

SYD1840

CJA, 6/436, 01/01/1840

**INQUESTS.** - On Saturday last, at the house of **ADAM WILSON**, constable, at New Town, on the body of **ROBERT DAY**, who died from the effects of a ruptured blood vessel, produced through intemperance. Verdict accordingly.

On Monday last, at the Cross Keys, corner of King and Kent-streets, on view of the body of **WILLIAM RAGAN [REGAN]** [aged 50]. It appeared in evidence that the deceased retired to rest on the night previous to his demise, apparently in good health; but, that on the following morning, he was found lying on his bed quite dead. Verdict, died by the visitation of God.

**SUDDEN DEATH.** - We understand that Mr. **TOMPSON**, the butcher, of Market-street, fell off a chair in his own house, yesterday, and instantly expired. Dr. **HOSKING** was called in, but his services were not required, as the fountain of life had ceased to flow.

CJA, 6/438, 08/01/1840.

**BIRTH.**

On the 6<sup>th</sup> instant, at the residence of the Rev. **J. SAUNDERS**, Prince street, Mrs. Saunders, of a son, still born.

CJA, 6/443, 25/01/1840

**FELIX MONAGHAN** was put to the bar, on a charge of murdering one of Mr. **LANG'S** assigned servants, at the Paterson. Mr. **MITCHELL** had received satisfactory intelligence from the authorities in that district, and in order to give time for the necessary witnesses to arrive, the prisoner was remanded to the Gaol for seven days. The following is the manner in which he was captured, as related to us:- Yesterday week, as the supposed murdered was going up George-street, he was met by constable **STENTON**, and recognised as being an old chum, and one of his late companions in an iron-gang. The constable challenged him, and being aware that a warrant had been issued for his apprehension, proceeded to take him into custody; but Monaghan being a powerful man, succeeded in making off. Stenton, nevertheless, dodged him, and in company with another constable, two days afterwards, fell in with, and pursued him; and as they were crying out "stop him" Mr. **CARRICK**, of the "Oxford Arms," succeeded in staying his progress, and Monaghan was lodged in the watchhouse.

CJA, 6/445, 01/02/1840

**DETERMINED MURDER.** - A few days ago Mr. **FULLER**, overseer to Mr. **THORNE**, of Parramatta, in company with an assigned servant, was returning, both on one horse, from Goulburn, when their discourse caused high words between them, and the servant in a fit of desperation, or rather madness, drew from his pocket a sharp knife, with which he stabbed the overseer in the back, and afterwards cut him across the belly, which caused the wounded man to fall off the horse, and on the spot he was found the following morning a corpse. The perpetrator of this most determined and rash act, we are happy to learn, was apprehended on the day on which the body was found, has been committed to take his trial, and now lies in Sydney Gaol awaiting his certain doom.

SYDNEY HERALD, 03/02/1840

Supreme Court of New South Wales

Dowling C.J., 1 February 1840

SUPREME COURT – (Criminal Side)

Saturday, February 1st – Before the Chief Justice.

**THOMAS CHUBB** was indicted for shooting at **RICHARD SMITH**, with intent to murder him, at Wallowa Creek on the 20th October, and **FREDERICK KNOWLES** was indicted for being present, aiding and assisting. Other counts laid the intent to be to do some grievous bodily harm, and to prevent the lawful apprehension of their own persons.

The prisoners were both runaway convicts, and on the 29th October went in company with another bushranger named **REES** to the house of Mr. Brown, a settler residing near the Vale of Clywd, which they robbed of a considerable quantity of property. The next day Mr. Brown went to a neighbouring Police station, and Sergeant **SNEYD** and trooper **SMITH** of the mounted Police went with him in pursuit. They went to the house of Mr. Walker who joined them with two native blacks. The blacks traced the bushrangers all day and at night the party came up with them encamped near the head of the Wallowa Creek. By leaving their horses and crawling on their hands and knees they got close to them, and challenged them before they were observed. All three of them ran away and Sergeant Sneyd shot Rees dead, Smith followed Chubb, who turned round and fired at him but luckily missed him. One of the blacks knocked Chubb, down and he was secured; he lamented that he had fired off the pistol before he encountered the blackfellow. In the camp were found, three double barrellled guns, five single barrellled guns, and five pistols. The prisoners had committed a great number of serious outrages. Guilty to be transported to a Penal Settlement for life never to be allowed to return to Sydney. See also Australian, 23 January 1840.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

CJA, 6/446, 05/02/1840

An inquest was held on Saturday last, at the *Currency Lass*, Bridge-street, Windsor, on the body of **ELLEN HOLMES**, wife of **JOHN HOLMES**, a shoemaker, residing in that town, who was found drowned in the South Creek, near Howe's Bridge. From the evidence given, it appears that for the last few days, the unfortunate woman had taken to drinking ardent spirits, supposed to be caused by some family dispute and the frequent state of intoxication in which her husband kept himself, and while suffering from the effects of liquor, went and threw herself in the Creek, - her cap and shoes were found on the banks. There are eight small children left to deplore her unhappy fate. Verdict. Destroyed herself while in a fit of temporary derangement, caused by the use of ardent spirits.

**THOMAS WETTON [WHITTON]** and **BERNARD REYNOLDS** were received into Sydney Gaol yesterday afternoon, under committal for trial on three distinct warrants – one for murder, arson, and robbery; another for murder, and attacking the person of Mr. **GROSVENOR** with intent to kill that gentleman; and the third on a general charge of felony. The above villains have received notice of trial at the present criminal sittings of the Supreme Court. These are they that murdered Mr. **HUME** about a fortnight since; and certainly we cannot but admire the promptness with which the authorities are bringing them to their last account on this side the grave.

SYDNEY HERALD, 07/02/1840

Supreme Court of New South Wales

Willis J., 3 February 1840

**ALEXANDER FENTON** was indicted for shooting at **CHRISTOPHER TIPLADY**, at Nattai, on the 20th July.

Chalker's public house, near Berrima, was attacked by three bushrangers; knowing that there were some soldiers encamped in the neighbourhood Mr. Chalker ran to them to give the alarm. While he was gone one of the bushrangers, the prisoner, went to the kitchen and told Tiplady, the cook, if he did not come out he would shoot him; Tiplady said, "fire and be\_\_\_"; the prisoner then went into the house to get the other two men to assist him to open the kitchen door; Tiplady followed him, and at the door of the house the prisoner fired a pistol at him: the pan was so near to his eyes that the flash blinded him for a short time, but, luckily, the ball missed him; the prisoner then levelled and fired a musket at him, and thirty slugs entered the wall behind him, but none of them hit him. The alarm that the soldiers were approaching was then given, and the bushrangers ran away, taking nothing with them. When called upon for his defence the prisoner said "I don't see that I can say anything." Guilty - To be transported for life. See also Australian, 8 February 1840.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

CJA, 6/447, 08/02/1840

INQUEST. - On Sunday last, at the "Bard's Legacy," on **THE FOOT OF A MAN**, which had been found on the beech (sic) at Billy Blue's Point on the preceding day, in a boot, with a portion of shirt, marked with the initials **C.R. No.6**. Verdict - that part of a human foot had been found on the beech (sic), being part of a body unknown, and of the manner of whose death no evidence was before the jury.

SUPREME COURT

CRIMINAL SIDE - Monday, February 3.

Before Mr. Justice Stephen.

**JOHN HUNT** stood indicted for the wilful murder of **DANIEL MACARTHY**, at Regentville, on the 30<sup>th</sup> October, by throwing him upon the ground, and beating him. Guilty. Death.

**NEBUCHADNEZZAR LANSDOWNE** stood indicted for the manslaughter of **HELENA DAVIS**, an old woman, about sixty years of age. It appeared in evidence, given by a boy about twelve years of age, who was on the dray in company with the deceased, on the day of the accident (November 1), that on going down the road leading to Clarke's Creek, the bullocks trotted, and he could not say whether they were made to by the prisoner's cracking the whip (the only way, as observed by one of the jury, by which bullocks attached to a dray are kept from going at a dangerous pace); on arriving at the Creek the dray was upset, and the woman and boy thrown to the ground; the former was left there, but the boy, although injured by the fall, proceeded with the dray, which was going on to Mr. **TOWNSEND'S**. The prisoner said, his motive for leaving the woman behind was with the best intentions, to procure assistance as speedily as possible, as it was impossible to remove her on the loaded dray. Not guilty. His Honor, on discharging the prisoner, cautioned him to be more humane in future.

FRIDAY, February 7.

(Before the Chief Justice)

**FELIX MONAGHAN** stood indicted for murder, and was found guilty of manslaughter. Sentenced to twelve months in an ironed gang. This prisoner was very ably defended by Mr. Barrister **PURIFOY**.

SYDNEY HERALD, 08/02/1840  
Supreme Court of New South Wales  
Willis J., 6 February 1840

**NABUCADNEZAR LANDSDOWNE** was indicted for having, on the 1st day of November last, at Clarke's Creek, been the cause of the death of a woman named **ELEANOR DAVIS**, through carelessly driving his dray, by which it was overturned, and the woman was thrown therefrom, and bruised in such a manner as to cause her death.

**FREDERICK CROFT**, a boy about twelve years old was then put into the witness-box; before being sworn, the Judge examined him strictly as to his knowledge of the nature of an oath, and his answer being satisfactory, his evidence was accordingly taken - he deposed that he knew the woman named Eleanor Davis, and that on the 1st of November last, he had been riding on Mr. Townsend's dray, going to that gentlemen's farm, and that she (Eleanor Davis) was likewise on the dray; it was a dray drawn by bullocks; when the dray was crossing the river at Clarke's Creek, it was going very fast; the prisoner was driving, and the bullocks were trotting; as they were crossing the creek, the dray was upset.

The Judge then asked if the slope down to the river was smooth or rough, as he said that was a most important point for the consideration of the Jury.

The witness then continued - The bank were smooth; there were no chains to the wheel.

Mr. Justice Willis then remarked to the Jury, that the great thing in this case for their consideration, was whether the dray was overturned by accident or by carelessness, and expatiated on the necessity of their paying attention to that point, which seemed to him the principal one on which they were to decide whether the prisoner was guilty or not guilty.

The examination of the witness then continued - The dray was going very fast before it came to the slope; there was a watering place for bullocks right below; the bullocks could see it; did not know whether the dray went over Davis or not; she was sober; she was left on the banks, and the dray proceeded on; she was severely hurt in the fall, and was picked up and put on the dray again; they left the woman lying on the banks.

Cross-examined by prisoner. - Did not see him (prisoner) knocked down by the bullocks; he might have been knocked down, but he was so badly hurt himself that he did not pay attention; he was unwell for some time after from the bruises he received. (The Judge here expatiated for some time on the woman's having been left on the bank; at the same time he told the Jury that that was a point with which they had nothing to do; what they had to decide upon was simply whether the dray had been overturned by accident or otherwise; besides, he thought that if the cattle were thirsty and were accustomed to drink at that particular place, it was very natural to suppose that they would hurry to the spot.)

**EDWARD RENZ** was then examined. He deposed that he perfectly recollected the 2nd of November last; he was walking on Mr. Correy's farm when he was attracted by the barking of his dog; he found the body of a woman, but was not aware who it was; this was between 11 o'clock and noon; by the conversation he had with her he did not think she had the slightest idea she was going to die; she appeared as if she

had been drinking, and an empty bottle was at her side; he immediately sent a man to take her where she wanted, giving him instructions at the same time to take her first to a doctor.

**ROBERT PARK** was then examined. It appeared that he was a surgeon, and that he had been called in the beginning of November last to see Eleanor Davis; she was at that time labouring under severe inflammation of the lungs, and likewise had several bruises on different parts of her body; did not think that the inflammation was caused by the bruises alone, but by stopping out all night; he suspected from what she said that one or more of her ribs were broken, and on examination he ascertained it to be a fact.

Cross-examined. - It was quite probable that broken limbs would cause inflammation; he decidedly thought that the wounds had been the cause of her death; she said to him that she was dangerously ill, and that she did not think she would ever get over it; she likewise stated that she had been overturned in a steep place through the carelessness of the driver, who she said was drunk, and that she was so severely hurt, that she could not move; she further stated that she had been greatly abused by those who had charge of the dray; witness first saw her about 4 o'clock in the afternoon of the 20th November last; drinking might have caused the inflammation; he asked her if she had been drinking, but she denied it; deceased was about 60 years of age.

The prisoner being now called on for his defence, said that the whole was merely accidental, and that he was quite sober at the time; he stated that he could not get her on the dray, and as he was forced to be home he thought it best to proceed; he reported the circumstance to his master, Mr. **TOWNSEND**, when he arrived; having no witnesses as to his character, both Dr. Park and Mr. Renz rose from the witness seat, and testified that they had frequently heard Mr. Townsend give him a high character for sobriety, &c.

The Jury without retiring found him not guilty, and he was discharged, with an admonition to be more careful in future. See also Australian, 8 February 1840 and Sydney Herald, 7 February 1840.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

CJA, e006/447, 12/02/1840.

EDITORIAL.

Mr. **WAKLEY**, the [**WESTMINSTER**] Coroner, has commenced holding inquests on the bodies of females who die in childbirth. This, no doubt, will drive from the medical profession many ignorant pretenders, and make even experienced surgeons more cautious in practice.

CJA, 6/449, 15/02/1840

**PATRICK AND MARY KAIN**, were admitted to bail to appear next sessions, on a charge of manslaughter. **JOHN WILSON** and **FRANCIS KNIGHT** under committal for murder, were ordered to be confined in barracks, till the material witnesses could be found to give evidence.

EDITORIAL COMMENT on the sentencing of **FELIX MONAGHAN** and **JOHN WILLIAMS**.

CJA, 6/450, 19/02/1840

A poor old woman named **ELIZABETH KELLY**, who was a few days ago sent to gaol awaiting a further examination on a charge of robbery, dropped down, and almost instantly expired in Sydney Gaol. She was sixty years of age, and her death was caused, it is supposed, by apoplexy. An inquest was convened, and a verdict returned of "died by the visitation of God."

SUPREME COURT.

Monday, February 10.

**ROBERT HARRIS** and **JOHN THOMAS HOWARD**, under committal for murder, were remanded in consequence of the case being wrapt in some embarrassment.

NEWCASTLE

(From our own Correspondent)

DEATH BY DROWNING. - An enquiry was yesterday held at the Police Office before Major **CRUMMER**, touching the death of **THOMAS IRVINE**, the carpenter of the ship *Hero*, who met his death by drowning on the 30<sup>th</sup> ultimo. By the evidence collected from Captain **RYAN** and **ROBERT DICK** the steward of the ship, it appeared that the deceased was caulking the outside of the ship on the day in question, and accidentally fell overboard, the boy it appears was the first person who gave the alarm; he did not see the deceased fall, but his attention was first attracted by the noise of the splashing of the water; every assistance was immediately rendered but without effect. The poor fellow sunk to rise no more. The body was not found until last Tuesday, and although much decomposed, its identity was sufficiently proved by Dick. The Magistrate being satisfied that the cause of the man's death arose from accident, recorded it so accordingly, and issued his order for the interment of the remains which was done at midnight on Thursday.

NEWCASTLE: EDITORIAL re the "Coal Trade". ... in a future number we shall have occasion to enquire into the particulars of a prisoner by the name of **JACKSON**, who was killed whilst collecting coal, and why an inquest was not held upon the body

...

On Wednesday last, as Mr. **DAWSON** of Newcastle, his overseer and a servant named **CLEEVES** were passing on horseback over the bridge across the Hunter which separates East from West Maitland - the horses of the overseer and Cleeves took fright at a boy, who was floating a barrow across the bridge, it being then some two or three feet under water. The horse of the overseer plunged into the river, and both horse and man were drowned; the horse of Cleeves leaped over to the other side of the bridge, and after kicking and prancing for some time leaped down a precipice nearly sixty feet deep. Happily no material injury occurred either to man or horse, except some very severe bruises, the dead horse has since been found, but not the body of the man; nearly the whole of West Maitland was under water, during this last week, and whole stacks of wheat were seen floating down the river towards Newcastle. - *Correspondent*.

SYDNEY HERALD, 21/02/1840

Supreme Court of New South Wales

Dowling C.J., 21 February 1840

**THOMAS WHITTON**, was indicted for the wilful murder of **JOHN HAWKER**, by shooting him at Oak Park, on the 19th January. Other counts alleged the murder to have been committed by **BERNARD REYNOLDS**, and some person unknown, and charged Whitton with being present, &c.

The prisoner having no counsel, a learned gentleman, at the request of the Judge, undertook the defence.

The Attorney General, stated the case. He said that the prisoner was indicted for shooting a man named Hawker, and other counts charged him with assisting Reynolds and some unknown person, but it mattered little upon which count the Jury found him guilty, for they were all equally guilty in the eye of the law. If a party of men go out to commit a felony, and one of them commits a murder, they are all equally guilty, and equally punishable. The evidence in the case would be extremely short. The prisoner with three other bushrangers, rode up to Oak Park in the morning, where twelve or thirteen men were reaping in the field, under the superintendance of Mr. **FRANCIS OAKES**, and without any provocation fired at the men who were at work in the field; he believed their determination was to shoot Mr Oakes, but whether that was their intention, or merely to shed blood made no difference. The bushrangers then dismounted, and recklessly fired several shots, from one of which Hawker received his death wound. If a man shoots at one man, and hits another, he is as guilty of murder as if he shot the man he intended to murder. The prisoner and his companions had been for some time pursuing their career with bushrangers, and wherever they went their steps were marked by blood, indeed, happily for the credit of human nature such reckless conduct was seldom exhibited. Even here where bushrangers are by law looked upon as the common enemies of the land, and any man may shoot them if they will not surrender, the records of the court will not show such another case. The prisoner at the bar was the last of the men of the party, indeed it seemed as if the vengeance of heaven had overtaken them sooner than it would have done by the course of law. One of the party was shot when attacking a young gentleman named Fry, a gentleman, who by his bravery has shown himself an honor to the country from which he came, and a credit to the country in which he resides. Another one was shot by the Mounted Police, and the third, Reynolds, who was taken with the prisoner, and had received warning of trial with him, put an end to his existence with an ingenuity which would have baffled every attempt to prevent it, by hanging himself with a basket and silk handkerchief. The prisoner was therefore the only remaining one of the gang, and the example which had thus been made of the whole gang would he hoped, be a warning to other men who may be inclined to become bushrangers. The prisoner he was confident could not but observe the benign, the merciful law of England under which we live, and which showed much more mercy to the prisoner than he showed to the unfortunate victims, and if the prisoner's heart could be seen, he was confident that he would say he did not deserve the mercy that was shown him.

The following witnesses were then called:-

Mr. Francis Oakes – I live on the Crookwell River, in the country of King; the name of my place is Oak Park, about 180 miles from Sydney; on the 19th January, I was in the wheat field with thirteen men reaping; about four o'clock in the afternoon four armed men rode up; each had a horse; a man named Hawker, assigned to Mr. William Shelley, was in the field; when I saw the four horsemen riding down I knew them to be the bushrangers, and told the men to keep on reaping; two of them dismounted and commenced firing towards us; I ran; I saw Hawker, who was behind me, fall; I did not know he was shot, as most of the men fell in the wheat; I should say from twelve to fifteen rounds were fired, but so quickly that it was impossible to count them; I ran to Long's station about three miles off; I sent word to the Police Magistrate at Goulburn, who came out on Tuesday morning, bringing a policeman and a constable; when I returned I found my house burned to the ground; Hawker died the next morning about

ten o'clock; the ball passed his back bone and lodged under the skin in front; I cannot swear the prisoner was there, for I only just saw the men and ran away; I went with Mr. Stewart in pursuit, and I fell in with them on the Lachlan River; I had parted from Mr. Stewart; Mr. McGuinness, Sergeant Freer, and two of the Mounted Police were with me; I was the first of the party; Whitton was about mounting his horse; there were three of them; they got behind trees, and we galloped up; in crossing a blind creek the two troopers fell from their horses and did not come up; the sergeant dismounted immediately and fired at Russel[sic], who fell, and immediately drew his pistol and blew his own brains out; McGuinness and I galloped to get before them as they were making for some rocks; when we got within thirty yards of them we dismounted; McGuinness was about thirty yards before them and I behind them; they then threw up their arms, and Sergeant Freer handcuffed the men who were Whitton and Reynolds; they had a horse with them which they took from my place; Reynolds had a coat of mine on; I asked them how they came to carry on so at our farm; Whitton said, Oakes, you may thank your good neighbours for it; I asked them how they came to fire on us in the fields, and Reynolds said they were tipsy and were sorry for it; they said the only thing they were ashamed to die for was what they had done at our place.

Cross examined – I cannot identify the prisoner as one of the men.

**JOHN BLACKBURN** assigned to Mr. **GEORGE OAKES** – I was from forty or fifty yards from the other man, when the bushrangers come up, at first I thought they were the Policemen; the moment they come up they said something about bailing up, and at the moment a shot was fired; all the men ran except three more and myself, the bushrangers called to them to stand or they would shoot them; they fired a good many shots; I saw Hawker fall; I saw others fall; and thought they were shot; I saw Hawker turn around and face the men; I well knew he was shot; he died next morning about seven; I did not see the prisoner in the field to know him, but I saw him at the burning of the house; I saw them at dinner while the house was in flames; I saw four men eating. I don't know how they set fire to the house; I never saw the prisoner before that day; he told me to tell Mr. Oakes – that he was one of the Bathurst mob, and that he would make him give up fire arms, he took from Marshall – Marshall was a bushranger from whom Mr. Oakes had taken fire arms; they spoke to the other men and said among other things they would burn down the barn; as they were speaking so friendly one of us said, burning down the barn would do them no good; they said they would not do it as it would hurt the country, but they would stop about the neighbourhood three or four days, until they shot Mr. Oakes; they said they would make the settlers submit so that if ever one man went with a stick they should not oppose him; they said the bloody tyrants meant to murder a single man, meaning Marshall; when they had done firing, before they went to the house they desired the men to sit down, or they would blow their brains out; I remained for a little time with the wounded man; I heard them say they would set fire to the wheat, and burn all who were in it dead or alive; I told the bushrangers that one of the men was wounded, and one of them a tall man said, why did you not poleaxe him and put him out of his misery; the prisoner said it was hard to see a man in such torture, it was better that he should be killed at once; they remained three or four hours; some held their arms in their hands, and the others laid them close by; they took away a horse with them.

Cross-examined, I cannot exactly detect the prisoner's features as being at the field, but I have no doubt of it; I saw him at the burning; the prisoner told me his name was Whitton; the house is about three quarters of a mile from the field.

Sergeant **ROBERT FREER** of the Mounted Police – I was present at the capture of the prisoner on the 24th January; I had been out three weeks with two troopers; we fell in with the bushrangers about seventy miles from Mr. Oakes's place, near the Lachlan River; as we approached Russell fired at me, I was checking the horse and he reared and caught the ball in his head; the horse whelled and I dismounted and Russel[sic] had his piece levelled at me but I got behind a tree and he fired either at Mr. Oakes or Mr. McGuinnis; as he fired he took a step back and exposed half his body and I fired and he fell; I loaded my gun, mounted my horse and proceeded after the other two; I fired at Reynolds and missed him; I was close to Whitton, who had just fired at Mr. Oakes, and I rushed up to him and told him to throw down his arms; I picked up the pistol and marched Whitton to the place where Reynolds was standing in charge of Mr. McGidnis and Mr. Oakes and my two troopers; one of the troopers fell from his horse and the other broke his stirrup, and that prevented them from being up so soon as I was; we rolled Russell up and put him on a horse which he claimed; it belonged to Dr. Gibson, the other horses belonged to Mr. Oakes and Mr. Thorn; they had three double barrelled fowling pieces and five pistols; Whitton and Reynolds told me they had been to Mr. Oakes's on account of a man telling them of Mr. Oakes trying to capture a bushranger named Marshall; I did not know a man had been shot until they told me; they said they had intended to shoot Mr. Oakes and his brother.

Cross-examined – When they were apprehended Mr. Oakes made no charge against Whitton.

The prisoner in his defence merely remarked that Blackburn had perjured himself most rascally.

The Judges recapitulated the whole of the evidence and said, that it mattered not whether the prisoner actually fired the shot or not; the only question for the jury was whether or not he was one of the party that rode up to the field at the time.

The jury retired about three minutes and returned a verdict of – Guilty.

The Attorney-General put on the file an information charging the prisoner with the wilful murder of **JOHN KENNEDY HUME**, but it was not his intention to prosecute it. He had also several charges of robbery and other outrages against the prisoner.

The Chief Justice said that the guilty course so long pursued by the prisoner was about to be brought to a final close. For the last two years he had been abroad waging war against the laws of his country and plundering his fellow citizens, but the guilty game was about to be brought to a close, and he was to pay the forfeit by losing his life. He had taken all the chances which the law of his country gave him, and had had the courage to face a Jury of his country. He was not like the unhappy wretch, his comrade, who, although stained with blood, and steeped to the chins in crime, had not had the courage to face a Jury, but had added to his long catalogue of crime that of self murder. It had been truly observed by the Attorney General, that to the honour of the guilty wretches who commit outrages as bushrangers, it seldom happens that blood marks their footsteps. But here four Englishmen, on a Sabbath afternoon, without any provocation, attack thirteen or fourteen men, and fire at them, meditating no doubt to murder the young gentleman to whom the establishment belongs. A more atrocious diabolical history of bloody crime he had never in his long experience heard. The prisoner would have some advantages which his guilty companions had not – he would have some little time to prepare for leaving the world – the law thus shewing him, guilty as he was, more mercy than he had shewn to his unoffending fellow creatures. He was about to leave this world, stigmatised by the law as a cruel blood-thirsty wretch, and he hoped that not the vengeance of the law, but the example that would be made by executing him near the scene of his crime, would have some

effect upon the crowd of guilty wretches who he understood were out plundering about the country. It only remained for him to pass the last sentence of the law upon him, which was, that he be executed at such time and place as His Excellency the Governor might direct. See also Australian, 25 February 1840; Sydney Gazette, 27 February 1840.

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CJA, 6/452, 26/02/1840

**REYNOLDS THE MURDERER.** - On Sunday evening about six o'clock, **BERNARD REYNOLDS**, confined in the Sydney Gaol, for the murder of Mr. **HUME**, committed suicide by hanging himself with a silk handkerchief, which he had fastened to the top of the wooden or inner door of the cell. The precise manner in which he effected his object, we detail as follows. The cell in which the miserable wretch was confined is one of those used as places for prisoners sentenced to solitary confinement; there is a massive wooden door, which when used for the temporary punishment of such prisoners is always kept closed, and no air or light admitted, excepting through small gratings near the roof of the cell; but as this cell was currently used as a place of security for the murderer and suicide Reynolds, pending his trial, this wooden door was opened every morning, which permitted him to have the air as pure as it is within the prison walls, by approaching the outer door or iron grating which was always kept locked by day as well as night. On the evening in question, shortly after the principal turnkey had gone his rounds to see that all was right, it is supposed Reynolds commenced preparing himself for his awful transition, and from the manner in which he was found suspended must have proceeded in the following manner:- Having cut a strip of his blanket off and made a roll of it, he tied one end of his silk handkerchief tight round the middle; the handkerchief was then passed over the top of the inner cell door, between which and the stone roof of the doorway there is but just room to pass a sheet of paper, at the other end of the handkerchief a noose was made, so that the work of strangulation might be certain and quicker; this being done the door was partially closed, which prevented the handkerchief from slipping, in consequence of the roll of blanket on the outside pressing against the top of the door and the roof of the stone-door frame; he then proceeded to muffle his manacles which he did with the rest of his blanket and shirt, tied round by another handkerchief; this was done no doubt to prevent the clanking of his chains in the agonies of death, which, had they not been so muffled, the sentry who was stationed almost within gun reach of the door, must have heard, and then death by his own hands would not have ensued. The door from which he suspended himself was too lofty for him to reach so as to put his head through the noose; he therefore took his pail and having mounted thereon and affixed the fatal cord, suspended himself by kicking away the bucket, which was found, at the time the deed was first known, upset and close at his feet. It was about an hour after that last visit of the turnkey, that he came to fasten Reynolds up for the night on the chain, and found him suspended; and it was with some difficulty that the blacksmith who accompanied him was able to force the door sufficiently wide to gain admittance; but having succeeded in effecting an entrance, the unhappy wretch was cut down, but it was then too late for life had fled. Thus to his innumerable crimes did he add that of self-destruction, proving at once that he was a bravado rather than a man of sterling courage. On the following morning an inquest was held on his body at the Ship Inn,

opposite the Gaol, and the Jury without the slightest hesitation from the evidence adduced, returned a verdict of *Felo de se*.

SUPREME COURT

CRIMINAL SIDE – Monday, Feb. 24.

Before his Honor the Chief Justice.

**THOMAS WETTON [WHITTON]** stood indicted for the wilful murder of **JOHN HAWKER**, at Oak Park, on the 19<sup>th</sup> January last, by shooting him with a pistol through the back, from which wound he died on the following day.

Long and detailed account; evidence from **FRANCIS OAKES**, of Oak Park; **JOHN BLACKBURN**, assigned to **G. OAKES**; Serjeant **FREER**, Mounted Police.

His Honor having addressed the Jury upon the general points of the case, and of the evidence summed up; and the Jury having retired for about five minutes returned and gave their verdict. Guilty.

The prisoner was asked if he had anything to say, why the sentence of the Court should not be passed upon him; when after a momentary hesitation, replied no.

His Honor then proceeded to pass the last sentence of the law upon the culprit, which the Chief Justice prefaced by a few touching and appropriate remarks, and they were to all appearance thrown away upon the prisoner, who maintained a careless indifference throughout the whole of the trial until the sentence of death was passed upon him. The execution was ordered to take place as near to the spot of his outrages as possible.

CJA, 6/453, 29/02/1840

EDITORIAL. Unnecessary Expence, re place of execution of **WETTON [WHITTON]**.

The man in the hospital who gave information to the authorities relative to the murder of **FANNON** some five years back, through a fear he was about to depart this world, will, it is supposed, recover, as he is now much better. There will be a hearing of the case in all probability the commencement of next week.

**[BERNARD] REYNOLDS** the murderer, bushranger and suicide, who terminated his earthly career on Sunday last, in his cell, was buried within the prison walls, in just the same condition as he was found without a coffin, or his irons being removed from his legs.

**WETTON [WHITTON]** the murderer, and companion to the above Reynolds, it is supposed will be sent up country to be executed, as near the place where his unlawful career was carried on as practicable. Since the awful sentence has been passed upon him, he has maintained that sullen deportment, which was but too conspicuous on the day of trial not to have been noticed with some degree of disgust by the spectators. He had then what is generally termed in a good character a modest, but in a villain, a “down” look, in fact, during the whole trial he scarcely cast his eyes up from the floor of the dock in which he stood.

CJA, 6/454, 04/03/1840

JOHN RYAN BRENNAN, Esquire.

Readers! On Sunday last, Mr. **a'BECKETT**, of Pitt-street, died in his carriage, while he was on the road to Dr. **M'KELLAR'S**. Dr. M'K. was ill; and it has been said that

Mr. a'Beckett died at his door before any one answered the summons at the door of the druggist's shop, at which Dr. M'K. now resides. Be this so or not, suffice it to say, that the deceased was taken to York-street, and from thence to his residence. Those most interested in his temporal welfare followed him, and sent for Mr. **H.K. WHITTLE**, of King-street, to open the body, according to the wishes of the deceased, expressed both verbally and in his will. Dr. Whittle came, but was informed by the friends that Dr. M'Kellar had been sent for, he therefore declined opening the body until he had communicated with Dr. M'K. Dr. M'Kellar stated that he had been so ill on Saturday as not to be able to speak, and was enveloped in bandages about the throat when Dr. Whittle's assistant called, he saw that deceased was dead when he came to his door in the morning, and "that he had no objections to Dr. Whittle's going to the inquest.

Dr. Whittle and his assistant were afterwards informed that Mr. **BRENAN** had an *engagement* at Parramatta – On Sunday, be it remembered! – and that therefore he could not hold the inquest.

The grandfather and the mother of deceased's child both wished Dr. Whittle who had been attending deceased for near twelve months, to operate – and he did so, and this after having spent some three or four hours running after Dr. M'Kellar, who was ill in bed, and while Mr. **J.R. BRENAN**, Third Police Magistrate and Coroner, was at Parramatta or elsewhere, on a party of pleasure. After all, at the urgent request of the friends, Dr. W. opened the body, and was satisfied as to the cause of death, it being the same as he had predicted to deceased before. But Mr. R Ryan Brenan is not satisfied, and intends to prosecute Dr. Whittle for having so proceeded.

We have stated the case, we now leave it to our readers to decide, but shall say something on the *legality* of holding inquests on a Sunday, which Mr. Brenan says are not legal – *when* he wants to neglect this particular duty.

CJA, 6/455, 07/03/1840

EXECUTION OF WHITTON THE MURDERER. - Orders have been issued by the Executive Committee that the re commendation of the Chief Justice should be followed, and therefore the execution of **THOMAS WHITTON** will take place at Goulburn. He will be hanged at that place on Monday next week, and it is supposed that the Sheriff will preside in *propria persona* on the occasion. To guard against surprise or a rescue a very strong guard of mounted police it is expected will accompany the culprit.

ANOTHER EXECUTION. - **HUNT**, the murderer, has been ordered for execution on the 16<sup>th</sup> instant, at the Sydney Gaol.

INQUESTS. - At the Bunch of Grapes, on Wednesday, on the body of **ANGELIA SOPHIA ASHTON**, servant to Mr. **NOLAN**. It appeared that on Monday last, deceased's apron while she was in the act of placing the kettle on the fire ignited, and she was burnt to that degree before the flames could be extinguished, that she died from the effects in hospital at midnight of the same day. Verdict – accidental death by burning.

At the Hope Tavern, York-street, on Wednesday, on the body of **JAMES BARROW**, of the 50<sup>th</sup> regiment. It appeared in evidence that the deceased had been fighting a few rounds with a comrade named **TOWNSEND**, who had called deceased a lazy man, which led to words, and finally ended in the death of Barrow, who having thrown himself on his bed, fell therefrom on the floor and expired. Dr. **GRAYDON** stated that he had held a post mortem examination on the body, and found a quantity

of extravasated blood on the brain, which, and not the outward blows, was enough to cause death. Verdict – Accidental death.

CJA, 6/456, 11/03/1840.

EDITORIAL re Executive Committee decision and the ‘cavalcade’ for **WHITTON**.

A few days ago a serious accident occurred at Cockatoo Island, by the blasting of a rock, in consequence of the charge exploding much quicker than anticipated. Three men were very seriously hurt, and two had their eyes completely destroyed. As there is no boat kept at the Island, it was a long time before the Government boat arrived; and the unfortunate men were removed therein to the shore, and thence to the General Hospital, in a very hopeless condition.

FANNON’S MURDER. - The two creatures in custody for this murder have not yet been heard, in consequence of the principal not having been received by the Sydney authorities, so that the particulars may be made public. We think the up-country Justices very dilatory men.

NOBODY, J.P. &c.&c. v WHITTLE AND OLIVER. - This case, being for the dissection of the body of the late **THOMAS a’BECKETT**, came on before the Police Bench yesterday, and occupied the Court from two to seven o’clock. The official magistrate not being able to define who was the prosecutor in the case, Mr. **BRENAN** and the constable denying that either one or the other were such; the case was accordingly dismissed. Our comments upon this case will appear in our next.

**HUNT**, the Penrith murderer, was executed yesterday morning at the usual hour. The unhappy man had shown since his condemnation a pleasurable change in his conduct, evidently preparing himself for the awful transit. He was attended in his last moments by a minister of the Wesleyan persuasion; and he audibly prayed to his Maker for forgiveness before the fatal bolt was drawn, and he was ushered into eternity.

CJA, 6/457, 14/03/1840

POLICE INCIDENTS

TUESDAY, MARCH 10.

(Before Messrs. Windeyer and Sempill)

Messrs. **WHITTLE** (Surgeon), and **OLIVER** (attached to the *Colonist* newspaper offices), appeared on summons to answer a charge of misdemeanour against them, at the instance of Mr. Sapiant Coroner **BRENAN**, by a constable named **DAVID SHARPLEY**, who had been placed over the body of the late **THOMAS a’BECKETT**, who died suddenly on the Sunday morning previous. This constable, on being sworn, stated that he was not the prosecutor, and consequently had no charge to make against the parties before the court, but admitted that Dr. Whittle had been requested by the deceased’s friends to open the body of a’Beckett at about eleven o’clock, being five hours after his death; the dissection was conducted in a truly military style; during the dissection of the body, a Mr. **HARFORD** came from Dr. **M’KELLAR** and agreed on examination with Messrs. Whittle and Oliver as to the cause of a’Beckett’s death, and appeared to be satisfied that all agreed upon that point; Callaghan said to Dr. Whittle that the Coroner was ill, and that the inquest would not be held in consequence till Monday. The Coroner’s constable, **CALLAGHAN**, stated that the Coroner had told him Dr. M’Kellar might open the body, but no other person; he also corroborated the testimony of the previous witness;

concluding his evidence by saying that he was not the prosecutor in the case. Mr. **FOSTER**, who appeared as counsel for the defendants, then asked, who was the prosecutor, when the Sapient Coroner Brennan “jumped” up from a seat on the Bench, and said that he was Coroner for Sydney, and would answer any questions touching the subject before the court, although it must be remembered that he did it through courtesy, and not because he was bound to do so!!! Mr. B. was then sworn, and stated that he had been informed of the death of Mr. a’Beckett by constable Callaghan, but he was only bound to attend as Coroner when any sudden death that occurred was reported by the Chief Constable; it being Sunday he directed *his* constable to state to the deceased’s doctor (M’Kellar) that the inquest could not be held till Monday, but if he desired to hold a *post mortem* examination upon the body, he could do so at once, if necessary. On Mr. Foster cross-examining this ready witness, he stated that *an inquest on a Sunday was illegal*; and that he did not consider it was irregular to hold the inquest on Monday instead of Sunday. Dr. M’Kellar, on being sworn, stated, that he found the body had been opened when ordered by the Coroner to examine it to ascertain the cause of death; and that he had not authorised, nor could do so, any one to open the body, in consequence of this interference he was of opinion that the “ends of justice” had been frustrated. Mr. Foster contended that no offence had been committed by his clients, the defendants in the case. Mr. **WINDEYER** observed that he could not tell what Mr. Oliver had done in the matter to be brought before the Court, as nothing appeared in evidence against him in any respect touching the charge of misdemeanour; and this worthy magistrate had doubts whether any offence had been committed at al, seeing that the very jury which sat upon the body had returned a verdict to the effect that deceased had come to his death from natural causes; he therefore had no hesitation in dismissing the case. Dismissed accordingly.

CJA, 6/458, 18/03/1840

EDITORIAL re Mr. Coroner Brennan.

WHITTON THE MURDERER; very tall story from up country; pure rumour.

ACCIDENT. - As a dray was passing up Queen’s Place yesterday afternoon, being laden with casks, one of them rolled off onto a man who was stooping to place a stone to block one of the wheels. The unfortunate man was seriously injured to all appearance, and was conveyed to Dr. **NEILSON’S**, to be examined as to the extent and nature of the injuries he had sustained.

CJA, 6/459, 21/03/1840

FATAL ACCIDENT. - The unfortunate man, mentioned in our last as having been knocked down and seriously injured by a hogshead falling from a dray, in Queen’s Place, last Tuesday, has since expired. At the time he was received into the hospital, no hopes were entertained that he would recover.

FANNON’S MURDER. - **GEORGE HERSON** and **MARY MULCAHENY** now **GORMAN**, have been in custody of the police now for a long period, and have not yet had a hearing, relative to their being concerned in the murder of **FANNON**. This delay we understand is caused through the total indifference shewn by one of the up country benches, to the communications forwarded from Sydney, relative to the principal in the transaction; better than three weeks have elapsed, and no answer to the communications has been received in Sydney as to whether the principal is in custody, or, in fact, anything about the matter. Certainly the Government should take

some notice of this neglect, and require to know, from that upcountry Bench, why it has not communicated with head-quarters upon the subject.

WINDSOR.

On Tuesday, the 25<sup>th</sup> ult., an inquest was held at the house of Mr. **JOHN GREEN**, Lower Portland Head, on the body of **EDWARD LUNNERGAN**, who was drowned while bathing in the Hawkesbury River. **FRANCIS BOURNE** deposed, about eight o'clock last Sunday morning deceased went to the river to bathe. I saw him swimming; he made one or two strokes, and I then perceived he was sinking, the weeds were over his legs. I am deaf, and did not hear him call out. I went for assistance, but we did not find the body until evening. The deceased was intoxicated the night before; I supplied him with the liquor, he did not pay me for it, but I should have expected payment. John Green, settler, deposed, I remember Bourne bringing liquor to my house on Saturday evening. I am aware that deceased had liquor from Bourne; I left him and the others drinking when I went to bed. The next morning I left home, and afterwards heard deceased was drowned; I made search, but did not find the body until the evening. Verdict – died by suffocation from drowning.

POLICE OFFICE.

Tuesday, March 10. - **JOHN GREEN**, a settler, residing at Lower Portland Head, was summoned to answer an information filed against him for suffering liquor to be sold in his house, he not being licensed according to law. The defendant pleaded guilty and was fined in the sum of £30, and costs 5s. 8d.

**FRANCIS BOURNE** appeared on summons to answer an information filed against him for selling one half pint of rum to one **EDWARD LUNNERGAN** now deceased, he (Bourne) not being licensed according to the Act of Council in such cases made and provided. The defendant pleaded guilty, and was fined £30, and costs 5s. 8d. Bench allowed him ten days to pay it.

CJA, 6/460, 25/03/1840

EDITORIAL. The late Inquest and the Gazette: More on the a'Beckett case and Mr. Surgeon **WHITTLE**.

WHITTON'S CONFESSION AND EXECUTION. - We have received a correspondence from Goulburn, relative to the last dreadful moments of **WHITTON** the murderer. It appears that the culprit died resigned to his fate, and admitted the justness of his sentence. He addressed a few words to those assembled around the awful drop, to caution them against taking up fire-arms against their fellow creatures, in order to procure unlawful gain, or to seek an unmerited revenge upon their masters and others; he said that he died in peace with all men, and denied that he was ever directly a murderer, but admitted that he was present on several occasions when life was taken from his fellow-man. The inhuman man was born in Manchester, in 1811, he was therefore only twenty-nine years of age when he was ushered into the untimely presence of his Maker. The execution took place at eight o'clock on this morning, preparations were made for the execution, and Lieutenant **CHRISTIE**, with seventeen mounted troopers, arrived at the lock-up, at the rear of which the gallows had been erected, and the culprit's grave dug. About ten o'clock the murderer was marched forth, dressed in white, with his arms pinioned, being accompanied by his religious instructors, and several civil officers. Before ascending the gallows, Whitton knelt down by the side of the clergyman, and appeared to pray fervently. This being ended, he mounted the gallows platform, accompanied by the clergyman and the executioner, and having again prayed, addressed the multitude assembled to

witness his death, to entreat them to take warning from his untimely end, and to lead a peaceful life. The executioner then adjusted the rope, and drew down over his eyes the cap, which hid from his vision all things worldly:- speedily the bolt was drawn, and the unfortunate man was ushered into eternity, after a few struggles.

CJA, 6/461, 28/03/1840

Three aboriginal blacks have been received into Sydney Gaol, under committal to take their trials, two for wilful murder, and the other for killing sheep, by spearing them in the bush.

The supposed murderer of **FANNON** has not yet arrived in Sydney although he was taken into custody at Yass, nearly a fortnight since. Certainly the authorities in that district do not exert themselves very much to expedite the accomplishment of justice. It is absolutely necessary, in many respects, that this man, with his supposed companions in the diabolical act, should be examined touching their guilt; the latter have been in custody for a long period, awaiting the apprehension of the supposed principal, and we think there has been an unnecessary delay.

CJA, 6/462, 01/04/1840

#### INFANTICIDE

An inquest was held on Monday last at the Cherry Trees public-house, Castlereagh-street, on the body of an infant, supposed to have been smothered in a water-closet shortly after its birth. It appeared in evidence that a servant woman, in the service of Mrs. **SHEA**, named **ANN LLOYD**, had been known to be in a pregnant condition for some time past; and on Thursday last a sudden change was noticed in her appearance, but no further notice was taken of it, or any remark made, until Saturday last, when a fellow-servant, named **ANN NUNAN**, on going into the water-closet for the purpose of sweeping it out and cleaning it, saw something lying on the top of the soil, which at first she thought was some dead animal, but on closer examination she found that it was a dead infant. She immediately gave the alarm relative to her discovery, and the supposed mother, Ann Lloyd, then went to the closet with a stake, and endeavoured to conceal the infant in mire. Doctors **SAVAGE** and **ARNOTT** examined the body of the dead infant, and agreed on the point that it had been born alive, and that it had breathed; there were several wounds on the body, but in consequence of there being no extravasation of blood they must have been made after the death, and no doubt when Ann Lloyd made the blows to immerse the body in the soil. The wretched woman confessed to Dr. Savage that she was the mother of the infant. A verdict of wilful murder was returned against the unnatural woman, and she was fully committed on a Coroner's warrant to take her trial for the murder.

CJA, 6/465, 11/04/1840

There has, as yet, been no inquest upon the bones of the human being found in the ruins of the Royal Hotel last Friday; and supposed to be those of a gentleman, who was residing there, named **JEFFRIES**, and who has not been seen or heard of since the lamentable catastrophe.

The constable, **JOHNSON**, who was acquitted at the inquest, and subsequently by the Bench, of having wilfully killed the man he shot at the Green Hills, has since been taken up and forwarded to Sydney, to take his trial for wilful murder, it is said, by direction of the Attorney General.

CJA, 6/466, 15/04/1840

POLICE INCIDENTS

Saturday, April 11

**FANNON'S MURDER.** - **GEORGE HERSON, MICHAEL FOGHERTY**, and the woman **MARY GORMAN**, charged with being concerned in the murder of Fannon, a shoemaker, some five years back, were put to the bar. Long account; witnesses:

**GEORGE M'KINNON, MARY STONE, THOMAS HARDAGE, THOMAS CLARKSON, EMILY WOOD**, formerly **BOLTON, JOSEPH JENNINGS**, publican [Jury Foreman at inquest on Fannon], **MARGARET FANNON**, widow, and Dr. **NEILSON**, who gave date as 6<sup>th</sup> of 9<sup>th</sup> November 1834.

Tuesday, April 14.

THE CONFESSION

It was rumoured last evening, that the woman **GORMAN** had wished to put in a plea of Guilty, in the case of **FANNON'S** murder, in order to be admitted the approver, to implicate the actual perpetrators of the foul deed.

It appears that the bones found in the ruins of the Royal Hotel, were not those of the supposed Mr. **JEFFRIES**, for he is in the land of the living and quite well. This gentleman took up his abode on the morning of the fire, at Messrs. Dodds & Davies. It cannot be ascertained who the bones belonged to.

CJA, 4/467, 18/04/1840

**DISGRACEFUL STREET FIGHT.** ... In the heat of the engagement one man took up a large flat stone and pitched it at the champion, but it fortunately missed him and struck his wife in the face, and the blow caused her instantly to fall to the ground as dead.

Wednesday, April 15. **HERSON, FOGHERTY**, and **GORMAN**, for **FANNON'S** murder, were again put to the bar, and the evidence of another witness taken. The prisoners were then remanded to Friday the 24<sup>th</sup> for further evidence, on which day it is supposed several witnesses will be examined, relative to the habits of the woman Gorman for some time after the day of the murder.

CJA, 6/469, 25/04/1840

**FANNON'S** murder; committed for trial. Also more re **M'KINNON**.

CJA, 6/471, 02/05/1840

SUPREME COURT

The crimes in general are, we are happy to say, are of a lighter character than usual, although there are some few for murder; amongst these are the three persons committed the other day for the murder of **FANNON** in the Domain, some five or six years ago.

The body of a man was found floating near the Botanic Garden a few days since, without a head, and much decomposed. The person who first saw it thought it was the carcase of a dog, but on closer inspection he discovered it to be that of a human being.

AUSTRALIAN, 02/05/1840

Willis J., 1 May 1840

**FREDERICK KIRK** was indicted for shooting at **WILLIAM GROVENOR** at Gunning, on the 15th January last, with loaded fire arms, with intent to murder him;

and **WILLIAM CLARK** was charged with being present aiding and assisting the first named prisoner to commit the said felony.

The prisoners were a part of the gang associated with **WHITTON**, the bushranger lately executed for murder, and attacked the house of the prosecutor, chiefly, as it appeared, for the purpose of obtaining fire-arms, and also for sake of bravado, in consequence of having heard, while committing a robbery on the same day at Dr. Clayton's in the same neighbourhood, that Mr. Grovenor would take the same robbers, if they attempted to rob his place. Upon hearing this, they threatened to pay his place a visit, and see if he was as game as he pretended to be.

The following evidence was then called:- William Grovenor being sworn, said, I reside at Bunning, and am storekeeper; both the prisoners came to my place about three o'clock in the day, about a month after Christmas last; I am sure they are the men; Clark came in and asked for half a dozen shirts; I handed down the shirts, and when I turned round from doing so, Clark held a pistol to my head, and told me not to speak; while I stood, Kirk came in with a short gun, and said he would blow me to ribbons if I made any resistance; Clark then drove my family into an inner room, and baled them up; three black natives then came in, and he baled them up also; he then went out, and brought in my bricklayer and brickmaker, and baled them up in another room; they both asked me for my arms; I sell arms and gunpowder; I have no license to do so, nor is any required; I had arms loaded in the house, expecting a visit from the bushrangers, as I had been threatened with it; I reached the prisoners down the pistols, and Kirk loaded eight or ten pistols and guns, some with his own ammunition, and some with my gunpowder, a flask of which they took off the shelf; I was attempting to approach the loaded arms on the counter, when Clark told me not to attempt it again, or he would blow my brains out; he looked at me very hard, and said, "is not your name Grovenor? - are you not the b----r that threatened to take two of us?" I said "you must not believe all you hear;" I thought he was going to shoot me, and I said "it would be a cowardly act to shoot a man unarmed;" at this moment, Mr. **MANNING** and another gentleman rode up to the door; Clark tried to cover them with his gun; Kirk was in the next room, and both could see Mr. Manning; Clark said to Kirk, "wait a bit, I'll drop him if he comes by;" Clark went out and returned in, seemingly terrified; I took advantage of the moment, and ran out; I met a man with a gun, who told me it was loaded with duck shot; I asked him for ball, but he had none; I was desperate, in consequence of my family being in the house, so I rammed my penknife into the gun, and then challenged them to come out; they would not do so, but Clark presented my double barrellled gun at me, from behind the shutter; I went a little distance off, and Clark and me exchanged shots, both without effect, but I felt the passage of the ball near my face; I called upon Clark to surrender, but he said he would not - that he never was born to be hanged; Manning went to Mr. Hume's, about two miles off, and brought me some assistance; I would not allow any one to rush into the house, knowing that it would most probably be fatal to any one who should make the attempt; Clark fired several times both at me and the parties who came to my assistance; I told one of my servants to remove the brick work at the end of my house, and a man named Cooper went up the ladder which I caused to be raised, with a pistol in his hand, and just as he had reached the joists of the house, Clark fired, and shot the canister of gunpowder, with which he was priming his pistol, out of his hand; I then went up the ladder, and Clark shot me through the hat, the splinters from the joists, with which the ball came in contact, stunning me in the forehead; about seventeen or eighteen shots were exchanged between me and Clark, and the firing lasted at intervals for about four hours; Kirk was engaged loading the fire-arms for Clark; at

last I got a fair shot at Clark right in front of him; the charge in my gun was a very heavy one, and it lodged in the wall close by the side of Clark's head, knocking the plaster about his ears, and a splinter wounding my sister-in-law in the neck; the men then called out that they would surrender; I told them to let me hear one of the females in the house say so, upon which my sister-in-law called out to me, saying, that they had surrendered. I then went into the house, and with the assistance of the parties, who were with me, secured the prisoners, and sent them into Yass.

Mr. Grovenor was complimented by His Honor on his courageous conduct.

**JOHN TOFT**, an assigned servant of Dr Clayton's, stated that he was present on the same morning of the outrage by the prisoners at Grovenor's, when they committed a robbery at Dr. Clayton's, and that they left the latter place, saying that they would go to Grovenor's and see whether he was as game as he pretended to be; he afterwards followed in the same direction armed with a gun, and assisted Grovenor in the capture of the prisoners. Mr. Manning, and Richard Robertson driver of the Yass mail, also proved that they passed by Grovenor's during the outrage, and that they witnessed the firing. Mr. Manning as he turned the angle of Grovenor's house was shot at by Clark, but did not receive and injury.

The prisoners made no defence.

His Honor, previous to summing up the evidence, addressed the jury as follows:

Gentlemen of the Jury. - Nothing is more common than to hear those who are in a great measure ignorant of the criminal law of England, charge it with numberless hardships and undistinguished rigour; whereas, all who have studied it minutely, agree that it wants nothing to make it admired for clemency and equity, as well as justice, but to be understood. It is so agreeable to reason, that even those who suffer by it cannot charge it with injustice; so adapted to the common good as to permit no vice to go unpunished which that requires to be restrained; and yet so tender of the infirmities of human nature, as never to refuse an indulgence where the safety of the public will bear it. It gives the sovereign no power but of doing good, and restrains the people from no liberty but of doing evil. The knowledge of this branch of jurisprudence, which teaches the nature, extent, and degree of every crime, and adjusts to it its adequate and necessary penalty, is of the utmost importance to every individual of the state. No rank or elevation in life - no uprightness of heart - no prudence or circumspection of conduct, should tempt a man to conclude that he may not at some time or other be deeply interested in these researchers. The infirmities of the best amongst us - the vices and ungovernable passions of others - the instability of all human affairs - and the numberless unforeseen events which the compass of a day may bring forth, will teach us upon a moment's reflection that to know with precision what the laws of our Country have forbidden, and the deplorable consequences to which a wilful disobedience may expose us, is a matter of universal concern. The Criminal Law of England has been supposed to be more nearly advanced to perfection than that of any other country. Crimes are accurately defined, - penalties (so far as they reasonably can be) are fixed and certain - all accusations are public, and trials are in the face of the world - torture is unknown, and every real or supposed delinquent is judged by such of his equals against whom he can form no exception, nor even personal dislike. The object of this law is the protection of our persons and property by the prevention of crime. Hence the principle, (which pervades the whole system of penal jurisprudence) that the facility with which any species of crime is perpetrated, is deemed by the legislature a reason for aggravating the punishment. Great Cities (as all must know who dwell in this place) multiply crimes by presenting easier opportunities, and more incentives to libertinism, which in low life is commonly the

introductory stage to other enormities, by collecting thieves and robbers into the same neighbourhood, which enables them to form communications and considerations that increase their art and courage, as well as strength and wickedness; but principally by the refuge they afford to villainy, in the means of concealment, and of subsisting in secrecy, which crowded towns supply to men of every description. In such places a vigilant magistracy, an accurate police, a proper distribution of force and intelligence, together with due rewards for the discovery and apprehension of malefactors, and promptitude in carrying the laws into execution, seem to be peculiarly requisite. Wherefore, in England, corporations were established, and invested with all requisite powers and jurisdiction for the good government and the preservation of peace in such communities.

Of these institutions, which first were constructed on the Continent of Europe, the Historian of the Emperor Charles V., says, "Forming cities into communities, corporations, or bodies politic, and granting them the privilege of Municipal Jurisdiction, contributed more, perhaps, than any other cause, to introduce regular government, police and arts, and to diffuse them over Europe." Let me then congratulate you, gentlemen, on the immediate prospect (according to the announcement in the public papers) of the incorporation of this great and flourishing town; and on the hope, in which I trust we may fairly indulge, that the recent Acts or the Imperial Parliament which place the English Municipal Corporations on their present board and popular basis, and secure to them the requisite the jurisdiction for the prevention and punishment of crime, may be adopted in their fullest extent by our Local Legislature. In that event, within the limits of this town at least, criminal justice never need be dormant - a criminal court, empowered to punish nearly every species of offence, may almost constantly be open, and thus may the corrupting influence of incarceration be abridged, examples become immediate, and the terror of punishment increased - following as it would do, closely as the shadow of crime. Let us now proceed to the business we have in hand. To you, gentlemen, with such assistance as I can render you, it belongs to ascertain and to declare by your verdict, the breaches of the law which may have been committed in those cases that may be brought before us. To me it appertains to pronounce the punishment which the law inflicts upon them. Thus, gentlemen, in the discharge of our respective duties, shall we help to secure to our fellow subjects the benefit of those admirable laws which constitute the criminal code - a code made for securing the safety and ensuring the tranquillity of the community.

His Honor then recapitulated the evidence and charged the Jury, who without hesitation returned a verdict of Guilty against both the prisoners. The prisoners were remanded for sentence. See also Sydney Gazette, 5 May 1840; R. v. Whitton, 1840. Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

CJA, 6/472, 06/05/1840

DRUNKEN SURGEONS. - On Saturday last, as will be seen in our reports of the trials on that day at the Supreme Court, two cases were obliged to be adjourned in consequence of the drunkenness of two surgeons, who were witnesses. One of them, we understand, holds, or did at the time, a Government appointment, but has since been discharged.

SUPREME COURT – CRIMINAL SIDE

Saturday, May 2.

Before the Chief Justice.

**JOHN BRIGHT** stood indicted for inflicting a wound in the right side of a man named **JOHN FULLER**, in January last, of which wound he, the said Fuller, lingered, and shortly afterwards expired. Guilty. Death.

**PATRICK** and **BRIDGET KEANE** stood indicted for causing the death of their son by ill-usage, cutting, and maiming him. This case was postponed in consequence of one or more of the witnesses being intoxicated, among whom was the medical witness.

SYDNEY HERALD, 06/05/1840  
Supreme Court of New South Wales  
Dowling C.J., 5 May 1840

**ANN LLOYD [or LYNCH]** was indicted for having on the 26th of last March murdered her own new born infant, a female child, by thrusting it into a privy on the premises of her mistress, in whose service she had been for two years. A second count charged the prisoner with concealment of pregnancy. The prisoner pleaded not guilty; and was defended by Mr. **PUREFOY**.

The Jury returned a verdict of guilty of concealment. – Remanded. See also Sydney Gazette, 9 May 1840; and see R. v. White, Australian, 8 February 1840 and 19 May 1840.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

SYDNEY HERALD, 06/05/1840  
Supreme Court of New South Wales  
Dowling C.J., 2 May 1840

**PATRICK** and **BRIDGET KANE [KEANE]** were indicted for a misdemeanor in having on the 25th day of December last, while in liquor, neglected their son **JAMES KANER**, an infant of eight months old, and incapable to take care of himself, in consequence of which neglect the clothes of the said James Kane caught fire and he was so seriously burned that he died in the course of the day.

The prisoners pleaded not guilty; and His Honor requested Mr. Callaghan to undertake their defence.

In opening the case the Attorney-General stated that the present was another instance of the awful evils which intemperance is inflicting on this otherwise blessed country. Were the importers of these spirits to attend the Supreme Court and hear the history of every gallon they had imported, as revealed in the crimes that came before the Court in charges of murder, of parricide, matricide, and all the crimes that can be conceived, not to mention the robberies it led to, and the number of lashes which it inflicted on the backs of the criminals already under sentence, he was sure they would to a man renounce the trade.

**BENJAMIN SPARKE**, assigned to **HENRY SHADFORTH**, J.P., being sworn, deposed, that the prisoners lived on Mr. Shadforth's property; they had a boy about eight or nine months old; it was a fine healthy child names James. He was passing their residence about ten a.m. on Christmas and heard the child crying, which was quite unusual. He heard the cries one hundred yards off; went up and saw the child lying on the sill of the door; all its clothes were burnt off but a sleeve of a frock which was on fire. He tore it off and burnt his fingers in so doing; the child was in great agonies. He took it up and went into the first room, and saw no one it; he went into the next room and saw the prisoners lying on the ground; there was no bed in the second room, but there was in the first. They were asleep; he had considerable

trouble to awaken Kane, and when he was awakened witness told him his child was burned Kane woke his wife, and went immediately up to Mr. Shadforth's. There was a log on the fire burning, and the fire appeared to have been raked; there was no fender. Both of them appeared a little in liquor; after she rose she put a cloth round the child, and appeared very sorry; he and the woman immediately went towards Mr. Shadforth's with the child to see the doctor, and saw Mr. Shadforth and the doctor coming. The doctor told the woman to take the child home – it was then alive. The next time he saw the child it was dead. In cross-examination witness stated that the child could crawl about; the fire was very dim; never heard the child cry mamma, mamma. The mother appeared very sorry indeed, and was anxious to get the child conveyed to the doctor, and when she saw the state of the child the sorrow and fright made her sober. The child was outside on the sill lying on its back. The cries of the child were loud enough to have awakened any person that was not drunk.

Mr. Shadforth, - I employed the husband as a labourer; he had served his time in the Colony; they brought but one child; from eight to ten years old, with them; Kane told me he had another son at school at Penrith. On Christmas day, about ten a.m. the prisoner Kane came crying to my house, and told me his child was burned to death; he was not sober; I thought it was grief; after going to the hut the doctor desired a fire to be made to get some warm water, when Kane refused, saying it was of no use, as his child was dead. The doctor and me got wood and made a fire; the prisoner was very noisy all the time the doctor was examining the child, and in my opinion the riotous conduct of the prisoner was caused partly by grief, and partly by drink. The wife was sober, and held the child while the doctor was dressing it. She had been drinking apparently by her dress; he husband challenged her with being drunk, and she did not deny it; I challenged the husband with [being] drunk, and he replied that he was not, all he had drunk that morning was a glass of wine, which McEwen, a neighbour, had given him. On searching the hut a bottle with about half a glass of rum was found, and a two-gallon keg, empty, which smelled of rum. On the next day Kane acknowledged that on the day before Christmas he had got a gallon of rum from Penrith, and that he and his neighbours drank it; they always appeared very fond of the child, and both were very sorry at its being so severely burned; my men were getting ready at the time of the accident to hear prayers on Christmas day; the Catholics do not attend these prayers, but I take care that they are clean, and those who wish to go are sent to prayers. Cross-examined by the prisoner – I have never seen the husband in liquor, but believe he has been so during the four months he has been in my employ; the wife was drunk one Sunday, she got intoxicated by some relations visiting them; they are not habitual drunkards.

The medical attendant proved that the child was so burned across the chest and bowels, that there was no chance of its surviving; it was dead about two hours after witness first saw it; the husband was in a state of intoxication, the woman was perfectly sober and collected. Witness would know if a person was in liquor. Spirituous liquors predispose a person to heavy sleep; rum would strengthen a woman while nursing if given in the quantity of a wine glass full per day, diluted with water; porter would be better; all stimulants increase the quantity of lacteal fluid, but do not improve the quality. If the mother was in health he would not give her any rum, and if ill, he would prefer other stimulants to rum. The husband was very loud and abusive, saying he had no luck on it. The female is hard of hearing, and the witness had prescribed for her repeatedly, but she might have heard her child cry, even if asleep, provided the sound ear was not next the pillow.

The prisoners stated in their defence that it was Christmas time, and the husband had gone for a drop of rum on the previous evening, which they partook of too freely, and the husband being weakly lay down in the back room, as the heat was very intense owing to their bed standing close to the fire after she had cooked some victuals she went and lay down in the cool room with her child in her arms, gave it the breast, and spoke for a little while to her husband, after which she fell asleep, and did not know how her child left her, but no doubt it had crawled along the floor till it came to the fire, when its clothes had caught the flames.

Mr. **CALLIGHAN** submitted to His Honor whether the precedent on which the indictment had been framed could apply to the case, seeing in that one the parties were indicted for deserting, refusing to clothe and nourish their child, whereas in the present case it appeared in evidence that the parents were very fond of their infant, and had done all the things alleged in the precedent, and the indictment ought to have charged them with an accident occurring through their own neglect, rather than with neglecting the child.

His Honor over-ruled the objection, and in summing up stated, that any neglect or breach of a moral duty which is an outrage on society, was an indictable offence; as it was, should a conviction take place, the objection raised by Mr. Callighan would be brought before the Court. The Jury found a verdict of Not Guilty.

His Honor advised the prisoners to fall down on their knees and thank God for the narrow escape they had had, by the merciful view which the Jury had taken of their case, and who had satisfied their consciences by returning a verdict of Not Guilty. Had a verdict of guilty been returned, added His Honor, he would have felt it his duty to have sent the husband to an ironed-gang for two years, and the wife for the same time to the 3rd class of the Factory. He counselled them in future never to drink anything stronger than water. They were then discharged. See also Sydney Gazette, 5 and 7 May 1840, calling the defendants Keane.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

SYDNEY HERALD, 06/05/1840

Supreme Court of New South Wales

Willis J., 1 May 1840

**FREDERICK KIRK** was indicted for shooting at **WILLIAM GROVENOR**, on the 15th January last, at Gunning, with intent to murder him; and **WILLIAM CLARK** was indicted as an accessory, aiding and abetting in the offence. It appeared the prisoners had at one time been connected with the notorious **WHITTON**.<sup>[2]</sup> While robbing the house of Dr. **CLAYTON**, on the day laid in the indictment, they heard that the prosecutor had declared that if the bushrangers ventured to attack his place he would capture them. They also learned that Mr. Grovenor had fire arms; and therefore, to see if he was game enough to face them, and also to procure the arms, they declared they would pay him a visit. The prosecutor, who is a storekeeper at Gunning, deposed that the prisoners came to his place about 3 o'clock, p.m., about the middle of January last; Clark asked for a half-dozen shirts, they were handed down, and when he turned round from doing so, the prisoner Clark clapt a pistol to his head and told me not to speak. Kirk then came armed with a short gun, and threatened to blow his brains to ribbons if resistance was offered. The family were then forced into an inner room, where they were bailed up; three blacks came in, who were served in the same manner; and a brickmaker and bricklayer were brought in and bailed up also. All the parties were bailed up by Clark. Powder and arms being for sale, they demanded them. Having been threatened with a visit from the bushrangers, some

arms had been loaded to receive them. Mr. Grovenor reached the prisoners down the unloaded pistols, and Kirk loaded eight or ten pistols and guns. When Mr. G. made an attempt to approach the loaded arms on the counter, Clark told him not to do that again or he would blow his brains out, and giving him a hard look, asked if his name was not Grovenor? saying "are you not the b\_\_\_\_r that threatened to take the two of us?" to which he replied "you must not believe all you hear." Thinking he was about to be shot, Mr. G. said "it would be a cowardly act to shoot an unarmed man." At this instant Mr. **MANNING** and another gentleman rode up to the door; Clark tried to cover them with his gun. Kirk was in an adjoining room; both could see Mr. Manning. Clark said, "wait a bit, I'll drop him if he comes bye." Clark went out and returned apparently terrified; taking advantage of his apparent confusion, Mr. Grovenor ran out and met a man with a gun, which he said was loaded with buck shot; he asked him for a ball, but he had none; being rendered desperate on account of his family being in the power of the bushrangers, Mr. G. rammed his penknife into the gun, returned and challenged them to come out, but they would not. Clark presented his double-barrelled gun at Mr. G. from behind the shutter, when he withdrew a small distance. Clark and Mr. Grovenor exchanged shots but without effect; the ball passed very near Mr. G.'s face, when he ordered Clark to surrender, but he would not saying he never was born to be hanged. Mr. Manning having returned with assistance from Mr. Hume's, and fearing if a rush were made into the house that some one or more would be shot, it was arranged for a party to get up to the roof and remove the brick work there. A man named Cooper went up with a pistol, but as soon as he had reached the joists he was fired at by Clark. The shot struck the cannister of gunpowder out of his hand while in the act of priming his pistol. Mr. Grovenor then went up when Clark fired and shot him through the hat; the ball struck the joist and splintered it so that he was struck on the forehead and stunned; the ball just grazed his forehead; the firing lasted for about two hours, and seventeen or eighteen shots were exchanged between Clark and Mr. Grovenor. Kirk was employed loading for Clark. At last one of Mr. G.'s shots lodged in the wall close by the side of Clark's head, and a splinter wounding Mr. G.'s sister-in-law in the neck on which they immediately said they would surrender. The party then entered, secured the prisoners, and conveyed them to Yass. His Honor highly praised the courageous conduct of Mr. Grovenor.

**JOHN TOFT**, assigned to Dr. Clayton, deposed, that on the morning of their capture, the two prisoners robbed Dr. Clayton's house and left that for the prosecutor's, declaring their intentions to be as already stated. After they left his masters premises he got armed went to the Grovenor's, and assisted at the capture of the prisoners. Mr. Manning, junior, and the driver of the Yass mail, also corroborated the prosecutor's evidence. Guilty – To be transported for Life.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

CJA, 6/473, 09/05/1840

**CHARLES WARNER**, one of the drunken surgeons, who was committed on Saturday last for contempt of Court, was on Monday last fined £20, and to be confined in gaol for fourteen days.

SUPREME COURT – CRIMINAL SIDE

Monday, May 4.

Before the Chief Justice.

**PATRICK** and **BRIDGET KEANE**, (who were remanded on Saturday, in consequence of the medical witness being intoxicated); stood indicted for neglecting

and ill-using their won, so that he died, being aged about eight months. It appeared that on the 25<sup>th</sup> of last December the prisoners were drunk, and consequently they were incapable of taking care of their infant son, who, through their negligence, went too near the fire, and its clothes ignited; the body was burned to that degree that the sufferings occasioned thereby caused its death the same day. The evidence for the defence went to shew that the prisoners were very fond of the child; and it was supposed that it had crawled to the fire while the father was asleep in a back room through the effects of liquor, but that the mother had merely laid down to rest herself, the day being very warm, and fell asleep. The surgeon stated, that when he was called in to attend the suffering infant the husband was much excited, but the mother was quite sober and much distressed. Not Guilty. Discharged.

Tuesday, May 5.

Before the Chief Justice.

**ANN LLOYD** stood indicted for the wilful murder of her infant. A second count charged her with concealing the birth of her infant. Guilty of the second count.

Wednesday, May 6.

Before the Chief Justice.

At the opening of the Court, **ANN LLOYD**, who had on the previous day been found guilty of concealing the birth of her child (the Jury having taken a truly merciful view of the case), was put to the bar and the sentence of the Court passed upon her – namely, *that she be confined, for THREE MONTHS in the House of Correction!!!* [Oh Judge! Thy *Justice* is indeed wrapped in the arms of Mercy!]

**JOHN JOHNSON** stood indicted for the manslaughter of **RICHARD DARLINGTON**, [33] by shooting him through the back with a pistol while in prisoner's custody, who was then a constable. Guilty. To be transported for seven years.

CJA, 6/474, 13/05/1840

FANNON'S MURDER. Possible postponement of trial: **GORMAN, HERSON, FOGHERTY.**

MELANCHOLY DEATHS. - On Thursday morning last, two young men, named respectively **THOMAS** [38] and **JOHN COULSON** [30], who were lodging at the Freemason's Hotel, York-street, expired within four hours of each other. Inquests were held upon the bodies in the course of the day, when it appeared in both cases that the deceased brothers had for a length of time past been addicted to drinking to excess ardent spirits. The Jury in both cases returned a verdict – Died from the effects of intoxicating liquors, which produced *delirium tremens*. What an excellent article or the Temperance Magazine! We trust the Editor will not forget it.

SYDNEY HERALD, 13/05/1840

Dowling C.J., 6 May 1840

**ANN LYNCH [or LLOYD]**, who had been convicted before his Honor on the preceding day, of concealment of pregnancy, was brought up to receive sentence. His Honor stated, that he had remanded her with the view of enabling him to make inquiry whether there were any extenuating circumstances in her case, that would warrant him in the discharge of his duty, in mitigating the penalty which the law awarded to the crime of which she had been convicted, and also to ascertain whether the reported father of the infant was likely to make any atonement to her for the injury which he had done her. His Honor had done so out of mercy to her, for he could not but believe that it was a sense of shame, more than want of motherly affection, which had led her

to act as she had done, and he was truly sorry to find that the present was not her first departure from the paths of virtue, as he had been credibly informed she had been a mother before, still he did not think she was irretrievably lost, as her mistress, a most respectable lady, had borne testimony that for two years she had behaved well in her service, and but for the circumstances which had brought her as a prisoner to the bar of the Supreme Court, she might have been still in that situation. The offence she had been convicted of, was one which the laws of the land authorised him to punish by not less than two years in the House of Correction, but in the present instance, in the hope that she would see the evil of her ways and return to those paths from which she had swerved, he would not pass such a severe sentence as he otherwise might have done; he therefore ordered her to be confined in the House of Correction for six calendar months and kept to hard labour. His Honor subsequently stated, that any of her Majesty's gaols as well as the female factory, came under the designation of the House of Correction, and that it lay with his Excellency the Governor, and the Executive Council, to say in which she was to undergo her sentence. See also Sydney Gazette, 9 May 1840.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

SYDNEY HERALD, 13/05/1840

Supreme Court of New South Wales

Dowling C.J., 6 May 1840

**JOHN JOHNSTONE**, late constable in the Morpeth Police, was indicted for the wilful murder of **RICHARD DARLINGTON**, at Morpeth, on the 9th of last March. It appeared that on the evening of the day laid in the indictment, the prisoner observing the deceased, who was in liquor, interrupting the people going along the highway, in the exercise of his duty as a constable, took him in charge for the purpose of lodging him in the station-house, and in order to enable him to lodge the deceased there, he obtained the assistance of two other persons connected with the Morpeth Police. When getting him along the prisoner and deceased kept arguing and irritating each other, and the deceased was told by the prisoner that if he did not go on he would shoot him; the prisoner kept urging him on to the station-house, and for the purpose of locking him in, was in the act of reaching out his left arm for the key, from the keeper of the station-house, when the pistol which was in his right hand went off, the shot lodging in the back of the deceased, whose clothes were set on fire by the fire from the pistol, which was about a foot long; the deceased lingered for four days, having previous to his death made a declaration, charging the prisoner with having caused his death. After the death of Darlington, an inquest was held on the body, when the jury under the direction of the Coroner, returned a verdict of Accidental Death. The Attorney-General seeing the depositions, thought that the case ought to be investigated and for that purpose he had brought it before the Supreme Court. It was proved that the prisoner, after the pistol was fired, appeared stunned at what had occurred, remained in a state of stupor for about a quarter of an hour, but afterwards appeared very sorry for the event, and gave himself into custody for having shot the deceased. His Honor, in commenting on the case, condemned the indiscriminate use of fire-arms by the constabulary when on ordinary duty, and pointed out the illegality of their carrying fire-arms when on town duty. The Jury returned a verdict of Guilty of Manslaughter.

His Honor, in passing sentence on the prisoner, adverted to the reckless conduct of the prisoner in taking his pistol from his belt in order to compel the

deceased to go to the watchhouse, at a time when he had other persons belonging to the police to assist him, and also pointed out the harsh manner in which he behaved throughout the whole affair; he called the prisoner's attention to the favorable view which the jury had taken of his conduct, and informed him that had they returned a verdict against him on the first count he would certainly have passed sentence of death on him. As it was he did not see that there were any mitigating circumstances in the prisoner's case which could warrant him in exercising that leniency which, as the administrator of the laws had vested in him. He then sentenced him to be transported for seven years. See also Australian, 9 May 1840; Sydney Gazette, 12 May 1840.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

CJA, 6/475, 16/05/1840.

SUPREME COURT

WEDNESDAY, MAY 13.

Before Mr. Justice Stephen.

FANNON CASE. **GORMAN, FOGHERTY, HERSON**; postponed again; adjourned to Saturday the 16<sup>th</sup>.

THURSDAY, MAY 14.

**FOGHERTY**, one of the alleged murderers of **FANNON**, put in an affidavit [re a witness]. ... The Court then decided, that as it would be impossible to procure these witnesses in time, that the case must stand postponed to the ensuing criminal sessions.

CJA, 6/476, 20/05/1840

On Wednesday last, an inquest was held on the body of a man named **SMITH** [Samuel 47, Charles 64], who had suddenly expired on the previous day, shortly after he had gone to his daily duties as a carter to Mr. **BARKER**. Verdict – Died by the visitation of God.

Another inquest was held the same day on the body of a man named **THOMAS O'NEIL**, who was found dead in his bed by his wife (sic) on the morning previous. It appeared in evidence that deceased had gone to rest the evening before in perfect health. Verdict – Died by the visitation of God.

INQUEST. - An inquest was held on Thursday last, at Titterton's, on the body of a man named **THOMAS POWER**. It appeared in evidence that the deceased was crossing Brickfield-hill at dusk the evening previous, and was knocked down by coming in contact with a dray, with such force as to rupture a blood vessel. Verdict – Accidental Death.

CJA, 6/477, 23/05/1840

BATHURST. - On Sunday an atrocious murder was committed by bushrangers on a person named **CUNNINGHAM**, residing at Triangle Flat, about forty miles from Bathurst. About dusk in the evening, four armed men went to the station of Messrs Foley & Cunningham, and demanded admittance, after obtaining which, they robbed the premises of anything they wanted, and then shot Cunningham, owing, it is thought, to his having objected to give up his fire-arms; Foley was absent at the time but came into Bathurst on Tuesday to give information, and the Police are in pursuit.

CJA, 6/478, 27/05/1840

EDITORIAL re **J.R. BRENNAN**, Coroner.

The Government has offered a reward of £40, to any free man, for the apprehension of two men named **PATRICK CURRAN** and **JAMES BERRY**, the former for a rape, the latter for a suspected murder by him; both prisoners escaped from their escort, near Lake George, on the 8<sup>th</sup> of February last, and are still at large.

CJA, 6/479, 30/05/1840

**MURDER.** - An inquest was held yesterday afternoon at the Edinburgh Castle, upon the body of **MARGARET GLENNY**, alias **M'NAMARA**, who was found dead in bed the night previous, lying by the side of her husband, **JOHN GLENNY**. The Court was occupied several hours in investigating this case; and as the evidence is rather lengthy, we are compelled to defer publishing it till our next publication. For the present we therefore give the verdict – Wilful murder against John Glenny.

CJA, 6/480, 03/06/1840

An inquest was held at the Albion Vaults, Parramatta-street, on the body of an aborigine, known by the cognomen of "**JACK**", on Wednesday last. It appeared that deceased had been apprehended some time ago on a charge of cattle stealing, and in the capture received a gun shot; that he had been discharged at the last Criminal Sessions from custody, and forwarded to the Benevolent Asylum, to be taken care of until he could be forwarded with others to his native haunts; he however lingered and died on the 26<sup>th</sup>. Verdict accordingly.

**EDITORIAL.** Another reference to **BRENAN** and Surgeon **RUSSELL**.

It was our intention to have given a fuller account, &c. re **MARGARET GLENNY**. Refer also to 'Omnium Gatherum' on the same page.

CJA, 6/481, 06/06/1840.

**INQUEST.** - On Wednesday last, and inquest was held at the Brougham Tavern, Pitt-street, on the body of a man named **JAMES LARKINS** [John? Aged 22?], who hung himself on that evening in a privy at the rear of Mr. **KELK'S** premises. It appeared in evidence that deceased, who had during his lifetime, lately, acted in the capacity of cook, had been out of employment for some time, until a few days ago, when Mr. Kelk permitted him to make himself generally useful about his house, for his board, until he could meet with other employment. During these few days he had been looked upon as a man suffering much from a depression of the spirits, but no suspicion was caused thereby that he would commit so rash an act; however, on the morning of Wednesday he was observed to enter the previously described out-house, having on his arm a piece of rope; sometime after, as he did not come out, a man went and forced the door open, and found that although not fastened inside yet there was a resisting body; which, by using a little more force to effect an entrance, and looking, as he did so, to the top of the door, he discovered it to be occasioned by a man suspended to the roof not quite cold but stiff and dead. A surgeon was sent for and succeeded in procuring blood, but to no purpose, for the vital spark had fled for ever. It also appeared in evidence, that although deceased was not a confirmed drunkard, yet for the last week he had been in a stupefied state from the effects of intoxicating liquors. The Jury returned a verdict that deceased hung himself while labouring under a fit of delirium tremens.

CJA, 6/483, 13/06/1840.

New South Wales Inquests, 1840; 24/03/08

EDITORIAL. More about the Edinburgh Castle Inquest and **MARGARET GLENNY**.

CJA, 6/486, 24/06/1840

EDITORIAL, re two men awaiting an order for execution. **MARTIN RYAN, JOHN BRIGHT**.

CJA, 6/487, 27/06/1840

EDITORIAL. THE GAZETTE, THE CORONER, AND THE COMMERCIAL JOURNAL.

An inquest was held on Thursday, at the "Rose and Crown," Castlereagh-street, on the body of Mr. **EDWARD RILEY**, who suddenly expired on the day previous. Verdict – Died of delirium tremens.

On enquiry, we find that the two culprits mentioned in our last as having lain so long in the gaol under sentence of death, have been removed from the condemned cells. The one, **MARTIN RYAN**, having had his sentence commuted to transportation for life to Norfolk Island; and the other, **JOHN BRIGHT**, respited until the pleasure of the Queen be known. So that now only two who are actually under sentence of death in the Gaol, are **THOMAS LOWE**, for the murder of his father-in-law, and **JOHN BRIGHT**, also for murder.

