aged 58, on 21 July 1847.<sup>10</sup> In November 1826, the Sydney Court of Quarter Sessions convicted both Sudds and Thompson for thieving from Naphtali's shop, sentencing them to a penal settlement for seven years. Demonstrating the governor's intent to use this case as a deterrent to avert further desertions, on 22 November the two villains were paraded at Wynyard Barracks, stripped of their regimental accoutrements and reclothed in yellow convict garb.

While the regimental band played the 'Rogue's March', they were given over to civil authorities who gaoled the two offenders with leg irons linked by a deliberately shortened chain to a spiked metal collar which restricted their ability to lie down or even to stand erect. Governor Darling, shocked by their decided and declared motive, issued a General Order on 22 November 1826 commuting the Court's transportation order to a seven-year sentence of hard labour in chains on the public roads.<sup>11</sup>



Figure 1: Wynyard Barracks, Sydney, by George Roberts (Mitchell Library, SLNSW).

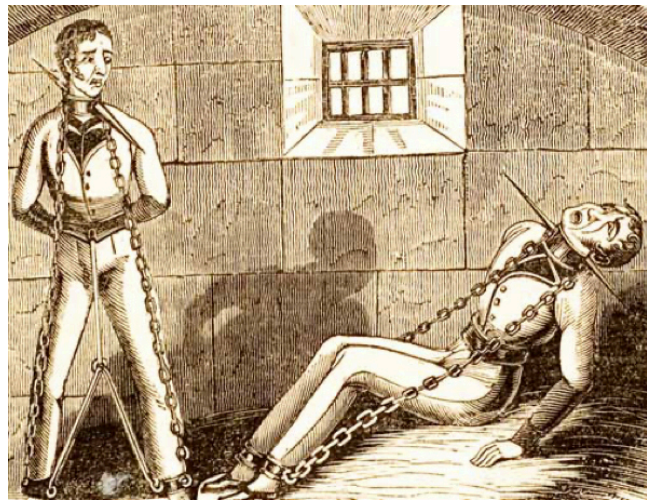


Figure 2: Sudds and Thompson in goal, from E.S. Hall, *Reply in Refutation of the Pamphlets of Lieut.-Gen. R. Darling...* (London: Benjamin Franklin, 1833).

Five days later, on 27 November although neither colonial secretary, Alexander Macleay, nor the governor were advised of Sudd's deteriorating condition by medical staff (Dr James Bowman

and Dr James McIntyre), the prisoner died in the prison hospital of dropsy.<sup>12</sup> His decline, probably compounded by influenza or an inflamed throat, was instigated, or at least uncomfortably aggravated, by the iron collar. After public inspection, allegations of overweight irons and chains causing agony were disproven but very speedily contending parties argued that lighter irons were substituted for the Executive Council to inspect. When Captain Robert Robison of the Veteran Corps located the original heavier ones at the Emu Plains government residence where Thompson had been labouring, accusations of cruelty and persecution quickly ensued. As legal historian C.H. Currey observed: "Joseph Sudds dead was far more troublesome to Ralph Darling than Joseph Sudds alive had been or could be."<sup>13</sup>

Opinions about the legal validity of Darling's actions commencing before the convicted men had reached the penal settlement was vigorously questioned and condemned by members of the fourth estate, particularly the *Australian* owned by William Wentworth and Robert Wardell and edited between 1828 and 1833 by Atwell Edwin Hayes. In Darling's comprehensive report to Sir George Murray, Secretary of State for Colonies, on William Charles Wentworth's campaign to impeach the vice-regal representative over the Sudds-Thompson debacle, he complained that the young, native, barrister, author and emancipist champion invoked pertinent comparisons between Darling in New South Wales and the fate of a former governor of Senegal, Irish-born Joseph Wall (1737-1802). Twenty years after Wall ordered the flogging of a soldier who died from the eight hundred lashes inflicted, the vice-regal representative who had imposed the punishment, was charged with murder and hanged at Newgate, London.<sup>14</sup> A cautious Darling had requested opinions from both Chief Justice Francis Forbes and Judge Alfred Stephen on their interpretation of the sixth clause of 7 *Geo IV* (1826) No. 5, with the New South Wales legal authorities advising that the governor was empowered to 'withdraw' a person from a penal colony but could not interfere with, or alter, a court's decision.<sup>15</sup> As neither Sudds nor Thompson had yet reached a settlement of secondary punishment, the decision to transfer them to labour in a road gang did not conform to the strict letter of the law. Nevertheless, in Darling's judgement, newspapers including the *Sydney Gazette* and the *Sydney Monitor* had kept the issue alive for various political purposes such as premature constitutional reform which the governor considered too radical to introduce to a population consisting almost entirely of convicts and emancipists.<sup>16</sup>



Attempting to rectify the situation, Thompson who was in the Lapstone (Emu Plains) road gang near the Blue Mountains was transferred to the hulk *Phoenix*. From here, in accordance with the original sentence, on 13 July 1827 he was sent to Moreton Bay on the brig *Wellington*, arriving there on 20 July 1827 where he was detained as a prisoner for two years and eight months. About fifteen months into his detention at the penal colony, according to E.S. Hall at the *Monitor*, when Thompson incurred Commandant Patrick Logan's wrath, he absconded to the bush for 47 days. Another version written by a fellow prisoner suggested a more sinister reason:

This Thomson, in consequence of the hardship to which he had been subjected on the settlement by the cruel treatment of Captain Logan and the several authorities under him, and, no doubt, winked at by the cruel General Darling, was taken to the bush for the purposes of living among the black nations. He remained in the bush for several weeks, when being attacked with dysentery [*sic*], a complaint which, if not attended to in its first stage, usually proved mortal, he made his way to the settlement, underwent the punishment of a hundred lashes for absconding, and was then taken to hospital, where he remained for nearly two months, at the end of which he was returned to the prisoners' barrack, in the most horrid and deplorable state ever witnessed by human eyes. He could not walk on his legs but was compelled to move about on his hands and knees. On being removed into the barrack yard, he was immediately set to pick up and eat cabbage leaves and other filth that was lying about – a spectacle, I suppose, such as was never before witnessed by any living creature. Now this unfortunate man, throughout the scene, appeared destined to undergo all the punishments inflicted upon him for the mere purpose of Logan seeking another smile from his friend Darling; for I am informed that the latter approved of the former's proceedings, in consequence of their being always harsh, unjust, and cruel.<sup>17</sup>

According to the district's official register, Thompson "ran" on 8 September 1828 returning on 25 October 1828.<sup>18</sup> If Thompson had been "taken to the bush", interactions with former colleagues must have been severely challenged when the victimized private soldier was given 100 lashes for absconding. By March 1829 when the 57<sup>th</sup> was preparing to relocate to India, Thompson was discharged to his old regiment and told to re-enlist. In the event he was returned to the 57<sup>th</sup>'s English depot on the *Harmony* in November 1829. When receiving his orders, the *Sydney Monitor* reported on 2 November 1829,

Thompson it appears behaved himself with civility, but handles his arms badly, and conducted himself in a loose careless way, so that the drill serjeants could make nothing of him; and when remonstrated with, he used civilly to reply, he was no soldier; that he had been drummed out of the service, and though thus compelled for fear of a flogging to go to drill, "he was no soldier!"<sup>19</sup>

Nevertheless, the discontented warrior was retained at Moreton Bay for the next pay period, extending over thirteen weeks, before returning to Sydney and finally departing for Chatham headquarters. The victim, Sudds, had originated in Gloucester where a wife and child still resided.<sup>20</sup>

After Darling's decision to expel him from the Veteran Corps, on Captain Robison's return to London for the sovereign's imprimatur, after unsuccessfully proving the cruelty of the shackles, the passing of the 1832 Reform Bill delayed presentation of his detailed petition outlining his grievances. The Robison document finally reached the House of Commons in 1834 through lawyer Stephen Lushington. "Supported by 42 radicals and Irish members, it was defeated by a majority of 31 votes." Persisting in his attacks upon Major General Darling, Robison was brought before "Lord Denham and a special jury at the Court of King's Bench on 11 December 1834." When the judge found for the former governor, the captain's punishment was delayed until the following month when Robison produced witnesses prepared to confirm his claims about the torturous irons. Despite this new evidence, the respected officer ultimately was sentenced to four months' imprisonment.<sup>21</sup>

On 30 July 1835 the House of Commons received a further series of requests including one from prominent radical politician, member for Aberdeen burghs Joseph Hume (1777-1855) which contained damning evidence illustrated with the damning prison illustration, collected by former *Sydney Monitor* editor, Edward S. Hall, requesting an enquiry into Darling's administration. Matters became more entangled when on 10 September, Patrick Thompson, now living in Sligo, Ireland, was summoned to London to testify at the 1835 parliamentary enquiry into Darling's actions. "He [Thompson] complained that it [the committee] had completed its deliberations and made its report on the evening before he arrived. In a petition he claimed he could have substantiated the allegations of cruelty and sought leave to prove he had been confined in heavy spiked irons whilst labouring under illness".<sup>22</sup> Thompson's application was merely

tabled. With his evidence ignored, the 34-year-old, five feet nine inches in height, with sallow complexion, brown hair and grey eyes former soldier vanished from records, perhaps returning to his native Ireland.

After involved proceedings, Darling was vindicated yet again despite Robison's evidence being described as "extremely fair and candid and very honourable to him." After "losing everything" finally Robison's brother-in-law, 2<sup>nd</sup> Earl Lord Castle Stuart/Stewart (1784-1854) of County Tyrone was credited with obtaining for the much-maligned officer an appointment as "paymaster to the counties of Armagh, Monaghan and Lough when the serving captain was permitted to sell his commission."<sup>23</sup> Following this third enquiry once more Governor Darling had been exonerated, leading to the bestowal of a knighthood almost immediately.<sup>24</sup>

#### **Private David Wright, 57<sup>th</sup> Regiment of Foot**

In August 1825, David Wright, a member of the 57<sup>th</sup>'s second detachment to arrive in Sydney from Chatham, was exiled to Moreton Bay as a prisoner on board the *Isabella* now delivering the first boatload of recidivists to Logan's Brisbane. Already Commandant Logan and the private soldier had crossed paths. On 21 January 1826 Superintendent of Police in Sydney, Francis Rossi and merchant Alexander Berry, both Justices of the Peace, recorded the sworn testimony of Private Thomas Malone, servant of Captain Patrick Logan of 57<sup>th</sup> Regiment, that the previous Thursday, 19 January 1826, fellow private soldier David Wright spoke to him between 6 and 7 p.m. He was enquiring whether the cook had located a silver watch, belonging to another servant, Private Thomas Gueard/Guard/Garr who had left it in the kitchen at Logan's house in Prince Street. Malone had searched for the timepiece and located it in the bedroom and gave it to Wright who indicated that he would deliver it to its owner.