SYDNEY HERALD, 03/07/1840

Supreme Court of New South Wales

Dowling C.J., 3 July 1840[1]

**WILLIAM HALL** was indicted for having on the 14th of November last, fired at Mr. **COLLYER**, of Collyersleigh, with intent to murder him. It appeared that the prisoner had gone in company with two other bushrangers to Mr. Collyer's residence, and after bailing up five assigned servants, plundered the house, the assigned servants offering no resistance although they had the means of doing so. The Attorney General stated to each of them when examined, that he would take care that they should not receive tickets of leave until by their conduct they had proved that that they were not concerned with Hall and his party in the robbery. The Jury found the prisoner guilty, when His Honor in passing sentence stated, that he was sorry that the late change in the criminal law prevented his making an example of the prisoner, but, as far as the law allowed him to go in punishing the prisoner he would, which was to send him to a penal settlement for life, with a recommendation that he should never receive any mitigation of the sentence. [1] This appears to be an error. The correct date was more likely to have been 3 August.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

CJA, 6/492, 15/07/1840

An Inquest was held on the 2<sup>nd</sup> Instant, at Towns' "Woolpack Inn" North Richmond, on the body of **JOHN Mc'GUIRE** who was killed by falling from his Cart. – Verdict. Accidental Death.

Another Inquest was held on the same day at Byrnes' "King's Head" Public House, Windsor, on the body of **HONORA MANSFIELD**, who fell dead in the Street. It appears that she had been in a very sickly state for some time past, and living upon the charity of the inhabitants. - Verdict. Died by the Visitation of God.

CJA, 4/495, 25/07/1840

CRIMINAL SESSIONS. - The Supreme Court opens this day week for the trial of criminal cases. The list is not a very heavy one, and the only one of particular interest, is that of the alleged murderers of **FANNON** in the Domain, about six years ago.

CJA, 6/496, 29/07/1840

On Sunday morning a respectably attired female was observed to fall from off Street's Wharf, by a seaman attached to the *Will Watch*, who was close by at the time; he immediately, on seeing the accident, plunged into the water but could not save her. The body of the unfortunate woman, whose name is **MARY ELDER** [aged 31?], was found on Sunday, and an inquest held upon it on Monday, and the Jury returned a verdict of accident tally drowned.

ACCIDENT. - The papers have on several occasions drawn the attention of the Government to the dangers of Church Hill in the immediate vicinity of Kent-street, but still no railing is placed to prevent the dangers which weekly occur to parties mistaking in the dark the precise place where the crudely constructed steps lead from thence to Kent-street below. On Saturday night last, during the pelting rain, a person named **ROSE** fell down near these steps, and was found dead. At the inquest such a Verdict as the following ought to have been returned – “Killed through the want of proper precaution on the part of the Government.” It is truly surprising that there are not more accidents and deaths occasioned by such neglect.

An inquest was held on Wednesday last, at the Daniel O'Connell Public-house, Thompson's-square, Windsor, on the body of an old man, named **JOHN IZZARD**, who was found dead in a boat, with his head and part of body in the river. It appeared that the deceased, who is puntman at the Windsor Punt, on Tuesday evening last, put a man and his team across in the punt, and after doing so, went to the public-house, partook of a glass of rum, and then returned to his punt; it is supposed, that after he had put his punt in the stream, which is the usual thing at night, he got into his boat for the purpose of returning home across the river, and that while in the act of pushing his boat away from the punt, he must have over-balanced himself; his head and part of his body falling into the river, and not being perfectly sober at the time, he was unable to draw himself back into the boat. Verdict – Found drowned. - *Correspondent*.

CJA, 6/497, 01/08/1840

SUPREME COURT. This Court for Criminal Cases opens today. The list which is rather a heavy one, contains nothing of extraordinary interest, excepting, perhaps, that of the murderers of **FANNON**.

AUSTRALIAN, 04/08/1840

Supreme Court of New South Wales

Dowling C.J., Willis and Stephen JJ, 1 August 1840

**CATHERINE WAPSHAW** was indicted for the wilful murder of **CATHERINE PHILLIPS**, at Singleton, by thrusting her into a fire, on the fifth day of April last, whereby she was burned in various parts of her body: from the effects of which she lingered until the 18th of the same month, and then died. The prisoner pleaded not guilty.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

CJA, 6/498, 05/08/1840

An Inquest was held on Monday, the 24<sup>th</sup> ult., at South Creek, on the body of **JOHN CARELESS**, overseer to Mr. **HASSALL**, who was killed by a fall from his horse, when returning home from Windsor on the Saturday previous; he has left a young child to deplore his loss. Verdict, Accidental Death.

An Inquest was held on the 24<sup>th</sup> ult., at the house of **JOHN HAND**, at Cornwallis, on the body of an aged woman, named **ROSE CALLAGHAN**, who fell dead in a paddock. Verdict, died by the visitation of God.

**HORRIBLE DEATH THROUGH INTEMPERANCE, AND CAUTION TO DRAM-DRINKERS.** - An Inquest was held on Thursday, the 30<sup>th</sup> ult., at the Cricketer's Arms Public House, Fitzgerald-street, Windsor, on the body of a woman named **ELIZABETH BURTON**. It appears that on the previous day, (Wednesday) this unfortunate woman and her paramour, a tailor, named **NIXON**, went to bed in a state of beastly intoxication; the daughter after seeing them to bed, went out and shut up the house; it is supposed that after the daughter had left them, the deceased got up and went to the fire to light her pipe, as a broken pipe and a small piece of wood were found lying on the hearth, and that at the time of lighting her pipe, the clothes which she had on caught fire; it is also believed that after her clothes became ignited, she returned to the bed-room for the purpose of arousing her paramour to extinguish the flames but being unable to do so, from the beastly state he was in, and her own incapacity, she sat down by the bed and there remained burning until some persons attracted to the house by smoke issuing from it, went in and found her in that position. The persons who first discovered it, say, that when they entered the house the bed-clothes and some wearing apparel hanging upon the bedstead were then lighting, and the house full of smoke; there is not doubt but for the promptness which they used, that the man must also have perished. The woman was a most horrid spectacle, every particle of her clothes was burnt off, and her body literally roasted; there was not a hair on her head, and the sinews of her legs visible; it is said that she was pregnant. This unfortunate woman had an infant scalded to death about twelve months since [??], caused through the pernicious habit of rum drinking. Verdict, accidentally burned to death while under a state of extreme intoxication.

SYDNEY HERALD, 07/08/1840

Supreme Court of New South Wales

Stephen J., 4 August 1840

**PETER POWER**, a boy of thirteen years of age, a native of Infinnan, country of Roscommon, Ireland, who arrived in the Colony with his widow mother **BRIDGET POWER**, per *Crusader*, about the beginning of the present year, was indicted for having on the 27th June last; attempted to administer a quantity of arsenic to Mr. **GEORGE COMMINGS**, the chemist and druggist of King-street, with intent to murder him. From the evidence for the prosecution, it appeared that the prisoner had been apprenticed. Mr. Commings in the beginning of last June; that after having been in his employ a short time he left his service, and was beaten for it, and that afterwards, in consequence of information which Mr. Commings received, he considered it his duty to ask the prisoner about a syringe, that had been taken from the shop, which the prisoner denied all knowledge of, but on searching his box, the syringe in question was found there, together with a quantity of tea and sugar; for the possession of which the prisoner accounted by saying that he had received the tea and sugar from a woman in the Orphan School, Parramatta, for the purpose of being given to some man confined in Hyde Park Barracks. On finding these things in the

prisoner's box Mr. Commings told his servant to keep the prisoner on the premises, and, at the same time told him that as he (the prosecutor) was going to Parramatta that evening, he would lay the prisoner's conduct before his mother. Before Mr. Commings returned from Parramatta the prisoner absconded, and on the morning of the 26th of June, was returned to the service of his mother, who had come from the Orphan School with him, and when she returned him to his employer, she requested and obtained (according to her statement) a promise that he should not be sent to the watch-house; at the same time she requested the prosecutor to punish him in any other way he thought proper, and which was agreed on, but that after the mother had returned to Parramatta, Mr. Commings sent him to the watch-house on a charge of absconding, and on the following morning, the 29th June, he was reprimanded by Captain Innes and at his master's request returned to service. On returning to Mr. Commings residence, he went into the kitchen and warmed himself, and about dinner time was set to work to clean the show bottles on the shelves in the shop. His conduct it appeared was narrowly watched by the cook, whom he had repeatedly offended by grinning at him and otherwise giving him annoyance; about five o'clock on the evening of the 27th June, the prisoner went again from the shop into the kitchen, when Davis, the cook already referred to, fearing the prisoner had again run away by the back door of the kitchen, went from the shop through the parlour into the kitchen, where he saw him at the fire with the lid of the kettle in one hand, and a white paper in the other, from which he was sprinkling something on the fire and also putting it into the kettle. On perceiving the cook, the prisoner immediately threw the paper and its contents into the fire and placed the lid on the kettle; the cook immediately went up to him and asked what he was doing, when the prisoner said he had only been putting some lime on the fire; not satisfied with this answer the cook took off the lid of the kettle, and seeing some white substance floating on the top of the water, he took the kettle from the fire and carried it to Mr. Coming's shopman and told him what he had seen; the shopman then took the prisoner and gave him a beating, when he said that he had been putting something into the kettle that he had taken from one of the bottles on the shop shelves, and on being interrogated as to which bottle he had taken it from, he pointed out the bottle labelled as containing Oxide of Zinc, a deadly poison. A short time after Mr. Commings, who had been out on business, returned to the shop; he was informed of the affair and the kettle with its contents shown him, in which he observed a white substance floating on the top of the water. This he skimmed off with a tea spoon and placed in a graduated measure glass, and was of opinion from its sparkling appearance that it was not Oxide of Zinc but Arsenic – he then poured off the water, and found a sediment in the bottom of the kettle, which he collected as well as he could, and placed in the graduated glass with the white substance that he had collected by skimming the top of the water in the kettle; he then went to Dr. Nicholson, who tested a small portion of the contents of the graduated glass, by lifting it on the point of a pen-knife and holding it in the flame of a candle, when the garlic smell enabled him to conclude that it was Arsenic. He afterwards returned the glass to Mr. Commings, and appointed a meeting to take place at the School of Arts Theatre on the following day, in order to analyze the matter in such a way as to ascertain beyond doubt what was the real character of the substance. As the next day was Sunday the examination of the contents of the graduated glass did not take place until Monday, but in the interim Mr. Commings and another medical friend took a portion of the matter, and having analyzed it as well as their apparatus would enable them, they found that it showed all the characteristics of arsenic, which had been described by Professor Christan in his work on Poisons. On the Monday, Dr. Nicholson

examined the remainder at the Theatre of the School of Arts, and found that after testing it in every way, excepting by subliming it and reducing it to a metallic state, the contents was arsenic. The reason why it had not been submitted to this test was that it was a tedious process, as considerable time would be required in order to evaporate the water, independent of the operations that would have been necessary after the flux had been added – besides which Dr. Nicholson was satisfied that the various processes of testing had sufficiently proved the substance to be arsenic, he also informed the court that it was not in his power to determine by experiment how much of the poison had been originally put into the kettle, as if the water was warm it would dissolve about a seventieth part of its own weight of arsenic, but if cold, it would not dissolve more than about a three-hundredth part of its own weight of the poison: arsenic being much more soluble in warm than in cold water. Besides, after the water had dissolved all that it could, a considerable portion of the poison would be suspended in the water by the motion occasioned by the action of the heat, and when the water was poured off would be, although undissolved, carried off by the water. As it was there could not be less than one hundred and twenty grains of the poison in the graduated glass measure, of which he had analyzed the contents – In his opinion from one to two grains of arsenic was sufficient to destroy the life of any person, and therefore, if, as the cook had stated, the kettle contained a gallon of water, even if that had been cold there must have been not less than one three-hundredth part of the whole, or several ounces of arsenic in it; a quantity of poison sufficient to have destroyed the lives of five or six hundred human beings. It also appeared from the evidence for the prosecution, that after the prisoner had returned from being reprimanded by Captain Innes, he had been cleaning the show bottles on the shelves where the arsenic bottle was, that he might have taken out some of the contents of that bottle without being observed, and that on the evening when the offence was committed, himself and five other persons would have drunk tea infused in the poisoned water.

The prisoner's Counsel, Mr. **PUREFOY**, endeavoured by a rigid cross-examination of the witnesses for the prosecution, to show that the prisoner was the victim of the cook (Davis) a freed man, who had endured most of his sentence in the service of medical men, and who by having been longer in the prosecutor's employ than the prisoner, was better acquainted with the contents of the bottles in the shop than the prisoner; also, that there was an ill feeling on the part of this witness against the prisoner; that Davis had put the arsenic into the kettle in order to get the prisoner put out of the employ. 2nd – That the poison, if not put into the kettle by Davis, it had been put in after the kettle had been removed from the kitchen to the shop, by some persons unknown. 3rd – That the witness Davis was not worthy of credence, as since he had got his freedom he had been charged with felony, and was at present on bail on his own recognizance. 4th – That as the prisoner was remarkable for his shrewdness and intelligence, it was not likely when he got his tea from the prosecutor's table, that he would have put poison into the kettle in order to poison himself together with the rest of this family. 5th – That the crime charged was of such a diabolical, description that it was impossible for the jury to believe that so young a boy could have attempted its perpetration. 6th – He also endeavoured in the cross-examination to get the witnesses to contradict each other to such an extent as to render the whole of the case improbable, and 7th – when addressing the jury he contended, that it was necessary before they could arrive at the fact of its having been arsenic, which was analysed by Dr. Nicholson, that it should have been produced before them in its metallic form, which he asserted was the only indisputable evidence of the sediment being metallic.

He also contended, that even if undissolved it was improbable that arsenic would float to the top, it being specifically heavier than water, and of course, when thrown into it as alleged, although undissolved, it would sink to the bottom.

His Honor in putting the case to the jury, went minutely over all the material points of the evidence, and left it to them to determine whether the contradictions were such as might be regarded as minute or essential, observing that it seldom happened when a number of witnesses spoke to the same fact that they agreed in every word they uttered; but so long as these little discrepancies did not materially destroy the general contour of a case, they were to be regarded as proofs of the truth rather than of the erroneousness of the whole. At the same time he instructed them, that if they thought that the one witness had materially contradicted the other the prisoner was entitled to the benefit of the contradiction. It was certainly lamentable to see a boy of such tender years standing at the bar on such a charge, but although the age of the prisoner might be in his favor, as regards the feelings it could have no weight against the evidence; the jury would therefore dismiss every thing from before them but the evidence and the circumstances as sworn to. With respect to the cook, who had declined saying what he had been transported from Swansea for, that did not materially affect his credibility, as he was not bound to answer the question, and it had not been shown either by himself or by the prosecutor that his credibility had been impaired since he arrived in the colony. If the jury had any conscientious doubt respecting the facts and circumstances detailed before them, it was their duty to give the prisoner the benefit of that doubt; but they must remember that in forming their verdict they owed a duty to their country, to themselves, and their families, as well as to the prisoner. He also told them to form their verdict irrespective of what might be the consequence of either acquitting or convicting the prisoner, as it was their peculiar province to deal with the matter so as to acquit their consciences before God and their country. If they should find the prisoner innocent, it would give him, and he doubted not every one present, pleasure to ascertain that a jury had consciously arrived at such a conclusion, and if on the other hand, the prisoner had committed the crime charged against him, were he to escape the punishment which it deserved, the safety of the community would be endangered.

The Jury retired for about half an hour and returned a verdict of Guilty; at the same time recommending the prisoner to mercy on account of his youth.

His Honor ordered the prisoner to be remanded until he should consult his brother Judges as to the mode most proper to be pursued in punishing him; as, if he had been older he should have sent him to a penal settlement for life, and most probably to have undergone his sentence in irons, as he never heard of a more diabolical attempt; he also told the prisoner that if he had any feeling, it was his duty to thank Almighty God that his intentions had been frustrated, as had but one of his intended victims perished by the poison, he should have felt it to be his duty to have ordered him for execution, even though he had been younger than he was. He was then removed from the dock.

The trial lasted from ten in the morning till about half-past seven at night, and from the enormity of the offence, coupled with the tender years of the prisoner, excited great interest. He appeared to pay great attention to the proceedings, and on several occasions availed himself of the privilege of communicating with his counsel through the attorney, in order to have the cross-examination of the witnesses properly carried out for his defence; at several stages of the trial he was observed to shed tears, particularly when the Attorney-General was opening the case, when his mother was spoken of as being a widow and when the Jury returned their verdict; he has a remarkably fine countenance, but is small for his age, and has received a common

education, being capable of reading and writing. See also Australian, 4 and 6 August 1840.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

SYDNEY HERALD, 07/08/1840

Stephen J., 6 August 1840

The prisoner was ordered to be brought up to day at ten o'clock, to receive sentence, as was also the boy Power, who had been convicted of attempting to administer poison. Mr. Purefoy stated that he wished to be heard in arrest of judgment in behalf of Power, as to the defect in the evidence respecting his being aware of the deleterious nature of the arsenic, and also because he was of opinion, that an act which makes a new felony, does not extend to infants under fourteen years of age; besides there was a medical gentleman who had come out in the same vessel with Power, who could speak as to the state of the prisoner's mind. His Honor said that he had heard of that, and should examine that medical gentleman in chambers, and on the adjournment of the court withdrew for that purpose. See also Australian, 8 August 1840.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

SYDNEY HERALD, 07/08/1840

Supreme Court of New South Wales

Willis J., 5 August 1840

**JAMES GLENNIE**, a freed man was indicted for having at Sydney, on the first day of June last, murdered one **MARY GLENNIE alias MARY MACNAMARA**, by beating her with a blunt instrument on the head and body in consequence of which she expired. From the evidence it appeared that the deceased cohabited with the prisoner, her husband being in the interior; that on the day charged in the indictment, during the absence of the prisoner, the deceased became intoxicated and when he returned, he commenced illusing her by throwing several pails full of cold water about her until the neighbours interfered, when both of them went into their skillion, the female being in a very weak state. She was laid down and the prisoner lay down with her, being then himself intoxicated. After it became dark some of the neighbours went in, and enquired how the woman was, and were told by the prisoner, that she was doing well enough, she being asleep in his arms. A short time after some of them again went in, and found that she was dead. On examining the body of the deceased, it appeared that there were some scratches, together with something like finger marks about the throat, and on examining her head two incisions were found on the upper part of the back which Mr. **ARTHUR a'BECKETT** certified had been the cause of death, as they had caused compression on the brain. This evidence Mr. a'Beckett was also corroborated by Mr. **McKELLER** and both agreed as to the debilitated state of the deceased induced by intemperate habits. For the defence Mr. Surgeon Russell who had, in consequence of a dispute with the coroner at the inquest, been rejected as the Medical witness, gave evidence of such a character to that supplied by the other two witnesses, that His Honor, in summing up remarked, that if Mr. Russell had come to give his testimony in order to forward the ends of public justice he was entitled to commendation, but if he had come forward from any sinister motive arising out of his dispute with the Coroner, his conduct appeared in a very different light. His Honor also pointed out those parts of the other evidence which corroborated the evidence of Mr. a'Beckett, whose testimony he thought was entitled to all credence from the Jury.

The prisoner's witnesses proved that the marks on the throat had been observed before the time the prisoner was seen illusing her on the day when she died. It also appeared that the cuts on the head, might have been produced by falling on an iron pot, which was the only instrument in the house, capable of inflicting such wounds, but the axe was found lying in the adjoining shed. His Honor summed up and commented at considerable length on the law of circumstantial evidence, and told the Jury that it was not necessary to prove previous malice, in order to constitute murder. The Jury retired for about half an hour, and returned a verdict of guilty of manslaughter. His Honor sentenced the prisoner to transportation for life, with a recommendation that no commutation should ever be granted. See also Australian, 4 and 8 August 1840.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

CJA, 6/499, 08/08/1840.

SUPREME COURT.

Wednesday, August 5.

Before His Honor, Mr Justice Willis.

**JOHN GLENNIE** stood indicted for the wilful murder of his wife **MARY GLENNIE** in May last, by beating and otherwise ill-using her. The particulars of this case were given in our journal, in the report of the inquest, held at the *Edinburgh Castle* upon the unfortunate woman, it is therefore unnecessary to republish the evidence which was exactly the same as on the present trial. The Jury having retired about twenty minutes, returned and found the prisoner guilty of manslaughter, and the Judge sentenced him to be transported for the term of his natural life to Norfolk Island.

**PATRICK BYRNES** stood indicted for furiously driving a dray, which caused the death of a woman. Guilty. Two years in irons.

AUSTRALIAN, 08/08/1840

Dowling C.J., Willis and Stephen JJ., 7 August 1840

**PETER POWER**, aged thirteen years, who was tried on Tuesday and found guilty of attempting to administer two ounces of arsenic, with intent to poison his master Mr. **GEORGE CUMMINS** of King street, druggist, and family, was brought up for judgment.

Mr. **PUREFOY**, as counsel for the prisoner addressed the Court in arrest of judgment upon the ground, that the evidence on the trial failed to sustain the charge of attempting to administer the poison, and he further contended that a new felony could not apply to an infant under the age of fourteen years, which was the standard of distortion established by law and laid down by all the old authorities, in support of his arguments he quoted several cases reported by various authorities.

The Attorney General opposed the motion, contending that in all the old authorities the age of fourteen years was mentioned merely, as the common standard and not intending to exempt them from doli capax. He cited numerous cases in which infants under that age had been executed for murder, arsons, poisonings and similar crimes of which children under the age of fourteen were quite capable. Some children were as precocious at seven as others at fourteen, and in this colony children generally were remarkable for their precociousness. It was also hereditary in some families. If it were known that children could commit such crimes with impunity, others could instigate

them to crime with perfect safety, and their would be no existing in society with any degree of security. The consequences would be fearful.

Mr. Purefoy replied - he said all the cases cited by the Attorney General related to common law, but, in his arguments, he had not touched the abstract question of law he had raised in the prisoners favor. But if the point he contended for was laid, he presumed, (however grievous the consequence of inducing others to instigate children to such heinous crimes, with which he had nothing to do, although he should deplore it as much as the Attorney General the court would give the prisoner the benefit of it.

The Chief Justice delivered the judgment of the Court. He said in doing so the Court took no recognizance of the merits of the case, but simply pronounced his opinion on a point of law. Mr. Purefoy had very ably and ingeniously argued the case, but the Court saw no sustainable argument in the boy's favour. He commented upon each objection separately, and gave reasons for overruling them. The only question then was, whether the boy was doli capax or not, and it turned out that no standard of disaction was fixed at fourteen years of age. The true question, however, was whether the boy was conscious of the turpitude of the crime he was committing, and was actuated by that malignity of purpose which was supposed to induce the commission of such an offence, and all the circumstances were fully gone into at the trial. Some boys were remarkably precocious at seven yeas. It was proved he had put arsenic into the kettle, and having been punished by his master, it might naturally be supposed that his intention was to poison.

The Attorney General prayed the judgment of the Court.

Mr. Justice Stephen passed sentence upon the prisoner. He said every thing upon his trial proved him to be a bad, wicked, and depraved boy, and his brother Judges had concurred with him in passing upon him a punishment which would have the effect of reclaiming him by keeping it in his recollection. He had, however, been recommended to mercy by the Jury in consideration of his young years, and that had also been considered. The sentence of the Court was, that he be imprisoned in the Sydney gaol for twelve months, and kept in solitary confinement one week in each month, to give him time for reflection; and care would be taken that the other three weeks of each month should be passed apart from the other prisoners, and the means of religious instruction afforded him, that nothing should be omitted which was likely to reclaim him. Remember, boy, (said his Honor) you have a mother, and sisters, and brothers, whose hearts you must not break. (Here the boy held down his head, and wept). At the same time this punishment will not last always, it will have an end, and I hope at the end of twelve months you will come out a better boy, and that your punishment will have the effect of reclaiming you.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

SYDNEY HERALD, 12/08/1840

Supreme Court of New South Wales

Stephen J., 12 August 1840

**TALLBOY, alias JACKKEY**, an aboriginal native, was placed in dock, and an interpreter, named **WILLIAM JONES**, sworn, who deposed that he had lived at Mr James Walker's station, at the Myall Creek, district of Cassilis, beyond the Wurrumbungi Mountains, where he had become acquainted with the prisoner, who could converse in four different languages, with one of which the interpreter was acquainted, and could make himself understood through it, by the prisoner. The indictment was then read, which charged the prisoner with having, on the 19th June,

1837, at Narang, on the Namoi, in Cassilis, murdered one **FREDERICK HARRINGTON**, a stockkeeper in the employ of the late Rev. S. Marsden, by inflicting several deadly wounds on his head, by striking him with a tomahawk. Another count charged him with having been present at the said murder, and aiding and abetting others in the perpetration of it, with a blunt instrument unknown to the Attorney General. The indictment having been read, and explained to the prisoner, he informed the Court - through the interpreter - that he did not do the deed, but that it was done by two other black-fellows, when he (the prisoner), was at Wang, and that the two black-fellows who did it were since dead. The interpreter stated, that Wang was about fifteen miles from Narang. The Court then enquired if the prisoner understood that he must plead either guilty or not guilty; when the interpreter said, he denied that he had done it, for it was done by two other black fellows when he was near Murramong, which is about ten miles from Narang, and five miles from Wang. The prisoner was then told, that the Jury who were then in the box, were the persons who were to try him, and as they were sworn, he might object to them; he was also informed that the counsel, Mr. Callaghan, would speak for him, as he was alone; on which the prisoner appeared to be satisfied.

In opening the case to the jury Mr. Therry stated, that the present was only one of many outrages that had been committed on the whites by the aborigines in that distant part of the colony, and that it was necessary for the safety of society, that the aboriginies[sic] should be made responsible to the laws for such improper acts of outrage as they were guilty of; it was a well-know fact that not only the property of the settlers in the distant parts of the colony had been assailed by them, carried off[sic], and wantonly destroyed, but a number of whites had from time to time fallen victims to the savage fury of the blacks. It was only twelve months since, not less than seven white men had been tried for, convicted, and executed for having been concerned in an outrage on the blacks, and that too, in what in his opinion, was less direct evidence than that which he was about to offer. He had to lament that after all the pains that had been taken to obtain the testimony of the hut-keeper who, it was alleged, had been present at the outrage, the officers for the Crown had not been able to discover him, but then the evidence which he had to present, although merely circumstantial, was, in his opinion, such as would fix the crime charged in the indictment. It was true there was no coroner's inquest held on the body of deceased, but that was impossible in the distant part of the Colony where the transaction took place: he had also to caution the Jury against being led away by the popular error, that, it was not right in a Jury to convict on circumstantial evidence. Were this the case it would hardly be possible to get a conviction against a single murderer in the colony, as it seldom happened that any one saw the blow struck; he also reminded the Jury of their duty to themselves, and their fellow colonists, as it was for the purpose of protecting their lives and property, that they were called on to give their time and their talents to the consideration of such cases as the present, and he trusted that they would carefully attend to, and weigh the whole of the evidence, both for and against the prisoner.

The first witness called was **JAMES NOBBS**, Stockkeeper. In June 1837, he was in the employ of the Rev. Samuel Marsden, at his station, on the Namoi. On the 17th of June, 1837, five or six aborigines came to the hut in which the witness, a hut-keeper named "Big Bill," and the deceased lodged, where the blacks received some food, &c. from the inmates; they continued hanging about the place till the third day after, when about nine in the morning, the witness, having to go several miles to another station, took the saddle and bridle down, and asked the deceased to go with him to where the horse was, and help him to get the horse ready; he left "Big Bill" and a black or two in

the hut; after witness had got on the horse he rode off and the deceased returned in the direction of the hut; and the last time the witness saw him alive was when he was within a rod or two of the hut door. The witness returned about two hours and a-half after, on horseback, and when he came in sight of the hut, he saw two or three black fellows at a fire, with a pan roasting some meat; when he was seen by them, one of the blacks at the fire went into the hut, and came out again, followed by two or three others, among whom was the prisoner, who had on an opossum cloak. The prisoner came up to within a yard of where the witness was sitting on the horse - he had his spear in his right hand; the other one was under his cloak, which happening to open, and the witness saw the back of the hand under the cloak; it was covered with blood, and in it he held a pistol belonging to the witness, which he had left in the hut about two hours and a-half previously. The witness immediately suspected that something was wrong, and the prisoner, observing him looking at his left hand, immediately stepped back about a yard, and suddenly wounded him in the right temple; he immediately spurred his horse and afterwards broke off the shaft of the spear, which was still sticking in his temple. He got to another station, to which "Big Bill," the hut-keeper, had got before him; but although they had arms there, they had no ammunition. He then proceeded to another station, where the witness was obliged to remain, from weakness caused by loss of blood, and also to get the wound dressed. On the following day, a party having been collected, they repaired to the hut where the outrage had been committed, and found the deceased lying dead and covered with blood; and, on examining his head, they discovered four or five wounds which had apparently been inflicted with some sort of a blunt instrument, such as a tomahawk which had been in the hut up till that day. On examining the wounds, they appeared clean cuts, and very severe, one of them having gone right through the skull; they also found that all the rations, clothing, and, in fact, whatever was moveable, had been carried off, but none of the blacks were to be seen. This witness recollected, distinctly, the prisoner being among the blacks on the morning in question, as before he mounted, he asked him to take the others with him, and each get him a sheet of bark, which he promised to do. They buried Harrington on the same day that they discovered his remains, and he had never seen the prisoner from the 19th of June, 1837, until about six months ago, when he was called on to identify him at Cassilis. The prisoner remarked when the testimony of this witness was being interpreted respecting his hand being bloody; that the witness told a lie; he also said respecting his being employed to get the bark, that he then went off to get it. The witness said that there were two others among the blacks, particularly Goodmorning and Chattie, but he had never seen them since.

**JOHN MILLAR**, a stockman, who resided about thirty miles from where the murder took place, deposed that on the day after, the prisoner and five or six other blacks came to his place, when he saw the prisoner with a clasp knife in his hair[sic], which he immediately recognised as being the property of the deceased, he having frequently seen him with it, and the last time, only a few days previous to his being murdered; another of the blacks, named Millbellow, was also dressed in a pair of trowsers and a jacket, which he recognised as being the clothing of Nobbs, the preceding witness; he also recollected Goodmorning being among the others; he suspected what they had been after, and for his own safety, got away from them as soon as possible, and heard nothing of any of them since; and it was only in February that he again saw the prisoner; he was then in custody of the police at Cassilis, when the witness identified him; he knew him perfectly well, as he had before then frequently visited and stopped at the station on which the prisoner was; they used to

speak together; the prisoner not being altogether ignorant of the terms used in the English language, the way in which they conversed, was in broken English.

Mr. **CALLAGHAN**, through the interpreter, cautioned the prisoner as to saying anything when called on for his defence, to which he replied that he would be still; he was next asked if he would like any one to speak for him, when he stated he did not want any one to speak for him. Mr. Callaghan said he would respectfully submit that there was a variance between the mode alledged in the information, in which the murder had been committed, and that proved by the witness. For ought that had appeared, it might be that the deceased died a natural death, and the wound inflicted [sic] after death, or it might have been, that the deceased was murdered by another tribe, and, therefore, as the case had not been proved against the prisoner he was entitled to the benefit of the doubt. His Honor said he would take a note of the objection, should Mr. Callaghan deem it necessary at a future period to bring it before the court. He also remarked, that as the prisoner had declined saying anything in his behalf, he thought the safe plan for Mr. Callaghan to pursue in regard to his client, was to leave the evidence as it at present stood, to the jury.

Mr. Therry said if Mr. Callaghan made any observations on the case, he should for the prosecution, claim the right of reply, on which the prisoner's counsel said, he would not press the matter.

His Honor then summed up and complimented the counsel on both sides for the way in which they had conducted the case, at the same time he considered it his duty to caution the jury against being led away by anything that had fallen from Mr. Therry about seven white men having been executed for an outrage, of which it had been stated they had been guilty against the blacks. If such had been the case he had no doubt but that the parties who had suffered had been properly convicted - there was but one law for the black man as well as the white, and he considered it as much for the benefit of the blacks as for the whites that the laws should be strictly enforced in punishing them, when guilty of outrages against the white portion of the inhabitants - as, unless this were done, it might be that the sufferers would, by not knowing that justice was done, become influenced by the spirit of revenge, and thus go on from crime to crime. He then briefly went over the principal points of the evidence, and left it to the jury to find whether the deceased had come by his death in consequence of the wounds described on his head; it was not necessary for the jury to find that the wounds had been inflicted by any particular instrument, as a murder might be committed as well by a stick, as by an axe or a tomahawk. - He also left it to the Jury to find whether the deceased had not been murdered by the prisoner, he having been seen shortly after with blood on his hand, and also with three deadly weapons in his hands; and what he had been engaged in might, to a certain extent, be inferred from the attack which he made on Nobbs, after his return. The Jury were also instructed, that if the deceased came to his death by the prisoner or any of those with him when they were about to perpetrate an unlawful act, still, although they had not originally designed to go the length of committing murder, yet, in the eye of the law, the taking away of human life in such circumstances, amounted to murder. He also stated, that it was the province of the jury to find whether or not the prisoner had struck the blows, or any of them, and also whether they had been struck in his presence.

The Jury retired for about half an hour, and returned a verdict of not guilty on the first count, but guilty of the second count, which charged him with being present aiding and abetting.

His Honor desired the prisoner to be remanded until he should consult with the other judges, as to whether sentence of death should be passed on the prisoner, or merely

sentence of death be recorded;[2]as, in either case, it would depend upon the representations that might subsequently be made to the Governor, whether the prisoner's life was spared or not.

The crown prosecutor said, the prisoner would again be put on his trial for attempting to kill and murder the witness Nobbs, if sentence of death was not passed on him, when His Honor ordered him to be brought up to day. The Court then adjourned till to-day, when there are but two cases ready for trial.

[See also Australian, 13 August 1840: "Tall-boy, alias Jackey Jackey, an aboriginal native, was indicted for the murder of Frederick Haldane, in the year 1837. A second count charged him as accessory to the fact. The prisoner pleaded not guilty, through a sworn interpreter, and Mr Callaghan, at the request of the court, undertook his defence. He was found guilty on the second count, and remanded for sentence."

This was one of the precipitating events in what Roger Milliss calls the Australia Day Massacre of Aborigines at Waterloo Creek, by a military party. See R. Milliss, *Waterloo Creek: The Australia Day Massacre of 1838, George Gipps and the British Conquest of New South Wales*, McPhee Gribble, Ringwood, 1992, chap. 6.

The Sydney Herald, 20 May, 1840 also noted the following concerning three Aborigines: "Three Aborigines, who had been committed by Mr. Bingham for slaughtering cattle, but against whom there was not sufficient evidence to carry a conviction, were, on the suggestion of the Attorney-General, recommended by His Honor to be admitted to the Benevolent Asylum till they could be returned to their tribe in the district of Yass, they having been in custody since last January.]

[[2] Death recorded meant a formal sentence of death, without an intention that the sentence would be carried out. Under (1823) 4 Geo. IV c. 48, s. 1, except in cases of murder, the judge had considerable discretion where an offender was convicted of a felony punishable by death. If the judge thought that the circumstances made the offender fit for the exercise of Royal mercy, then instead of sentencing the offender to death, he could order that judgment of death be recorded. The effect was the same as if judgment of death had been ordered, and the offender reprieved (s. 2).]

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

SYDNEY HERALD, 12/08/1840

Supreme Court of New South Wales

Dowling C.J., 10 August 1840

**MARY ANN ATKIN**, free, of Melbourne, was indicted for the wilful murder of her illegitimate child. From the evidence for the prosecution, it appeared that the prisoner was a servant in the family of a medical gentleman residing at Melbourne, and had been several times impeached with being pregnant, but had always denied it; that on the 5th of April last she was unwell, and shortly after, a dog, belonging to Mrs. Brown, a midwife residing at Melbourne, brought the lacerated body of a new born female child and laid it at his master's door. An enquiry was set on foot, when it was discovered that the dog had got the body from a hole which had been dug by some fencers near the prisoner's place of residence, in order to set a post. A number of the neighbours, and, among the rest, the prisoner, looked at the body, when she said "whoever had done the deed ought to be hanged for doing so." Suspicion, however, attached to her, when she was lodged in custody, but denied all knowledge of the transaction until the midwife and the surgeon, who were employed by the authorities to ascertain whether she had been pregnant or not, were convinced that she had recently given birth to a child, which they urged upon her to confess. The prisoner

then told them she had been pregnant, and no person had assisted her in her labour. From the testimony of the surgeon, it appeared that the body which the dog had brought to Mrs. Brown's door was a new-born strong healthy infant, which exhibited on applying the proper tests, the usual appearance of having been born alive, and that it was probable, from the wounds inflicted on the head, its death had been a violent one. These wounds appeared to have been inflicted by some blunt instrument, such as a piece of wood. It also appeared that the body had been torn by the dog previous to its being conveyed to Mrs. Brown's door. Mr. Foster submitted that no conviction could take place, as the prisoner had been induced to confess after she had been taken into custody. The Chief Justice said, it was to be lamented that the inducement had been held out to the prisoner to confess, as in consequence of that he must direct the jury to acquit the prisoner. A verdict of Not Guilty was then returned, and after being admonished by the Chief Justice the prisoner was discharged. See also Australian, 13 August 1840, describing Mrs Amelia Brown as a quakeress and a midwife. Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

CJA, 6/500, 12/08/1840

SUPREME COURT

Monday, August 10

Before the Chief Justice

**MARY ANN ATKINS** stood indicted for the wilful murder of her infant child, at Melbourne, on the 5<sup>th</sup> April. As the prisoner had been induced to confess the committal of the crime through threats, the Attorney General declined proceeding against her, and she was accordingly discharged.

Before Mr. Justice Stephen.

**JOHN ROBERTS** stood indicted for the wilful murder of **THOMAS LARKINS**, at Black Swamp, on the 9<sup>th</sup> March. Not guilty. Discharged.

Tuesday, August 11.

Before Mr. Justice Stephen.

**TALL BOY**, alias **JACKY JACKY**, an aboriginal native, stood indicted for the wilful murder of an old man, in June 1837; a second count charged the prisoner with being an accessory before and after the fact to murder on the second count. Remanded for other charges, and for sentence.

SYDNEY HERALD, 14/08/1840

Stephen J., 12 August 1840

**TALLBOY**, alias **JACKEY**, who had been convicted on the preceding day of having been present on the 9th of June, 1837, aiding and abetting in the murder of **FREDERICK HARRINGTON** at Narang, and against whom there is another charge of attempting to murder **JAMES NOBBS**, at the same place, on the same day, by spearing him in the right temple, was brought up to receive sentence when his Honor addressed him as follows:-

Prisoner! you have been found guilty of the crime of murder - of assisting in taking the life of a fellow creature, not only without excuse, but apparently without provocation. Of your guilt I entertain, in my own mind, as strong a persuasion as did the jury who tried you. The only ground for doubt in your case has reference to a point of law. Should the point to which I refer not eventually be removed it is probable that your life may yet be mercifully spared. But, in the meantime, I earnestly warn you that you prepare yourself to die. I trust, and I have no doubt every

means will be taken to enlighten your mind, and to lead you to repent and make your peace with God. If mercy in this world shall really be extended to you, yet the remainder of your days will be passed in a state of punishment. This at least, considering the facts which appeared in evidence against you, is necessary as an example to others, and as a measure of protection to those who are exposed to similar attacks; for you and your countrymen may be assured of this, that whilst the law will sternly visit those who cruelly, or otherwise than in strict self defence, injure you, it will most severely punish as is just, every native who shall wantonly, or for plunder or other bad purposes, commit an outrage against the persons or property of the whites. As often as any such case shall come before this court and be proved by testimony admitting of no reasonable doubt in the case of an European, an aboriginal inhabitant will most certainly be dealt with as the European would be. The sentence of this court is, that you, Tallboy, alias Jackey, be taken to the place whence you came and from thence to such place of execution, at such time as the Governor shall appoint, there to be hanged by the neck until you are dead, and may God have mercy on your soul.”

This being interpreted to the prisoner, he remarked that he had been falsely accused, and that he was not present at the murder. When that part of the Judge’s address which said that the blacks would be punished as well as the whites was interpreted to him, he said that he did not know what it was that bit the black men to make them kill the whites.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

CJA, 6/501, 15/08/1840

**MURDER.** - On Tuesday night last, s seaman named **PERRY [PARRY?]**, of the *Ullswater*, laying at Moore’s Wharf, was, during a quarrel, stabbed in the left side close under the region of the heart, by the second officer of that vessel, named **SKEWES**. The surgeon of the *Coromandel*, which vessel was moored close by, and with the assistance of two other medical gentlemen, dressed the wound, and bled the patient to prevent mortification. The unfortunate man growing worse it was deemed advisable to remove him to the General Hospital, into which he was received as early as four o’clock the following morning. In the mean time, between the fatal assault and the removal of Perry, Skewes the second officer was given into the custody of the Police; and on Wednesday he was brought up before the Police Bench, and remanded until the fate of the wounded man was decided. This was not long, for on that evening, Perry breathed his last, and was removed from the ward of the sick but the living to the dead vault, in order that an inquest might be held upon the body; which was convened for yesterday morning at eight o’clock. At the Inquest held at Driver’s yesterday, it appeared in evidence that the prisoner **THOMAS WILLIAM SKEWES**, the second officer of the *Ullswater*, while in the act of beating an apprentice boy named **WILLIAM GEORGE**, the deceased **JOHN PERRY** ran from on board crying out “what’s the matter George,” whereupon the prisoner rushed at deceased and thrust a case knife into his left side; it also appeared in evidence that deceased had a clasp knife in his hand at the time of his being stabbed, with which he had been eating his supper, but the witness to whom it was given after deceased was stabbed, stated that he did not, nor could not have had time to use it before the prisoner struck the blow. The Foreman after the Jury had retired for several minutes, returned a verdict of manslaughter; but Mr. **GANNON** stating that such was not his decision, strangers were ordered to withdraw for the jury to re-consider their verdict, and they finally determined upon returning a verdict of “Wilful Murder.”

SUPREME COURT, Wednesday, August 12.

Before Mr. Justice Stephen.

**TALL-BOY**, alias **JACKY JACKY**, who had been found guilty the day previous of aiding and abetting in the murder of a white man in June, 1837, was brought up for sentence. Through the interpreter, the prisoner was given to understand that the sentence of death was passed upon him; when he remarked that he was falsely accused, for he was not present at the said murder. The Court then adjourned to this day, Saturday.

SYDNEY HERALD, 17/08/1840

Supreme Court of New South Wales

Dowling C.J., 15 August 1840

In the case of **JOHN CAIN**, who had been committed for trial on a charge of murder by the bench at Melbourne, the Attorney-General had not deemed it his duty to proceed to trial, as there were such a great number of material witnesses in the case that he had no hopes of being able to get above one half of them brought together to Sydney, besides, he was in hopes that before next session there would be a court established at Melbourne to try the present and similar cases, and if that was not done, a commission must be applied for, as the expenses and delays and confusion caused by the cases from Port Phillip being tried in Sydney, were enormous.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

AUSTRALIAN, 18/08/1840

Dowling C.J., Willis and Stephen JJ, 15 August 1840

**CATHERINE WAPSHAW**, charged with putting another woman on the fire with the intent to burn her to death, was discharged on bail of one surety in £100.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

CJA, 6/502, 19/08/1840

AN AWFUL END. - As the *James Watt* steamer was rounding Bradley's Head on Monday night, having on board a number of prisoners from Newcastle, one of them heavily ironed, jumped overboard, and made towards the shore. A boat was lowered in order to rescue the desperate man who, it is said, had received at the Maitland Quarter Sessions a ten years' sentence of transportation; he however, it is believed, sunk when near the point, as he was suddenly lost to the view of those in the boat. Yesterday, after a diligent search, the body was found and brought up to the Queen's Wharf last evening.

SUPREME COURT – CRIMINAL SIDE

Saturday, August 15, 1840 – *Gaol Delivery*

Before the Chief Justice

**MARY GORMAN**, **GEORGE HEARSON**, and **MICHAEL FOGARTY**, charged with having murdered **FANNON** five years ago, were brought before the court, when the Attorney General stated that he had not sufficient evidence to proceed against them and therefore consented that Gorman and Hearson should be discharged on their own recognizances of £500 each and that Fogarty should be returned to his district.

**CATHERINE WAPSHUT**, charged with having cast a female on a fire and thereby caused her death, was ordered to be discharged on her finding one surety of £100 to appear when called on.

The four convicts from Gammon Plains, charged with murder. Trial postponed till next session.

CJA, 6/504, 26/08/1840

INQUEST. - At Tunk's public-house, corner of Bathurst and Castlereagh-streets, on the body of a man named **THOMAS BULGER**, who dropped dead the afternoon previous in Mr. Montgomery's shop, while procuring medicine. Verdict – Died by the visitation of God.

CJA, 6/507, 05/09/1840

SKELETON FOUND. - The skeletons of human bodies were reported at the police yesterday, as having been found on the evening previous in a cave just above high water mark, in the vicinity of the habitation of the hermit, a little to the northward of Vaucluse, and on the eastern shore facing Shark Island. At first it was conjectured that a murderous deed had some time ago been committed by some unknown hand, but it, on more mature consideration, is far more likely that the skeletons are those of bodies who had met with a watery grave, and but for harrowing up the feelings of those to whom by relationship of otherwise, they might have been connected, there is no doubt but the true names which they bore in life could be set down; for this reason we feel a delicacy in alluding to the circumstances further.

CJA, 6/509, 16/09/1840

On Thursday last when the turnkey, placed over the cells at the New Gaol, went his morning's rounds, he found a woman, named **JOHNSON**, suspended by a handkerchief to the gratings over the cell door, and quite dead when cut down. She had been sentenced to twenty-four hours in a cell at the Police-office for drunkenness. An inquest was held upon her in the course of the day, and a verdict of suicide was returned.

Another inquest was held the same day at the Edinburgh Castle, Pitt-street, on the body of **ELIZABETH DAVIES**, who was found dead on Wednesday in a house close by. It appeared in evidence that the woman had been seen the previous day in a desponding condition, and from the sitting position in which she was found, it was thought she had died from suffocation. - Verdict recorded to that effect.

CJA, 6/510, 16/09/1840

MURDERED INFANT. - A bundle was picked up in Harington-street yesterday morning, and on kits being opened, it was found to contain the body of an infant with its legs cut off, and no doubt it had been murdered by some inhuman mother. The corpse was conveyed to the hospital to be examined prior to an inquest being held upon it. [see 6/511]

SUICIDE AND INQUEST. - On Saturday afternoon last, a late resident in Goulburn-street, named **CHARLES ARCHER**, left his house in a desponding condition, and having reached the North Shore in the neighbourhood of Mrs. **BUNN'S** house, put an end to his existence by hanging himself. An inquest was held upon his body the following evening, when a verdict of *felo-de-se* was returned.

CJA, 6/511, 19/09/1840

INQUEST. - An inquest was held on Thursday upon the infant found dead and sewed up in a woman's pocket in Harrington-street, on Tuesday last. The medical

witness stated in evidence that the infant had lived, and the jury returned a verdict of wilful murder against some person unknown. [see 6/510]

CJA, 6/514, 30/09/1840

INQUEST. - A Coroner's inquest was held on Monday afternoon, at Mr. Wood's public house, Kent-street, on the body of a woman, named **MARY ROONEY**, who expired suddenly, at a late hour on the previous evening. From the evidence brought forward, it appeared that the deceased, who was a woman of notoriously bad character, had been in a state of intoxication the whole of Sunday, and at three o'clock in the afternoon had quarrelled with a man named **LEVI**, from whom she received a blow in the face; this blow had been reported to have hastened her death, and Levi together with a man named **RUSHTON**, with whom she was at that time cohabiting, were forthwith taken into custody, but as her decease was clearly shewn upon the inquest to have been produced by an extravasation of blood on the brain, occasioned by her long habits of intemperance. The Jury returned a verdict accordingly, and the prisoners were immediately discharged. During the inquest we observed that one of the Jurors was in so complete a state of intoxication as to be totally unfit for the duty he had sworn to perform – surely, more care should be taken to exclude characters of that description on such an occasion.

CJA, 6/515, 03/10/1840

FATAL ACCIDENT. - A youth, about eight years of age, was killed on the Canterbury road on Thursday afternoon last, by the wheel of a dray passing over his body. The unfortunate lad was sitting on the shaft, and it was in consequence of a fall from that position that he came by his death. His parents were walking by the side of the dray at the same time, but were unable to render him any assistance.

DESPERATE ATTEMPT AT SELF-DESTRUCTION. - A man named **WEST**, employed as a foreman in the yard of Mr. **RUSSELL**, ship-wright, Darling Harbour, made two attempts to put a period to his existence on Wednesday evening last, but fortunately without success. The unhappy man had for some time back been labouring under a great degree of mental depression, in consequence of his long-continued habits of intemperance, and returned from his work in the evening in one of those depressing humours with which persons labouring under that description of disorder are so frequently possessed. After he had taken his supper he retired to an inner room, and inflicted a severe wound in his throat with a case knife, but the alarm having been given, and assistance procured, he was secured and conveyed to the Hospital under the direction of the District Inspector of Police, who happened to be going the rounds at the same time; but, in his way thither, he made another attempt to destroy himself by running with his head against a wall, but was prevented from doing so, and is now in a fair way of recovery. We understand that this wretched man has made several previous attempts at suicide.

CJA, 6/517, 10/10/1840

DEATHS FROM INTEMPERANCE. - Two inquests were held on Monday last, one on the body of a female named **CURRIE**; and the other on that of an elderly man, named **LAURIE**, by trade a blacksmith, both of whom died from the effects of their long-continued habits of intemperance. The number of deaths which have lately happened from this cause are truly alarming, and are of themselves sufficient proof of the necessity of adopting rigorous measures for the suppression of this evil.

CJA, 6/517, 14/10/1840; numbering error

INQUEST. - An inquest was held on Friday last, at Murdock's public-house, Castlereagh-street, on the body of a well sinker named **ANDREW BYRNES**, who died suddenly a short time previous in consequence of having ruptured a blood vessel. Verdict accordingly.

TEMPERANCE, 1/2, 14/10/1840

DEATHS FROM DRUNKENNESS. - Two deaths from drunkenness occurred last week - one was **BRIDGET CARNIE [CARNEY]**, who had long been a hard drinker, and the other a **WILLIAM LAWRIE**, a blacksmith, who died from disease, superinduced by Intemperance. There were inquests held in both cases.

CJA, 6/517, 17/10/1840; numbering error

INQUESTS. - A Coroner's inquest was held on Wednesday last, at the Plymouth Arms public house, on the body of a female named **ANN STILES**, who expired suddenly the same morning at an early hour in an apoplectic fit, brought on by her previous habits of intemperance. Verdict accordingly.

Another inquest was held on the same day at Leburn's public house, Parramatta-street, on the body of an old man named **FRANCIS DIGNUM**, who had been found dead in his bed the same morning. Dr. **HARNETT** made a post mortem examination of the body, and having given his opinion that the deceased had expired from natural causes, the Jury returned a verdict accordingly.

TEMPERANCE, 1/3, 21/10/1840

DEATH THROUGH DRUNKENNESS. - At the Plymouth Arms, on Thursday last, an inquest was held on the body of a woman named **ANN STILES** who, it appeared, had died suddenly the previous night. Mr. Surgeon **HARNETT** having made a post mortem examination, was of opinion that she died in a fit of apoplexy, induced by habits of intemperance; and the jury returned a verdict accordingly.

PARRAMATTA. - An inquest was held here a short time ago on the body of **WILLIAM LEND [LANE]**, who had cut his throat frightfully in a temporary fit of insanity, caused by Intemperance; **W. LAWSON**, Esq., his master stated that when sober, Lend was an excellent servant, and that he had used every means and persuasion to reform him but without effect. So strong was Mr. Lawson's attachment and pity for his old servant, that at his dying request he sent him a sum of money to discharge his debts.

Another Inquest was held on the 11<sup>th</sup> instant on the body of **FREDRICK CLAYTON**, servant to Messrs. I. and W. Edison. The deceased was a fine young man in appearance; but he had given way to the Colonial curse, and chose the best day of the week to go and hang himself while in a temporary fit of insanity, from the effects of intemperance. Surely this case forms an exception to the old saying, "The better the day the better the deed."

CJA, 6/521, 24/10/1840

INQUESTS. - A Coroner's Inquest was held on Tuesday last, at the Commercial Hotel, Sussex-street, on the body of a man named **WILLIAM BENTLEY**, who was killed by falling into the hold of the *Sophia Jane*, schooner, between twelve and one o'clock the same morning, while in a state of intoxication. Verdict accordingly.

Another inquest was held, on the afternoon of the same day, at Mr. Murphy's public-house, Queen's Wharf, on the body of the carpenter belonging to the schr.

*Emma*, who was capsized in a boat along with another young man, while attempting to reach the vessel on the previous evening; the companion escaped by swimming, but the deceased being in a high state of intoxication, almost immediately sunk. - Verdict accordingly.

A third inquest was held on Wednesday at the "Leather Bottle," Castlereagh-street, on the body of an infant of five years of age, which had died suddenly in convulsions, about four o'clock the same evening. Verdict accordingly.

INQUEST AT WINDSOR. - On Monday last an inquest was held at the Cricketer's Arms Tavern, Windsor, before Mr. **DUNCAN**, coroner, on the body of a man named **WILLIAM MANSFIELD**, who put a period to his existence on the previous day, by inflicting severe wounds on his throat, with a razor. Verdict – suicide, while labouring under temporary insanity.

TEMPERANCE, 1/4, 28/10/1840

WEEKLY SUMMARY

A groom of Mr. **ATKINSON'S** of Patrick's Plains has been murdered by a blacksmith, an assigned servant of Mr. **LARNACH'S**.

A young girl, fourteen years of age, in the service of Mr. **LUMLEY** of Singleton, attempted to destroy herself by hanging, but providentially was discovered and cut down in time to save her life; insanity, it is said, caused the rash act.

CJA, 6/522, 28/10/1840

INQUESTS. - A coroner's inquest was held at Mr. Driver's public-house, King-street, on Saturday last, on the body of **JOHN DELANEY**, who died suddenly in hospital on the previous day, in consequence of the rupture of a blood vessel. Verdict – Died by the visitation of God.

Another inquest was held, at the same time and place, on the body of a painter named **GEORGE PEGG**, who was killed by falling from a stage in front of Messrs. Montefiore and Co. in O'Connell-street. - Verdict accordingly.

CJA, 6/523, 31/10/1840

INQUESTS. - An inquest was held on Tuesday last, at Mr. Murphy's public house, Queen's Wharf, on the body of a young woman named **ANN WHITE**, who recently held a ticket of leave for the district of Sydney, and who put a period to her existence, by drowning herself on the previous day. The body was found floating near Lady Macquarie's Chair in the Government Domain; but it appears that the deceased had contemplated the act for some time previous, and had taken farewell of her husband with that view on the morning when she committed the fatal act. Verdict, found drowned.

Another inquest was held on the same day on the body of a blacksmith named **JOHN FORD**, residing at Pitt-street, who met his death by falling down a well on the previous evening, in the yard adjoining to the premises in which he resided. The deceased was at the time of the accident, in a state of helpless intoxication, and was saved from drowning by the praiseworthy exertions of a Mr. **SAVAGE**, one of those persons usually known by the designation of Bearded Prophets. The injuries which he had sustained in the fall, however, were fatal, and he expired shortly afterwards. – Verdict accordingly.

An inquest was held on the 28<sup>th</sup> instant at Portland Head, before **D. DUNCOMBE**, Esq., coroner, on the body of a settler named **JAMES BIFFIN**, who was killed in a fight on Monday, the 26<sup>th</sup> instant. Four men (the principal, one of the seconds, the

timekeeper, and bottle holder) have been committed to take their trial at the Supreme Court for the manslaughter of the unfortunate man. The other second, and three others concerned in the fight, have absconded. Warrants have been issued for them, and we trust they will be taken, and the whole of them made an example of, for being the cause of a fellow-creature's death in such a brutal manner. It is said that, although he wished several times to give in, they would not let him, but urged him on till nature was exhausted.

SYDNEY HERALD, 03/11/1840  
Supreme Court of New South Wales  
Dowling C.J., 1 September 1840

**THOMAS SKEWES**, late second mate of the "*Ullswater*", was indicted for the wilful murder of **JOHN PERRY alias FERRY**, at Sydney, on the 11th August last. The circumstances of the were[sic] as follow. On the night laid in the indictment, it appeared that the prisoner was in liquor and was quarrelling with the crew, in the forecastle, when the chief officer went forward and quelled the disturbance, after which the chief mate went to bed, and was aroused about eleven o'clock at night by loud cries of murder, and on going on deck to see what was the cause of the noise, he saw the prisoner in the custody of men, who took a case-knife from him and charged him with stabbing the deceased, who lingered till about 11 o'clock on the following day, when he expired. From the evidence for the prosecution it appeared that a boy of the name of **WILLIAM GEORGE**, belonging to the "*Ullswater*," had been ashore with the deceased and had gone a-board a short time before Perry was stabbed; the boy George gave the deceased his supper, and while he was eating it, George took down the ship's lamp, placed it on the forecastle deck, and commenced filling his pipe, when the prisoner came to him and asked what he was doing with a light there, and told him he had better put it out; to which the boy replied that he would put it out when he got his pipe lighted. The prisoner replied "give us none of your cheek," to which the boy rejoined, "that is no cheek to light a pipe," when the prisoner struck him, and forced him out of the forecastle; the boy George then challenged the prisoner to fight him, when the prisoner beat the boy and chased him along the gangway to the wharf, where he knocked him down, and was on the top of him, when his cries brought Perry and another man from the ship; the other man named **SAUNDERS** pulled the prisoner off the boy, when the deceased and the boy George began struggling with the prisoner, after which they separated; when the prisoner had got about five yards from the deceased, he suddenly stabbed at him with a case knife, which he was seen to pull from the waistband of his trousers. The prisoner was secured, but before doing so, had returned the knife to the waistband of his trousers – a constable was sent for, and the prisoner given in charge; while he was being conveyed to the watch house the prisoner said he had murdered one man, referring to the deceased, and was willing to die for it, and if he could get his hands clear he would do for three or four others; he was then excited and under the influence of liquor.

Mr. **PUREFOY** for the defence, endeavoured from the cross-examination of the witnesses to prove that the prisoner had slain the deceased in self-defence, and in a long address urged that at most their verdict could only amount to manslaughter, and called the Captain of the vessel, who gave the prisoner an excellent character for honesty, sobriety, and attention to his duty as the second officer of the ship; at the same time he swore that the deceased was a drunken quarrelsome man, and had for several days previous to his being stabbed been in a drunken state, and would neither

do his duty nor keep from quarrelling; he also deposed that the boy William George, about whom the quarrel had begun, was a thorough blackguard, having been just released from the stocks to come and give his evidence.

The Attorney-General cross-examined this witness as to the daily allowance of grog which he gave to his crew, and was informed that at sea in ordinary circumstance he [sic] them one glass a day, but in the Port of Sydney he was compelled to give an allowance of three glasses of grog per day; while in some ports the allowance was only two. In the West Indies the allowance was four, and in Quebec five glasses per day. He would be very happy to get the custom changed; but it was useless to attempt it by himself.

The Chief Justice, in putting the case to the jury, said it was to be lamented that such was the state of affairs in Sydney, that seamen had to be bribed with liquor to do their duty. He sincerely trusted that the time was not far distant when no such thing as Port allowances would be given in New South Wales, and when even on the high seas the use of ardent spirits would be dispensed with. With regard to the case of the prisoner before the court, he informed the jury that in order to constitute murder, it was not necessary to prove premeditation or malice aforethought; as, if no provocation was given, and one person took away the life of another, the law regarded the deed as amounting to murder; and even in the case of slight provocation, where individuals had lost their lives, the law held that it was tantamount to murder. So absolutely necessary to prove provocation to warrant a jury in arriving at such a verdict. There were therefore four questions for the jury to exercise their judgment upon: 1st, Had the deceased come to his death by violence? 2nd, Had that violence been premeditated by the prisoner? 3rd, Had provocation amounting to manslaughter been given to the prisoner by the deceased? 4th, Had the prisoner been placed in such jeopardy that he slew the deceased in order to protect his own life? His Honor adverted in severe terms to the conduct of the boy William George, not only for disobeying the regulations of the vessel respecting the fore-castle light, but his impudent answer to his officer, and his challenging him to fight – the animus with which he gave his testimony and his habit of drinking, and regarded him as the cause of deceased's death; and instructed the Jury that the excellent character given to the prisoner could not affect his guilt or innocence, but at a future period, if convicted, it would tend materially to mitigate the severity of his sentence. The Jury retired for about a quarter of an hour, and returned a verdict of guilty of manslaughter, and the prisoner was remanded. [See also Australian, 3 November 1840. On the same day, the Supreme Court gave bail to a number of seamen who had been charged with mutiny by Captain Bunker, who had since left Sydney.]

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

TEMPERANCE, 1/5, 04/11/1840

A verdict of manslaughter was found against **SKEWES**, the second mate of the 'Ullswater,' for the murder of **JOHN PERRY**; sentence deferred.

A woman named **CATHERINE WAPSHAW**, was yesterday convicted in the Supreme Court of killing one **CATHERINE PHILLIPS** by pushing her on the fire, where she was so much injured that she died in a few days. Both parties were drunk when the occurrence took place.

SYDNEY HERALD, 04/11/1840

Supreme Court of New South Wales

Willis J., 1 November 1840

Before Mr. Justice Willis and a common jury.

**DANIEL CUTLER**, of Maitland, was indicted for shooting at **MARY LYNCH**, with intent to kill and murder her; a second count charged him with shooting at the prosecutrix with intent to do her some bodily harm. The offence was laid as having been committed on the 2nd of August. From the evidence of the prosecutrix it appeared that on the day named in the indictment, she went to the prisoner's house on a visit to his servant woman, about mid day they had three or four glasses of porter, the servant of the prisoner made an attempt to get into the prisoner's room, but he refused her admission, the prosecutrix went to try to open the door, which suddenly opened, and she sank on her knees wounded on the right shoulder by a shot from a pistol; the prisoner immediately said, "Oh Mary I did not intend to shoot you;" an alarm had however, been given, and the prisoner was taken to the watchhouse, in opposition to the wish of the prosecutrix, who ascribed the whole to accident, as he always was kind and frank to her, never having had occasion to threaten her or owe her any grudge.

The jury without retiring from the box, acquitted the prisoner, who was admonished and discharged.

There being reason to believe that the prisoner was in liquor at the time his Honor ordered the pistols to be retained, as any person who was in the habit of getting drunk was not a proper person to be trusted with fire arms. Cutler informed his Honor that for three months past he had been a practical teetotaler, on which his Honor instructed the court keeper to retain the pistols for three months more, when if Cutler proved that he was still a teetotaler, he should have the pistols as a premium for abstaining from what did harm to him and endangered the lives of others.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

SYDNEY HERALD, 04/11/1840

Dowling C.J., 3 November 1840

**CATHARINE WAPSHAW**, late of Patrick's Plains, was indicted for having, on the 5th of April last, at Patrick's Plains, been guilty of killing and slaying one **CATHARINE PHILLIPS**.

From the evidence given in this case, it appeared that the deceased was a convict per *Ann and Amelia*, assigned to her husband; that on Sunday the 5th of April, the deceased, the prisoner, and the prisoner's husband, had been drinking, when the prisoner struck one of the deceased's children which was crying, on which the deceased ran into the room and struck the prisoner, who immediately seized the deceased Catharine Phillips by the clothes and pushed her on to the fire, by which the clothes of the deceased caught fire, and when she endeavoured to get up, the prisoner, who was in liquor, again thrust her back into the fire. She afterwards got out of the fire-place and rushed, with her clothes on fire, to a water cask and plunged into it; in her agony she rushed out to go to a neighbouring house to obtain help; she was that evening conveyed to her husband's residence, where she lingered for twelve days and died from the effects of the burning.

From the testimony of Mr. **GLENNIE**, the surgeon who attended the deceased while alive, it appeared that she was a woman of intemperate habits, and the mother of three children. The whole of her body, from the pit of the stomach downwards, was one burned mass, the cuticle being actually charred; there were also superficial burnings on the arms, face, chest, back, and shoulders; and Mr. Glennie was of

opinion that so extensive was the burning that no human being could have survived it, and said it was matter of surprise to him that she had lingered so long. Two days after the burning the deceased was waited on by the police magistrate of the district and made a deposition of the facts of the case, which was given in evidence. From the testimony of the husband of the deceased, it appeared that on the evening of the day charged in the indictment, the prisoner's husband come to this witness and told him that the deceased had got herself burned, when he immediately went in search of her and found her sitting under a bush about twenty or thirty rods from the prisoner's residence in a state of nudity; when she told him that the prisoner had pushed her into the fire, and that she had then turned her out of doors; he also stated that she had left her home on the preceding day.

Mr. **PUREFOY** for the defence, lamented the prevalence of drunkenness, and argued that there was no evidence of intent, nor was it proved that the defendant had done more than pushed the deceased towards the fire, and contended that the deceased met her death by accidentally falling into the fire.

His Honor, in putting the case to the Jury, laid down the law respecting manslaughter, and stated that even if in consequence of the pushing the deceased had fallen into the fire and been burned so as to cause death, still the crime amounted to manslaughter.

The Jury retired for about ten minutes, and returned a verdict of guilty. Remanded. See also Australian, 5 November 1840.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

CJA, 6/524, 04/11/1840

SUPREME COURT – CIVIL SIDE

Friday, October 30, 1840. Brenan v Jones, the full account.

Witnesses:

John Ryan Brenan, Coroner, Plaintiff

William Jones, Proprietor of the CJA, Defendant

William Charles Greville, Clerk, Colonial Secretary's Office

Mr. Yarnton

SUPREME COURT – CRIMINAL SIDE.

Monday, November 2, 1840.

Before His Honor the Chief Justice.

**JOHN PERRY [PARRY]**, seaman *Ullswater*, deceased.

**THOMAS SKEWES**, Second Officer, *Ullswater*

**WILLIAM SAVAGE**, First Officer, *Ullswater*

**WILLIAM GEORGE**, Apprentice, *Ullswater* [Of Bristol; 3 years at sea]

**JAMES FITZGERALD**, District Constable Sydney

**JOSEPH NOBLE**, Iron moulder Sydney

**JAMES SAUNDERS**, Seaman *Ullswater*

**ATKIN GIBSON**, Captain *Ullswater*

... The Jury then retired, and after about a quarter of an hour's consultation found the prisoner guilty of wilful murder. The prisoner [Thomas Skewes] was then remanded for sentence.

SYDNEY HERALD, 05/11/1840

Supreme Court of New South Wales

Dowling C.J., 4 November 1840

**BILLY**, alias **NEVILLE'S BILLY**, a native black from the Lachlan, was placed at the bar, when **WILLIAM JONES**, a holder of a ticket of leave, an umbrella maker residing in Sussex-street, was sworn in as interpreter, who deposed that the language of the prisoner was the same as that spoken on the banks of the Castlereagh river, about three hundred miles from Sydney, where he had been about eight years, and had learned the language.

The substance of the charge was then read over by his Honor as follows. Billy, you are charged with killing a white man named **JOHN DILLON** at Ullabalong, by spearing him, on the 29th of February last; which being interpreted to him, he pleaded not guilty, and asserted that it was other blacks who killed Dillon. He was then told of his right of challenge but said he had no objection to any of the Jury.

The Attorney General then suggested the propriety of assigning counsel to the prisoner, which his Honor acceded to, when Mr. **BROADHURST** was sent for to conduct the prisoner's defence, and Mr. **GEORGE ALLEN** assigned as Attorney.

After the Jury had been sworn in, and the indictment had been read, laying the murder as having been committed on the 29th of February, and on the 1st of March.

The Attorney General opened the case, by stating there were no cases of a more painful description than those against the aborigines, who, from their ignorance of our language, manners and customs, as well as of our laws, could only take their trial at a disadvantage, as the state of the law prevented them from calling on others of their tribe to give evidence in their defence. It also frequently happened in cases of aggression by the Aborigines, that the first offence was given by the whites, by their carrying off the gins of these blacks and otherwise annoying them; but in the present instance he was extremely happy that no such excuse could be set up; on the contrary, it would be given in evidence that the deceased had been remarkably kind to the blacks and in particular to the prisoner, to whom he had given bread and milk for breakfast on the same morning, just before he speared him, and it would also be shown, that there was particular kindness shown to the prisoner by another of the white people, as he had got his name of Neville's Billy from some clothing having been given to him by a white man.

**Wm. JACKSON**, of the border police, sworn. - I live at Bennalong, with Mr. **COSBY**, Commissioner of Crown Lands, about 24 miles south from Yass; I have been 16 months in the border police, and have had much intercourse with the blacks; I can neither speak nor understand their language. I apprehended the prisoner as Neville's Billy on the 5th of April, at Ullabalong, about 240 miles from Sydney, and beyond the boundaries. On the 29th of February I was at Yarrabendri, Mr. Oakes's station, when I was told that a man had been speared at Ullabalong; I went there, and found a wounded man in a skillion; he was bleeding, but able to speak; he was John Dillon, hut-keeper to Mr. Armstrong of Parramatta. I had been at that station about a fortnight before, and saw about 100 natives at that place. Mr. Cosby was then present; we knew that they were wild blacks, and when Captain Ovens' men were bringing the cattle up the river they were accused of rushing the cattle. When I saw the deceased he was perfectly sensible, and told me in the presence of several persons that he was done for, and showed me a wound bleeding under his left armpit. It was about eleven inches deep from the portion of the spear which had been in it, and it was so severe that whatever water he drank ran out at the wound. The deceased told me the prisoner came to the hut about eight, a.m., and asked for bread and milk, which was given him, and the prisoner eat[sic] it, after which another black came up and demanded more bread and milk, on which the deceased told him there was no more in the hut, and while he was latching the hut door, the prisoner speared him

through the window of the hut under the arm-pit of the left arm, and then the person who speared him looked in through the window and said, "ah, ah!" I believe he said it was Neville's Billy who speared him; that he was the black whom Jackey Neville, a settler near Bathurst, had given a shirt to; after telling the circumstances of the spearing, the deceased made his will, and left £12, one half to the priest, and one half to the poor; the man died on the following day, when I and another border policeman, with about six or seven stockmen, went in search of the prisoner, with two tame blacks, and were out for ten days but got no intelligence of him; an old tame black named Old Ben offered to bring him in on the 5th April; the prisoner was pointed out to me; I took the spear and going up to him, said, "you Neville's Billy?" he said yes; I said, showing him the spear, "first time you make light of this spear?" but he gave no answer; a stockman who was present then put the same question, on which the prisoner acknowledged that he had seen it before; when I asked him his name, he said Neville's Billy; all the people present seemed to know him, and he to know them, as he spoke to them, and they gave him bread and milk; he was taken about two hundred and forty miles from Yass, at Mr. White's station; the prisoner had a large sticking knife, which he concealed in some cloth about six miles from the station; I saw him laugh, and thinking it strange I looked at him and saw the knife in his hands; he was handcuffed and had managed to get it while we were saddling our horses; I took the knife from him, and was told at Tomanbilly, by an old servant of Mr. White, that it was the butcher's knife used at Mr. White's station. When the party first set out after the funeral, the two same blacks told us that he had trailed a bush after him, which prevented them from tracing his footsteps. When taking the prisoner to Yass, at Mr. Shepherd's station, I said to prisoner, "what for you tumble down Waddy Monday?" (the black name given the deceased from his having a wooden leg) when he said that Billy, Paddy, Puckamulloi, Woagli, and Pialla, told him to kill the deceased. When he asked the prisoner why he had killed Dillon, he told him he had better tell the truth; that was the only incitement held out to him to tell me what I have stated.

Cross examined - The deceased was about 31 years of age; the nearest medical aid that could be obtained was from Bathurst; it was about ten in the forenoon of the 29th February, when I saw Dillon wounded; I saw him several times during the day; he was in great agony, was swelling very much, and was turning black. The deceased, after he was speared, heard the blacks get up on the roof of the skillion, but some horsemen arriving a few minutes after, he said that he thought the blacks had seen the dust, and they accordingly made off. The deceased told me that the feathers had broken in his side when pulling out the spear. Old Ben told me he did not know the other black. I do not know of my own knowledge that the prisoner is Neville's Billy.

(The prisoner said that this witness had told lies of him.)

**WILLIAM POWER**, another Border Police-man, corroborated the previous witness, and stated that the deceased told him he had only been six weeks at the station, and never had quarrelled with the blacks; this witness stated that the prisoner could speak English pretty well, and had told the witness he had been to Bathurst some years ago, and had seen some men hanged, and wanted to know if he (Billy) would be hanged in the same way. The window was on the same side of the hut in which Dillon was speared, and the window was about fourteen inches square and about eight feet from the door; the prisoner was apprehended about seven miles from the hut where Dillon was speared; the deceased was a free man.

The Attorney-General stated that there was another witness but he had not been able to get a summons served on him; he therefore closed his case.

Mr. Broadhurst for the defence, complimented the Attorney-General on the feeling manner in which he had opened the case, and adverted to the strong feeling which was known to exist in the Colony against the blacks; he also read that part of the indictment which stated that the prisoner had been excited and moved by the instigation of the devil, a being whom the aborigines have no more knowledge of than they have of the existence of the true God. He also objected to the verbal recital of the dying man's declaration being received in evidence, which he contended ought to have been produced in writing, and taken before a magistrate, who ought to have sworn the deceased to the truth of it. He also contended that the discrepancy between the testimony of the two witnesses, as to the one swearing that the deceased had said there was but one black with the prisoner at the time of the spearing; whereas, the other swore that he had said there were several others returned with the prisoner; he also mentioned that the deceased had not seen the prisoner spear him, as that was impossible from the position of the door and window, and the position in which the deceased was when speared; he also alleged that the deceased had been speared by one of the strange blacks, as the prisoner had received acts of kindness from Dillon which had been refused to the others; he denied that the prisoner had ever conceded that the spear was his, all he had been asked was if he had ever seen the spear, and he had told them that he believed he had, and it was probable that he had seen it in the hands of some of the rest of his tribe, and concluded by calling on the Jury to try the case dispassionately and without prejudice.

His Honor, in putting the case to the jury, said, that they were a jury of intelligent, British subjects, called on to administer justice to a savage, who was ignorant of the language, laws, and customs of civilized life; and called on them to mark the situation in which the prisoner and the judges were placed in such trials; by a fiction of law he was amenable to British law. He was accused of the murder of a British subject, a white man, one of a race of men who had seized on his native land; he was by fiction of law, a British subject, and as such was entitled to be tried by his peers, his equals; were the jury his equals? Did they know his language, his habits, or his customs? He took his trial under many disadvantages, so much so, that he was not in a situation to conduct his own defence - he could not even instruct his counsel; he might have witnesses, but they, by a legal technicality, not being christians, would not be admitted to give evidence, and therefore it was that he said the prisoner took his trial under great disadvantages; it was in fact a one-sided trial, and therefore, he called upon the jurors, as Britons and Christians, to lay aside all prejudices, and give every attention to the evidence, which was not of that kind usually brought to support such cases; it depended entirely on the frail memory of two illiterate men, who had, to a certain extent, given different details of the same transactions - which fact alone was sufficient cause for the jury giving their utmost attention to the evidence by which they were to decide the guilt or innocence of the prisoner. In reading over the evidence, His Honor lamented that the witness **FITZGERALD** had not been found, which was no fault of the Crown prosecutor; he also observed, that some of the stockmen, who were in the hut when the deceased made his statements, if brought forward in evidence, might have placed some part of the case clearer before the court. The evidence respecting the prisoner owning the spear was dark, and there was no proof of a satisfactory description that the prisoner was the man whom the deceased called Neville's Billy; he also warned the Jury against receiving any unfavourable impression from the prisoner, after being apprehended, taking the butcher's knife, at Mrs. White's; also that they were to receive the prisoner's statement, about his being told by the five other Aborigines, with discrimination to see whether it had been made

of his own free will, or extracted from him by the fear of punishment or the hope of reward; as in case it had not been voluntarily given, it could not be used in evidence against him; His Honor called on the jury to give a fair interpretation to the words "it will be better for you to tell the truth." It was not a proof of murder, that a man was seen with a bloody sword in his hand - it was merely a circumstance which might raise suspicion; he also told the jury to give the prisoner full credit for his statement, as far as it went, that he knew a little English, and that a great deal of what had been said by the first witness was not true. His Honor remarked it was a singular circumstance that the witness Power, a man who had been only 23 months in the Colony, under sentence, should be employed in the Border Police: and put it to the jury whether the deceased might not have been in such agony at the time the witnesses examined him, and so stupefied by their questions, that he did not know what they were saying or what he answered them. And cautioned the Jury against giving credence to testimony which was at variance. He had felt it his duty to make these observations to the Jury, not to influence them in their verdict, but to lead them cautiously to examine and scrutinize the evidence. If the case had been that of a white man, it would have assumed an entirely different appearance. He however left it to the Jury to say whether they had had a full and fair account of the confession of the deceased, and whether the identity of the prisoner had been made out, and whether there was proof that the prisoner was the person who had thrown the spear; and expressed a hope that if they had any reasonable doubt as to the evidence they would, from the circumstances of the case, give the prisoner the benefit, as he had been brought to trial under circumstances which were peculiarly disadvantageous to him, while at the same time the evidence was not of that description which is usually adduced even where the dying declaration of the deceased is put in evidence, to support the charge. If the Jury had any reasonable doubt on the evidence, from the peculiar circumstances under which the prisoner had been put on his trial, and the loose kind of evidence which had been given against him, they would of course give him the benefit thereof.

The Jury retired for about half an hour, and returned a verdict of guilty.

The prisoner was remanded.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

Supreme Court of New South Wales

Dowling C.J., 3 November 1840

**ANN CARROLL, alias BLAKE**, was indicted for a violent assault, with intent to murder **JAMES HOYLE** at Campbell Town by striking him on the head with a blunt instrument, so that his life was despaired of on the 20th of June last. A second count charged the prisoner with an assault with intent to do some grievous bodily harm.

The prisoner, on being called on to plead to the indictment, said she was guilty of striking the man in her own defence, and a plea of Not Guilty was therefore recorded. The prisoner had no counsel.

The Attorney General briefly stated the case as follows:- It appeared that this woman was living at the Robin Hood public house, near Campbell Town, in June last. She owed a grudge to the prosecutor, who is an old man in the service of Mr. **KEMP**, of Campbellfield in consequence of a charge made against one **HUMPHRIES**, in which the old man was concerned. He went into the public house when the prisoner began abusing him in a shameful manner. There was a person named **LYONS** there, who has since died, and who, fearing the prisoner might do him some injury on the road home, he accompanied him. When half way some persons jumped out from behind a

bush and struck him on the head and knocked him down. The prisoner's person and voice were distinctly recognised among them, and she was heard to say she would murder the old man making use of an expression which would be filthy out of any Christian's mouth, much more from the lips of a woman which showed what a violent tempered woman she was and how much forgetful of the decencies which belonged to her sex.

James Hoyle deposed that he was overseer to Mr. Kemp. On the day in question he came down to see some cattle; went into the Robin Hood public house to get a little grog to take home; met a friend named Lyons there who had since died; had two glasses of rum there. The woman began to abuse him about getting her fancy man Mr. Kemp's stockman, punished. Lyons told him not to mind what the woman said and showed him out the back way. He had not proceeded more than three hundred yards when he was tripped up; his head fell in the prisoner's lap, and he received a blow on the head which stunned him, and he knew nothing afterwards until he found himself, at five o'clock the following morning, with his head covered with blood, and he remembered what he happened. He knew the woman because she took the bottle from him and said she would murder him for an old \_\_\_\_; he could not identify the two men that were with her, but they were more to blame than the woman, and he wished the Court to take that into consideration. He then returned to the Robin Hood public house, and when the landlord got up he told him the whole circumstance, and he sent for a constable and sent him up to the magistrate. He would not swear whether the woman said she would murder him or the men said it; his recollection was going away fast but he would not swear anything wrong for any one if he knew it. Lyons dies nearly three months ago. This witness was committed to the gaol for fourteen days for appearing before the court intoxicated.

William Sheehan, publican, deposed that he knew Lyons well that he attended his funeral several weeks ago, that he saw him dead, he was about seventy years of age when he died; Lyons was in good health in June last when he gave his deposition, saw him in the stable next morning covered with blood; sent for a constable; Hoyle seemed to have been much beaten.

Cross-examined by the prisoner - James Hoyle did not come drunk to witnesses house and offer her £5 not to come against her, but a shoemaker offered Hoyle £5 not to go against her. The prisoner passes as a married woman; her husband sent witness £9 for the prisoner, which he handed to her.

Mr. **BURKE**, the clerk to the bench at Campbell Town, was called to prove the depositions of the deceased woman **PHILLIPS**, and the man **LYONS**.

Dr. **KENNY** was called to speak of the injuries the prosecutor had received; the wounds had an ugly appearance although they were not dangerous, the after consequences might prove dangerous; he considered Hoyle in some danger when he first saw him; he appeared in a very low and exhausted state; some of the wounds were not healed for three weeks.

This was the case for the prosecution.

The prisoner said in her defence, that the prosecutor was going to take another woman's glass of spirits and she told him not to do so, and he said he would give her a slap across the face; a man there said he should not; Mr. Lyons called him into the parlour; next day she was going out of town to pay a little money, and was met on the road by the prosecutor who attempted to take some improper familiarities with her, and offered her some rum out of a bottle; that she threw the bottle away and broke it; the prosecutor struck her; she struck again; a struggle ensued, and they both fell in the mud, when she kicked him with her foot in the head.

Lyon's deposition was then put in and read.

His Honor told the jury, he thought, after hearing the evidence of Dr. Kenny, on the nature of the wounds, he would dismiss from their minds the count in the indictment, charging the offence as with intent to deprive of life. He adverted to the audacity of the prosecutor coming into court and invoking God's holy name, half drunk, to state things affecting a person's life and liberty, and doubtful evidence in such cases ought not to be received, and by his own account he was an old man of profligate habits. His Honor then read over the evidence.

The jury retired for a few minutes, and returned with a verdict of guilty on the second count. The prisoner was then remanded. See also Sydney Herald, 4 November 1840. Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

SYDNEY HERALD, 06/11/1840

Supreme Court of New South Wales

Stephen J., 5 November 1840

**ENOCH BRADLEY**, late of Yass, was indicted for the murder of **GEORGE WOODMAN**, at Gunderoo on the 7th September last, by shooting him with a pistol in the left side. It appeared that the deceased was the landlord of the "Travellers Home" public house at Gunderoo and on the day laid in the indictment, the prisoner who was returning from his master's sheep station about three miles from the "Travellers Home," met with an acquaintance, and they both went into the deceased's house and had some drink, when the prisoner asked Woodman to give him some dinner, which the deceased refused, telling him that he ought to go home and get his dinner, as the house was not far off. The prisoner said he was at the sheep station, and it was a far way to go, on which the deceased told the prisoner to go about his business, as he did not want to have any thing to say to him, as he was a government man, but he subsequently gave him some dinner; after the prisoner had partaken of it, he said to the deceased, "so you refused me my dinner did you," the deceased said "Yes I did refuse you," upon which the prisoner replied "well I hope the Devil will refuse your soul in hell" and kept walking up and down for sometime, and about ten minutes after uttering the above expression he went up to the deceased, stooped a little, put his hand into his breast, pulled out a pistol and shot the deceased in the left side; he instantly fell on the ground and called out "oh Bradley, Bradley what have I done that you have shot me," he was then carried to his bed and expired in about a couple of hours; as soon as the prisoner had shot him he threw the pistol from him and said I have shot the man and I am willing to die for him; he shortly after asked to have the pistol returned, in order that he might load it to shoot himself, and then left the place.

In the examination of this witness in this case it appeared that when the case was enquired into before the magistrates at Yass, that there was a general inclination among all the witnesses to screen the prisoner, and it was not until the magistrates had threatened to cancel the tickets-of-leave held by the principal witnesses, that they could be induced to speak the truth. The prisoner in defence denied all knowledge of the murder, and alledged that the first account he heard of it was from his master, who sent for him from the sheep run, and accused him of having shot the deceased. The Jury found the prisoner guilty.

Mr. **CARTER** prayed the judgment of the court on the prisoner, who on being called on for what he had to say why judgment should not be passed upon him, in an

impudent manner said, all I've to say is, that that I am innocent and its a made up job against me by three of the witnesses.

His Honor in feeling and impressive address commented on the enormity of the crime, committed by the prisoner, which was, he was sorry to say perpetrated by him under the influence of liquor, but this instead of being a mitigating circumstance, was in the eye of religion, reason, and the law, an aggravation of the offence and as he was convinced the act of which the prisoner had been found guilty was a cool-blooded deliberate and atrocious murder he should certainly represent it as such to the Governor, he then admonished the prisoner to prepare for a future state as he could hold out no hopes of mercy to him on this side the grave. He then passed sentence of death on in the usual form. The prisoner heard his sentence unmoved and after turning to enter the case he turned round again and pointing to the witness-box exclaimed these are the men that did the murder.

His Honor called on two of the witnesses named **JACKSON** and **MASON**, both ticket-of-leave holders, and stated to them that as they had that day in his opinion [not] spoken the truth he would to punish them for their conduct before the magistrate order their tickets to be cancelled for twelve months respectively.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

CJA, 6/525, 07/11/1840

FATAL ACCIDENT. - On Saturday last, a person of the name of **CARR**, a carpenter, who was employed at Brownhill Creek fencing, while cutting down a tree, unfortunately met with an accident which proved fatal to him. It appears that a branch had somehow been disengaged from the body of the tree in falling, which struck Carr on the leg; and while stooping to bind up his wound, the tree fell and crushed him under it. He has left a wife and two young children. His remains were interred yesterday by the Rachabites, of which society he was a member.

SYDNEY HERALD, 09/11/1840

Dowling C.J., 7 November 1840

At the opening of the Court the prisoners convicted before the Chief Justice, and re-remanded during the week, were brought up for judgment, when his Honor addressed them as follows:-

**CATHERINE WAPSHOT**, you have been found guilty of feloniously destroying the life of one **CATHERINE PHILIPS**, by casting her into a fire.

The bare mention of such a death when arising merely from accident, fills the mind with anguish; but, when it is the result of criminal design, the heart sickens with horror. It may be that you possess the form and feature of woman – but no more! The soul that dictated such an act, could never have been intended for so chosen a vessel. Nothing but the Tempter of Hell could prompt your mind to such enormity. Again and again, has this Evil One appeared in the palpable shape of Rum to vanguard and overcome the humanity of his followers. Is this country never to be purged from the stain of drunkenness? Session after session, the calendar teems with tales of blood from this cause only. In vain does the rigour of the law put forth its denunciations – in vain does public scorn mark the sinner for contempt – in vain are efforts made by society to rouse the drunkard to consciousness of the awful peril which awaits his direful propensity. I fear that this generation must pass away before any hope can be entertained that the degrading and brutalizing habit will be eradicated from the land. In the auspicious dawn which now opens upon the country, we may indulge the

persuasion that whilst the country is emancipated from its penal character, the latent dispositions to good in the human heart, and the diffusion of religious feeling, will effect a moral regeneration, and New South Wales shall no longer be held up to the world in odious colours. Degraded woman! there is this aggravation in your offence – that it was committed on the Sabbath: a day, when even the heart of the vicious is, if not amenable to its religious impulses, at least open to repose from the rugged cares and excitements of this life. Finding no mitigating circumstances in your case, the Court is constrained to award the severest punishment which the law now ordains in the case of female criminals: which is, that you, Catherine Wapshot, be imprisoned and kept to hard labour in the female factory[\*] at Parramatta, for three years. See also Australian, 10 November 1840.

[\*] The reference is to the Female Factory, which was simultaneously a prison, a barracks for female convicts, a factory, and a marriage bureau. See A. Salt, *These Outcast Women: the Parramatta Female Factory 1821-1848*, Hale and Iremonger, Sydney, 1984. On the management of the factory, see *Historical Records of Australia*, Series 1, Vol. 12, pp 524-528.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

SYDNEY HERALD, 09/11/1840

Dowling C.J., 7 November 1840

**THOMAS SKEWS**, you have been convicted of feloniously killing and slaying **JOHN PARRY [PERRY]**, a seaman on board the brig *Ullswater*, by stabbing him with a knife.

The Jury who tried you took a most favourable view of your case, for it had all the characteristics of a heart bent upon wilful murder. You were acquitted of that dreadful offence, and the court is relieved from the pain of awarding to you an ignominious death. In vain I have sought for mitigating circumstances in your case. It is that of an officer of a ship, suffering himself to get drunk, and upon very slight provocation giving way to the impulse of what, I fear, is naturally a sanguinary temperament. The violence committed was wholly disproportioned to the occasion. In utter disregard of discipline and of your own position as second officer, you accepted a challenge to fight an insolent apprentice on shore, and the deceased coming to his assistance you plunged your knife into his body. To the fearful indulgence in spirituous liquors may be ascribed this melancholy catastrophe. This is another horrible item in the catalogue of crime this session from that one besetting sin. The time is now arrived when it behoves every man who takes an interest in the welfare of society, or who even acknowledges himself to be of the human race, to bestir himself, either individually or collectively, with his neighbours, to put down this hideous propensity. Whatever may be the assumed necessity for stimulating to exertion, in the vicissitudes of seafaring life, by the administration of spirits, that necessity at all events ceases when in port, where a wholesome beverage can be obtained for moderate refreshment, and the sustentation of the human frame can be effected, without prostrating God's creatures to the level of brutes. It is earnestly to be hoped that merchants, ship-owners, and mariners will seriously take to heart the frightful consequences of the noxious use of ardent spirits in the prosecution of those adventures in which their own fortunes, the character of the British seamen, and the lives of their fellow creatures are so deeply involved. This, and innumerable other examples of the like kind, are sufficient to arouse them to a sense of public and private duty. It is necessary that an example should be made of you, to awaken others

to their liability for the consequences of their self-degradation. The laws of the land must be vindicated by bodily suffering, if men will not obey the dictates of moral propriety. The sentence of this court is, that your, Thomas Skews, be transported out of this Colony for 14 years. See also Australian, 7 November 1840.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

SYDNEY HERALD, 09/11/1840

Dowling C.J., 7 November 1840

**BILLY, otherwise NEVILLE'S BILLY**, you, a wild aboriginal native of New South Wales, having been convicted by a jury of civilized Englishmen of the crime of wilfully murdering one of their countrymen, are now to receive the judgment of the white-man's law for your offence. I cannot persuade myself that you distinctly understand one word of what I am now addressing to you; but, I go through the forms prescribed by our Courts of Justice on solemn occasions like the present, rather that your peculiar anomalous position may be fully appreciated and duly considered by those who are finally to determine on your fate, than from any idea that it can have any effect on your benighted mind. One of the wild children of the woods, and brought from a district where the country is just in the same state as it came from the hands of nature, you, not having the fear of God before your eyes, but being moved and seduced by the instigation of the devil, did, of your malice afore-thought, feloniously murder **JOHN DILLON**, a white man, by piercing him with a spear. It would be idle to suppose that this technical language of the Englishman's law could be intelligible to the mind of an untutored wandering savage, who "sees God only in clouds," and "hears him only in the winds." That you destroyed the life of John Dillon is a fact which, I think, is beyond all moral doubt; but whether the deed was committed under that sense of religious and legal responsibility to which your white brethren are amenable, is a question which I persuade myself may be truly answered in the negative. Ignorant however as your are of revealed religion, and uninformed of the conventional laws of civilized man, still you must be regarded as an accountable being for acts which are contrary to the law of nature - that first principle which enters into the very existence of all sentient beings. The love of life must be implanted in your own breast, and you must be sensible of its value in the estimation of your fellow creatures. So long, therefore, as you are to be regarded as a rational creature, so long must you be held accountable for the invasion of a right imparted to all men by the God of nature. It was made manifest on your trial, that you were an intelligent person, and endued with reasoning faculties; otherwise I could not have submitted you to the responsibility of the law under which you have been convicted. The principle on which this Court has acted in the embarrassing collisions which have too frequently arisen between the aborigines and the white Europeans, has been one of reciprocity and mutual protection. On the one hand, the white man (when detected, which I fear seldom happens) has been justly visited with the rigour of the law, for aggressions on the helpless savage; and on the other, the latter has been held accountable for outrages upon his white brethren. As between the aborigines themselves, the Courts have never interfered, for obvious reasons. Doubtless, in applying the law of a civilized nation to the condition of a wild savage, innumerable difficulties must occur. The distance in the scale of humanity between the wandering, houseless man of the woods, and the civilized European, is immeasurable! For protection, and for responsibility in his relation to the white man, the black is regarded as a British subject. In theory, this sounds just and reasonable; but in practice, how

incongruous becomes its application! As a British subject he is presumed to know the laws, for the infraction of which he is held accountable, and yet he is shut out the advantage of its protection when brought to the test of responsibility. As a British subject he is entitled to be tried by his peers. Who are the peers of the black man? Are these, of whose laws, customs, language, and religion, he is wholly ignorant - nay, whose very complexion is at variance with his own - his peers? He is tried in his native land by a race new to him, and by laws of which he knows nothing. Had you, unhappy man! had the good fortune to be born a Frenchman, or had been a native of any other country than your own, the law of England would have allowed you to demand a trial by half foreigners and half Englishmen. But, by your lot being the lowest, as is assumed, in the scale of humanity, you are inevitably placed on a footing of fearful odds, when brought into the sacred temple of British justice. Without a jury of your own country men - without the power of making adequate defence by speech or by witness - you are to stand the pressure of everything that can be alleged against you, and your only chance of escape is, not the strength of your own, but the weakness of your adversary's case. Surrounded as your trial was with difficulties, every thing I believe, was done, that could be done, to place your case in a proper light before the jury. They have come to a conclusion satisfactory, no doubt, to their consciences. Whatever might be the disadvantages under which you laboured, they were convinced, as I am, that you destroyed the life of Dillon; and as there was nothing proved to rebut the presumption of English law, arising from the fact of a homicide being committed by you, they were constrained to find you guilty of murder. There may have been circumstances, if they could have been proved, which would have given a different complexion to the case from that of the dying declaration of the deceased, communicated to the Court through the frail memory of two witnesses, who varied in their relation of his account of the transaction. This declaration, so taken, was to be regarded as if made on oath, face to face with your accuser - and, although you had not the opportunity of being present at it, and of cross-examining the dying man, yet, by law, it was receivable against you. Doubtless, there were other circumstances in your own subsequent conduct, which (assuming that they were proved in so satisfactory a manner as to be, beyond all doubt, true) tended to confirm the dying man's statement. Your recognition of the broken spear as being your own - your assertion that you committed the act, at the instigation of some of your tribe - your subsequently arming yourself with a knife - your allusion to the fate of some white men who were executed at Bathurst some years since - and the proof that you could speak and understand more of the English language than you chose to admit, were circumstances which must have weighed against you in the minds of the jury. They having, therefore, pronounced you guilty, I have no alternative but to award the sentence of the law. Your case will come under the anxious review of the Executive Authorities, and your fate, whatever it may be, will be influenced by a careful consideration of what the interests of public justice imperatively demands. The sentence of the law is, that you, Billy, otherwise Neville's Billy, be taken hence to the prison from whence you came this morning, and that you be taken thence to the place of public execution, on such day as His Excellency the Governor shall direct and appoint, and that you be there hanged by the neck until your body be dead - and may God Almighty have mercy on your immortal Spirit! See also Australian, 10 November 1840: "Billy alias Neville's Billy (an aboriginal native), found guilty of the willful murder of John Dillon, was next placed at the bar to receive sentence, which was passed upon him through the medium of an interpreter. The prisoner said he had nothing to say why sentence of death should not

be passed upon him, when asked. Proclamation was then made and His Honor passed upon the prisoner the sentence of death.”

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

AUSTRALIAN, 10/11/1840

Dowling C.J., 7 November 1840

**ANN CARROLL alias BLAKE**, convicted of an assault with intent to do some grievous bodily harm, was sentenced to transportation to a penal settlement for fifteen years. The prisoner pertly thanked His Honor on leaving the bar.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

TEMPERANCE, 1/7, 18/11/1840

We have much pleasure in directing public attention to the address of his Honor the Chief Justice, in passing sentence upon the woman **WAPSHOT**, and **SKEWES**, second mate of the “Ullswater.” It will be perceived that Sir James is thoroughly alive to the erroneous evils of intoxicating drinks. In his touching and feeling remarks, his Honor speaks of the “auspicious dawn which now opens on the country;” referring, no doubt, to the rapid advance of the principles of Temperance in various parts of the Colony, and the good which it is fair to argue will be the result of the present movement. He said:

**CATHERINE WAPSHOT**, you have been found guilty of feloniously destroying the life of one **CATHERINE PHILLIPS**, by casting her into a fire.

The bare mention of such a death when arising merely from accident, fills the mind with anguish; but, when it is the result of criminal designs, the heart sickens with horror. It may be that you possess the form and feature of *woman* – but no more! The soul that dictated such an act, could never have been intended for so chosen a vessel. Nothing but the Tempter of Hell could prompt your mind to such enormity. Again and again has the Evil One appeared in the palpable shape of Rum to vanquish and overcome the humanity of his followers. Is this country never to be purged from the stains of drunkenness? Session after session, the calendar teems with tales of blood from this cause only. In vain does the rigour of the law put forth its contempt – in vain does public scorn mark the sinner for contempt – in vain are efforts made by society to rouse the drunkard to consciousness of the awful peril which awaits his direful propensity. In fear that this generation must pass away before any hope can be entertained that the degrading and brutalizing habit will be eradicated from this land. In the auspicious dawn which now opens upon the country, we may indulge the persuasion that whilst the country is emancipated from its penal character, the latent disposition to good in the human heart, and the diffusion of religious feeling, will effect a moral regeneration, and New South Wales shall no longer be held up to the world in odious colours. Degraded woman! There is this aggravation in your offence – that it was committed on the Sabbath; a day, when even the heart of the vicious is, if not amenable to its religious impulses, at least open to repose from the rugged cares and excitements of this life. Finding no mitigating circumstances in your case, the Court is constrained to award the severest punishment which the law now ordains in the case of female criminals; which is, that you, Catherine Wapshot, be imprisoned and kept to hard labour in the female factory at Parramatta, for three years.

**THOMAS SKEWES**, you have been convicted of feloniously killing and slaying **JOHN PARRY [PERRY]**, a seaman on board the "Ullswater," by stabbing him with a knife.

The Jury who tried you took a most favourable view of your case, for it had all the characteristics of a heart bent on wilful murder. You were acquitted of that dreadful offence, and the court is relieved of the pain of awarding you to an ignominious death. In vain have I sought for mitigating circumstances in your case. It is that of an officer of a ship, suffering himself to get drunk, and, upon the very slight provocation, giving way to the impulse of what, I fear, is naturally a sanguinary temperament. The violence committed was wholly disproportionate to the occasion. In utter disregard of discipline and of your own position as second officer, you accepted a challenge to fight an insolent apprentice on shore, and the deceased coming to his assistance you plunged your knife into his body. To the fearful indulgence in spirituous liquors may be ascribed this melancholy catastrophe. This is another horrible item in the catalogue of crime this session from that one besetting sin. The time is now arrived when it behoves every man who takes an interest in the welfare of society, or who even acknowledges himself to be one of the human race, to bestir himself, either individually or collectively, with his neighbours, to put down this hideous propensity. Whatever may be the assumed necessity for stimulating to exertion in the vicissitudes of seafaring life, by the administration of spirits, that necessity at all events ceases when in port, when a wholesome beverage can be obtained for moderate refreshment, and the sustentation of the human frame can be effected without prostrating God's creatures to the level of brutes. It is earnestly to be hoped that merchants, ship-owners, and mariners, will seriously take to heart the frightful consequences of the noxious use of ardent spirits in the prosecution of those adventures in which their own fortunes, the character of the British seamen, and the lives of their fellow-creatures are so deeply involved. This, and innumerable examples of the like kind, are sufficient to arouse them to a sense of public and private duty. It is necessary that an example should be made of you to awaken others to their liability for the consequences of their self-degradation. The laws of the land must be vindicated by bodily suffering, if men will not obey the dictates of moral propriety. The sentence of this Court is, that you Thomas Skewes, be transported out of this Colony for fourteen years.

TEMPERANCE, 1/7, 18/11/1840

The following is a list of the murders, &c. tried during the sessions:-

**CATHERINE WAPSHOT**, for killing and slaying **CATHERINE PHILLIPS**, at Patrick's Plains, on the 5<sup>th</sup> of April last. Guilty. To be imprisoned and kept to hard labour in the Female Factory at Parramatta, for three years. Both the prisoner and the deceased were intoxicated when this melancholy affair happened.

**NEVILLE BILLY**, an aboriginal black, for killing **JOHN DILLON**, at Ullabalang – Guilty. Death.

**THOMAS HOLMES**, for the murder of **PATRICK HANNON**, at West Maitland. – Guilty. Death.

**WILLIAM NEWMAN**, for the murder of **HENRY HOGSON**, at Patrick's Plains, on the 15<sup>th</sup> October last. – Guilty. Death.

**JOHN MARTIN**, late of Gammon, was indicted for the wilful murder of one **JOHN JOHNSTON**, at Gammon on the 24<sup>th</sup> March last; **JAMES MASON** and **JOHN WALKER** were indicted for aiding and abetting; and **JAMES HOWARD** and **ROBERT RANSOM** were indicted as accessories after the fact, by harbouring the

prisoners after the felony had been committed. Martin, Wilson and walker, Guilty. Death. Rawson and Howard acquitted.

**MICHAEL MONAGHAN**, for the murder of **ROBERT ARCHER**, on the 2<sup>nd</sup> of August, 1839, at Glendon, and afterwards burning the body – Guilty. Death.

WEEKLY SUMMARY

**LYNCH**, the man who is in custody, and whose trial is put off till next sessions, for the murder of **SULLIVAN**, is supposed to have murdered another man, named **GORDON**, about two years ago; it would appear that he afterwards burned the bodies of the unfortunate men.

On the same day [Friday] an inquest was held on the Rocks, on the body of **MARY DUNCAN**, the wife of **ALEXANDER DUNCAN**, publican, who had died in the forenoon of Wednesday. Surgeon **M'KELLER** having certified that death was caused by apoplexy induced by intemperance, the jury returned a verdict accordingly. DEATH FROM INTEMPERANCE. - On Friday morning last, an inquest was held at Bolton's public-house, the 'Black Dog,' in Gloucester-street, on the body of Mrs. **MARY DUNCAN**, who died the night previously. The Coroner, after the jury had been sworn, proceeded with them to examine the body, and after their return to the house the witnesses were examined; from their statements it appeared that the deceased had been greatly addicted to the intemperate use of ardent spirits. Verdict – Apoplexy, accelerated by the too frequent use of spirituous liquors.

CJA, 6/525, 07/11/1840

FATAL ACCIDENT. - On Saturday last, a person of the name of **CARR**, a carpenter, who was employed at Brownhill Creek fencing, while cutting down a tree, unfortunately met with an accident which proved fatal to him. It appears that a branch had somehow been disengaged from the body of the tree in falling, which struck Carr on the leg; and while stooping to bind up his wound, the tree fell and crushed him under it. He has left a wife and two young children. His remains were interred yesterday by the Rachabites, of which society he was a member.

SYDNEY HERALD, 09/11/1840

Supreme Court of New South Wales

Dowling C.J., 7 November 1840

**JOHN MARTIN**, late of Gammon, was indicted for the wilful murder of one **JOHN JOHNSTON**, at the Gammon on the 24th of March last; **JAMES MASON** and **JOHN WALKER** were indicted for aiding and abetting; and **JAMES HOWARD** and **ROBERT RAWSON** were indicted as accessaries after the fact, by harbouring the prisoners after the felony had been committed.

The Attorney-General commenced the proceedings by giving an outline of the case, and stated, that two of the prisoners were assigned to Mr. **BLAXLAND**, while the others were the assigned servants of Mr. **BETTINGTON**; and called

Mr. **HENRY PELHAM DUTTON**, who deposed – I am a settler; in March last I lived on Gammon Plains; on the 24th of that month an attack was made on my house by some men, about half an hour after sundown; Mrs. Dillon and three of my children were in the bed room; I was going through the passage to the hall when I heard a loud crash, and was surprised to be met by two men with masks on. One of them presented a gun at me and threatened to blow out my brains if I did not go to the upper end of the room; I asked them if they intended to use any unnecessary violence, and they said they did not; they then brought Mrs. Dutton and the children into the same room, with three female servants, and two children belonging to one of the females; shortly after

two of my men servants were brought in; I saw four men at different times, all of them in smock frocks; they had masks on which covered the whole of their heads to the shoulders; one of them searched my pockets, but found nothing; about three quarters of an hour after they came, I heard two shots fired in the hall, on which the man who was standing over me, sprang out of the French window by which they had entered; soon after another of the men came from the hall evidently expecting to be attacked, and also passed out of the window; soon after this one of my servants named Burrows, came in with a gun in his hand, and told Mrs. Dutton not to be afraid as they were all there. I was then shown the deceased, who was wounded on the right side of the head, which was bleeding very profusely; he died about three quarters of an hour afterwards. One of them who stood over us appeared to be the shortest of the four; another of them appeared to be very active on his feet; they spoke frequently, and appeared to be Englishmen; they used a very threatening manner to me about my fire arms; I told them they were in possession of the house, and could satisfy themselves; my little son, five years old, told them how many guns and pistols I had in the possession of the carpenter, Johnstone, the deceased; the window was secured in a temporary way by a bolt, as it had been only paced there two days before; it could not be pushed open without violence; there were a great many panes of glass broken; I missed a good deal of my wearing apparel and a number of Mrs Dutton's trinkets.

Martin asked the witness in what part of the house Johnstone was shot? Witness – I should suppose it was in a little parlour from the marks of the blood; when I entered the room it was filled with the smoke of gunpowder; I could not see what took place in the hall.

**THOMAS GIEVER** deposed – I an Irishman from the Country of Mayo; I have been four years in the Colony named Christmas; I came in the “Bengal Merchant”; I came from Sheerness; I was a pedlar, and was tried at Newcastle, for stealing a watch; I was sent here from the assize for seven years; I have been punished four times; twice for losing sheep, once for leaving my station without a pass, and once for refusing to carry the rations fifteen miles; my punishments were fifty, one hundred, twenty-five and fifty lashes; I was assigned to Mr. Bettington three weeks after I arrived; I was last at Boggybrine, a station about three miles from Mr. Dutton's, and eight miles from the head station; Mason and I took the bush on the 9th March, and got over the Liverpool-range; Walker and Howard were at the same station; Mason Green and I did not one robbery while Mason Green and Dailly did another; Green was assigned to Mr. Blaxland, and Dailly to Mr. Bettington; James Martin, James Mason, and James Walker, and I, did the robbery at Mr. Dutton's on the 24th March; we were then stopping with Howard, and did not determine on whether we would rob Mr. Dutton, or Dr. Macartney, until Walker joined us on the Spring Creek; when Mason and Walker joined us we determined to go to Mr. Dutton's, and set out about an hour and a half before sun down; the only arms that we had were a cut down musket and a fowling piece, and all the ammunition we had was what was in the guns; we had all masks on, made of cloth, two of which were made of new print, and the other two were made of an old shirt with holes cut in them to see through; when we went to Mr. Dutton's; we stood for a little to see that all was quiet, after which Martin burst in the door, and I followed him; Mr. Dutton then came in, and Martin seized him, and told me to put him up in the corner of the room and to shoot him if he moved. I had the cut down musket, Walker had the gun, and the remaining two had sticks which they had cut before we went into the house; the others then went and brought Mrs. Dutton and the children, and the female servants; after about half an hour I saw one of Mr. Dutton's servants enter the room with a pistol in each hand, and told Walker to stand,

on which he rose the fowling piece, and told him to stand, when the man fired and wounded Walker on the breast, on which Martin seized the pistol out of the servant's hand and shot him in the head. I immediately ran out and made for Martin's station, and found him there with Green and Henry Beaverson; Martin told me that he had left Walker at his own station, and about half an hour after Martin overhauled the plunder; there were a good number of things three or four sovereigns and some orders, two pair of Wellington boots, a number of gold rings, and ink stand, a cruet stand, and several other things; Martin had charge of the things; he told me and Mason that the best thing we could do, was to leave the station for some days; we then went to several stations, but only stopped for refreshment. One of the stations, I have heard, belonged to Mr. Jones; we returned to Martin's about ten days after, and found he had moved to another. We went to him, and he told us he would get us some money and passes, so that we might pass for immigrants; Martin and Beaverson drew us our rations regularly. Beaverson is dead; I struck him with a tomahawk, which he had struck me with. On the Wednesday morning they brought us beef and milk, he poured out the milk, and it was so bitter I could not drink it; Martin and Mason tasted it, and sent Beaverson for more milk; he was away about twenty minutes, and when he returned he took the tomahawk in his hand, saying he would go and look for an opossum, and just as I was going to eat I received a severe blow on the back of the head which stunned me; I got two other strokes on the front of the head, the skin on the back of my head and part of the flesh were hanging down; I ran five or six yards and fell hurting my shin; I got up and ran again, when Beaverson pursued me about half a mile with the tomahawk; I cast off my jacket and waistcoat and ran till I got to the road between Bow Plains and Cockabill, when I fell down in consequence of loss of blood; I lost the use of my limbs, on which Martin seized me and Beaverson came up, and was going to strike me again, but Martin would not allow him, as it was too near the road; they then took hold of my arms and led me back; I begged hard for my life, particularly of Martin, but he told me it was no use, and said he wanted none of my preaching; he said, when I was apprehended in a day or two, I would tell of his shooting Mr. Dutton's man, and they could not spare me; I then asked him to shoot me, but he refused to do that as the report would make an alarm; I then asked him to give me the laudanum bottle I knew him to have, and I would drink it sooner than be again struck by the tomahawk; Beaverson then went and got the two quart kettle, and the laudanum bottle, and poured in about an inch and a half into the lid of the kettle; I was not willing to drink it but they told me if I refused they would be worse to me; I then drank about half a glass full of the laudanum at two gulps, and they took me and set me under a large tree, and sat down about a quarter of an hour with me, and seeing that I was not going to sleep, they then gave me the rest of it, and about a quarter of an hour after they made a bed for me with an opossum cloak, and told me I must lie down; I refused; they told me I must do so, as the more I refused the worse punishment they would put me to; I laid down, and Martin said he would go and look after Beaverson's sheep and he went away; about ten minutes after I said to Beaverson I would sleep better if I had my boots off, when taking them off I sprang to the tomahawk and seized it; he sprang at me I got it, and he and me had a wrestle, we fell when I got clear and struck him two blows on the temple with the tomahawk, which knocked him down; I then made my way to one of Mr. Lesslie's stations, about seven miles off; after I had gone off I saw him rise and lean against a box sapling; when making my way to Mr. Lesslie's I threw up the laudanum in froth; when I got there I drank tea and water and throw it off my stomach, I was then sent to the head station; Martin told me he intended to kill me because I had seen him shoot Mr. Dutton's

man; Mason was sitting beside me when I was first struck, Martin told me that Walker had been wounded in the breast; I gave information to the constables, and on the Saturday, while I and the constables were looking for Mason, we saw the body of Beaverson about a quarter of a mile from where I struck him. I afterwards showed Mr. Sayers of the Mounted Police where I had been struck by Beaverson and Mr Sayers by the help of Green, recovered part of the stolen property. I have not seen Walker till then, till I saw him in Sydney; Howard was at the same station with me; Rawson was assigned to Mr. Bettington; Mason went for Walker on the night of the robbery.

Cross examined by Martin:- You supplied us with fire-arms on the day of Mr. Dutton's robbery, you lent us the arms before, when we went to rob one of Mr. Jones' station, you also lent us the arms when we robbed Mrs. Howards, and also when we robbed Mr. Wentworths station, there was no water in the laudanum when I took the first dose; I swear that I saw you shoot and murder Mr. Dutton's man: I swear that I saw you on the night after the robbery, I never told any one that Dailly supplied me with the fire arms.

**JOSEPH BRENNAN** was objected to by Martin, as having been in court during the examination of the last witness. Brennan denied on oath that he had been in court, and deposed that he was overseer to Mr. Dutton, and on the night of the robbery was about half a mile off, when being told of the attack, I, the deceased and two other of Mr. Dutton's servants, got armed and made arrangements for taking bush rangers, when the deceased left the party and got in before the others, and I heard two shots fired; I ran up and saw a man making off; he called out shoot the b—r, I fired at him, when he dropped a bundle, which we found contained some property belonging to Mr. Dutton, and was covered with blood: I only saw two of the bushrangers, we recovered the pistols principally through voluntary information given by Walker; when we went into the house we found the family all in confusion, and the deceased was walking about deranged with his brains hanging out; he died about three quarters of an hour afterwards; after Walker mentioned the pistol I sked[sic] him where it was, and he told me it was forgotten by Roper alias Martin, where Mr. Dutton's black boy found it; the pistols were loaded with gunpowder and duck shot; after the bushrangers went away, we found two strange hats in the parlour, one of which is that produced in court; Johnson only called for his master and wanted to speak to him; I saw the shot extracted from Johnstone's head, it was similar to that with which the pistol was loaded.

Cross examined by Martin. – I do not know [i]n what room of the house Johnstone was shot.

Lieutenant **SAYERS** of the 80th Regiment who had command of the mounted-police in the district of Gammon at the time of the robbery; got information of the murder and robbery about the 27th of the month, and immediately turned out his party, when they kept beating about for information. When the approver Gievers gave information that induced him to take the party into custody, and found that the statement of Gievers was corroborated by the loculiity[sic] of the place where Reversion had been murdered; on searching he found tracks of the Opposum cloak having spread on it and a piece of damper and crumbs of bread, as if some person had been eating there. The marks of the cloak were by the grass having, been beaten down the reason Lieutenant Sayers went so particularly about the information given by Grieves was that it was of such an extraordinary character that they could scarcely believe. Approver then took the party to a new made grave, about half a mile off, where there was a large pool of blood, and where Beaverson was buried. Sayers was

surprised on looking at the distance between the Curryjong tree where the scuffle took place between Gievers and Beaverson, and was of opinion that the latter had not met his death under the tree. He found traces under the tree of a scuffle having taken place between white men; the traces consisted of marks of the feet of white men; afterwards took Howard and Rawson into custody for harbouring and for being accessories after the fact, when they admitted having taken care of Walker's sheep on the night of the robbery and murder at Mr. Dutton's; on the whole Mr. Sayers corroborated the statement made by Gievers; he also proved the finding of the cut musket and the fowling piece in such a way as to commit the prisoners with the circumstances, they being found concealed in the vicinity of the stations where the prisoners were assigned; he also subsequently discovered that the fowling piece had been stolen from Mr. Jones' station some time previous to Mr. Dutton's robbery. It was also proved by Mr. Sayers that on the day after the robbery Martin was seen with a white shirt on.

In cross-examination by Martin, Mr. Sayers stated that the approver informed him that he was sure that he (Martin) had put aside one of the prisoners Masons, and also that when the deposition was made by the approver, he stated that Martin gave him the first draught of laudanum, and mixed it with water, and before giving him the second draught said d—m him he has got as much laudanum as would have killed a hyrse[sic], and it has not put him asleep yet.

Mr. **ARTHUR BLAXLAND**, a Magistrate of the Territory, proved Walker's making a voluntary confession, after being in custody at the Gammon lock-up; after his wound had been examined and dressed by Dr. McCarty, he told Walker that it was a bad case for him, but if he would confess all, the Magistrates would consider his case. The prisoner then paused for some time and then made the confession. The prisoner Walker after being told that he was one of the parties at the robbery, and that it would be better to confess, said to the Magistrates, yes I was one of them, and I know I shall be hanged for it.

Dr. **McCARTHY** proved that the wounds on Walker's brest and arms were gunshot wounds, with shot such as the pistol had been charged with when Johnstone fired it.

James [JOHN] Martin, in defence, stated that the case had been made up between Green and Gievers, to save themselves as had not been in any way connected with the robbery; the other three prisoners stated that they had nothing to say, and Rawson denied that he had any knowledge of the robbery and the murder until he was told of it when he was getting rations. Martin stated that he had subpaened his overseer, at the time of the murder, in order to prove that at the time of the murder, he had a sore foot, and that it was impossible for him to travel nine or ten miles to do the robbery; he also stated that as the approvers Green and Gievers had been in custody six or seven months, they had plenty of time in order to get the story concocted; he also insinuated that the account given before the Court, had varied materially from that given by the witnesses before the Magistrates. The depositions were then read at the request of Martin. From that of Green appeared that Martin had been in the bush with Oppossum Jack, whom it was generally supposed Martin had put aside as the knife, tinder-box, and pistols of Oppossum Jack, had been seen in the possession of Martin, and since then, Oppossum Jack had never been seen since he was also accused by several of the Government men of the neighbourhood, of having killed Oppossum Jack on which he, being then in liquor, fell a crying.

The Chief Justice, in putting the case to the jury stated, that the case was one of considerable importance, not only from the interest which this case had excited out of

doors, on account of the place in which the murder and robbery had been committed, as being in a lonesome part of the Colony, where there was but slight means of protecting the lives of the inhabitants, but also, because it involved the lives of three of the prisoners. He also adverted to the law of the case, as respects those present when the murder was committed; and also adverted to the necessity that exists for admitting approvers the whole of whose evidence it was not necessary to corroborate, but merely to see that the gaps and chasms in it were filled up, and that the whole body of the evidence was consistent in all its parts, and called the attention of the jury to the cross-examination of Mr. Dutton, in which the prisoner Martin showed such a knowledge of the circumstances that had occurred at the house of Mr. Dutton, as could only have been obtained by his being present at the murder; he also pointed out to the jury the close corroboration which Giever's testimony had received from Mr. Sayers, Mr. Dutton, and several other unimpeached witnesses; and stated that the jury were first to make up their minds respecting Martin, Mason, and Walker, and if they were guilty, then they were to enquire whether Howard and Rawson had been guilty of harbouring and abetting them; at the same time he considered the evidence against the latter as of a slight description. After the summing up the prisoner Martin said, the way in which he had come to the knowledge of the bushrangers having threatened the life of Mr. Chiesly, by saying at Dutton's that they would have his life and would swim in his blood, was, that he heard the prisoner Walker tell it to the Magistrates; that was also the way in which he became acquainted with the fact that coarse language had been used by the bushrangers. The Jury retired for about ten minutes, and returned a verdict of guilty of wilful murder against Martin, Mason, and Walker, and a verdict of not guilty against Rawson and Howard.

The Jury, before returning their verdict, wished to be informed what Mr. Dutton had to say in favour of the prisoner Walker; when Mr. Dutton said, that Walker had shown great civility to Mrs. Dutton, the children, and the females not having ill-used them in any way, and when he bailed them up he behaved with becoming respect to them.

His Honor said, it could not affect the prisoner's guilt.

Proclamation being made, his Honor in a feeling and impressive address commented on the mass of crime which the trial had brought into view as connected with Martin, which he regarded as being unparalleled[sic] in the history of the colony, as there was good reason for believing that he had frequently inbrued his hands in the blood of his fellow creatures. From the details given on this trial there were strong reasons for believing that his old confederate, Oppossum Jack, who had been the scourge and terror of the Colony, had been destroyed by him. It was also clearly proved that he had shot the deceased man, Johnstone, while his attempts to deprive his accomplice Gievers of life was such as to strike terror to the heart of every one who heard the details given by that individual. His Honor also stated that the blood of Mason and Walker, the youths who stood with him at the bar, was also chargeable on his head; and after having admonished each of them to prepare for a future state, he passed sentence of death on all of them in the usual form. The prisoners heard their awful sentence unmoved, and appeared unaffected by what had been said to them. See also Australian, 10 November 1840.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

TEMPERANCE, 1/6, 11/11/1840

EDITORIAL re CORONERS' INQUESTS AND DRUNKENNESS.

Quotes examples from Parramatta:-

1<sup>st</sup> Case. - On the 3<sup>rd</sup> of October, the deceased, a fine boy, aged eight years, named **EDWARD [EDWIN] ASHDOWN**, was returning with his father from the country, and was riding on the dray. The father became intoxicated on the road, and neglected the child, who fell off, and was killed by the wheel passing over his body. The parent was so drunk that, after getting down from the dray, he could not stand, or render the least assistance.

2<sup>nd</sup> Case. - **WILLIAM LANE**, a butler, who had given way to intemperate habits, while labouring under a fit of temporary derangement produced from drink, hung himself.

3<sup>rd</sup> Case. - **FREDERICK CLAYTON**, carrier, a man of intemperate habits, and was labouring under temporary insanity produced by drink, cut his throat.

4<sup>th</sup> Case. - **JAMES HARRISON**, it was proved in evidence, had been a hard liver, and been cautioned by the medical men to refrain from drink some short time before his death. He was taken suddenly ill in the night, and died almost immediately, from organic disease in the heart, produced by the too frequent use of ardent spirits.

5<sup>th</sup> Case.- **MARY LOUIS**, who lived near the Lunatic Asylum, and was much addicted to drunkenness, was taken ill on Sunday, the 19<sup>th</sup> October, and died almost immediately. The cause of death was disease of the heart produced by previous intemperance.

6<sup>th</sup> Case. - **JOHN GAMBLE**, A CARTER TO Messrs. Newnham and Tooth, was in the habit of drinking. He was found dead under the wheel of his dray, on the road to the Cowpastures. It was stated in evidence he had taken two glasses and a pint of ale. He fell off the dray, and was taken up quite dead.

7<sup>th</sup> Case. - **JOHN ROBERTS** was on his way to see his son, near Liverpool, when he and the person in whose cart he was riding, had, it appeared, at different places on the road, drank twelve glasses *each* of spirits, and half and half, and on arriving at their destination, the deceased was found suffocated, lying on the bottom of the cart.

CJA, 6/526, 11/11/1840

SUPREME COURT - CRIMINAL SIDE

Saturday, Nov. 7

(Before the Chief Justice)

**CATHERINE WAPSHOT**, who had previously been found guilty of destroying the life of **CATHERINE PHILLIPS**, by pushing her into a fire, was sentenced to be imprisoned and kept to hard labour for three years in the female factory at Parramatta.

**THOMAS SKEWES**, who had previously been found guilty of the manslaughter of **JOHN PERRY [PARRY]**, a seaman on board the brig Ullswater, by stabbing him in the abdomen with a knife, was sentenced to be transported for fourteen years.

**BILLY** alias **NEVILLIS BILLY**, who had been previously convicted for the wilful murder of [**JOHN**] **DILLON** was sentenced to death.

**JOHN GEORGE MARTIN** was found guilty of the wilful murder of **JOHN JOHNSTON**, at Gammon, on the 24<sup>th</sup> March last, and **JAMES MASON** and **JOHN WALKER** were also found guilty of aiding and abetting the same, sentence - death.

(Before Mr. Justice Stephen)

**MICHAEL MONAGHAN** was found guilty of the wilful murder of **ROBERT ARCHER**, at Glendon, on the 2<sup>nd</sup> of August, 1838, by beating him with a stick. Sentence - death.

**ATTEMPT AT SUICIDE.** - A female residing in Sussex-street attempted to put a period to her existence on Friday evening inst, by swallowing a quantity of sugar of lead which she had purchased at Dr. **LLOYD'S** during the course of the day. As soon as the fact of her having made the attempt was ascertained, a number of surgeons

were sent for, and the stomach pump was applied, in consequence of which the fatal effects of the poison was totally counteracted, and she was pronounced entirely out of danger at an early hour on Saturday evening. It is said that she was induced to the commission of this act by the fatal influence of the green-eyed monster.

SYDNEY HERALD, 17/11/1840

Dowling C.J., Stephen, Willis J.J., 16 November 1840

**JOHN HOWARD** and **ROBERT RAWSDON**; who had been tried and acquitted as accessories after the fact, in a case of murder, were ordered to be returned to Hyde Park Barracks, and not to be assigned in the quarter of the colony where the murder had been committed. See also Australian, 10 November 1840.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

CJA, 6/528, 18/11/1840

INQUESTS. - An inquest was held on Friday last, at the Labour in Vain public-house, on the body of **MARY DUNCAN**, the wife of **ALEXANDER DUNCAN**, the landlord of that house, who died suddenly in an apoplectic fit, on Wednesday last, produced by habits of intemperance. Verdict accordingly.

Another inquest was held on Saturday, at the Scotch Thistle public house, corner of Bathurst and Kent-streets, on the body of a woman named **SARAH SHARP**, who died suddenly on the previous night from natural causes. Verdict accordingly.

A third inquest was held on the same day, at the Blue Bell, corner of Erskine and Sussex-streets, on the body of a man named **PRITCHARD**, who died suddenly at his work on the previous day in an apoplectic fit. Verdict accordingly.

LETTER to the Coroner, JR Brenan, re his damages in Brenan v. Jones.

CJA, 6/529, 21/11/1840

On Thursday an inquest was held at Mr. Le Burn's public-house, Parramatta-street, on the body of a female, named **THERESA HALVIE**, who expired suddenly in the Benevolent Asylum, on the previous day, in consequence of a disease of the heart. Verdict – Died by the visitation of God.

Another enquiry was made, the same day, at Mr. Tunk's public-house, corner of Castlereagh and Bathurst-streets, respecting the death of an infant, only three months old, who had expired suddenly in convulsive fits. – Verdict accordingly.

CJA, 6/530, 25/11/1840

On Wednesday evening a man named **FRASER**, who had been discharged two or three days ago from the *Bolina*, leaped from the deck of the *Coromandel* schooner into the water, and was instantly drowned, there being no boat at hand to pick him up.

INQUEST. - An inquest was held on Monday last, upon the body of a convict named **SAMUEL THOMAS**, who had been sent to Sydney from Norfolk Island, for the benefit of his health, and who expired suddenly in the Hospital in an apoplectic fit on the previous Saturday. Verdict – died by the visitation of God.

EDITORIAL re Brenan v. Jones – costs and damages.

CJA, 6/531, 28/11/1840

CRIMINALS. - The following prisoners have been ordered for execution by his Excellency the Governor and Executive Council, which met on Monday last for the express purpose:

**MARTIN, MASON** and **NEWMAN**, for wilful murder, to be executed at Sydney Gaol on 8<sup>th</sup> December; **BRADLEY** and **MAUNAGHAN [MONAGHAN]** for murder, and **LEGGE** for rape, to be executed at the same place on the 11<sup>th</sup> December; and **BILLY** alias **NEVILLES BILLY**, the aborigine native who was convicted of murder, will be executed on the spot where the offence was committed in the Wellington district.

MELANCHOLY OCCURRENCE. - We had in our last number, the painful duty to record an injury inflicted upon a poor man which ultimately led to the amputation of the shattered limb. We have since heard of a more serious accident, attendant with the loss of human life. The particulars are as follows. On Thursday last a man named **DESMOND**, a hired servant of Messrs. Anderson and Watson, was assisting another person to yoke a young bullock which was very untractable, several attempts were made to effect the desired purpose, but without success; at length the animal rendered furious by the means which were adopted to yoke him, suddenly broke loose and rushed at Desmond, who was unable to get out of the way, and gored him in the body; the unfortunate man fell backwards and immediately expired. The depositions of the witnesses, embodying the above facts, were taken by Mr. **SIMPSON** on Saturday morning. - *Herald*.

INQUEST. - On Friday last a Coroner's inquest was held at the Garrick's Head public house, Pitt-street, on the body of **JOHN GILL**, an infant under a year and a half old, who had been accidentally drowned while on a visit to his grandfather at Botany; verdict accordingly.

RESPIRE. - The sentence of death passed upon **JOHN WALKER**, who was found guilty of murder before the supreme court, on the 7<sup>th</sup> ultimo, has been commuted to transportation for life to Norfolk Island.

CJA, 6/533, 05/12/1840

FATAL PUGILISTIC CONTEST. - A quarrel took place on Monday last, between two men named **STEPHEN RALPH** and **STEPHEN TANCARD**, which the contending parties agreed to settle by a pugilistic encounter. This they immediately proceeded to do, and the result was, that Tancard died shortly after the termination of the conflict, while the life of his opponent is still despaired of. An inquest has since set upon the deceased, but was adjourned till Monday next, in consequence of the absence of the necessary witnesses.

INQUESTS. - A coroner's inquest was held at the Royal Oaks public house, a few days since, on the body of a youth named **THOMAS MANN**, who met his death by falling down into the hold of the *James Laing*, a vessel at present lying in Sydney Cove. Verdict - accidental death.

Another inquest was held on the same day, at Le Burn's public house, on the body of a man named **BOULDY**, who had died in the Benevolent Asylum on the previous day, from natural causes. Verdict accordingly.

ATTEMPTED SUICIDE by a **STONE**, an eating house keeper x 2. Dr. **SECCOMBE**.

TEMPERANCE, 1/10, 09/12/1840

WEEKLY SUMMARY

A few days ago, a fight took place between two men, whose names were **STEPHEN RALPH** and **STEPHE N TANCARD**; the former was killed. They had been drinking, which led first to quarrelling and then to fighting.

CJA, 6/534, 09/12/1840

**CORONER'S INQUESTS.** - On Monday morning, an inquest was held at the Red Lion public-house, corner of Pitt and Goulburn-streets, on view of the body of Mrs. **MARGARET EMERSON**, who came by her death in consequence of injuries sustained by a fall down stairs, on Thursday last. The deceased was attended by Dr. **RUSSELL**, who certified that death was caused by apoplexy produced by injuries on the head, and the jury returned their verdict accordingly.

**EXECUTION.** - The three unhappy men, **JAMES MARTIN**, **JAMES NEWMAN**, and **THOS. MASON**, convicted of murder at the last criminal court, expiated their crimes upon the scaffold yesterday morning, in the presence of a large concourse of persons assembled to witness their execution. They were attended by their several religious pastors, to whose exhortations they seemed to listen with deep attention, and after they had left them, they murmured their supplications in apparently sincere earnestness, until the fatal bolt was withdrawn, and they were heard no more.

CJA, 6/535, 12/12/1840

**SUSPECTED MURDER.** - A man named **BRADLEY**, residing in Cumberland-street, near Bullivant's public-house, is in custody on suspicion of murdering his wife on Monday last. It appears that the prisoner, deceased, and two lodgers had been drinking together during the whole of the previous week, and on Monday he ran out and raised the alarm that deceased was dead. On discovery of the fact he was taken in charge until an inquest decided upon the means by which she came to her death.

**ADJOURNED CORONER'S INQUEST.** - The adjourned inquest on the body of **RICHARD RALPH [or STEPHEN]**, who was killed in a pugilistic encounter with **STEPHEN TANKARD** on Monday week, was held at Stewart's public house, in Parramatta-street, on Monday last. The jury returned a verdict of manslaughter against Tankard as principal and against three other men, named **LEONARD**, **M'CLEAR** and **M'GUIGAN**, as accessories. Tankard and Leonard were committed on the coroner's warrant, and active pursuit is being made for M'Clear, and M'Guigan, who have absconded. Copies of the proceedings were applied for by the prisoners' solicitor for the purpose of applying to the Supreme Court to admit the parties to bail, which was ordered.

**BRUTAL ASSAULT.** - A ruffian named **JAMES CONNOR**, a plasterer, residing in the notorious Fowler's-lane, off Sussex-street, is in custody, waiting the recovery of a female named **HUDDERSFIELD**, in consequence of brutal treatment received from the prisoner. He underwent his first examination at the police office, on Wednesday, during which the unfortunate woman's screams, as she struggled in continuous fits in an adjoining cell, were dreadful.

**MYSTERIOUS CIRCUMSTANCE.** - A skeleton was found buried between two rocks, by the men employed in digging the foundation of the fortification to be erected on Pinchgut Island, a few days back. A surgeon who examined the remains, which had evidently been concealed there for many years, stated that he found slugs buried in the skull. No investigation has taken place on it - we presume it is considered needless.

**DISGUSTING DETAILS** = refers to Herald, yesterday??

TEMPERANCE, 1/11, 16/12/1840

WEEKLY SUMMARY

A young man, named **MILLER**, late Chief Officer of the 'Volix', was killed on Thursday last by the bursting of his gun, on the Parramatta road.

**JOHN LEGGE** for rape, aged 60; **ENOCH BRADLEY**, and **MICHAEL MONEY**, for murder, underwent the extreme penalty of the law on Friday last.

DEATHS.

On the 1<sup>st</sup> instant, caused by incautiously swimming in the Murray River, **LUKE WILLIAM REDDALL**, deeply lamented by his family, and all who knew him. The young men of Australia, esteemed him greatly, and the senior members admired his moral line of conduct; he was in his twenty-eighth year.

CJA, 6/537, 19/12/1840

Editorial by **ROBERT S. M'EACHERN**, the new owner, with **JAMES M'EACHERN** as the new editor, with effect from 1841.

CJA, 6/538, 23/12/1840

EDITORIAL - Farewell from **WILLIAM JONES**, previous owner.

COORONER'S INQUESTS. - An inquest was held at the Star public house, at the corner of Phillip and Hunter-streets, on the body of a young woman named **MARY ANN SMITH**, who was a servant in the employ of Mr. **QUINN**, of Pitt-street, and who was killed by the falling in of the brickwork of the gateway upon her, with Mr. Quinn's child in her arms on last Saturday week, while passing through a young man residing in the yard, being alarmed by his wife, who saw a cloud of dust arise, ran to the spot and rescued (assisted by six or seven other men who were passing) the young woman from her perilous situation. They found her lying on the child (belonging to her master) to protect it; and she received such injuries on the loins and small of her back in doing so, that she was carried to the Hospital, where she expired on Thursday night. One of the Jurors on the inquest expressed in strong terms of censure the conduct of Mr. Quinn, to whom he stated two months before the dangerous state of the brickwork, which was then overhanging nine inches, and he (the Juror) felt the greatest apprehension for his own children in driving through it. The Coroner explained the law of *deodands* being placed on inanimate objects, by which sudden death was produced, and observed that, according to existing laws (which was to be deplored) no remedy could be obtained against Mr. Quinn, because the side of his house could not be removed to pay the forfeit of the *deodand* (if lawfully returned) by the Jury. The Jury, under the direction of the Coroner, returned a verdict of "accidental death." But we think Mr. **BUCHANAN**, the Town Surveyor of Buildings, could deal, under the act, with Mr. Quinn, so as to protect the lives of her Majesty's liege subjects from similar cases of peril. We hope he will look it in this instance.

On Monday last there were three inquests held as follows:- one on a skull found in the neighbourhood of Harrington-street. A medical gentleman certified that, in his opinion, it was the skull of a while person, but there being no evidence to account for its discovery, the Jury returned a verdict of "skull found."

The same day another inquest was held at the Three Tuns (Driver's), King and Elizabeth-streets, on the body of a man named **CHARLES BARTLEY**, who was found dead in an out-office at Woolloomooloo, in premises where he had been

employed the day previously. Dr. **HURNELL** certified that he (the deceased) came to his death by natural causes, and the Jury found their verdict accordingly.

Another inquest was held the same day on the body of a little girl named **MARGARET STRINGER**, whose death was caused by convulsions produced by worms. On a *post mortem* by Mr. **DAY**, surgeon, of Hunter-street, at the desire of the Jury, the stomach of the deceased presented an animated spectacle which would hardly be credited. Verdict – “Visitation of God.”

CJA, 6/539, 26/12/1840

**REMARKABLE DEATH.** - On Tuesday last, a little boy named **JOHN LOCKHART**, when running along the wall of the old burial ground with an open pen-knife in his hand, missed his footing and fell inside the wall upon the hand in which was the open knife, which cut his throat. He was afterwards discovered with the pen-knife lying near him stained with blood and the wound freshly bleeding and conveyed across the street to Mr. **CAMPBELL**'s medical establishment, but life was found to be extinct. An inquest was held upon the body at Simpson's public house on the following day, and Doctor **SAVAGE** having certified to the above extraordinary circumstances, the jury returned a verdict of accidental death.

**MELANCHOLY LOSS OF LIFE THROUGH DRUNKENNESS.** - Accounts from the Hawkesbury state, that a boat containing six souls – two men, two women, and two young children (the youngest only two months old) was upset on that water on Monday last and, melancholy to relate, the whole party perished. It appears that they had gone to Windsor to purchase fruits, groceries, and spirits for their Christmas festivities and became intoxicated on their return, which occasioned the fatal accident. The body of one of the children had been found.

TEMPERANCE, 1/13, 30/12/1840.

**WEEKLY SUMMARY.**

Six persons, viz. two men, two woman, and two children were drowned in the lower Hawkesbury, last week. It seems they had been to Windsor to purchase supplies for the Christmas festivities; they became intoxicated, and the issue was fatal to all.

CJA, 6/540, 30/12/1840

**EDITORIAL.** Farewell address.

**OUR FRIEND MR. BRENAN** – a last blast at the Coroner.

**FROM 1841 TO BE THE FREE PRESS AND COMMERCIAL JOURNAL.**

SYD1841

SYDNEY HERALD, 02/02/1841

Supreme Court of New South Wales

Dowling C.J., 1 February 1841

**JOHN LAWLER**, assigned to Mrs. Sutton, of Bathurst, was indicted for having, on the 22nd of June last, beat one **THOMAS McNAB**, a servant to Captain Piper, with a hurdle-fork, so as to cause death; and **ZACHARIAH COOPER** was indicted for aiding and abetting, - they both pleaded not guilty. Lawler handed in a written petition to have counsel assigned to him. His Honor requested Mr. **CALLAGHAN**, who was in court, to undertake the defence of Lawler. Mr. Callaghan informed his Honor that the charge was a very serious one, and as he knew nothing of the case, he respectfully begged leave to decline having anything to do with the case. The Attorney-General said he had no wish to prevent parties from getting legal assistance to conduct their defence; but he thought that the court, for its own dignity, ought to require the applications should be made before the parties were placed on their trial. His Honor informed the prisoner that he ought to have made his application sooner.

\* \* \* \*

John Lawler and Cornelius Cooper, assigned servants to Mr. Sutton, of Bathurst, were then put on their trial.

The Attorney-General, in opening the case, stated that he was sorry that the present case was one which, like most of the other cases of crime which came before that court, originated in rum. Those gentlemen who would attend to the proceedings of the present session would perceive, when the calendar was gone through, that more than half the cases for trial owed their origin to rum, the principal vice of the colony. He was aware that some of the gentlemen of the jury earned their subsistence by dealing in spirits, which he was sorry to say, was a legalized trade, for which they paid a heavy license; but when such were the effects produced by it, he could not help being sorry that any person could be found willing to embark in such a dreadful trade. The present case was not one in which any publican was concerned; but still that did not alter the evil, as the crime was the same whether the liquor was drunk in a hut or in a public house; and he trusted that the gentlemen at present embarked in the trade would seriously consider the immense mass of crime which originated in the vending of ardent spirits, which appeared to be nothing less than a curse on the colony. He then called a number of witnesses, who proved that, on the day laid in the indictment, the prisoners went to Captain Piper's station, with half a gallon of rum, and were met there by another man named **LACHLAN BYRNE**, who had obtained his liberty twelve days before : he also had a bottle of rum; they then commenced drinking till the whole party became intoxicated, and lay down to sleep. Part of the rum was at this time stolen. When they awoke, Lawler charged the deceased with taking it, and commenced beating him; they were parted, after which Lawler again attacked him, and threw a quantity of burning embers on him, which burned his foot; it was also proved that he had struck him with a hurdle fork, and when the deceased tried to leave the farm to complain to Captain Piper, one of the witnesses, Wm. McWilliams, prevented him, stating that he should not get any one into trouble. The prisoner Cooper was also proved to have taken rum to the station. The deceased died about fourteen days after in the hospital, of an unusual haemorrhage of blood in the lower intestines. Mr. Busby, the surgeon of the Bathurst hospital, stated, that he examined the body of the deceased, and was of opinion that death had been caused by the rupture of some of the larger blood-vessels, but from the time which had intervened,

he was not able to say whether the rupture had been caused by external injury or not; at the same time, had he not heard of the assault, he should have ascribed death to natural causes. In putting the case to the jury, his Honor stated that the only evidence against Cooper was his taking the rum to the station, in company with the other prisoner Lawler, which was a highly culpable act. As to the case against Lawler, the jury was to decide on the evidence of the assaults, as given by those who witnessed them, and that of the medical gentleman who had made the post mortem examination of the body of the deceased, and instructed them, if they had any doubt, to give the prisoners the benefit of it. The jury retired ten minutes and returned a verdict of "not guilty," against each of the prisoners, who were discharged. Previous to their being removed from the dock, His Honor admonished them as to their future conduct, and stated that had they been found guilty they would certainly have been executed, as the Court was determined to make a fearful example of the first case of crime originating in rum, which appeared to be the principal source from which all crime flowed.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University.

See also Sydney Gazette, 4 February 1841; Australian, 2 February 1841.

SYDNEY HERALD, 08/02/1841

Supreme Court of New South Wales

Dowling C.J., 6 February 18

Saturday. – Before the Chief Justice and a Common Jury.

**FRANCIS SILVESTER**, of Windsor, was indicted for having, on the 26th October last, at Colo River, in a prize-fight, killed one **JAMES BIVEN**; and **MICHAEL LAMB, the younger, JAMES CULLEN, JAMES HUNTER, and JOHN HUXLEY**, were indicted for being present, aiding and abetting the said Francis Silvester. In opening the case, the Attorney General said he was extremely sorry to see so many natives of the colony arraigned at the bar of that court on such a charge, for it was evident from the appearance of the three young men that they were natives of the colony, and he could not help remarking that, although morally, on account of their age, less culpable than the two hoary-headed sinners who were placed in the dock with them, yet they were all equally answerable to the law of the land. He was sorry to say that such brutal scenes were far too common in different part of the colony, and the calendar for the present sessions exhibits another case of a similar description. When such lamentable consequences flowed from such scenes, it became the imperative duty of all who were concerned in the administration of justice to set their faces determinedly against such brutal practices, and to teach those who engaged in them that they should not engage in them with impunity.

From the evidence for the prosecution it appeared that they, John Lamb, brother of the prisoner Michael Lamb, and the prisoner Silvester, went to the residence of the deceased and his brother, when Michael Lam and Silvester told the surviving brother that they were come to fight him; he asked what he had done that he should fight them? when one of them, John Lamb, said that he knew he was no match for John Biven, but he would fight him for a pound, which was declined. After this these two went away; after which Michael Lamb and Silvester made a match to fight the deceased, William Biven, for £5, at eight o'clock on Monday morning, at the Colo River, about eighteen miles by water from Windsor, and the sum of five shillings put down as a deposit. The fight came off at the appointed time and place, in the presence of about twenty-six persons, Oxley and Lamb acting as seconds for Silvester, and two men, named **JOHN ROBINSON** and **WILLIAM ELKIN**, acted as the seconds of

the deceased; **WINTER** was one of the parties who assisted in bringing water to refresh the men, in order to enable them to continue the fight, while Cullen, the oldest of the prisoners, acted as time-keeper, and a person of the name of John Jones, now in the bush, and who was in the habit of going about the country getting up and superintending fights, acted as the keeper of the ring, by threatening to pummel any one who should venture to interfere with the combatants. The fight lasted for about an hour and a-half, during three quarters of an hour of which time, in the language of the Attorney-General, "the deceased could scarcely see his opponent, and of course merely stood up to be pummelled and beaten." The witnesses, however, all proved that there was no unfair play during the fight; it was also proved that Huxley, one of the prisoners, tried to prevent the fight.

Mr. **WINDEYER**, who appeared for Silvester, Lamb, and Huxley, in defence, objected 1st. – That prize-fighting was not illegal by either common or statute law. The only authority on the case was an opinion given by Judge Foster, who says that prize-fighting is not to be encouraged because it leads to idleness and debauchery. 2dly. – He contended that no evidence had been given that the deceased had met his death from the hands of Silvester or from falls caused by them – for aught that appeared to the contrary it might have been a fight at quarter-staff, or any other kind of contest as is usual in such cases. The prisoner's counsel gave a lengthened exordium on boxing as being an old manly British sport, calculated to foster and encourage the manly feelings, such as courage, agility, &c., and concluded by stating, that when the spirit which had dictated the fight for which the prisoner's appeared at the bar should fail, he would have but little hope of his adopted country.

In putting the case to the Jury His Honor said, that in point of law he was bound to tell them that prize-fighting was an unlawful act, and being such, any persons being guilty of it were punishable by the laws of the country, as well as those who were present at such scenes, or who were aiding and abetting to such unlawful act. He hoped from his heart that nothing would ever fall from that or any other bench that had the most remote tendency to put down, or even in the least to abridge the innocent sports of the populace; but whenever these sports and amusements were of such a description as tended to injure the bodies, affect the lives, or corrupt the morals of the people, then such sports and pastimes were unlawful, and those who engaged in them were liable to be punished for engaging in them; even in the case of the lower creation, such was the case as respected cock-fighting, to which some reference had been made during the trial. It had been said that the brutal sports and pastimes had been decreasing in popularity by reason of the prevalence of an erroneous refinement in manners and principles rather than from any real evil that was attached to them or which arose from them; but he was convinced that it was to be attributed to far higher and nobler causes, viz. – to an increase of morality, and as one of the benefits arising from the extension of the principles of christianity. In commenting on the evidence His Honor called the attention of the jury to the fight as being a premeditated one, it was a preconcerted act; and left it to the jury to say whether in common parlance a fight such as had been described was one with the fists or with quarter-staves. He also directed them to consider the evidence of the surgeon which showed that death had been caused by blood flowing on the brain, which had been caused by a fall, and injuries received on the neck. The Jury retired for about five minutes and returned a verdict of manslaughter against Silvester; they also found Lamb, Cullen, Hunter, and Huxley, guilty of being present aiding and abetting, but recommended Huxley to mercy on account of his having endeavoured to prevent the fight. The prisoners were then remanded. His Honor called on Mr. Keck, the principal gaoler, who being sworn,

deposed that all the prisoners had been in gaol since the 1st of December, and that the three young men had conducted themselves during that period remarkably well, and all seemed to feel the condition in which they were placed, particularly the prisoner Silvester. Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

SYDNEY HERALD, 09/02/1841

Supreme Court of New South Wales

Stephen J., 8 February 1841

Before the Mr. Justice Stephen and a Common Jury.

**STEPHEN TANCARD**, of Sydney, was indicted for the murder of **RICHARD RALPH**, on the 2nd November, in a boxing match at Blackwattle Swamp, and **CHARLES LEONARD** was indicted for being present, aiding and abetting.

The prisoners were defended by Messrs. **WINDEYER** and **a'BECKETT**; the latter for Tancard, and the former for Leonard. The defence of the latter was, that he went to the ground for the purpose of preventing the fight, and there was but one witness who was on the ground who had deposed as to his calling out "time," while that witness had been contradicted by all the others. Tancard's defence was, that the deceased had incited him to fight him by throwing up his hat in Parramatta-street, and offering to fight any man in the street; that after a round or two the prisoner offered to give up the fight, which the deceased refused to do; and that the deceased told him that unless he continued the fight he should polish him off, and therefore he was necessitated to continue the fight in self-defence. Evidence was also given in favour of the character of the prisoners.

In putting the case to the jury, His Honor stated, that notwithstanding the ingenious arguments used by Mr. Windeyer, he was bound to tell them that boxing or fighting was an illegal act, not only according to the opinion of Justice Foster, who was one of the highest authorities that could be quoted on criminal law; but also on the authority of Blackstone, Sir Matthew Hale, Sergeant Hawkins, and on that of East's Pleas of the Crown (page 207). If these authorities were not to be relied on, he did not know what authorities could be quoted in criminal courts of justice. But even the reasonableness of the question must convince every intelligent person that fighting with the fists was a most illegal act. Was it to be endured in any Christian community, that two men were (as in the present case) first to degrade themselves by the use of intoxicating liquors, and then to beat, lame, kill, and murder each other? At the very least, the offence was manslaughter of the most aggravated description; and he would even go further and instruct the jury, that if, in any case of death by boxing, it should be proved that there was malice among the causes which led to such contests, and that the parties wagered on the decision of such quarrels, then the offence became murder. It was of the utmost importance to the welfare of the community that the provisions of the law should be strictly enforced, to suppress such abominable, brutal, and disgusting practices. It had been said by the learned counsel that boxing was a national amusement. But he would put it to the common sense of the jury, what amusement could there be in such illegal acts? Was it to be tolerated for an instant, in such large towns as this, that mobs of disorderly blackguards should be drawn together for the purpose of contemplating a couple of infuriated drunkards shedding each other's blood? He considered it but justice, in the case of the principal Tancard, to state that there were a number of mitigating circumstances in his case, all of which would go in his favor as to mitigating his punishment, should he be found guilty; but all that the jury had to do was to decide on the evidence. The jury retired for about

five minutes, and on their return acquitted the prisoner Leonard, who was discharged; they found Tancard guilty, but strongly recommended him to mercy, on account of his previous good character, the provocation he had received, and his offering to give up the fight. His Honor ordered the prisoner to be remanded till he had an opportunity of consulting His Honor Mr. Stephen, as to his sentence, which should be as mild as consistent with public justice, as the ground on which the jury had recommended him to mercy were such as the Court would pay attention to. See also Sydney Gazette, 11 February 1841; Australian, 11 February 1841.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

TEMPERANCE, 1/19, 10/02/1841

SUPREME COURT – CRIMINAL SIDE

MONDAY, February 2

(Before the Chief Justice)

**JOHN LAWLER** and **CORNELIUS COOPER** were indicted, the former with beating one **THOMAS M'NAB** with a hurdle fork, and the latter with assisting him, so as to cause death. Not guilty.

SATURDAY, February 6.

(Before the Chief Justice and a Civil Jury)

**FRANCIS SILVESTER**, of Windsor, was indicted for having on the 26<sup>th</sup> of October last, at Colo River, in a prize fight, killed one **JAMES BIVER**, and **MICHAEL LAMB**, the younger, **JAMES CULLEN**, **JAMES HUNTER**, and **JOHN HUXLY**, were indicted for being present, aiding and abetting the said Francis Silvester. - The Jury returned a verdict of manslaughter against Silvester; they also found Lamb, Cullen, Hunter and Huxly guilty of being present aiding and abetting, but recommended Huxly to mercy on account of his having endeavoured to prevent the fight.

**GEORGE STOCK**, late of Penrith, was indicted for the wilful murder of his own son, **WILLIAM STOCK**, aged eight years, by having on the morning of the 4<sup>th</sup> of November thrown him into the River Nepean, and held him down till he was drowned. Acquitted.

An inquest was held on Saturday on the body of an old man, **NAME NOT ASCERTAINED**, who died the previous day in the Hospital. It appeared, from the evidence of a constable, that on Thursday evening, as he was passing, near the stores of **STEWART A DONALDSON**, Esq., he found the unfortunate man in a state of insensibility, and removed him immediately to the Hospital. Mr. Surgeon **HARNETT** certified, that death was caused by apoplexy, and a verdict to that effect was returned accordingly.

INQUEST. - Yesterday morning, an inquest was held on the body of an old man, named **JOHN MURRAY**, who expired on the preceding day. Surgeon **CUTHILL** having certified that death had been caused by apoplexy, induced by intemperance, a verdict to that effect was returned.

SYDNEY HERALD, 16/02/1841

Dowling C.J., 15 February 1841

**STEPHEN TANCARD**, who had been convicted before Judge Stephen of manslaughter, was then placed in the dock, when the Judge before whom he had been convicted informed him that he was happy to say, that, from the evidence adduced on his trial, that it was in his power to say that the case of the prisoner was very different

from the other charges of a similar description which had been tried before his Honor the Chief Justice : the prisoner had received a good character, and the Jury had, in the exercise of their discretion, recommended the prisoner to the merciful consideration of the Court. He had since the conviction, ascertained by enquiry that the prisoner, up to the time when he committed the offence, had been well behaved in the colony, and, therefore, he, as a dispenser of the law was anxious to give full effect to that character; but he could not shut his eyes to the evil effects of prize fighting, which had been so ably exposed by his Honor the Chief Justice, and which he trusted would receive publicity as it deserved, His Honor here gave an outline of the evidence, and sentenced the prisoner to one month in Sydney Gaol, in consideration of the confinement the prisoner had already endured, and intimated that he should also consider it but fair to the prisoner to inform His Excellency that the said outline was a full answer to all the offences charged against the prisoner, and that if he endeavoured in future to keep his character as it appeared before the court at present, that the charge for which the punishment was awarded, should prove no objection to his receiving in due time such indulgencies as he was likely to be a claimant for. See also Sydney Gazette, 18 February 1841; Australian, 16 February 1841.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

SYDNEY HERALD, 16/02/1841

Dowling C.J., 15 February 1841

**FRANCIS SILVESTER**, who had been convicted of manslaughter in a prize fight, and **MICHAEL LAMB, JOHN HUNTER, JAMES CULLEN**, and **JAMES HUXLEY**, -- You are to receive the sentence of the Court, having been found guilty of feloniously killing and slaying **JAMES BIFFIN** in a prize fight. If it had been made manifest that the practice of prize-fighting were gaining ground in this Colony, it would be imperative on this court to interpose, by a very severe example, the authority of the law, in order to dispel any delusion which may prevail as to its legality. The occasional exposition of the law upon this subject from this Bench has happily checked the frequency of this offence, and has perhaps rendered severity in the present instance unnecessary. It cannot, however, be too deeply impressed upon the minds of all, that this practice is highly criminal, from its tendency to encourage a spirit of idleness, disorder, and debauchery, and to brutalize the human heart. The practice has been denounced in ancient as well as modern times, by the most eminent Judges, as unlawful. Its illegality is not founded in a spirit of false delicacy and feminine refinement, hostile to manly sports, and the vigorous exercise of the generous faculties of our common nature; but it is based on a just regard for the interests of humanity, decency and public decorum. The plea on which it has too frequently been attempted to be justified is based on a gross fallacy. It would be a reflection on our national character, to imagine that money is a legitimate incentive to personal bravery. If it be necessary to cherish the bull-dog spirit of an Englishman by manly diversions of strength skill, and activity, all would deplore that that spirit should be tinged with the ferocity of the bloodhound. Such exhibitions as this case illustrates, inevitably tend to such a consequence. The idea of two civilized men meeting to batter each other to death for a few pounds, is revolting to every right feeling of the heart, and alike opposed to all law, human and divine; this is carrying the vice of gambling to an awful height, not merely money, but life, is at stake. Without any just cause of offence two young men agree, on a Saturday, to fight on the Monday for a wager of £5. Notwithstanding the intervention of the Sabbath, a day for

reflection and for composing the angry passions of the heart, they meet, and after a bloody contest of an hour, one falls, and is suddenly ushered into the awful presence of his Maker, with all his sins upon his head. Whatever may have been the demerits of the deceased, you, Silvester, have much to answer for. You appear, in this instance, to have been the aggressor, although the younger of the two; for you, and the other young men engaged in this unlawful transaction, some allowance may be made; but you, James Cullen and James Hunter, have not the plea of youthful passions and impetuosity of temper to extenuate your offence: old enough to be the fathers of your fellow-prisoners, you were not merely lookers on, but active abettors in the sanguinary conflict. Had you a just sense of your duty befitting your age, you might have prevented the fatal consequences which have ensued. In every point of view you have been more criminal than the younger offenders, and the Court is bound to draw a distinction between your case and theirs. The Court in awarding its sentence has taken all the circumstances of the case into anxious consideration. You, Sylvester, Lamb, and Huxley, have been recommended to mercy by some of your neighbours, on account of your youth, and you have already endured some imprisonment. These topics of mitigation are borne in mind by the Court, but it is necessary by some example to assert the authority of the law, and convince others by your sufferings, that the offence of which you have been found guilty is regarded as most dangerous to the peace and welfare of society. The sentence of this Court is, and this Court doth order and adjudge, that you Francis Sylvester, Michael Lamb, and John Huxley, be severally imprisoned in Her Majesty's Gaol, at Windsor, for two calendar months, and that during that period you and each of you be kept in solitary confinement for one week continuously; and the sentence of the Court upon you, James Cullen and James Hunter, is, that each of you be set to work on the public roads of this Colony in irons for four calendar months. See also Sydney Gazette, 9 February 1841; Australian, 9 February 1841; and Sydney Gazette, 18 February 1841; Australian, 16 February 1841. Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

TEMPERANCE, 1/20, 17/02/1841

SUDDEN DEATH. - On Saturday morning, a young gentleman of the name of **JOHN SMITH**, who was formerly a deposition clerk in the Police Office, was found dead in bed in his lodgings at Borton's London tavern. An inquest was held during the day, when a verdict of Death by delirium tremens was returned.

SYDNEY HERALD, 25/02/1841

Supreme Court of New South Wales

Dowling C.J., February 1841

SUPREME COURT, - Criminal Side.

Before the Chief Justice and the following Jury:- **ROBERT BALL, --- BROWN, JOHN BURNES, WILLIAM BARKER, JAMES BRIDGE, ROBERT BEST, J.N. BROWNE, CHARLES BLAKEFIELD, JOHN BEESON, J. BYRNES, THOMAS BRAY, and S.A. BRYANT.**

**JOHN SHEA**, convict per *Calcutta*, was indicted for the wilful murder of **JOHN GRAHAM**, by shooting him at St. Alban's, on the 21st December; and **JOHN MARSHALL**, convict per *Clyde*, **JAMES EVERITT**, convict per *Mangles*, **EDWARD DAVIES otherwise WILKINSON**, convict per *Camden*, **ROBERT CHETTY**, convict per *Sophia*, and **RICHARD GLANVILLE** convict per *Lord Lyndoch*, were indicted for being present, aiding, abetting, and assisting in the

commission of the murder. A second count stated the murder to have been committed by some person unknown, and charged all the prisoners as accessaries.

The Attorney-General stated the case. He said that the whole of the prisoners at the bar stood charged with the wilful murder of a young gentleman named Graham. All of the prisoners were convicts assigned to different individuals. Shea was assigned to Mr. Pilcher, Everett was assigned to Mrs. Muir, Marshall was assigned to Mr. Elliott, Davies was assigned to Mr. Sparke, Chetty was assigned to Mr. Chapman, and Glanville was assigned to Mr. Hely. All the prisoners therefore came out to the Colony to be punished for their crimes, and had had extended to them the indulgence of being assigned to individuals, who, by the Government regulations were bound to treat them with a leniency and kindness unknown to the law except in modern times, a leniency and kindness which they had no right to expect. Upon this however the prisoners appeared to have set no value, but showed themselves to be incorrigibly bad, for they had combined together to keep the whole country from the sea coast to Liverpool Plains, in a state of terror and confusion, and excite a degree of fear in the breasts of all Her Majesty's subjects residing in that part of the country. It would be necessary to trace a part of the prisoner's career. He found them at Brisbane Water where they were joined by Glanville who was in Mrs. Hely's service, and what took place there shows that persons of this description could not go through the country unless they were harboured by the assigned servants in the different districts, and others who are regardless of the peace of the country or hope to make a profit by the plundering carried on. Glanville was in a comfortable place; more so than a man in his position had a right to expect, but he took, what in this country has always been considered the first step to the gallows (and in this case he had no doubt Glanville would find it a truism,) he took the bush, and joined the other desperate men. After scouring the country with an audacity that had never been equalled, decorating themselves with ribbons, and when one set of horses was tired, taking another, they, at length arrived at Scone. On Sunday, December 20th the prisoners were all seen together not far from Scone, prosecuting their desperate designs. On the morning of the 21st they entered the town of Scone, or rather the village, for there are very few houses in it: they were all well mounted, and Glanville rode into Mr. Dangar's store yard, with some of the party, and other went to Chivers' public house, which is only separated from the store by a road: the party thus separating, some to rob one house and some the other: they were however still all within call, and within reach of each other, so as to give assistance should there be any resistance likely to frustrate their designs. The person the prisoners were charged with murdering was Mr. Dangar's storekeeper, and was following his occupation when the party came in. The report of the party being out had previously reached there, and from their dress and from Marshall being decorated with ribbands, they at once suspected who they were. Graham took up a pistol, the first thing that came to hand; it was not certain whether he fired it, but whether he did or not made no difference, for when a party of men leave their service, and go out on an expedition of this kind they are beyond the pale of the law, so far as this, that every man is armed with authority to apprehend a bushranger, and to do so has all the authority of an officer of justice. Mr. Graham immediately directed this steps to the lock-up, which was not far distant, it being natural that he should alarm the Police, when, as he was rounding a corner, not far from Mr. Dangar's house, more than one shot was fired at him, but only one hit him near the spine, when he fell down and almost instantly expired. While this was going on the party were robbing Chivers's and Danagar's; the shots were heard and Marshall came in and said the fellow was settled; some one asked if he was dead, and

Marshall replied, yes, he's all right. Mr. Dangar's son was in the store at the time, and it would appear that they had mistaken Graham for him, for one of them inquired whether it was not Mr. Dangar's son that was shot, and upon being told that he was not, Marshall said, "Well, he fired a shot at us, and we fired one at him." The jury would of course take the law upon the matter from the Judge, and they would find it was what common sense would point out that it ought to be. When a number of men go out with the intention of committing a felony, and are armed to the teeth with swords, guns, and pistols, what do they take them for but to use them if they are thwarted in their designs; to take life if it be necessary to resort to their arms in prosecution of their designs. Up to the 21st of December it would appear that no resistance had been offered to the prisoners; they had escaped with impunity, but that only made them more reckless and daring. He would state briefly the proofs of the prisoners' guilt, which he intended to submit to the jury. The prisoners were all together on the evening of the 20th of December before they entered Scone. He would show that seven men rode into Scone, and that some of them went to Dangar's and some to Chiver's, and all the prisoners would be identified except Shea; but immediately afterwards, on the same day, Shea would be identified as committing various robberies with the party, on their way to Page's River, near where their career ended. Mr. **EDWARD DENNEY DAY**, formerly the Police Magistrate of the district, but then Police Magistrate of Maitland, acted on the occasion with activity, zeal, and intrepidity, which will reflect honor on him to the longest day that he lives. Mr. Day, hearing that the party were within a day's ride of him, although he was not in his own district, and it was not strictly his duty to do so, was so zealous that he stepped forward and collected a number of ticket-of-leave and free men together, where assistance was readily given, and went in pursuit. They arrived at Scone shortly after the murder was committed, and hearing of that dreadful circumstance only added to their zeal and more recruits were added to the party. They followed the bushrangers very closely, tracing them by the robberies they committed, until at length they came up with them, when a fire was discharged by all the prisoners, but fortunately with no fatal effects. The prisoners afterwards boasted that they fired fourteen shots at the gallant band. Davis, who was a sort of leader fired two deliberate shots at Mr. Day, whom he knew to be the key-stone of the whole party, but Providence so ordered it, that Mr. Day's life was saved, and Mr. Day's fire wounded Davis. This shows the desperate characters of the pursuers, and puts beyond all praise the courage of the party, to whom the country and society are indebted for the capture of the party, and doubtless for sparing many lives. When the bushrangers' ammunition was exhausted, they were taken with the exception of two, one of whom was captured next day, and the other, if not apprehended before this, he had no doubt will shortly be taken. The indictment in the first place charged Shea with having fired the shot, Shea having told Mr. Day that he did so; he took upon himself the credit of taking the life of this young gentleman, and although others also wished to have the credit of having sent a fellow creature suddenly out of the world with all his sins upon his head, Shea persisted in stating that he was the man. The second count charged some person to the Attorney-General unknown with having fired the shot, but it mattered not in the eye of the law who did so, for all the aiders and abettors are equally guilty. All persons who go out with a common design to commit an unlawful act, are equally guilty of whatever is done in the prosecution of their common design. When the party rode away after committing the murder, the seventh man who had been watching, joined them, and as he had been keeping guard all the time it shewed the connexion between the parties. It was unnecessary for him to say more upon the law of the case, that they

would learn from His Honour, but they would find that no matter what part they took in the transaction all were equally guilty. The result of the case he hoped would be a further proof that the first step to the gallows is for a convict to become a bushranger and that however long he may escape with impunity, the law is strong enough and is sure eventually to overtake and punish him.