Gueard's testimony, given on the same occasion as Malone's, confirmed that the watch now shown to him was his property which he had left "on the Boards over the Kitchen". Gueard missed his fob-watch after dressing to attend the 57<sup>th</sup> Regiment's mess in response to a summons from his superior officer, Captain Logan. On meeting with up with Wright and ascertaining he was not going anywhere in particular, the private soldier was begged to alert his master [Logan] to warn the servants to look for the missing object but "recommended him [Wright] not to bring it to him [Gueard]". Wright then made enquiries of Malone who released the silver watch to him, which

subsequently the messenger failed to deliver and sold for twenty-seven shillings.<sup>25</sup>

The soldier thief had arrived at Port Jackson on 18 August 1825 as part of the detachment which had travelled on *Norfolk*. Six months later, the military delivered Wright to the General Sessions on 7 February 1826 where he was sentenced to three years transportation. Wright was held in Sydney Gaol until he was sent to Moreton Bay on the *Isabella* on 8 May, arriving there on 2 June 1826 into the custody of Captain Logan and members of his own regiment.<sup>26</sup> Awkwardly his accuser, Thomas Gueard, was among the private soldiers watching over him while the witness, Thomas Malone, as Logan's servant also attended his master at his new command by specific request.<sup>27</sup> Wright, aged 23, ran from the settlement from 29 November until 22 December 1828 before he was apprehended with Richard Voller at Point Danger at the military post based there to thwart escapes to Port Macquarie or Sydney. Finally, his three years' detention ended at which time, controlled like Thompson, Wright was ordered to return to his regiment. He was shipped to Sydney on 24 February 1829 before leaving for Madras on 15 July 1831.<sup>28</sup>

Corrections made on the Dr. Side of the annexed General State.					
Sums ADDED in consequence of Sums short-charged in this or any former Pay-List.					
Date of the Termination of the Pay-List in which the Error occurred.	Date and No. of Order Letter if any pointing out the Error, or No. of the Article in the Abstract of Examination.	Statement of Particulars.	Amount.		
			£	s.	d.
Present		Amount paid for transportation provided by March Thompson on his expiring last Post from a sentence for a criminal offence agreeable to the Order General dated 27 August 1824 Pay 4/6 1/2 1/2 1/2 being account approved by (with piece) P. Officer Comd. Thompson's receipt for the Post	1	0	0
Do		Dr. Geo. Dr. Paid David Wright	1	0	0
		October 1821	1	0	0

Figure 3: Payments concerning Privates Thompson and Wright for December 1828 – March 1829 pay quarter (TNA: WO12, AJCP Reel 3817, Piece No.6654).

Further cases involving the sentencing of serving soldiers during the 1826-1830 years to the Moreton Bay settlement indicate that Thompson's motivations were not unique. Additional examples emphasize discontent within the ranks which tempted dispirited, yet un-convicted, soldiers to break the law knowing they were liable to be condemned either to the confinement under identical conditions they

previously had imposed on others – or desperately hoping they might return home.

### ***Convicted Soldiers who had Policed at Moreton Bay***

The careers of these next three enlisted men included military duties at the Brisbane River site under Logan before they became prisoners at the same place. In turn, their experiences there did not deter others from committing crimes in the metropolis after returning to headquarters which inevitably resulted in an ignominious reappearance as prisoners. Later they were supervised by a new senior officer when he administered the northern establishment between 1830-5.<sup>29</sup> Commandant Captain James Clunie with members of the 17<sup>th</sup> Regiment had arrived at the settlement in August 1825 to permit his predecessor Logan to indulge in one last exploration adventure before leaving for Sydney to answer charges of cruelty alleged by constant attacks by newspaper editor, E.S. Hall of the *Sydney Monitor*, after which Logan projected leaving New South Wales for India with his regiment.<sup>30</sup> Two private soldiers who arrived in the Australian colonies as guards on the *Medway* at regimental headquarters in Van Diemen's Land on 14 December 1825 were Bernard McCann and Andrew Gallon who, emulating David Wright, also succumbed to the temptation to steal while serving.

### ***Private Bernard McCann***

Since first arriving Private McCann had served at Windsor, and then joined the pioneering party establishing the short-lived settlement at Westernport; he was there between November 1827 and February 1828. Leaving on the ship evacuating the failed site he transferred to Glebe Farm and Longbottom. McCann's guarding duties at Moreton Bay between November 1828 and May 1830 were followed quite quickly when he was until handed over to civil powers on 7 September 1830 resulting in his 25 September 1830 trial. Bernard McCann was charged with larceny of six cases containing apples and wearing apparel belonging to William Hamilton, with the prosecutor noting the soldier was dressed in his "regimental blues" while committing the crime. Accomplices William Cooke and Richard Haydon were found guilty of inciting McCann to take the goods and of assisting. When hearing he was convicted to transportation for seven years, McCann reportedly exclaimed: "Your Honour I hope you will get me my discharge." Allegedly the judge replied, "We have nothing to do with it, you

must go to the place of your sentence".<sup>31</sup> The nominated location was Moreton Bay which involved a seven-year residency from 1 January 1831 until 4 December 1837 while his two partners received the same penalty at a different penal colony. His record does not contain any absconding incidents but he became a hospital patient from 3 to 11 February 1831 entries suffering from 'febris' (fever), a regular debility at the subtropical depot.<sup>32</sup>



Figure 4: View of Brisbane, Moreton Bay, 1831  
(Mitchell Library, SLNSW: SSV4B/MORE B/1).