Mr. E. D. Day deposed, I am Police Magistrate of Maitland; shortly before then I was Police Magistrate of Muswellbrook; on the 21st December I was at the latter place on my private business, I do not think there was any Police Magistrate then in Muswellbrook; it was about nine in the evening of the 20th I received the information, and collected a party of ten mounted men, and set out in the direction of Scone, at seven A.M. of the following morning, and as we went along the road, we heard of their robberies; we came up with them at Do boy Hollow, about thirty miles from Scone, and found them about half a mile off the road; we saw some drays, a fire, also some horses teathered and a number of men in their shirt sleeves, making a rush to the opposite side of the Hollow; we galloped in among them, and after a good deal of firing we took five of them; Davis is one; I say him fire, he rushed up the opposite side of the gully in order to cover himself from our fire; I fired and he returned it at me after he got under cover of the tree, he fired again at me, resting the gun on the fork of the tree 20 yards from me. (Mr. Purefoy submitted that this was not evidence of the charge in the indictment. The objection was over ruled,) five of them were taken in five minutes after we came on them; they had ten muskets and a great many pistols; all were taken but Glanville, who was taken next morning; I held out no inducements to them to confess; they were very communicative and kept us awake all night; Davis and Marshall gave me a history of their proceedings, voluntarily, after I had taken down their names. (Mr. Purefoy submitted that what the prisoners said could not be evidence against them unless they were previously cautioned; the objection was overruled.) Shea said he was the person who shot Mr. Graham, and no one else, and it was no use denying it; I heard of the murder before we came up; Davis said he had always opposed the shedding of blood, for he knew if they did so, they would not reign a week; as he said this he looked on the others and said, you see we have not reigned a day; Marshall said he would shoot any man that fired at him, and that Graham was a foolish young man and could expect nothing better for firing among so many armed men; Shea said, he would shoot his father if he fired at him. More than one of them said, that up till that morning they had done nothing to affect their lives; there were eleven guns taken, and upwards of twenty pistols found on the ground; Davis, Shea, Marshall, and Everett, all acknowledged having fired four or five shots each and Chitty acknowledged to having fired one shot; the party who joined me were Edward White, Mr. Richard Dangar, Dr. Gill, Mr. Warran, Mr. Sinken, and Chief constable of Muswell-brook; the following ticket-of-leave men were with me when we took them --- Walker, Dawe, two Evans; Mr. Dangar's ticket-of-leave man, an assigned servant named Donahoe, with a border police man, none of my party was wounded, but Davis, Marshall, and Shea were wounded among the prisoners; when we came on them. Davis was making cartridges, and another was casting balls; they told us they did not expect to be pursued that day; but that they did not expect to be pursued that day; but that they thought the whole country would be up in arms against them next day; they told us that they would rather have shot the two of their party who got away, than their pursuers; they called them their recruits, and not the tried men of the gang; they had some trinkets and between £70 and £80 cash.

Cross-examined – I think I did not say that our party fired first; they saw us half a mile off before we went in upon them; Davis said he always was opposed to the shedding of blood Everett might have said the same thing; they seemed to have made up their minds that they had committed an offence which forfeited their lives, and that there was no use in concealing it; Davis said he had ordered the party not to shed blood.

Cross-examined by Shea – You did not appear to be drunk, you were evidently sober.

Re-examined by Mr. Therry – Davis took deliberate aim at me through the fork of the tree and fired twice at me; their horses were very much jaded; they had seven, and we got four more, which they had changed; Davis set the party a laughing by telling a story that he had failed to break the bell that called him to work we learned from them that the men at the drays, near where we took them, had beat them off; they all said they would rather be hanged than go to Norfolk Island; Mr. Day said the ticket-of-leave holders and the assigned servants had got promises of pardons.

**JAMES JEWSHAW** examined – I am a saddler in the employ of Mr. Thomas Dangar; I knew John Graham, the store-keeper, he was about [?] years of age; I saw him before seven o'clock on the morning of the 21st December; I saw a man come into the yard on horseback, and about a minute before I saw a number of horsemen pass the gate; the man on horseback called out, "Cook, cook, come out here;" I said to a man working with me, "these are bushrangers," as he galloped so unceremoniously into the yard; I cannot say if he is among the prisoners; I cannot say if any of them were there; I put down my work and went out the back way to tell the police; I went by the bush road, and I saw Graham on the road, I saw him run and then walk; I heard two shots fired, and saw Graham fall; he had a pistol with him; I went up to him, he said, "saddler, I am shot through, I am a dead man;" after he said this I turned round, and saw a man with a gun who said to me, "come back here or I will blow your brains out;" he was on horseback he had one gun before him and another by his side; I went back with him, he wanted Graham to go back with him, but he told him he was unable to do so; when we got back I saw an armed man on guard at the store door, and another armed man came out with some bracelets[?] in his hand, he threw them on the ground and the other trod on them; the man that [?] me back, said to the others, the man was [?] and there was no time for delay; they then went off; the man who took me back had a f[?] coat on; I was so much frightened I cannot recognise any of them; I was made to stand [?] tree opposite Mr. Dangar's store; they went down to Mr. Chiver's, on the opposite side of the road; people talking loud can hear from one house to the other, they are in sight of each other; he told the man at Dangars that the man was dead; from the time they came till they went away might be about fifteen or twenty minutes; I saw seven men leave Mr. Chiver's house; Mr. & Mrs Danger and their son [?] at home, as I saw them after; Mr. Chivers [?] also at home as soon as they went away [?] up to Graham, he was alive but senseless he died about ten minutes after.

Cross-examined. - The place where Graham was about one hundred rods from Mr. Dangar's door; I did not examine the pistol Graham [?] they did not appear frightened when going [?] they went leasurely.

Re-examined. - When I saw them afterwards at the Police Office none of them had on a f[?] coat; when taken they had ribbons in their [?]

Mrs. **CHIVERS** deposed - My husband is [?] lican in Scone; on the morning of the [?] December I saw three men like gentlemen [?] to Mr. Dangar's, one of them rode into the [?] and the other dismounted; I saw one [?] had ribbons of a light colour in his hat; [?] saw that I thought they were bushrangers [?] on going to the door to see if it

was so [?] them came up and said, well man, what you got here for us; I asked him what he wanted, and he said he wanted money, [?] we had plenty of it and must have it [?] the tall man who said this (Glanville) [?] a piece and several pistols stuck round [?] he told me to get up and get the money [?] had not much time to stop. I got the [?] and put it out to him at the window, there was £30 in £1 notes, and a £10 note, a £2 note, and half a sovereign, with about £20 in silver, there were some orders in the box, but he said it was of no use to take them, he then demanded the watches, and I told him there was none; he then began looking for fire arms, and called out Ruggy, when the short man (Everett) came in, and took up the cash box, and asked me about it, when I told him that the tall man had just taken all he wanted from it; he then took two bullet moulds, an old blunderbuss, and a piece, and afterwards seizing a violin, he called out "Mori, can you play the fiddle?" and one of them answered, "no, but I want a bugle;" I afterwards saw Marshall among the party where the inmates and people in the place were bailed up, among the rest was a border police man, who they told it was a good thing for him that he was an assigned servant; I saw five or six men at the door loading fire arms; they soon after mounted and galloped off; when a little way off I counted seven; they went off as quick as possible; I saw a man with a blue cap on, one of the gang had three or four men bailed up, he was armed, he went off with the other men; I heard three shots fired apparently near us; I saw Graham alive at sundown on the preceeding night, he was then well and alive; I saw him brought down dead of a gun shot wound near the small of his back; I heard two of the gang talking about something after the shots were fired, when one said what had been done, on which one said he was settled; and it was replied, that it was all right.

Cross-examined. - Davis was at the bar when I came out of my bed room and told me I need not be afraid, as no one should hurt me; while standing at the bar he had ribbons on his hat; I could not recognise Davis at the Police office as he was there bare headed; I knew him when I saw him with his hat on after being at the Police office; Davis was very civil to me he did not offer any violence; they were all very civil, and said they would not hurt any one; they were about half an hour at my place; I do not know who fired the shots I only heard the report, I can say they were all one party, and they must have divided before they came to our house; they all went away together; from the noise of the horses' feet there must have been more than three men; six left my house when they went away, and the man at the tree made seven; Davis might have been in my bar all the time, and when the shots were fired.

Re-examined not above two or three minutes elapsed before the time that I saw the party riding into Mr. Dangar's and the man coming to my bed room for the money.

The court adjourned for ten minutes.

**WILLIAM DAY**, examined - I was cook at Mr. Chiver's on the 21st December last; about 7, A.M., some men came to the place, at first but one or two came, one of them collared me in the stock yard; he had a pistol in each hand and clapped them to my head; Everett was the man; he had on a Manilla hat, with party coloured ribbons in it; I was bailed up, they then went and told another man, the milk man, that they were bushrangers, and if he resisted they would shoot him, and he was also bailed up with me; I saw a shot fired about 100 yards off along the road from Mr. Dangar's house, I saw the party who fired it; it was at Mr. Graham, he was running from Mr. Dangar's; the party who shot at him was about 20 yards from Graham; I thought I heard a shot fired, and then I saw the person who ran after Mr. Graham fire; I thought Mr. Graham was hit as soon as the shot was fired after him, he was running before, but after the shot he writhed his face and slackened his pace; immediately after my attention was called off to Everett; I heard afterwards some parties whom I cannot identify, asking

if the fellow was all right who was told he was; I got clear and ran for the police, where within about three hundred yards of the road, on my return, I saw Everett and six other mounted men getting along the road.

Cross-examined. - I do not know that Mr. Graham had a pistol; I do not know that there were any travellers at Mr. Chiver's house on the night before the morning when Mr. Graham was shot. Two or three went to Mr. Dangar's, and two or three to Mr. Chivers' house; the two houses are not more distant than fifty or sixty yards; one may go the distance in half a minute; but they are so situate, that a circumstance may occur at the one which might not be observed at the other.

Re-examined. - I think the parties were acting in concert together at the two houses, as, when I saw them leaving, they were all in company, and had their arms similarly slung.

**JOSEPH CHIVERS**, barman to his brother. - I recollect the bushrangers coming to my brother's house; I saw Everett and Davis, who were at the bar door, and the tallest man was also with them; Marshall was also there; it was he that asked if it was all right; I heard the answer - "yes, it is nearly so;" I heard some firing, two or three shots. It was after the firing I heard the question, and the party went off soon after. Everett bailed me up - he found me a seat; Davis was the man who kept me bailed up till the party went off; we can hear a call between the two houses.

Cross-examined. - I believe the party had not been in Dangar's above two or three minutes until I was bailed up; Davis, after taking charge, was over me until the party went off: we can speak from one veranda to the other, and get an answer; it was before I was bailed up that I heard the shots; there were three of them; there is a garden and pailing in front of each house. I am five feet and a half high; I can't say how many times the length of my body is a measure of the distance between the two houses.

**THOMAS DANGAR**, - I am a store keeper, at St. Alban's adjoining the township of Scone; I was at home on the 21st December, about 7 A.M. I heard a horse enter my yard, and saw it was a grey one; and one of my men was holding it; soon after I herd a person trying to make an entrance into my bed room; when either Mrs. Dangar or myself opened it; and a man entered, the prisoner Marshall; and asked if the deceased was my son; as he had fired at them, and would have his life; I told him he was my storekeeper, he demanded the keys, in order to obtain my cash box; he then took the box which contained orders only, he said they were of no use to him; he then took two watches, and a lot of gilt of bracelets; my little boy was afterwards brought into the same room, and bailed up with me; I know that the deceased was speaking to my boy a few minutes before he was shot, and that he had two loaded pistols, both of which I saw after his death one of them was then discharged; he slept on the counter for the protection of the store.

Cross-examined - I can only identify Marshall he was the man who bailed me up, and put the musket to my breast.

Examined by Marshall - you only demanded money from me; you told me to sit still.

**THOMAS DANGAR**, 11 years of age, son of the last witness - I was in the kitchen when the bushrangers came to the house; I saw the man Chitty come into the store, he called cook, cook, and gave the horse to the cook to hold; I saw Mr. Graham a few minutes before, he was asking for the key of the shop, he then disappeared; In a few minutes after, I heard a bushranger asking my father who a man was, as he had fired at them, and they would have his life, or shoot him for doing that; Marshall told my father to stand up, and searched his pockets; I heard no shots fired; I saw Mr. Graham

dead about an hour afterwards; the cook was struck by Chitty with the gun to cause him to go to the place he wanted him, which was under the tree, in front of the house. Mrs. **SARAH DANGAR**, wife of Mr. Thomas Dangar, one of the preceding witnesses, deposed as follows: I heard one shot on the morning, and soon after I heard two others; I soon after saw the prisoner Marshall at my bed-room door; he asked if the man was there who had fired at him, as his life was not worth a straw whoever he was. Before he got into the bed-room I saw the same prisoner, Marshall, bailing-up our cook. The prisoner Marshall demanded the money in the house from Mr. Dangar; he then got the cash-box, and looked it over, and said that the contents were no good; he then insisted that we had more money in the house; I then told him we had another cash-box, which I gave him; he took a one pound note from it, and said he would take it with the watches; he also took a quantity of bracelets from the store, and gave them to another strange man who came in, saying, "why are you so long here? the fellow is down," soon after which they left the place. There were seven men who rode off after the robbery from our house, and amongst them was the prisoner Marshall.

**WILLIAM JONES**, splitter and fencer, deposed:- I was in the bush on the 20th December last, about two miles from Muswell Brook, and I met seven men in the bush, six of whom are the prisoners at the bar; one of them, the sixth man, Chitty, directed me to go down to the creeks as a prisoner, and I was detained by them till sundown; they took my mate also and a shepherd, and asked us if we heard anything of them as bushrangers, and I told them not much. They had a pack horse and seven saddle horses; they took the beef in the hut and walked off with it; they offered no violence.

After this witness had left the box, the prisoner Everett said, "I hope that you will be the next that is shot and every b----y dog like you."

Mr. **JOHN PATERSON** - I live four miles from Scone; all the prisoners called at my premises about 9 a m., on the 21st December, and robbed me of a horse and pistol, they appeared very much agitated; they took the horse from the door, they compelled my man to saddle the horse, and they took it with them.

James Norrie, I am a settler in the vicinity of Scone, the persons came to my house on the 21st and had their breakfast; they frightened me very much; Davis told me to go in as he would shoot a man I a moment; they had shot one already; they told me to look out and give them warning if I saw any one coming from the same direction they had come from.

Cross examined. I had some knowledge of Davis; I had seen him before; he had had some refreshment before at my house; I have no doubt as to Davis being the man who spoke to me, but I cannot swear as to him. They left a £1 note to pay for what they had; they offered me no violence.

Mr. **RICHARD SOUTH**, Publican, of Page's River; seven men came on horseback to my house about noon, on the 21st December, and bailed us all up, and broke some fire arms I had in the house; Marshall told me he would deal with me before he left the house; he had robbed me three weeks before, when aided by Shea and Davis; I heard a shot fired at Mr. Rundell's store, after a man on horseback, the man showed me his pocket through which the shot had gone without injuring him.

Mr. **ISAAC HAIG**, surgeon, deposed - I was called on the 21st to examine the body of a young man named Graham, who had died from internal hemorrhage, caused by a gun-shot wound, the whole of the left cavity was filled with blood, the ball had passed in at the back about two inches from the spine, and had lodged in the muscles in the chest. I made a post mortem examination of the body of Graham, but did not find the

ball; death had evidently been caused by the gun-shot wound, and medical aid could not have availed.

**JOHN NOWLAN**, constable, who was of the party who apprehended the gang corroborated the evidence of Mr. Day, and was one of the party who took Glanville on the succeeding day, who afterwards shewed where he had flung his arms; this witness was of opinion that the first shot was fired by the bushrangers, who had their arms with them, and commenced firing on Mr. Day's party as soon as they (the bushrangers) took to the trees.

This closed the case for the Crown. Mr. Purifoy in an able address on behalf of the prisoner Davis, contended that there was no evidence of such of a constructive presence as would warrant the jury in finding his client guilty of being present aiding and abetting; he also submitted that the discrepancies between the charges set forth in the information, and those contained in the evidence were fatal. He also insisted on the distance between the houses, as a proof that no such constructive presence had been made out, as was necessary to warrant the jury in finding them guilty of being aiding and abetting in both the felonies, and called on the jury to give the benefit of any doubts they might have respecting the guilt of the prisoner to his client. The prisoner Davis stated that he had subpoenaed a witness named Walker; he was called, but did not appear.

The Attorney-General, said he would restrict his observations in reply to the case of Davis, who was defended by Mr. Purefoy. He had to caution the jury against being led away by any spirit of compassion in his behalf. It was proved that at the time of the murder, he was aiding and abetting, so far as to be acting as a sentry on the parties bailed up in Mr. Chivers' bar when the murder was committed, and but for whom aid might have been extended to the inmates of Mr. Dangar's house. He also reminded the jury that it was a principle of British justice that if parties went out to commit a robbery or any other felony, and there was another perpetrated by one or other of those who went out to commit the first, that unless the others could prove that they had no hand in the perpetration of the second the whole were in the eye of the law legally guilty as accomplices.

His Honor the Chief Justice in putting the case to the jury, remarked that in whatever way the present case was viewed, it was a most serious charge; whether as regarded the prisoners, the public safety, or the maintenance of the laws, it was the most serious case which had been presented to the Court during the present, he might with safety say, during the last three or four criminal sessions. The jury would bear in mind what had been so ably impressed on them by the counsel for the prisoners, viz. – that they were not trying them for being bushrangers, nor for being illegally at large with fire arms in their possession, but for aiding and abetting in the crime of murder; all with the exception of one of the prisoners were indicted for this offence, the renaming one by the first count of the indictment, was charged with being the principal in the commission of the murder. With respect to the legal principle introduced in the case submitted to the jury, he felt it is his duty to inform them that it was a broad principle of the British law, that if any body of persons went out to commit one felony and another takes place, they are then all alike liable to the law for being accessories, His Honor here cited a case in which when he was a young man, nine young men in London went out to commit a burglary on the house of an uncle of one of the burglars, when the nephew went with the rest armed with a blunderbuss, and shot his uncle at the window, and seven out of the nine were executed for the murder, although it was proved that none of them were armed but the nephew. He also called on the jury to dismiss all prejudice from their minds, either in favor of or against the prisoners, he

was the more anxious to impress this principle on the minds of the jury, as it might be that the very case in which they were now called to pronounce a verdict on, was one which had been made a matter of outcry, even by a portion of the public press, in order to impugn the due administration of justice, and solemnly implored them to try the case purely by the evidence adduced in support of the allegations contained in the indictment. He then went over the whole of the evidence commenting on the different parts which contained either direct or inferential evidence, for or against all or any of the prisoners; and remarked that he trusted the government would see the propriety of rewarding in the highest degree, those ticket-of-leave men and assigned servants who had behaved in such a becoming manner, by perilling their lives immediately when called on to put down such a system of rapine and blood as was charged against the prisoners.

The Attorney General informed His Honor, that all the men he referred to had received free pardons.

His Honor said he was most happy to hear that this was the case, as he was of opinion that it was a very judicious mode of teaching assigned and ticket-of-leave convicts to earn good characters for those they had lost, by preserving the lives and properties of the rest of the Colonists. He also pointed out to the jury, that the evidence which had been given of the subsequent proceedings of the party, had been put in for the purpose of enabling them to judge whether or not, the two parties before the attack on Dangar's and Chivers' premises, had not been in league before the said attack, was made which had been planned by the whole gang, and carried simultaneously into effect for the purpose of aiding and assisting each other. He also called the attention of the jury to the evidence given in favor of Glanville, who when taken on the 22nd December, denied being preset at the time when the shot was fired, and knew not of his own knowledge who had shot the deceased. It was also worth while for the jury to consider, whether this circumstance could not enable them to distinguish between the case of Davis and Chitty, and that of Glanville; also whether Marshall, by being present at both houses, was not a sort of link by which they kept up a co-operation between both parties, in order to enable them to aid and assist each other, and informed them that they were all equally concerned in the robbery of both houses, as well as of the other acts, provided the jury were convinced that they had separated themselves into two parties for the purpose of effecting their unlawful purposes. His Honor concluded by informing the jury, that if they entertained any well-grounded doubts of the guilt of any one of the prisoners, that they would give them the benefit of it; at the same they were bound to apply the evidence to the counts charged in the indictment, and if they found that the latter was established by the testimony brought before them, they were bound by theirto find the prisoners guilty.

The jury retired at a quarter past six, and returned at half past seven, with a verdict of guilty against all the prisoners.

After silence had been proclaimed, His Honor the Chief Justice, placed the black cap on his head, and called over the prisoners by name, to which most of them in the most careless manner replied either "here," or "here sir." He then proce[e]ded to inform them that the last scene but one of their guilty career had now arrived; that he was sorry to perceive from the hardened manner in which they had answered even the last interrogatory which was likely to be addressed to them, that they were all so callous and careless of the sentence that the justice of their country through him was to award to their crimes; he could not close his eyes to the fact that their guilty career had been checked by the praiseworthy exertions of a distinguished and praiseworthy magistrate, who, on hearing of their open violations of the laws had at great personal risk, and

with the most commendable activity and exertion, put an end to that course of iniquity which they had so recklessly commenced. He had some reason to doubt that when they had commenced their fearful course of iniquity and crime, whether they had meditated murder, but still such was the end of it, for a most respectable jury had after a long and patient investigation of all the circumstances of the case, not only against them as a body, but also against them individually, found each of them guilty of that awful crime they were charged with as having committed. It was a mournful reflection that such crimes as that which they had been convicted of, were only to be traced to the neglect of the principles of religion and morality; and tended, however, unfounded to bring discredit on the Magistracy and Police of the districts where they occurred. It could be no reflection on the laws of the Colony, that such awful crimes as that which the prisoners had been convicted of were but too common amongst us, as whenever these laws were appealed to, they were invariably found to be strong enough to punish the guilty, as well as afford protection to the innocent, whenever the transgressors were subjected to their influence. It was not to be tolerated that bands of men who had been sent hither for the twofold purpose of enduring the punishment of their crimes in their native lands, and also for the purpose of trying what secondary punishment could do in the way of effecting a reformation of them, and converting them from vicious to virtuous citizens, were to be allowed to roam armed over the country, plundering the homes of the peaceful and well-disposed portion of the inhabitants with impunity, and setting the laws of God and man at defiance, by shedding the blood of those who, as in the present instance, attempted to protect the property of those who entrusted it to their care. The prisoners at the bar had had a long and ample opportunity of reformation afforded them, which by their own deliberate acts they had cut themselves off from in this world, and which acts of theirs had also been the means of numbering their days. He was sorry to see six apparently young men thus cut off, at a time when, by pursuing another line of conduct, they might have been in the fair way to be returned to society with regained characters, as he was happy to say thousands had been before them, with even less means than the prisoners. Although he addressed them as a judge, he could not avoid declaring his feelings as a man, when dooming his fellow creatures, as in the present instance, to an untimely end, which had been caused entirely by their own wicked acts. He felt it to be his duty solemnly to warn them, that there was not a shadow of a reason for any one of them hoping that the awful sentence he was about to pronounce on each of them would be either delayed, mitigated, or changed. From the outrages which had been committed of late by persons like the prisoners, setting the laws at defiance and carrying on the practice of bushranging, it had become necessary whenever the blood of human being was shed, to visit that crime on the heads not only of the principals, but of all who should be convicted of aiding and abetting in the perpetration of such a crime, and therefore as the sincere friend of the individuals at the bar, he solemnly counselled them to make the best use of the brief space of time that would be afforded to each of them on this side the grave, to which their crimes had borne them with such deplorable rapidity, ere they had apparently attained the prime period of manhood. He could solemnly assure them that the light of the day would soon for ever close on each of them; the game of their guilty career was now up, and they would ere long have to stand before the Author of their being, to answer not for one, but for every guilty act which they had committed. It had been said by some of them that they would prefer the doom about to be awarded to them to that of being transported for life to Norfolk Island, and it had been given in evidence that such was their boast to the gentlemen who had been the means of checking their guilty careers; their awful wish he could

assure them should be gratified, in order to make an example of them to deter others from pursuing such a course of guilt and crime as they had plunged into. As their time was short, he would not harrow their feelings (if any they had) with a recapitulation of the enormities they had been guilty of, but trusted that they would employ the few moments which were still granted them to make peace with their Creator, and to show by their contrition (when they made their exit from this world) an example that would be the means of inducing their, as yet undetected fellows in crime, to the belief that no one could act as they had done, and quit the world without earnestly desiring that they had done otherwise. His Honor then passed sentence of death on the prisoners in the usual form.

During the course of the day the prisoners Everett, and Shea, behaved with all but disgusting levity. From the awful manner in which Davis changed his appearance when he heard the foreman of the jury pronounce him guilty, it was evident he had all along anticipated an acquittal. During the time the jury were retired to consider their verdict, these three appeared to be quite unconcerned laughing and chatting to such of their friends and acquaintances, as they recognised among the crowd which was intense during the whole time of the trial. In order to put a check to such unseemly conduct, they were ordered into the cage till the jury returned, when they began quarrelling among themselves, all of them assailing Davis, and charging him not only with being the cause of their ruin, but also with being the means of injuring some parties who had harboured and otherwise assisted them, when Davis heard his sentence he was seen to shed tears, while some of the others observing Mr. Lane the Superintendent in Hyde Park Barracks, in Court, vented their anger in wishing he might break his neck. The whole were removed to the gaol about fifteen minutes after sentence had been passed, each pair being handcuffed between three constables, and some hundreds of person marching along with them. We observed during the day, an unusual number of assigned servants and ticket-of-leave holders intensely listening to the proceedings.

Source: Sydney Herald, 27 February 1841

As a number of the junior members of the profession of the law have expressed a desire to obtain a statement of the points of defence, in the case of the seven bushrangers, by Mr. Purefoy, on Wednesday last, we subjoin the following, which we believe contains the legal points which that gentleman urged.

Mr. Purefoy, on behalf of the prisoner Davis, addressed the jury in an able and powerful speech of considerable length, the learned gentleman contended, first, that all the prisoners were out that day with a two-fold object in view, each distinct from the other, viz: to plunder the houses of Chivers and Dangar; that each had a separate part allotted him previously, and that those engaged in the robbery at Dangar's were in no way whatever, at the time, connected with those engaged in the robbery at Chivers's public house, that, therefore, as the two felonies were perfectly distinct and separate, one from the other, those engaged in the one, could not be said to be actors, or abettors, to those engaged in the other. The learned counsel next contended, that as the houses of Chivers and Dangar were sworn to be upwards of 200 yards apart, and that persons engaged at one, could not be heard or distinctly seen at the other, that there was not such a constructive presence as would render those at Chivers's aiders or abettors to those at Dangar's, at which latter place the murder was committed; lastly, the learned counsel cited a case from Foster's Crown Law, to shew that where several go out with intent to commit a felony and that one commit murder, the rest will not necessarily be guilty of murder, unless there be evidence to shew, that all consented to it, or that it was committed in order to carry into effect the common

purpose in which they were all engaged. The learned gentleman concluded his very able and ingenious address to the jury, by informing them, that if they entertained any doubt whatever as to Davis being present at the murder of Graham, that they were bound to give the prisoner the benefit of that doubt, and acquit him of the capital charge. See also Sydney Gazette, 27 February 1841; Australian, 25 February 1841. Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

TEMPERANCE, 1/22, 03/03/1841

INQUEST. - On Thursday, the adjourned inquest on the body of **ANNE SAPWELL**, was resumed, at Mr. Richard Driver's, Three Tuns Tavern. The deceased had, on the preceding Tuesday night, been lodged in the Cumberland-street watch-house, on a charge of being drunk and disorderly, and had on the same night (about midnight) been found dead in the cell where she had been confined, with a ribbon tied round her neck so tightly as to cause death. From the evidence adduced, it appeared that the deceased had destroyed herself while in a state of intoxication. A verdict to that effect was returned.

A private of the 50<sup>th</sup> Regiment, named **KELLY**, was accidentally drowned non Friday last, whilst bathing near Soldier's Point.

BLACKS. - Three native blacks were brought to Sydney yesterday from Moreton Bay, charged with the murder of Mr. **STAPYLTON**, late Assistant-Surveyor, the full particulars of which were given at the time in the *Herald*.

On Friday evening last, a seaman belonging to the *Ruby* fell over board and was drowned; the officers and seamen were promptly at hand, but were unable to render any assistance for some time, in consequence of not having been able to procure a grapnel. There can be no doubt that liquor was the cause of his death, as he was an excellent swimmer.

TEMPERANCE, 1/23, 10/03/1841

ACCIDENTAL DEATH. - As Mr. **KINSELA**, the Chief Constable, was returning late in the evening in a cart from the Township to his residence, after taking home the nurse who had been attending his wife in her late confinement, on crossing a dry creek or gully, the night being very dark, he kept too high up on the bank, the cart upset over him and killed him on the spot by crushing him underneath it, and breaking his neck; there was a constable with him at the time, who was very much injured, as the cart fell over his chest, broke two or three of his ribs and severely bruised him; he could not disengage himself from it, and remained in this awkward predicament upwards of two hours, when his cries at length brought assistance. His loss will also be felt in this district, where he has proved himself a diligent and efficient officer of the police, and servant of the public. We regret to say, that it has been insinuated by one or two of the parties, that he was intoxicated at the time of the accident, but this is a falsehood, as the depositions taken before the Police Magistrate will prove. The accident occurred entirely from the bad state of the road and the darkness of the night. A verdict of accidental death was returned.

The Hunter's River bush rangers have been informed that their execution is to take place on Tuesday next, the 16<sup>th</sup> instant. There are six of them.

TEMPERANCE, 1/24, 17/03/1841

EXECUTION OF SIX BUSHRANGERS. - These men who were convicted of the murder of Mr. Dangar's storekeeper, at Scone, last month, yesterday morning paid the

forfeiture of their lives to the outraged laws of the country. The Rev. **W. COWPER** and another clergyman, the Rev. **F. MURPHY**, and Mr. **ISAACS**, of the Jewish persuasion, attended them to the place of execution; they appeared to feel deeply penitent, with the exception of one, whose conduct was not at all in accordance with the awful solemnity of his situation. It was a melancholy sight to see so many men in the prime of their manhood thus hurried into the presence of their Maker, to give an account of all the deeds done in the body.

**BOAT ACCIDENT.** - Yesterday afternoon a boat, containing two females, four men, and a boy, when just off the ship "Glenswilly," was capsized, and although every exertion was made to save them, two men were lost, and the others taken on board the vessel in a senseless state.

**INQUESTS.** - On Thursday an inquest was held at Mr. Driver's, Three Tuns Tavern, corner of King and Elizabeth-streets, on the body of **MICHAEL BISHOP**, who had been beat by his brother-in-law, **MICHAEL MOORE**, with an axe handle, on Saturday last. Doctors **STEWART** and **HARNETT** certified that death had been caused by the injuries received. The jury, after a long enquiry, returned a verdict of "wilful murder" against Moore, who has absconded. The coroner issued a warrant for his apprehension.

On Friday an inquest was held at the General Hospital on the body of a new born child, of which the mother, **MARY LEDSHAM**, had been delivered in the Receiving Watch-house, on Wednesday evening, where she had been placed for the purpose of being returned to Government, as being useless in service. Dr. **HARNETT** having certified that the infant was still-born, a verdict to that effect was returned.

Another inquest was afterwards held on the same day, in the Blue Bell public house, on the body of a man named **THOMAS DUPROY**, who, while carrying a child through the street, on Friday morning, had fallen down and instantly expired. Surgeon **LLOYD**, of Market-street, having certified that death had been caused by apoplexy, a verdict to that effect was returned.

**BIRTHS.**

In Prince-street, on 13<sup>th</sup> instant, Mrs. **GEORGE SMITH**, of a daughter, still born.

**TEMPERANCE, 1/26, 31/03/1841**

An inquest was held on Tuesday, on the body of a child aged three years and a half, named **EMMA MCADAM**, whose death was caused by poison from putting into her mouth several Congreve matches. The composition of the matches consists of exymuriate of potash and phosphorous, and a surgeon told the jury a grain of the latter was sufficient to cause the child's death.

**SYDNEY HERALD, 14/04/1841**

Supreme Court of New South Wales

Burton J., 13 April 1841

**GREGORY TABEE**, a Malay native of Manilla, was indicted for the wilful murder of **PETER ANDERSON**, on board the ship *Susan*, on the 22nd of March last, she being then on the high seas, off Jarvis Bay, on her passage to this Colony, with emigrants. From the evidence given for the prosecution, it appeared that the prisoner and the deceased were seamen and messmates on board the said ship, and during the voyage it had been a general remark by those on board that the prisoner and the deceased were on very friendly terms, On the night of the 22nd March last the prisoner went below to the berth of the deceased, said "Good bye, chummy," and instantly stabbed him in the belly, of which would the deceased died in seventeen

hours. It also appeared that two others of the ship's crew were seriously wounded about the same time by the prisoner. In defence the prisoner denied all knowledge of having committed the act, and could only account for his having committed it when in a dream, but admitted that he had observed that it was the intention of the passengers to throw him overboard. It was also elicited by the Judge that the prisoner joked and laughed about the affair, that although he appeared sensible that he had done wrong, the only excuse he offered for it was that he was foolish or mad when he wounded the deceased.

In putting the case to the jury. His Honor remarked that the present case was one of the most extraordinary cases that had ever been brought before a jury, as there was no evidence of any exciting cause, nor of any provocation given by the deceased to the prisoner; that the offence being committed on board a British ship, on a British subject, brought the case within the jurisdiction of the Court. With respect to the dream, His Honor called the attention of the jury to the fact, that there was no evidence that the prisoner was under the influence of any delusion, even that of a dream, as it was proved that the prisoner was awake for at least five minutes before he wounded the deceased. He left it to the jury to say, first, whether the prisoner had been guilty of murder or manslaughter. The jury without retiring from the box, returned a verdict of Guilty of murder against the prisoner. Sentence of death was passed upon him. See also Sydney Gazette, 15 April 1841.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

TEMPERANCE, 1/28, 14/04/1841

ANOTHER VICTIM OF RUM. - The Coroner held an inquest on Wednesday last, on the body of a woman named **SARAH DUNN**, the wife of an industrious and sober tradesman, who it is well known used every means to dissuade her from the use of spirits, of which she was in the constant practice of indulging to excess. This was the more to be deplored as she was quite a young woman, and previous to her being led astray by persons of her own sex in the neighbourhood, she was a prudent and steady woman, but owing to association with those of dissipated habits, she became as degraded as they were. Mr. Surgeon **LLOYD** of Market-street, having certified that death was caused by inflammation of the bowels induced by previous habits of intemperance, the jury returned a verdict in accordance with his testimony, although five out of the twelve were publicans.

An inquest was held yesterday on the body of a man named **FRANCIS WALKER**, formerly Clerk to Mr. Armstrong, Veterinary Surgeon; the jury returned a verdict of "Suicide committed under temporary derangement, caused by intoxicating drink."

AUSTRALIAN, 20/04/1841

R. v. Cottington

Supreme Court of New South Wales

Stephen J., 15 April 1841

R. v. Cottington

The next case was one which had occasioned considerable interest in the New Country, on account of the age and respectability of the party accused. The Court was very much crowded during the whole time. The prisoner, Mr. **JAMES COTTINGTON**, of Lake Bathurst, stood charged, first, with shooting at, with the intention of murdering, and, in a second count, with an attempt to do some grievous bodily harm, to **THOMAS DOYLE**. Cottington had been out on bail, and, on his

being called, appeared at the bottom of the table, on the floor of the Court; His Honor, observing this, inquired of the Solicitor-General, how was it that the prisoner was not placed in the dock? as he would never allow any distinction to be made between the poor man and the rich man in any cases of felony which came before him, however, respectable, as in this case, the party might be. Mr. Cottington took his stand immediately at the dock. The Solicitor-General conducted the prosecution, and Mr. Foster and Mr. G. R. Nichols the defence.

The first witness called was Thomas Doyle, who, on being sworn, said he was a ticket-of-leave man, and was in the service of Mr. Cottington on the 13th January last; remembers the day remarkably well. He, with **CONNOLLY**, **OAKES**, and **DICKS**, had been shearing; they returned just before sun-down, and understanding that their master (the prisoner) had given a glass of grog to the other men, came up to the house to ask for one too. Mr. Cottington was sitting under the verandah, smoking his pipe. They asked him, and he told his overseer to give them a glass each; but he was drunk, and went away without giving them any. Witness and his companions again spoke to their master, and he replied, that when his son John came home, he should give them some. With this assurance they went to the back of the house. When John came home, they all four went round to the front door; one of them knocked several times, but no person answered; seeing it was of no use, they turned to walk away, but while in the act of doing so, Smith, a servant in the house, came out and called out, that the old man was coming with fire-arms. They all set off to run, but in a moment he (witness) felt himself wounded, and heard the report of a gun. He looked round, and seeing his master standing at the corner of the house, with the piece in his hand, felt afraid, as he was not very sober, that he would shoot him again. Witness fell into Oake's arms, who told Cottingham he had wounded one man, and that he had better leave off. The distance he was from the prisoner when the gun went off, was seven or eight yards. Dr. Mould visited him, and examined his wounds.

Cross-examined by Mr. Foster. - It was a quarter of an hour before sundown when they first spoke to their master under the verandah, and a quarter of an hour after sundown when he received his wounds. At the time his master shot, he had on only his drawers, no coat or waistcoat. Thinks the distance was seven or eight yards. Had worked for the prisoner three years and a-half ago; but at the period to which this evidence has reference, he might have been in his employ eight weeks; always found him a good master, and never had a quarrel or misunderstanding with him. Witness admitted, with considerable reluctance, that he might have said, that after being wounded he ran into the kitchen and hid himself under the table. After being wounded was immediately put to bed, and a surgeon attended him; does not know if the prisoner paid the surgeon's bill; has not himself worked for him since, but his partner has. Examinant was not on horseback within a week from the time of being wounded, for he could not sit up.

William Oakes, a ticket-of-leave man, the next witness, corroborated the evidence given by the prosecutor; but in his cross-examination he said that the master went into the kitchen and ordered them all off, as they had no business there; and that he might not be able to distinguish who they were. Had always found him kind and liberal.

Thomas Connolly, on being sworn, gave similar testimony to the two previous witnesses. In his cross-examination he said he had lived on and off, with the prisoner twelve years, and had always met with kind treatment when he deserved it.

**WILLIAM SMITH**, sworn. - Is a shoemaker and a ticket-of-leave holder; remembers the 13th of January; heard Mr. Cottington say, "Give me my piece, I'll

start those fellows from the door; they have no business there.” It was neither light nor dark. Soon afterwards witness heard the report of a gun, and Doyle was wounded.

Cross-examined. - Won't swear whether master said he would start or startle those fellows. Jackey Jackey (Westwood) was out, and several ticket-of-leave holders had been pressed to go with the constable in search of him.

**GEORGE YOUNG MOLD.** - Is a physician, and resides at Goulburn; was called in on the night of the 13th of January last to examine Doyle, at the house of Mr. Cottington; found three flesh wounds in the loins and the lower parts of the back; one was very slight, another was about one inch and-a-half in depth, and in the third the shot had travelled for two inches and-a-half; Doyle complained of being in great pain, and was evidently very weak from loss of blood; at first examinant thought the case a serious one, but in a day or two the serious symptoms passed away; attended him fourteen or fifteen days; the shots were merely slugs.

This closed the case for the prosecution.

Mr. Foster made an admirable defence for the prisoner, and then proceeded to call a number of highly respectable witness to character.

The Solicitor-General having declined to reply.

The Judge summed up with great care and exactness, and at considerable length.

The Jury retired for about twelve minutes, and on their return into Court, delivered a verdict of not guilty.

[1] This trial was held at Berrima.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

AUSTRALIAN, 20/04/1841

Supreme Court of New South Wales

Stephen J., 16 April 1841

**THOMAS LEARY, alias SUTTON,** was indicted for the wilful murder of **THOMAS DUNN.**

**CASSIDY** being sworn said -That on the day named in the indictment, himself and the deceased were looking out for bushrangers, on seeing the prisoner and another man within fifty yards of the hut where witness and deceased stopped; deceased challenged them, on which the prisoner dropt on his knees, and on the deceased desiring him to stand up he did so; prisoner then said to deceased, who was about to handcuff him, “do not hurt my hands,” and immediately fired a pistol at the deceased, the ball of which passed into his head over the left eye; witness then fired at the prisoner; whilst running away his hat fell off; the hat produced is the same and has two shot marks in it; I fired at the prisoner at the time his hat fell off; did not see the prisoner again until about five weeks back, when I was informed that a man named Leary was taken up on suspicion of having shot a constable; witness then recognised the prisoner, and now swears he is the man who shot the constable.

By the Jury. - Ward could not have so good an opportunity of knowing the prisoner as myself, in consequence of my having my eye steadily fixed upon him.

By the Judge. - Ward covered the other man, whilst I covered the prisoner; cannot state how far Ward was from me; I swear positively that the prisoner at the bar is the man who shot Dunn.

**JOHN WARD.** - On the night named in the indictment, myself and the deceased and Cassidy were in a hut of Mr. Tottingham's. Deceased looked out and said, there are two men coming, stop inside till they come nearer. Cassidy and Dunn told the two men to drop on their knees. Dunn asked Cassidy for the handcuffs. Cassidy threw

them on the ground, and on Dunn stooping for them, he received a shot in the head, and fell-down. The man who shot Dunn had a black hat on, at the time Dunn was killed. It was from the smallest man the shot was fired. The tall man had on a Manilla hat, and a fustian shooting coat.

The prisoner being called upon for his defence, denied the charge.

**PATRICK McCAULL** was constable till the 7th March, when he was dismissed. Heard Cassidy declare he would hang the man he had got committed, if he had never hanged a man before.

By the Judge - Cassidy was speaking of the man he had committed for the murder. Verdict, Guilty, accompanied by a recommendation from the Jury for mercy! Death recorded.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

TEMPERANCE, 1/29, 21/04/1841

BIRTHS.

Yesterday, in King street, the wife of **WILLIAM KENNEDY**, printer, of a son, still born.

TEMPERANCE, 1/30, 28/04/1841

CORONER'S INQUESTS. - A Coroner's Court of Enquiry was convened at a licensed Inn in Argyle-street, on Thursday last, upon view of the body of a Mr. **REYNOLDS**, a blacksmith of that neighbourhood. From the evidence adduced on this occasion, it was evident that the deceased over-night was under the influence of liquor, and in the endeavour to reach home, unluckily stepped on a piece of ground of insecure foundation, and unable to recover his balance, fell: in the shock his neck was fairly broken. The jury expressed themselves fully satisfied with the two evidences, and said they required nothing further. Verdict, accidental death.

CAUTION TO JURORS ON CORONER'S INQUESTS. - At an inquest held by Captain Innes, on Thursday last, the ACTING Coroner took note of one of the jury, a publican, evidently labouring under the influence of liquor; this was at noon. [cont'd]

BIRTHS.

At Watson's Bay, on the 20<sup>th</sup> instant, the lady of **LAURENTZ CAMPBELL**, of a son, still born.

SYDNEY HERALD, 01/05/1841

Supreme Court of New South Wales

Burton J.

R. v. Davidson

The Jury list having been called over, Mr. Justice Burton said:-

Mr. Solicitor-General, Gentlemen of the Bar, Gentlemen Magistrates, and Gentlemen of the Jury, - We are met together this day to perform a duty which has been imposed upon us by the Local Legislature, by an Act passed on the 16th October last. This, as you are all aware, is a new duty, and we are met together for the first time to perform it. This is the first Circuit Court that has been held in the district. There was, as many of you doubtless recollect, an adjournment of the Supreme Court held in Bathurst some years since upon a special occasion but this is the first time that a Court has met similar to those which we have been accustomed to in the Mother Country, and bearing the same relation to the Supreme Court that the Courts of Assize

in England have to the superior Courts in Westminster. It may therefore be well for us on the first institution of this Court, whether we are here as prosecutors, as witnesses to give evidence, or as judges or juries, to sit in judgment, I say it will be well for us all to pause, as it were, on the threshold of the temple of justice, and consider the nature of the solemn duty we have to perform. The administration of justice should not be entered upon lightly; it is a matter of the highest importance. There are some, I am aware, who look upon it as a mere ordinary affair; but it is my duty to disabuse the minds of those who may have formed that opinion. The administration of justice is not a mere abstract enquiry whether this or that person is guilty of this or that offence, and has thereby incurred a certain penalty; nor is our duty simply the adjustment of the rights or wrongs of our neighbours. Our jurisdiction is of a much higher character, and springs from a much higher source. Human institutions have little authority if they are not founded on divine law. In this view of the case you will see that it is not a mere abstract enquiry, but a religious duty which we have to perform. Justice, the highest attribute of the Supreme Being, is committed into our hands. What an awful situation then is ours, - set apart from the rest of the community to exercise this important duty. We are not to be looked upon as the servants of men, as some suppose, but as the servants of God, whom only we must obey; but if we were the servants of men we must obey our masters. We must obey God. Men's opinion upon our various acts will be freely given, and it is well that it is so, for many will be more guided by fear of the opinions of men than by higher principles. But this is not a lawful incentive; we should not perform our duty according to what men will think of us, but according to that which is right. I said just now, that the duty we have to perform is a religious one; our jurisdiction would fail of its influence and office if it were based on human law only. It may be doubted indeed how far, without divine authority a Legislature could go in inflicting pains and penalties for offences, more particularly the punishment of death. But we know that the National authority for it is derived from the Supreme. Accordingly, we find that in the law of our Christian country, there is nothing that is not based upon divine law. Go through the catalogue of crimes which are punished by law, and you will find that they are all offences against the divine law. Blasphemy and profane swearing, which, as you have just heard from the proclamation that has been read, are forbidden by law, are curses against the law of God. So it is with murder, the highest of crimes both by human and divine; so it is with perjury, theft, and with crimes against chastity of all descriptions. If a man does any wrong to his neighbour, if he perverts the due course of justice, if he molests the widow, or oppresses the fatherless, he offends against the law both of God and man. The same rule applies in civil cases, for no man can defraud his neighbour without offending against the law of God. To do justice is a divine command. A prophet says, "what doth he require of thee, O Man, but to do justice, to love mercy, and to walk humbly with thy God." Shewing that he does require us to do justice. The administration of justice therefore is a human institution, but it is a divine ordinance. What state of mind ought we then to be in who are called on to take part in it. We ought to be thankful that we are in a country where the laws are based on such authority. Imagine the state of a society in which there should be no law; what would be the consequence, why that every one must avenge his own wrongs; that all who are defrauded must retaliate; the strong would always be oppressors, for no one could retaliate upon them. What an awful state of society that would be, where there would be no redress for wrongs except what was to be obtained by personal strength. I am aware that I must be merely eliciting in the minds of many gentlemen, what they had before formed an opinion of, but I must be excused for taking up their time, as there

are doubtless many present whose minds have not turned to the subject, and it may be well on this first occasion of opening this Court to draw their attention to it. I now, gentlemen, come more particularly to the Act of Council under which we are assembled together. The object of this Act is to improve the administration of justice. To render the administration of justice efficient, we must have in the first place good laws, and I must confess that in many of ours there is great room for improvement. If laws are confused, if they are doubtfully worded, if they are scattered over many different acts, so that they are difficult to find or to understand, they are bad. Doubtful laws introduce a species of slavery into a land, they render uncertain what ought to be certain to all. We require an improvement in some of those which relate to the administration of justice; this arises partly from the increasing populousness of the colony, and the immense distances which adventurers go with their sheep and cattle. One improvement has been effected by bringing justice to your doors, by the institution of Circuit Courts. But there are others equally necessary. It would be unreasonable to expect the Judges to go on circuit to such places as Port Phillip, or Port Macquarie, or Port Essington, all of which are within the Governor's commission, and consequently form part of the colony. Some provisions have been made for the administration of justice at Port Phillip; on those provisions some observations might be made, but this is not the place for them. It is necessary, however, that a court should be established at Port Macquarie: probably a Supreme Court may not be necessary, but a court having more extended jurisdiction than Courts of Petty Sessions or Courts of Requests. Promptness in the administration of justice is one of its greatest recommendations; the force of example is also greater, as those who are witnesses of the crime are also witnesses of the punishment. This Act will, I think, be found one of economy, a virtue which it is the duty of all to practice, whether in public or private affairs. The system which has been hitherto pursued has been any thing but one of economy. Some gentlemen present may recollect that, more than five years ago, I said that the roads were crowded with persons going to and from the Courts of Justice, I alluded to the numerous escorts conveying prisoners to and fro. The expense that was thus incurred was enormous; witnesses were brought up and down the country; constables were sent backwards and forwards; prisoners were brought down to Sydney and then remanded back to be tried at Quarter Sessions, and all this at an expense to the country that was almost incalculable. Gentlemen who had an opportunity of seeing these escorts on the road, must know that the expense was enormous. One case, amongst many others, recurs to my memory, which was not tried from the absence of a material witness, the expenses in which were £59. I am satisfied if an account could be formed, combining what is incurred in the escort of prisoners, in the travelling of witnesses, and in serving of summonses by persons who ought to be otherwise employed, the system hitherto would be found most extravagant. The establishment of Circuit Courts will be found to be an economical measure, not only as regards the country, but as regards the suitors, whose expenses used to be very great. But although economy is a great, it is not the best commendation which an institution can have. Some think that cheap justice is a great desideratum, and that cheapness may be taken as the criterion of the work of all institutions. In this remark I mean no reflection upon those gentlemen who so kindly presented me with an address this morning; they did not use the word "cheap" I am persuaded, in the manner I am alluding to; they, I hope, entertain the same idea as myself, that cheapness is not the best recommendation of any measure. That which is best is cheapest; but I deny that that which is cheapest is best. You may disrobe justice of all her dignity, and make the administration of it that affair of heartlessness, that mere abstract enquiry I have

before alluded to. The truth of a fact may indeed be thus determined, but that is not according to the genius of Englishmen. To use a metaphor, we often see truth indeed represented naked, but justice is always clad to the feet. The genius of Englishmen has covered the administration of justice with decency and respect. A man who is a Colonel of Militia on field-days, a Judge on Court-days, and a shopkeeper every day, might administer justice properly, but he could not add much to respect for the law. It is not the cheapness, but the usefulness of an institution that should be the criterion of its worth. The next point to which I will speak is personal to myself and my brother Magistrates, for we are all Magistrates, although of a different degree. The first requisite in the administration of justice is good laws; the second is good Judges and Magistrates. As to who are qualified to be Magistrates, the constitution of England says, that they shall be men of the first consideration in the country, and that the Judges shall be men of the first consideration in their profession, that they shall all be men of piety and learning. We have but to refer to the Royal proclamation, which has just been read, to see that Magistrates must be men of piety, men who will discourage vice and encourage virtue, who will put the law in force against all offenders, who will insist upon a regular attendance upon divine worship, and who will put the laws in force against those who do not attend. By this proclamation I am directed as Judge of Assize, as I do now strictly, to charge you to put the law in force against drunkards, blasphemers, and those who commit lewdness. What manner of men ought those to be, is a natural question, that have this duty to perform? How can they enforce the law against those who break the sabbath, or who commit lewdness, if they commit these offences themselves? I might be over-awed in making these remarks, if I thought any gentleman who now hears me could apply them to himself, but I trust it is not so. I think it, however, my duty to state that no drunkard, no sabbath breaker, no whoremonger, ought to be, or is fit to be, a Magistrate. At the opening of this Court I think it right to make these general observations, and if there are Magistrates to whom they apply, which God forbid, I can only say that they are the persons to whom they ought to be made, and that they should show some sort of remains of decency and honesty by retiring from a situation of honour into private life, or what would be better still, reform themselves and leave off their evil ways. I will now trouble you with a few remarks upon the duty of magistrates. In all cases they should be particular in observing the law in the first stages of a prosecution, for all will be in vain if the first steps are not judiciously taken. The individual duties which you have to perform are heavy and responsible. Some magistrates receive stipends, and some are honorary, but my remarks are applicable to all; neither is more nor less honorable than the other. One of your most important duties is the appointment of constables, and you should take care that this office is never conferred upon low bad men. I may be met with the reply that it is impossible to get proper men to fill the situation. What is the exact remuneration paid to constables I am not at this aware, but I am afraid it is still very low, although it was raised, I believe, during my recent voyage to England. A fair criterion is to compare the remuneration of constables with the wages paid to labourers, and if it is less, and you cannot get good constables for less than you can get good labourers, here is an example where the principle of cheapness fails. If it is necessary, let my brother magistrates apply to the proper quarter to have this remedied. The next point for our consideration is, when the prisoner is brought up for examination. Let the evidence be taken so that it will support the charge, and let the depositions be taken strictly as they are given by the witness. If on the first examination the evidence is not sufficient, the magistrate, if he has reasonable ground, may remand the prisoner for a reasonable time, for further inquiry, -- and here a word

of caution may be necessary, - not without reasonable cause to tamper with the liberty of the subject. If satisfied of his guilt, the next duty of the magistrate is his committal, and here an error has been very generally committed, although there are fewer here than I have seen elsewhere, and none of the cases committed by the Police Magistrate are subject to the remark, magistrates must not commit for a general offence, such as felony, but must state in the warrant the specific offence for which the committal has taken place; if it is theft it must state so, all general committals for felony are illegal, and upon a mandamus being applied for, a magistrate would find himself in an awkward position. There are only three warrants in this district of which I have to complain; two are committals for felony, and the other is not legibly written. The charge is, I believe, horse stealing, and I took it for 'hare shooting,' the next point is, admitting a prisoner to bail, which in cases of felony can only be done by two magistrates. This is a very important matter and one that requires the speedy interference of the Legislature. I have rarely seen a recognizance in this colony which it would not be very hard to enforce. According to the law of the land, every prisoner should be committed for trial at the next Court of Oyer and Terminer, or Quarter Sessions. Now what is the course pursued here. A man is committed until relieved in due course of law, and the recognizances of witnesses are to appear when called upon by the Attorney General. There is thus a fresh summons to be issued for every witness, constables or other persons have to be sent to look for them, and perhaps by keeping out of the way they may entirely defeat the ends of justice, without incurring any risk themselves. There is but one statute upon the subject of commitments and recognizances, and that is inapplicable to this Colony, I allude to 7th Geo. IV. (His Honor here read the clause of the Act of Parliament, which directs that all persons shall be committed for the next Court of Quarter Sessions or Assize, and that all bail bonds and recognizances shall be forwarded to the office of the court to be filed.) In this Colony the practice is not to commit for any particular Court, but generally, a matter of very great importance, for we live here as in England, under the protection of the Habeas Corpus Act, and if one assize passes over, a prisoner can demand to be tried at the next, or at the end of the session he must be discharged. The recognizances are to be returned to the officer of the Court, in order that they may be there filed; and if the witness is not present when called on it may at once be estreated. The depositions are likewise direction by the Act to be returned into court; but in this Colony, while the Attorney-General holds the authority which he now does, it is necessary they should be returned to him. I have thus shown that the only power to commit for trial, to admit to bail, or to take recognizance, depends upon an Act of Parliament, which is inapplicable in many of its parts. Is not this a matter that requires the immediate interference of the Legislature? It may be asked why has this not been attended to before? and here I can exonerate myself from blame, of seven years since I observed the defect and drew, proposed, and recommended, an act to remedy it, and it is rather mortifying to find that nothing has yet been done towards it. We want fresh arrangements entirely; these escorts must be done away with; prisoners must be committed for trial in certain districts; we want goals for the different district, and we must have them - gaols fit for a Christian country, not gaols where all persons are classed together, men for the lightest offences with men for the most heinous crimes; we must have these although they cost more than mud huts, from which prisoners can escape, or are more trouble than ironing men to keep them in safe custody. The next important subject for our consideration is the certainty of punishment. The law, referring again to the Divine law, tempers justice with mercy: the case of a prisoner is considered with mercy by his prosecutor, by the Magistrate, by the Jury, by the Judge,

and finally by the Crown. The Legislature should make such laws as Judges can execute. I fear that in some cases punishment is uncertain. When I left the Colony, transportation to Norfolk Island was very effective; it was a strong and serious punishment, and I must receive more information than I now possess, of what is going on at Norfolk Island, before I abandon my fear that the administration of justice is likely to be weakened by it. I deny that convicts should be treated as sick patients, morally sick, whose reformation is the only object, and who are to be petted, and flattered, and beguiled into reformation, or an appearance of reformation. I deny that the sole end of punishment is the reformation of the criminal; this is a mistaken, and, in my opinion, a mischievous theory. Another object of punishment is to be a terror to evil doers. We are commanded by Divine Law to put murderers out of the land, to cleanse it from abominations. The Jews were thus made executioners of the Divine Law and Divine punishment in the case of the whole nations of transgressors, as if to shew them the heinous nature of those offences for which they were made to punish them, and so warned to avoid such evil example. The judicial duties of magistrates are not less responsible than those of the Judges, although less in degree: they are judges at Quarter Sessions, and have an extensive summary jurisdiction, in which they are not assisted by a jury; they should be men therefore patient, conscientious, and independent. I will now make a few observations to the Gentlemen of the Jury, who have heard the preceding remarks, many of which are applicable to them. You are selected from your fellows to assist in the administration of justice, and what should your qualifications be? not less than those of the Judges and magistrates as regards independence and integrity, On your particular duties I will remark as cases come before us; but a few general observations may be advisable. Judges are the sole judges of the law in all cases except libel, and jurors are judges of the fact, and the judge who should decide upon the facts of a case would outstep his duty as much as a jury who should decide upon the law. Since I left the Colony there has been one improvement in the administration of justice, of which I must express my admiration. Prisoners are now admitted to make their full defence by council. We have both parties before us. The Judges will of course always see that a prisoner is not improperly convicted, and will take points for a prisoner, but an able counsel will take all the points that he can, while a judge will only act impartially. We cannot look upon the calendar of offences which we have to try without very serious reflections; and what a picture of the state of the community does it present. Can we come to the consideration of these cases with apathy, as if it were a mere matter of business, and abstract enquiry, whether John Stiles committed a crime or is to have punishment. We cannot help having some feelings of sympathy for the wretched men who have committed these crimes. We are the executioners of divine justice, and, as we are taught by the record of the Jews of old, if we commit the same offences for which we punish others, must we not stand self-condemned. We should take care of ourselves lest we fall. I know that I may be met with the observation "Am I a dog that I should do such things?" But we should remember that we are all liable to transgression. I once tried a man who went out to rob a hen-roost, and returned a murder. I use this illustration to shew that when a man commits any crime he does not know where he will stop. What is that makes us to differ? I have heard it said that the difference was in simple education, but I deny it. Education may prevent a man from committing a specific crime to which he is not tempted, but he may be guilty of one higher. It is said if a man be educated he will see that it is his interest not to commit crime, as the advantage gained by it bears no comparison with the penalty this is an utilitarian principle, and is not correct. It is divine grace only that makes one man to differ from another. There must be religious

education, not education merely secular. We must all be reminded how important it is that we should seek moral renovation of the country by all the means in our power. It is to the rising generation that we must look. The young have had their hearts hardened by sin, but their minds are susceptible of receiving good impressions. We must not forget that He who was both God and man, said, "Of such is the kingdom of Heaven." I was yesterday much gratified at seeing a number of young persons confirmed. I am happy that my first visit here should happen to be at such an interesting time, when the Bishop of the Diocese is on his tour for the purpose of confirming the young. I know of no object that could have a more softening influence on the human heart, than to see a number of young children ranging round the Bishop to be confirmed. Let that rail be again and again filled, and the work of renovation will go on until it is accomplished. Among those who were confirmed were several adults, whose appearance denoted that they were natives of the Colony, and had had no previous opportunity of receiving this rite. This was, in one sense, a sorrowful sight, as shewing how great has been the spiritual dearth hitherto; but a gratifying one also, as shewing that we have now the blessing of religious means. – We must now proceed to our duty, remembering that we must administer justice with mercy; but we are not to understand by this that we are to disregard justice for the sake of mercy, but we are first to consider justice, and then mercy. We must not convict the innocent; but it is not less our duty to take care that the guilty do not escape. If we do not do this, we commit a sin, and bring a national curse upon the community.

The Solicitor General handed in his commission to prosecute in Circuit Courts, which His Honor directed to be copied and entered upon the record.

**DANIEL DAVIDSON**, a convict, was indicted for the wilful murder of **PATRICK MAGINNESS** by shooting him at King's Plains, on the 4th February.

The Solicitor-General said, that after the eloquent comprehensive, and instructive address which had just been delivered from the Bench, he should not take up the time of the Court by any lengthy remarks, but he must say that if that address received the attention and consideration which it was entitled to, it would materially lighten the duties of all who had to perform any in the Court. He regretted to say that he appeared before the Court in a twofold character, partly in that of a grand jury, to determine who should be tried, and partly as public prosecutor. He mentioned this in order that the Jury should not give to the evidence they would hear, greater weight than it was entitled to. In England no man can be put in the degrading position of being placed upon his trial for an offence until twenty-three gentlemen have agreed upon the necessity of doing so. Here there is no such course pursued, and the Jury must therefore attach no weight to the mere circumstance of a party being put upon his trial. The character in which he represented the Crown was not one of vengeance, nor was he dispensing of justice, neither was he an advocate in the ordinary sense of the word. It was not his duty to make nice distinctions, nor by subtle arguments to strain a case against a prisoner, but simply to bring it before the jury. In finding their verdict the jury would be guided by the probabilities of a case: they would not acquit a man because there was an improbable possibility that he might be innocent; but if there was such a case against him as satisfied them of his guilt, they would return a verdict of guilty. As Crown Prosecutor, he would always have the right of reply, whether witnesses were called for the prisoner or not, but this was a course which he should always exercise very tenderly. The learned gentleman then concluded by giving a brief outline of the case.

It appeared that the prisoner Davidson was a convict, who sent to Carcoar as a probationary constable, on account of his good character. The deceased Maginness

was sent under similar circumstances, but Major Bowler, the police magistrate, having reason to believe that he was in league with bushrangers, determined upon sending him to Sydney, and directed Davidson to take him to Bathurst. On the day laid in the indictment, Davidson and Maginness, the latter handcuffed, came to the station of a Mr. Cooper, on King's Plains; they were both drunk, Maginness being the most so. Maginness asked Mr. Cooper, who with two servants was at work on the edge of the road, if he thought that Davidson was in a fit state to take him to Bathurst, and declared that he would not go any further until he had seen Major Bowler; both parties had some very high words, and at last Davidson unhandcuffed Maginness, that they might have a fair fight; they fought for a minute or two, when Mr. Cooper interfered. Maginness fell down, and Davidson threw himself upon him and called on Mr. Cooper to assist him to handcuff him, which he did after a scuffle, in which Maginness grasped Davidson by the throat, and Davidson bit Maginness's hand. When Maginness got up he became still more violent, and Mr. Cooper endeavoured to pacify him and to persuade him to go on the road with Davidson. Davidson went about thirty yards, to where his bundle was lying, and took up a pistol, with which he returned close to Maginness, levelled the pistol at him, saying, "I'll blow your brains out," and the pistol went off, and Maginness, who received the ball through his head, fell down lifeless. Davidson immediately said that he had no intention of shooting Maginness, that he only meant to frighten him, that the pistol had gone off at half cock, which it had done before, and if the world was his he would give it recall that shot. Major Bowler, to whom the pistol belonged, said he never knew it to go off on half cock, but on trying it in court, it went off twice without being cocked.

The prisoner's defence was, that he never intended to do more than frighten the deceased, and he had subpoenaed a witness (who had not arrived) who could prove that once before the pistol went off as he was carrying it, and nearly shot his foot.

His Honor said, that this was an example of what he had alluded to in his address, the evils arising from making improper persons constables. That the death of the deceased was caused by the prisoner there could be no doubt, and the question for the Jury was, whether the prisoner fired the shot deliberately or not, if they were of opinion that the shot was fired wilfully, they must find the prisoner guilty of murder: if he had used a staff and had accidentally caused death, then it might have been a case of manslaughter, but in this case after the deceased was handcuffed, the act of the prisoner was altogether unjustifiable. If, however, the jury thought that the prisoner did not fire deliberately, still he had no right to level a pistol that, according to his own account, he knew went off at half-cock, at the head of the deceased; a pistol should not be used except in the most extreme case, while here the deceased was handcuffed, and Mr. Cooper and two of his men were present, if assistance was necessary.

The Jury retired about five minutes, and returned a verdict of guilty of manslaughter.

His Honor said, he quite concurred in the verdict; he did not think that the prisoner was so wicked as to wish to take away the deceased's life, but still the Court must mark its sense of the prisoner's conduct by sentencing him to be transported for seven years.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

TEMPERANCE, 1/31, 05/05/1841  
BIRTHS.

At Forest Lodge, on the same day [Friday, April 30] Mrs. **AMBROSE FOSS**, of a son, still-born.

TEMPERANCE, 1/32, 12/05/1841

[On Monday morning last (Friday, 7<sup>th</sup>)] on the same day, at his residence "Seven Stars," Castlereagh-street, Mr. **JOHN MURDOCH**, for some years a Bow-street runner; deceased was in his ordinary health up to mid-day on Monday, and died the same night at ten minutes past ten.

SYDNEY HERALD, 14/05/1841

Supreme Court of New South Wales

Burton J., 13 May 1841

LAW INTELLIGENCE.

SUPREME COURT - CRIMINAL SIDE.

Thursday. – Before Mr. Justice Burton, and a common jury.

**MATTHEW LYNCH**, free by servitude, was indicted for the murder of **MICHAEL SULLIVAN**, at Illawarra, in the month of July, 1840.

The Attorney General gave an outline of the case, and called,

Mr. **COLIN STEPHENSON**, who deposed – I was superintendent to Mr. **J.T. HUGHES**, at Illawarra, near Wollongong; I know the prisoner, he is a sawyer; I paid him some money in May, 1840; he had been working there for some months before; I paid him £32 odd; he had a mate named **STONE**; I made another contract with the prisoner and Sullivan, which ended on the 18th of July, when Lynch came to me on that day, being on Saturday, to get the sawn timber measured, when I told him that I could not measure it on that day, but would do so on Monday; on the Sunday Lynch took the overseer, **PEARMAN**, and had the work measured by him; I told Lynch I would have the timber measured over again on Monday, which was done by two men, named **WILKINSON** and **BUCKLEY**; the prisoner came repeatedly to me on that day, pressing for the money, alleging that he was in a great hurry, being anxious to get to Sydney; he was then very clean, being dressed in white trowsers; he came in the forenoon, and also in the evening, just before sun-down, and I appointed to pay him on Tuesday morning, at nine o'clock; on Monday night, about seven o'clock, when walking in the avenue, I saw a blaze in the bush, in the direction of the hut, in which the prisoner and Sullivan lodged, and spoke to one of the servants about it, when he gave it as his opinion that it was a fire by the blacks; it burned very fierce for some time; I told him the blacks were not in that direction; on the Tuesday morning, about five o'clock, the prisoner came to me about the money, he had a scar on his forehead and another on his chin, which seemed to have been produced by violence; they had been washed; he then appeared very shabby, and had on blue trowsers; I told him to go for Sullivan, and come at nine o'clock, and I would pay him; he went away, saying he would bring him; he came at the end of an hour without him, when I told him I would not pay him; he then went off and returned in the evening; my reason for not paying him was, that Sullivan had sent word to me, by three persons, that I was not to pay the prisoner, as he was afraid of his life; when he came at night I refused to pay him, and told him to go for Sullivan, who, he said, he believed was at the hut; I called Mr. Buckley to witness the settlement, and during the absence of the prisoner I placed the accounts on the table; we sat down about 14 minutes, when the prisoner returned and roared out he had been robbed; I asked of how much, and he said of £37; I asked where it had been taken from him, when he said Sullivan had taken it and his white

trowsers, and had bolted; I said it was a strange thing that Sullivan should do so, as he had £24 coming to him, and refused to pay him till Sullivan was produced; he never gave me to understand before that, he had £37, or indeed any money; he had no means of making money, and I had paid him some money before in May; I am convinced that he had not time to be at the hut during the time he was away, as it wants only about a chain and a half of being a mile distant from my house; I then believed he had been robbed, and directed him to go to Captain **COLLINS** and get a warrant against Sullivan; he returned on the Wednesday morning with a constable and told me he had got a warrant; I asked the constable if he had a warrant, and he told me he had, but had not looked for Sullivan, as he did not know where he was to be found; we then went out and saw **McQUILTY** and a number of other persons coming to the house when McQuilty cried out to **COSTILLO**, the constable, handcuff the scoundrel, he has murdered Sullivan, which was done; I had seen Sullivan a few days before alive and well; I went to the hut on Wednesday or Thursday, and saw part of the hut burned down, and on the next Sunday we found a quantity of ashes about ten yards distant from the hut, and they were covered with branches of trees, and a number of bones were mixed with the ashes; we had before searched the water-holes for the body; I cannot identify the bones; they were found by a man of the name of Doyle and his wife; I saw them in Doyle's house; I saw the axe produced in front of the hut, the handle had been burned out of it, and the iron must have gone through the action of fire; on the following Tuesday we found the prisoner's luggage at a person's house of the name of Barratt, and in it found a pair of white trousers with marks of blood on them; these are the trousers; the marks are still visible on the front of them; they are of the same description as those worn by the prisoner on the 18th of July; I told him, when he reported the robbery, that it was very strange that he should remove all his things to Barratt's, and leave the trousers with the money in the hut; when the axe was found, it appeared to have had blood on it; there were two pieces of bark in the hut, on which there were marks of blood [the sheets of bark were produced in court, and the marks pointed out]; they were the sheets on which Sullivan had been accustomed to sleep; they were first seen by me on the Sunday, when I went to the hut; the marks of the blood were then quite fresh; the prisoner came early on the Tuesday morning for the money, and the steamer left for Sydney between three and four in the afternoon.

Cross-examined by the prisoner. – I met you coming out of my own house; the blacksmith sets to work at six in the morning; it was daylight, but the sun was not up; it was a very bad day; I take breakfast about nine-o'clock; I did not take breakfast for some hours after I saw you; I cannot swear that you were with me from nine to eleven; I do not recollect promising to write to Mr. Hughes to give you a clearing lease; the timber was twice measured, there was about thirty superficial feet of difference between the two measurements; I do not recollect what was the measurement; the axe was not found in the blacksmith's hut; I saw it at the hut first, and afterwards at the blacksmith's; I am not certain that I saw it at the hut, but my impression is that I saw it at the hut; I do not know how many days it was at the blacksmith's shop; I never made any arrangements to defraud Mr. Hughes of 4,000 feet, and to get £10 for it; if you had offered me five millions of money I would still have charged you with the murder; you took the contract from me with Sullivan, and I thought he had as much right to half the money, as he was sawing with you; when the contract was made you engaged to pay off part of Sullivan's debt, which you did; I do not know how much timber you cut with the woman, but the money I paid you in May, was £32 11s. 8d., and on the 18th of April I paid you £5; the £32 11s. 8d., was on your own account, and you was to pay your comrades yourself; I do not know

what part of it Sullivan was to receive; I do not recollect what you said to me at the blacksmith's shop; I believe Sullivan was sick, and had been bled by the doctor; I do not recollect that he was bit by my dog; Pearman was not the party to measure the timber; I never knew that McQuilty made you drunk on the Monday night, in order that he and Sullivan might rob you; I did not understand that it was to McQuilty's hut but your own gunyah that you went to for Sullivan on Tuesday evening; you went in the direction of your hut, that of McQuilty was in a different direction; I thought that you had been robbed; I believe on oath that Sullivan is dead, he being a-missing; it was not a conspiracy against you on the part of those who found the bones; there was no quarrel between you and them, and you were always a quiet and peaceable person. There was a heavy rain on Tuesday night; it was on Monday night I saw the fire in the direction of the hut; when I saw the hut on Wednesday, there was no fire in it; I went for Pearman from the bush on Monday afternoon; I told you on Monday to bring Sullivan; I know he got in debt to me for rations and I told you I would keep Sullivan's debt off the first contract; Sullivan wrought for half the last contract; I do not know that you had Sullivan and Stone hired as labourers for half your earnings; you went to be paid the £48.

The Court remarked that it was a very improper thing not to have paid the prisoner his share of the money.

The witness stated that after the prisoner was in custody it was discovered that the timber was made up by plank ends being put at the extremities of the heaps, so that it measured between eight and nine thousand feet more than it really contained, and that he prisoner gave information of the deceit after he was in custody for the murder.

The cross examination by the prisoner resumed – I never gave away your blankets, and all your things are in the store; I think it is blood that is on the trowsers; I have cut myself when shaving, and have seen people tear themselves by the briars; I cannot say if the blood on the bark is bullock's blood, or blood from the swelling in Sullivan's groin, but I know that if Sullivan was bled it was not in that hut; I had seen the hut before Sullivan was missing; and after that I went there to see the timber; the blacksmith told me the axe had been left at his shop in the same stated that is now in.

By the Court – I did not go to the hut on suspicion of the murder having been committed there. I went to see the timber; but afterwards a number of us went to the hut to search for the body, when one present showed the bark on which Sullivan used to lie; there were two sleeping places in the hut formed of pieces of stick; the stains were dry, but brighter than at present; I do not know that water will stain bark, I have not noticed it; there were no bed-clothes on the bed; I did not observe any stains on the bark in the other bed; the bones and ashes were completely concealed from the eye by the branches of trees, which had not been newly cut; there were a great quantity of branches lying about; we saw no traces of the ashes having been carried to where they were found, nor was there any evidence of a fire having been at the spot where the ashes were found; there were very few ashes in the fire-place.

Cross-examined by the prisoner – The blacks were not in the direction of the hut on the Monday of the fire; they were in another place a mile distant from the hut.

By a Juror – I have been three years in the country; on the Tuesday morning, when the prisoner came to me, it was light, but the sun was not up; I think it was between five and six in the morning; McQuilty's hut is in a different direction from the prisoner's hut; I do not know that tea will stain bark.

**CHARLES DOYLE** deposed – I agreed to grow tobacco with the last witness; I knew the prisoner as a sawyer, and Sullivan who was his mate. I was with McQuilty when the prisoner was taken into custody; I went to the hut on Wednesday, after

dinner, but we found nothing on that day, except that the fire-place had been burned down; a number of us went again on the Sunday, when we found a fire made up not far from the hut, which had not been lighted up; we went there again after dinner, and, on removing some straw from the bark where Sullivan had slept, found stains of blood on it; on the way home we came on the bones and ashes; they were picked up; they were given to Dr. **O'BRIEN**; some bones were afterwards found at the saw-pit, where the prisoner and Sullivan worked; I saw Sullivan about a month before he was missing.

Cross-examined by the prisoner – I only think that it is blood that is on the bank; I cannot swear that the bones are human; I did not know that you had any money; I do not know what master you work for; I never got blood nor fat from this last witness; I never got a farthing from any one to come here and prosecute you; I do not know how many men McQuilty had taken with him to search for the body; there might have been thirty persons there, including the blacks, to whom the white people offered to make up £5 if they could find the body; they searched for two days, and then gave it up.

By the Court – When the bones were found, there was a wedge of an axe found among them; I was not intimate with Sullivan; when I saw him last he had on a pea jacket.

Francis McQuilty deposed. I am a carpenter living at Illawarra; I was told by Sullivan that he was afraid of the prisoner, who had chased him with a knife, and was requested by Sullivan to make the first witness aware that part of the money belonged to Sullivan; I told Mr. Stephenson, who said he would take care that Sullivan should have part of the money; I recollect being sent with Buckley to measure the sawed stuff cut by the prisoner and Sullivan; they were both present, and appeared to be on friendly terms; I had opportunities of knowing the prisoner's money affairs; I know that he was arrested for £9 or £10 in May last, in consequence of a Court of Requests judgment; he also paid Mr. Barratt between six and seven pounds for rations; he likewise compromised another case for a pound; and he paid me £4 14s. 6d. out of the proceeds of his first contract; he told me that he had spent £4 in treating a woman and her friends at Wollongong; he was not able to meet the Court of Requests' judgment, as he told me had a lump of a waddy in his hut to meet the constable; I never saw Sullivan after the measuring of the timber; he had on a pea jacket, and a very bad pair of shoes; on the morning of Wednesday, Mr. Hughes's store-keeper told me that the prisoner had murdered Sullivan, and that the prisoner pretended that Sullivan had robbed him; I and about twenty others made a search for the body, but did not find it; on the Sunday after we went to the hut, and then saw the pieces of bark now in court, with marks on it, which I solemnly swear to have had the appearance of blood; I have seen an axe at the hut, and know it, as I once borrowed it; this is the axe; I next saw it at the blacksmith's; the prisoner and Sullivan both promised to call on me; the prisoner did so, but I never saw Sullivan after, although all his best clothes were at my house, and he told me he wanted to go to Jamberoo for a pair of shoes, as wheat he had were very bad; he proposed taking his breakfast with me at my house on Tuesday; he had mere rags of clothes on when I saw him, and all his other good clothes were at my house; on the Wednesday a number of us went to the prisoner's hut; and while we were there the prisoner came; he appeared very much surprised at seeing so many of us there; after consulting the others, we followed him to Mr. Stephenson's and I gave him into custody; he then had a cut or bruise over his eye, which had been bleeding; I asked him how he got it and he said it was done by the branches when going to Jamberoo; I afterwards found some bones in a sawpit, which I put into the bag, I now

produce; the wedge of the axe is among the ashes; I also found this night-cap concealed about three yards from where the bones were found; it was concealed under some offal timber; it was damp and had marks of blood on it; I see them yet, but they were much brighter then than they are now; I squeezed something like blood out of it; when the prisoner was taken he said to me, "Ye have made away with the man, and have taken his money;" before that he had got a warrant for Sullivan; the prisoner told me he had some money in the Bank, and also that he had some mares up the country.

Cross-examined by the prisoner – I believe Sullivan is dead, and that you murdered and burned his body; I cannot say if the marks on the bark are marks of bullock's blood, or is the blood of a human being; I swear it is not wine; I cannot swear that the bones are part of Sullivan; I remember that Sullivan was bled at another hut; it was outside the hut he was bled; he was sitting on a tree, and the blood ran on the ground; I cannot say how much timber you cut with my brother-in-law, but I know that you cheated him of £12 or £14; I know that you cut with him about two years ago, and that you cut £5 worth of stuff for Father Rigney also about two years ago; there were some dogs with us looking for the body, and a cake of blood was found by one of the dogs in front of the hut; this was got on the first or second day of the search for the body; the first information that we got of the body having been burned was from the blacks, who brought some clay from the fireplace, and some small bones, and told us that white man's fat was in the clay, and that the bones were those of a white man; we also found a fire prepared for lighting in an apple-tree; on the Monday night after I had measured the timber Sullivan left my house about sundown; I gave neither you nor Sullivan any rum that night; I positively swear that I do not believe that you had £37, as you were not a sawyer, but lived by taking in those who employed you; I never sold grog; if you had given me £1000 I would have given you in charge as a murderer; I have been in this Colony since 1816; I have since my arrival measured a great deal of timber, but never saw such a fraud committed as was done by you, as you made up ten thousand feet, so as to make it measure twenty thousand.

Examined by the Court – I was not privy to the fraud committed by the prisoner and his mate; I do not believe that any one knew of it but Lynch and Sullivan.

By the Attorney-General – I do not recollect whether the prisoner was at my house on the Tuesday after I had measured the timber, nor did my wife tell me he had been there.

By the prisoner – You might have been at the house on Tuesday night.

John Evans deposed – I have known the prisoner before; I met him about the 21st of July, when I was on my way from Jamberoo, with a man named Michael Irwin; the prisoner asked where we came from, and on answering him, he enquired if we had seen a man named Sullivan; we told him we had not; he seemed to doubt our word, and told us that Sullivan had robbed him of £36 or £37; I said it was a hard case for a working man to be robbed of his earnings; he appeared to doubt our not having seen Sullivan; on which Irwin fell on his knees and swore that he had not seen him; the prisoner then said that he was convinced that we had not seen him, and if Sullivan would return his money he would not hurt a hair of his head; we then parted, but before we did so, I asked him where he kept his money, when he said it was kept in his trouser's pocket which he sometimes flung over the door, and at other times on his berth; I afterwards went into an acquaintance's house, who told me that Lynch had been taken into custody on a charge of having murdered Sullivan; I afterwards saw the prisoner in gaol, but he said nothing to me about the affair.

Mr. John Pearman proved that the timber had been falsely stacked by the prisoner and his mate, which was the cause of the witness returning the total contents as being

double what it actually was; and he believed any other person might have been deceived by the mode in which the timber was stacked.

William Buckley, carpenter, corroborated the last witness as to the measurement, and also proved the finding of the burnt bones in the saw-pit, where they had been washed up by the rain.

**CHARLES McKENZIE** deposed, that he visited the saw-pit in the beginning of November last, and saw the bones produced in Court, which had been burnt; they had been covered with saw-dust, which had been washed of by the rain.

**THOMAS FOWLER**, keeper of The Wollongong watch-house, where the prisoner was confined, deposed, that a person of the name of **JACK CONNOR** called and wished to see the prisoner, as being a shipmate of his; the prisoner at first refused to see him, but afterwards said he had sent for him to make enquiry of him if he had seen Sullivan at Dapto, when he (Connor) said he had not.

Captain **PATRICK PLUNKETT**, Police Magistrate of Wollongong, deposed to visiting the hut after Sullivan was missing; that he ordered the hut to be taken down, and then saw the marks of blood on it; there were also marks of congealed blood about the fire-place; when he spoke to the prisoner about Sullivan, he told him that Sullivan had robbed him, and gone over the mountain road to Campbelltown; word was sent there, but no account of a man answering Sullivan's description was obtained; he also proved that part of the bones in Court had been brought to him by Doyle and several others, and among these he recognised one bone as being the cap of the knee of a human being.

In cross-examination by the prisoner, this witness deposed that a man of the name of Larkin had been subpoenaed as a witness for the prisoner, who had afterwards told the witness that he knew nothing of the affair, on which he told him that under these circumstances it was optioned for him to attend, and he had not come to Sydney with the other witnesses.

Dr. Bartholomew O'Brien, of Wollongong, proved that he had received some bones from Doyle which were produced in Court, that one of them is a fragment of a bone of the foot of a human being, it had a particular articulating surface, and there is no bone in any animal like it; there was also corroborative evidence obtained from calcining another bone of the same description, which on being burned assumed exactly the same appearance as the bone found by Doyle; there was also another fragment of a bone received from Doyle, which, from its being a segment of much larger curvature than the bones of the cranium of any other animal, was evidently a portion of the cranium of a human being; he also recognized it as a bone belonging to an adult person by the conformation of its sutures; this fragment had been compared with the craniums of the horse, the ox, the pig, the dog, the cat, and such other animals as were likely to have been about the place where it was found, but it was different from all of them, except that of an adult person, with which it agreed exactly; there was also a portion of the knee pan almost complete, there were several other bones found, which were evidently portions of the vertebrae of the back, but whether of a person or an animal from their being so broken, it was impossible to discover; the whole bones had been subjected to the action of fire, but the knee pan less than the others; in his opinion they had been subjected to fire shortly before they were given him for examination.

Examined by the Judge – It was not possible to ascertain the age or sex of the person of whose body the bones had formed a part, neither could he say whether the bones had belonged to a black or a white person.

The witness Fowler was recalled by the prisoner – He recollected that after the prisoner had been in custody, he mentioned in the watch-house that the bones found were those of a black gin.

Dr. Harnett examined the fragments of the bones and identified the knee-pan, the bone of the foot, a portion of a skull, and selected two bones as being those belonging to the fingers of an adult; but had seen some of the bones of animals among the fragments, particularly some of the teeth of an animal of the cow kind.

Doyle was recalled – Had found some buttons among the bones similar to those produced in Court, but whether those he saw were them or not he could not swear.

Trooper **KERSHAW**, of the Mounted Police, proved having been sent to Campbelltown to search for Sullivan with a warrant about the 21st of the month; but although he inquired all along the road he heard nothing of him.

This closed the case for the Crown.

In defence the prisoner asserted that the hut had been robbed by Sullivan in his absence, who had left the place, and that it was a case of spite, on the part of the neighbours, who had got up the charge against him in revenge for not giving £20 to Stephenson and McQuilty, to conceal the fraud about the measurement of the timber; he was of opinion that Sullivan was alive, and that the witnesses knew where he was; he had subpoenaed two witnesses, but they had not attended.

His Honor recalled Doyle, who informed him that the bones were found in fresh ashes, which had been rained on, but had not been thoroughly penetrated by it.

In putting the case to the jury, his Honour informed them that the first thing for them to determine was, that Sullivan had been murdered; and secondly, they must be certain that he had been killed by the prisoner. It was unfortunate in the present case, that it rested entirely on circumstantial evidence, it was not for us, as human beings, to call in question the reasons why divine providence at times allowed such events as the present to be involved in obscurity. Whatever might be the impression on the minds of the jury, they were not to go beyond the evidence, and they were only to credit it, when it was such as was reasonable, and such as would satisfy rational beings. The conduct of the prisoner had certainly been such as to place him under circumstances of great suspicion; and it became an important enquiry for the jury to ascertain whether he was, at the time alleged, in a condition to be robbed, and pointed out the contradiction which the prisoner's unsupported statement, as to his being possessed of £37, had received from several of the witnesses, also that the prisoner before the alleged robbery, had been employed for several days previous in removing his goods and chattels from the hut, and put it to them whether it was likely that in doing so he should leave the trowsers behind him, with such a sum of money in the pockets. They were to determine, not only that a human being had been murdered, but that the individual killed was an adult white male named Sullivan. It was the duty of the jury to judge of the credibility of the evidence. They would also take into account the manner in which the prisoner had endeavoured to assail the credibility of the witnesses, which had not been borne out. The prisoner had made a very ingenious defence, and had embarrassed the case in a very artful manner; but still they were not to regard his having done so as being any thing against the prisoner; it was his right to avail himself of all legitimate means of defence which the law allowed him, and he should like to see every one, whether innocent or guilty, able to conduct their own defence. (He then went over the whole of the evidence and briefly recapitulated the observations he had made at the commencement of his address.) He considered it a strong circumstance against the prisoner, that Sullivan had absconded as alleged by him, and that, too, at a time when £24 was due to him; but it was somewhat mitigated

by another part of the evidence, which showed that £16 of that would have been retained to clear his old account, with the first witness; he also pointed out that there was a variance between the statement made by the prisoner before the magistrate, and that given in the Court; as in the latter statement, he asserted that two regatta shirts, his property, had been carried off by Sullivan; but he had not mentioned these when he applied for the warrant to get him apprehended. He subsequently called their attention to the fire having been seen in the direction of the prisoner's hut so soon after Sullivan had been last seen, and to the scars which had been seen on the prisoner's face on the day after the fire had been observed, together with the adroit manner in which the bones had been concealed immediately after the alleged burning of the body had taken place.

The jury retired at half-past eight and returned in about an hour after, finding the prisoner – Guilty.

On being asked what he had to say in arrest of judgment, the prisoner said "I am a murdered man; I am innocent of the charge of which I have been found guilty."

The usual proclamation having been made, His Honor proceeded to pass sentence on the prisoner, by informing him, that he had been found guilty of a most barbarous and horrible murder; and he was sorry to say, that if it had been possible to add an aggravation to the crime, the prisoner had done so in two ways; in the first place by the means which he had employed to conceal it; and secondly, he had that day set up a defence of the most wicked description. He had asserted he was innocent, and was a murdered man; but he could assure him, that there was one Bar, at which he would have to appear with every one then present, when such an assertion would not avail him, without it was a true one. From all the circumstances of the case, as exposed by the evidence adduced against him, he could not conceive that it had been the first enormous crime of a similar description in which he had been implicated. The conclusion at which he arrived from a survey of the evidence was, that the perpetration of the crime had been the work of one who had well studied the art of concealing such offences. The defence was another gross aggravation of the awful crime of which he had been found guilty, and that was, of charging the principal witnesses against him, with being implicated in the fraud in which he had after his committal confessed himself as being concerned, for the purpose of defrauding his employer, and insinuated that he was the victim of their malice, all which had been most distinctly disproved by the respectable testimony of Mr. Pearman, which the prisoner had not even ventured to impugn. It was not for him to sit in judgment on the verdict of the jury, by which the prisoner had been convicted, he regarded it as the verdict of twelve honest men, and as such he fully concurred in it. It was true that the ingenuity of the prisoner in the mode by which he made arrangements for concealing the remains of his victim, and also by the line of defence which he had that day followed up, had surrounded the case with great legal difficulties; but still he felt it his duty to declare that there was no moral doubt as to the prisoner having been the murderer of Sullivan. He had, during the trial, done what he considered to be his duty, not only in shutting his own eyes and ears against whatever was not strictly legal evidence, but had also endeavoured to keep from the jury whatever was not of this description and yet the prisoner asserted he was innocent. He thought it proper to state that there were two circumstances which had been presented before the Court that day, which had they been established by legal evidence would not have left the prisoner even an excuse for making such an assertion, and these were, connecting the bloody nightcap with the deceased, and identifying the old shoes as belonging to him; he therefore trusted that the prisoner when conveyed to his cell, would devote the

short portion of time allotted him, in repenting of his crimes, and making his peace with his Maker, for he assured him, that the sentence he was about to pass on him, would be carried into effect. He then passed sentence in the usual form.

The prisoner is a native of Ireland, from which he arrived in this colony in 1830, as a convict, per the *James Patterson*, under a sentence of seven years for pig-stealing. In cross-examining the witnesses he exhibited great ingenuity, and did his best to brow-beat them, and in several instances was grossly insulting. During the time his Honor was addressing him, he several times exclaimed, "I am innocent; I am a murdered man; I do not blame your lordship, I leave my blood on the jury and the witnesses." As the prisoner was being removed from the bar, the Attorney-General said that he considered it but due to the jury to state, that had the prisoner been acquitted on the charge of murdering Sullivan, he was prepared to put on his trial for the murder of another man, who had been his mate at Goulburn, and who had disappeared under similar circumstances about three years ago.

The case excited great interest, and the Court was densely crowded during the twelve hours that the trial lasted. See also Sydney Gazette, 15 May 1841; Australian, 15 May 1841.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

SYDNEY GAZETTE, 18/05/1841

Supreme Court of New South Wales

Burton J., 14 May 1841

(Before Mr. Justice Burton and a Common Jury)

Two aboriginal natives named **MERRIDIO** and **NENGAVIL**, both of Moreton Bay, were indicted for the wilful murder of **WILLIAM TUCK**, by stabbing him in the neck with a sharp instrument at Mount Lindsay, on the 31st of May last. The first count charged Merridio as principal, and Nengavil as accessory; the second Nengavil as principal and Merridio, accessory. The third charged the murder against some person or persons unknown, the prisoners as accessories. The prisoners being called on to plead, Merridio said his name was **MULLAN**; the indictment was accordingly altered, and the prisoners pleaded not guilty.

Mr. **CHEEKE** demanded, under the provision of an Act of Parliament, a Jury de medietate linguae. His Honor refused this application on the grounds that the prisoners were not aliens, as they had been naturalized by a general Act of Parliament, under which they were entitled to all the rights and privileges, as well as subject to all the liabilities of British subjects.

The Attorney General in putting the case to the Jury, said that however distressing it might be to them, as jurors, to see persons so inferior to them in intelligence, placed at the bar to answer for their crimes, it would be more distressing, and more to be regretted, if they were not liable to the same punishment the whites were.

The circumstances of the case were truly distressing. The indictment had been framed in different ways, as it was impossible to say who struck the blow; it would be sufficient for the case if the Jury were satisfied that the prisoners were present aiding and abetting in the commission of the murder. The prisoners were charged with having murdered William Tuck, but in detailing the circumstances connected therewith, it would be impossible to keep out of sight, the fact that another murder had been committed (by the blacks) at the same time. Mr. **STAPYLTON**, assistant surveyor, near Moreton Bay, about 70 miles from the township of Brisbane, had also been killed. On the morning of the day laid in the indictment, he sent a party to make

a bridge over a creek about a mile from the encampment, himself, Tuck, and **DUNLOP** remaining at the camp. On the return of the working party, they found Mr. Stapylton and Tuck dead, and as they supposed, Dunlop dying from wounds inflicted on him by the blacks, who had all fled, carrying with them every article of value, that they could lay their hands upon. Amongst these blacks were the prisoners at the bar. The remainder of Mr. Stapylton's party then returned to Brisbane Town and reported these murders to the commandant, who with commendable zeal, proceeded to the scene of these outrages, and in search after the blacks succeeded in rescuing Dunlop from almost certain destruction. From the state Dunlop was in when left by his comrades, he managed to crawl into the mountains, where he remained in a most exhausted condition, until he was discovered by a constable, who heard his feeble cries for assistance, and under the treatment which he received, he recovered. The reason the prisoners were charged with the murder of Tuck was, that the body of Mr. Stapylton was so dreadfully mutilated, the head being cut off, and the flesh eaten either by the native dogs or the cannibals, so that it was almost impossible to say what caused his death, and made it difficult to identify the body. These were the circumstances of the case, which was one of great atrocity.

In the evidence adduced on this trial, it was fully proved that the prisoners belonged to the tribe that murdered Mr. Stapylton and Tuck; that Merridio was the leader of the tribe, and from the evidence of Dunlop it was evident that the prisoners were guilty of assisting in these murders. So satisfied were the Jury of this that after a short consultation, they returned a verdict of guilty against the prisoners, on the third count, which charged them as accessories.

His Honor then passed sentence of death on the prisoners in the usual form, which when Baker, an interpreter, communicated to them, they broke out by telling him in a most indifferent way, "what of that - let them hang us."

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

TEMPERANCE, 1/33, 19/05/1841

COLONIAL NEWS.

On Sunday the 9<sup>th</sup>, an inquest was held on the body of **MARY WELLINGTON**, who had been found dead in her bed. A verdict of died by the visitation of God, was returned. A similar verdict was returned on the body of a man named **WILLIAM MARTIN**.

Trooper **RAINBOW**, of the Mounted Police, was drowned on the 26<sup>th</sup> of last month, while attempting to cross the Goulburn.

TEMPERANCE, 1/34, 26/05/1841

DEATHS.

By the fall of a tree, which had been set fire to, on the 12<sup>th</sup> instant, when riding with his father, **JOHN ANDREW SUTTOR**, aged nine years and eight months. Mr. Suttor was not aware of any danger till he heard the tree crack, when he saw it falling nearly over him, and had just time to spur his horse out of danger, and saw his poor child coming after him, when in an instant both him and the pony were killed, to the great affliction of his parents.

TEMPERANCE, 1/35, 02/06/1841

FATAL ACCIDENT, on board ship, through intoxication, Captain E Moorman, 50, Victus. Evidence from John Martinell, watchman, Cotton's wharf; fell between ship

and wharf, aggressively drunk; died erysipelas, the result of wounds. Verdict, - Accidental death, the consequence of intoxication.”

At Braidwood, May 24<sup>th</sup>, from an accident occasioned by his horse running away, **JONATHAN [GIBBINGS]**, second son of the Rev. **THOMAS GIBBINGS**, Rector of Monkstown, county Cork.

TEMPERANCE, 1/37, 16/06/1841

A man named **JONATHAN WEBSTER**, residing at Port Macquarie, committed suicide on the 22<sup>nd</sup> May, by swallowing poison; on the inquest it appeared that his wife's conduct was the cause of his committing the rash act.

On Wednesday, an inquest was held on the body of **WILLIAM DOMAIN**, who had drowned himself while labouring under that dreadful disease known among drunkards under the name of *the horrors*; the jury returned a verdict, that the deceased had destroyed himself while labouring under a fit of *delirium tremens*.

TEMPERANCE, 1/38, 23/06/1841

On Friday the 11<sup>th</sup> instant, **JOHN [JAMIESON]**, the oldest son of Mr. **JOHN JAMIESON**, jun., of Greenwich Park, Argyle, having been thrown from his horse, and only survived a few days, aged fourteen years.

TEMPERANCE, 1/39, 30/06/1841

DOMESTIC INTELLIGENCE. - An inquest was held last week on the body of a female named **RICHARDS**, Dr. **HARNETT** having certified that death had been occasioned by natural causes, a verdict to that effect was returned.

FREE PRESS, 1/52, 03/07/1841.

INQUESTS. - An Inquest was held at the Labour-in-Vain Public House, Harrington-street, on Thursday afternoon last, on the body of a man named **JAMES MOORE**, who expired at an early hour the same morning, from lock-jaw, occasioned by a sever wound in the right hand - verdict accordingly. The deceased was in the employ of Mr. **S.A.BRYANT** of King-street, at the time of his death, and received the wound by which it was occasioned while in the act of rolling or lifting a cask in the stores of that gentleman.

Another inquest was held the same day, at the Blue Lion, on the body of a man named **JOHN SMITH**, who expired suddenly, on the previous day. Dr. **DORSEY [DORSET?]** of King-street, having made a post mortem examination of the body gave it as his opinion, that the deceased had expired in consequence of a disease of the heart, to which he must have been subject for some time previous, and a verdict was accordingly returned to that effect.

FREE PRESS, 1/54, 08/07/1841.

Considerable excitement has prevailed in the neighbourhood of Wollombi, on account of the suicide of Mr. Surveyor **OGILVIE**, who put a period to his existence a short time since, by drinking a quantity of laudanum.

A shoemaker named **WINTERBOTHAM**, committed a murderous assault upon his wife on Monday last, by striking her on the head with a spade, and laying open her skull to the brain. The unfortunate woman is now lying at the hospital in a dangerous state.

FREE PRESS, 1/55, 10/07/1841.

INQUESTS. – An inquest was held on Tuesday, at Balmain, on the body of **WILLIAM BELL**, who died on Monday, in consequence of injuries which he received by an explosion of a blast which he was charging. Dr. **GLENNIE** having certified that death was caused by the injuries received, a verdict of accidental death was returned.

Another inquest was held on Wednesday, at Le Burn's, Parramatta-street, on the body of **THOMAS FRANKLIN**, a bullock driver, assigned to Mr. **HARPER**, OF Botany Bay. It appeared that about a month ago, the deceased was engaged in driving a bullock and cart belonging to his master, when in turning a corner, one of the bullock's horns entered the man's eye, from which an inflammation of the brain had ensued, and caused the man's death; it also appeared that there had been gross negligence on the part of the deceased's master and one of his servants who was a witness in the case, was not forthcoming. The jury returned a verdict in accordance with the evidence, and the Coroner told Mr. Harper that he should recommend his assigned servants to be taken from him, and when the witness was forthcoming, he should revive the investigation of the case.

One day last week, a constable stationed in the vicinity of Campbell Town, observing a man leaving a hut in the bush, in a manner that excited his suspicions, called upon him to stand or he would fire; the man, however, paid no attention to the challenge, and he was shot dead on the spot by the constable. An inquest was then held on the body, the result of which has not reached us.

SUPREME COURT – CRIMINAL SIDE

MONDAY, JULY 12.

BEFORE His Honor the Chief Justice.

**ISABELLA M'KENZIE** was indicted for the wilful murder of her infant, on the 19<sup>th</sup> of April last; a second count in the indictment charged her with illegally concealing the birth of the said child.

By the evidence adduced on the behalf of the crown, it appeared that the prisoner was employed as a domestic servant in the house of Mr. **GEORGE BOWMAN**, of Windsor, at the time when the offence was alledged to have been committed, and had previously borne an unimpeachable character. On the day in question a male child was found by Mr. Bowman, embedded in the soil of a water-closet, and on a proper investigation it was ascertained that the prisoner was its mother, although she at first refused to admit the fact. Dr. **DOWE**, by whom the child had been examined, declared his opinion that it had been born alive, and that its death had been caused by suffocation, although he could not swear positively to either of those facts. Upon cross-examination, however, by Mr. **PUREFOY**, who appeared as counsel for the prisoner, he admitted the possibility of its death having been occasioned by a fall into the soil, which might have been the immediate result of premature delivery; instances of sudden labour, he remarked, were of frequent occurrence, and it was even possible, although improbable, that it might have been still-born. His chief reason to believe that it had been born alive was the fact that the lungs had evidently been inflated; and also that upon its being discovered one of the hands were found clenched upon some dirt, while the other was flattened upon a piece of wood which was lying near. The death of the child might also have been caused from an extensive hemorrhage, in consequence of the absence of proper medical assistance.

Mr. Purefoy addressed the jury on behalf of the prisoner, urging that the capital charge had been totally unsupported by the evidence, and quoting several legal authorities in proof of his assertion.

The jury retired for about half an hour, at the close of which time they acquitted the prisoner of the capital charge, but found her guilty upon the second charge of concealment, when she was remanded by order of his Honor, in order that some further enquiries might be made relative to her character previous to entering the service of Mr. Bowman. [The above is merely an outline of the case, the more minute details being unfit for publication.]

SUPREME COURT – CRIMINAL SIDE  
TUESDAY, JULY 13.

**ISABELLA MACKENZIE**, who had been found guilty on the previous day of illegally concealing the birth of her child, was brought up for judgement, and sentenced to be imprisoned in the Sydney gaol for twelve calendar months.

**MARK DAY** was indicted for the wilful murder of one **AMELIA COOK**, on the 26<sup>th</sup> of May last, by pushing her into a fire, whereby she sustained certain injuries that caused her death.

From the evidence which was adduced on behalf of the crown, it appeared that the prisoner and the deceased had been for some time co-habiting as man and wife, and that on the evening in question, a married woman named **MARIA BRUCE**, who resided within a short distance of the prisoner's house, was alarmed by hearing loud groans proceeding from the latter. She went to the door, which was opened by the deceased, who appeared to have been burnt in a very severe manner, and desired Mrs. Bruce to go for a doctor, in pursuance of which request, Dr. **DORSEY**, of King-street, was sent for and her wounds were dressed. In order that better attendance might be procured, she was subsequently removed to the house of her daughter, a Mrs. **JONES**, at which place she died on the 8<sup>th</sup> of June following. No person having been present when the injuries of the deceased were received, there could be no proof of the alleged assault except her own declaration, and it appeared in evidence she had given several different accounts of the transaction. To the woman by whom she was first visited, she said that she had fallen in the fire while attempting to light her pipe, upon which occasion the prisoner had been present, and shewed the witness that his hands were burnt, which he stated to have occurred in consequence of his exertions to save her from being burnt. To Dr. Dorsey, she said that she had fallen into the fire while endeavouring to light it, and to one or two others she had given different versions of the affair. By the deposition which was taken by Captain **INNES**, four days previous to the death of the deceased, it was stated that she had been pushed on the fire by the prisoner, and it appeared that the latter, who had been present when she made the statement, declined putting any question to her upon it, declaring, at the same time, that it was totally false.

Mr. **FOSTER** addressed the jury at great length on behalf of the prisoner, and called **A.B. SMITH**, Esq., in whose employment he had been for the last four years in the capacity of storekeeper, by whom he received an excellent character, and was said to be a quiet, well-conducted, and humane man.

His Honor read over and commented upon the evidence, and the jury after a short consideration, returned a verdict of not guilty in favour of the prisoner, who was accordingly discharged.

**ELIZABETH PATTISON** was indicted for causing the death of her infant daughter, **CORDELIA ANN PATTISON**, the first count charging her with starving the deceased, and the second with administering improper and poisonous food.

It appeared in evidence that the prisoner was a married woman, her husband being away at Port Phillip. In the month of May last she resided at Parramatta, at which place she had been living for a long time previous. She had three children, of whom

the deceased was the youngest, being about five months old. The charge of starvation contained in the first count was supported by the evidence of several persons, who deposed that she treated the child very badly, frequently getting drunk and leaving her at home for several hours at a time without food. In support of the second count, it was testified by one witness, that the prisoner in a state of intoxication, had once threatened to poison her child, and it was likewise proved that she often declared her wish that the child would die. The body of the child underwent a *post mortem* examination by Dr. **GWYNNE**, who was of opinion that her death had been caused by starvation, there being no visible appearance of ailment in any part of the intestines, and no symptoms of any other disease which might have occasioned her death.

Mr. **PUREFOY** addressed the jury in behalf of the prisoner, and the evidence was read and commented upon at great length by his Honor the Chief Justice.

The jury, without leaving the box, found the prisoner guilty of manslaughter upon the first count, and she was accordingly sentenced to be imprisoned for two years in the Sydney gaol, his Honor expressing at the same time his regret, owing to the present state of the law in that particular, he was not enabled to inflict upon her the heavier punishment of transportation.

SYDNEY HERALD, 14/07/1841

Supreme Court of New South Wales

Dowling C.J., 13 July 1841

**ELIZABETH PAT[T]INSON** was then offered her challenge and given in charge to the same jury, charged with the murder of her infant child, **CORDELIA ANN PATTISON**, at Parramatta. The information contained two counts, one charging the death by starvation, the other by the supply of improper and poisonous food.

**SOPHIA BUCKLEY**, examined by the Attorney-General; I am a married woman living at Parramatta, I know the prisoner, she is the wife of John Pattison, who is now, I believe, at Port Phillip; the prisoner and I were brought up together at Parramatta, she is a native of the Colony, in May last she lived next door to me, she had three children, the youngest was about five months [old] it is now dead, I saw them carrying it out to be buried, I saw it about a week before its death, I saw it frequently at my mother-in-law's, she used to be away from the child a great many hours at night; about three weeks before its death she was absent from it all day till one o'clock in the morning; I do not know how she lives, she used to keep company with men in the evenings; she has said to me that she wished the child dead, she has been frequently drunk; when sober she used to take a little care of it; once I saw her take the child by the frock and carry it with its head down for a few yards when she was drunk; I have had four children but I have none now, I have frequently heard the prisoner say a bad word and that the child would not die; I can't say whether she has left the child all day without food, the child was always very thin, but not sick; it could eat very well.

Cross-examined by Mr. Purefoy – For the last three months it was a very thin child; I don't know whether Cordelia Anne was the child's name; I live with my husband; there was a man living in the house who worked for my husband; there was no woman but me in the house; the prisoner lived at Costillo's when the child died; I am not bad friends with the prisoner; I know Mary Buckley; I don't know how she gets her living; I saw the child five or six days before its death; I never saw the child dead; my children died young; I never heard the child called Cordelia Anne; it was called the baby.

Re-examined – I don't know what was the child's name; the prisoner called it Cornelia Anne at the inquest.

**GEORGE BUCKLEY**; I know the prisoner for fourteen or fifteen years; saw the child; I saw the prisoner use the child very badly when she was drunk; she used to be away from nine o'clock in the morning till one o'clock; I knew that she was once away from it during that time; I [have] often seen her drunk; I used to say to know how she lives; she used to keep company with men and women drinking; saw the child shortly before its death.

Cross-examined by Mr. Purefoy : My mother used to look after it; when she was sober the prisoner would look after the child well enough; I believe her husband is at Port Phillip; I don't know who has his property at Parramatta; I have often talked with my wife about this case; saw the child a week before it died; never saw the child dead; I keep a nail shop; I had two or three men working for me.

**MARY BUCKLEY** examined by the Attorney General : I know the prisoner; she lived with me for three weeks; about a fortnight before the child died she took very little care of the child; she neglected it for a day together; when she left me she went next door; I used to say to her how hearty the child used to eat when it got its food; she used to say often she did not want it to eat but to die; she used to say her hands were tied with it, and that she could not maintain it; she used to leave the child in bed from morning till night; she was seldom sober; the prisoner is upwards of twenty years old.

To a Juror – I have often seen the child suckled by the prisoner.

Cross-examined by Mr. Purefoy – The child died about five weeks after the prisoner came from the [Female] Factory; the prisoner's bed was on the floor; the child did not ever look so healthy as other children; it had something the matter with its neck or back; I never saw another child in the same way; I never saw the child dead; the prisoner said herself that it was dead; it was about five months old.

Re-examined – When the child was fed it would feed very heartily.

**MARY GRIFFITHS**, examined by the Attorney-General – I know the prisoner; she lived next door to me; about a fortnight before the inquest she said that the child was an example, and that she thought she should poison it; she was in liquor at the time; I told her not to say such a thing.

Cross-examined – When the prisoner said this she was drunk; I do not know how she treated the child generally.

**GORDON GWYNNE**, examined by the Attorney-General – I am a surgeon, of London College, and attended the inquest of a child, called Cordelia Anne Pattison; I examined the body of the child; I had not seen it alive; from the appearance of the child I am of opinion that the child died either from deprivation of food, or from mesenteric disease; on opening the body I found no disease; the stomach was empty and contracted; the intestines were completely empty, even of faecal matter; my opinion is that the child died from starvation or inanition.

Cross-examined by Mr. Purefoy – I examined the child two or three days after its death; if the body had been removed after death the appearances would be likely to be altered; it was extremely emaciated; emaciation generally is a]test of lingering illness; I did not observe the eyes, they were closed; I did not observe the trachea; I examined the stomach and the liver; the lungs were healthy but collapsed; there was very little blood in the veins; the child might have had diarrhoea; the food might have induced diarrhoea, but there was no ulceration in this case; active diarrhoea would not cause ulceration; I did not observe the tongue; there was no peculiar odour from the body in this case, which usually is found in cases of death by starvation.

Re-examined – I saw no symptom of diarrhoea; I believe the child died from starvation. To the Court – The use of ardent spirits would materially injure a woman's milk, in quantity and quality; I did not see any deformity in the child; if it had a deformity of the spine that would be likely to produce emaciation, notwithstanding any food that might be given it.

The Attorney-General having closed the case for the crown.

Mr. Purefoy submitted to the Court that there was no evidence to sustain the charge of manslaughter, but his Honor decided that there was evidence to go to the jury.

Mr. Purefoy then addressed the jury for the prisoner, commenting at some length upon the facts which had been proved and which he should prove.

Dr. **PATRICK HILL** examined by Mr. Purefoy – I am colonial surgeon at Parramatta; the prisoner was in the factory there under my care; she had a child with her; I allowed it arrowroot daily, which she regularly gave the child for about two months; it did not appear to want medicine; the prisoner wanted her own milk; I don't know anything more of the child.

Cross-examined by the Attorney-General – Habits of drinking would tend to make a woman's milk fail.

**WILLIAM CORTON** examined by Mr. Foster – I am a labouring man; the prisoner lived in my house for about a month at the time of the child's death; I am not a married man; a woman lives with me as my wife; I always saw the prisoner nourish the child with what she had to give it.

Cross-examined by the Attorney-General. – I have lived some months with the woman I live with; the prisoner was her friend; I used to be out often all day.

The Chief Justice charged the jury, and said that certainly this was a most extraordinary case, one a parallel to which either at home or in this country never came within his knowledge. His Honor then read over the whole of the evidence and commented upon it fully and at considerable length. When the Chief Justice had finished his charge, the jury immediately pronounced a verdict of guilty of manslaughter on the first count.

The Attorney-General prayed the judgment of the Court upon the prisoner, and

The Chief Justice having remarked upon the enormity of the crime, for which the present state of the law did not enable him to transport her, sentenced the prisoner to two years imprisonment in Sydney Gaol. See also Sydney Gazette, 15 July 1841. Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

TEMPERANCE, 1/41, 14/07/1841

The Criminal Sessions commenced on Monday, before the Chief Justice and a common jury.

**ISABELLA MACKENZIE** was found guilty of concealing the birth of a child.

AUSTRALIAN, 15/07/1841

Supreme Court of New South Wales

Dowling C.J., 12 July 1841

TUESDAY, JULY 13 - Before Chief Justice Sir James Dowling.

**ISABELLA MCKENZIE**, convicted on Monday for concealing the birth of her child, was brought up, and sentenced to be imprisoned for twelve months in the Sydney gaol.

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**MARK DAY**, was arraigned on a charge of murder; the indictment charged him with having pushed one **AMELIA COOK** on a fire, on the 26th of May last, and thereby caused her death.

The Attorney-General opened the case, and after drawing the Jury's attention to various points which would be brought before them in the evidence on the part of the Crown, and stating that the case mainly rested on the evidence of the medical gentleman who attended the deceased, and the deceased's deposition before her death, proceeded to call the first witness.

**MARIA BRUCE**, deposed that she lived in Clarence-street, near the house occupied by the prisoner and deceased in May last. One night, about the end of May, she heard groans in Day's house, and went in; the deceased opened the door. The deceased shewed witness her arm which was burned, and at her request, went for Doctor Dorset. Deceased had burns on her neck and breast also; she said she had been burnt as she was lighting her pipe, and Day said he was in bed at the time, but that he had put out the fire with water; deceased's clothes were wet at the time. Witness was of opinion at the time that the deceased would have got over the burns and recovered. The witness was cross-examined by Mr. Foster for the prisoner, and still maintained that deceased has always attributed the burns to her lighting her pipe, and had not in her presence, given any other account of it. Deceased's daughter, who was anxious to get her away from the prisoner, always said that Day had burned her mother, and that he should hang for it.

**WILLIAM McTAGGAI DORSET**, Surgeon, practising in Sydney, deposed that the death of deceased was caused by exhaustion consequent on the extent of injury created by the burns. The deceased was an old woman; deceased at first told him that she had been burnt while lighting the fire; again that the prisoner had struck her, and that he had pushed her so that she was burned. The prisoner shewed his hands which were slightly burned; deceased said she wished the prisoner to be punished, but not to be hanged; deceased died about forty-eight hours after her deposition was taken; witness once entertained slight hopes of her recovery, but was apprehensive on account of her age, and informed her of her danger, of which she appeared perfectly sensible.

**JOHN LONG INNIS**, Superintendent of Sydney Police, deposed that he had attended the deceased one evening in June last, and had taken her deposition; she appeared dangerously ill and seemed to beware of the danger she was in; the prisoner was in custody, and witness sent for him; he declined putting any questions to the deceased, but said her statement was altogether untrue; the deposition was taken on the 4th June, and deceased expired on the 8th.

Cross-examined - Witness did not know the prisoner personally, but had heard that he bore a most excellent character; had he been a bad character witness would have known him.

Other witnesses were called, but did not add any thing material to the evidence for the prosecution.

The deceased's position was to the effect that prisoner struck her a violent blow on the right side, which caused her to fall into the fire, from which she rose with difficulty, and that she had been ill ever since in consequence.

Mr. Forster addressed the Jury for the prisoner and called Mr. **A.B. SMITH** who gave the prisoner a most excellent character.

The Attorney General replied, and afterwards his Honor the Judge went over the evidence at length.

The jury without leaving the box acquitted the prisoner.

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**ELIZABETH PATTERSON**, arraigned on Monday, was put on her trial for the murder of her child, aged five months; one count in the information charged the prisoner with starving the child, and another with administering improper and poisonous food.

After addressing a few observations to the Jury the Attorney General called the witness for the prosecution.

**SOPHIA BUCKLEY** deposed that the prisoner and herself were brought up together; that prisoner had had two children, one of which, five months old, was dead; prisoner was given to drinking and to bad company, and frequently neglected the child; she often wished it dead; and on one occasion witness saw the prisoner while drunk carrying it with its head downwards; about three weeks before the child's death, prisoner was from it almost all day; the child was always very thin and would not eat well.

The witness was cross-examined by Mr. Purefoy, but nothing was elicited to shake her evidence.

**GEORGE BUCKLEY** deposed that he had known the prisoner many years; he also knew the child; prisoner was much given to drinking and bad company, and often neglected the child day and night; witness had often seen her drunk and asked her if the child was dead; she had replied no, but that it soon would be.

This witness was also cross-examined, but without effect.

**MARY BUCKLEY**, being examined, corroborated the evidence of the previous witness.

**MARY GRIFFITHS**, deposed that she saw the prisoner drunk, about a fortnight before the child died; prisoner said she would poison it.

Cross-examined - The prisoner was drunk at the time, and witness was not aware how she treated the child in general.

**GORDON GWYNNE**, Surgeon, described the appearance of the child after death, and gave it as his opinion, that the child died from starvation; the witness also deposed that the excessive use of ardent spirits, would materially injure a woman's milk, both in quantity and quality.

This was the case for the prosecution.

Mr. Purefoy submitted that there was no evidence to support the charge of manslaughter, but his honor the Judge was of opinion that there was evidence sufficient to send the case to a jury.

Mr. Purefoy then commented at some length upon the evidence, and called Dr. Hill, Colonial Surgeon, at Parramatta.

Dr. **HILL**, deposed that the prisoner was under his care for two months in the factory with the child, and during that time, the child was properly attended to; this was all he knew of the matter.

**WILLIAM COSTON**, deposed that he knew the prisoner, and had seen her always give the child what she had to give it.

The Judge then summed up the case to the jury, who found the prisoner guilty of manslaughter on the first count.

The prisoner was sentenced to be imprisoned for two years in H. M. gaol, Sydney, his Honor remarking that the present state of the law did not allow him to transport her, notwithstanding the enormity of the crime she had been convicted of.

See also Sydney Gazette, 15 June 1841. On 13 July 1841, she was sentenced to imprisonment for 12 months in the Sydney Gaol: Sydney Gazette, 15 July 1841.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

TEMPERANCE, 1/42, 21/07/1841

Wednesday

His Honor then called the attention of the meeting to the case of the woman, who had been tried on the preceding day [Tuesday, 13<sup>th</sup>], before Sir James Dowling, for having caused the death of her own child by deliberately maltreating it, and depriving it of suitable nourishment to support life.

FREE PRESS, 1/60, 27/07/1841.

A boat containing three persons who were proceeding to the immigrant ship *Helen*, on Thursday last, was unfortunately capsized, and one of the men named **THOMAS HOBSON**, by trade a brick-layer, was drowned. By the prompt exertion, however, of a waterman named **JOHNSON**, who happened to be on the spot, the other two were safely brought to land. [see 1/64 and 1/81 below.]

NEWS AND RUMOURS OF THE DAY

A Coroner's Inquest was held at Driver's public-house, corner of King and Elizabeth-streets, on the body of a government man, named **SAMUEL HELY**, attached to the Bradley's Head stockade, who died from a rupture in the intestines on the previous day; verdict accordingly.

Another was held on Friday, at the Hope and Anchor, Parramatta-street, on the body of a female named **ANN MATTHEWS**, who had been found dead in a ditch on the Botany road, at an early hour the same morning, where she had fallen while in a state of helpless intoxication.

A third Inquest was held at the same place immediately after the foregoing one, upon the body of a woman, named **NORAH MOORE**, who died in consequence of certain injuries which she had received by reason of her clothes taking fire while she was in a state of intoxication; verdict accordingly.

TEMPERANCE, 1/43, 28/07/1841

The two blacks, for the murder of Mr. **STAPYLTON**, were executed at Moreton Bay, in the presence of about a hundred aborigines.

On Monday, July 20, an inquest was held at Mr. Winterup's public house, the Sir Walter Scott, corner of Bathurst and Sussex-streets, on the body of a ticket-of-leave holder, named **WILLIAM STANMORE**, aged 38 years. **JOHN CLAYTON**, at whose house the man had lodged, deposed that he was a man of intemperate habits, his usual drinks were brandy and porter, he had for a long time complained of a shooting pain in his head, he drank daily till he was dismissed from his employment, for being harsh to his employer's horse in the street. Surgeon **ARMSTRONG** deposed that the cause of death of the deceased was apoplexy, induced by intemperance. The jury returned a verdict, that the deceased came to his death by apoplexy, induced by previous habits of intemperance.

On the same day, an inquest was held on the body of Mr. **W. MULLER**, the tailor, George-street. It was proved that the deceased was a man of intemperate habits. On Saturday, he sent out for a pint of brandy, of which he drank, and while under the influence of liquor, swallowed a quantity of laudanum, which caused his death. The jury returned a verdict, that the deceased had destroyed himself while in a fit of insanity, caused by depression of mind.

An inquest was held on Friday last, at the Hope and Anchor Tavern, Parramatta-street, on the body of a female named **ANN MATTHEWS**, who had just come out of the cells where she had been confined for 168 hours, for drunkenness, and had been found early on that morning lying dead in a ditch on the Botany road, within a quarter of a mile of her residence. From the evidence given before the jury, it appeared that she had been seen on the previous evening going home in a beastly state of intoxication, being scarcely able to stand. Dr. **CUTHILL** certified that death had been caused by suffocation. The jury returned a verdict of – Died by suffocation, while in a state of intoxication.

Immediately after the above, another inquest was held in the same house on the body of **NORAH MOORE**, who had died in the Benevolent Asylum between sun-set on Thursday and sun-rise on next day. By the evidence detailed before the court, it was proved that the deceased had on the Tuesday previous, while in a state of helplessness, by drinking ardent spirits, set fire to her clothes, by which she had been so severely burned that, according to the evidence of Dr. **CUTHILL**, death had ensued. The jury returned a verdict of death being caused by the deceased being accidentally burned while in a state of intoxication.

An inquest was held yesterday, on the body of **JAMES QUIN**, livery stable keeper, Pitt-street. The jury returned a verdict of died of *delirium tremens*.

FREE PRESS, 1/61, 29/07/1841.

A man named **TIMOTHY LADEN** was killed on Wednesday, the 14<sup>th</sup> instant, while employed in falling a cabbage tree near Wollongong, by the end of the tree falling on his shoulder. No one was with him at the time, and when he was found in the course of the day he was quite dead.

FREE PRESS, 1/62, 31/07/1841

#### NEWS AND RUMOURS OF THE DAY

An inquest was held, on Tuesday last, at the Wheat Sheaf public-house, on the body of a female named **ELIZABETH BENRIG**, who had expired in the Benevolent Asylum on the previous day from exhaustion, occasioned by her delivery of a still-born child about three weeks before. Verdict accordingly.

Another inquest was held, the same day, at Hill's public-house, Pitt-street, on the body of **JAMES QUIN**, who died, on Monday afternoon, in an attack of delirium tremens, occasioned by his long continued habits of intemperance. Verdict accordingly.

FREE PRESS, 1/63, 03/08/1841.

INQUEST. – a Coroner's Inquest was held on Saturday afternoon last, at the Australian Inn, corner of Kent and Market-street, on the body of a man named **SAMUEL FILLEY**, who expired suddenly in a fit on the previous day, at his residence in Market-street; verdict, died by the visitation of God.

Another inquest was held the same day at the Blue Bell public-house, in Erskine-street, on the body of an elderly man named **MARTIN WILSON**, who had formerly been an officer attached to Sydney gaol, who expired at his own house the same morning, after an illness of three days. From the evidence which was adduced, it appeared that the deceased had arrived from Moreton Bay in the *Piscator* on Sunday last, and had been in a constant state of intoxication from that time until he was taken ill on Wednesday, he was also stated to have been a confirmed drunkard for the last

twenty years of his life; verdict, death from natural causes induced by previous habits of intemperance.

TEMPERANCE, 1/44, 04/08/1841  
TOTAL ABSTINENCE SOCIETY.

One of these was the number of inquests which had been held within the last few days; in the "Temperance Advocate" of the preceding day no fewer than five inquests were reported, in which the deaths had arisen from intemperance. On one (That on the body of Mr. **JAMES QUIN**) he had himself been a juror. The surgeon who had attended him deposed, that he had told him on a previous occasion, if he should again give way to his appetite, it would in all probability cause his death; he had gone to the publicans in the area and warned them against supplying him with liquor. It was proved also that the deceased had been confined to his bed for three weeks previous to his death, and that he had been supplied, up to the day of his decease, with a pint of rum daily! Language failed him to designate, as it deserved, the conduct of those who supplied him with the liquid poison under such circumstances.

DEATHS.

At his residence, on the 17<sup>th</sup> ult., after a short illness, Mr. **JAMES QUIN**, of Pitt-street.

FREE PRESS, 1/64, 05/08/1841.

INQUESTS. – An inquest was held on Monday afternoon, at Mr. Driver's public house, corner of King and Elizabeth-streets, on the body of a man named **JAMES DUNN**, who died that morning in the General Hospital. It appeared that the deceased had been received into the hospital about two months ago, being ill of an inflammation of the lungs, from which he had, however, quite recovered; and on Monday morning Dr. Stewart told him that he might go out, as he was sufficiently strong to earn his own bread. The deceased said he was glad to go out of the hospital, and would go and look for a place, and turned round to go away, when he fell down and immediately expired. Dr. Stewart having certified that death was produced by natural causes, a verdict of died by the visitation of God was returned.

Another inquest was held on Tuesday, upon the body of **THOMAS HOBSON**, who had been drowned while attempting to board the *Helen*, on the 22<sup>nd</sup> ultimo, respecting which accident, a paragraph has appeared in a former number of this paper. A verdict was returned of accidentally drowned. [See 1/64 and 1/81.]

FREE PRESS, 1/65, 07/08/1841.

NEWS AND RUMOURS OF THE DAY

An inquest was held at Parramatta on Tuesday last, on the body of an infant named **WILLIAM HAYES**, who had been burnt on Monday night last, so severely as to cause death. From the evidence of the mother, who was the only witness examined, it appeared that she had been reading, and had fallen asleep, while in the meantime the child had crawled out of bed, which was on the floor, got to the candle and set fire to his clothes. Verdict accidental death.

FREE PRESS, 1/69, 17/08/1841

DOMESTIC INTELLIGENCE

The country in this part was all quiet until the 9<sup>th</sup>, when intelligence reached us that six *out and out rascals* had robbed the Berrima mail on its way from Marulan to Sydney, and were then plundering every human being that passed the road; three of

them had firearms, the other three had sticks like bludgeons. One of the six, it is believed, is a man that only a few weeks ago had been sent down under an escort of mounted police from Braidwood, being committed to take his trial for, it is said, a rape on the body of a young girl, the daughter of an emigrant in the service of Dr. Wilson; and since the perpetration of the offence the girl has been missing, and although the strictest search has been made for her yet it has been without success. The man alluded to has, I understand, been also committed on suspicion of her murder, as circumstances have been made known which lead to a supposition that, in order to prevent the unfortunate victim from giving evidence against him, he made away with her, and burnt her body afterwards. The above are the outlines of this report as related to me by one of the constables of a party that has been despatched in quest of these ruffians. [see 1/72]

INQUESTS. - A Coroner's inquest was held at the Blue Bell public-house, in Erskine-street, on Saturday, on the body of a woman named **ELIZABETH GEARING**, who died suddenly, at an early hour the same day, in a fit of delirium tremens, produced by her previous habits of intemperance. Verdict accordingly. Another inquest was held yesterday at the Flower Pot public-house, on the body of a hair-dresser named **HUGH RICHMOND**, residing in Market-street, who expired about half-past twelve o'clock on Sunday morning, in a fit of exhaustion, produced by his previous habits of intemperance. It appeared from the evidence that the deceased had been continuously intoxicated for the last three weeks, and had been in a state of utter insensibility from Thursday evening until the time of his death. Verdict - Died by delirium tremens, produced by habits of previous intemperance.

FREE PRESS, 1/71, 21/08/1841.

INQUEST. - A coroner's inquest was held on Wednesday afternoon last, at Board's public-house, Sussex-street, on the body of a man named **TIMOTHY DINEEN**, who died at an early hour the same day, in consequence of a fish bone having stuck in his throat, in extracting which the pipe had been so severely torn as to occasion death. Verdict accordingly.

FREE PRESS, 1/72, 24/08/1841.

COUNTRY INTELLIGENCE - ARGYLE

... that the man committed from Braidwood was not guilty of rape as well as murder, and that he is still in Berrima gaol awaiting his trial for the latter offence. [see 1/69]

INQUESTS. - A Coroner's Inquest was held on Saturday last at the Red Lion, public house, corner of Goulburn and Parramatta-streets, on the body of a man named **JAMES KENNY**, who expired suddenly in his bed, on the previous night. - Verdict, died by the visitation of God.

Another Inquest was held the same day, at Mr. Driver's public-house, corner of King and Elizabeth-streets, upon the body of a man named **JAMES SCALLION**, who expired in a fit at the Hospital, on Friday night. - Verdict, accordingly.

TEMPERANCE, 1/47, 25/08/1841

INQUESTS. - An inquest was held in Richard Driver's, Three Tuns tavern, corner of King and Elizabeth-streets, on the body of a man named **JAMES SCALLION**, who had arrived in the colony as mate of a vessel, and had since been chiefly employed as master of some small craft engaged in the coasting trade. It appeared that latterly he was in the habit of drinking to excess, which had rendered him subject to fits: having

been seized with one of these, he was taken to the hospital, where he expired shortly after his admission. It having been certified that death was the result of natural causes, a verdict to that effect was recorded.

Another inquest was held the same day, on the body of **JAMES KEARNEY**, in the Red Lion public-house, corner of Pitt and Goulburn-streets, who had laid down on his couch in his usual health, and was found dead on the morning of the inquest. It appeared he had been almost incessantly drunk for some weeks previous, and had just begun to recover from the effects of his debauch. It having been certified that he had died from natural causes, induced from intemperance, a verdict in accordance with this evidence was returned.

FREE PRESS, 1/75, 31/08/1841.

INQUEST. – A coroner's inquest was held on Saturday last, at the Sir Walter Scott public house, corner of Bathurst and Sussex-streets, on the body of Mr. **WILLIAM ROBINSON**, whose accidental death by drowning was recorded in a former number of the FREE PRESS. The body of the deceased was found on Friday evening floating on the water a little above the Market Wharf, and not far from the spot where the unfortunate accident occurred. Verdict, death from drowning.

TEMPERANCE, 1/48, 01/09/1841

DOMESTIC INTELLIGENCE

An inquest was held, on Monday, on the body of a woman named **FIELD**, who had died from the effects of intemperance in the house of a man named **NIMO**, in Sussex-street. After the usual verdict had been returned, one of the Jury suggested that the house should be placed under the surveillance of the Police. The Coroner stated that it was so already, and that this was the second death and inquest arising from intemperance which had occurred in the same house within ten days.

FREE PRESS, 1/76, 02/09/1841

NEWS AND RUMOURS OF THE DAY

On Monday last, an inquest was held at the Patent Slip public house, upon the body of a man named **PARKER**, formerly second engineer on board the *Seahorse* steamer, who came in contact with the engine on Friday last, while employed at his duty. Verdict, accidental death.

An information has been exhibited against **LAWRENCE DWYER**, one of the immigrants per *Forth*, BY THE Captain of that vessel ... to be concluded.

FREE PRESS, 1/77, 04/09/1841

INQUEST. – A Coroner's Inquest was held on Thursday last, at Mr. Gannon's public house, in Phillip-street, on the body of a man named **DANIEL KEENAN**, belonging to the Cockatoo Island Stockade, who died in the hospital, between two and three o'clock in the preceding day. Verdict accordingly.

NEWS AND RUMOURS OF THE DAY

An inquest was held on Tuesday last, at the Blue Bell public-house, Erskine-street, on the body of a man named **JOSEPH KING**, who had died suddenly on the preceding day from natural causes. Verdict accordingly.

Another inquest was held on the following day at Hooper's public-house, Argyle-street, on the body of a boy named **WILLIAM HAIG**, who died of scarlet fever. A verdict of died by the visitation of God was returned.

FREE PRESS, 1/79, 09/09/1841.

NEWS AND RUMOURS OF THE DAY

The notorious bushranger, **CURRUN**, was on Monday sent to Berrima, escorted by three mounted policemen, to answer for the many crimes which he had for so long a time committed with impunity. There were no less than two charges of murder and two of rape against him.

MAITLAND CIRCUIT COURT.

Besides the above cases, there were upon the calendar, three cases of murder, one of attempting to shoot with intent to murder, one attempt to rob, one infanticide, etc.

SYDNEY HERALD, 11/09/1841

Supreme Court of New South Wales

Stephen J., 8 September 1841

MURDER.

**JOHN KELLY**, holding a ticket of leave, was given in charge to a jury for the murder of **JACK SMITH**, on the 13th of June last, at Stroud, by firing at him a loaded musket.

Mr. **CHEEKE** appeared for the prisoner.

The Attorney General in stating the case, entreated the jury not pay it the less attention because the unfortunate deceased was an aboriginal native.

**WILLIAM MACDONALD** examined by the Attorney-General. - I am in the Agricultural Company's service at Port Stephens; the prisoner was a fellow-servant of mine, and lived with me in the same hut; on Sunday, the 13th June, the prisoner came into the hut about half an hour after sundown, and said that there was a large tribe of blacks coming with a bad intention; he told me to get a waddy to defend myself; he took a musket himself and loaded it with duck-shot; in the morning he had told me that he would get some shot from Mr **DARBY**; the prisoner brought three black fellows to the hut; one of them said that he did not want to harm the prisoner, but that he only wanted his gin or wife; he said part of this in his native language; I only saw three blacks there; the prisoner himself brought the blacks to the hut; he told them to come in and satisfy themselves that the black gin was not there; when they went in he said if they came out he would shoot them; he was then outside the hut; he said that they came to steal corn and not for the gin; there was no corn in the hut then; I was at the door; the blacks were not two minutes in the hut; they rushed out, and when they got to the end of the hut the gun went off; I saw the smoke and fire, and the prisoner's hand moved; I cannot swear that the prisoner pulled the trigger; the gun was pointed to the blacks; they were seven or eight yards off at the time; the prisoner stood at the door; he loaded the gun again; I did not see any of the blacks fall; I ran to the farm and told Mr. Darby about the matter; I stayed with him all night; the blacks had boomerangs with them; they did not offer us any violence; I saw no one of the blacks dead; I don't know who owned the musket; it was for shooting at cockatoos.

Cross-examined by Mr. Cheeke. - I have been two years in the Company's employ; the prisoner and I lived together for a week; he had the gun for some time before to keep the cockatoos from the maize; I used to fire at the cockatoos; I don't know whether I fired off the gun that day; it was dusk when the Blacks came to the hut; I could see about a quarter of a mile off at the time; the prisoner brought the gun from the hut; the day before the prisoner fired the gun at the Blacks it was fired off at the cockatoos by the prisoner; sometimes the gun was loaded; it was not loaded on the Saturday night; I did not see the prisoner load the gun that night; I saw him put up the

gun that night, and it was not then loaded; the gun had an iron ramrod; the prisoner was not many minutes loading the gun; I saw him loading it; he was then about fifteen yards from me; he was standing still at the time; I was so frightened I did not see him prime the gun; I was frightened with the noise; the three blacks had boomerangs; I only saw three, but I heard the noise of two or three more; they were hooting; I told Mr. Darby that there was a lot of blacks at the hut with boomerangs; I never saw or knew the blacks to steal corn; but the prisoner the day before shewed me the marks of a foot near the store; when the blacks were in the hut the prisoner said something to me about going to Mr. Darby, about a constable or about reporting the matter, but it is so long since I don't recollect what he then said; I did not know the blacks or any of them; the words of the blacks might have meant ``me do you no harm;" I looked at Kelly when the blacks were running away, because I was frightened; I did not hear the gun cocked, but it was pointed against the blacks when they rushed out of the hut; I did not see the prisoner present the gun at all; I did not see the prisoner change his place, but when the gun went off it was pointed at the blacks; I did see the prisoner turn round when the blacks rushed out of the hut; when the prisoner turned round the gun went off immediately; I remained all night at Mr. Darby's, and would not go back again to the hut.

To a Juror. - The musket was an old one; but I do not know whether it went off at half-cock; the prisoner was in a horrid passion when the gun went off. The witness described the prisoner's position when the gun went off, and from his description, it appeared, that when the gun went off its position was nearly the same as it had been while the blacks had been in the hut, and that they ran in the direction to which the gun was first pointed.

To a Juror. - I never saw any gin with Kelly at the hut.

To Mr. Justice Stephen. - The blacks came quietly into the hut, and were brought there by Kelly; I think he told them that they had come to steal corn; the door remained open all the time; while the prisoner was speaking to me the blacks rushed out.

**JAMES CHARLES WHITE** examined by the Attorney General - I saw the prisoner in June last one morning; I was looking out for a constable, but he came to me himself; I asked him how he came to shoot the blackfellow; he said what was I to do when the boomerangs was flying about me; the prisoner said he came to tell me of the circumstance as I was superintendant; he said he had been too sharp for the blacks, and that he up with his musket and let fly at them; I ordered him into custody, and he said he did not want to run away; Macdonald did not tell me that the prisoner had fired at a black; he only said he thought there would be a row about a black gin; when I went to the black camp I saw Jack Smith; he was lying before the fire in great pain; he had been a very quiet lad; he was wounded in the back and complained of a pain in his abdomen; he seemed to have been wounded by shot; I brought him medical attendance; he died that day; I know nothing about the prisoner's having had a gin with him; I put Macdonald into custody with the prisoner; the prisoner had been about four years with the Company; the blacks are always at Stroud, and the prisoner must have seen the deceased who could speak English very well; the Company give the blacks a feast at Christmas; I think the prisoner must have known the deceased.

The Attorney-General was about enquiring as to what the deceased said when lying before the fire, but Mr. Creeke objected to any such evidence, and Mr. Justice Stephen said, that the evidence was inadmissible, unless it were shown that the deceased was conscious he was dying, and believed in the existence of a future state.

Cross-examined by Mr. Cheeke. - The prisoner came to me early in the morning of his own accord; I went them to the Camp and saw Jacky Smith; the family of the deceased consisted of three persons; one of them was called **GAMMONING SMITH**, and the other **JEMMY SMITH**; the deceased was called Jacky or Jacky Smith; he was called after his master's name; the father and sister of the deceased are great thieves; I have heard that the blacks have stolen corn from [t]he hut where it is kept; the prisoner was always a well behaved man.

To a Juror. - The prisoner had charge of the corn.

To the Judge. - I never heard of another black being wounded; I would trust the prisoner with any thing; but I think he is a bad tempered man, though no complaint was ever made to me against him.

**JOHN POWER** examined by the Attorney General. - I am a Constable at Stroud; I know the prisoner; I knew Jack Smith well; I live half a mile from the prisoner's hut; at sun-down on Sunday, Smith and another black told me they were going to the prisoner's hut; I did not see any thing with them; on the Monday after I saw Smith at the Black camp, and I saw him dead on Tuesday, I apprehended the prisoner near the lock up on Tuesday; he had a musket with him; the deceased was a very nice young lad, and was never troublesome or offensive; the prisoner said, when I took him in custody on Tuesday, and told him that Smith was dead, that he was sorry for the deed. Cross-examined by Mr. Cheeke. - I remember what passed very well; the prisoner made no resistance to me when I took him into custody; the musket goes off at half-cock; it has a bad flint, and never throws open the pan; I only saw two blacks on the Sunday night, but there were a good many about the place; they used to call the deceased Jack Smith; the Europeans used to call him John; Jack Smith was the common name for him, and I'll stick to that name; it is usual to c[a]ll the blacks by a Christian name o[n]ly.

**JAMES PRICE** examined by the Attorney-General. - I have known the prisoner for some time; but I did not know Jack Smith, though I have been at Stroud for 15 years.

Cross-examined by Mr. Cheeke. - I never knew any black of the name of Jack Smith; the blacks are generally called Jacky, or Harry, or some such name.

**ROBERT MACKINTOSH** examined by the Attorney General - I am a surgeon living at Stroud; I examined an aboriginal native who went by the name of Jacky Smith; I saw him after death at the black camp; he died from a gun shot wound in the back; the wound was on the hip; I found no shot in the body, but I found the intestines lacerated by some foreign matter; I think that the shot had not scattered, and that the deceased was about four or five yards from the person who wounded him.

Cross-examined by Mr. Cheeke - I saw Jacky Smith the morning after his death; the man I saw was called Jacky Smith; I saw him on the 14th June; I saw Smith twice; once I saw him in Company with White; I always thought Smith was in danger.

To the Judge - The shot ran in various directions; the deceased was a young man above the middle stature, and a little beyond the age of puberty; he might have been shot by a gun held at the shoulder by the party who fired it, but I cannot say whether the gun was held as high as the shoulder or not.

The witness applied for remuneration for his attendance as a professional man, but Mr. Justice Stephen said, that he had no power to allow the witness any compensation beyond the ordinary payment of a witness's expenses, though he thought professional men were well entitled to some remuneration beyond their mere travelling expenses.

Power recalled by the Attorney General. - The Jack Smith I saw going to the prisoner's on Sunday, was the Jack Smith I afterwards saw dead, and examined by Mr. McIntosh.

McDonald recalled by the Attorney-General. - I did not tell Mr. White that the prisoner had fired at the blacks, because Mr. White ordered me away; I had a quarrel with the prisoner a week before the black was shot.

Cross-examined by Mr. Cheeke. - I cannot say how long I was at Mr. White's, but I had time to say that the prisoner had frightened the blacks, though I did not say that he had fired at them.

To a Juror. - When we quarrelled, Kelly struck me with a waddy, and the doctor said my arm was broken or splintered.

The Attorney-General closed his case with this evidence.

Mr. Creeke submitted, that there was no evidence that the man who was proved to be deceased was shot by the prisoner, or that that man was called Jack Smith.

Mr. Justice Stephen held, that there was evidence upon these points to go to the jury.

Mr. Creeke then addressed the jury for the prisoner, and called

**WILLIAM DARBY.** - I am bailiff of the Agricultural Company; I know the prisoner and McDonald; on Sunday evening, soon after sundown, McDonald came to me and said to me that a number of blacks came near the hut, and that three came to the door and demanded a black gin; that Kelly admitted them into the hut, and told them to stay there till McDonald went for a constable; McDonald told me that the blacks had boomerangs, spears, and waddies; he said that he did not see Kelly lift the gun when he shot the blacks, and that he believed Kelly did not shoot them intentionally; McDonald is a thorough liar; and I have known him for about twelve months; the blacks have stolen maize, and are a nuisance to the settlement; I have never known Kelly injure [sic] the blacks; he for some time maintained a black man with him, and paid for his maintenance.

Cross-examined by the Attorney-General. - I cannot say that Kelly is a good-tempered man; I do not know whether Kelly ever had a black woman with him; I cannot mention any instance of McDonald's lying; McDonald said to me that he did not think the firing was intentional by Kelly; he told me, too that Kelly had not raised the gun to his shoulder when he fired it.

To Mr. Justice Stephen. - I cannot say that I would not believe McDonald on his oath.

McDonald recalled by the Attorney-General. - I don't recollect having told Mr. Darby that the blacks had spears; I know that they had no spears; I don't remember having told Mr. Darby that Kelly had fired unintentionally at the blacks.

The Attorney-General addressed the Jury in reply.

Mr. Justice Stephen charged the Jury. The learned Judge read over the whole of the evidence, and commented upon it at great length. The Jury retired for about a quarter of an hour, and upon their return to Court, delivered a verdict of Guilty, but strongly recommended the prisoner to mercy, on account of his good character.

In answer to Mr. Justice Stephen, the Jury stated that they believed that the prisoner had fired the gun intentionally, and with the design of hitting some of the blacks.

The Attorney-General prayed judgment against the prisoner, and Mr. Justice Stephen (having remarked upon the ability with which the prisoner had been defended, and upon the probability arising from the whole of the evidence, that the unhappy murder had been committed in a moment of bad temper) sentenced the prisoner to death; but promised that, though he could hold out no hopes of mercy to the prisoner, he would lay the whole case before his Excellency the Governor, who alone had the power here of commuting the sentence of death.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

FREE PRESS, 1/80, 11/09/1841.

INQUESTS. – A Coroner’s Inquest was held on Thursday last, at Hill’s Public-house, Parramatta-street, on the body of a man named **JAMES MURPHY**, who died suddenly in an apoplectic fit, at Blackwattle Swamp, on the previous day. Verdict accordingly.

Another inquest was held the same afternoon at the Wheatsheaf Public-house, on the body of a man named **JOHN WALLACE**, who had expired suddenly at an early hour the same morning, while being conveyed in a dray to the Asylum. Verdict – Death from natural causes.

A CHILD LOST. - About a fortnight ago, a child about three years of age, belonging to a man named **PATRICK TAIGH (TIGH)** [ADVERTS later], an Irishman in the employ of Sir John Jamison at the Namoi River, wandered from the Station into the Bush, and has not since been found or heard of, though the most timely and persevering search has been made after it in all directions. It is to be feared that the child has either been carried off by hostile natives, or, more probably, that it has been devoured by the native dogs. This is a very lamentable accident, and as it has proved a source of great distress to the parents, it ought to operate as a warning to other parents in the Interior, to guard against their children wandering from their house into the Bush.

MYSTERIOUS CASE. - The body of a man [**GEORGE POTTER**] was discovered on Thursday afternoon, at the hut of a ticket-of-leave holder, residing on the Liverpool-road, a considerable distance from Sydney, and from the appearance of bruises and violence which it presented, great suspicion was entertained that the deceased had not come to his end in the due course of natural events. Two constables of the Sydney police were, therefore, despatched at an early hour yesterday morning to take charge of the body, and adopt other measures preparatory to an inquest and investigation of the matter.

FREE PRESS, 1/81, 14/09/1841.

MURDER. - An inquest was held on Saturday afternoon last, at the “Wheat Sheaf”, Public-house Parramatta-street, on the body of a man named **GEORGE POTTER**, who had died on the previous Thursday, at the house of a ticket-of-leave holder, on the Liverpool road. Mr. **CUTHILL**, the house-surgeon of the Benevolent Asylum, made a *post mortem* examination of the deceased, and found that he had received two hurts, one of them on the eye, and another on the side, by which several of the ribs had been broken, apparently by the wheel of a dray or cart having passed over his body. - It appeared from the evidence that the deceased had been coming to Sydney with a dray, in company with a man named **MURPHY**, by whom the dray was driven and a woman named **BRIDGET FOREY**, with whom he (the deceased) had been for some time co-habiting; but respecting the manner, and occasion of his death, nothing further was known than that he was found wounded on the Liverpool road, while Murphy and the woman were in a state of drunkenness close to him. – The Jury after some deliberation, returned a verdict of wilful murder against some person or persons unknown, and both the man and women were retained in custody on that charge. The latter was brought before the Sydney Police bench yesterday, but remanded to the Gaol for seven days, in order that further enquiries might be made into the matter.

CASE OF DISTRESS. An advert. re **THOMAS HOBSON**; distress of widow and child. [See 1/64 and 1/60.]

TEMPERANCE, 1/50, 15/09/1841

**THE SUPPOSED MURDER.** - On Saturday last an inquest was held at the Wheat Sheaf public-house, on the body of the man **POTTER**, which had been brought in from the Liverpool-road on the preceding day, when it appeared that the death of the deceased had been caused by a dray being driven over him, while in a state of inebriety. A verdict of wilful murder was given against some person or persons unknown.

**ACCIDENT.** - On Saturday last, an inquest was held at Vinegar Hill, Parramatta Road, on the body of **ELIZABETH COLLINS** or **FRANKLIN**. It seems that the unfortunate woman had mounted a loaded dray when in a state of intoxication, from which she fell, the wheel passed over her, and causing almost instantaneous death. A verdict of 'accidental death' was accordingly returned.

FREE PRESS, 1/82, 16/09/1841.

MAITLAND CRIMINAL CIRCUIT.

**WILLIAM SHEARMAN**, a prisoner of the Crown, was indicted for the wilful murder of **GEORGE CLARK**, by shooting him with a pistol during a drunken brawl; verdict, not guilty.

**HANNAH HAMPTON**, was indicted for the wilful murder of her child shortly after its birth; verdict, not guilty.

CIRCUIT COURTS.

The sittings of the Berrima Court commenced yesterday before Mr. Justice Burton.

**JOHN WRIGHT**, murder.

FIRST REPORT OF **ROBERT HUTCHSON, HACKLE @ HUGGLY**. To be completed.

FREE PRESS, 1/83, 18/09/1841.

NEWS AND RUMOURS OF THE DAY.

An inquest was held at Port Macquarie Hospital, on Monday last, on the body of an old man named **PEEBLES**, who came to his death by falling down the hopper of a mill on the previous day. Verdict accordingly.

**THE LIVERPOOL ROAD MURDER.** - A man named **JOHN GALWAY**, has been apprehended on the charge of being concerned in the above crime, but has not as yet been brought up for examination. It appears from what we can learn, that the unfortunate man (Potter) was knocked off the dray on which he was seated, by **MARY FOX**, the woman who is now in custody, and that the wheel of the vehicle passed over his side thereby occasioning the injuries which terminated in his death. The prisoners will be brought up for examination on Wednesday next.

**THE LATE MURDEROUS ASSAULT.** - Another Government man, named **JAMES M'CANE [M'KEAN]**, attached to the General Hospital, has been apprehended on the suspicion of having been concerned in the late inhuman attack on **DEAN WEST**. The unfortunate man himself has since undergone an operation by which a considerable portion of the skull has been removed, and he now appears to be in a much better state than before, although he still remains in a state of perfect insensibility and his recovery is despaired of. It has not as yet been ascertained what were the causes of so barbarous an attack.

**INQUEST.** - A Coroner's Inquest was held on Thursday last at the Whaler's public-house, Windmill-street, on the body of an old man named **WILLIAM BERGEN**, who died suddenly the preceding evening. From the evidence of the medical witness it appeared that the deceased had come to his death rather from the effects of old age than of any disorder under which he laboured, having been so old and infirm that it

had been judged advisable to procure him admission to the Benevolent Asylum, and measures had already been adopted for that purpose, when they were rendered unnecessary by the death of the object. A verdict of "death from natural causes" was returned.

**THE LATE MURDER AT THE GENERAL HOSPITAL.** - A Coroner's Inquest was held yesterday, at Mr. Driver's, Three Tuns Tavern, corner of King and Elizabeth-streets, before **J.R. BRENNAN**, Esq., coroner, on the body of **DEAN CHINNERY WEST**, who expired at the General Hospital on the previous Saturday from the effects of certain injuries which had been inflicted upon him in the manner afterwards shewn by the enquiry. **ROBERT HUDSON**, who was accused of having inflicted the injuries alluded to was brought up, in order to await the result of the investigation.

The Coroner, in opening the proceedings, briefly referred to the circumstances of the case, and entreated the jury to disabuse themselves from any report which they might have heard out of doors relative to the particulars of the case.

**WILLIAM NEARY**, having been duly sworn, deposed, that he was a baker by trade, and had been in the constant habit of serving bread at the quarters of Mr. Croft, in the general Hospital; on the morning of Wednesday last he went, according to his usual custom, into the room of the deceased in order to leave a loaf upon the table, when his attention was called to some blood on the floor, and upon further examination he discovered that West, who was lying on the bed, was covered with blood flowing from a wound of great severity on the head, he then went upstairs to Mr. Croft's room, who, with his eldest son instantly came down to the quarters of the deceased, and he (the witness) then went away; he did not see any person about the premises except at the quarters of Mr. Croft.

**JONATHAN CROFT**, deputy purveyor and apothecary to the forces, deposed that his quarters were situated at the south wing of the General Hospital, and that the deceased and prisoner were both assigned to him for the purposes of the establishment, the former being employed as a clerk and a distributor of medicine under his (the witness's) direction, and the latter as a gatekeeper; a prisoner of the crown named **SAMUEL HUGGLE** was also assigned to the witness, and employed in the general business of the establishment. On the morning of Wednesday last the baker came to him and said that one of the men was lying covered with blood, upon which, when he (the witness) went immediately to West's room, accompanied by his son, and found the deceased lying on the bed with his face towards the wall, and a severe contused wound on the left side of the head a little above the ear. Witness immediately sent for a constable and instituted a strict search about the premises in order to discover some clue which might lead to the detection of the offender, and some time after this he found an axe in the kitchen, the pole of which was covered with blood and had one hair adhering to it (an axe was then produced), the axe then produced was the one which he had found and appeared likely to have caused such a wound as that which the deceased had received; **JAMES M'LEAN** was present at this time and assisted in searching for the weapon, and missing the prisoner, he (the witness) asked M'Lean whether he had seen him, when the latter replied he had not, but that the prisoner had previously complained to him of the deceased having said that he (the prisoner) was sent to this colony on the charge of murder; upon hearing this, witness cautioned him to say no more at that time and the subject was dropped; Huggle was present and assisted in their proceedings, but made no remark. [A long examination was entered into respecting a towel and a cloth bearing slight marks of blood, but as it could not be connected with any leading point of the case we purposely omit it.] The prisoner did not agree well with any of the men, and witness

had known some slight differences to exist between him and the deceased, but he never looked upon them as tending to any serious result. The prisoner had complained to witness that he was annoyed by the deceased coming home late at night, and witness was aware that the latter had been absent the whole of the day previous to his being wounded, in consequence of which he meant either to have severely reprimanded or punished him, and ordered Hudson to inform him the moment he (deceased) returned. About four o'clock on Tuesday, witness was going out of the gate when he saw the prisoner and M'Lean sitting together in the sentry-box, upon which he immediately ordered them to separate, which they did. After the discovery of the deceased, witness did not see the prisoner until he perceived him in custody, he having absented himself from his post contrary to his duty.

**JAMES M'LEAN**, a prisoner of the crown, attached to the Hospital, corroborated the evidence of the last witness as to finding of the deceased in the state described, but differed from him in some details of minor importance, by which, however, the case was not materially affected. He also stated that the prisoner had complained to him on Tuesday, the day before the murder, of the deceased having told some female servants at the house of the clergyman opposite, that he (prisoner) had been sent out for the murder of his wife, in consequence of which these females were in the habit of taxing him with that crime whenever they met him in the street. The prisoner, he said, appeared to be much affected while speaking of this and shed tears, but did not make use of any threats of revenge; he also expressed his uneasiness of mind at a late hour the same evening, by replying to some jesting remarks which were made to him "God forbid that you should be under the same trouble that I am now." The witness had heard high words between the deceased and the prisoner, but he was never aware of any serious enmity existing. The prisoner was quite sober on the evening alluded to.

**JANE SMITH** and **MARY ANN JACKSON** stated that they had formerly been in the service of the Rev. Mr. **ALLWOOD**, whose residence was facing the Hospital; the gate and yard were visible from the windows, but neither of them were acquainted with any person belonging to the establishment; they did not know either the prisoner or the deceased, and no statements had ever been made to them respecting the crime for which the former had been sent out.

Captain **INNES** then deposed, that he had gone to the prisoner on Sunday last in consequence of some information which he had previously received, and having seen a document which purported to be a confession taken by a clerk from the prisoner's own mouth, he gave the latter a strict caution that the making of such a confession would not operate in his favour, and finding him still determined to persist in the acknowledgement of his guilt, he (Captain Innes) immediately took down the following statement himself from the prisoner, following as near as possible his own words:

"Confession of Robert Hudson, per ship John 1839, who states:- Dean, West, and I, have often had words; and I have told him that he had better not exposing my crime about the place like this, and he has told me that a man like me had no business being about the place. On Wednesday the 15<sup>th</sup> of September, I got up a little after 6 o'clock in the morning, and went into West's bed-room, he was awake but I did not speak to him. I left the bed room and went down to the kitchen, Samuel Huggly was in his room over the kitchen, he asked me what o'clock it was; I told him a little after six; he told me to strike a light, and I told him that I would go and get a match from West's place. I left the kitchen, taking the axe which was used for cutting wood with me; I went to West's bed-room, but left the axe on a chest outside the door. I went in and got a match, I then went and took hold of the axe, advanced to the bed-room, and struck West one blow I think, on the head; he was lying with his face from me towards the wall; he exclaimed "Oh!" I left the room, and left the axe lying on the chest outside. I went

back to the kitchen, when Huggly asked me if I had got the light, I told him no. I then went out of the gate, and went down King-street, and along George-street, and walked about until about ten o'clock, when a constable took me. Huggly was the person who generally cut the wood at the house. I was driven to the act I committed, from West's continually repeating things of me.

ROBERT HUDSON.

Confessed before me, and taken down in my own handwriting in Hyde Park Barracks, this 19<sup>th</sup> day of September, 1841.

J. LONG INNES, J.P.

Present Mr. James Lane, Thos. McDonnell, William Butler.

Dr. **HARNETT**, the Colonial Surgeon, deposed as to the nature of the injuries sustained by the deceased, which he declared to be a severe and extensive fracture of the skull, such an one as the axe with which the crime was supposed to have been committed; he had not the slightest doubt that the fracture alluded to was the cause of death.

**JONATHAN WATSON**, a constable, stated that he apprehended the prisoner in George-street, between 10 and 11 o'clock on Wednesday morning.

The Coroner made a brief review of the case, for the information and guidance of the jury; remarking that his intention in brining so much evidence before them, was in order that the prisoner might, if he pleased, have the advantage of retracting the confession he had previously made, but that in consequence of the confession being persisted in, there could be no reasonable doubt as to the nature of the verdict which the jury would return. The evidence indeed would probably of itself have been deemed sufficient for the purpose, being strongly inferential of the prisoner's guilt; but it would still have been an enquiry of great difficulty; and would have involved Huggly in the same dilemma as the prisoner; it being however clear, both from the confession of the prisoner and the evidence of the witnesses, that Huggly was innocent of the transaction, he should order both him and the witness McLean to be at once discharged. The prisoner appeared to have been labouring under the effects of a strong delusion, in supposing that the deceased had calumniated his character, for it was clear from the evidence of the females that the alledged report of his former crime had never reached them, nor had they therefore ever taunted him with it. The Coroner also commented with considerable force on the evidence, and the general features of the enquiry, and concluded by a remark that under the circumstances, he could see but one course for the Jury to adopt, authenticated as the guilt of the prisoner was, not only by the evidence, but by his own confession.

The Jury after a few moments consideration, returned a verdict of wilful murder against the prisoner, who was immediately committed to take his trial upon that charge.

INQUEST. - A Coroner's Inquest was held on Saturday last at Bollard's public house, on the body of a female infant named **AMELIA ELLIS**, aged eighteen months, who was killed on the preceding evening by the wheel of a chaise driven by Mr. **BURT**, baker, having passed over her head. It appeared by the evidence that no blame could be attached to Mr. Burt, who drew up as soon as he ascertained the danger of the child, but not in time to save her from destruction - verdict, accidental death.

#### NEWS AND RUMOURS OF THE DAY

On Tuesday evening last, a youth of the name of **GROUNDS**, whose parents reside at Parramatta was entrusted with a high spirited horse, which he mounted, when it immediately ran off, threw him, and his foot being entangled in the stirrup, he was dragged along the street till he came in contact with a post, which so severely injured

his head that he died on Friday. An inquest was held on the body on Friday, and a verdict of accidental death was returned.

PORT PHILLIP PATRIOT, 20/09/1841

Supreme Court of New South Wales

Willis J., 16 September 1841, Melbourne

R. v. Bonjon

Willis J. I will now continued His Honor state my views on the subject, at the same time I may say, that I do not consider myself bound by the opinion of either Mr. Chief Justice Forbes, Mr. Justice Burton, or Mr. Chief Justice Dowling in the present case. I have to thank Mr. Barry for the very able manner in which he has argued the case for the prisoner; the whole of his argument shows a considerable deal of talent, industry and research; he having kindly undertaking the defence of the prisoner at my suggestion. I have also to thank the Crown Prosecutor for the able manner in which he supported the rights of the Crown. The case appears to me to be this, **BONJON**, an aboriginal within the District of Port Phillip, was committed to gaol on the twenty-fifth of August 1841, by N. A. Fenwick, Esquire, the Police Magistrate of Geelong, and **E.B. ADDIS**, and **FOSTER FYANS**, Esquires, Justices of the Peace for the Territory of New South Wales, for the alleged murder (on or about the 14th of last July), of **YAMMOWING**, also an aboriginal within this district. An information has been filed by Mr. **CROKE**, the Crown Prosecutor for the district, against the prisoner for this offence, and the question now is, whether the Supreme Court in a case like this has any jurisdiction? Are in fact the aborigines (except with reference to aggressions on their part against the colonists, and with regard to that protection from the aggressions of the colonists which the aborigines are indisputably entitled to), subject to the law of England as it prevails in this Colony? With regard to such aggressions as I have mentioned they are entitled to be considered and treated, in my opinion, as if they were British subjects. The recent case of the two aboriginals, **MERRIDIO** and **NEGARIL** recently tried before Mr. Justice Burton, at Sydney, and executed for the murder of **WILLIAM TUCK**; and the case of **CHARLES KILMAISTER**, and six other colonists, also tried before Mr. Justice Burton, at Sydney, in December 1838, and executed, for the murder of two aboriginal children and an adult aboriginal named **CHARLEY**, show how the English law has been applied in criminal cases between the colonists and the aborigines. I am aware, however, that Mr. **MONTGOMERY MARTIN**, in his history of this colony (chap. 6) thus mentions the case of an aboriginal black Tommy who was hanged for murder at Sydney, in 1827. "The circumstances, he says, connected with this execution were very singular, and deserve publicity. From the statement previously made to me, I believed the man to be innocent, and I therefore attended his trial to aid in the defence of a man who knew not a word of our language, and owed no obedience to our laws." Mr. Martin, though an author, is not legal authority. The point however for decision in the case now before me, is a very different one. I repeat that it is not with reference to any aggressions between the black and white population, but simply whether the English law can be legally applied; or rather, sworn as I am to administer the law of England as it prevails in this colony, can I legally exercise any jurisdiction, with reference to any crimes committed by the aborigines against each other? This, and this alone is the question; and it is a question, affecting as it does a vast and hitherto neglected, oppressed, and deeply injured multitude of the human race, more worthy of the judicature of a Roman Senate than of an obscure and single colonial Judge; but it is my consolation, that should I err in judgment, that error may speedily be corrected,

and complete justice provided, not indeed by a Roman Senate, but by the surpassing wisdom and humanity of the Imperial Parliament. The undue assumption of legal jurisdiction darkens the annals of our country with the crime of Regicide; it hurried to the grave an unfortunate Missionary in the colony whence I came, but there sprang from his ashes a society which having extinguished slavery, now directs its views to the protection of the aborigines within the British settlements. I believe it to be the duty of a judge fearlessly and honestly, yet with all due care and circumspection, to extend to its utmost verge his judicial authority when occasion shall require; but I believe it equally to be his duty to abstain from its exercise when any reasonable doubt can be entertained of his jurisdiction. The fair and lovely face of justice, if urged beyond her legal boundary, assumes the loathsome and distorted features of tyranny and guilt.

"Est modus in rebus, sunt certi denique fines,  
Quos ultra citraque nequit consistere rectum."

The address of the British House of Commons to the late King, passed unanimously, July, 1834, (and set forth in the Report of the Select Committee of the House of Commons on the Aborigines where British settlements are made, and to which I shall have frequent occasion to refer), states that his "faithful Commons in Parliament assembled are deeply impressed with the duty of acting upon the principles of justice and humanity in the intercourse and relation of this country (the United Kingdom) with the native inhabitants of its Colonial settlements – of affording them protection in the enjoyment of their civil rights, and of imparting to them that degree of civilization, and that religion with which Providence has blessed this nation; and it humbly prays, that his Majesty will take such measures and give such directions to the Governors and Officers of his Majesty's settlements and plantations, as shall secure to the natives the due observance, and the protection of their rights – promote the spread of civilization among them, and lead them to the peaceful and voluntary reception of the Christian religion." "This address, (says the Report) as the Chancellor of the Exchequer observed; so far from being the expression of any new principle, only embodies and recognises principles on which the British Government has for a considerable time been disposed to act." The Report further states, "It might be presumed that the native inhabitants of any land, have an incontrovertible right to their own soil; it is a plain and sacred right which seems not to have been understood. Europeans have entered their borders uninvited, and when there, have not only acted as if they were the undoubted lords of the soil, but have punished the natives as aggressors if they have evinced a disposition to live in their own country. If they have been found upon their own property (and this is said with reference to the Australian Aborigines) they have been hunted as thieves and robbers – they have been driven back into the interior as if they were dogs or kangaroos." To elucidate so far as I am able the point for decision, I will first briefly trace the history of this colony and of the settlement of this district, at the same time remarking on the character which has been given of the Aborigines; and in the second place, state so much of the acknowledged law of nations and the manner it has been acted upon with regard to Aborigines, as seems to me to bear on the subject, adding a few notices of the manner in which uncivilized tribes have been treated with in other British Colonies, and the steps taken in Colonies where English law was in force. I will premise that the policy, or impolicy of an existing system can avail nothing in the present instance. I am here as a Judge to declare the right, and not to have recourse to the expedient. I can never permit the end to justify any undue means for its accomplishment. This may be

policy and wisdom in a statesman, but it is little less than treason in a Judge. He must not

"Wrest the law to his authority,

Or do a great right, through a little wrong."