Twenty-eight-year-old Bernard McCann became an overseer during 1835 and supervised his charges carefully. After he had defended his superior, Chief Constable Richard Bottington, the subject of an enquiry in July 1835 when discovered offering tea and sugar to female convicts, the Chief Constable signed McCann's petition for appointment as constable.<sup>33</sup> For over a year, in his elevated patrolling capacity McCann's evidence proved essential when charges were preferred against many other convicts which must have caused complicated decisions when deciding where his loyalties lay. One particularly trying time involved McCann testifying against Andrew Gallon his fellow soldier-prisoner. On 22 January 1836 at the settlement Gallon stole corn which he tossed in the river when apprehended. For this violation, Gallon endured twenty-five lashes.<sup>34</sup> In turn, on 22 April 1837, McCann suffered fifty strokes for taking off his irons, contrary to orders.<sup>35</sup> The soldier's family featured during the settlement's later years when



the death of pioneer shearer and miner, James Hexton, was the subject of a *Truth* article entitled ‘Demise of the State’s First White Native, ‘Jimmy’ Hexton’s History, Reflective Remarks’, published 22 February 1914. Here assertions were made that “there is good reason to believe that he was *the first white male child* born in the district which many years afterwards became the Colony of Queensland.” It was also reported, “Although not actually the first white child born in Queensland, that honor having been thrust upon Sarah McCann, who eventually married and became Mrs Graham. ...undoubtedly on the death of Mrs Graham, a couple of decades ago, [he was] the oldest surviving white Queensland native-born”.<sup>36</sup>

#### **Private Andrew Gallon**

Bernard McCann’s companion on the *Medway*, Private Andrew Gallon/Gallen, born in County Tyrone, Ireland, in 1803, was posted to the outlying gaol six months before his shipmate in the June-September quarter of 1828. He worked with the regiment there until March 1830, initially coinciding with the last months of Thompson’s incarceration. At the Criminal Court in Sydney on 9 September 1830 he was charged with robbery of one or two hundredweight of iron, a bag and a bushel of coals from the Sydney Commissariat Store on 10 August.<sup>37</sup> Sentenced to seven years transportation at Moreton Bay he disembarked on 1 October 1830 from the *Governor Phillip*. One month later the vessel was required to take Logan’s grieving family back to Sydney which they reached on 14 November. Two days later when the Commandant’s mutilated body arrived at headquarters on the *Isabella* an impressive funeral followed.<sup>38</sup>

At 5’ 8<sup>3</sup>/<sub>4</sub>”, this 25-year-old prisoner early in his residency showed a propensity to run from the settlement. On 29 March 1831 Gallon tested his ability to live in the bush for four days. Then from mid-July 1831 he survived a three-month absence, a feat attempted again on 18 December 1834 when he managed one month away.<sup>39</sup> These abscondings probably impinged on his release date, as he did not leave Brisbane Town until 26 April 1838 nearly five months after his sentence normally would have expired, which closely approximated the time he was in the bush.<sup>40</sup> For eleven weeks between 12 September and 30 November 1837, Andrew Gallon was in the settlement hospital suffering from an obviously serious but undescribed wound.<sup>41</sup>

#### **Sergeant George Baxter, 102<sup>nd</sup> Regiment of Foot – Veteran Corps**

A similarly convicted soldier sentenced to the care of a very small detachment of his regiment at Moreton Bay was Sergeant George

Baxter, a native of Boston, Lincolnshire, who had arrived in Sydney in 1826 as part of the reintroduced Veteran Corps. Late in 1827 small units from both the 102<sup>nd</sup> NSW Veteran Corps and 39<sup>th</sup> Regiment were posted to augment Logan’s 57<sup>th</sup> Regiment at Moreton Bay.<sup>42</sup> On 15 August 1827, following a total of twenty-eight years of service, Baxter received a colonial sentence when found guilty of selling 500 pounds of soap and 1000 pounds of salt, the property of the Crown.<sup>43</sup> Despite creditable service in updating and maintaining the accounts at the Parramatta Female Factory where his wife also was employed, due to the size of the offence Baxter was ordered to serve seven years at the Moreton Bay penal settlement.



Figure 5: Parramatta Female Penitentiary or Factory, NSW, c. 1825, by Augustus Earle (NLA PIC Solander Box 35#T63, NK12/25).