But to proceed with the history of the colony: whatever may be the claims of others to the discovery of the vast island of New Holland, there can be no doubt that our English navigator, Captain Cook, sailing from Plymouth in August 1768, on his well known scientific voyage, after having observed at Mattavai in Otaheite, the transit of Venus over the Sun, in June 1769, in due form, and with great advantage, and discovered the Society islands; sailed to New Zealand, and thence to New Holland; the eastern coast of which, unexamined before, he explored with attentive diligence for the space of 1800 miles; affixing to this part of the country the name of New South Wales, he took possession of it in the name of his sovereign. Early in the year 1785, owing to the previous revolution and then recent declaration of the independence of the British Colonies, (now United States of America) the attention of the British Government was naturally directed to the state of the convicts formerly transported to those possessions. In the House of Commons Mr. Burke asked what was to be done with the unhappy persons sentenced to transportation? This gave rise to the Colonial scheme, adopted during the administration of Mr. Pitt to clear the prisons, with an eye to the eventual benefits derivable from new possessions. The King ordered a considerable embarkation for Botany Bay, in New South Wales. The number of convicts amounted to 584 men, and 242 women; guarded by 212 marines. Capt. Arthur Phillip, a naval officer, was invested with the chief command of the squadron, and destined to be the first governor of the eventual colony.

"Finibus expulsi patriis nova regna petentes."

they sailed from England in the early part of the year 1787, and arrived in Botany Bay in January 1788. On the shore appeared a body of savages, armed with spears, which, however, they threw down as soon as they found the strangers had no hostile intention; they had not the least particle of clothing, yet they did not seem surprised at the sight of well clad persons, or impressed with a sense of shame. Finding the bay to be inconvenient, Port Jackson was fixed upon, as a more desirable spot; and at one of the coves of this harbour, named from Lord Sydney, an orderly disembarkation took place. While the majority of the men were clearing the ground of the trees and underwood with which it was encumbered, a hasty encampment afforded temporary shelter; and at a meeting of the whole colony, formal possession was taken of that part of New Holland which extends from York Cape to the South-eastern Cape, and from the coast to the 135° of east longitude; a country, to which was given the denomination of New South Wales, much more extensive than all the British dominions in Europe. The Governor, in various excursions, endeavoured to conciliate the natives, but they long continued to be shy and jealous; they appeared to belong to the numerous race dispersed over the South Sea Islands; they had made little progress in the arts, their canoes were wretchedly formed, their huts were very slight and incommodious; and, they could not secure themselves against the frequent visitations of famine. The progress of the colony, to a regular establishment, was slow: supplies of delinquents were occasionally sent; but such articles of subsistence as the colonists could not obtain from the land which they inhabited, did not always arrive from other countries so soon as they were required, and the scarcity sometime bordered on famine. And here I cannot but agree with what is said by Lord Bacon – "I like a plantation in a pure soil, that is, where people are not displanted to the end to plant in others; for else it is rather an extirpation, than a plantation." "It is a shameful thing,"

he adds, "to take the scum of the people, and wretched condemned men, to be the people with whom you plant." Yet such was the plantation of New South Wales. With regard to the character of the Aborigines of the colony, it was said by those who first visited New Holland, "that the people who inhabit the various parts of it, appear to be of one race. They are evidently ruder than most of the Americans, and have made still less progress in improvement and the arts of life. There is not the least appearance of cultivation in any part of this vast region; the inhabitants are extremely few, so that the country appears to be almost desolate. Their tribes are still more inconsiderable than those of America. They depend for subsistence almost entirely on fishing; they do not settle in one place, but roam about in quest of food. Both sexes go stark naked. Their habitations, utensils, &c., are more simple and rude than those of the Americans." Subsequent observation has shown the incorrectness of much of this statement, which, doubtless, may formerly have had weight with the British Government. The Lord Bishop of Australia, previously the Archdeacon, Dr. Broughton, (in his evidence before the Committee of the House of Commons,) although he says, "that the Aborigines are in a state of extreme degradation and ignorance," yet adds, "that he does not ascribe their present barbarism to any unconquerable dulness of intellect, but merely to their love of erratic liberty; and thinks their intellect, when it is exercised, is very acute upon subjects that they choose to apply it to." His Lordship states, "that the consequence of our settlement at Sydney, was to drive away the Aborigines from possessions which they had previously occupied." "They still haunt," he says, "and continue in their natural places; they return to it, and linger about it; but they have no settled place, properly so called – it is all occupied by the Europeans." His Lordship also stated his opinion as to their numbers, which certainly does not seem to be very inconsiderable. Mr. **SAXE BANNISTER**, formerly Attorney-General of this colony, in his evidence before the same Committee (on the 31st August, 1835,) after complaining, that, in his time in New South Wales, an interpreter (between the Aborigines and colonists) could not be found to come into any court of justice, says, "we ought forthwith to begin, at least, to reduce the laws and usages of the Aboriginal tribes to language, print them, and direct our courts of justice to respect those laws in proper cases." Hence, it is evident, according to Mr. Bannister's testimony, that the Aborigines of this colony have laws and usages of their own. Mr. Bannister also handed a paper to Mr. T. F. Buxton, chairman of the Committee, dated the 19th August, 1835, in which (under the head of "Measures affecting the Swan River and other New Australian Colonies,") he says, "Make treaties with the natives before proceeding farther." The Rev. **JOHN DUNMORE LANG**, the head, I believe, of the Presbyterian Church in this colony, in a letter to Mr. T. F. Buxton, of the 10th June, 1834, appended to Minutes of Evidence before the Committee I have mentioned, writes as follows:– "They (the Aborigines of New South Wales) are divided into an infinity of tribes, speaking an infinity of barbarous tongues; subsisting on whatever the rivers or the forests produce spontaneously – without clothing – without houses – equally ignorant of manufactures and of agriculture – but generally in a state of warfare with each other. \*

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They are neither devoid of intelligence, however, nor destitute of capacity; and in their native wilds, and especially in seasons when game is easily procurable, they are by no means strangers to a certain species of enjoyment. Their songs are artless, but agreeably melodious, and sometimes even poetical; their dances are an accurate imitation of the motions of the inferior animals that inhabit their native forests; and their mock fights are a still more accurate representation of real warfare than an

European review." I find that in a letter from a Mr. John Batman, inclosed by Governor Arthur, from Van Diemen's Land of 4th July, 1835, to the Right. Honorable T. Spring Rice, (now Lord Monteagle,) then Her Majesty's Colonial Secretary of State; that Mr. Batman states "the chiefs (that is, the chiefs of the aboriginal tribes at Port Phillip,) "to manifest their friendly feelings towards me, insisted upon my receiving from them two native cloaks, and several baskets, made by the women, and also some of their implements of defence. The women generally are clothed with cloaks of a description somewhat similar, and they certainly appear to me to be of a superior race to any natives which I have ever seen." Thus, according to these statements respecting the aborigines, it appears that they are by no means devoid of capacity – that they have laws and usages of their own – that treaties should be made with them – and that they have been driven away, from Sydney at least, by the settlement of the colonists, but still linger about their native haunts. That they do so linger in this district – that those who are termed by Mr. Batman, in aid of his views, and those of other speculative adventurers, "a superior race," still linger about this town of Melbourne, once in their actual occupation, is seen by their frequent assemblies in the immediate vicinity, and the multitude of them so congregated at this very moment. The scenes of drunkenness of individuals belonging to this unfortunate race daily witnessed by all in the streets of Melbourne will account for that decay, – for their seeming to wear out (as the Lord Bishop justly says) and diminish in numbers wherever Europeans meet with them. Rochefort tells us that an Aboriginal of a different country, an old Charib, many years since thus addressed a West Indian planter, "Our people are become almost as bad as yours, we are so much altered since you came among us, that we hardly know ourselves, and we think it is owing to so melancholy a change, that hurricanes are more frequent than they were formerly. It is the evil spirit that has done all this – who has taken our best lands from us, and given us up to the dominion of Christians." It appears by the Parliamentary Report I have so frequently referred to, that "From the prevalence of infanticide, from intemperance, and European diseases; the number of the Aborigines is evidently and rapidly diminishing in all the older settlements of the colony, and that in the neighbourhood of Sydney especially, they present merely the shadow of what once were numerous tribes – yet even now it is supposed that their number within the limits of the colony of New South Wales cannot be less than 10,000; an indication of what must once have been the population, and what the destruction." But why I would ask if the Aborigines be deemed to all intents and purposes to be British subjects and amenable to British laws – as it is now contended that they are; Why have not the Magistracy? aye! and why not the Executive directed the Magistracy if negligent in their duty, to put forth the protecting arm of legal authority to save these wretched beings from these crimes – the crimes of infanticide and drunkenness – to save them from themselves, and from the effects of the inoculation of European vice? The settlement of this district of Port Phillip, took place under the circumstances detailed in a very able despatch of Governor Sir Richard Bourke on the 10th of October 1835, to the Right Hon. Lord Glenelg, then Secretary of State, which with other documents relative to an illegal attempt of the Mr. Batman who has been mentioned, and his co-adventurers, to treat with the chiefs of the native tribes for the purchase of no less than 600,000 acres of land in the immediate vicinity of this town, in consideration of a few blankets, knives, and tomahawks, four suits of clothes, fifty pounds of flour, and an annual tribute of some blankets, knives, tomahawks, scissors, looking glasses, slop clothing, and two tons of flour." Yes, such was proposed as the liberal consideration for 600,000 acres of land, an attempted bargain surpassed only by some more recent

proceedings of a somewhat similar description in New Zealand. The whole of these documents are printed and may be seen in the appendix to the Report of the Parliamentary Committee on the disposal of waste lands in the British Colonies dated the 1st of August, 1836. This scheme was happily frustrated. It is to be regretted, however, that previously to the settlement of Port Phillip by the Government no treaty was made with the Aborigines – no terms defined for their internal government, civilization, and protection. Sir Richard Bourke indeed well deserved the glowing eulogy for what he has done, though I cannot but lament that with regard to the Aborigines he did not do more, in the address to him from the inhabitants of the colony of New South Wales, when on his return to Europe, (published in the Government Gazette of New South Wales, of 13th December, 1837;) it alludes to Port Phillip in the following terms, "We beg leave, sir, to acknowledge, that to your promptitude and decision, we are mainly indebted for having secured to New South Wales the noble domain, millions of fertile acres, which encompass the waters of Port Phillip. Impartial history will yet record with what vigilance you watched over those, who under the pretence of fictitious sales and artful representations, endeavoured, on terms injurious to the rights and interests of the colony, to make a monopoly of those green and boundless plains, which at no distant period are destined to be covered with our multitudinous flocks and herds." The immigrant now journeys to the spot thus freed from the trammels of these tainted transactions, like Æneas on his approach to Carthage

"Miratur portas, strepitumque et strata viarum,  
Instant ardentes homines; pars ducere muros,  
Molirique arcem, et manibus subvolvere saxa:  
Pars aptare locum tecto, et concludere sulco,  
Hic Portus alii effodiunt; hic alta theatris  
Fundamenta locant alii, immanesque columnas  
Rupibus excidunt, scenis decora alta futuris."

But though the city may spring up and flourish; though the smoke is seen to curl from many a domestic hearth; where is the sacred spire pointing to Heaven, and telling the distant traveller, that he is approaching the abode of Christians, as well as of civilized men? – of Christians mindful of their duty to the helpless race whose possessions they have usurped. According to the commission whereby this colony is governed, the Sovereignty of the Crown is asserted over the whole of the territory comprised within the limits it defines – limits always including a large portion of the Northern Island of New Zealand; that part in fact between which and New South Wales any intercourse existed – limits which by a Commission of so late a date as the 15th of June, 1840, were further extended so as to comprise that group of islands in the Pacific commonly called New Zealand. There does not appear to be any specific recognition in this Commission of the claims of the aborigines, either as the sovereigns or proprietors of the soil; although it is in the recollection of many living men that every part of this territory was the undisputed property of the aborigines. Whether the sovereignty thus asserted within the limits defined by the Commission of His Excellency the Governor legally excludes the aborigines, according to the law of nations, as acknowledged and acted upon by the British Government, from the rightful sovereignty and occupancy of a reasonable portion of the soil, and destroys their existence as self governing communities, so entirely as to place them, with regard to the prevalence of our law among themselves, in the unqualified condition of British subjects; or whether it has merely reduced them to the state of dependent allies, still retaining their own laws and usages, subject only to such restraints and qualified control as the safety of the

colonists and the protection of the aborigines required, (subject to that right of pre-emption of their lands, which is undoubted) is the point upon which the present question mainly rests. Much will depend on the manner in which this colony is considered to have been acquired, and this brings me in the second place to advert to the law of nations as acknowledged by the British Government, with regard to Colonial possessions. Colonies, says Mr. Clark, in his summary of the Colonial Law, and stated at the bar by Mr. Barry, are acquired by conquest; by cession under treaty; or by occupancy. By occupancy where an uninhabited country is discovered by British subjects, and is upon such discovery adopted or recognised by the British Crown as part of its possessions. In case a colony be acquired by occupancy, (he adds) the law of England then in being, is immediately and ipso facto in force in the new settlement. He further states, New South Wales and Van Diemen's Land, were acquired by discovery or simple occupation. New South Wales was not however unoccupied, as we have seen, at the time it was taken possession of by the colonists, for "a body of the aborigines appeared on the shore, armed with spears, which they threw down as soon as they found the strangers had no hostile intention." This being the case, it does not appear there was any conquest, and it is admitted there has hitherto been no cession under treaty. Protectors indeed have recently been appointed and certain lands set apart by order of Government within this district, for the location of the aborigines; but no more. This colony then stands on a different footing from some others for it was neither an unoccupied place, nor was it obtained by right of conquest and driving out the natives, nor by treaties. Indeed, as M. Vattel very justly says, "whoever agrees that robbery is a crime, and that we are not allowed to take forcible possession of our neighbour's property, will acknowledge without any other proof, that no nation has a right to expel another people from the country they inhabit in order to settle in it herself." But in a preceding page the same author declares, in the passage quoted by the learned Crown Prosecutor, "that those who pursue an erratic life, and live by hunting rather than cultivate their lands, usurp more extensive territories than with a reasonable share of labour they would have occasion for, and have, therefore, no reason to complain if other nations, more industrious, and too closely confined come to take possession of a part of those lands. Thus, though the conquest of the civilised empires of Peru and Mexico was a notorious usurpation the establishment of many colonies on the continent of North America, might, on their confining themselves within just bounds, be extremely lawful. The people of those extensive tracts rather ranged through, than inhabited them." And, again, he says, as was quoted by the counsel on both sides at the bar, "It is asked if a nation may lawfully take possession of a part of a vast country in which there are none but erratic nations whose scanty population is incapable of occupying the whole? We have already observed, in establishing the obligation to cultivate the earth, that those nations cannot exclusively appropriate to themselves more land than they have occasion for, or more than they are able to settle and cultivate. Their removing their habitations through these immense regions cannot be accounted true and legal possession; and the people of Europe, too closely pent up at home, finding land of which savages stood in no particular need, and of which they made no actual and constant use, were lawfully entitled to take possession of it, and settle it with colonies. The earth, as we have already said, belongs to mankind in general, and was designed to furnish them with subsistence: if each nation had from the beginning resolved to appropriate to itself a vast country, that the people might live only by hunting and fishing and wild fruits, our globe would not be sufficient to maintain a tenth part of its present inhabitants. We do not, therefore, deviate from the views of nature in

confining the Indians within narrower limits." M. Vattel proceeds, but this has not been quoted at the bar:— "However, we cannot help praising the moderation of the English Puritans who settled in New England; who, notwithstanding their being furnished with a charter from their Sovereign, purchased of the Indians the land of which they intended to take possession. This laudable example was followed by William Penn and the colony of Quakers, which he conducted to Pennsylvania." It was, then, upon the above principle, I think, and not by mere occupancy of a desert spot, by conquest, or by cession, that this colony was acquired, though the good example of the English Puritans and of Wm. Penn has hitherto been neglected. The former, in 1640, being desirous of planting churches "after a Godly sort," and to traffic with the Indians along the Delaware Bay, made a purchase of soil for 30l. sterling from the Indians, "and based their claims on their actual purchase from the Indian sovereigns, of whom they alleged they acquired their titles." With regard to Penn, Fishbourne, in his narrative, says, "the first and principal care of the proprietor (Penn) was to promote peace with all, accordingly he established a friendly correspondence by way of treaty with the Indians, at least twice a year, and strictly enjoined the inhabitants and surveyors not to settle any land to which the Indians had claim, until he had first, at his own cost, satisfied and paid them for the same." Here, then, we find the Indians treated as Sovereigns of the soil by the Puritans, and treaties entered into with them by the chartered governor, Penn. Penn's right as representing his Sovereign, was discovery coupled with possession; and yet, having the sovereignty by virtue of the royal charter, the Indians were not reduced to subjects, but treaties were made with them whereby they became dependent states, and placed themselves under his protection. "A state," says M. Vattell, "that has put herself under the protection of another has not on that account forfeited her character of sovereignty;" and this was the case with the Indian tribes. A state, I think, may be considered under the above circumstances as placing itself under the protection of the more powerful colonists, although no specific treaty has been made; and the passages from Kent's Commentaries that I shall cite hereafter, will, in my opinion, warrant this inference. But, it may be said, that if a nation that is protected, or has placed itself under a certain state of subjection, does not resist the encroachments of the superior power — if it makes no opposition to them — if it preserves a profound silence when it may and ought to speak — its patient acquiescence becomes, in length of time, a tacit consent that legitimates the right of the usurper. It must be observed, however, that silence, in order to show consent, ought to be voluntary. If the inferior nation proves, or if it be evident from its position and circumstances, that violence and fear, or ignorance, prevented its giving testimonies of opposition, nothing can be concluded from its silence which then gives no right to the usurper. Therefore, if this colony were acquired by occupying such lands as were uncultivated and unoccupied by the natives, and within the limits of the sovereignty asserted under the commission, the aborigines would have remained unconquered and free, but dependent tribes, dependent on the colonists as their superiors for protection; their rights as a distinct people cannot, from their peculiar situation, be considered to have been tacitly surrendered. But the frequent conflicts that have occurred between the colonists and the Aborigines within the limits of the colony of New South Wales, make it, I think, sufficiently manifest that the Aboriginal tribes are neither a conquered people, nor have tacitly acquiesced in the supremacy of the settlers. The rights of the Aborigines of this district if the testimony which has been adduced as to the civilization and capacity be true, cannot, I should imagine, differ from those of other Aboriginal tribes within the limits of the same government. We find in the Government Gazette of

New South Wales, of July 8, 1840, a Proclamation by Captain Hobson, the Lieutenant-Governor of New Zealand, reciting that a treaty had been made and entered into by him and certain chiefs of the northern island, (the greater part of which it will be remembered has always been within the limits defined in the commission under which this colony is governed), declaring that by virtue of such treaty, the full sovereignty of the northern island of New Zealand vests in Her Majesty Queen Victoria for ever, a clear and distinct recognition of these chiefs as a separate and independent people. Now, if this cession were according to general and established principles of national law, what is there, I would ask, to prevent His Honor the Superintendent of this district entering into a similar treaty with the chiefs of the aborigines of this district, and thus acknowledging them to be as distinct a people as the New Zealanders? I fully agree with His Excellency the Governor, Sir Geo. Gipps, that Mr. Busby's declaration of independence of the New Zealanders, "was a silly as well as unauthorised act," wherefore no argument in favor of the treaty entered into with them by Governor Hobson, can be built on that ground; in fact I am quite at a loss to discover how the aborigines of New Zealand can be considered in a different light to those of Australia Felix. But I now come to what, perhaps, is higher and more conclusive authority for considering the aborigines as a distinct though dependent people, and entitled to be regarded as self-governing communities. On the 9th of July, 1840, His Excellency Governor Sir George Gipps, in his speech in the legislative council of this colony, (a speech which would have done honour to any senate,) on the Bill respecting claims to grants of land in New Zealand, made, among other, the following quotations in support of his argument, quotations which I know to be correct. The first passages read by His Excellency were extracts from Storey's Commentaries on the Constitution of the United States, c. 1, sec. 6, 7, and 8; but the 7th section is sufficient for my present purpose – it is as follows: "It may be asked what was the effect of this principle of discovery with regard to the natives themselves. In the view of the Europeans, it created a peculiar relation between themselves and the aboriginal inhabitants. The latter were admitted to possess a present right of occupancy, or use of the soil, which was subordinate to the ultimate dominion of the discoverer. They were admitted to be rightful occupants of the soil with a legal and just claim to retain possession of it; and to use it according to their own discretion. In a certain sense they were permitted to exercise rights of sovereignty over it. They might sell or transfer it to the sovereign who discovered it, but they were denied the authority to dispose of it to any other person; and until such a sale or transfer they were generally permitted to occupy it as sovereigns de facto." His Excellency then read several extracts from Kent's commentaries on the American law, and among others the following passage, a passage also quoted by counsel on behalf of the prisoner in his arguments in this case. "The Indian tribes placed themselves under the protection of the whites, and they were cherished as dependent allies." This does not appear to have been in consequence of any express treaty; "but subject to such restraints and qualified control in their national capacity, as was considered by the whites to be indispensable to their own safety, and requisite to discharge the duty of protection." And again, "They (the New England Puritans) always negotiated with the Indian nations as distinct and independent persons; and neither the right of preemption, which was uniformly claimed and exercised, nor the state of the dependence and pupilage under which the Indian tribes within their territorial limits were necessarily placed, were carried so far as to destroy the existence of the Indians as self-governed communities." His Excellency also read a passage from Robertson's History of America, with regard to the internal regulations

of the Indians, of which the following is an extract: (this passage has also been urged at the bar to show that the Court ought not to entertain jurisdiction. "The first step towards establishing a public jurisdiction has not been taken in those rude societies. The right of revenge is left in private hands. If violence is committed or blood is shed the community does not assume the power either of inflicting or moderating the punishment. It belongs to the family and friends of the person injured or slain, to avenge the wrong, or to accept the reparation offered by the aggressor." A lawyer at once perceives the similarity of this rude custom to the appeals of murder which within my recollection formed part of the English code. I believe the passages so aptly quoted by His Excellency the Governor to be equally applicable to the aborigines throughout the colony as to those of New Zealand. The American colonies were acquired precisely in the same manner as this has been, by discovery and occupancy of such lands as were not in the actual occupation of the natives. Some of those colonies also were receptacles for convicted offenders. If it be urged, notwithstanding what I have stated, that this is a conquered colony, I say and so most certainly was Jamaica, a colony in which, as in this, the English law prevails, and yet we find that in the year 1738, a treaty was concluded under the sanction of the crown, not with the aborigines indeed, but with an equally rude and untutored race, the Maroons of Trelawney Town, on the 1st March in that year; by the eighth article it is stipulated "that if any white man shall do any manner of injury to Capt. Cudjoe, his successors, or any of his people, they shall apply to any commanding officer, or magistrate in the neighbourhood for justice; and in case Captain Cudjoe, or any of his people shall do any injury to any white person, he shall submit himself, or deliver up such offenders to justice." – And by the 12th article, "That Capt. Cudjoe during his life time, and the Captains succeeding him, shall have full power to inflict any punishment they think proper on their men, death only excepted, in which case if the Captain thinks they deserve death, he shall be obliged to bring them before any Justice of the Peace, who shall order proceedings on their trial equal to those of other free negroes." A pretty strong acknowledgement of a rude and dependent community being permitted to govern itself by its own laws in a British colony. The island of St. Vincent, of which says Edwards, the Charibs were the rightful possessors, was by the 9th article of the peace of Paris, 10th Feb. 1763, ceded by the French in full and perpetual sovereignty to Great Britain, "the Charibs not once being mentioned in the whole transaction as if no such people existed." The Charibs indeed uniformly and absolutely denied any right in any of the Sovereigns of Europe to their allegiance. They were a rude and savage race certainly nor greatly superior, from Mr. Edwards' account of them, to the aborigines as described by Mr. Batman in Australia Felix. Notwithstanding the cession of the Island to the British Crown in full sovereignty, Government deemed it expedient to enter into a treaty of peace and friendship with them, concluded on the 17th of February, 1773, by the 3rd article of which they stipulate, "to submit themselves to the laws and obedience of His Majesty's Government, and the Governor shall have power to enact further regulations for the public advantage as shall be convenient, (this article only respects their transactions with H. M.'s subjects, not being Indians, their intercourse and customs with each other in the quarters allotted to them not being affected by it) and all new regulations are to receive H. M.'s Governor's approbation before carried into execution." More convincing proofs than these cases in Jamaica and St. Vincent of the recognition of the self government, as dependent allies, of a rude people within the British dominions in a colony where English law prevails cannot I think be found, or one that more clearly refutes the argument of the learned Crown Prosecutor, that all persons in

a British colony are subject to the British law. Why then I would ask if this principle has been acknowledged in this colony with regard to the Aborigines of New Zealand – in Jamaica with respect to the Maroons – in St. Vincent with reference to the Charibs, and fully recognised and acted upon as national law in America. Why is it not to be acted upon here? Our East Indian possessions, whatever they may have been originally, are certainly now claimed by us by conquest; yet there, even, after conquest, the unchristian practice of Suttees and the barbarous rites of Jughernaut were permitted to prevail: the British Legislature, however, has, by the Stat. 3 & 4, Wm. IV., cap. 85, expressly given "the Governor-General in Council power to repeal or alter any laws or regulations then or thereafter to be in force in those territories, and to make laws for all persons, British or Native, foreigners or others, and for all courts of justice, whether established by H. M.'s charter or otherwise." There is no express law, that I am aware of, that makes the Aborigines subject to our colonial code: the stat. 9, Geo. IV., cap. 83, sec. 24, declares that the laws of England shall be applied in the administration of justice so far as circumstances will admit; but this, I think, is very different from declaring that the Aborigines shall, as among themselves, be amenable to British law. The only acts of legislation with regard to the Aborigines, that I remember, are the local ordinances to prevent their being supplied with spirits, and to prevent them bearing firearms; but it has never been attempted to deprive them of their weapons. These laws are perfectly consistent, I think, with the character of the Aborigines, as dependent allies, and necessary for the protection and due regulation of intercourse between the Aborigines and colonists. After the conquest of Ireland by Henry II., the laws of England were received and sworn to by the Irish nation, assembled at the Council of Lismore. But the Irish still adhering to their old Brehon law, after repeated injunctions, which they disregarded, that they should be governed by the law of England, the Brehon law was formally abolished by an Act of Irish Parliament in the 40th year of Edward III. Had any legislative enactment abolished the laws and customs of the aborigines, or declared that they should be governed by the law of the colony then this point could never have arisen. This is not a question of foreigners in a country where the sovereign has the entire sway. In such a case there can be no doubt that the foreigners are amenable to the laws of the place they come to. But even with regard to foreigners it is said by M. Vattel, to be the safest course not to permit those foreigners to reside together in the same part of the country, there to keep up the form of a separate nation. In this instance however the colonists and not the aborigines are the foreigners; the former are exotics, the latter indigenous, the latter the native sovereigns of the soil, the former uninvited intruders. It seems then that although infanticide prevails, and scenes of drunkenness are daily witnessed among the unfortunate aborigines in our streets, that no attempt has hitherto been made, to my knowledge at least, to repress these crimes by the interposition of our English or colonial law. To grasp the subject with sufficient strength, I have been induced to narrate at some length, the circumstances under which this colony was acquired and this district settled; to state the law of nations as applied not only in what was British America, but in New Zealand as forming a part of this colony, and to allude to the treaties made with the Maroons in Jamaica, and the Charibs in St. Vincent, (the one a colony obtained by conquest in its strictest sense, and the other acquired by the full and unconditional cession of a Foreign State,) in both of which colonies the law of England, so far as it can advantageously be applied, is recognised and prevails. Nor have I omitted to glance at the permissive countenance of the laws and customs of the natives of Hindostan, in that portion of it which has been conquered and subjected to British rule; though such customs included the cruel

practice of Suttees, and the disgusting heathen and barbarous rites of Jughernaut. I repeat that I am not aware of any express enactment or treaty subjecting the Aborigines of this colony to the English colonial law, and I have shown that the Aborigines cannot be considered as Foreigners in a Kingdom which is their own. From these premises rapidly indeed collected, I am at present strongly led to infer that the Aborigines must be considered and dealt with, until some further provision be made, as distinct, though dependent tribes governed among themselves by their own rude laws and customs. If this be so, I strongly doubt the propriety of my assuming the exercise of jurisdiction in the case before me. But it is too momentous a question to be thus hastily decided, it demands and it must receive much more anxious consideration, unless the counsel on each side go on with this case, on the express understanding that neither the prisoner nor the Court consider the question waived by any subsequent proceeding, and the reservation of all such benefit to the prisoner as he would have received in case I had now given a definite decision. I must for the present adjourn this matter for future judgment, reserving to myself as I do to the fullest extent the right so alter or abandon my present impression, should I be hereafter convinced that it is in any wise erroneous. But though I pause, I trust by doing so, I shall not subject the British name to the reproach cast on the Spaniards by the Peruvian Rolla. "I pause, indeed, in unfeigned amity, that affliction may not mourn my progress." I desire to see the state of the Aborigines of Australia improved, I desire to see them freed from the yoke of error; to see the duties of humanity amply and practically fulfilled; to see all due protection extended to this unhappy race – the protection of their rights by laws adapted to their capacity and suited to their wants – the protection of all equal and all powerful justice.

It was then agreed that the prisoner should plead to the information and take his trial, subject however to the express reservation of the right of jurisdiction, which His Honor would take further time to consider.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

TEMPERANCE, 1/51, 22/09/1841

**HUDSON**, who was in custody on suspicion of the murder in Macquarie-street, has confessed the crime.

FREE PRESS, 1/85, 23/09/1841

NEWS AND RUMOURS OF THE DAY

Intelligence has been received in Sydney, of a most atrocious murder, at the Station of **CHARLES THOMPSON**, Esq., on the Murrumbidgee. The circumstances of the case have not as yet transpired, but it appears that the body of a man has been found in the Murrumbidgee River, with his head cut open by a tomahawk, the temple bones knocked into the brains, and the legs tied together. Mr. Commissioner **BINGHAM** has been very busy in investigating the matter, and it is said, he has obtained such a clue, as will lead to the discovery of the murderers.

**BRIDGET NEWMAN**, the woman who was detained in the custody of the Police on suspicion of being concerned in the recent murder on the Liverpool Road, was discharged on Tuesday last, in consequence of the insufficiency of evidence.

A man, named **STROUD**, residing at Concord, has been committed by the Parramatta Bench to take his trial for the wilful murder of his wife, by beating her about the head with a knotted stick in the most brutal manner.

FREE PRESS, 1/86, 25/09/1841

BERRIMA CIRCUIT COURT

MONDAY, SEPTEMBER 20.

**JAMES JACKSON**, late of Queanbeyan, labourer, was indicted for the wilful murder of **MICHAEL MORAN**, at Maneroo, on the 10<sup>th</sup> day of October, 1840, by striking him on the head with a blunt instrument, and a second count charged the prisoner with casting and throwing him to the ground.

The Jury, after a quarter of an hour's consideration, found the prisoner guilty of manslaughter, and recommended him to mercy. After the verdict was delivered, the Judge ordered the deposition of the surgeon, Mr. **PARRY CULLEN**, to be read, (he not being in attendance), and remarked that the absence of this witness was very fortunate for the prisoner as the case would have assumed a very different aspect. Sentenced to three year's hard labour in Sydney-Gaol, and the recognizances of the surgeon were ordered to be escheated.

ADVERTISEMENT: dated 1 September, re the disappearance of the child **TIGH** on 7<sup>th</sup> August from Namoi. Published by father, **Patrick TIGH**, Overseer. £50 reward for the recovery of the child or £5 for its remains.

FREE PRESS, 1/87, 28/09/1841.

INQUESTS. - A Coroner's Inquest was held at Le Burn's Public House, on Saturday last, on view of the body of a female named **MATILDA CUTHBERT**, aged twenty years, who expired at the Benevolent Asylum on the previous evening, to which Institution she had been admitted on the day before. - Verdict, death from natural causes.

Another Inquest was held yesterday at the Wheat Sheaf public-house, Parramatta-street, on the body of a man named **STEPHEN LEONARD**, recently employed as a lime-burner at Cook's River, who put a period to his existence on Saturday last, by hanging himself to a tree near the place where he was at work. By the evidence produced on the enquiry it appears that the deceased had been of intemperate habits for a long time previous to his death, and was often subject to those fits of despondency, or, as they are commonly called, "blue devils", to which all drunkards are liable. The Jury therefore returned a verdict that the deceased had destroyed himself while labouring under a state of temporary insanity.

TEMPERANCE, 1/52, 29/09/1841

#### INQUESTS

More fearful inquests have taken place this week: one at Liverpool is absolutely horrifying. We have received the following account:

Liverpool, September 23, 1841

From the evidence, it appeared that on Monday the 20<sup>th</sup> instant, the deceased, **J. MAGUIRE**, with three others, were out drinking all day. They came home to their lodgings in the kitchen of a shoemaker about nine o'clock; shortly after one of them went and threw himself upon the bed, and they suppose it might be about eleven o'clock; two more did the same, but such was the insensibility of the whole of them,

that they hardly knew anything about it – leaving the deceased sitting by the fire, of which they knew not whether there was little or much. About three, or a quarter past, two of them were aroused by the deceased's being enveloped in flame, which they partly extinguished by wrapping him in a rug; but he broke free from them, and rushed into the yard, which rekindled the blaze, and once more he was enveloped thereby. So stupid was the third, he continued sleeping, amidst the whole confusion, and knew nothing of it until he was dragged out of bed; nor could he for some time be aroused to anything like sensibility.

When the poor wretch was taken to the hospital, he was one mass of sore, from the crown of his head to below his hips. His clothes were all burned off, except the lower part of his trousers. In this condition he languished until about 12 o'clock on Tuesday, and then expired, - an awful warning to the intemperate. A verdict was returned accordingly.

ANOTHER INQUEST was held at the Benevolent Asylum on the 27<sup>th</sup>, on the body of **STEPHEN LEONARD**, aged about 50; he was a tippler, and had been drinking for two or three days, and then went out and hung himself on the forenoon of Friday. Verdict – 'Hung himself under temporary derangement, brought on by habits of intemperance.'

#### BIRTHS.

At Raymond Terrace, on the 22<sup>nd</sup> instant, the Lady of **T. DIGBY MILLER**, Esq., of a son, still born.

FREE PRESS, 1/89, 02/10/1841.

An Inquest was holden on Thursday last at the Angel Inn, on the Liverpool road, before **CHARLES BETHEL LYONS**, Esq., Coroner for the District, on the body of one **SAMUEL HOLMES**, an old veteran, who suddenly dropped down dead. From the evidence adduced it appeared the deceased had for some time previous complained of debility, and the jury after hearing the evidence of Dr. **BROWN** returned a verdict of "died by the visitation of God."

#### BERRIMA CIRCUIT COURT.

The first trial proceeded with was that of **JOHN WRIGHT**, charged with the wilful murder of one **THOMAS CUNNINGHAM**, by shooting him at the Long Swamp, in the district of Bathurst, on the 17<sup>th</sup> of May 1840, but its result is not yet known.

ACCIDENTAL DEATH. - A man named **JOHN MUNRO**, residing at Onion's farm, on the North Shore, was drowned by the upsetting of a boat, in which he was proceeding to his employment on Thursday last. The body was found the same evening within a short distance of the place where the accident occurred; but the parties who found it, instead of coming to Sydney, proceeded with it direct to Lane Cove, where it now remains. It will, however, be brought into Sydney, and an inquest held upon it at twelve o'clock on Monday next.

FREE PRESS, 1/90, 05/10/1841.

BATHURST CIRCUIT COURT – CRIMINAL SIDE

MONDAY, SEPTEMBER 27.

BEFORE His Honor the Chief Justice.

**JOHN WRIGHT**, was indicted for the murder of one **THOMAS CUNNINGHAM**, at the Long Swamp, in the District of Bathurst, on the 17<sup>th</sup> of May, 1840, by shooting him with a gun, thereby inflicting a wound of which he then died.

The evidence of the Crown in this case was very conclusive in bringing home the circumstances of the offence, but there was a slight discrepancy in the fact that each of the witnesses concurred in stating that the man by whom the crime was committed wore a very black and bushy whiskers, while the prisoner's face appeared to be totally free from any feature of that kind. Upon examination, however, the Jury were of opinion that he was a man likely to have had whiskers of the kind alluded to at the time when the murder was committed, which he might since then have shaved off. A verdict of guilty was therefore returned, and sentence of death passed upon the prisoner by his Honor, accompanied with a very solemn and imperative address.

INQUEST. – A Coroner's Inquest was held yesterday afternoon at Winterup's public-house, the Sir Walter Scott, corner of Bathurst and Sussex-streets, on the body of a man named **JOHN MUNRO**, who had been accidentally drowned while proceeding to the North Shore on the previous Thursday, verdict accordingly.

INQUEST. – SUICIDE. – A coroner's inquest was held on Friday last, at the Brougham Tavern, corner of Pitt-street and Brougham Place, on the body of a man named **GEORGE WOODFORD**, formerly residing at No. 6 in the last named place, who put a period to his existence on the previous Wednesday evening or Thursday morning. The following were the circumstances of the case. The deceased was an upholsterer by trade, and had been for a long time past very much addicted to drinking, which had had the effect of subjecting him to occasional fits of delirium tremens, or temporary aberration of intellect. During the whole of Wednesday last he had been labouring under the effects of one of these fits, and had talked in a very incoherent manner, but towards the evening he appeared to become more composed, and at night retired to his room and locked himself in, which being his usual practice, did not excite any particular observation from the other persons residing in the house. During the whole of the following day he was not seen, but towards the evening, Mr. Lane, the landlord of the house, becoming somewhat surprised at his unaccountable absence, went to the window of his room, and looked in, when he perceived that the deceased was lying dead on his back in the bed, with a deep gash in his throat. Upon this, he instantly went to the nearest station house, and brought down a constable who forced open the door, and found the body of the deceased in the state described by Mr. Lane, with a razor covered with blood lying on the table beside him, being evidently the instrument with which the tragic act had been effected. Blood was lying congealed in large quantities, both upon the person of the deceased and on the floor by his bed-side, rendering it probable that he had lain there for some time on his side after the infliction of the wound, and had subsequently turned on his back in the agonies of death. On the table, near him, the words, "I am innocent", were written in chalk, probably a short time before the commission of the fatal act, but part of the letters were nearly obliterated by some splashes of blood which had got on them. It appeared, on enquiry, that the delusion under which the deceased was then labouring had led him to imagine that he was suffering under some criminal prosecution, and had probably led to the commission of the rash act by which his life was terminated.

Dr. **STEWART**, of the Colonial Medical Staff, gave evidence on the inquest, as to the cause of the deceased's death, which he stated had been undoubtedly occasioned by the wound in his throat, and he had no doubt that this wound was self-inflicted by the instrument produced. The immediate cause of death, was the extensive hemorrhage which had been occasioned by the wound, the jugular and larens having been completely divided by the stroke of the razor. The jury returned a verdict, that

the deceased had put a period to his existence in a fit of temporary insanity occasioned by his intemperate habits. [Then above paragraph was in type from last publication, but was omitted from press of matter.]

FREE PRESS, 1/91, 07/10/1841.

NEWS AND RUMOURS OF THE DAY.

INQUEST. – A Coroner’s Inquest was held, on Tuesday last, at Mr. Clugstone’s Commercial Hotel, corner of King and Sussex-streets, on the body of a man named **WILLIAM NASH**, formerly cook of the steamer *Sophia Jane*, who had met his death on the previous evening, under the following circumstances. It appeared he had been on shore during the afternoon, and had returned considerably under the influence of liquor, in which state he was sitting on deck, when he suddenly fell through the hatchway, which was then open, and the back of his head coming in contact with a large piece of coal, receiving an immediate and extensive fracture. No time was lost by the seamen getting him on deck, where the attendance of Dr. **HARPER** was immediately procured, but the unfortunate man had expired before the arrival of the surgeon. Verdict, accidental death.

TEMPERANCE, 2/1, 06/10/1841

MELANCHOLY EFFECTS OF INTEMPERANCE. - An inquest was held on Friday the 1<sup>st</sup> October, on the body of **GEORGE WOODFORD**, residing in Brougham-place. The deceased was seen on Wednesday night, about ten o’clock, standing at the door of the house where he lodged; a short time afterwards he went into his room. About half past five o’clock on Tuesday afternoon a person called to see him: the master of the house tried to open the door, but found it locked; he went round to the window, and looked into the room, when he saw him lying on the bed covered with blood. Information was given at the station-house, and upon the police forcing the door, he was found with his throat cut, and a razor lying on the chest by the side of the bed. There was also a piece of chalk, with which he had written the word “Innocence!” He was addicted to habits of intemperance: on Wednesday he talked in a very incoherent manner. The jury returned a verdict – ‘That the deceased had committed suicide while suffering from *delirium tremens*, occasioned by intemperance.’ – Deceased, who has been many years in the colony, was a superior workman, and has been long distinguished for his intemperate habits. He was in the prime of life.

FREE PRESS, 1/93, 12/10/1841.

SUPREME COURT – CRIMINAL SIDE

MONDAY, OCTOBER 11

BEFORE His Honor the Chief Justice.

**MARY LAMB** was indicted for the wilful murder of her male child at the North Shore near Sydney, on the 25<sup>th</sup> of February last. The evidence adduced in this case was of a nature unfit for publication, but the charge appeared to rest on a supposition that the death of the infant had been caused by a blow on the head, or by a compression of the neck with the fingers. The prisoner was defended by Mr. **PUREFOY**, who made a lengthened and very able address to the jury on her behalf, and contended that the injuries which caused the death of this child, had been accidentally caused by the suddenness of her delivery, and the greatness of her pain.

The Chief Justice in summing up, stated, that although the jury might deem fit to acquit her of the capital charge, they were still at liberty to find her guilty of

concealing the birth of her child. From the nature of the evidence it would appear that there was four points for the consideration of the jury. First, whether the child had actually been born alive; second, whether if born alive its death had been caused by violence; third, whether those injuries were inflicted by the prisoner; and fourth, whether if she did inflict those injuries, it was done under such circumstances as to render her liable to a charge of wilful murder. If, however, any reasonable doubt should arise upon the matter, he would entreat them to give the full benefit of the doubt to the prisoner.

The jury after a few minutes consultation, brought in their verdict that the prisoner was not guilty of the crime laid to her charge, but convicted her of attempting to conceal the birth.

Mr. Purefoy submitted that this verdict was, in point of fact, a full acquittal, and cited the case of King v. Turner, 8 Carrington & Payne, [English Reports, Nisi Prius, (Carrington & Payne 7-9) page 704, or Regina v Harriett Turner] to prove that the actual concealment of the child's body was necessary, which in this instance had not been the case. The learned gentleman also alluded to the case of The Queen v. Hannah Hanson, which had been formerly tried at Maitland before Mr. Justice Stephen, when he (Mr. Purefoy) had made the same application upon the verdict, and the prisoner had been acquitted.

His Honor said that the objection which had just been made by the learned gentleman was one of great importance, and he would reserve it for further consideration. The prisoner was then remanded. [see 1/98; acquitted]

AUSTRALIAN, 12/10/1841

Supreme Court of New South Wales

Dowling C.J., 11 October 1841

**MARY LAMB** was indicted for the wilful murder of a female infant on the 25th February last.

The Attorney General conducted the prosecution, and Mr. **PUREFOY** appeared to defend the prisoner.

The details of the case are such as would not bear publication except in a medical work. Mr. Purefoy quoted at some length from works on Medical jurisprudence, to shew that the death alledged to have been caused by the prisoner might have been purely accidental, and further addressed the jury at considerable length in her favour.

The Chief Justice summed up very minutely, and the jury after some deliberation returned a verdict of not guilty of murder, but guilty of endeavouring to conceal birth.

Mr. Purefoy submitted that this was a virtual acquittal, and quoted authorities in support of his objection to the record; the ground of the objection was, that nothing was done after the death of the child to conceal it. The same objection had been made by the learned Counsel in Circuit, before Mr. Justice Stephen, and he apprehended it was absolute and decisive.

The Chief Justice said he would take time to consider the point, and remanded the prisoner.

Sydney Herald, 22/10/1841

Mary Lamb. – You were indicted for the wilful murder of your female illegitimate child by strangulation. Beyond all doubt you destroyed the life of your infant by violence; but whether wilfully and of purpose, is a question between you and your conscience. The favourable view which the jury took of your case led them. (doubtless from conscientious motives). to pronounce you not guilty of murder. Had their verdict been adverse to you, it would have been my painful task to award that

sentence which the law denounces against child murder, and it would have been my duty to forbear interposing any obstacle between sentence and execution: for however the mind revolts against the possibility that a mother could wilfully destroy her own offspring, yet as there is too much reason to fear, that there are heartless and unnatural women, so utterly lost to the dictates of nature, as to hide the living evidence of profligacy by murder, the justice of the country would have required the expiation of your guilt by the forfeiture of life. If you did not contemplate the death of the innocent being of which you were the mother, it is difficult to conceive why you denied to your master when taxed with it, the apparent prospect of maternity, -why you made no preparation for the dress and care of the infant – why you kept concealed from your fellow-servants the situation in which you were – and why you selected a retired loft for the struggles of parturition. These circumstances were no doubt duly weighed by the jury, but whilst they were relieved from the pain of finding you guilty of murder, they were satisfied that you had endeavoured as far as in you lay, to conceal the birth of your child – an offence, which, though liable to severe punishment, yet one considerably short of death; and they found you guilty accordingly of the minor offence. After the verdict was recorded, your learned counsel took an objection, that in point of law, the facts proved did not warrant the verdict inasmuch as, whatever your ultimate intentions might have been yet, you had not in the language of the Act of Parliament, “endeavoured to conceal the birth, by secret burying or otherwise disposing of the dead body.” Fortunately for you I am constrained to yield to the validity of the objection, and consequently on this occasion you will go hence free from any other punishment, than the exposure and degradation to which this prosecution has subjected you, and which if you are not utterly abandoned to all sense of shame, will I trust, be sufficient to awaken in your breast, a proper sense of the misery which awaits every lapse from the paths of virtue. If you are indeed the victim of deliberate and heartless seduction, your situation is pitiable, and I trust that the author of your sorrows will, notwithstanding what has passed, make, if he can lawfully, the only amends which can save you from irretrievable ruin. The prisoner was then removed from the dock and liberated. See also Australian, 23 October 1841. Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

TEMPERANCE, 2/2, 13/10/1841

SUPREME COURT.

The Supreme Court was adjourned yesterday morning, in consequence of information having been reached town that the High Sheriff, **T. MACQUOID**, esq., had put an end to his existence. Pecuniary embarrassment is assigned as the cause.

FREE PRESS, 1/94, 14/10/1841.

NEWS AND RUMOURS OF THE DAY.

INQUEST. – A Coroner’s Inquest was held on Monday last at the “Labour in Vain”, Public-house, Harrington-street, on the body of a man named **WILLIAM CLARKE**, in the employ of the landlord of that house (Mr. **Duncan**). It appeared from the evidence, that the deceased who had heretofore enjoyed a good state of health, had gone to bed as well as usual on Sunday evening, and on the following morning had been found lying dead. Dr. **STEWART**, by whom a *post mortem* examination of the body had been made, gave it as his opinion, that death had been occasioned by natural causes, and a verdict was accordingly returned to that effect.

SUPREME COURT – CRIMINAL SIDE

WEDNESDAY, OCTOBER 13.

BEFORE His Honor the Chief Justice.

**GEORGE STROUD** was indicted for the wilful murder of his wife **SARAH STROUD**, at Concord, on the 13<sup>th</sup> of September last.

It appeared from the evidence that the wife of the prisoner was of very intemperate habits, and that on the day in question a quarrel had by some means arisen between them, in consequence of which he beat her so severely that she was forced to take refuge from his fury in the house of a neighbour, at which time she was very much bruised and cut, but not so as to produce the apprehension of any serious consequences. Some time after this he came to the house and fetched her away, giving "his word as a man" that if she came home he would neither beat her or otherwise hurt her, so that they quitted the house with every appearance of a perfect reconciliation. In the course of the same night, however, he came to the residence of another neighbour and stated that his wife was dying, requesting that they would come to her assistance, which they accordingly did, and upon their arrival found the deceased lying in a ditch, near her own house, in a state of insensibility, quite naked, with her face and person disfigured by blows and blood in the most dreadful and disgusting manner. By their aid she was conveyed to her own house and laid upon the bed, after which she came to a little, and asked several times for water, which was given her; she also spoke once to the prisoner, requesting him to turn her on her side, which he accordingly did. The prisoner after sitting up for some time went to bed and laid down by the side of the deceased, where he continued to sleep even after her death (which happened in a few hours after) until he was taken into custody by the constable who had been sent for by the woman who had rendered her assistance as above stated. After having secured the prisoner in safe custody, the ditch where the woman had first been discovered was strictly searched, and a knotted stick was found within three yards of the spot where she had lain, which was stained greatly with blood, and had a quantity of hair adhering to it which precisely corresponded in colour to that of the deceased. The Surgeon (Dr. **BROWN**), by whom a post mortem examination of the body had been made, stated, that her body was literally covered with contused wounds, which had been the sole cause of her death, and appeared to him as likely to have been caused with the stick produced, which indeed he had found upon the examination of the body to correspond exactly with some of the wounds.

Mr. **PUREFOY**, who appeared in behalf of the prisoner, defended him in a very able and judicious manner, making in his favour, a most eloquent and impressive address to the jury. The learned gentleman contended that the injury which had been the most immediate cause of the deceased's dissolution, was the fall, which being in a state of intoxication she had accidentally received, and called Mr. **ALLEN**, the Solicitor, to testify as to the previous good character of the prisoner, and the usually contrary behaviour of his deceased wife.

His Honor in summing up, went at great length into the circumstances of the case, and the evidence which had been brought before the Court. There were three questions (he remarked) for the consideration of the jury, namely – first, whether the death of the prisoner's wife had been actually caused by blows or violence, instead of by accidental hurts – secondly, whether if her death had been so caused, the violence alluded to had been committed by the prisoner - and thirdly, whether if such was the case the prisoner had committed the violence in question under such circumstances as might lead to a supposition that he intended the murder of the deceased; he felt bound, however, to inform them that, according to the British law, the plea of drunkenness could be of no avail in shielding a culprit from the charge of murder.

The jury, after a few minutes consultation, found the prisoner guilty of wilful murder, and he was accordingly remanded for sentence.  
THE SUICIDE OF THE HIGH SHERIFF. To be completed.

FREE PRESS, 1/95, 16/10/1841.

SUPREME COURT – CRIMINAL SIDE.

THURSDAY, OCTOBER 14.

BEFORE Mr. Justice Burton.

**ROBERT HUDSON**, was indicted for the wilful murder of **DEAN CHANNING WEST**, at the General Hospital, Sydney, on the 15<sup>th</sup> of September last, by striking him with an axe on the left side of the head, thereby inflicting a wound, of which he died in three days afterwards.

The prisoner pleaded not guilty, and the evidence on the part of the crown was proceeded with, which we purposely omit, as it was precisely the same as appeared in the *Free Press*, of September 21. When called upon for his defence, the prisoner declined saying anything, and His Honor in summing up, directed the particular attention of the jury to ascertain whether by the nature of the evidence they would be justified in believing the prisoner to be insane at the time when he committed the crime. The jury after a few minutes consideration, returned a verdict of guilty.

His Honor then proceeded to pass sentence of death upon the prisoner, accompanied with a short but most imperative address, by which the prisoner appeared much affected, and even shed tears towards its close.

**LAWRENCE DWYER**, who had been detained in custody for manslaughter on the High Seas, was discharged upon the Attorney-General declining to prosecute, conceiving that the depositions were totally insufficient to lead to an inference that the crime of manslaughter had been committed by the prisoner, inasmuch as the blow which he had struck the deceased, was a very light one with the open hand, and being an old man, his death had most probably been caused by the excitement which followed.

NEWS AND RUMOURS OF THE DAY.

A prisoner of the Crown was killed at Windsor by the lightning, during the late storm on Monday last, the electric fluid was attracted by the irons which he had on, but a child who was sitting on his knees at the time of the accident, escaped unhurt. [Untrue; see 1/96 following.]

FREE PRESS, 1/96, 19/10/1841.

NEWS AND RUMOURS OF THE DAY.

A waterman named **LIHR**, had his license cancelled at the Water Police Court on Saturday last, for insolent behaviour to a gentleman who applied to him to be taken to one of the vessels in the harbour.

TEMPERANCE, 2/3, 20/10/1841

DOMESTIC INTELLIGENCE

A young man, [**JAMES NELSON**] well connected in the Colony, was drowned during the storm on Wednesday evening, it is supposed by slipping off the wharf, to which he had gone in order to return to his vessel, the 'Globe.' He was sober, and anxious to get on board in good time. Strange to say, the body rose on Friday close by the ship's boat as it just put in, when his features were recognized before they change, which they did almost immediately.

FREE PRESS, 1/97, 21/10/1841.

THE LATE RIOTS – INQUEST. 2-3 columns, to be completed.

INQUESTS. - A Coroner's inquest was held on Monday last at the Wheat Sheaf, public house, lower George-street, on the body of an old man named **RICHARD HYDE**, who had died at the Benevolent Asylum on the previous day. It appeared by the evidence that the deceased had been found lying insensible in an open space adjoining the Parramatta Road, and had been removed to the Asylum in a bullock cart, when he almost immediately afterwards expired. Dr. **CUTHILL**, the house surgeon of the Benevolent Asylum, made a post mortem examination of the body and discovered that death had been occasioned by inflammation of the lungs arising from the severe effect of external cold, which the deceased had probably experienced in his exposure *to the open air*. A verdict of died from natural causes was therefore returned.

Another inquest was held the same day at the Three Tuns tavern, corner of King and Elizabeth-streets, on the body of a man named **JAMES NELSON** which had been floating in the vicinity of the Government wharf on Saturday afternoon. The deceased was a seaman belonging to the ship *Globe*, and had procured a pass to come on shore for the previous Wednesday, since which time no intelligence had been received of him, and he was supposed to have deserted, until the finding of his body elucidated the mystery. No evidence could be procured as to how he had met with the accident which had terminated in his death, and a verdict of found drowned was therefore returned.

DEATH BY LIGHTNING. - The report of a Government man having been killed by lightning at Windsor is without foundation. [see 1/96 above.]

NEWS AND RUMOURS OF THE DAY.

The body of an infant, apparently new born, was found floating in the water near the Market Wharf on Monday last.

THE WATERMAN'S WHARF. - The late melancholy accident at the New Wharf (whereby a youth of most respectable connections lost his life) it is hoped will be the means of suggesting to the Government the necessity of placing a lamp, or running a chain along the wharf, for the protection of sailors and others whose occupations may call them on board a ship after dark. We have heard of several parties who narrowly escaped the same fate as the unfortunate **JAMES NELSON** last week; and if men in their sober senses are liable to such accidents, what will be the fate of the unfortunate sailors who take "a drop too much", and naturally steers their course to this dangerous landing place, either in search of their boats or to hail their vessels.

FREE PRESS, 1/98, 23/10/1841.

SUPREME COURT – CRIMINAL SIDE.

THURSDAY, OCTOBER 12.

BEFORE His Honor the Chief Justice.

**GEORGE STROUD**, who had been found guilty on a former day of the wilful murder of his wife, at Concord, on the 13<sup>th</sup> of September, and ... were severally placed at the bar and received sentence of death, accompanied with an imperative address from His Honor.

**MARY LAMB**, who had been previously tried for the murder of her own infant, and convicted merely of an attempt to conceal its birth, was placed at the bar, and having been informed that the objection taken by her counsel to the above verdict had been

deemed a valid one, was discharged, with an admonitory address from His Honor as to her future conduct. [See 1/93.]

INQUEST. – A coroner's inquest was held on Wednesday afternoon, before **CHARLES BETHEL LYONS**, Esq., on the body of **SAMUEL STEWART**, son of Mr. **JOHN STEWART**, tailor, residing in Church-street. It appeared that the deceased (eighteen months old) had been playing with his sister outside the door, who left him alone while she went into the house. Shortly afterwards the mother, becoming anxious about her absent child, went outside, and saw the clothes of the deceased hanging out of a washing tub. Dr. **RUTTER**, who was passing at the time, afforded all the assistance in his power to restore life, but without avail. The Jury returned a verdict of accidental death by drowning.

REPORT of the remains of murderers **COMMORFORD** and **REYNOLDS** (who hanged himself) disinterred at old Sydney Gaol and removed to Darlinghurst Gaol.

EXECUTIONS. - The prisoners **STROUD** and **HUDSON**, the former of whom was convicted of murdering his wife, and the latter of the murder of **DEAN WEST** at the General Hospital, Sydney, the particulars of which outrage must be still fresh in the memory of our readers, have been ordered for execution on Friday next, and a number of men are already employed in the erection of a gibbet at Darlinghurst gaol for this purpose.

FREE PRESS, 1/99, 26/10/1841.

EXECUTION OF CURRAN. - This notorious bushranger suffered the penalty of his numerous crimes at Berrima on Thursday morning last. He was attended to the field of execution by the Rev. Mr. **GOULD**, of Campbelltown, and the Rev. Mr. **M'GRATH**, of Goulburn, and conducted himself in a decent and penitential manner, having to all appearances repented of his crimes and prepared to suffer with calmness and resignation the fate which awaited him. Previous to his death he acknowledged that he had been guilty of the murder of Mr. **FULLER**, for which a person named **BRIGHT** had been tried, convicted, and transported for life.

INQUESTS. – An inquest was held on Saturday last, at the Cockatoo Inn, Surry Hills, on the body of a man named **MICHAEL HAYES**, who had died suddenly on the previous day, from the effects of an apoplectic attack. Verdict – Death from natural causes.

Another inquest was held yesterday, at the Lighthouse public house, in Sussex-street, on the body of a female named **MURPHY**, the wife of a general dealer residing in the vicinity. It appeared from the evidence, that the deceased had been previously of somewhat intemperate habits, but that on the night previous to her death she had gone to bed perfectly sober, and without any appearance of ill-health, but had expired suddenly before the morning. Her death was subsequently ascertained to have been caused by apoplexy, and a verdict was returned to that effect.

A third inquest was also held yesterday at the Three Tuns tavern, corner of King and Elizabeth-streets, on the body of a man named **WILLIAM ALFORD**, formerly a cook at the Cricketers' Arms public-house in Pitt-street, who had died suddenly in the Hospital on Saturday forenoon, to which place he had been taken on the previous evening from the house of his employer. Verdict – Death from natural causes.

TEMPERANCE, 2/4, 17/10/1841

DOMESTIC INTELLIGENCE

The Jury of the inquest on **CLAUDE BARRON** the shoemaker, who was shot during the riot the week before last, returned a verdict of accidental death. As the shots were

fired into the air it is probable the ball struck the railing and glanced downward upon the unfortunate man.

An awful instance of drunkenness with loss of life, occurred last week. A schooner, manned by drunkards, ran down a boat in the harbour, whereby one of the party perished.

**CURRAN**, the bushranger, has been executed. --- **STROUD**, for the murder of his wife, and **HUDSON** for the murder of his comrade, are to be executed on Friday, at the New Gaol.

An inquest was held on Monday on **HANNAH MURPHY**. Verdict, apoplexy, induced by intemperance.

**SUDDEN DEATHS**. - Two persons have died from apoplexy, caused by drunkenness, since Saturday last. - *Herald*.

#### SENTENCE ON STROUD

*Passed by his Honor Sir J. DOWLING, Chief Justice, October 21.* Which is not only an appeal to the people to become Temperate, but a call on Temperance Societies for renewed exertions.

**GEORGE STROUD**, - After a patient and anxious investigation of all the circumstances of your case, the Jury of your country have been compelled by the irresistible weight of the evidence on your trial to find you, upon their oaths, guilty of wilful murder. The bitterness of an ignominious death, is the necessary consequence, by the laws of God and man, of such a verdict. I earnestly trust, that since the fatal night of 13<sup>th</sup> September, you have endeavoured to make suitable preparation for the fate which is now impending, because when your guilt was discovered, you then expressed your anticipation of that doom which it is now my painful duty to pronounce. The heavy burden upon your conscience must indeed be intolerable, if you reflect upon the time, the place, the circumstances, and the victim of your blood guiltiness. In the dead hour of night, in your own house, and whilst in a state of drunkenness, you destroyed, with brutal and atrocious violence, the life of her, whom, at the altar of God, you had plighted your troth to love, comfort, honour, and keep, in sickness and in health. All the endearing and tender emotions with which the tie of marriage imbues the human heart, yielded in yours, to the direful potency of a habit, which infallibly carried with it desecration of the sentient faculties. Yours is, indeed, another fearful example amongst the too many by which we are surrounded, of the prostration of reason to the baleful influence of inebriety. Both yourself and your ill-fated partner, were described to be, when sober, decent, quiet, and industrious people; but when in liquor, to manifest in your behaviour the demoniacal propensities which are always engendered by rioting and drunkenness. Shortly before the horrible transaction for which you are now to suffer, you were solemnly warned by your kind and worthy master of the peril which awaited a continuance of your propensities. His prophecy has now been too fatally fulfilled. It is painful to have it recorded by that master, that the neighbourhood, in which this dreadful atrocity was committed, was notorious for *awful drunkenness*. If this be a true description of the district of Concord (so inappropriately named) no hope of reformation can be indulged, if the frightful example of your fate does not awaken these worshippers of Satan to a sense of their gross idolatry. I earnestly trust, however, that in these and other places where the hateful habits of intoxication prevail, the awful warning, which your fate exhibits, will arouse a desire of conversion to those principles which are now happily struggling for ascendancy, through the instrumentality of our Temperance Societies. Unhappy man! I am not in a condition to hold out any hope of human mercy. Your earthly career is irrevocably defined. In a few short days you will be ushered into the

awful presence of your Maker. Let me conjure you to make suitable preparations for eternity, and in order thereto, avail yourself of such religious consolation, as will be afforded you to the last moment of your existence. The dreadful sentence of the law is, That you George Stroud be taken hence to the prison from whence you came, and that you be taken thence to a place of execution, on such day as shall be appointed by His Excellency the Governor, and that you be then and there hanged by the neck until your body be dead, and may God Almighty have mercy on your immortal soul. – *Herald*.

FREE PRESS, 1/100, 28/10/1841.

ERRATUM. - We have been requested to state that the female named **MURPHY**, whose sudden death was reported in our paper of Tuesday [1/99] was not the wife of a dealer of that name who resided opposite the Light House in Sussex-street, but a woman of the same name who lived in that neighbourhood.

INQUEST. – A Coroner's Inquest was held on Tuesday last at the "Wheat Sheaf" Public-house, Parramatta-street, on the body of a man named **CHARLES BRADY**, who had suddenly expired at the Five Dock Farm on the previous day; Dr. **CUTHILL**, by whom a *post mortem* examination of the body had been made, deposed that the death of the deceased had proceeded from natural causes, and a verdict to that effect was accordingly returned.

FREE PRESS, 1/101, 30/10/1841.

EXECUTIONS. – The murderers **STROUD** and **HUDSON** suffered the extreme penalty of the law yesterday morning, at the new gaol, Darlinghurst, before a numerous assemblage of spectators. The scaffold was erected in the gaol yard, and all male spectators were admitted to witness the execution, but the woman and children were very properly excluded. The unfortunate culprits were each accompanied by a clergyman, and appeared to be in a very resigned and repentant state of mind, joining in prayer with great devoutness of their mortal career. Hudson appeared very much cast down, but Stroud bore himself with great apparent firmness, and the Rev. Mr. **ELDER**, by whom he was attended, addressed at his request, a few words to the assembled spectators, cautioning them to abstain from Sabbath-breaking and intemperance, the indulgence in which evil propensities, had been the means of bringing him to the untimely fate which then awaited him. Both the unfortunate men expired without a struggle.

CASE OF SUSPECTED MURDER. - A man named **RALL**, recently employed in the Sugar-refining factory belonging to Mr. **CHILD**, at Canterbury, Cook's River, has been missing for some days and owing to some circumstances which have transpired, it is feared that he has been murdered. The following are the particulars upon which this conjecture is founded: It appears that Rall on the day when he was missed had invited a man named **JAMES EASTON**, residing in that vicinity, and exercising the trade of brick-maker, for the purpose of assisting the latter in the construction of a kiln. Easton had a woman named **SOPHIA LEVEY** residing with him, who passed for his wife, and while Rall was drinking in Easton's hut, he was observed to become very gracious with this woman, and shortly after went out with her, after they had been absent some time, Easton followed them, and as nothing has been heard of Rall since that time, it is supposed that the other had, under the combined influence of jealousy, liquor, and anger, destroyed him. This supposition has been particularly confirmed by some expressions made use of by the woman, and by the confused and irregular statements of Easton, the whole party, consisting of Easton and the woman,

and two government men, named **SAMUEL HILL** and **JOSEPH ALLAN**, who were seen running from Easton's hut on the day when Rall was missed, have been apprehended by the Police, who are now employed in the strict investigation of the affair.

**SALE OF WIFE.** - REPORT of the sale of **SUSANNAH ANN BARRETT**, aged 17, by her husband, purchased by a **JOHN LANE**.

FREE PRESS, 1/102, 02/11/1841.

**ATTEMPT AT SUICIDE.** - A man named **DARK**, residing in Bathurst-street, and exercising the calling of a pipe-maker, attempted to put a period to his existence on Sunday evening, by cutting his throat, but fortunately without inflicting a mortal wound on himself. It is not known what could have induced him to make the above attempt at self-destruction.

**DEATHS BY LIGHTNING.** - Three children were killed by lightning on Tuesday last, at the Catholic Orphans School, Waverley Terrace. This awful accident occurred about five o'clock P.M., at which time our Sydney readers will remember the thunderstorm was at its height. The electric fluid entered at the windows of the home and passed onward effecting considerable damage to the building, killing the three unfortunate children above alluded to, and throwing down several others, none of whom however received any other injury than what was occasioned by the force of the shock. One of the children named **ELLEN BERESFORD**, was discovered sitting in her chair after the shock had passed over, and appeared so calm that it was not at first supposed she had been injured, until a closer inspection convinced them that the unfortunate girl had ceased to exist. Another child, being a boy named **FRANCIS STRANEY**, was struck by the fluid in a passage or hall of the building, and the third named **JOHN FOX**, was discovered lying dead in a small hut or out building attached to the institution. Upon perceiving the fatal extent of the calamity, messengers were immediately despatched for the nearest medical assistance, and Dr. **HARNETT** attended promptly on the spot, but the sufferers were beyond the reach of mortal aid. Many others (as before stated) were thrown down by the lightning without experiencing any serious injury; but the nurse was slightly, although by no means dangerously hurt, and one of the servants attached to the establishment, had the soles of her shoes torn off, while herself escaped unarmed. [sic] A Coroner's inquest was held yesterday afternoon upon the bodies of the above named children, and a verdict of natural death by lightning was returned. During the forepart of yesterday the report that several children had been killed by lightning on the previous day was generally current, but no further particulars could be obtained with any degree of accuracy, and the School of Industry, and several other buildings of a similar nature, were successively pitched on as the scene of the melancholy catastrophe. We are happy however to state that, with the exception of the above disastrous occurrence, no further accident has arisen from the storm.

FREE PRESS, 1/106, 11/11/1841.

**INQUESTS.** - A Coroner's Inquest was held yesterday afternoon in the Swan with Two Necks, corner of George and Pitt-streets, on the body of a man named **ROBERT GRIFFIN**, who had come to his death under the following circumstances. On Tuesday week, the deceased, who followed the calling of a seaman embarked on board the schooner *Sisters* for the purpose of proceeding in that vessel to Newcastle,

and while the vessel was proceeding down the harbour he accidentally fell overboard, but was almost immediately rescued and taken on board. The deceased although evidently suffering from the effects of the accident did not appear to be in anything like a dangerous state and he was therefore taken on in the schooner to Newcastle; and remained on board until she returned again to Sydney on Saturday, when he went to his own house in Park-street, in a bad state of health and remained there until nine o'clock on Monday evening, when he expired. Dr. **DUIGAN**, by whom the deceased had been attended, deposed that he (the deceased) was labouring at the time he visited him under an effusion of the chest, being the last stage of a chronic disease or decline which had affected him for some years. He was therefore of opinion that although the dipping might have accelerated the fate of the deceased, he could not have long survived, even if the accident had not happened. Under these circumstances therefore a verdict of died by the visitation of God was returned.

Another Inquest was held shortly afterwards at Mr. Driver's, Three Tuns tavern, corner of King and Elizabeth-streets, on the body of a **government man**, under the following circumstances. From the evidence of **EDWARD GEOHEGAN**, the dispenser at Cockatoo Island depot, it appeared that the deceased who was to all appearance a sound and healthy man, had complained of having suffered from occasional fits ever since he had been placed in confinement, and during the night of Monday the 8<sup>th</sup> instant, had been seized with an apoplectic attack, which terminated in his death. Dr. **STEWART**, the Assistant Colonial Surgeon, expressed himself of similar opinion as to the cause of the deceased's death, and a verdict of death from natural causes was returned.

**FATAL ACCIDENT.** - Between four and five o'clock on Tuesday afternoon, a boy named **WILLIAM GRAHAM**, was riding on a Timor poney along Elizabeth-street, when he slipped out of the saddle, and endeavoured, without success, to recover his position by seizing the mane of the horse; this, however, he was unable to do, and his feet being fast in the stirrup-leather he fell to the ground, entangled in the harness of the horse. The animal immediately took fright and dashed off at full gallop, notwithstanding the efforts of the bystanders to stop his career, and continued his speed until he came to the bottom of Hunter-street, where he was stopped by a gang of Government men who happened at that time to be passing along George-street, and were called to the rescue by Dr. **STEWART**, who was passing at the time. The unfortunate lad was then extricated and carried to the shop of a neighbouring apothecary, where it was found upon examination that the injuries he had received were of so shocking a nature as to render his recovery almost impossible, and he was ordered to be conveyed immediately to the hospital, where he very shortly expired. An inquest was held yesterday upon the body, when Dr. Stewart deposed that several injuries which he had received were individually sufficient to have caused his dissolution, inasmuch as the skull had been fractured in several places, and the body severely lacerated and injured. A verdict of accidental death was therefore returned.

The above melancholy occurrence should operate as a warning to all parents and other persons entrusted with the care of youth, to be more cautious in permitting their juvenile dependants to ride along the streets of Sydney where accidents are so likely to occur, either by a sudden fright of the animal, or the incompetency of the rider to manage and control him in a proper manner. Considering the number of boys (some very young) whom we have of late seen galloping about on Timor ponies, and even upon high-backed horses, we are surprised that accidents of the above description do not occur oftener than they have done.

FREE PRESS, 1/107, 13/11/1841.

INQUEST. – A coroner’s inquest was held yesterday afternoon, at the Wheat Sheaf public-house, Parramatta-street, on the body of a man named **JOHN IZZARD**, who expired suddenly at the Benevolent Asylum on the previous day. Verdict – Died by the visitation of God.

FREE PRESS, 1/108, 16/11/1841.

PORT MACQUARIE SPECIAL PETTY SESSIONS.

TUESDAY, NOVEMBER 9, 1841.

BEFORE **William Nairn Gray**, Esq., Chairman, Colonel **GRAY**, Captain **DITMAS**, captain **EVANS**, **WILLIAM BELL CARLYLE** and **WILLIAM TIDD TAYLOR**, Esqrs.

**JOHN DILLON**, Solicitor, was brought before the bench, charged with being an accessory after the fact, to the murder of **THOMAS LONG**. To be completed.

INQUESTS. - A Coroner’s Inquest was held yesterday at the Quarantine Ground, Spring Cove, on the body of **JOHN SANDON**, formerly Superintendent of that Station, who put a period to his existence on the previous Saturday, under the following circumstances:- It appeared that the deceased had been of late in the occasional habit of drinking to excess, in consequence of which he was subjected to frequent paroxysms of rage, and on the above melancholy occasion, had been quarrelling with his wife while under the influence of one of these abstractive moods, and having provided himself with a loaded pistol, he ran some distance from his habitation, and crying out that “he was not ashamed of what he was going to do, and would not care if all the world saw him do it” succeeded in lodging the contents of the weapon in his brain before any of those who were approaching him could prevent the deed. It appeared by the evidence, that he had before attempted to destroy himself in a similar manner, but had been prevented by the kindly interference of a bystander. Under these circumstances, the Jury returned a verdict to the effect, that the deceased put a period to his existence while labouring under the effects of delusion caused by intemperance.

Another inquest was held the same afternoon, at the “Rain-bow” public-house, corner of Clyde-street, Darling Harbour, on the body of a man named **JOHN DEADWORTH**, lately residing at that place; who drowned himself on the previous day, by springing into the water, at the end of that street, where he perished before assistance could be procured to get him out. The deceased was seen by a Mrs. **BLACK** to commit the fatal act, and it appeared by the evidence, that he was at that time labouring under a fit of which is technically termed the *horrors*, occasioned by his previous intoxication. A verdict to that effect was accordingly returned.

TEMPERANCE, 2/7, 17/11/1841

DOMESTIC INTELLIGENCE

The news from the Quarantine ground is painful. Mr. **SANDSOM**, the superintendent, has shot himself.

We hear that a child was taken to the Hospital under symptoms of having taken poison, and that she has since died; we hope an inquest will ascertain the cause of her death.

DEATHS.

On Wednesday, the 10<sup>th</sup> instant, at the Lunatic Asylum, Tarban Creek, aged 45 years, **JOHN ALGAR**, late livery-stable keeper, Pitt-street, Sydney.

FREE PRESS, 1/109, 18/11/1841.

INQUEST. - A Coroner's inquest was held on Tuesday last, at the Three Tuns tavern, corner of King and Elizabeth-streets, on the body of a girl named **MARGARET MAHON**, who had been employed for some months past as a servant in Cavenagh's public house, Pitt-street. It appeared from the evidence that the deceased had been complaining of a pain in her stomach, for some time past, in consequence of which she was removed to the Hospital on Sunday evening where she shortly afterwards expired. Dr. **HARNETT** declared his opinion, that the death in this case had been produced by a severe inflammation of the stomach, and a verdict of death from natural causes was accordingly returned.

FREE PRESS, 1/110, 20/11/1841.

PARRAMATTA, NOVEMBER 17. On Tuesday last, an Inquest was held in this town, before **CHARLES BETHEL LYONS**, Esq., Coroner, upon view of the body of a woman named **JANE CASTELLO**. It appeared that the deceased had always been a habitual drunkard, and that when labouring under the effects of her dreadful propensity, she was subject to fits, and was at such times totally unconscious of her acts; she had been confined in the Factory for a month previous, and had hardly been liberated a day, when she returned to her old habits. The excessive use of raw rum, added to the heat of the weather, and the circumstances of her having been deprived of all stimulants for a month, entirely deprived her of reason, and proved conducive to turn her mental faculties so far, as to lead her to plunge herself into the river close to the town. **HORSEBROOK**, a private in the 80<sup>th</sup> Regt., stationed at Parramatta, saw her commit the rash act, and used every praiseworthy exertion to save her, but without effect. His conduct deserves a favourable notice from his superiors. The Jury were satisfied that the deceased met with no ill-treatment, but was acting under a temporary deprivation of reason, and returned a verdict accordingly.

On the same day an Inquest was held within this district, upon the body of one **JOHN CARRINGTON**, aged 80 years, who had been lately in the Hospital, but preferred seeking his subsistence out of doors, rather than subject himself to the discipline and confinement of that excellent, and well conducted institution – the Benevolent Asylum. He had been ill for years, and confined to his bed a fortnight previous to his death, at the expiration of which time, he was found lying dead, by a man who was in the habit of taking provisions to him. It was satisfactory to know that the neighbours had attended to the old man's wants, which were by no means unreasonable, and that his death had not therefore been caused by any neglect, or the want of common necessaries, as might otherwise have been supposed. The Jury returned a verdict, of death from natural causes.

SELF-DESTRUCTION. - A young woman named **ELIZA GOODWIN**, who came out as an immigrant by the barque *Trinidad*, now lying in the Cove, put a period to her existence a kittle after ten o'clock on Thursday evening, by jumping overboard – a Mr. **STEPHENSON**, who came out as a cabin passenger by the same vessel, was on deck at the time this occurred, and immediately sprang overboard to her assistance, but notwithstanding the praiseworthy exertions of this gentleman, and the prompt assistance by others on board, the unfortunate female sank to the bottom before their efforts to save her could prove effectual. – The body has not yet been recovered.

INQUESTS. - A Coroner's Inquest was held on Thursday afternoon, at the "Flower Pot" public house, corner of York and Market-streets, on the body of a man named **LEWIS HART**, who had been for some time previous employed by Mr. **LEVY**,

corner of George and Market-streets, in the capacity of a salesman. It appeared by the evidence, that the deceased had been found at an early hour the same morning, suspended to the banisters in Mr. Levy's house, where from the appearance of the body, he must have been hanging for some time, it was also shown that the deceased had been subject to frequent fits of melancholy and despondency, and had been heard several times to declare an intention of destroying himself. A verdict of self destruction while labouring under the influence of temporary insanity was therefore returned.

Another Inquest was held yesterday on the body of a **prisoner of the Crown**, who expired suddenly on the previous day, without any previous indisposition of apparently dangerous tendency, and his death having been proved from medical testimony to have resulted from natural causes, a verdict to that effect was returned.

FREE PRESS, 1/111, 20/11/1841.

BOAT ACCIDENT. – On Sunday afternoon, Colonel **GIBBES**, the Collector of Customs, accompanied by his two sons and a servant named **THOMAS LONG**, were proceeding along the harbour in a small sailing yacht, and were just on the point of entering Middle Harbour, when a sudden squall blew off the shore and struck the vessel on the beam with such force, as instantly to capsize and sink her, fortunately the force of this shock was so great as to break asunder a rope by which a dingie was towing astern of the larger boat; and the former vessel therefore remained afloat, enabling Colonel Gibbes and his sons to reach the shore by her means, which they otherwise have been totally unable to do. The poor servant however was less fortunate, for his leg was caught by a rope belonging to the tackle of the sinking boat, and he was dragged under before any assistance could be rendered him; the body is not yet recovered.

INQUEST. - A coroner's inquest was held yesterday morning, at the Wheat Sheaf public house, George-street south, on the body of a man named **JOHN BARWELL**, who had been lately employed at the Darling Nursery, on the Surry Hills. It appeared from the evidence, that the deceased had gone to bed on Friday last in a good state of health, but in the course of that night, or early the following evening, he had been attacked with a fit of apoplexy, in which he expired and was found dead when his fellow labourers came to call him in the morning. Under the circumstances, the jury returned a verdict of Died by the Visitation of God.

TEMPERANCE, 2/8, 24/11/1841

SUDDEN DEATHS. - There has been in the last few days, five sudden deaths from intemperance, in three of these, the parties put an end to their existence. 1<sup>st</sup>. Dr. **SANDON**, the Superintendent at the Quarantine ground. 2<sup>nd</sup>. **JANE COSTELLO**, who drowned herself in the Parramatta River. 3<sup>rd</sup>. A **SAILOR**, while labouring under *delirium tremens*, threw himself into the water, near Clyde-street, and was drowned. 4<sup>th</sup>. **JAMES WARBURTON**, an old pensioner. The Jury in this case returned a verdict of suffocation caused by intemperance. 5<sup>th</sup>. **JOHN CALLAGHAN**, whose death may be traced to indulgence in ardent spirits.

DOMESTIC INTELLIGENCE

In three inquests at Parramatta, two of the deaths arose from the use of spirits, and the other remotely.

FREE PRESS, 1/112, 25/11/1841

INQUEST. - WILFUL MURDER. - A Coroner's Inquest was held yesterday at Mr. Driver's, Three Tuns Tavern, corner of King and Elizabeth-streets, on the body of a man named **JOHN CONNELL**, who came to his death under the following circumstances:- Between four and five o'clock on the previous evening, the deceased, who was a constable in the Sydney Police, was on duty in Campbell-street near the Hay-Market, when a man named **PATRICK NEAL** commenced an uproar in the street, by striking another person with whom he had been previously quarrelling in Mr. Cunningham's public-house, in consequence of some disagreement arising out of a game called "puffing the dart", at which they had been playing; which consists in propelling a small dart by means of the breath through a tube, so as to make it strike a board placed opposite, on which certain figures are marked. Neal was very riotous, but his opponent (**GEORGE GALLOGLY** a turnkey in the Debtor's Yard) was more peaceably inclined; and the attack having been commenced by the former, the deceased interfered to prevent a further breach of the peace, and taking hold of Neal by the collar, was proceeding to convey him to the watch-house; the latter soon succeeded in effecting his escape, and ran away, pursued by the constable, by whom he was very shortly overtaken; a scuffle then ensued, and Neal struck the deceased several blows on the face, by one of which he fell to the earth. Not content with this, he wrested the staff from the hands of the unfortunate man and struck him a severe blow with it on the side of the head, when he again decamped, having first flung away the weapon which he had thus made use of, and succeeded in getting clear off.

The deceased rose from the ground and did not at the first appear to be seriously injured by the blow, but he almost immediately became insensible, and was by the orders of Dr. **CUTHILL**, who attended promptly on the occasion, conveyed to the General Hospital, where he soon afterwards expired. A number of persons were present when this murderous assault was committed, but none offered to lend any assistance, and some of them even went so far as to call out to Neal to "strike him", (meaning the deceased) before he did so. They were also either unable or unwilling to give any information to Constable Ward, who arrived immediately after the affray, as to who the prisoner was; and had it not been for Mr. **WRIGHT** of Campbell-street, who gave him the requisite information, there might have been some difficulty in finding him. Immediately on ascertaining the name of the delinquent, Ward went to his house in Castlereagh-street, and apprehended him with a bundle of clean linen in his hand, evidently prepared for a start to avoid a punishment for the crime which he knew he had committed. The above facts were clearly proved by the evidence adduced on the inquest, and the opinion of Dr. **HARNETT** was taken, which went to show that the death of the deceased had been caused by the extravasation of blood upon the brain, produced by a fracture of the temporal bone with a blow from a blunt instrument, such as the staff alluded to. The Jury remained for a considerable time in consultation, when twelve of their number (there being fifteen empanelled in all) brought in a verdict of wilful murder against the prisoner Neal, who was immediately committed to take his trial for that offence. The remaining three of the Jury were disposed to reduce their verdict to the charge of manslaughter. The Coroner expressed considerable regret that the parties who encouraged the prisoner in his brutal conduct, by calling upon him to strike the constable, could not be forthcoming; and stated his determination to deal with them in the most rigorous manner as soon as he should obtain evidence of their identity.

On Wednesday last, and inquest was held before **C.B.LYONS**, Esq., coroner, on view of the body of one **THOMAS CARPENTER**, a child four years of age, residing at Kissing Point. It appeared that the deceased was in the habit of playing with a tub on a pond eight feet depth, and on his mother missing him yesterday, every diligent search was made, and he was at length found in the pond quite dead. Verdict, accidental death.

INQUEST. - A Coroner's Inquest was held on Thursday afternoon at the Fortune of War public-house, Lower George-street, on the body of a female named **ELIZABETH GOODWIN**, who put a period to her existence on Thursday the 18<sup>th</sup> instant, by leaping overboard from the barque *Trinidad*, in which vessel she had come out as an emigrant. It appeared by the evidence, that the deceased had gone to a place of service in Sydney soon after the arrival of the vessel, but on the morning previous to her death had again returned, stating that the situation was much too hard for her. The surgeon superintendent then gave her a written recommendation but she failed in so doing and again returned to the vessel, when the captain told her she might remain on board until she could obtain an engagement. During the whole of the day she was observed to be strangely agitated, and would burst out in alternate fits of melancholy and merriment, at one time crying and at another singing. On the same night between the hours of ten and eleven, a gentleman named **STEPHENSON**, who also came out in the *Trinidad* as a cabin passenger, saw the deceased spring overboard from the gangway, just as he was coming on deck; he immediately jumped overboard after her and soon succeeded in grasping her, but owing to the darkness of the night and the strength of the tide, he was ultimately obliged to quit his hold, in order to save his own life - soon after which he was picked up by the ship's boat which had been lowered and manned at the first alarm, after securing the safety of Mr. Stephenson, the boat's crew made a strict search for the body without success, and it was not discovered until Thursday last when it was found floating by a waterman near the North Shore. Under these circumstances the Jury returned a verdict that the deceased had put a period to her existence while labouring under temporary insanity.

FREE PRESS, 1/114, 30/11/1841.

INQUEST. - A Coroner's Inquest was held on Saturday last, at the Cockatoo Inn, Surry Hills, on the body of a boy named **ROBERT LUCAS**, only nine years of age, who had been drowned on the previous day while bathing in a pond near Nobb's garden, - Verdict accidental death.

SUDDEN DEATH. - Mr. **W.H.TYRER**, of Fort-street, who formerly carried on business as a silk mercer in George-street, expired suddenly while bathing in Darling Harbour on Sunday afternoon last. Dr. **SMITH**, the surgeon of the *Lasca*, and Dr. **NICHOLSON** of Jamison-street, were in prompt attendance upon the unfortunate man, and used every effort to recover him, but without success.

A Coroner's inquest was held upon the body yesterday afternoon, at the Young Princess public-house, in Fort-street, when Dr. **STEWART** having made a post mortem examination of the body, certified that death had been caused by suffocation, produced by the intemperance of the deceased. It appeared by the evidence that Mr. Tyrer had of late been greatly addicted to drinking, and the probability was that the cooling operation of the water acting on his frame had driven the fumes of the liquor into his head, and produced an apoplectic attack, under which, and the suffocating effects of the water, he had expired. A verdict of accidental death from drowning, occasioned by the intemperance of the deceased was therefore returned. [see 1/115]

TEMPERANCE, 2/9, 01/12/1841

DOMESTIC INTELLIGENCE

An inquest was held on Wednesday, on the body of **JOHN CONNELL**, a constable in the Sydney Police. It appeared that a man named **PATRICK O'NEAL**, a drayman, and one of the turnkeys in the Debtors' Prison, had been playing together in the Bee Hive public house, in Campbell-street. O'Neil was the loser, and being excited by liquor, wanted the other to fight, which he refused. The landlord having refused to give him any more gin without the money, he became noisy, and got turned out. The man who had won several games from him now came out of the house, O'Neil again attacked and struck him. The constable who had seen the blow given, took O'Neil into custody, and was conveying him to the watchhouse, when he attempted to escape, and struck the constable several blows; one of these knocked him down. When he fell, O'Neil caught hold of his baton, and struck him a severe blow across the head, from the effects of which the unfortunate man died the same night. Verdict, Wilful Murder. O'Neil, who was in custody, was committed on the coroner's warrant to take his trial. The prisoner is a powerful man, he seemed much affected. This is the second time he has been charged before a jury with a similar offence during this year. He is described by those who are acquainted with him as being a quiet inoffensive man, when not under the influence of liquor.

The cook of the barque 'Fame,' fell down the hold on Tuesday, being in a state of intoxication, several of his ribs were broken. There is little hope of his recovery.

Mr. **W.H. TYRER**, formerly silk mercer, of George-street, suddenly expired while bathing in Darling Harbour, it is supposed that he was attacked by an apoplectic fit. An inquest was held at fair's public house, on the body on Monday. The Jury returned a verdict that the deceased had come by his death while bathing under the influence of intoxicating liquor.

DEATHS.

On Sunday, the 28<sup>th</sup> instant, while bathing in Darling Harbour, supposed of an apoplectic fit, Mr. **W.H. TYRER**, regretted by numerous friends.

FREE PRESS, 1/115, 02/12/1841.

DR. STEWART. – We have been requested to state, that in the surgical opinion given by this gentleman at the inquest holden upon the late **T.W.TYRER**, no assertion was made that the death of that person was occasioned by previous intemperance. The certificate of Dr. Stewart having been simply to the effect, that death had been caused by an apoplectic attack.

PORT PHILLIP PATRIOT, 06/12/1841

Supreme Court of New South Wales

Willis J., 2 December, 1841

R. v. Bolden

Before His Honor the Resident Judge, and the following Jury:– **D.C. M'ARTHUR**, (Foreman) **D. M'LAUGHLAN**, **JAMES MALCOM**, **GEORGE PORTER**, **FRANCIS NODIN**, **ROBERT OMOND**, **J.J. PEERS**, **LEWIS PEDRANNA**, **JAMES PURVES**, **JOHN MANTON**, and **J.H. PATTERSON**.

Mr. **BARRY** having exercised his right of challenge, said, he had an application to make relative to the production of a correspondence, which had taken place between Mr. **SEIVEWRIGHT** and the Government, the reason he called for that correspondence was, because it was not privileged.

Judge Willis thought there would be no difficulty, because the letter in question had been sent to him with the depositions, he always adopted the practice of the Judges in England in reading the depositions before he came into Court; as it had been mentioned as a material point of the case it could be read and all parties have the benefit of it.

**SANDFORD GEORGE BOLDEN**, late of Layton, in the district of Port Phillip, settler, was indicted, for feloniously firing a pistol loaded with ball at an aboriginal native, named **TALKIER**, with intent to kill, at Layton, on the 26th of November. The second count in the information charged the prisoner with firing the pistol with attempt to kill, which pistol was loaded with shot; and the third count charged him with committing the offence with a pistol loaded with destructive materials. The prisoner in a firm voice pleaded not guilty.

The Crown Prosecutor then stated the case as follows:— Gentlemen of the Jury, the prisoner at the bar, he is a very respectable settler, is charged with shooting an aboriginal native with intent to murder. This prosecution has been instituted at the instance of the Assistant Protector for the district in which the prisoner resides. The warrant of committal was made out by the committing magistrate who subsequently admitted the prisoner to bail, to appear and take his trial for the offence at this present Criminal Sessions—

Judge Willis. How could a magistrate receive bail for the appearance of a prisoner to take his trial on a charge of murder. No magistrate has the power to take bail on a charge of murder, but a judge has. I make this observation because gentlemen in the country holding the commission of the peace have not the same opportunity of becoming acquainted with the law as the magistrates in England. By the information it does not appear that the prisoner is charged with murder, for which offence if found guilty, his life would be forfeited. I can only repeat that magistrates should be very cautious how they take bail, particularly on such a serious charge.

The Crown Prosecutor continued – Having made these preliminary observations, it will be my duty to state the facts of the case. On the 27th of October last, the prisoner with his brother Mr. **SAMUEL BOLDEN**, and two of his servants, named **PETER CARNEY** and **WILLIAM KEARNAN**, went into the bush to muster some cattle, having proceeded about two miles in the bush, they met three natives, a man, a woman, and a boy. The prisoner when he saw the natives, rashly in my opinion, took alarm at their appearance, and considered (whether right or wrong, I shall not say) that these aboriginal natives intended to commit some depredations on his cattle, and to that end ordered them to leave the run. The native it appeared did not instantly obey this order, but ran to an open flat which was close at hand, pursued by the prisoner, who was on horseback; the black finding the pursuit two (sic) hot for him, turned round and attempted to strike the prisoner with one of his weapons, in return, the prisoner fired a pistol at the native and wounded him in the stomach; the native then ran to a water hole close by and jumped into the water for protection as was supposed by the prisoner who did not understand the ways of the native very well; the prisoner then left his two men at the water hole with instructions to take the native into custody when he came out of the water, whilst the prisoner returned to his house for more ammunition. During the time the prisoner was absent, the native came out of the water, but the moment he saw the prisoner returning, he again took to the water hole, and while standing on a decayed tree in the water hole, the prisoner again fired at him and he fell into the water. Such, gentlemen, are the facts of the case which I shall bring before you, I have not embellished nor underrated the case, for the purpose of

prejudicing the minds of the Jury, neither will I do so, as long as I have the honor to hold the situation which I now fill.

The following witnesses were then called:—

Peter Carney sworn and examined by the Crown Prosecutor. I reside with the prisoner, I am in his service in the capacity of stockman. I remember the 27th October, I saw the prisoner that day, I went with him, and William Kearnan and Samuel Bolden to muster the cattle, I did not see any aboriginals on the run until we had been a good while out, we all took separate roads, if any of us heard the whips crack we were to return. I heard the whips crack and returned; when I was coming I saw some blacks, when they saw me they parted; one man separated from a woman and a grown up boy, and ran onto the flat, the prisoner was on the flat at the time on horseback, the native rushed from the hill to the flat, and the prisoner called out gigo ; the black stood with his left foot foremost and fixed his eyes on the prisoner, at the same time he drew a heavy formidable weapon which would cut a horse's head off, he was standing near the prisoner, and made a stroke at him with the weapon, Mr. Bolden was quite passive, but slewed himself on the saddle and escaped the blow, and again called gigo to the black. I don't think the prisoner saw the native until he rushed down from the rising ground.

Mr. **CROKE**. — Did you ever swear that Mr. Bolden rushed towards the native.

Mr. Barry contended that before the witness answered that question he must first say whether he swore that in the presence of the prisoner.

Judge Willis agreed and examined the witness on that point, deciding that the depositions had been properly taken by the Court. I made my depositions before a magistrate, Mr. Seivewright, not before Capt. **WEBSTER**; I was not sworn first in the presence of Capt. Webster. The prisoner to the best of my opinion was present at my first examination, I can't say whether Mr. Seivewright read over the depositions to me, but I think he did so to Mr. Bolden in my presence, and I put my mark to it; if the prisoner wished to have asked me any questions he should have done so.

By the Crown Prosecutor.— The prisoner did not, previous to the blow being made at him by the native, make any rush at him with his horse, the native made a second blow, when I called out to the prisoner to “take care or the native would unhorse him,” when the native repeated the second stroke, the prisoner reined his horse round to the left and fired a pistol at the native, I cannot say that he struck him, he was about three yards from him. The pistol was a double barrellled pistol; when it was fired the native stood and clapped his hand on his belly, grinned his teeth at the prisoner, called him a white —, and then ran about 100, or 150 yards to a water hole, the native was naked at the time, I saw no blood, I saw the native go into one water hole, come out and go into another. I did not see the pistol loaded that morning, it was a percussion lock. I saw smoke from the pistol, no wound or blood. The native stopped in the first water hole a quarter of an hour or twenty minutes; during the time the native was in the water hole he kept singing out “ gigo , plenty more blacks; gigo after them.” I think he meant for me to go after them. I cannot say Mr. Seivewright asked me one of these questions; when the native said so, the prisoner told me to keep him a prisoner until he returned, the prisoner then went away, he said he was going home, he had only the double barrellled pistol, he told me to keep the native a prisoner until he returned with more fire arms. In the prisoner's absence the other stockman, William Kearnan, came up, he had not been up long before the native came out of the water hole, he still had his hand on his belly, and ran into the other water hole, where he stopped for a short time, and then came out and struck at the stockman; I was holding the two horses when Kearnan went round to take the native as he came out of the

water hole, and the native struck Kearnan on the temple and on the right elbow with a club, while they were falling I was singing out to Kearnan that the native was getting the best of him, and that he would not be able to take him, and he had better come to his horse; at this time the prisoner came up, I can't say whether he fell or jumped into the water hole, the native was standing on a stump when the prisoner rode up and fired at him. Mr. Bolden was about fifteen or twenty yards distant from the native when he fired, it was a good large water hole, the native was on the opposite side of it when the prisoner fired, it was as the native was going into the water, simultaneous. I saw smoke when the pistol was fired, the pistol was a short barrelled pistol, it was a little longer than the double barrelled pistol. After the shot was fired we immediately rode away.

Judge Willis. – Do you know the native's name?

Crown Prosecutor. – The Protector will be able to prove the name of the native.

Judge Willis. – Was he present at the time the shot was fired? where is the native? why is he not produced? he would be the best evidence in all cases of murder, the production of the body is always considered the best evidence.

Cross examined by Mr. Barry. – I did not see either the first or second pistol loaded, I cannot say whether the pistols were loaded with ball, Mr. Bolden was absent about a quarter of an hour; during his absence the native did not complain that he was hurt, when the native said there were other blacks on the run, Kearnan said to the prisoner, “for goodness sake go home for more fire arms to protect us, for this man says there is so many natives on the run.” I never saw the native before that day. The boy had an axe, the woman had a basket full of bullock fat.

Mr. Croke. – I object to this mode of examination; there was nothing about bullocks mentioned in the examination in chief.

Judge Willis. – I wish all the truth to come out, and I have no hesitation in stating from the bench that if a person receives a licence from the government to occupy a run, and whether white or black comes on that run to commit a depredation on the party's property, he is fully authorized to use any lawful means in his power to protect it.

Mr. Croke. – Yes your Honor, but what right have they to turn a black off their run?

Judge Willis. – They have a right to turn either black or a white off. I will go further and say if the government take upon themselves to be the desvisors of the soil, the tenant has a warrant under the descisor, to occupy the land, and that descisor, Mr. Croke, is the Queen of England, your mistress, in whose name you are this day conducting the prosecutor.

Cross-examination continued. – The fat was not give to the woman, some cattle were missing; there had been some cattle stolen about a week before; when Mr. Bolden fired, he could have fired the second barrel, he was in a very inconvenient posture and did not take any aim; when the native had the contact with Kearnan I did not see his belly, his back was towards me, I saw his belly twice, I am quite sure the native that went into the water hole was the same man that the prisoner fired at the first time, the native went into the water, feet first; he must have seen the prisoner coming up when he went into the water hole, we did not wait to see him rise; had the prisoner wished to have shot him he could have done so by waiting until he rose to the surface, I cannot say whether the second shot took effect. This occurred on Wednesday, and my deposition was taken on the following Friday. I never gave my evidence under the impression that the native was killed.

By the Jury. – It is a common course to frighten the natives by snapping or presenting a pistol at them.

By the Court. – When the native struck at the prisoner he had three or four weapons about him.

William Kearnan, sworn – I am a stockman in the employ of the prisoner; on the 37th (sic) of October I was employed in getting in some cattle, I saw three aboriginal natives consisting of a man, a woman and a boy; I do not know the native's name, but I had seen them several times before; I sung out “gigo” and asked them where they were going to, they said to Mr. Seivewright's station, about eighteen miles distant through the bush, but about thirty miles by the road, I said they were not, but were looking for cattle; I did not attempt to drive them off the run; I considered the prisoner was within hearing; the blacks said “Mr. Seivewright said plent (sic) wygell-wygell you,” meaning that I should be hung; in five minutes Carney came up, Mr. Bolden and his brother were on the flat, I sung out that the woman's bag was full of bullock or cow fat; during the time I was shewing the fat to Mr. S. Bolden the prisoner and the black had some words, I did not hear what the words were, being engaged with the woman; I turned round and saw the prisoner engaged with the native, the native trying to strike him with his club; I was about fifty yards distant; I did not see the prisoner endeavouring to ride down the black or galloping his horse; I heard a pistol shot, at the time I heard the shot fired the native was within four or five yards of the prisoner; I saw smoke when the pistol was fired; the black then ran as fast as he could to the water hole and went in legs foremost; I frequently looked round while examining the woman's bag because I expected a reinforcement of blacks; the native was nearer the water hole than the prisoner; I and prisoner went to the water hole, the native then sprang in and caught hold of a log singing out “plenty more blackfellows kimbarley directly;” I then asked the prisoner to go home for some more fire-arms; I have frequently seen the double barrelled pistol; Mr. Bolden then went home for some more fire-arms; I was trying to keep the blackfellow in the water or take him into custody until Mr. Bolden's return, I thought it my duty to do so; during the absence of the prisoner the native came out of the water hole, I let him out quietly, when I walked up to him and he struck at me with his club, I thought to get hold of it; the moment the native saw the prisoner coming up he rushed to the water hole, and just as he got in the prisoner fired the pistol; the first I heard of the prisoner's return was the report of a pistol; we were struggling at the time; the native struck me several blows with his club, once on my forehead, which bled, and several times on the arm; it was a weapon I never saw before, it was much heavier than a shelalagh; after that shot was fired we got on our horses and went on our business; I often saw the prisoner before.

Cross-examined.– I found the same native killing a beast on the 19th of the same month; I never met a party of blacks killing a beast without this native being amongst them; I always told my master I knew this man; I cannot swear whether there were either ball, shot, or slugs in the pistols; when Mr. Bolden returned and fired the second shot the black was in the act of attacking me.

C.W. Seivewright examined – I am one of the Assistant Protectors of the aborigines for the western district; I am also a magistrate of the territory; I know the prisoner, he lives about eighteen miles from my station; I took the depositions in this case, they were taken in the prisoner's presence and read over to him; he had an opportunity of asking questions and did so; I knew an aboriginal native named Talkier, he was one of the natives I had superintendence over; I have not seen him since the 29th of October; I have made several enquiries for him, among his own tribe in particular; I saw him about a fortnight before that time; I think it improbable that he is now wandering about; I searched for him twice; it is probable that he is still alive.

His Honor wished to know why depositions had been taken relative to a death when it had not been shewn that any death had occurred; he understood the commitment was for murder, he should like to see that commitment.

Mr. Croke. – Is it because a Justice commits a man for murder that I am to prosecute him for that charge? I will, however, send for the commitment.

Mr. Seivewright .– Your Honor, the commitment was made out for feloniously shooting.

Judge Willis. – Then why did you not send for the parties and alter the heading of the depositions? common prudence would have directed you to have done so.

Examination continued. – I saw the prisoner previous to the examinations of the witnesses against him; I went to his station, it was on the 28th of October, I saw him at his stock-yard and made myself known to him; I said I was sorry to hear that there had been a collision between some of his people and the natives; he said “No, no collision;” I replied “are you not aware of it?” he said “are the bodies found?” I said “I believe so;” this belief was from the report I obtained from an aboriginal boy, wholly a savage; Mr. Bolden then said “I have no hesitation in stating it was I who shot the native, but I assure you it was in self-defence, and it was my intention to have informed you of the circumstance as soon as I could.” That was not said until I stated the bodies were found; he said the reason he had not sent was, because he was engaged in going over some cattle he had sold; I observed that he was under considerable agitation and advised him to say nothing more until the morrow, when I would return and take it from him; my reason for doing so, was, that in his agitation he might inadvertently have made a statement in which he might have committed himself; I held out no inducement except that the body was found.

His Honor said he would reserve the point, whether a confession taken under such circumstances could be admitted in evidence, and commented very strongly on the conduct of Mr. Seivewright in the matter.

By the Court. – I was engaged in endeavouring to ascertain whether the story of the aboriginal boy was true; I traced, in company with six natives and a constable, to a water hole where there were tracks of horses, when one of the natives descried a boy on horseback; the natives who accompanied me threatened to kill him; in consequence of the danger of the boy I gave up the search.

Cross-examined.– I rested what I stated on the statement of the aboriginal boy; I heard that the person who was shot was named Talkier from the native boy; the prisoner said after making his voluntary confession, that had he known the bodies were not found he would not have made the statement; I did not state to the men on the examination that the bodies were found; I think Mr. Craig, Captain Webster, and prisoner's brother were present when he made the statement; I have been in charge as a Protector eleven months; the dialects are various amongst the tribes; I swear I put a right interpretation on what I heard from the boy, who was ten or eleven years old.

Judge Willis. – What! am I to understand that you ground your belief on the statement of a boy ten years of age, and that boy wholly a savage, and that you as a magistrate act on that assertion to bring such a serious charge as that against the prisoner.

Cross-examination continued.– The other body said to have been killed was that of a woman, but on enquiry I found she was alive; I have not seen her; the same boy who told me that the man was dead told me also that the woman was dead; I never told the prisoner of the fact; I told Mr. Croke.

Mr. Croke distinctly denied that he had ever made any such statement until he put the question to him, and that was the reason he had filed the present information, because it occurred to him that the man might still be alive.

Judge Willis. – You had plenty of opportunity to have communicated that fact to the prisoner or his friends, and I must say it is not the way a magistrate should do his duty.

Cross-examination continued.– After collision with the natives and the settlers, it is usual for the former to abscond for two or three weeks; I sent for the woman but she had not arrived when I left; she belongs to a tribe at a remote distance; I have searched for the native within the beat of his tribe; I never had the water hole dragged; I put a stick in the hole but it was too deep; if any bodies were in the water they would have floated when decomposition had taken place; the prisoner and his friend offered every facility in investigating the affair.

Judge Willis. – Gentlemen, the reason that I sift the evidence in this case so closely is, because the prisoner at the bar is a brother of a neighbour of mine, and I intend to leave the case in your hands without a single comment from me, for it has been asserted and also published in one of the newspapers, that I have allowed private feelings to interfere in the administration of public justice. Such imputations I scorn, they are too contemptible to notice, and those observations recoil on the parties who wrote them. I could in the beginning of the case have stopped it, but I preferred letting it go before you on its merits, for I was anxious that a full investigation should take place, which I am happy to say has been the case this day.

This closed the case for the prosecution, and no evidence for the defence being adduced,

Mr. Barry then addressed the Court as follows:– May it please Your Honor and Gentlemen of the Jury, – when my eye first lighted on the paragraph published in a local newspaper the day before yesterday, to which I have already called the attention of the Court, I feared that I should have had to present myself to you to perform the most trying and important duty which devolves upon a human being; to defend a young man in the prime of life, struggling for his existence, and leaning on the casual support of a feeble advocate. But do not imagine, gentlemen, that I rise now under any such impression. Do not suppose that I address you overwhelmed with the hopeless difficulties of this case. Let it not be conceived that I mean to occupy your time by soliciting your indulgence for the inadequacy of my powers; or endeavour artfully to enlist your passions on the side of my client. No gentlemen, such is not the case but I rise with whatever of law, justice, and of the British constitution have been transplanted in this country of our adoption at my back, and standing in front of that powerful alliance I demand a verdict of acquittal. You have heard, gentlemen, the testimony of the last witness, one of the committing magistrates, who has declared that throughout the whole of this proceeding every possible facility has been afforded by the young gentleman himself who is arraigned at the bar, and by his relations, in aid of the investigation of this matter. You have also heard the evidence of the two servants of this gentleman, who have undergone a very rigid examination by the Crown Prosecutor, and who are in fact the only witnesses whose statements bear directly upon the question; and though it might perhaps, be apprehended that these men might be influenced by fears of the unfavourable result of this trial, or swayed by their attachment to an indulgent master, never, I sincerely believe, was a more candid, upright and honest narrative deposed to in a court of justice. The prosecution you must observe gentlemen has signally failed, for you have no evidence whatsoever to satisfy your minds that this pistol was loaded either with “ball, shot, or other

destructive materials, as laid in the different counts of the information; which it is absolutely necessary to prove. Nor has there been adduced any evidence to shew that the native named in the information as Talkier is the person whom the prisoner at the bar is charged with having fired at. To show you that this is requisite, I need only refer you to the case of Lord Cardigan lately decided in England which must be fresh in your recollection, and to which your attention has been already directed by the learned Judge. But, gentlemen, though these deficiencies in proof are of themselves fatal to the information, I do not rest the case solely on these grounds, but will insist upon it that this young gentleman was justified in the fullest extent in acting as he has done in discharging his first pistol in defence of his own life, and the second in defence of that of his servant. What then is the case? This young man with his brother, accompanied by two stockmen, were riding on the morning of the 27th round their run, and in the progress of their ride they found three aboriginal natives, one of whom, a man, was well known to one of the stockmen as a most violent character, and identified by him as connected with divers acts of aggression upon the property of his master; another, a woman, was carrying in her basket a considerable portion of fat, which there was every reason to believe had been taken from a bullock killed on the run by the aborigines during the previous week. These people were desired to leave the spot, upon which the man exclaimed that "there were plenty more blackfellows down yonder," and invited the party to proceed in that direction. It appears that when they reached a small plain while the prisoner was sitting upon his horse he was attacked by this ferocious savage, armed with a weapon, which has been described to you as one which "would cut a horse's head off," he eluded the blow, and on a repetition of the assault, in accordance with the first principle of the law of nature, to protect himself he fired at the assailant, but in such a hasty manner, in a position so unfavorable for taking a cool and deliberate aim, that it is quite uncertain whether the man could have been hit. Then upon the earnest entreaty of the stockmen, one of whom begged him "for God's sake to return for some fire-arms for the protection of the party," the prisoner left his men and was absent for the space of about twenty minutes, during which time this native was engaged in a conflict with one of the witnesses, in the course of which he wounded him severely on the temple, and inflicted several blows on his arm and other parts of his body. At this moment the prisoner arrives; his horse is at a gallop; he sees the life of a confidential servant exposed; he sees him standing unharmed (sic) and attacked by an infuriated cannibal and at the distance of twenty yards, or more, for the distance is not accurately ascertained, he discharges a random shot, and without waiting to observe the effect he turned his horse and rode off at full speed to the support of his brother. Now, gentlemen, whatever uncertainty existed in the law in former time as to the right of a master to commit an assault in defence of his servant; though there was no doubt whatever as to a servant being justified in defending his master; it is now clearly the law of the land, speaking on the authority of Lord Mansfield, "that a master interfering when his servant is assaulted, is justifiable under the circumstances, as well as a servant interposing for his master, as it rests on the relation between master and servant." Let me beg of you, gentlemen of the Jury, to consider for one moment if this young man entertained the "willful and malicious intent" necessary to support this information; what could possibly have been more easy for him to do than on the first occasion, on the failure of the first discharge, to have ridden up to this aboriginal native and put a period to his existence by means of the second barrel which he held in reserve; or on his return with a further supply of fire-arms to have waited until the native rose to the surface, when he could have deliberately accomplished his

murderous design. Nay more, to make sure of his victim, he might have had recourse to such means as were adopted on a subsequent occasion when the water hole was searched for the body. But no, the whole transaction evinces the very contrary of such a disposition, and the hurried manner of acting, the small size of the weapons used, and the provocation on both occasions render it very doubtful whether the shots could have taken effect, and quite excuse and justify recourse having been had to such extremity. The evidence must be so well impressed upon your minds, gentlemen, that it is needless in me to occupy you any longer by a recapitulation of any portion of it. However wretched, indeed, will be the situation of the settlers, who are, Heaven knows at present sufficiently unprotected, if they defend their property, the lives of their servants and their own, at the risk of being exposed to the ignominy of a public accusation such as you behold this day. I will not dwell, gentlemen, on the anxiety of the relations and friends of this young gentleman, as to the result of this trial, but I confidently resign the case into your hands and ask for such a verdict as you can reconcile with your consciences, your country and your God.

Judge Willis, in putting the case to the Jury, said he should only occupy their attention a short time with his observations on this case; he would state now what he had stated in the early part of the day, that the prisoner at the bar was the brother of a neighbour of his, and although it had been stated that he allowed his private affections to interfere with the administration of public justice, he disclaimed having any feeling in this case more than he had in any other, and it was always his study to administer the same justice to the poor as to the rich man. If his (Judge Willis') brother were placed in that dock to be tried before him for any criminal offence, he solemnly declared he would deal with him in the same manner as he would with the greatest stranger. The case before the Jury was a very important one, but he had no doubt would meet with the attention it required at the hands of the Jury; he could have stopped the case at its commencement because he knew the information could not be supported in evidence; there was no proof that the aboriginal native that was shot at by the prisoner was named Talkier; the learned prosecutor having failed in proving that fact, the information must fall to the ground. But he (Judge Willis) preferred letting the charge go to the Jury on its merits, and he rejoiced that he had done so, and that the matter had been thoroughly investigated; although he, as Judge, was bound to take notice of all informalities that might benefit any prisoner that came before him, he had let the case go to the Jury, because there could not then remain a shadow of doubt on their minds as to the motives which actuated him thus to act, so that if any feelings existed in the minds of the Jury, that any prejudice on his part in favour of the prisoner, it could not prejudice the verdict they would find in the case; such a feeling instead of serving would operate much against the young man who was placed in so unfortunate a position. The case before the Jury was not of the same description as the matter which had recently been argued before the Court, he meant the case of **BONJON**, in which case he had already stated his impression on the law of the case, which impression would be forwarded by his Excellency the Governor to the home authorities, it had been asserted that he had given a decision in that case; that statement was false, he had never decided on the matter, but he had given his opinion; and he was still of that opinion. This case however was widely different from the case of Bonjon, this was a case of aggression of the whites against the blacks; and in all cases of aggression of the whites against the blacks, or the blacks against the whites, the law of England prevails. He had on a former occasion alluded to the case of **KILMEISTER** and others, who were tried and executed for the murder of several aboriginal natives, to show there could be no doubt about the law of the case, that

point having been recorded as the laws of this colony, in letters of blood. In this case a paragraph had appeared in one of the local papers relative to this case, headed "charge of murder," he had already stated his opinion on publishing preliminary reports of cases, that paragraph might tend to affect the opinion of the public, but he was sure it could not have any effect on so respectable and intelligent a Jury; at the present indeed he regretted that paragraph had been published because it, in all probability, would reach the friends of the prisoner in England, before the matter could be cleared up, and thereby cause considerable uneasiness. Reports although true, and in some measure a libel, but he had no doubt these reports had been published by the parties who were ignorant of the law of the matter, but he (Judge Willis) hoped from what he then stated, such reports would not be published in future; he rejoiced for the sake of the prisoner, that he had allowed this case to proceed, and its publication would be useful to the colony; the case before the court, solely depended upon secondary evidence, and that evidence had been communicated by a native boy, wholly a savage of ten years old; what was there to prove that the aboriginal named in the information was the person shot at by Mr. Bolden, had ordinary exertion been used, by the committing magistrate, by going to the water hole, if the native who was shot at had been killed, decomposition would have taken place and the body have floated to the surface; he was bound to tell the jury there was no evidence against the prisoner. Had the Crown prosecutor indicted him for shooting at an aboriginal, name unknown, then something might have turned out, but there was nothing to identify the aboriginal named in the information with the one that was shot at by the prisoner; and for aught that appeared that man might be alive and well, for Mr. Seivewright has himself stated that the parties, after a collision with the whites, leave their usual haunts for a considerable time. His Honor here alluded to the case of Lord Cardigan for shooting at Captain Tucket, and observed, that the precedent before him was exactly similar to the present case; when the matter of identification was so essential, in his opinion the case was not made out against the prisoner; had a little common sense been observed in the matter it would have been a great deal better.

Mr. Croke thought there was sufficient evidence to support the information against the prisoner for shooting with intent to kill.

Judge Willis wished the learned Crown Prosecutor to shew what proof he had that the person named in the information was the party that was fired at by the prisoner; at the same time he must say that the Crown Prosecutor had only done his duty in bringing the matter before the Court, but the time of the public was not to be taken up with cases that could not be sustained, he must, under all the circumstances of the case, tell the jury that they were bound to find a verdict of acquittal, the prosecution having completely failed.

The Crown Prosecutor said, with such depositions, he would put a thousand such informations on the files of the Court.

Judge Willis. – Then I do not think you would be doing justice to the public; you have no right to occupy the time of the Court with informations that you cannot sustain.

The Crown Prosecutor said he did not think the public considered he occupied his time unnecessarily.

His Honor then concluded his charge to the Jury, remembering that there was no evidence against the prisoner and that they must acquit him.

The Jury without retiring pronounced a verdict of Not Guilty.

Mr. Manton, one of the jury, wished to state on behalf of himself and some of his fellow jurymen, that the prisoner left the Court without any imputation on his character.

Mr. D.C. M'Arthur, the Foreman, begged to tell his Honor that that was not the unanimous opinion of the jury.

Mr. Croke in addressing his Honor, said, that he considered a heavy charge had been laid at his door by his Honor for occupying the time of the Court on informations he could not sustain.

Judge Willis. – Is it justice to the public to do so? yet such has been the case on several occasions this session.

Mr. Croke. – I again repeat that I would on such evidence file an information tomorrow; is it because I have lost several cases this session from want of witnesses who have absconded or have not been in attendance that I am to be accused of occupying the time of the Court unnecessarily? I will use my discretion in putting such prisoners on their trials on the depositions which are sent to me by the magistrates as I conscientiously think I should do.

Judge Willis said if such was the determination of the Crown Prosecutor he should feel it his duty to represent his conduct to the proper quarter, and state that the public time and expense was unnecessarily taken up in trying cases he could not sustain.

Mr. Croke. – I again say, with great respect, by virtue of my office I will use my discretion as to what cases I bring before the Court.

Judge Willis. – Very well, then I will know what course to pursue.

The matter was then dropped,

(The Court adjourned until eleven o'clock on Saturday.)

[1] Thanks to Chris Brien for supplying the newspaper account of this case.

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NEWS AND RUMOURS OF THE DAY.

An inquest was held in Parramatta-street, on Friday last, on the body of a Coolie named **MONGRU**, late in the employ of Mr. **JOHN LORD**, who had been missing for some days previous to the discovery of his death. The body of the deceased was found in a well on the premises, on Thursday evening, and it was supposed that he had accidentally fallen into it. Verdict, accidental death.

An inquest was held on Friday last at Leburn's public house, opposite the Benevolent Asylum, Parramatta-street, on the body of a male child, about three months old, who expired on the previous evening from the exhausting effects of an indisposition under which he had been labouring since his birth. Verdict, died by the visitation of God.

ACCIDENT. - A little boy, the son of **JOHN WELSH** of brougham-place, Pitt-street, came to an untimely death of Sunday evening last, by falling down a water-closet, attached to the premises where his parents reside. The latter being at that time at a place of worship had left the unfortunate child in the charge of his brother, a lad of about ten years old, from whom he contrived to absent himself, when he met with the fatal accident above stated.

TEMPERANCE, 2/10, 08/12/1841

INQUESTS DURING THE MONTH JUST ENDED. - There have been twenty inquests in the district of Sydney alone, being at the rate of two every three days, or two hundred and forty-four per annum, in a population of 35,000.

An inquest was held last Friday, on the body of a Coolie, named **MONGROU**, in the employ of Mr. **JOHN LORD**. The body was found in a well. It is supposed that the deceased had, while in liquor, accidentally fallen into it. A verdict of accidental death was returned.

**PARRAMATTA.**

An inquest was held at the Plough Inn, on Monday the 20<sup>th</sup> November, on the body of **PATRICK COLLINS**. It appeared from the evidence produced, that the deceased had been employed in Sydney as a labourer for some time past, and had amassed a considerable sum of money, he had been drinking for a long period, and thereby brought on himself a fit of delirium tremens, which had caused his death – verdict accordingly. The Coroner remarked, that every inquest which he had held for the last six months, excepting those on young children, had been caused by intemperance.

**FREE PRESS, 1/118, 09/12/1841.**

**NEWS AND RUMOURS OF THE DAY.**

About sixteen days ago a man named **GEORGE PHILLIPS**, residing in Sussex-street, accompanied by two other acquaintances, set out in a small boat, for the purpose of fishing between the Heads; but since then neither the men nor the boat have been seen or heard of.

**INQUESTS.** - On Monday afternoon, an Inquest was held at the New York Hotel, George-street, on the body of a man named **THOMAS LONG**, formerly an assigned servant to Colonel **GIBBES**, the Collector of Customs. It will be remembered by our readers, that the deceased was accidentally drowned by the upsetting of a boat, On Sunday, the 24<sup>th</sup> of November last, in which he was seen sailing about the harbour with his master and some others. The body, although diligently searched for, was not discovered until Saturday evening, when it was found floating near Barry's Wharf, on the North Shore. Verdict – accidental death.

Another inquest was held on Tuesday, at the Dumbarton Castle public-house, Liverpool-street, on the body of a male infant, the son of a female named **CONNELL**, the widow of the constable of that name who was murdered some time ago. The child had been born alive, but had expired within five hours afterwards, and Dr. **M'KELLAR** having certified that its death had been produced by natural causes, a verdict to that effect was returned.

**FREE PRESS, 1/119, 11/12/1841.**

**ARGYLE.**

A lamentable and fatal accident occurred near the Stockade at Tourang, a few days ago. Mr. and Mrs. **MONEYPENNY** and child, were returning to their residence at Goulburn, in a chaise, when by some means, at present to me unknown, the gig was overturned, at a bridge now in the course of erection, and the whole of the carriage inmates thrown out. Mr. Money penny was killed on the spot, Mrs. Money penny was seriously injured, and the child escaped unhurt.

Recent news from Goulburn states, that two men (**LYNCH** and **THOMSON**) who were in the employ of Messrs. Bradly & Shelly, had a trifling dispute while shearing sheep; one word brought on another, until at last they began to fight. The man Thomson, finding his opponent Lynch one too many for him, whipped up a pair of sheep-shears that were close to him, and plunged it into the body, betwixt the second and third rib on the left side, of the unfortunate Lynch. The act was so sudden that were there fifty individuals present, they could not have prevented the blow. The wounded man was forthwith borne to the General Hospital; and the assassin secured,

and conveyed to Goulburn Gaol. Although every attention was afforded by the medical gentleman of Goulburn to the sufferer, the shears had struck a vital part, and after undergoing the most excruciating agony, he died the same night. On the following day an inquest was held at the body, at the Hospital, when a verdict was returned against Thomson of "Wilful Murder". Thompson will be tried for this treacherous and atrocious act at the next Circuit Assizes.

TEMPERANCE, 2/11/, 15/12/1841

DOMESTIC INTELLIGENCE

A man having entered a loft at Windsor, drunk, walked out of the window, and falling from a height of eleven feet, died in consequence.

TEMPERANCE, 2/12, 22/12/1841

INQUESTS. - On Saturday last, an inquest was held in the Sir Walter Scott, public house, Bathurst-street, on the body of **WILLIAM COOPER**, a seaman from the 'James Pattison,' who was drowned on Thursday evening, by falling overboard, from the schooner he belonged to, lying at Steele's wharf, bottom of Bathurst-street. At the time of the accident, the deceased was intoxicated. Surgeon **STEWART** having certified that death had been caused by drowning, a verdict of accidentally drowned, while intoxicated, was recorded.

Another Inquest was held the same day, on the body of **ALEXANDER MELLON**, surgeon, who had been found dead in his bed, on Saturday morning, on board the 'Letitia,' schooner, lying at Peacock's wharf Darling Harbour. From the evidence it appeared the deceased had of late, been much addicted to liquor, and after a severe drinking bout, had obtained permission from the captain of the 'Letitia' to reside on board of her till he recovered from the effects of his intemperate habits, which he intended to break off; that he had been drinking on Friday, and went to bed in his usual state. Surgeon **M'KELLAR** having certified that death had been the result of natural causes, induced by intemperance, a verdict to that effect was recorded. It is said that property to a considerable amount has lately been left to the deceased in his native land.

WINDSOR.

Last week we reported the death of a man, while under the influence of drink. This week a soldier, stationed in that town, put an end to his existence while under the influence of liquor. We hope that cases of this description are reported to the Horse Guards.

TEMPERANCE ends, further issues under the title of TEETOTALLER.

FREE PRESS, 1/124, 23/12/1841.

INQUESTS. - On the 18<sup>th</sup> instant an inquest was held before **B.C.LYONS**, Esq., coroner, on view of the body of a **PERSON UNKNOWN**, at the house of **JAMES KIRWIN**, sign of the Horse and Jockey, on the Sydney road; the jury returned a verdict of found drowned.

Another inquest was held by the same coroner on Tuesday last, on the body (sic) of **RICHARD OAKES**. Verdict, determination of blood to the head, accelerated by mental excitement.

INQUEST. - A coroner's inquest was held on Monday last, at the Crown and Anchor public house, George-street, on the body of a man named **JAMES BENZIE**, who had

died suddenly on Milk Beach, Rose Bay, on the preceding day, in consequence of an internal attack, - the deceased was a man of good character and temperate habits, and had been employed at a storekeeper in the service of Mr. **P. DeMESTRE** for some years previous to his death. Verdict, died by the visitation of God.

FREE PRESS, 1/125, 25/12/1841.

INQUEST. - A Coroner's Inquest was held yesterday afternoon, at Leggatt's public-house, corner of Drutt and Sussex-streets, on the body of an old man, named **GEORGE HARVEY**, formerly employed as a bell-ringer at the Auction Mart of Mr. **STUBBS**, in King-street. The deceased had been found at an early hour the same morning suspended by his neck, behind the door of his room, with the point of his toes touching the ground, in which position he had evidently remained for some time, as upon being cut down he was found to be perfectly stiff, and fell upon his feet, where he remained standing until removed. It appeared by the evidence, that the deceased was a man of intemperate habits, and, in consequence of his bad conduct, had, a short time previous to his death been discharged from his situation. The Jury returned a verdict that the deceased had put a period to his existence while labouring under the effects of temporary insanity, produced by intemperance.

SUICIDE. - A female immigrant belonging to the *Emerald Isle*, which arrived in this port on Thursday last, sprang overboard from that vessel, when within a short distance from Sydney, and was drowned before any assistance could be rendered. No cause has as yet been assigned for the commission of this rash act, and what renders the affair still more mysterious, is the fact that no mention was made of it by the surgeon when making the usual report to the Health Officer of those who had died on the passage. The officer in charge of the vessel at the time the health-officer went on board was equally silent, and it was not until they were very closely pressed that the fact was spoken of, when the plea of *forgetfulness* was brought forward as an excuse for not mentioning it before! The whole affair, we believe, is about to undergo a strict investigation.

SYD1842

FREE PRESS, 2/128, 01/01/1842.

INQUEST. - A Coroner's inquest was held yesterday at Mr. Driver's, Three Tuns Tavern, corner of King and Elizabeth-streets, on the body of a prisoner of the crown, named **JAMES SCANLAN**, lately attached to the Woolloomooloo stockade, who died at an early hour on Tuesday morning. It appeared by the evidence, that the deceased had been complaining some three or four months past of a pain in the left side, and had been under a course of medical treatment for that disorder. On Monday last he was observed to grow worse and was attended by Dr. **HARNETT**, the Colonial Surgeon, by whose order he was exempted from work. He continued in much the same state until a little before two o'clock on Thursday morning, when the man who slept with him observed a sudden change in his appearance and immediately gave the alarm, but before any assistance could be rendered he had expired. Dr. Harbett made a post mortem examination of the body, and certified that death had been the result of natural causes, to which effect a verdict was accordingly returned.

FREE PRESS, 2/129, 04/01/1842.

By the official returns, it appears that only thirteen Inquests were held in the month of December.

INQUEST. - A Coroner's Inquest was held on Saturday last at Mr. Driver's Three Tuns Tavern, corner of Elizabeth and King-streets, on the body of an aboriginal native, generally known by the cognomen of **TOBY**, who expired suddenly on Thursday morning, at Cockatoo Island, to which place he was attached in pursuance of a previous sentence, awaiting the decision of the crown, relative to his conviction for murder which had been recorded against himself and another of his countrymen, who still remains there. It appeared by the evidence of Dr. **STEWART**, by whom a *post mortem* examination of the body had been made, that death had been occasioned by an attack of dysentery, and a verdict of death from natural causes was therefore returned.

FREE PRESS, 2/130, 06/01/1842.

NEWS AND RUMOURS OF THE DAY.

A man of the name of **WILLIAM BELL** is now in the custody of the police on suspicion of having been concerned in the murder of Mr. **COWPER**'s man, on the Liverpool road, some time ago.

A few days ago, a poor man, a carrier, was drowned while bathing in a waterhole near Scone.

INQUESTS. - A coroner's inquest was held yesterday forenoon, at Leburn's public-house, Parramatta-street, on the body of a female named **MARY DICKMAN**, who had been found drowned in the dam at Cooper's distillery on the previous day, by a man named **ROBERTSON** who happened to be going there for water. It appeared by the evidence, that the deceased had had a trifling quarrel with her husband, at a public-house, on Monday, and had been missing since that time, but no clue could be obtained as to how she came into the dam, the deceased was said to have been a well-conducted and temperate woman.

Another inquest was held on the same day, at the Black Dog public-house, Gloucester-street, on the body of a man named **HENRY PEARSON**, residing in Princes-street, who had been employed in screwing wool on board the ship Hamlet,

and had been killed on the previous day in consequence of some of the machinery of the press at which he was then working having given way. Verdict – Accidental Death.

MAITLAND MERCURY, 1/01, 07/01/1843

DESTITUTION. - On last Monday week an aged man named **JOSEPH SAMPSON** was found in the bush at the back of Mrs. Muir's Family Hotel East Maitland, by a constable; he was perfectly helpless when discovered and appeared to have been for some time in a state of the utmost destitution, his beard having grown to a great length, and his clothes being very tattered. He was removed to the Benevolent Asylum, and placed under proper treatment; he now appears to be in a fair way for recovery.

TEETOTALLER, 1/1, 08/01/1842

INQUESTS. - On Wednesday an inquest was held in Leburn's public-house, Parramatta-street, on the body of a married female, named **MARY DICKMAN**, who had been found, on the preceding afternoon, floating in the dam adjoining Cooper's Distillery. In the absence of any evidence of violence, or how she had got into the dam – Surgeon **CUTHILL** having certified that death had been caused by drowning – a verdict to that effect was recorded.

Another inquest was subsequently held in the Black Dog public-house, on the Rocks, to enquire into how **HENRY PEARSON** came by his death, on Tuesday last. From the evidence adduced, it appeared that, at the time of his death, Pearson was on board the 'Hamlet,' where he was assisting at the press to stow some wool; and while he was holding on by the mouthpiece of the apparatus some of the tackling gave way, when he was crushed to death. Surgeon **GLENNIE** was in attendance a few minutes after the accident, but life was extinct; and he having certified that it was caused by injuries received, a verdict of accidental death was recorded.

On the 30<sup>th</sup> ultimo, at the Rose, Thistle, and Shamrock Inn, Parramatta, on view of the body of **MARY WARNER**, whose death was accelerated by excessive indulgence in habits of intemperance; the deceased was in a dreadful; state of nervous debility previous to her death, there was a broken tumour in her head, which was not accounted for, but as Dr. **SCOULER** was of opinion that this would had little, if anything to do with the death, which was rather the result of excessive debility. The jury returned a verdict of "Died by the Visitation of God." It appeared that the deceased had once stumbled into the fire when tipsy, and had been very much burnt, and on another occasion into the creek.

FREE PRESS, 2/132, 11/01/1842.

SUPREME COURT – CRIMINAL SITTINGS.

MONDAY, JANUARY 10, 1842.

BEFORE Mr. Justice Burton, and a Common Jury.

**PATRICK NEAL** was placed at the bar and charged with the wilful murder of a constable named **JOHN CONNELL**, by striking him on the head with a staff, or other blunt instrument, on the 23<sup>rd</sup> of November last.

The Attorney-General stated the facts of the case.

**GEORGE GALLOGLY** was then called, and stated that he knew the prisoner at the bar, and saw him on the day in question at Mr. Cunningham's public-house, in Campbell-street, where the witness was challenged to fight by the prisoner, and left the house; the prisoner followed witness and struck him on the nose, which bled very

much. The deceased, seeing the witness struck, came up and took the prisoner into custody; the prisoner said, if the constable would let him go, he would walk quietly to prison, but when the constable complied with this request, the prisoner ran away, and the witness saw no more of the transaction.

Cross-examined by Mr. **PUREFOY** - witness gave the prisoner no provocation to strike him.

**JOHN WRIGHT** deposed, that he remembered the 23<sup>rd</sup> of November last, and was standing in his verandah on that day between three and four o'clock, when he saw the constable pursuing the prisoner. The prisoner stopped, and laying hold of a stone, threatened to throw it at the constable if he approached nearer. The constable then pursued and laid hold of the prisoner, who several times threatened to strike him if he did not let him go; the prisoner struck the constable several times, and in a scuffling manner they went a little distance along the street, until at length the constable let go, apparently compelled to do so by the prisoner's blows. The prisoner then struck deceased a blow on the forehead with his fist, which knocked him down; and when down, prisoner forcible pulled the staff out of the deceased's hands, and struck him a blow on the head with it, which he (the witness) heard where he stood, a distance of about thirty yards from the parties. The prisoner then ran away, and threw the staff from him. The deceased then rose up, and wiped his face, and being about to fall, some of the bye-standers laid him down in the market-place. The deceased was afterwards brought over to the witness's verandah, and was then insensible. Dr. **GRANT** was sent for but refused to come, saying that he never went out on occasions of that sort, and Dr. **CUTHILL**, OF THE Benevolent Asylum, was then requested to attend, who came accordingly, and ordered the deceased to be removed at once to the hospital, which instruction was immediately complied with.

Cross examined by Mr. Purefoy – there was a short struggle between the prisoner and the deceased; there were a great number of people looking on, perhaps forty or fifty, but none of them were very near deceased and prisoner at the beginning of the disturbance; did not hear the prisoner say, "If you will take your hands off me I will go quietly," but he might have said so. Witness would swear that the blow was not an accidental one; he had known the prisoner about five years, and had never thought him any other than a peaceable man; he did not see the deceased strike the prisoner.

**TIMOTHY DALY** stated that he recollected the 23<sup>rd</sup> of November, and had seen the constable and the prisoner at the Haymarket on that day; and saw the prisoner strike deceased a back-handed blow with the staff, but could not say on what part of the deceased the blow fell.

**JOSEPH WARD** stated that he was a constable in the Sydney police, and saw on the day in question a great number of persons assembled in George-street, in consequence of which he went to the spot, and saw the deceased after he had received the blow, who then appeared to be insensible. Witness apprehended the prisoner at his lodgings in Castlereagh-street about half an hour after the occurrence; had been often in the prisoner's company, and knew no harm of him; had heard he was once charged with killing a man. The prisoner was apparently preparing to abscond at the time of his apprehension.

Dr. **PATRICK HARNETT**, colonial surgeon, deposed that he recollected the deceased being brought to the hospital, who was then suffering under compression of the brain, and died the same evening about seven o'clock. On making a post mortem examination, it was found that there was an extravasation of blood on the right side of the skull (sic), a little below the ear. The fracture might have been effected by a blow,

and the extravasation might have resulted from the same cause. Extravasation of blood was not the necessary consequence of a fracture.

Cross-examined: was satisfied that the extravasation resulted from the fracture. Believed that the extravasated blood was the result of the fracture. The bone in the region of the skull, where the deceased was struck, was thinner than in other parts. There was no external appearance of injury. It was possible that apoplexy might have caused his death. Very heavy blows might be given, so as to cause internal injury without disturbing the plates of the skull.

This closed the case for the Crown.

Mr. Purefoy addressed the Jury at considerable length on behalf of the prisoner, and commented with great ability upon the evidence which had been given, and the distinction between the crime of wilful murder, and that of other kinds of homicide. The law of England (he stated) had humanely declared that no man who took away the life of another in the heat of blood, without any premeditated malice of ill-will, should be punished with that awful severity which awaited the crime of wilful murder; and he contended that the case of the prisoner at the bar, was one which came under this class of offences. Considerable excitement had prevailed out of doors, relative in this case, but he felt assured that the Jury would not be affected by any prejudices of that description, and he should therefore leave the case in their hands in the confidence that they would give a due weight to all the circumstances, which bore out his view of the nature of the offence.

The learned gentleman then called **THOMAS EASTER**, who deposed to having seen the scuffle between the prisoner and the deceased, and that both of them had stones in their hands, which they appeared about to throw at each other; and several other witnesses were also called, who spoke as to the previous good character of the prisoner.

The Attorney-General said, he would waive his right of replying to Mr. Purefoy.

His Honor then proceeded to sum up the evidence, for the guidance of the Jury, and in so doing, expressed his entire concurrence with the principles laid down by Mr. Purefoy, relative to the distinction between wilful murder and other species of homicide, but added that the case was greatly altered where, as on the present occasion, the contest had been held with an authorised agent of the law. He (Mr. Justice Burton) felt satisfied that this important consideration would bear him out in saying, that every act of violence done by a prisoner, after being taken into custody by an officer of justice, deprived such prisoner of the full benefit of that merciful distinction which had been insisted upon by the learned counsel, and which would be in all cases extended to merely private parties. In the present case, it was apparent that the unfortunate deceased interfered for the purpose of preventing a breach of the peace; and in so doing, had acted with propriety, and whilst thus acting, and when surrounded by a great number of observers, had been violently deprived of his life. He had observed with sorrow, that in this country correct notions respecting legal officers did not seem to be entertained, for instead of being esteemed as the guardians of society, they were too often regarded rather in the light of public enemies. That a number of by-standers should calmly look on, as if to ascertain which were the stronger man, and suffer their appointed guardian and protector to be slaughtered before their eyes, was not by any means creditable to themselves, or to the community of which they were members. Rather should they, when such an outrage was being committed before them, have stepped in like men, and like Englishmen, rescued their officer, and vindicated the sacredness of the law. It was perfectly true, as the prisoner's counsel had urged, that the law of England was based on humanity; and

that her magistrates administered justice in mercy. But even higher than this high principle, was one binding on every Judge's conscience, that "truth must prevail, and guilt must not go unpunished." It would then be for the Jury, upon a careful consideration of the whole evidence, to pronounce the guilt or innocence of this unfortunate prisoner. His Honor then carefully went over and commented on the evidence, and concluded by leaving the case in the hands of the jury.

The Jury, after about quarter of an hour's consideration, returned a verdict of guilty against the prisoner, but accompanied it with a recommendation to mercy.

The prisoner was then asked what he had to say why sentence should not be passed upon him, when he replied by declaring, that although he admitted having given the blow which had deprived the deceased of life, he had done so quite accidentally, and without the slightest intention to produce so fatal an effect.

His Honor addressed the prisoner with great feeling upon the fatal consequences which had resulted from his passionate and vindictive conduct, and concluded by stating that the recommendation which had been made by the jury in his favour, would be regarded with the full consideration to which it was entitled, and that his life would be spared, although sentence of Death would be recorded against him. He would caution him however not to buoy himself up with any delusive hopes of escaping with a slight punishment.

SYDNEY HERALD, 12/01/1842  
Supreme Court of New South Wales  
Burton J., 11 January 1842

FOR MURDER

**PATRICK NEALE** was placed at the bar to take his trial for the murder of **JOHN CONNELL**, a policeman, on the 23rd of November last.

Mr. **PUREFOY** appeared for the defence.

The Attorney-General, for the Crown, stated that the circumstances under which the heinous crime of the prisoner had been committed were as follow; that on the day laid in the indictment, the prisoner had been engaged in a trifling quarrel with some other party, when the deceased, a constable in the Sydney Police, interfered for the purpose of terminating the disturbance which this quarrel occasioned. The prisoner was taken into custody, and as he was being escorted to prison, the prisoner promised that if the constable would allow him (the prisoner) to walk freely to the gaol he would not attempt to escape. Contrary, however, to his promise, when the constable complied with the prisoner's request, he attempted to escape, and the constable then very properly pursued, and attempted to take him into custody. The prisoner then struck the unfortunate deceased a violent blow, which stretched him on the earth, and whilst in this situation snatched his staff from his hand, with which he, the prisoner, inflicted a blow upon the head of the constable, which very shortly after was followed by his death. The deceased was thus cut off from his family whilst in the exercise of his duty, a duty humble perhaps in itself, but most important to society; and the prisoner was that day before the Jury to take his trial for the crime. He, the Attorney General, had thus stated briefly and fairly the circumstances of this melancholy case, and he would now proceed to prove it by the witnesses.

**GEORGE GALLOPLY** examined by the Attorney General: Knew the prisoner at the bar; saw him on the day in question in Mr. Cunningham's public-house, in Campbell-street; witness had been challenged to fight by the prisoner, and then left the house; the prisoner followed witness out and struck him on the nose, which bled very much. The deceased, seeing witness struck, came up and took the prisoner into

custody; the prisoner said, if the constable would let him go, he would walk quietly to prison; when the constable complied with his request, the prisoner tried to escape.

Cross-examined by Mr. Purefoy: Witness offered the prisoner no provocation; would not swear he saw the prisoner at the time, he, witness, was struck; he witness had had some drink, but was not drunk.

**JOHN WRIGHT** examined by the Attorney General : Remembered the 23rd of November last; I saw the deceased on that day in Campbell-street; witness was standing in his verandah on that day between three and four o'clock, when he saw the constable pursuing the prisoner. The prisoner stopped, and laying hold of a stone, threatened to throw at the constable if he approached nearer. The constable laid hold of the prisoner, who several times threatened to strike the constable if he did not let him go; the prisoner struck the constable several times, and in a scuffling manner they went a little distance along the street, until at length the constable let go, apparently compelled to do so by the prisoner's blows. The prisoner then struck deceased on the forehead, which knocked him down; and when down, prisoner forcibly pulled the staff out of the constable's hands, and struck him a blow on the head with it, which he (witness) heard where he stood, a distance of about thirty yards from the parties. The prisoner then ran away, and threw the staff against the Market-place; the deceased then rose up and wiped his face, and being about to fall, some of the by-standers laid him down in the Market-place. The deceased was afterwards brought over to witness's verandah, and was then insensible. Dr. **GRANT** was sent for, who refused to come, saying he never went out on occasions of that sort.

Cross-examined by Mr. Purefoy: Had not seen the constable lay hold of a stone; there was a short struggle between the prisoner and deceased; there were a great number of people looking on; there might be forty or fifty; none of them were very near deceased and prisoner at the beginning of the disturbance; did not hear the prisoner say, "If you will take your hands off, I will go quietly;" he might have said so. Witness would swear that the blow was not an accidental one; had known the prisoner about five years; thinks the prisoner might have been at witness's house on the day of the disturbance; could not say that Galloply was there on the same day; had never known prisoner to be any other than a peaceable man; had not seen deceased strike the prisoner.

**TIMOTHY DALE** examined by the Attorney General: Recollected the 23rd November last; had seen the constable and the prisoner at the Haymarket on that day; saw the prisoner strike deceased a back-handed blow with the staff, but could not say on what part of the deceased the blow fell.

Cross-examined by Mr. Purefoy: Saw the prisoner offer the blow, but whether it reached the deceased or not, he could not say.

**JOSEPH WARD**, examined by the Attorney General : Was a constable in the Sydney Police; saw on the day in question a great number of persons assembled in George-street, and the constables running, and witness ran too; saw the deceased after he received the blow, who then appeared to be insensible. Witness apprehended the prisoner at his lodgings in Castlereagh-street, about half an hour after the occurrence. Had been often in prisoner's company, and knew no harm of him; had heard he was once charged with killing a man.

**JOHN LEATHLEAN**, examined: Had known the deceased, who had been in witness's service. Saw deceased die at the hospital, witness had gone there to see him, out of respect for an old servant.

Mr. Surgeon **HARNETT**, examined by the Attorney General : Was surgeon to the Sydney Hospital . Recollected the deceased being brought to the Hospital, who was

then labouring under compression of the brain. Deceased died the same evening, about seven o'clock. There was a post mortem examination, there was extravasation of blood on the right side, and also at the base of the brain. There was a fracture on the right side of the skull, a little before the ear. The fracture must have been effected by the blow, and the extravasation might have resulted from the cause. Extravasation of blood was not the necessary consequence of a fracture.

Cross-examined: Was satisfied that the extravasation resulted from the fracture. Believed that the extravasated blood was the effect of the fracture. The bone in the region of the skull, where the deceased was struck, was thinner than in other parts. There was no external appearance of injury. It was possible that apoplexy might have caused his death. Very heavy blows might, and frequently were given, causing internal injury, without disturbing the plates of the skull.

This closed the case for the prosecution.

Mr. Purefoy said, that the jury must have gathered from the address of the learned Attorney-General, that the offence on which the prisoner stood charged, was one for which the law required no less expiation, than the life of the offender. He, the learned counsel, could not but advert with sincerest approval, to the calm and dispassionate manner in which the case had been submitted to the jury by the learned Attorney-General. It could not be concealed that, about this transaction there had been great excitement out of doors; and if that excitement could be supposed to have any influence on the minds of the jury, then farewell to justice. But of this, he, the learned counsel, was well satisfied; that as sensible and just men, they would weight this case in its individual merits; without reference to any thing which had been said or heard about it in other places. Now under correction of his Honor, he, Mr. Purefoy, would submit what he, the learned counsel, considered to be the law of homicide. The accompanying circumstances to the violent death of a man from a fellow-creature's hands, were so various, that the law, for these various circumstances, had annexed a graduated series of crimes, from wilful murder to justifiable homicide. It would be for him, the learned counsel, to shew, which he believed he should be able to do, that the circumstances of the present case were not such as would justify the jury in sending this unfortunate prisoner, a convicted murderer, to an ignominious death. The law of England, the principles of which were founded on humanity, had declared, that if a man in the heat of passion took the life of another, he should not for this offence be punished as a murderer. All the decisions in cases similar to the present, had been disposed of on this principle; and he (the learned counsel) felt the utmost confidence that the jury, judging from the evidence which had been elicited, would be unable to find that the prisoner had been guilty of this frightful crime. A public house quarrel between the prisoner and the witness Gallopoly, had it seems first drawn upon them the interference of the deceased. He, acting as became his character and situation, had attempted to take the prisoner into custody. The prisoner resisted, and at the end of the struggle, but still in a part of it, a blow had been inflicted, which, according to the evidence had been sufficient to occasion the death of the deceased. This, the learned gentleman contended, upon cases he cited, was not sufficient to sustain an indictment for murder against the prisoner. By different eminent judges it had been holden that if in a quarrel, and before the blood had time to cool, a man took the life of another, manslaughter was the highest offence which could be deduced from such a state of facts. Here there was no premeditation - no malice - and apparently, from the manner in which the various witnesses had described the blow to have been inflicted, no intention in the mind of the prisoner, to do any serious injury to the deceased. The conduct of the prisoner, upon being taken into custody, also forbade us to presume

malice against him. His expressions of regret, and his hope that the case was not so bad as the constable supposed, clearly shews that the melancholy termination of this quarrel was as unexpected and as shocking to the mind of the prisoner, as it was to any other entirely innocent person. The learned counsel then commented on the evidence at some length, and expressed his earnest hope, that the jury in their verdict would give the prisoner the benefit of the many mitigating circumstances which could not but be obvious to any one, who had heard the evidence which the different witnesses for the prosecution had that day delivered in court. The learned gentleman concluded by saying he should call several respectable witnesses who would speak to the previous good character of the prisoner, and upon the case as presented to the Jury, and on the evidence of these witnesses, he, the learned counsel, would commit the prisoner's case to their hands.

**THOMAS EASTON** examined by Mr. Purefoy : Knew the prisoner at the bar, and saw the struggle in which Connell lost his life; had seen the prisoner and another man engaged in argument. Prisoner struck the other man, and the constable then interfered; both took stones in their hands, as if about to throw at each other.

**WILLIAM TIMOTHY CAPE**, Esq., and other witnesses, spoke to the good character of the prisoner, in so far as they were acquainted with his conduct and habits, and this closed the prisoner's case.

The Attorney General although entitled to a reply, waived his privilege, and therefore his Honor at once commenced the summing up.

His Honor, in charging the jury, said, that the prisoner's counsel had addressed them very temperately and properly upon the different points he had urged in favour of the prisoner; and although his Honor quite agreed with the learned gentleman in his law, that where, in the heat and excitement of a struggle, such as had been described that day, and that struggle arose between merely private parties, the crime would amount only to manslaughter; yet the case was greatly altered where, as on the present occasion, the contest was between the offender and an authorised agent of the law. He (Mr. Justice Burton) felt satisfied that this important consideration would bear him out in saying, that every act of violence done by a prisoner, after being taken into custody by an officer of justice, deprived him (the offender) of the full benefit of that merciful distinction, which had been insisted upon by the learned counsel, and which would be in all cases extended to merely private parties. In the present case, it was apparent that the unfortunate deceased interfered for the purpose of preventing a breach of the peace. In that interference he had acted with propriety, and whilst thus acting, and when surrounded by a great number of observers, had been violently deprived of a life valuable to the community, and the loss of which had perhaps inflicted ruin on his unfortunate family. Sorry was he (the learned Judge) that he felt himself obliged to say, that in this country just and correct notions respecting legal officers did not seem to obtain. Too frequently, he feared, that instead of being estimated as the guardians of society, they were regarded rather in the light of public enemies. That a number of by-standers should calmly look on, as if to ascertain which were the stronger man, and suffer their appointed guardian and protector to be slaughtered before their eyes, without moving a hand to prevent it, was not by any means creditable to themselves, or to the community of which they were members. Rather should they, when such an outrage was being committed before them, have stepped in like men, and like Englishmen, and rescued their officer, and vindicated the sacredness of the law. It had been said, that in the time of Alfred, such was the universal reverence felt by the people for the law, that a purse of gold might be left on a way-side hedge, secure from theft; and another writer had said, that the constable's staff was sacred in the hands of

a child. This was the reverent spirit in which the law should be regarded, and his Honor trusted that it might be a growing one hence forward in this Colony. True enough it was, as the prisoner's counsel had urged, that the law of England was based in humanity; and that her magistrates administered justice in mercy. But even higher than this high principle, was the one binding on every Judge's conscience, that "truth must prevail, and guilt must not go unpunished." It would be then for the jury, upon a careful consideration of the whole evidence, to pronounce the guilt or innocence of this unfortunate prisoner. His Honor then carefully went over and commented on the evidence and concluded by leaving the prisoner's case in the hands of the jury.

The jury retired, and in about a quarter of an hour returned into Court with a verdict of "Guilty, coupled with a recommendation to mercy."

The prisoner being asked what he had to say why sentence should not be pronounced upon him, seemed to be much affected, and declared that the fatal blow was altogether accidental, and that he never had the slightest intention to take the life of the deceased.

His Honor then, with visible emotion, feelingly addressed the prisoner upon the unhappy situation to which his intemperance of passion had reduced him, and concluded by assuring him, that the recommendation of the jury would be conveyed to the highest quarter, and that his life would be spared. Sentence of death, however, would be recorded, and although this would be commuted to an inferior punishment, the prisoner must not delude himself with the exception that it would be at all a light one.

During the trial, which lasted the greater part of the day, the Court was in a very crowded state.

*See also Sydney Gazette, 13 January 1842; Australian, 13 January 1842.*

SYDNEY HERALD, 13/01/1842

Supreme Court of New South Wales

Stephen J., 12 January 1842

R. v. Williams

This prisoner was indicted for that on the 15th September last, at Sugarloaf Hill, near Campbelltown, he did shoot and murder one **ANN WILLIAMS** with a musket. The prisoner pleaded not guilty.

His Honor remarked, that the Solicitor-General had nothing to do with the drawing up of the information, but he was desirous that something like accuracy should be attended to in drawing up these papers; he made this remark in consequence of hearing in the information just read, that the offence was charged as having been committed against the statute made in such case and provided, but he knew of no statute against murder, it was an offence at common law and ought to have been described as such; any person acquainted with the law of England might well be surprised at such an informal indictment.

The Solicitor-General who appeared for the prosecution after giving an outline of the case proceeded to call witnesses; when **THOMAS O'BRIEN** deposed - I am a farm servant living beyond Campbelltown, at the Sugarloaf Hill. I lived in the house of the prisoner with a housekeeper of mine named **MARGARET MEAD**, on the 15th September last; there were several persons there drinking wine that day; I went out and lay down on the grass and was nearly asleep when I heard a gun go off the shot of which struck Mrs. Williams. Before that took place, Mrs. Williams was lying drunk on the bed, and I heard the prisoner say to a man named **WILLIAM WARWOOD**, who was in the house, "I will give you my wife for your horse and cart;" on which

Warwood said "no, but I will give you my mare and harness for her." After Mrs. Williams lay down in bed, Warwood who was also in liquor, lay down on the foreshore of the same bed but afterwards rolled on the floor - we were all drunk, and had been drinking all night; I think it was in jest that the prisoner and Warwood were talking about the exchange of the woman for the horse and cart; I did not hear any quarrelling between the deceased and the prisoner; I did not see the gun fired, but I saw the smoke and heard the report; I saw the prisoner standing with the gun in his hand, and the woman lying about five yards from me. When I went up to the prisoner he said "see what I have done." I then went to Campbelltown and reported the circumstance to the police; on my return the prisoner said it was a bad job he had shot her, and must suffer for it; they must therefore bury her in the best way they could.

Cross-examined by Mr. **CALLAGHAN**. - I lived about four months in the same house with the prisoner and the deceased; he always treated her with the greatest kindness and affection; it was the harvest time, and it is usual for the settlers before reaping to get in a little wine and spirits to treat the neighbours, and it was on one of these occasions that the drinking referred to took place. This witness's deposition at Campbelltown was put in and read, from which it appeared that immediately on the gun being fired off the prisoner said, "It is a bad job, I did not think there was anything in the gun;" the witness admitted that such an expression fell from the prisoner on the deceased being shot; he then went on to say, it is as likely as may be that I loaded the gun as I had it the day before shooting hawks; I used to have it daily, and generally took it in loaded; it was the prisoner's gun but I used to borrow it; I am confident that I left the gun loaded on the day before.

Re-examined. - I never heard any quarrel between the prisoner and his wife about her lying drunk on the bed with the other man Warwood; I heard the prisoner joking with Warwood about selling his wife; on the morning I heard the prisoner say he would shoot the deceased if she would go out; Margaret Mead was present, and heard what was said; I was not sober at the time; I had just had a sleep.

By the Court. - We had been drinking in that neighbourhood for several weeks; Margaret Mead is my kept woman; I am a native of the colony, about twenty-three years of age.

His Honor told the prisoner to take warning and immediately give up drinking, as he had an awful instance before him of what it led to, as it had been the cause of one persons' death, and of the prisoner taking his trial for his life; another evil, which it led to was the grossly immoral conduct the witness admitted he was guilty of in living with the female Mead without being married to her. If he had a respect for her, and she was a suitable person, he ought to marry her and live with her. If not, he ought to keep from her, as he was breaking the laws of God by living in such an immoral manner.

Margaret Mead deposed - I am a single woman; I came to the colony free many years ago, quite young with my mother. I saw the deceased about a quarter of an hour before she was shot; I was in an outhouse when she came to me to get the prisoner to fetch her some water; I said, "never mind, I will get O'Brien to bring it for her;" about a quarter of an hour after I heard the prisoner say, "take care, old woman, or I'll shoot you," on which I heard the gun go off; I went out of the outhouse and saw her wounded; the prisoner immediately began crying, saying "was it possible he had shot his poor old woman after living so long with her;" before she was carried into the house her clothes caught fire from the flash of the gun, and I was called on by the prisoner to put out the flames, which I did; he seemed to be very sorry for what had been done, and called to me saying "for God Almighty's sake, if you have any mercy,

come and save my poor old woman from being burned, for I have shot her." The prisoner always treated the deceased with kindness and respect.

Cross-examined. - I have known the prisoner and deceased for two years; they were always living affectionately, he was always joking with her, and I do think he was speaking truth when he said that he did not know that the gun was loaded when he fired; she died almost instantaneously and was drunk as well as the prisoner at the time, but he soon became sober.

His Honor admonished the witness as to her future conduct, and that she should endeavour to live in a more respectable mode than she had been doing.

William Warwood who had been in the neighbourhood for 18 years, and had known the prisoner and deceased for 12 years; was asleep drunk under a hay stack when the shot was fired, and knew nothing of what had taken place till pulled out and told of it; he had been drinking there during part of the preceding day and all the night; when he saw Mrs. Williams she was dead; as soon as he was told of what had been done, he became sober. This witness never had been at a drinking bout at Williams's before.

Cross-examined. - The prisoner and deceased lived as fondly and affectionately together, as any couple on the settlement; but were both in the habit of drinking.

**PATRICK RYAN**, a constable in the Campbelltown Police: took the prisoner into custody, when he said to the prisoner, "Williams, this is a bad job for you, how did it happen?" on which the prisoner told him that the deceased had asked him to get her a turn of water, when he said he would not, but seeing the gun at the side of the door he had taken it up, saying to her, "but I'll shoot you," and not knowing it was loaded he pulled the trigger and shot her, for which he was very sorry, as he had not had the gun in hand for a fortnight before; he also stated that he had no intention of shooting her.

Mr. **ROBERT POPE**, physician and surgeon, Campbelltown; first saw the deceased lying dead at the end of the house, on the 15th of September; she was shot in the right shoulder; the neck and shoulder were scorched; on making a post mortem examination on the following day, it appeared that a charge of small shot had entered the body near the right shoulder-blade, and passed out in front near the left collar-bone; it was such a wound as would cause instantaneous death; when he first saw the deceased the prisoner was standing by and crying for what he had done; he has known the prisoner for three years as a quiet inoffensive man; he had once seen him in liquor, when he appeared quiet. This closed the case for the prosecution.

Mr. Callaghan addressed the court for the prisoner, contending that the deceased had met her death purely by misadventure, and therefore, however much it was to be lamented that such an event had taken place, it was evident no criminal intent influenced the prisoner in discharging the gun, and if so there was no ground for the charge of murder, neither was there any evidence that ordinary caution had not been exercised - the law merely required ordinary care, and if such, he could not see that they would be warranted in returning even a verdict of manslaughter in such circumstances. He then called Messrs. **SCARF** and **HURLEY**, who gave the prisoner an excellent character for being quiet, peaceable, and industrious.

In putting the case to the Jury his Honor reminded them, that however painful to the feelings, they were there to listen to the evidence and to decide whether the offence had been committed. On this point there were three questions, viz.: - Was it murder? Was it manslaughter? Or, was it no crime at all? In determining the first, they ought to give full weight to the character he had received; if they were of opinion that he fired the gun, knowing it to be loaded, with intent to strike her and do her bodily harm, then the prisoner was guilty of murder. His Honor then directed the attention of the Jury to the charge of manslaughter, which declared the prisoner innocent of any criminal

intent, but implied he had not exercised all due and reasonable caution. With regard to the case cited by Mr. Callaghan, the prisoner there was proved to have taken the ramrod and tried a pistol which he imagined was then unloaded, but on snapping it the pistol went off and killed a person; but was such caution exercised in this case? Another instance of manslaughter is to be found in that of a person who gave a quantity of spirits heedlessly to a child under 10 years of age, when death ensued, and the prisoner was punished for manslaughter. His Honor also illustrated the nature of manslaughter by adverting to one of the first cases which was tried before him, where a woman was found guilty of manslaughter by having caused the death of her infant by drinking ardent spirits to excess. He called the attention of the jury particularly to those parts of the evidence which would enable them to ascertain whether due caution had been exercised by him to ascertain whether the gun was loaded or not. However painful it was for them, yet they were bound to hold that crimes and offences committed under the influence of intemperance, were as bad, if not worse, in the eye of the law, than when committed under other circumstances. If parties will indulge in drunkenness they must abide by and take the consequences.

The jury immediately found the prisoner guilty of manslaughter.

In passing sentence, His Honor remarked that the prisoner's own hand had been the means of depriving himself of one who was dear to him, that while under the influence of the awful vice of drunkenness he had hurried her into the presence of her Maker with all her crimes on her head, at a time too, when she was in a state of insensibility as to her awful situation. He also remarked that it was deeply to be lamented, that so many persons were in the daily practice of destroying their senses and reason by this demoralizing vice. Under all the circumstances of the case, he should give the prisoner the full benefit of the excellent character he had received, and but for that he would have passed the heaviest sentence which the law allowed - that of transportation for life; but as he had every reason to believe that the prisoner felt deeply the misery he had entailed on himself, and also in the sincere hope, that he would for ever forego partaking of that which had been the cause of the offence of which he was convicted; he was then sentenced to be confined in Sydney Gaol for one month, the first and last week to be in solitary confinement.

[1]See also Sydney Gazette, 13 January 1842; Australian, 13 January 1842.

FREE PRESS, 2/133, 13/01/1842.

INQUESTS. - On the third instant, a coroner's inquest was held, on the body of **JAMES STRACHAN**, at the Ship Inn, Liverpool, an old inhabitant. The jury returned a verdict - Died by the Visitation of God.

On the fifth, another inquest was held, before **C.B. LYONS**, Esq., Coroner, at the Steam Packet Inn, Parramatta, on view of the body of one **WILLIAM STEWART**, a servant in the employ of Dr. **ANDERSON**, who hung himself whilst in a state of temporary insanity, brought on by intemperance. The Jury returned a verdict accordingly.

MAITLAND MERCURY, 1/02, 14/01/1843

THE MURDER CASE. - We understand that there are twenty-four witnesses for examination on the trial of **WILLIAM ROTHREY** for the wilful murder of **MARY ANN FINCH**, at the ensuing Maitland assizes; several of whom were on Tuesday and Wednesday last bound over to appear when called on.

SYDNEY NEWS.

The Supreme Court sat to-day, and the convict **MACDONALD**, who effected his escape some time ago from Parramatta gaol, was tried, and found guilty of the murder of the turnkey, and sentenced to be executed.

**HUNTER RIVER DISTRICT NWS. - NEWCASTLE.**

A shocking accident occurred on Sunday last at Nobby's Island. Some of the prisoners stationed there were fishing with a line, which became entangled amongst the rocks and could not be got up again. One of the men named **JOHN BENNETT** (per Claudine) being a good swimmer, was so foolish as to plunge into the water for the purpose of disentangling the line, with his irons on. His companions thought he was a considerable time before he reappeared, and at length became somewhat alarmed; and after undergoing much risk to themselves in searching for him, they at length succeeded in getting him ashore, but not until life was quite extinct. By some means or other the line, which was a very strong one, had become fastened round the man's irons, and it required a good strong pull to break it. What makes the case still harder was the fact that the poor fellow was only within a few days of obtaining his freedom, his term of imprisonment having nearly expired.

**TEETOTALLER, 1/2, 15/01/1842**

**LAW INTELLIGENCE.**

Tuesday. – Before Mr. Justice Burton.

**PATRICK NEALE** was placed at the bar, charged with the murder of **JOHN CONNELL**, a policeman, on the 23<sup>rd</sup> November last.

**GEORGE GALLOPLY** examined – Had seen the prisoner in the Bee Hive public house in Campbell-street, they had been playing at a game called puff and dart for liquor; witness won several games, which irritated the prisoner, and a quarrel ensued. The constable on duty seeing witness struck, came up and took prisoner in custody. The prisoner said, if the constable would let him go, he would go quietly to the station-house, instead of which, when the constable complied with his request, he tried to escape.

**JOHN KNIGHT**, residing in Campbell-street, saw the constable pursuing the prisoner. The prisoner stopped, and laying hold of a stone, threatened to throw it at the constable if he approached nearer. The constable laid hold of the prisoner, who several times threatened to strike the constable if he did not let him go; the prisoner struck the constable several times, and in a scuffling manner they went a little distance along the street, until at length the constable let go, apparently compelled to do so by the prisoner's blows. The prisoner then struck deceased on the forehead, which knocked him down; and when down prisoner forcibly pulled the staff out of the constable's hands, and struck him a blow on the head with it, which he (witness) heard from where he stood, a distance of about thirty yards from the parties. The prisoner then ran away, and threw the staff against the Market-place; the deceased then rose up and wiped his face, and being about to fall, some of the bystanders laid him down in the Market-place. The deceased was afterwards brought over to witness's verandah, and was then insensible.

Mr. Surgeon **HARNETT** deposed that death was caused by the blow which deceased had received on the head, he died the same evening about eight o'clock.

Mr. **PUREFOY** addressed the Jury on behalf of the prisoner, contending, that there existing no malice, no intention to commit the crime of which he stood charged, for when taken into custody he expressed his regret at what had occurred, and hoped the case was not so bad as they supposed it was.