After six months at the depot, Baxter applied to have his wife and family join him, although he had not yet completed the two years’ detention required under the 1826 Act entitling him to this privilege. Logan supported the sergeant’s petition because he considered that “Baxter had conducted himself much to my satisfaction”, a commendation supported by Governor Darling. Once she was replaced at Parramatta, Letitia Baxter and their 8-year-old daughter, Sarah, joined George in April 1828, remaining a year at the station. No doubt anticipating the increase in women prisoners which commenced soon afterwards and based on her earlier experience in administering female convicts, Logan appointed Mrs Baxter as the first matron of the

initial three female prisoners sentenced to Moreton Bay.<sup>44</sup>

In March 1829 following an application by Alexander Macleay, Colonial Secretary and president of the Australian Subscription Library and Reading Room, requesting to employ George Baxter at the library, Logan was ordered to return the family to Sydney.<sup>45</sup> Further, officials became unhappy that as a free arrival to New South Wales and as a first offender despite his breach constituting a transportable crime, George Baxter probably should never have been committed to a penal settlement.<sup>46</sup> Regimental pay listings record that George Baxter re-joined the regiment on 26 February 1831 “according to the custom of the service having received a pardon for the colonial conviction and was discharged on 30 April 1831”.<sup>47</sup> Sergeant George Baxter later died in Macquarie Street, aged 51 years, and was buried on 24 September 1834 at St James’. His wife, also a Moreton Bay employee, after marrying again a further three times died as Letitia Williamson on 23 November 1872 aged 72 at Sydney infirmary.<sup>48</sup>

In a remarkable quirk of fate, Baxter had not always been part of Lieutenant Bell’s company, having transferred on 25 February 1827 from that of Captain Robert Robison, with whom he had travelled to New South Wales on the *Orpheus* in September 1826. When seeking Baxter’s release an affidavit was produced indicating that Captain Robison required his presence at headquarters as an absolute necessity, “to enable him to comply with certain orders with respect to making up the accounts of his company”.<sup>49</sup> This was the same officer who prosecuted by Governor Darling, faced a court-martial in Sydney Barracks on 11 July 1828 on eight charges of “various irregularities in the command of a detachment”, and was cashiered for daring to challenge the governor over the irons placed on Sudds and Thompson.<sup>50</sup>

### Conclusion

Young men did not enlist in the British army intending to guard convicts. Those regiments which served at Moreton Bay, nearly all had preceded their Australian assignment with some years in Ireland. In the post-Waterloo years the rural provinces, exposed to chronic unemployment and severe droughts compounded by obligatory tithe payments to the Established church, suffered escalating incidences of agrarian protest and ‘outrages’. This calculated disorder and its associated criminality required significant military support from British regiments which rapidly progressed into operating as an embryonic policing presence, a role difficult to shed in later deployments.<sup>51</sup>

Military men persevered in joining recidivists as condemned men

at Moreton Bay although numbers diminished after 24 August 1832 when 3 *William IV (1832-3) No.3* formalised punishments for native-born and free arrivals who had committed crimes earning a transportation sentence as first offenders. Endeavouring to distinguish between free settlers and those arriving as convicts, men within these definitions for their first crime now would be sent to Van Diemen’s Land rather than to a penal settlement. Under Darling, few soldiers who indulged in aberrant behaviour achieved their aims but even though incidences decreased, crimes and maiming persisted. What action could be taken within the colony to limit these breaches? Firstly, a General Order issued by Governor Darling indicated his displeasure at their lack of respect and deplored such actions promising that any defaulters would be sentenced to hard labour on the roads.<sup>52</sup> In 1831 the *Sydney Monitor* reported that several men in serving regiments who had maimed themselves had been sent to India with their corps, the remainder of their sentences having been rescinded.<sup>53</sup>

Perhaps familiarity did breed contempt because although together with at least a quarter of all settlement convicts many soldier-convicts attempted escapes at Moreton Bay, little evidence has surfaced to date that any abscondings were associated with supervisory neglect or connivance. In Thompson’s case, fellow soldiers may have conspired to isolate him as a punishment. Patronage in action could be seen with McCann’s ‘protection’ of Bottington as an indication that he saw this as ensuring the Chief Constable nominated him for a responsible role while Robison’s titled brother-in-law guaranteed the humiliated veteran obtained future employment. Newspaper editors like Edward Hall ‘sponsored’ convict hardships to humiliate officials or the system. Claims to enhance personal importance by being the first-born or settler at particular locations were made by soldiers as well as convicts as evidenced by the McCann family at Moreton Bay. The crimes for all the northern condemned not only the secondary offenders usually involved stealing goods for quick resale – cash proving more important than necessary food or clothing. Mrs Baxter proved that wives holding appropriate skills could be employed at the station and her husband’s reprieve came before the enabling Act was in place. While co-conspirators were usually sent to different gaols as McCann found, David Wright was forced to serve his sentence under his prosecutors. On the whole, it appears military were treated and responded as convicts.

English military recruitment was concentrated on the large urban centres of London, Birmingham and Liverpool coinciding with the



metropolises contributing the most convicts, Similarly, soldiers originating north of Hadrian's Wall must have identified many of their "ain folk frae hame in dear auld Scotland" around Sydney township while Irish combatants originated from precisely identical townlands and parishes in Ireland as the convicted. There are countless incidences of soldiers and convicts being born in the same year in a matching location.<sup>54</sup> Both groupings in the same age bracket came from similar backgrounds – one took the King's shilling, the other took his cloak and both ended up across the world isolated 12,000 miles from home. One proudly was 'marched out of the glen by a recruiting sergeant' to imperial wars,<sup>55</sup> the other slunk aboard a sailing ship as a felon in chains – both were equally despised at Moreton Bay.

Figure 6: Detail from Lady Elizabeth Butler's *Listed for the Connaught Rangers: Recruiting in Ireland* (Bury Art Gallery and Museum, Bridgeman Art Gallery).

The uniforms of the Connaught Rangers, 88<sup>th</sup> Regiment of Foot, featured yellow facing colours as did those of the 57<sup>th</sup> and 102<sup>nd</sup> Regiments.



## Notes

<sup>1</sup> *Sydney Gazette [SG]*, 7 November 1826, p. 3, emphasis added.

<sup>2</sup> *British Parliamentary Papers [BPP]*, Volume 32, p. 37, Punishment of Joseph Sudds. Despatch to Earl Bathurst from Lieutenant-General Darling, 4

December 1826.

<sup>3</sup> *Historical Records of Australia [HRA]*, Series 1, Volume 12 [1: 12], pp. 124 in 'Instructions to Governor Darling, accompanying his commission', HRA 1: 12, pp. 99-107, 16 July 1825 incorporating "altered territorial jurisdiction and the establishment of powers of an executive council", p. 814.

<sup>4</sup> Other groups of court-martialled soldier-convicts are being researched for subsequent papers.

<sup>5</sup> The National Archives [TNA], Kew, London holds selected records, including papers, proceedings and registers formerly held by the Judge-Advocate's Office; see Simon Fowler, *Army Records for Family Historians* (London: Public Record Office, 1992), pp. 32-3. After 1829 ordinary soldiers in most cases were tried by District Courts Martial. Michael J. Watts and Christopher T. Watts, *My Ancestor was in the British Army* (London, Society of Genealogists, 1992), pp. 55-7. Soldiers condemned to transportation by courts in India, Mauritius, South Africa, the Pacific including New Zealand, Canada and Bermuda were despatched directly to the Australian colonies.

<sup>6</sup> J.M. Brereton, *The British Soldier: A Social History from 1661 to the Present Day* (London: Bodley Head, 1986), p. 49, quotes this General Order from the Commander-in-Chief, dated 18 March 1829. Jennifer Harrison, 'Governors, Gaolers and Guards: Irish Soldiers at Moreton Bay, 1824-42', in Rebecca Pelan, Noel Quirke and Mark Finnane (eds), *Papers delivered at the Seventh Irish-Australian Conference July 1993* (Sydney: Crossing Press, 1994), p. 306.

<sup>7</sup> Elizabeth Worrall and Elizabeth Anstee accompanied their convict husbands, John/Thomas Melody and John Cunningham, to Moreton Bay, all arriving on the *Lalla Rookh* in August 1825 with Captain Bishop. NSWRS, 4/3794, Reel 749, p. 10, 27 July 1825.

<sup>8</sup> QSA, ID 869685, Logan's Letterbook, pp. 38-41, 24 July 1827 suggesting a local House of Industry to alleviate the problem.

<sup>9</sup> David Collins, *An Account of the English Colony in New South Wales*, 2 vols, (London: Cadell & Davies, 1798), ed. Brian H. Fletcher (Sydney: Reeve, 1975), pp. 263 and 277, as cited in Alan Atkinson, *Elizabeth and John: The Macarthurs of Elizabeth Farm* (Sydney: University of New South Wales Press, 2022), p. 91.

<sup>10</sup> *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 8.0, 04 November 2023), February 1818, trial of Michael Naphtali (t18180218-142 accessed 10 October 2023). John S. Levi, *These Are the Names: Jewish Lives in Australia, 1788-1850* (Melbourne: Miegunyah Press, 2006), pp. 603-4. 'Naphtali, Michael (1789-1847)', People Australia, National Centre of Biography, Australian National University, <https://peopleaustralia.anu.edu.au/biography/naphtali-michael-24729>, accessed 15 November 2023.

<sup>11</sup> *HRA*, 1:12, pp. 522; 715.

<sup>12</sup> Sudd's death: NSWSA, NRS 905, Reels 691 and 6024, Sydney Hospital Deaths 1 Jan. - 14 Oct. 1826; St Phillips Church of England Burial Register, Reel SAG90, Vol. No. 97, burial 28 November 1826. Coincidentally, on 4 September 1872 Michael Naphtali's wife Fanny (Frances Dunn) also died of

dropsy.

<sup>13</sup> C.H. Currey, *Sir Francis Forbes, The First Chief Justice of the Supreme Court of New South Wales* (Sydney: Angus & Robertson, 1968), p. 195. Sudds' year of birth according to military paylists, *AJCP*, WO12, Reel 3816/Piece 6651, Dec. 1825 – Dec. 1826 was given as 1796, while the Rev. William Cowper in St Phillip's burial register, SAG Reel 90, estimated it as 1802 making him either 30 or 24 years of age at the time of his death.

<sup>14</sup> *Annual Register*, 1802, pp. 560-8; *HRA*, 1:14, pp. 793-902, mainly pp. 854-5, 28 May 1829.

<sup>15</sup> This statute was repealed by 3 *William IV No.3*, s.1. in 1832-3.

<sup>16</sup> Brian H. Fletcher, *Ralph Darling: A Governor Maligned* (Melbourne: Oxford University Press, 1984), pp. 245-53. A.C. Castle, *An Australian Legal History* (Sydney: Law Book Co., 1982), p. 160. *HRA*, 1:12, pp. 753-5; 759-61; *HRA*, 1:13, pp. 439-41; *HRA*, 1:14, pp. 618-21. *Australian*, 20 January, 20 March, 23 October and 4 November 1829; *SG*, 10, 13, 17 and 22 January, 21 and 28 March and 2 April 1829. *Monitor*, 24 November 1826.

<sup>17</sup> William R—S, *The Fell Tyrant or the Suffering Convict* (London: J. Ward, 1836), edited and annotated by Jennifer Harrison and J.G. Steele, Royal Historical Society of Queensland, 2003, pp. 56-7. This convict author, residing in London in 1802 training as a merchant's clerk at Lloyd's coffee house in the Royal Exchange during Governor Wall's trial and punishment, also invoked similarities when criticizing the flogging practices of Commandant Patrick Logan, in his book written in 1836 after his return from Moreton Bay and Logan's death (p. 58).

<sup>18</sup> QSA, Chronological register of convicts at Moreton Bay, 14 September 1824-15 November 1839, Item 869689, Reel 7857, Prisoner No. 987, p. 7.

<sup>19</sup> *Sydney Monitor*, 2 November 1829, p. 2, contained in a General Order issued by Lieutenant Colonel R. Snodgrass, Major of the Brigade. Thompson's pay was authorised until 24 December 1829.

<sup>20</sup> *AJCP*, WO12, Reel 3816/6651, December 1825-December 1826, 57<sup>th</sup> Regiment pay lists.

<sup>21</sup> Fletcher, *Ralph Darling: A Governor Maligned*, pp. 311-4. Robison on 20 September 1827 had married Sibell, the daughter of Justice Stephens, *SG*, 21 September 1827, p. 3.

<sup>22</sup> Fletcher, *Ralph Darling: A Governor Maligned*, p. 330-1, quoting *Hansard's Parliamentary Debates*, September 1835, 3rd series, vol. 30, pp. 1450ff.

<sup>23</sup> Fletcher, *Ralph Darling, A Governor Maligned*, based on pp. 312-33. This was an Irish Peerage title. County Lough/Louth together with Counties Monaghan and Armagh comprised the former 4<sup>th</sup> century Kingdom of Oriel.

<sup>24</sup> Fletcher, *Ralph Darling: A Governor Maligned*, pp. 330-1.

<sup>25</sup> *SG*, 8 February 1826, p. 2. In the Chronological Register, Malone's forename is recorded as John but he is Thomas in all other pertinent registers.

<sup>26</sup> QSA, Chronological Register, p. 4, Prisoner No. 775.

<sup>27</sup> Chronological Register, p. 3: former footman Thomas Malone, originally of Armagh, arrived in NSW on the *Henry Porcher* as a convict tried in March

1825 at Dundalk, County Louth, of a felony before travelling to Moreton Bay on the *Amity* in March 1826 as a volunteer with his patron, Logan.

<sup>28</sup> QSA, Chronological Register, 4: 775; Voller (CR 17:1217) who ran on 13 November had a record of escaping from his work gangs. QSA, ID 869681, Book of Public Labour performed by Crown Prisoners at Moreton Bay, February 1828 - February 1829 [Spicer's Diary], p.137, 22 December 1828. NSWRSR 4/3874, p.12, Reel 1063, 21 March 1829.

<sup>29</sup> From December 1830 when command transferred to the 17<sup>th</sup>, prisoners with 57<sup>th</sup> regimental connections also bore the degradation of custody by former messmates like Sergeant John Norman, and Privates Abraham Chapman and Peter McCauley who had transferred to the 17<sup>th</sup> rather than go to India when the 57<sup>th</sup> relocated there in 1831.

<sup>30</sup> *Sydney Monitor*, 27 March 1830.

<sup>31</sup> *Sydney Monitor*, 29 September 1830, p. 2.

<sup>32</sup> QSA, Chronological Record, Convict No. 2209, p. 69; QSA, HOS1/2, p. 90.

<sup>33</sup> QSA, ID 869682, Book of Trials, pp. 12-17 [pages 1-11 are missing from the register]. The 1835 charge when combined with a further infraction of climbing the wall of the female factory a year later resulted in Bottington's dismissal and return to Sydney. He apparently was acting on behalf of a military officer, who it seems was the father of two children born to the young female prisoner whom the commissioned officer was indulging with extra rations by exploiting Bottington's position to achieve his nefarious ends. Jennifer Harrison, *Shackled: Female Convicts at Moreton Bay, 1826-1839* (Sydney: Anchor Books, 2016), pp. 112-16.

<sup>34</sup> Book of Trials, p. 52.

<sup>35</sup> Book of Trials, p. 81.

<sup>36</sup> Neither of these were in fact the first-born at Moreton Bay settlement. Although Sarah McCann's birthdate is unconfirmed, her parents were not posted there until 1828 while Rigby/Hexton's birth was recorded at QSA: ID 869685, p. 210, as 27 September 1832, with his mother Hannah Rigby, father not named but later identified as James Hexton, pilot at the Bay. Only eight days after the 40<sup>th</sup> Regiment arrived to establish the initial settlement on 21 September 1824, Amity Moreton Thompson was born at Redcliffe. On 4 November 1824, the next child born locally was Charles Moreton Miller, son of Commandant Henry Miller and his wife Jane, Registrar General of NSW [Reg. Gen. NSW], Vol. 1, No. 7219 [1: 7219]. Charles Miller's baptism at St Phillip's, Sydney on 22 October 1825 was followed the next day by No. 7221, Amity Thompson's, since both families had returned to Sydney headquarters. Other children born at Moreton Bay settlement before the McCann's arrived included Mary Anne Guerd, born 18 April 1828, the daughter of Wright's nemesis, Thomas and Mary Gueard, baptized on site by the Rev. John Vincent on 19 April 1829 with Master Robert Logan and Mrs Logan standing as sponsors, Reg. Gen. NSW, 1829/564.

<sup>37</sup> *SG*, 9 September 1830, p. 3; *Sydney Monitor*, 11 September 1830. The *SG* reported that the crime involved 1 cwt of iron and the *Sydney Monitor*, 2 cwt. Neither newspaper indicated how Gallon conveyed this heavy prize.

<sup>38</sup> *SG*, 16 November 1830, p. 2.

<sup>39</sup> Chronological Register, Convict No. 2196, p. 68.

<sup>40</sup> *3 William IV No. 3*, cap. 20, provided that offenders escaping from penal settlements or iron gangs or gaols were required to serve the term of their absence and be punished, usually with a flogging.

<sup>41</sup> QSA, HOS1/27, pp. 13, 22, 35 and 56.

<sup>42</sup> The original Veteran Corps was withdrawn following the Bligh mutiny and Governor Macquarie's arrival in 1810. In February 1827, as convict numbers increased at the northern station, seven members of the 102<sup>nd</sup> Foot, also known as the NSW Veteran Corps, commanded by Lieutenant William Bell, were despatched to Moreton Bay to supplement the 57<sup>th</sup> Regiment. See Michael Flynn's description of the corps' deployment, *Biographical Database of Australia [BDA]*, [www.bda-online.org.au](http://www.bda-online.org.au). At the same time a military contingent numbering around 40 men from the 39<sup>th</sup> Regiment under command of Ensign John Long Innes also was deployed to the northern station.

<sup>43</sup> The purchaser eventually recompensed the government for the soap and salt, valued at ten guineas: *Sydney Monitor*, 16 August 1827; Sydney Gaol records, NSWSR, 4/6429, Reel 850, pp. 53 and 73, 15 August and 29 September 1827. NSWSR, 4/6430, Reel 851, pp. 17 and 19.

<sup>44</sup> Harrison, *Shackled*, p. 35.

<sup>45</sup> *SG*, 22 March 1826 for origins of this forerunner of the State Library of New South Wales. Baxter's petition, 18 September 1827, NSWSR 4/1999, 28/8878 with 4/2023, 29/20094, 17 March 1828. Logan's Letterbook, 6 March 1828, p. 78; NSWSR 4/1971, 28/2323, 6 March 1828; NSWSR, 4/3794, 28/6, 3 April 1828. Dowling, *Select cases*, Vol. 2. NSWSR 2/3462; *SG*, 5 March 1829. *The Australian* 3 March 1829. Darling mitigated Baxter's sentence NSWSR, 4/3794, 29/2094, 18 March 1829; Baxter returned to Sydney per *Isabella* in April 1829 but Letitia Baxter's repatriation was delayed by illness.

<sup>46</sup> *3 William IV No. 3* for amending law relating to freeborn and free arrivals for transportable crimes was formalised in 1832, and submitted for 'sovereign's gracious allowance', Bourke to Goderich, *HRA*, 1:16, pp. 780-1.

<sup>47</sup> TNA: WO12, AJCP Reel 3917/ Piece 11230, June 1826 – June 1832.

<sup>48</sup> Registrar General NSW, 1872/1583.

<sup>49</sup> *SG*, 5 March 1829.

<sup>50</sup> TNA: WO92, AJCP Reel 2725, p. 72.

<sup>51</sup> Harrison, 'Governors, Gaolers and Guards', pp. 300-10; and Jennifer Harrison, 'Without Favour or Affection: Transported Irish Policemen, 1823-4' *Offaly Journal*, Vol. 1, 2003, pp. 77-95, and *University of Queensland Historical Proceedings*, No. 14, 2003, pp. 1-11.

<sup>52</sup> *SG*, 25 November 1826, p. 1.

<sup>53</sup> *The Sydney Monitor*, 27 August 1831, p. 2.

<sup>54</sup> Irish parish registers are not good for this early period especially the Roman Catholic records which was the religion of the majority of the soldiers. Further information therefore has been sought from the convict

records at Moreton Bay which give native place and ages for most convicts and from the recruitment documents for the soldiers which were attached in many instances to the applications for discharge and pensions. Some parish registers sighted on film at National Library, Dublin. See also details in Chronological Register, QSA Item 68; TNA, WO 97, *British Army Soldiers' Documents, 1760-1854*. Reels 259-267; 377-384; 469-476; 559-567; 696-704; 898-904.

<sup>55</sup> Catherine Wynne, *Lady Butler: War Artist and Traveller 1846-1933* (Dublin: Four Courts Press, 2019), p. 102.