His Honor in summing up said, that every act of violence done by a prisoner, after being taken by an officer of justice, deprived the offender of that merciful distinction which had been insisted upon by the learned counsel, and which would in all cases be extended to merely private parties. The learned Judge also expressed his regret, that a number of persons should stand looking on, and see a man slaughtered before their eyes, without trying to prevent it, and that such a thing was by no means creditable to themselves, or the community of which they were members.

The Jury found the prisoner guilty, but recommended him to mercy.

The prisoner, when asked what he had to say in his defence, seemed much affected, and declared that the fatal blow was altogether accidental, and that he had no intention to take the life of the deceased.

His Honor then, with visible emotion, feelingly addressed the prisoner upon the unhappy situation to which his intemperance of passion had reduced him, and concluded by assuring him, that the recommendation of the jury would be conveyed to the highest quarter, and that his life would be spared. Sentence of death, however, would be recorded, and although this would be commuted to an inferior punishment, the prisoner must not delude himself with the expectation that it would be at all a light one.

During the trial, which lasted the greater part of the day, the Court was in a very crowded state.

Wednesday. Before Mr. Justice Stephens.

The Queen v **THOMAS WILLIAMS**, for Murder.

The prisoner was indicted for that on 15<sup>th</sup> September last, at Sugarloaf Hill, near Campbelltown, he did shoot and murder one **ANN WILLIAMS**, with a musket. The prisoner pleaded not guilty.

The Solicitor-General, who appeared for the prosecution, proceeded to call witnesses, when **THOMAS O'BRIEN** deposed – I am a farm-servant living beyond Campbelltown, at the Sugarloaf Hill. I lived in the house of the prisoner with a housekeep of mine named **MARGARET MEAD**, on the 15<sup>th</sup> September last; there were several persons there drinking wine that day. I went out and lay down on the grass, and was nearly asleep, when I heard a gun go off, the shot of which struck Mrs. Williams. Before that took place, Mrs. Williams was lying drunk on the bed, and I heard the prisoner say to a man named **WILLIAM WARWOOD**, who was in the house, “I will give you my wife for your horse and cart;” at which Warwood said “no, but I will give you my mare and harness for her.” After Mrs. Williams lay down in bed, Warwood, who was also in liquor, lay down on the foreshide of the same bed, but afterwards rolled on the floor – we were all drunk, and had been drinking all night; I think it was in jest that the prisoner and Warwood were talking about the exchange of the woman for the horse and cart; I did not hear any quarrelling between the deceased and the prisoner; I did not see the gun fired, but I saw the smoke and heard the report; I saw the prisoner standing with the gun in his hand, and the woman lying about five yards from me. When I went up to the prisoner he said “see what I have done.” I then went to Campbell-town, and reported the circumstances to the police; on my return the prisoner said it was a bad job he had shot her, and must suffer for it, they must therefore bury her in the best way they could.

Re-examined – I never heard any quarrel between the prisoner and his wife about her lying drunk on the bed with the other man Warwood; I heard the prisoner joking with Warwood about selling his wife; on the morning I heard the prisoner say he would shoot the deceased if she would go out; **MARGARET MEAD** was present and heard what was said; I was not sober at the time; I had just had a sleep.

By the Court. – We had been drinking in that neighbourhood for several weeks; Margaret Mead is my kept woman; I am a native of the Colony, about twenty-three years of age.

His Honor told the witness to take warning, and immediately give up drinking, as he had an awful instance before him of what it led to, as it had been the cause of one person's death, and of the prisoner taking his trial for his life; another evil which it led to was the grossly immoral conduct the witness admitted he was guilty of, in living with the female Mead without being married to her. If he had a respect for her, and she was a suitable person, he ought to marry her and live with her. If not, he ought to keep from her, as he was breaking the laws of God by living in such an immoral manner.

**MARGARET MEAD** deposed – I am a single woman; I came to the colony free many years ago, quite young with my mother. I saw the deceased about a quarter of an hour before she was shot; I was in an outhouse when she came to me to get the prisoner to fetch her some water; I said, “never mind, I will get O'Brien to bring it for her;” about a quarter of an hour after I heard the prisoner say, “take care, old woman, or I'll shoot you,” on which I heard the gun go off. I went out of the outhouse and saw her wounded; the prisoner began crying, saying, “was it possible he had shot his poor old woman after living so long with her;” before she was carried into the house her clothes caught fire from the flash of the gun, and I was called on by the prisoner to put out the flames, which I did; he seemed to be very sorry for what he had done, and called to me, saying, “for God Almighty's sake, if you have any mercy, come and save my poor old woman from being burned, for I have shot her.” The prisoner always treated the deceased with kindness and respect.

Cross-examined – I have known the prisoner and deceased for two years; they were always living affectionately, he was always joking with her, and I do think he was speaking truth, when he said he did not know that the gun was loaded when he fired; she died almost instantaneously and was drunk as well as the prisoner at the time, but he soon became sober.

His Honor admonished the witness as to her future conduct, and that she should endeavour to live in a more respectable mode than she had been doing.

**WILLIAM WARWOOD** who had been in the neighbourhood for 18 years, and had known the prisoner and deceased for twelve years; was asleep drunk under a hay stack when the shot was fired, and knew nothing of what had happened till pulled out and told of it; he had been drinking there during part of the preceding day and all the night; when he saw Mrs. Williams she was dead; as soon as he had been told of what had been done, he became sober. This witness had never been at a drinking bout at Williams's before.

Cross-examined. – The prisoner and deceased lived as fondly and affectionately together, as any couple on the settlement; but were both in the habit of drinking.

Mr. **CALLAGHAN** called Messrs. **SCARF** and **HURLEY**, who gave the prisoner an excellent character for being quiet, peaceable, and industrious.

In putting the case to the Jury His Honor reminded them, that however painful to their feelings, they were to listen to the evidence, and to decide whether the offence had been committed. On This point there were three questions, viz. – Was it murder? Was it manslaughter? Or, was it no crime at all? In determining the first, they ought to give full weight to the character he had received; if they were of opinion he had fired the gun, knowing it to be loaded, with intent to strike her and do her bodily harm, then the prisoner was guilty of murder. His Honor then directed the attention of the Jury to the charge of manslaughter, which declared the prisoner innocent of any

criminal intent, but implied he had not exercised all due care and reasonable caution. With regard to the case [*not yet traced*] cited by Mr. Callaghan, the prisoner there was proved to have taken the ramrod and tried a pistol which he imagined was then unloaded, but on snapping it the pistol went off and killed a person; but was such caution exercised in this case? Another instance of manslaughter is to be found in that of a person who gave a quantity of spirits heedlessly to a child under ten years of age [*not yet traced*], when death ensued, and the prisoner was punished for manslaughter. His Honor also illustrated the nature of manslaughter, by adverting to one of the first cases which was tried before him, where a woman was found guilty of manslaughter by having caused the death of an infant by drinking ardent spirits to excess. He called the attention of the Jury particularly to those parts of the evidence which would enable them to ascertain whether due caution had been exercised by him; to ascertain whether the gun was loaded or not. However painful it was for them, yet they were bound to hold that crimes and offences committed under the influence of intemperance were as bad, if not worse, in the eyes of the law, than when committed under other circumstances. If parties will indulge in drunkenness, they must abide by and take the consequences.

The jury immediately found the prisoner guilty of manslaughter.

In passing sentence, His Honor remarked that the prisoner's own hand had been the means of depriving himself of one who was dear to him, that while under the influence of the awful vice of drunkenness he had hurried her into the presence of her Maker with all her crimes on her head, at a time too, when she was in a state of insensibility as to her awful situation. He also remarked that it was deeply to be lamented, that so many persons were in the daily practice of destroying their senses and reason, by this demoralizing vice. Under all the circumstances of the case, he should give the prisoner full benefit of the excellent character he had received, and but for that he would have passed the heaviest sentence which the law allowed – that of transportation for life; but as he had every reason to believe that the prisoner felt deeply the misery he had entailed upon himself, and also in the sincere hope, that he would for ever forego partaking of that which had been the cause of the offence of which he was convicted; he was then sentenced to be confined in Sydney Gaol for one month, the first and last week to be in solitary confinement.

MAITLAND. - A very dreadful event took place here a few days since. An attorney named **EDYE** put a period to his existence by shooting himself. He had for a long time given way to habits of intemperance, and is supposed to have been labouring under a fit of temporary insanity at the time.

FREE PRESS, 2/134, 15/01/1842.

SUPREME COURT – CRIMINAL SITTINGS.

WEDNESDAY, JANUARY 12, 1842.

Before his Honor Mr. Justice Stephens.

**THOMAS WILLIAMS** was indicted for the wilful murder of his wife, by shooting her with a musket at Sugarloaf-hill, near Campbell-town, on the 15<sup>th</sup> December last.

It appeared that the prisoner and his wife had been drinking for some days, and on the day mentioned in the indictment, the woman asked the prisoner to fetch some water, and he went out of the door of the hut and took up a musket, saying "Old woman, I'll shoot you," in a joking sort of manner. Not knowing the musket was loaded, he pulled the trigger, and the woman was shot in the shoulder. He immediately threw down the musket and ran to her assistance, expressing his sorrow at what had occurred. The unfortunate woman died in the course of the next day.

After the case for the prosecution had been closed, Mr. **CALLAGHAN** addressed the jury at some length on behalf of the prisoner, contending that as he was unconscious of the gun being loaded he was not guilty of murder, but the crime at most amounted only to manslaughter.

His Honor then summed up, and the jury without leaving the box returned a verdict of manslaughter.

His Honor, in passing sentence upon the prisoner, said he felt convinced that the prisoner had caused the death of his wife unintentionally and accidentally, and as he appeared to be extremely sorry for the occurrence, and had received a remarkably good character from several respectable witnesses, he would pass upon him a lenient sentence, which was, that he should be imprisoned in Sydney gaol for one month, the first and last week in solitary confinement.

FREE PRESS, 2/135, 18/01/1842.

INQUESTS. - A Coroner's Inquest was held on Saturday last, at Mr. Driver's public-house, corner of King and Elizabeth-streets, on the body of a man named **RISLEY**, who had expired at the tread-mill on the previous day. Dr. **HARNETT** certified, that death had been caused by an attack of inflammation, and a verdict of Died by the Visitation of God was returned.

Another inquest was held on the same day, on board the Water Witch, on the body of a man, named **JOHN SULLIVAN**, a seaman, belonging to that vessel, who put a period to his existence on Friday evening, by cutting his throat with a razor. Verdict - Self-destruction while labouring under the effects of temporary insanity.

MAITLAND MERCURY, 1/03, 21/01/1843

SYDNEY NEWS. - Two constables were escorting two prisoners of the crown from Queanbeyan to Goulburn, and on Thursday night week stopped at Mr. Dwyers's inn, at Bungendore, where the constables very imprudently took the irons off the men, and agreed to watch by turns. At one time, both the constables being inclined for sleep, one of the prisoners seized the carbine belonging to the constable whose turn it was to watch, and shot him through the breast, wounding him so dreadfully that he died almost immediately. He was seized instantly, and has since been committed to take his trial for the murder.

SUPREME COURT.

The criminal sittings of the Supreme Court commenced on Monday, January 9<sup>th</sup>, before their honors Mr. Justice Burton and Mr. Justice Stephen.

THURSDAY, JANUARY 12. (*Before Mr. Justice Stephen.*)

**JAMES MACDONALD** was indicted for the wilful murder of **HENRY KINGSMILL ABBOTT**, at Parramatta, on the 4<sup>th</sup> December last. The prisoner was one of the convicts who on the day named in the indictment effected their escape from the gaol at Parramatta, after having shot the turnkey. The jury returned a verdict of guilty, and the prisoner was sentenced to be executed.

FREE PRESS, 2/137, 22/01/1842.

INQUEST. - A coroner's inquest was held on Monday last at le Burn's public-house, Parramatta-street, on the body of an infant named **SARAH REID**, aged four months, who had died at the benevolent Asylum on the previous day of a lingering disease, to which her mother had been subjected previous to her birth. - verdict accordingly.

PARRAMATTA.

January 20. - An inquest was held on Thursday last at Liverpool before **C.B.LYONS**, Esq., coroner, on view of the body of **THOMAS M'CARTHY**, boot and shoe maker in that town. The deceased had stated to some of his family a few days previous, that he would never get over it, meaning the effects of the Bacchanalian revels, to which he was very much addicted. The jury returned a verdict of *Felo de se*, the deceased having cut his throat whilst in his perfect senses. The coroner accordingly issued his warrant for the deceased to be interred between the hours of nine and twelve o'clock at night, and within twenty four hours from the time of holding the inquest.

Another inquest was held a few days ago, before the same coroner, at the house of Mr. **JAMES M'ROBERTS**, publican, Church-street, on the body of **MARY WARREN**, the wife of Mr. **WILLIAM WARREN** of the Pennant Hills. The deceased had complained for some time previous of illness, and had come to Paramatta for the purpose of obtaining medical advice. After hearing the evidence of Dr. **SCOULER**, and of the husband, the jury returned a verdict of "Died by the visitation of God."

The scarlet fever has made its appearance at Goulburn; a child belonging to **WILLIAM SHELLY**, Esq., J.P., has fallen a victim to its direful influence.

#### GOULBURN.

January 12. - A dreadful act of suicide occurred here a few days ago, at Bradley & Shelly's steam flour mills and brewery. It appears an old man and his son, a grown up young man, hired servants of the proprietor of the establishment, received a sum of money amounting to £8 and having occasion to transact some little affair of their own in town, the old man gave the son the money to take care of, &c. It is supposed the passing of the money from father to son had been observed by one or more of the numerous vagabond idlers that are frequently seen hanging about, or loitering in the purlieus of the public houses; be that as it may, it has been shewn that when the father and son were returning to the steam-mills, and when about nearly abreast of the parsonage, they were set on by a party of cowardly ruffians, who belaboured the unfortunate pair with sticks, and robbed the lad of the £8. When the old man recovered, he found the lad in a very helpless state; he however roused him; and assisted his son to their employer's residence, where his son was examined, and found to have received considerable damage, the lad's skull having been fractured, and the father was much cut and bruised. The unfortunate young man never after attained his reason; and a few days ago he cut his throat with a razor, and after committing the rash act, he then rushed out of the house, and plunged into a water hole, which was a short distance from the dwelling. An inquest sat on view of the body, and I am informed the verdict was "Drowned while insane."

Should the perpetrators of this murderous assault and robbery be found out, it is to be hoped they will obtain their reward from the hands of "Jack Ketch."

#### MAITLAND MERCURY, 1/04, 28/01/1843

FATAL ACCIDENT. - On Sunday last, as Mr. Mann's overseer, of Swan Reach, was riding through the bush, he came in contact with a tree with such violence that he was thrown from his saddle, and killed on the spot.

#### FREE PRESS, 2/140, 29/01/1842.

#### NEWS AND RUMOURS OF THE DAY.

FATAL ACCIDENT. - A man named **BUCHANAN** was unfortunately drowned near the Battery Point, during the regatta on Wednesday last, and although strenuous exertions have been made for the recovery of the body, it has not yet been found.

INQUESTS. – A Coroner's Inquest was held on Thursday last, at Mr. Toogood's, Parramatta Road, on the body of a man named **GEORGE MERNOTT**, in the employment of Mr. **G. SMITH**, of George-street, who was killed on the previous day by a kick in the head from a young entire horse, which was attached to a team, that he was conveying from Sydney to Camperdown.

FREE PRESS, 2/142, 05/02/1842.

ACCIDENT.- A man acting as cook on board the barque Bright Planet, fell overboard from that vessel about four o'clock on Sunday morning, and was drowned. He sank within a foot or two of the Ship's side, and might have been saved from so unfortunate an end, if any of the crew had had the presence of mind to go overboard with a rope to his assistance.

NEWS AND RUMOURS OF THE DAY.

A Coroner's Inquest was held on Friday last, at the Three Tuns tavern, corner of Elizabeth and King-streets, on the body of an old woman named **SARAH CARLISLE**, who expired at the General Hospital on the previous day, in an attack of delirium tremens, caused by her previous habits of intemperance. Verdict accordingly.

FREE PRESS, 2/145, 10/02/1842.

INQUEST. - A Coroner's Inquest was held on Tuesday afternoon, at the Coach and Horses public house, Cumberland-street, on the body of an Infant named **FREDERICK TAILING**, two and a half years of age, who had expired at a late hour the preceding day, in consequence of some severe burns which he accidentally received. Verdict, accidental death.

SUDDEN DEATH. - An old man, named **DAVID CARMICHAEL**, who came out as a passenger in the ship Alfred, which arrived in this port, on Saturday week, came on shore from that vessel on Tuesday last, and went to walk in the Government Domain; after this, becoming somewhat exhausted, he applied to one of the gate-keepers for a drink of water, which he immediately received, and sat down with every appearance of weakness and exhaustion. A few minutes afterwards, the gate-keeper was called away to his dinner and left the old man sitting in the same spot – but on his return he found that the latter had gone away – and in the course of a short time afterwards learned that he had been found dead near the lower gate of the Domain, - from which place he was conveyed to the General Hospital. An inquest was held on the body yesterday, at the Three Tuns Tavern, corner of King and Elizabeth-streets, when it appeared by the evidence of a man who had come to the colony in the same ship with the deceased, that the latter was upwards of seventy-five years of age, and had been weak and ailing the greater part of the voyage, and that he had paid his passage to this colony, with the view of finding his sons, who he had been heard to say were living here in comfortable circumstances. The surgeon's certificate of post mortem examination was also read, by which it appeared that the deceased had not been labouring under any actual disease, but had died from the mere effects of general exhaustion, and the jury after considering the circumstances of the case, returned a verdict of, died by the visitation of God.

MAITLAND MERCURY, 1/06, 11/02/1843

HORRIBLE OUTRAGE BY THE BLACKS. - On Saturday morning last, between eight and nine o'clock, two of the aboriginals called at an out station of Mr. R. Scott's, of Glendon, about seven miles from the house, and enquired for the shepherd; on being told by the watchman that he was after the sheep on the mountain, they

asked the watchman whether he came to the colony an immigrant, or a prisoner, and when he replied that he came as a prisoner they said it was well for him, as prisoners were obliged to come here against their will, but the immigrants came of their own accord, to rob the black man of his land and give him no food, and that they (the blacks) would pay them (the immigrants) off for it. They then took whatever they could carry off in the hut; and said they would have the women who were there. Whilst the two blackfellows were talking to the watchman the women made their escape out of the back of the hut and ran towards the bush to conceal themselves: each of the women having an infant in their arms. When the blacks missed them they went in pursuit, and soon overtook one of the women, and were going to spear her, when she cried out, "There are two horsemen coming after some cattle," which just then appeared in sight. The blacks stopped to look, and the woman fortunately escaped to the mountain. They soon afterwards came up with the other woman, whose name is **KEOGHUE**, and who had a child with her about three months old, and gave her several blows with a waddy, which left two deep wounds on her head and one on the neck. She fell senseless to the ground, and they mangled in a dreadful manner her child and a boy named **CAVANAGH**, who happened to be at the station on a visit for a few days. Their mangled remains were interred at Black Creek on the following day. The poor woman was conveyed to Glendon, where every attention has been paid to her by Dr. **GLENNIE**, and she now appears to be in a fair way of recovering from the murderous attack.

The blacks, after this deed of blood, examined the mountain in every direction in search of the shepherd, who heard them cooeing for him not a hundred yards off, and who knew nothing of what had happened.

One of the murderers is supposed to be the same who killed **MULCAHEY'S** children some time ago. The Glendon tribes are very indignant at the shocking affair, and are preparing to go in pursuit of these bloodthirsty savages; and we sincerely hope that we shall before long hear that the villains have been captured.

**ATTEMPTED SELF DESTRUCTION.** – On Sunday morning last, about six o'clock, as the Rose steamer was coming up from Sydney, one of the passengers on board, named **WINTERS**, shortly after the vessel had left the heads of Port Jackson suddenly jumped overboard. Notwithstanding that the sea was running very high at the time Captain **PATTISON** stopped the engine, and a boat was instantly lowered, with the second mate and two sailors. After a long pull they happily succeeded in getting the unfortunate man into the boat almost the very moment he had become exhausted and was sinking. The names of the second mate and the two seamen who thus nobly ventured their own lives to save that of a fellow creature are Mr. **HARDING, JOHN DAVIS, and THOMAS JOHNSON.** This is the second time that Captain Pattison, by his coolness and intrepidity, has been the means of rescuing a fellow creature from a watery grave, a circumstances which cannot fail to be gratifying to his feelings as a man.

**HUNTER RIVER DISTRICT NEWS. - DUNGOG.**

On Thursday week last, a little boy, about two years old, son of a clearing leaser named **JAMES GILL**, close to this township, strayed from home, and no tidings having up to this period been had of his mysterious disappearance, although his footmarks could be distinctly traced for nearly two miles, and his cap was picked up on a footpath, near to where his visible footmarks terminated. A strict search has been made, but no vestige of his remains has been discovered. There are divers opinions as to the manner in which the child met its end, some supposing that native dogs have destroyed it, others asserting that the blacks have fallen in with it, and

devoured it. This latter opinion is too absurd to be entertained for one moment by any one who has the slightest knowledge of the manners and disposition of the all-but-civilized blacks of the river. The father and mother are in a state bordering on distraction, and they deplore the loss the more as this was their only son.

A few days ago one of the Australian Agricultural Company's overseers named **TITCOMB**, while in pursuit of some cattle, in company with his son, was attacked by a wild bull, and he and the horse were gored to death; the son escaped by getting up into the fork of a tree.

TEETOTALLER, 1/6, 12/02/1842

MAITLAND. - A native passed through this town a few days ago, heavily ironed: he has been forwarded for trial by Mr. Commissioner **MAYNE**. We hope this gentleman has not forgotten to forward the depositions in this case, as he did in that of the two natives discharged by Mr. Justice Stephen at the last Maitland Assizes, in consequence of the depositions not having been forwarded.

INQUEST. - An inquest was held on Wednesday, at Mr. Driver's, the Three Tuns Tavern, on the body of an old man, aged seventy-four years, named **DAVID CARMICHAEL**, who was found dead in the Domain on Tuesday afternoon. It appeared that the deceased had arrived in the colony as an immigrant per the 'Alfred' on last Saturday week, and during the voyage, after the vessel left the Bay of Biscay, he had never left his berth, owing to illness, until the ship arrived in the harbour. Between twelve and one o'clock on Tuesday he left the vessel, and landed at Walker's wharf, in Fort-street, and he was some time after seen by the gatekeeper of the domain, from whom he obtained a drink of water; he then sat down by a tree, and ate some bread and cheese which he had with him. When the gatekeeper went to his dinner he left the deceased sitting there, but on his return he was gone; the gatekeeper inquired of the man who was left in charge of the gate where the deceased had gone, and he was told that he went away towards the lower gate; in the course of the afternoon he was found there quite dead. The deceased had no money belonging to him, and was an infirm old man. He told his shipmates on the voyage that he had some sons in the colony, and that he had come out to find them; but it did not appear that he had succeeded in discovering them. The colonial surgeon made a post mortem examination of the body, and certified that he had found no indications of disease in the intestines, that the deceased appeared to have died of old age and exhaustion. The jury returned a verdict of died by the visitation of God.

MAITLAND MERCURY, 1/07, 18/02/1843

DESTITUTION. - A most deplorable object has been for some time walking about this town, namely, a poor woman in a state of insanity, and almost of nudity. It appears she was for some time ago sent to Newcastle hospital, but was returned, in consequence of that institution having been broken up by government. It is a great pity that some place has now been provided where such unfortunate creatures might be taken care of; at all events, as this poor woman has a husband, he ought to be made to keep her in a decent manner until such time as something could be done for her.

MAITLAND MERCURY, 1/08, 25/02/1843

FIGHT AMONGST THE ABORIGINES. - On Thursday morning, the 16<sup>th</sup> instant, just at daybreak, between thirty and forty blacks, from the Glendon, Patrick's Plains, and Sugarloaf tribes, made their appearances in two parties on the bank of the river Hunter, nearly opposite the residence of **G. HOBLER**, Esq. ... It appeared that the j

hostile blacks had come for the purpose of seeking two other blacks, called **MELVILLE** and **LONG HARRY**, who it was known frequently associated with the tribe on the island, and who are supposed to be the men who committed the late barbarous murder on the Glendon estate. ...

**HUNTER RIVER DISTRICT NEWS.** - On Wednesday evening last the bushranger, **PATRICK BRUEN**, breathed his last after a week's suffering from the time he received the gunshot wounds that caused his death. The neglected situation of this man, and the repulsive appearance which he presented during his last days of misery, tempts us to inquire what person had charge of him in his last illness? He was left to die without surgical aid, or any other save the casual attendance of the humane inhabitants, in a dilapidated bark hut, his bedclothes saturated with the drenching rain, and swarming with vermin. He was buried without any form of judicial inquiry.

**HINTON.** - **DREADFUL ACCIDENT.**

Early on Friday morning, the 10<sup>th</sup> instant, a shocking accident occurred on the farm of **GEORGE HILL**, Esq., of Wallalang, to a poor man named **THOMAS LEONARD**, who was assisting the feeder of a thrashing machine, and who while doing so incautiously set his foot on the top of the drum, where the board is so thin in all machines of this kind that it will not sustain the weight of a man. The board at once gave way, and Leonard's leg slipping in, it was mangled in a dreadful manner. Dr. **STREET** was immediately sent for, and in a few minutes he was in attendance, but finding that the poor man's leg was so dreadfully mutilated as to render amputation necessary he sent for Dr. **EDYE**, of Maitland, on whose arrival the man's leg was amputated above the knee. The operation was performed in the short space of three minutes, and we are happy to say that the poor man is now doing well.

**TEETOTALLER**, 1/8, 26/02/1842

**ACCIDENTAL DEATH.** - The carpenter of the 'British Sovereign' came to his death of Wednesday night or Thursday morning, under the following circumstances. On Wednesday the vessel had been "smoked out," previous to going to sea; the carpenter coming on board at night, somewhat intoxicated, forgetful of what had been done during the previous day, went below. Yesterday morning he was found dead, having been suffocated by the noxious gases which yet remained.

**SUICIDE.** - On Saturday evening last a young man, named **THOMAS FORSTER**, attempted self-destruction by cutting his throat. The attempt, however, was discovered in time to prevent its full execution. He had inflicted a dangerous wound, but hopes are entertained of his recovery. It is supposed that his being for the last five or six months out of employment, has led him to the commission of the act.

**TEETOTALLER**, 1/9, 05/03/1842

**DEATH FROM LIGHTNING.** - On Friday week, during the terrific thunderstorm, which passed over Maitland and its neighbourhood, a young girl, who had taken shelter below a tree near Hinton, was struck by the lightning, and we regret to add, killed on the spot. *Hunter River Gazette.*

**BIRTHS.**

On Tuesday, the 1<sup>st</sup>, inst., at three o'clock p.m., Mrs. **CHARLES COWPER**, of Wivenhoe, of a daughter, stillborn.

**MAITLAND MERCURY**, 1/10, 11/03/1843

**INQUEST.** - On Sunday last the body of a man named **WILLIAM PORTER** was found in the river just below the Falls, in a rather decomposed state. An inquest was

held upon the body at Mr. Reeves's, the Albion Inn, West Maitland, before **J.S. PARKER**, Esq., coroner. It was at first thought that some unfair usage had been given to the deceased, and suspicion attached to his wife, who had been in company with a bullock driver; but after a very lengthy investigation it was satisfactorily proved that the poor man had met his death accidentally, he having been seen on the evening of the 1<sup>st</sup> inst., and cautioned not to cross the Falls, which he persisted in doing. His wife was reprimanded by the coroner for her misconduct and then discharged, having agreed to go into service. The jury returned a verdict of "accidental death by drowning."

AUSTRALIAN, 15/03/1842

Supreme Court of New South Wales

Burton J., Maitland Circuit Court, 9-10 March 1842

WEDNESDAY, MARCH 9th.

Before His Honor Judge Burton. — The Jury having been sworn,

**HUGH BANHAM** was placed at the bar, charged with the wilful murder of one **THOMAS KENNYWELL**, at Newcastle, on 1st January, 1842.

It was proved in evidence that the prisoner had been seen loitering about the Commercial Inn, at Newcastle, on New Year's Day, and had become so intoxicated and riotous that he had been turned out of the house. About seven o'clock in the evening, he returned, and had a quarrel with a man named **Ruggy**, and fought with him. He became greatly enraged by the contest, and went into the yard, where he procured a stake, with which he threatened to settle any one who should meddle with him. The deceased, who had been sitting in the hotel, went out into the yard, where he saw the prisoner, who, without any previous quarrel, struck him in the abdomen, and left him on the ground, where he was afterwards found. Deceased expired the following morning.

Dr. **BROOK**, Colonial Surgeon, certified that death had been caused by violent blows on the abdomen, which had caused morbid adhesion, and consequent inflammation of the intestines. The jury found the prisoner guilty of wilful murder, and he was remanded for sentence...

THURSDAY, MARCH 10th

His HONOR took his seat on the Bench at ten o'clock; and the Jury having been called, proceeded to pass sentence on **HUGH BANHAM**, found guilty of murder on the previous day. The prisoner implored mercy on the ground that he was incapable of knowing what he was about; that he remembered nothing of the transaction, and had never quarrelled with or borne malice against deceased. His Honor directed sentence of death to be recorded against the prisoner, but said that he should interfere to have the sentence commuted to transportation to life.

Decisions of the Superior Courts of New South Wales, 1788-1899; Published by the Division of Law Macquarie University

MAITLAND MERCURY, 1/11, 18/03/1843

MAITLAND ASSIZES.

**THOMAS HIPPISSAN** was charged with the wilful murder of **WILLIAM PARKES**, at the Clarence River, in July last. The prisoner was undefended, but at the suggestion of the judge, Mr. Purefoy and Mr. Plaistow undertook his defence.

There were five witnesses examined. The melancholy event arose unexpectedly, in a fit of drunkenness, the deceased Parkes being sworn to have been dead drunk, and the prisoner being intoxicated. The case was peculiar, inasmuch as just previously to

the attack of the prisoner upon the unfortunate man, they had been good friends; and the former had some time previous saved the latter from drowning.

The judge addressed the jury at considerable length, and dwelt upon the various points of the evidence with great exactness.

The jury retired from the box for several minutes, and on their return delivered a verdict of guilty of manslaughter; and his Honor sentenced the prisoner to be transported for life.

FRIDAY, MARCH 17.

**WILLIAM THOMPSON**, a soldier of the 80<sup>th</sup> regiment, was placed at the bar and indicted for the wilful murder of **MARY ANN FINCH**, on the 22<sup>nd</sup> November, 1842, by throwing her into Wallis's Creek, and thereby drowning her.

The Solicitor General conducted the case for the crown, and the prisoner was defended by Mr. Purefoy.

The Solicitor General having stated the facts of the case to the jury, called a great number of witnesses, from whose testimony it appeared that the deceased was the wife of **JOHN FINCH**, butcher, West Maitland, and about twenty-four years of age; both herself and her husband were acquainted with the prisoner and his wife, he was in the 80<sup>th</sup> regiment, then at Maitland. On the day above mentioned the deceased left home about three o'clock in the afternoon, in company with the prisoner's wife, to go to the prisoner's quarters, the regiment being about to leave Maitland. A person named **MILLER**, who resides on the banks of the creek, near the road which leads to West Maitland by M'Donald's Point, had occasion to go to West Maitland by that road about eight o'clock on the evening of the day mentioned in the indictment, and when he had gone about 200 yards from his house, he saw a man dressed in dark clothes lying by the road side with a dog, which attacked him, and he went aside. On returning from West Maitland, in about a quarter of an hour, the man was still lying in the same position, and the dog by him still in the same place; when he got about 102 yards nearer home, he met a soldier and a woman arm in arm, the soldier was a rather tall man, and had on a red jacket and white trousers, going in the direction of West Maitland; they appeared to be drunk, but friendly; the woman had on a straw bonnet and redish coloured gown, and was carrying something in her left hand; he spoke to them, and told them to be aware of a big dog and a man that was lying in the road, and the woman said never mind the dog. He then went home, and in about half an hour afterwards he heard screams and something said about the creek; he thought some one was in the creek, and ran to the fence, but as he got there the cry ceased, though he heard persons talking on the opposite bank of the creek; he remained there for fifteen or twenty minutes, but saw no one pass.

**WILLIAM ROTHREY**, cabinet maker, West Maitland, had been in East Maitland that day, and returned home about eight o'clock in the evening through the scrub. In going along he heard a woman scream, and going into the bush in that direction he saw a woman and a soldier lying on the ground; he said, "Hullo, what game's this?" and the soldier got up; the woman said, "Oh Thompson, or Johnson, you have deluded me, take me home, you know my husband;" Rothrey asked who her husband was, but she made no answer; he then asked the soldier if she was his wife or belonged to some of their men; the soldier replied that she belonged to one of their men; Rothrey said that was no place for them at that time of night and he had better take the woman home; the soldier asked what he had to do with it; and he said nothing, but hearing the screams he came to see what was the matter; the soldier then struck him on the mouth with his fist; the woman appeared to be tipsy, and they went away in the direction of East Maitland; she had no bonnet on. Rothrey then went on towards home, and when

he had left the soldier and the woman about 100 yards he found a woman's bonnet near the footway, which he picked up and took home, and the following morning he gave it to the chief constable and told him what he had seen in the scrub. The soldier was dressed in white trousers and a red jacket, with a stripe on the arm, and a foraging cap, on which was the figure 80. The bonnet was produced in court, and Rothrey said it was the same he found. It was identified by the deceased's husband as her bonnet.

Several screams were heard by a woman named **CATHARINE PAWLEY** about half past eight that night, and she went out, and it was repeated, when attempts appeared to be made to prevent it; she heard the voices of two men and a woman on the opposite side of the creek, but it was so dark she could not see them, but she heard the woman say, "Thompson, Thompson, loose me; you know my husband." Mrs. Pawley thought the men were ill-using a woman, and she called out that they must be hardened men to bring a woman into such a place as that at night. That the creek was right under them, and they had better go away; one of the men said something, but Mrs. Pawley did not understand what, and she replied that she knew their voices, and would report their conduct to the chief constable. The woman again screamed, and said, "Thompson, take me home; you know my husband;" and one of the men replied, "Mary Ann, get up, the strange man is helping you home as well as me." Soon after the voices were heard lower down, and the two men appeared to be speaking to each other, when the woman said "Lord, I'm drowned," and immediately there was a splash, as of some body falling in the water, and the woman's voice was heard no more. Mrs. Pawley cried out "murder," and her husband ran off into the road to obtain assistance. Whilst he was away one of the men appeared to go to the water's edge, and Mrs. Pawley heard him say in a low voice, "It's all right." [Mrs. Pawley, her husband, and a woman named **M'CUE**, all deposed to the above circumstances.]

The next morning the body of the deceased was found near the spot where Mrs. Pawley heard the splash in the water, without a bonnet, lying on her face, with her head towards Pawley's house; and, about fifty yards from that place, on the opposite bank to Pawley's, was found a soldier's kid, marked W.T., wrapped in a handkerchief which had belonged to the deceased, and near it there were footmarks, as if persons had been struggling, and the ground appeared as if some heavy body had been dragged along it for some distance.

The prisoner was at the house of Mr. **ADAMS**, the Black Horse, East Maitland, in company with a woman whom he called Mary Ann, and she called him Thompson. They staid until about half-past eight o'clock, and then both went away; after nine o'clock he returned alone, with his hands dirty, and apparently scratched, and complained that he had got some splinters in his hands, and wanted Mrs. Adams to remove them, but she did not. The bonnet produced in court appeared to be the same as that worn by the woman when at Adams's. The prisoner came back to Adams's some time after they had heard of the woman being in the creek. Rothrey called at the house that same evening, but he went away again before the soldier and the woman came.

The prisoner was apprehended at Morpeth going aboard the steamer, by Mr. **WOOD**, the chief constable, on the same morning that the woman's body was found. He was asked by the police magistrate what had become of the woman, and he said that he could give an account of her; he was going to West Maitland the bush roads with a woman, and passed a farm house, and a constable met him, took the woman in charge and took her away, and that was all that he knew of the matter.

The case for the prosecution having closed, Mr. Purefoy then addressed the court and the jury at great length, in an able and eloquent speech, in behalf of the prisoner, and then called

**JOHN GODKINS**, sergeant in the 80<sup>th</sup> regiment, who had known the prisoner for nearly eleven years, and gave him a good character as a quiet and well disposed man. On the night of Mrs. Finch being drowned the prisoner reported himself at the stockade five or ten minutes after the bell rang, which was usually about nine o'clock at night. He was not drunk when he reported himself.

Mr. **MOORE DILLON**, criminal crown solicitor, came out in the same ship as the prisoner, and had many opportunities of observing his conduct; he considered him to be a quiet and inoffensive man.

His Honor then summed up at great length, and in a most luminous and impartial manner, presenting the case to the jury in every point of view. He observed that the evidence given by the Pawleys was of a most circumstantial kind, but it might easily be reconciled with the hypothesis that the unfortunate woman had come by her death otherwise than by violence. He had particularly questioned the surgeon on that point, and that gentleman had stated that there were no marks of violence whatever on the body. There could be no question that the prisoner, or some other person, at the time Rothrey came up was taking improper liberties with the woman, and the conversation which took place between them might be that of the two men spoken of by the Pawleys. The woman then went away towards East Maitland, and it was possible that she might endeavour to hide herself from the person who had been ill-using her, and in so doing had come so near the steep bank of the creek as to fall into it. It was to be observed that she never uttered the cry of murder, and there was nothing to indicate any attempt of the kind. It might also be reasonably supposed that the prisoner, missing the woman after Rothrey had gone, might think that Rothrey was a constable, and had taken her in charge; which accounted for the story he had told the magistrate. After his Honor had read over the whole of the evidence, and had recapitulated its chief points, the jury retired for twenty minutes, and returned a verdict of not guilty. The prisoner was then discharged, and the court adjourned, at seven o'clock in the evening.

**HUNTER RIVER DISTRICT NEWS. - PATERSON.**

On Friday, the 10<sup>th</sup> instant, Mr. **SULLIVAN**, our chief constable, received information that **MELVILLE** and **HARRY**, two aboriginals for whose apprehension a warrant had been issued for the murders at Glendon, accompanied by another black, were concealed on Hog Island, in the Paterson river. He immediately proceeded thither, accompanied by constable **M'GONE**, and several ticket of leave holders; on approaching the island they were perceived by the blacks, who, on being ordered to surrender, raised their war whoop, and commenced showering their spears upon the party. After an encounter which lasted nearly an hour the blacks were obliged to surrender. They were yesterday brought before the bench, and Melville and Harry were identified as being present near Bulwarra, aiding at the murder of a black boy, a servant of Mr. Boydell's, Allyn river; they were fully committed upon this charge, and will be forwarded to Maitland, to appear before Mr. **DAY**, on the charge of murdering the two white children at Glendon, and leaving the mother for dead. Melville is the most ferocious looking black I have ever seen in the country.

**HINTON.**

**DEATH BY DROWNING.** - On Monday last an inquest was held at Berry Park, the estate of **J. EALES**, Esq., before **J.S. PARKER**, Esq., coroner, on the body of **GEORGE ELDRIDGE**, who was accidentally drowned on Sunday morning while

crossing the Hunter, near Mr. Jermain's farm, in company with two other persons, in an old boat that was hardly safe for one man to have ventured in. One of the party, named **HALL**, who had come from Maitland that morning, had a very narrow escape, and was saved by taking hold of a dog that was in the boat at the time, and which kept him above water till rescued from his perilous situation by one of Mr. Jermain's servants. A verdict of accidental death was returned. The deceased has left a wife and two children to lament his untimely end. The man who took the body out of the water was entitled to a reward of five shillings, which he requested the coroner to hand to the widow of the deceased.

MAITLAND ASSIZES. - SATURDAY, MARCH 18. [Supplement 1/11, 22/03.]

**WILLIAM ROTHREY** was then placed at the bar and proclamation was made for any person who might have any accusation against him to come forward. No person appeared, and the prisoner was discharged.

TEETOTALLER, 1/12, 26/03/1842

DISTRESSING CIRCUMSTANCE. - On Saturday last several drays belonging to a settler at Maneroo Plains left Sydney, accompanied by several families of newly arrived immigrants, who had hired themselves to proceed to that district. The weather was very rainy nearly the whole day, and in consequence of the previous rains the roads were in a most wretched condition; so that very little progress was made. At night they encamped at Merritt's public-house, a short distance beyond Lansdowne Bridge, on the Liverpool road; and having kindled a fire and constructed their tents, a woman, the wife of one of the immigrants, went to bed, and her husband and some other of the men went into the house, where they remained for some time drinking; but in the morning the poor woman was discovered lying dead in her bed. It is supposed that her clothes being drenched with the continual rain which had fallen throughout the day and the dampness of the ground caused the unfortunate creature to perish. *Aus. Chron.*

#### BERRIMA CIRCUIT COURT

Thursday, March 17.

These assizes were opened before His Honor the Chief justice. In the opening address His Honor expressed his gratification that the principles of temperance are abroad in the community. We think on looking over the report of the various trials as given in the *Herald*, that the principles not only of temperance but of total abstinence are very much required in that district.

#### CHARGE OF MURDER

**CHARLES RUDGE**, was indicted for having murdered one **E. RICHARDSON**, by pushing him into the fire; a second count charged him with manslaughter, at Thorsby Park. It appeared from the evidence, that the deceased was about forty years of age; about the twenty-eighth of March 1841, he brought two bottles of rum to the hut where he lodged, he gave the prisoner one of those bottles, they drank the rum between them. **PATRICK MULLEN** deposed, in the night the deceased came to the hut of the prisoner, and called to a native woman who was sleeping with the prisoner, to open the door; there was a good fire and she beat it down; he asked if there was any rum, and she told him the bottle was full, she then gave it to him in a pint pot; he called Rudge twice before he rose, after he rose he sat down on a stool and drank the rum. The deceased struck Rudge when the prisoner returned the blow and knocked deceased into the fire. A man in the hut wanted to lift him out of the fire, which the prisoner prevented; he seized the shovel and threatened to strike me if I took him out; I afterwards got him out and took off his clothes, they were all on fire, the deceased

was much burnt. The black woman was the cause of their quarrel, in the early part of the night deceased told her that she must leave the hut, when Rudge replied, that if she was left to him that night the deceased might have her ever after, and they agreed to these terms. The deceased, on his dying declaration made in the hut, declared that he being in the hut intoxicated, the prisoner who was also in liquor thrust him into the fire. The Jury retired for about ten minutes and returned a verdict of manslaughter against the prisoner. Sentenced to be transported to a penal settlement for life.

Friday, March 18.

**JOHN THOMPSON**, was indicted for the murder of **MICHAEL LYNCH**, at Goulburn, on the 10<sup>th</sup> day of November, 1841.

**JAMES GROGAN**, deposed, I am a ploughman in the service of Mr. **BRADLEY**, the prisoner and Lynch lived in the same hut; in November they and several others were in my hut, when they got some ale from Mr. Bradley's brewery, there was about four gallons brought in; they went to their own hut, and in about quarter of an hour, Lynch returned with his hands in a stooping posture, and said he had been stabbed by the prisoner. I saw the wound in his left breast. Thomson, the prisoner, was in liquor. Lynch was a cranky man, beer has a tendency to raise cranky folks. Mr. **SHELLY** stated that the prisoner was a quiet man, he had only once been in liquor in the course of fifteen months.

The Jury returned a verdict of manslaughter, sentenced to be worked in irons for 12 calendar months.

MAITLAND MERCURY, 1/13, 01/04/1843

THE BLACKS. - [EDITORIAL]

From two letters [page 3 & 4] which appear in this day's paper, it will be perceived that the blacks are continuing their depredations in the districts of the Namoi, Barwin, and Big Rivers, with a degree of system and perseverance which promises ere long to relieve the government from the trouble of interfering in the matter. A stockman named [**THOMAS**] **RHODES** and **A BLACK BOY** have been added to the list of human victims. And still the government seem to take no steps to protect the lives and property of the whites; and we firmly believe that until the stockholders and others interested make some public demonstration on the subject, it is in vain for them to look for any effectual redress.

THE BLACK MURDERERS. - On Saturday last the two aboriginal blacks, **MELVILLE** and **HARRY**, who were apprehended on the 10<sup>th</sup> ult. at Hog Island, in the Paterson River, were brought before the police bench, East Maitland, charged with the murder of the two children on the Glendon estate, on the 4<sup>th</sup> February. They are two most ferocious and remarkable looking individuals, and any person who had once seen them would not readily forget their horrid looking visages. The evidence of the hut keeper and the two women was taken, all of whom positively swore to the identity of the prisoners. The mother of the murdered infant, who has so far recovered from the wounds she herself received as to be able to attend, most positively identified Melville as the man who killed the child in her arms by striking it on the head with a waddie; but which of the two struck her she had no recollection, as she was utterly deprived of her senses by the horrid catastrophe which she had witnessed in the barbarous murder of her infant. The other prisoner Harry was described by the hut keeper to have a large scar upon his thigh, occasioned by a burn, and on examination the mark was found upon him exactly corresponding with that described by the witness. No doubt being entertained as to their identity, they were fully committed for trial, and on Monday last were forwarded to Newcastle gaol.

THE POOR BLACKS v. THE WHITE MEN.

*To the Editor of the Maitland Mercury.*

GENTLEMEN – From recent accounts which have been received from the Namoi and Barwin rivers, the melancholy intelligence has reached this place of a most daring outrage, attended with loss of life, committed by the blacks at a station belonging to Mr. **SAMUEL W. COOK**, of Scone. A man named **THOMAS RHODES**, attended by **A BLACK BOY**, were in pursuit of their master's stock, when they fell in with a tribe of blacks in the act of spearing the cattle, and before the two unfortunate creatures could escape they were surrounded and a shower of spears sent upon them. The two were thus murdered, and their horses killed. The inhuman wretches, who were the assailants, then burnt the bodies of their victims to ashes. Rhodes bore the character of an excellent servant, and it is supposed that he came upon the murderers with fat cattle in their possession, which they had just speared. My informant says Rhodes was not a man of revengeful disposition, and that at the time of his murder he was in conversation with the blacks, and had no means of escaping from their treachery. This information has been derived from the blacks themselves. ... continues. [JUSTITIA, Scone; 27<sup>th</sup> March 1843]

HUNTER RIVER DISTRICT NEWS.

The two aboriginals, **MELVILLE** and **HARRY**, were on Tuesday safely lodged in the gaol, from whence it is not likely that they will escape.

SYDNEY HERALD, 01/04/1842

Supreme Court of New South Wales; Stephen J 28 March 1842

**ALEXANDER KINGHORNE** was placed at the bar charged with having on the 12<sup>th</sup> December, 1841, fired at one **JAMES BACKHOUSE** alias **JONAS BACKHOUSE**, alias **JOSEPH BACKHOUSE**, with intent to do him some grievous bodily harm.

Mr. JUSTICE STEPHEN said, that this case did not appear on the calendar, and enquired if the Solicitor-General intended to proceed with it before any other.

THE SOLICITOR-GENERAL said, he was aware that the prisoner now at the bar had hitherto been out on bail, but this he said was not ready in any other case, and Mr. Dillon, the Crown Solicitor, had not yet arrived, and probably would not be in town until tomorrow.

Mr. JUSTICE STEPHEN said, that he was willing to take this case on that account, and also because the prisoner's counsel was in attendance, but he wished it to be publicly understood, that if any prisoner who had been actually in gaol, demanded his trial, and the trial was ready, he should be bound to take such case first.

The following jurors were sworn in, a number of those called having previously been challenged by the prisoner's counsel: **EDWIN PARK**, foreman, **THOMAS RAINE**, **ROBERT SMITH**, **HENRY PERRIER**, **WALTER SHORT**, **PATRICK WHITE**, **JOHN WHITE**, **JOHN PIPER**, **JOHN JOSEPH ASHE**, **JOHN NICHOLSON**, and **THOMAS SAYER**.

The SOLICITOR-GENERAL briefly addressed the Jury to the following effect:— The prisoner at the bar stood before them charged with a most serious offence, of which he had no doubt they would be glad to find him guiltless, and should such be the result he need not say that he should also be happy. He had no doubt that the prisoner was known to many of them, and as all were alike men, and had their sympathies to a certain extent, still he felt sure that no consideration whatever would induce them to give a verdict against the evidence: were they to allow themselves to be biased by any consideration whatever, it would be a gross violation of their duty.

They had nothing to do with the consequences of their verdict; if they thought the evidence insufficient to convict the prisoner, why, they must acquit him; if sufficient, they must find him guilty: he would be ably defended, and he had no doubt that his learned friend, Mr. Foster, would set up a good defence for the prisoner, though he, looking at the evidence, which appeared to him to be conclusive, could not imagine what the defence could be. Mr. A Beckett then gave a brief summary of the case, and concluded by informing the Jury, that if they did not find the prisoner guilty of firing with intent to do grievous bodily harm, they might find him guilty of a common assault.

The prosecutor Backhouse was called to the witness-box, and a considerable time was taken up in endeavouring to ascertain what was really his Christian name; he did not appear to know, but the counsel on behalf of the prisoner not making any objection on this account, the case was proceeded with.

— Backhouse deposed: He had been sent up to Bathurst by Mr. Abercrombie with some horses to Mr. Kinghorne's , where he was to remain to look after the horses. On the 12th December he was called out of bed, and, in consequence of what was told him, went into a wheat paddock to drive out some horses which had broken into the wheat. He found one horse, and drove it out, and into the stable. On his way he met the prisoner, who, after some other conversation, told him to get in all his horses on the following day. He answered that he might, or he might not. The prisoner then said he was insolent, and that he would take him to Bathurst, and ordered him to go at once. He told the prisoner that he would not go because it was Sunday. The prisoner then went and fetched a double-barrelled shot gun from the house. He asked prisoner what he was going to do; he said he would show him, and pushed him several times with the barrel. He set the gun down, and said he would chain witness to a bullock dray, and take him in, seized hold of his arms, but afterwards let him go; prisoner then said he would allow witness a quarter of an hour to consider whether he would go into Bathurst or not. Witness said he would go, but not if prisoner carried fire arms with him; prisoner said he would make witness go , and would chain him to a dray; prisoner went towards the door apparently taking off his coat , and witness ran off as hard as he could, and had got some thirty-five or forty yards when he received a shot in the back, on the head, shoulder, and thigh, from the double-barrelled gun fired by the prisoner; on receiving the shot, witness turned round, and saw prisoner with the gun in his hand, and heard the second barrel snapped. Next morning, witness asked for a pass, which was refused, and the prisoner said if the second barrel had gone off he would have got more pepper than he had.

Cross-examined: Was tried at the Wiltshire Assizes for horse-stealing, and transported for life; did not know that he was to obey the prisoner; could not positively say that he was under prisoner's orders; he did say that he might or he might not get in the horses; he did not consider that was insolence; he did tell Mr. Kinghorne, the prisoner, that he was not gentleman; but it was after the prisoner had laid hold of his arms. There were two other persons present; he did not recollect having said he could thrash all three of them, or daring them to touch him, as he would strike the first one that touched him; he might have said so, but he did not now recollect it. He did not hear the prisoner call to him to stop, before he received the shot; he was not aware that there was any change hanging over his head he had been in confinement ever since the affair happened, but he did not know what for: he did not go to the hospital of his own accord; he should not have gone had he not been sent there by the magistrates.

Mr. **EDWARD ROWLING** and Mr. **BRASSEY**, the other witness for the Crown, confirmed the prisoner's statement as to the discharging of the gun, and deposed that the prisoner Kinghorne had fired in the direction in which the prisoner went, but much lower; the bulk of the shot having lodged in the rails of a fence between the prisoner and the man Backhouse who was running up a rising ground, and whose whole person was at a greater elevation than the fence at the time the gun was fired. These witnesses deposed also to the extreme insolence of the man Backhouse, who had dared them to touch him, and said he could thrash the whole three of them, exclaiming as he ran off, "Now catch me if you can." The distance between the prisoner and Backhouse, at the firing of the first barrel, was from 45 to 50 yards; when the cap of the second barrel was snapped, the man Backhouse was full 100 yards off, and still running. They also swore positively that the prisoner, Mr. Kinghorne, had repeatedly called out before he fired the first shot, and again before he snapped the cap of the second.

The overseer of the hospital deposed to having seen the prisoner, who was sent from the lock-up, and on examining him, found that four shot had penetrated the skin, one in the back, one in the head, one in the arm, and the other in the thigh; he took out one of the shots, which he now produced.

This was the case for the Crown.

Mr. **FOSTER** addressed the Jury at great length. He contended that there was no proof whatever of intent on the part of the prisoner to do Backhouse any bodily harm, and that he could not be found guilty even of a common assault, unless the Jury believed that when the shot was fired, Mr. Kinghorne was doing an unlawful act. He, however, contended, that what Mr. Kinghorne did was lawful; a felon, under his charge, after giving insolence and threats, and positively refusing to obey orders, set his master at defiance, took to the bush, and told his master to catch him if he could. What, he would ask, would have been the consequences had this man got off? He should have defended Mr. Kinghorne with confidence even if this man had died, and Mr. Kinghorne had been charged with murder: for he was as much justified in firing at the man Backhouse, as would be the soldiery who are placed by the Government over the gangs, with muskets loaded with ball in their hands to prevent the escape of prisoners. After going on with arguments at some length, Mr. Foster called —

**THOMAS JONES**, chief constable, who deposed, that he had known Mr. Kinghorne upwards of seven years; that he believed him to be a humane person, and that during the period he had known him, he had never brought one of his servants to Court to be punished.

**GEORGE RANKIN**, Esq., J.P., since 1824, deposed that he had known the prisoner since 1825; that he considered him a person of the most humane character, and more likely to lean too much to the side of leniency than severity.

**JAMES WALKER**, J.P., and **J.L. RODD**, J. P., gave similar evidence.

This closed the case.

His Honor Mr. Justice **STEPHEN** summed up at great length; he protested against the doctrine laid down by Mr. Foster, that the prisoner was in the same position as a gaoler or a soldier, and gave it as his firm opinion that had the unfortunate man died, the prisoner now at the bar would have been guilty of murder. His Honor went through the case minutely; The Jury appeared however to have made up their minds at a very early stage of the proceedings, and in a few minutes after His Honor had ceased speaking, returned a verdict of not guilty.

Mr. Kinghorne was discharged. His Honor intimating that he should represent the case to His Excellency in such a manner that Mr. K. should not be allowed to have assigned servants in future.

TEETOTALLER, 1/13, 02/04/1842

INQUEST. - On Saturday, an inquest was held in the Rainbow Tavern, Clyde-street, on the body of **THOMAS BEASON**, second officer of the 'Proteus,' who had "a spree," and, according to the testimony of Surgeon **STEWART**, had died of delirium tremens, induced by intoxication, on the morning of the 25<sup>th</sup> instant.

LYNCH. - Of all the hardened villains whom the convict system has thrown upon our shore, **LYNCH**, or **DUNLEAVY**, appears to have been the most cold-blooded. He was transported for manslaughter; was tried about five years since for murdering a fellow servant, and was acquitted through the drunkenness of a principal witness; is now under sentence of death for murdering a man whom he decoyed into the bush in order to rob him of the money (about £40) he had saved at harvest work; was concerned (if he were not the principal), in the murder of Mr. **J. COWPER**'s drayman and the black boy that was with him, and is strongly suspected to have murdered a man named **MULLIGAN** and his wife, who are missing from their abode, and in possession of whose farm and property this man Lynch is suddenly found. The murder for which he is condemned to die was committed on Sunday, the 20<sup>th</sup> of February. The prisoner Lynch was proved on the trial to have been drinking at Chalker's public house on the 19<sup>th</sup>: another person saw him and deceased on the same day in a cart, in which there was half a barrel of beer. He was at Green's Inn on the morning of the 20<sup>th</sup> (Sunday), about eight o'clock, and had a glass of liquor. At eleven o'clock on the same day, he was at the house of a man named **DOYLE**, he had then in the cart two empty kegs, into one of which he got two gallons of rum put, and in the other four gallons of wine, so that between the afternoon of the 19<sup>th</sup>, and eleven o'clock on the 20<sup>th</sup>, the half barrel of beer was drunk, besides the liquor he got at the various public houses. This murder, which has excited so much interest, was committed by Lynch while under the influence of the *beer* which he had drank. When we consider that liquor has the direct effect of increasing the animal passions, such occurrences will not excite any surprise, for whilst the cause remains, the effects are sure to follow.

MAITLAND MERCURY, 1/14, 08/04/1843

HUNTER RIVER DISTRICT NEWS. - NEWCASTLE.

On Tuesday two maniacs were forwarded from the gaol to the lunatic asylum at Tarban Creek; their names were **MARY SAWYER** and **BRIDGET BOWERS**, two well known characters.

TEETOTALLER, 1/14, 09/04/1842

BATHURST ASSIZES

Thursday, March 31.

**JOHN WALSH**, was placed at the bar, charged with the wilful murder of **CATHERINE COLLITTS**, on the 3<sup>rd</sup> of January last, at Mount Victoria, near Hartley.

The prisoner pleaded not guilty.

The Solicitor-General, in opening the case, stated, that the murder was one at which all must recoil. The victim was the sister-in-law of the prisoner, not more than 16 or

17 years of age; for some time living under his own roof, and yet by him murdered, cruelly and savagely mutilated, and with marks of violence on her person.

**JOSEPH JAGGARS**, inn-keeper at Hartley, knew the deceased; she was at his house with the prisoner, her husband, and Mr. **GARDNER**'s stock man, on the 3<sup>rd</sup> of January; they were all sober, except Walsh, who appeared to have taken *liquor*. Walsh had from me, two glasses of *brandy*: the deceased, her husband, and the prisoner, left the house together. The body of the deceased was brought to my house next morning, it was by her clothes that I knew the body to be hers, her face was too much mangled to be known; she was not twenty years of age.

**WILLIAM COLLITTS**, husband of the deceased, living at the Vale of Clwyd, after they left Jaggars's public-house, prisoner took deceased by the arm, and they, all three, went up the hill, about a mile; prisoner wanted to return to Jaggars's. Prisoner asked where his own wife was? Witness said, he believed she was at Blackheath. Prisoner then gave witness a blow, which knocked him down. This was a mile and a half from the place where the body was found; prisoner was not sober. Deceased caught hold of prisoner, and said, "don't hit him;" and sung out to witness to run away, or prisoner would kill him. Witness ran away, and went to bed at Gardner's; prisoner came in about two hours after he was in bed; he asked him where his wife was? Prisoner answered, Mr. Jaggars's son and four more men rushed upon me, your wife flew into my arms for protection; Jaggars's son up with a pistol and struck me here – (Pointing to his face.) Prisoner and his wife went to bed.

**JOHN JONES**, Sergeant of H.M. 80<sup>th</sup> Regiment, on the night of the 4<sup>th</sup> January, about 11 o'clock at night, the prisoner came to the hut where witness was stopping, and knocked him up. Prisoner said that Jaggars's son had come up with four other men, and had knocked him down, and taken the woman Collitts from him: and that, on hearing them say, they had better cut off his head, he ran away. Witness did not believe his story; he seemed like a man suddenly roused from a state of drunkenness; he showed a mark, which he said was the blow from the pistol; but it was not such a mark, it was more like a scratch with a nail. Witness told prisoner to go to Gardner's and get assistance, but he did not return, and witness thought the story was all fake; when the mail came up he went with the prisoner of the Crown, and found the dead body of a female lying on the side of the road, about a mile and a half from the stockade. Near the body there was a large pool of blood, and also near the head, which had been much bruised. It appeared that she had been dragged round after she had got her death blow; there was a piece of iron-stone lying near the blood, the stone was about a yard from the corpse, near the pool of blood, from which the head had been apparently dragged. The stone produced, (eighteen inches long by four wide and three thick) is the stone; the braces produced were lying in the pool of blood; witness found one of the deceased's teeth in the pool of blood, which had been knocked out, and part of another which had been broken off. The clothes were thrown up over her body; a portion of the clothes were torn off; her face was turned upwards; it was covered with blood.

The prisoner cross-examined at length, but without eliciting any thing to shake the evidence in chief.

The braces spoken of by the witness were identified as those worn on the previous day by the prisoner.

The Jury, after having deliberated for about half an hour, returned to the Jury box, and pronounced a verdict of guilty.

The Solicitor-General, having prayed the sentence of the court, His Honor immediately passed sentence of death upon the prisoner, expressing his entire

concurrence with the verdict, and imploring the mistaken man to make his peace with his Maker, as he could no longer be allowed to remain on this earth, but must soon appear before that dread tribunal where all his crimes would be found registered against him.

This trial occupied the whole day up to past eight in the evening.

MAITLAND MERCURY, 1/15, 15/04/1843

MAN MISSING. - On Tuesday afternoon a poor man named [**JOSEPH**] **SAMPSON**, who was some time ago found in the bush at the back of Mrs. Muir's Family Hotel, East Maitland, and conveyed to the Benevolent Asylum, of which place he has ever since been an inmate, left that establishment and has not since been heard of. The poor fellow has always appeared to be in a state of great weakness, being scarcely able to sit in a chair, and was also quite childish. He however left the place during the temporary absence of the man in charge, and as soon as he was missed an enquiry was set on foot, but all that could be ascertained was that he was seen going towards Wallis's Creek by a woman named Mrs. **HARDY**, and a hat similar to the one he wore was seen by a man floating down the creek. It is therefore conjectured that he has either drowned himself or accidentally fallen into the creek. The police were searching for him but up to last evening nothing had been discovered.

TEETOTALLER, 1/15, 16/04/1842

TO CORRESPONDENTS

Our correspondent need not fear that justice will be done in the case of the man **CARR**, the Attorney-General will do his duty, he is not a man to be led by the verdict of a Coroner's inquest in New South Wales.

INQUEST. - An inquest was held on Monday, on a man who was shot the previous Saturday, by a publican named **CARR**, who was in custody. We were surprised on ascertaining the verdict, after reading the evidence in the 'Herald.' We have since gleaned one or two particulars, which tend to throw light on the subject: - When the jury, which was composed of fifteen persons, first retired, six were for bringing in a verdict of manslaughter, and nine of murder. After discussing the subject for an hour and a half, Mr. **BRENAN**, the coroner, knocked at the door and requested admittance; he then went through the evidence, and most pointedly stated, that they could not find Carr guilty of murder; he then left, and four more immediately acted on the direction of the Coroner, and altered their minds, and subsequently the remainder, with the exception of two. Mr. Brennan again requested admittance, and informed the foreman, that if twelve persons agreed upon the verdict, he must return it, although contrary to his own opinion. The foreman was Mr. **THOMAS**, of Clarence-street. There was one publican on the jury.

APPLICANTS FOR PUBLICANS' LICENSES.

... The number of applicants are stated to be 192, but even since that list was made out, the number has been reduced, for one of the persons [**CARR**] who figures on that list, shot a man last Saturday, because he would not pay him eighteen pence for a breakfast, while he owned the man half-a-crown which he had lost in gambling; and instead of appearing at the Police Office to get a license to kill men by selling them *rum*, he must lie in Jail to await the consequence of his dreadful crime.

BATHURST TEMPERANCE MEETING.

We have been told by one who was present on the occasion, that Mr. Justice Stephen distinctly stated, that with one exception, all the cases he tried at the Bathurst Assizes, arose entirely from drinking. One of the Prisoners, in an address which he made to

his Honor, distinctly stated, that drink was the sole cause of his crime, and that if he had been sober he could not have committed it. We understand that the circumstances attending the trial of the man [**JOHN WALSH**], were as follows:-

This is the second time that he has been tried for the same offence [not yet found], viz. the murder of a woman. The first trial took place in 1839, and the second in 1842. The first murder was committed for the sake of obtaining a keg of rum, and the second while under the influence of brandy. He was acquitted by the Jury for want of evidence, although there was no doubt of his guilt in the minds of those present at his trial. On the first trial, he pretended that three bushrangers done the deed of which he was accused, and was believed; on the second occasion, he tried the same manoeuvre, but the result was very different. This man who has been tried twice before the same Judge, for murdering two women, at different times, is described by those who knew him, as a quiet, peaceable man, when not under the influence of liquor.

MAITLAND MERCURY, 1/16, 22/04/1843

INQUEST. - On Saturday morning last, about eleven o'clock, the poor man named [**JOSEPH SAMPSON**], whom we mentioned in our last had disappeared from the Benevolent Asylum, was found drowned in Wallis's Creek, a little above the bridge. An inquest was held on his body the same day, at the house of Mr. **HENRY ADAMS**, the Black Horse, East Maitland, when, there being no evidence to show how the unfortunate man got into the creek, nor any marks of violence upon his body, a verdict of found drowned was returned.

HUNTER RIVER DISTRICT NEWS. - WOLLOMBI.

An untimely death, caused, as it is in most cases, by the accursed habit of drinking, took place last week in our district. A shoemaker named **BRYAN EGAN**, a lately arrived immigrant, was found drowned, after a search of five days, in the Cockfighter's Creek. On enquiry by the police magistrate into the particulars of the man's death, it appeared that the deceased had been drinking with some other men until a late hour, at a short distance from his own home. When he started to go home he was accompanied by one of the party with whom he had been drinking, who subsequently left him by the wayside, helplessly drunk, at a short distance from the scene of their debauch. It is supposed that the deceased afterwards attempted to cross the creek, which lay between him and his home, and that he fell in and perished. As the man who left him to his fate did not appear at the inquest, he was brought by summons before the bench on Tuesday last, where he underwent a strict examination, and his conduct was justly censured in the strongest terms by the magistrate.

TEETOTALLER, 1/16, 23/04/1842

INQUEST. - On Tuesday last, an inquest was convened at the New York Hotel, on view of the body of ----- **MADDOX**, who had been found dead on the previous night on the North Shore. The unfortunate deceased had formerly lived in a respectable sphere in Sydney, but had a considerable time before his death been addicted to intemperate habits. The deceased had once practised as a surgeon in this colony. The Jury returned a verdict that the deceased came to his death from natural causes, accelerated by intemperate habits.

INQUEST. - On Friday, the 15<sup>th</sup> instant, an inquest was held at the sign of the Thistle, corner of Bathurst and Kent-streets, on the body of **ALICE BAYLISS**, who put an end to her existence by swallowing a quantity of arsenic on the previous day. It appeared she had been a woman of very intemperate habits, and had been drinking

for some days past; and the jury returned a verdict that she had destroyed herself in a fit of temporary insanity induced by intemperate habits.

MAITLAND MERCURY, 1/17, 29/04/1843

MURDER AT THE MANNING RIVER. - An account of a most diabolical murder committed on the 1<sup>st</sup> January, at Mount George, on the Manning River, has been furnished to the Sydney Morning Herald by a correspondent, the substance of which is as follows:- It appears that one **JOHN CHAPMAN**, an assigned servant to Miss **KELLY**, had for a long time past cohabited with a **black gin named MARIA**, belonging to a black fellow called **MICKEY UGLY**, of the Gangat tribe. About the 2<sup>nd</sup> or 3<sup>rd</sup> January last Mickey was missing, and search being made for him in all directions without effect, the rest of the tribe expressed their suspicions that he had been murdered by Chapman. On the morning of the 8<sup>th</sup> January, as a Mr. **ROSE** and a Mr. **WATSON** who reside at the Yankangat estate were standing in front of the house, they heard a sudden and dreadful yelling from the natives on the opposite side of the river, some distance higher up. On going to the place they found a number of blacks assembled round a heap of ashes which appeared to have been recently on fire; and several fragments of bones, some human teeth, pieces of lead, a few buttons, and some fragments of burnt cloth, were found among the ashes. These were collected and lodged with the resident magistrate, and examined by a surgeon, who pronounced them to be human bones. Chapman was almost immediately afterwards apprehended; he appeared much agitated, and on being asked where the gin of the deceased was he denied all knowledge of her; she was, however, discovered secreted in Miss Kelly's kitchen (who was absent in Sydney), and the key of which was found on Chapman; a loaded musket was also found in the room.

The matter was subsequently investigated by Mr. **ROWLEY**, the resident magistrate, and the evidence went to show that the prisoner co-habited with the gin, and had a child by her; that he had often beaten and ill-treated the deceased; and that the deceased had once requested the interference of a person to take away a gun from Chapman, as he (deceased) was afraid Chapman would shoot him. The last time deceased was seen alive was on the 1<sup>st</sup> January, in Chapman's company, and from that day the gin was never seen to quit the side of Chapman, but followed him wherever he went, even if it was only for a drink of water. A shirt belonging to the prisoner was found in soak in the river near his hut, upon which there appeared something like blood stains, and it was much burnt about the sleeves and breast. Upon this evidence the prisoner was committed. A few days afterwards, the gin Maria made the following voluntary disclosure to Mr. Rowley:-

She stated that on the morning of Sunday, the 1<sup>st</sup> of January, deceased was "gammoned" by Chapman to go into the bush, on the opposite side of the river, to shoot paddy-melons for him - that she accompanied Mickey Ugly - that when they were together in the bush deceased wanted to light his pipe from some fire which she carried in her hand - that while deceased was stooping down and lighting his pipe, she saw four men at a short distance behind them advancing stealthily from behind a tree. The four men were, John Chapman, a shepherd, and two bullock drivers. One of the bullock drivers presented his double barrelled piece and shot Mickey, who fell wounded, when the shepherd advanced with a musket and shot him dead. The deceased was then cut open from his throat downwards to his breast. Chapman handled the wound, and the four men then carried the body a little distance to the side of a fallen log, where it was subsequently burnt: the party then went into the river and washed themselves and their clothes, which had been covered with blood. She heard

R----- tell Chapman that he had loaded the piece with ball. Chapman told her that night that he was going to burn the dead body: she told him he had better bury it. Next morning she went with Chapman, and saw him carry logs and burn the body; and the next day after, he again went and heaped the ashes together. He told her not to tell what she had witnessed, as if she did the "white men" would murder her.

The above evidence and depositions were forwarded to the Attorney General. No communication has been received from any person or any quarter by Mr. Rowley relative to the matter; "and now, I understand," says the writer, "the parties are discharged from prison, and are at large without trial or investigation."

TEETOTALLER, 1/17, 30/04/1842

INUNDATIONS. - - - we are sorry to add that the postman of the district in attempting to cross [the Macquarie] to obtain the services of a medical attendant to one of his neighbours, was drowned, leaving a wife and family to deplore his loss. At Berrima, also, a great destruction of property took place, and a man named **CONNOR** was drowned, in attempting to cross the creek.

CONFESSION OF LYNCH THE MURDERER.

On Friday, 22<sup>nd</sup> instant, the two culprits, **LYNCH and KLEIGHRAN**, underwent the extreme penalty of the law, at the back of the new gaol, on a temporary gallows erected for that purpose. They were attended by the Rev. **J.C. SUMNER**. Kleighran died very penitent, acknowledging that he was guilty of the crime for which he was about to suffer, and was perfectly reconciled to die. The love of money, which is the root of all evil, brought this man to a shameful and ignominious death. He lost about thirty pounds, gambling with a fellow-shepherd, for which he waylaid and murdered him. Lynch also said he was guilty of the crime for which he was about to suffer, and as far as external appearances went, was penitent. One shudders in endeavouring to give a brief description of the frightful career of this wholesale dealer in human blood. He has made an open confession to the Police Magistrate of ten murders - namely, a man named **SMITH**, who was in the employ of Mr. **BARTON**, of Oldbury, near this place, and for which he stood his trial about six years ago, but was acquitted. The next he murdered was a man and a black boy on Razorback, who were going down to Sydney in charge of a dray belonging to Mr. **COWPER**; when he had murdered them he took charge of the dray on to Sydney, and on going into Campbelltown he was overtaken by Mr. Cowper, who enquired about his men, when Lynch said his bullock-driver had broken his leg, and that the black boy went with him to the house at Parramatta; Mr. Cowper then asked him if he knew where to take the property, and Lynch replied that he did; he then took it into Sydney and disposed of it himself, and returned with the team. He next murdered two persons of the name of **FRASER**, father and son, who were in the employ of Mr. **BAWTREE**; their bodies were found yesterday in the place he described, about three miles from Berrima, and await a coroner's inquest. The next series of murder were the whole family of the **MULLIGANS**, consisting of Mulligan, his wife, son, and daughter. He murdered them in the following manner: As young Mulligan went out for some wood with Lynch, the latter took the opportunity of murdering him by striking him a mortal blow with a tomahawk on the head, after which he covered him with some bushes and returned into the house. The Mulligans suspecting from the conduct of Lynch that all was not right, made some efforts to discover his intentions; after which Mrs. Mulligan went out of the house to seek for her son; she was followed in a few minutes by Mulligan, with a gun in his hand, which he was going to discharge as a direction for young Mulligan to return to his family; at this moment he remarked that it would be

very rash to fire off the piece, as it would bring down the police upon them; Mulligan said that he had spoken wisely, and put down the gun. Mulligan then went a short distance from the house to meet his wife, when Lynch struck him a deadly blow on the head with the same weapon with which he had just murdered his son. Lynch afterwards went on, and meeting with Mrs. Mulligan, she shouted out "The Police are coming," Lynch exclaimed "Ah!" and turning about struck her also a deadly blow. He then returned to the house where Mulligan's daughter (a girl about 14 years of age) was. She was standing at the fire-place with a carving knife in her hand; he told her to lay down the knife, and he would allow her ten minutes to say her prayers; she laid the knife down, when he immediately seized her, and, having first violated her person, then murdered her. After this he collected the bodies, made a large fire, and consumed them, then buried their remains. He said he exalted in the large fire he had made about them, and was much pleased with the peculiar brilliancy with which it burned. He immediately put himself in possession of all Mulligan's property, and had everything branded and marked in his own name. His next and last murder was that of **KEARNS LANDREGAN**, at a place called Ironstone Bridge, for which he has paid the penalty of his life.

It was proved on the trial of this man, that he had been drinking a large quantity of beer and some brandy before he committed the murder for which he has suffered the penalty of the law.

#### THE MOUNT VICTORIA MURDER.

Most of our readers are aware that there is a man named **JOHN WALSH**, a freed man, at present lying under sentence of death, in Bathurst Gaol, for the murder of **CATHERINE COLLITT**, on Mount Victoria, on the 3<sup>rd</sup> of January last.

The case was tried before Mr. Justice Stephen, at the last Bathurst Assizes, when, after a lengthened trial, the Jury retired for about twenty minutes, and returned a verdict of guilty against the prisoner, when his Honor passed sentence of death on him, which is to be carried into effect at Bathurst, on Tuesday, the 2<sup>nd</sup> of May. The perpetration of this crime appears to have been marked with circumstances of peculiar atrocity, such as we believe have seldom been met with in the annals of crime; and as the history of the case is fraught with unanswerable arguments in favour of Temperance, we have collected the most material of them in the following brief sketch.

**CATHERINE COLLITT**, the person who was murdered, was, at the time of her death, about seventeen years of age; she had been married about eighteen months to a man named Collitt, who was possessed at the time of their marriage of a considerable number of cattle, but is generally regarded as a person of weak mind. About twelve months after her marriage, her mother, who was a notorious drunkard, hanged herself in her own house, her husband being in the house at the same time, but so much in liquor, that he could not prevent her from destroying herself. He was taken up on suspicion of being a party to her death; but after lying about six months in gaol, was discharged. [Can't find this yet] About six months before the mother's untimely end, a younger sister of Catherine Collitts, married John Walsh, the convict at present under sentence of death in Bathurst Gaol, and, it appears, continued to live with him up till the time of her sister's murder; but she, as well as her sister Caroline, since the trial, have been ascertained to have borne very loose characters, which is fully established by the fact, that both before and after Walsh had murdered the younger sister, Caroline cohabited with him, and had in fact been for a considerable time living with him, under the same roof with her sister, and in a state of separation from her own husband (Collitt). It has also been ascertained, that just before she lost her life,

she was on terms of intimacy with her husband, and intended to go and live with him again.

**JOHN WALSH** appears to be a native of Ireland, from which he was transported to this Colony in 1833, for seven years; he is about thirty years of age. Since his arrival he has been tried twice for murder, - once before Sir James Dowling, in the year 1836, for the murder of a person named **CRATE**, but was acquitted. He was again tried, before Mr. Justice Stephen, in 1839, on a charge of having murdered a woman and her son - a little boy. In this case he was also acquitted, on account of the character of the principal witness against him, coupled with the ingenious line of defence which he set up, and which bore a great similarity to that adopted by him on the late trial at Bathurst for the murder of his sister-in-law (Caroline Collitt). In the former case, it was established, by evidence, that the residence of the woman had been robbed of a keg of rum and some tobacco, and that she and her son had been beaten to death with a stick, which was found near their bodies, at a short distance from their hut. Soon after the murder, the prisoner took a native black with him to help him remove the plunder from the place where they found it concealed in the neighbourhood, at the same time telling him that he had been told by some bushrangers had given it to him, in order that they might disguise themselves so as to effect their escape out of the district. So, in the case of Catherine Collitts, he pretended that four or five men had set upon him and the deceased, and after compelling him to quit her, and taking his clothes, they had murdered her.

In the case of Collitt's murder, it was proved, that she, her husband, and Walsh, were all in company on the evening of the murder, and had been drinking in a public-house kept by one **JAGGARS**, at the foot of Mount Victoria; that although they were sober when they went there, he had been drinking previously, and while there, he took two glasses of brandy, which intoxicated him, while the man [**WILLIAM**] **COLLITTS** drank one, but his wife had only some lemon syrup. After leaving Jaggars's house, without any provocation he knocked Collitts down, whose life was saved by his wife seizing hold of Walsh, and allowing her husband to escape. This was the last time she was seen alive, and the last words she was heard to utter were to her husband, "Run, he has got a stone, and will murder you." About a mile from the place where the husband fled for his life, her body was found on the following morning, the face and hands covered with blood and bruises, and a frightful wound in the temple, which had penetrated to the brain. This had evidently been inflicted by a large sharp jagged stone, one corner of which fitted into the wound, and was clotted with blood and hair.

We have heard, that, after Walsh was condemned, when Mr. Justice Stephen was inspecting the gaol, in which he was confined, he recalled to his Honor's memory the circumstances of his trial before him in 1839.

TEETOTALLER, 1/18, 02/05/1842

INQUEST. - On the 15<sup>th</sup> ultimo, an inquest was held by the Coroner, on the body of **GEORGE GRACE**, a prisoner of the Crown, under sentence of twelve months in irons, who died at Goulburn on the 12<sup>th</sup>. It appeared that the deceased and three other prisoners - that is, three men and one woman - left Braidwood on the 8<sup>th</sup> April, under the charge of one constable, and arrived at Borohead Inn the same night, where they were lodged in the tap-room; about 10 p.m., the female prisoner became very noisy and abusive, so as to call for the interference of the constable, upon which the deceased, who was a very powerful man, and bore a desperate character, made a rush at the constable, seized his gun, and attempted to wrest it from him, in which he

nearly succeeded (although the constable was assisted by the servant of the inn,) when the constable fired and shot him through the head. The prisoners were then forwarded to Goulburn, where Grace died on the 12<sup>th</sup>. After a long investigation of nine hours, the Jury returned a verdict of Justifiable Homicide. It appeared in the course of the investigation, that the licentiousness of both the prisoner and the constable, and the influence of liquor, was the grand cause of the event.

SUPPLEMENT: details of two incidents.

MAITLAND MERCURY, 1/19, 13/05/1843

ACCIDENTAL DEATH. - On Wednesday last an inquest was held at the house of Mr. **JAMES YOUNG**, the Queen's Arms, High-street, before **J.S. PARKER**, Esq., coroner, on the body of a man named **WEST EVANS**, a carpenter, and ticket of leave holder. It appeared from the evidence which was adduced that on Monday last the deceased and two other men called in at Mr. Young's, and had a glass of rum each; from thence they went to Mr. Brackenreg's, and had a glass each there; they then went on to Mr. Court's public house, where they fell in with a few friends, and continued drinking for some time; after which they returned to Mr. Young's, and each had another glass. They then wanted some more on trust, which was refused; the man who fetched and paid for the liquor was sober. The companions of the deceased went away, leaving him in the taproom unknown to Mr. Young, but on the latter going to shut up the house at night he found the deceased there quite drunk, and knowing him to be a harmless sort of man, he thought it would be better to allow him to remain in the taproom all night than to turn him into the street in so helpless a condition. The fire was accordingly put out, and everything done to prevent any danger arising. At a late hour that night Mrs. Young, who was in the next room, heard the deceased groaning, and perceived a very disagreeable smell, upon which she called Mr. Young, who opened the taproom door, and the body of the man immediately rose up in a flame. Mr. Young procured a blanket, and threw it over the man to extinguish the flame. Dr. **HARRINGTON** was immediately sent for, and notwithstanding his attention the man died about mid-day on Tuesday. No evidence appeared as to how the deceased had taken fire, and the only probably supposition is that it was occasioned from a hot coke in his pipe, which he had in his pocket. Under these circumstances the jury returned a verdict of accidentally burnt to death while in a state of intoxication. The coroner stated that the conduct of Mr. Young throughout the melancholy occurrence was highly praiseworthy and humane.

HUNTER RIVER DISTRICT NEWS. - CASSILIS.

CONSTABLE SHOT BY A BUSHRANGER. - On Saturday morning, May 6<sup>th</sup>, constable **RUTLIDGE** was escorting three prisoners from Cassilis to Merton. He left Peberdy's inn in the morning, and when he arrived at the station of Captain Pike's, five miles from Peberdy's, he entered the hut with the three men, leaving his gun outside. Two of the prisoners were handcuffed, and one loose; the latter stepped out of the hut, and taking up the gun presented it at Rutledge, demanding his ammunition. The constable attempted to wrest the gun from the prisoner, and was shot dead by the bushranger, who immediately took the ammunition belt from the body of the deceased and decamped. The other two prisoners returned to Peberdy's, and reported the melancholy occurrence. It is said that many bushrangers are about the district.

TEETOTALLER, 1/19, 14/05/1842

MURDER. - An inquest was held on Tuesday on the body of a woman named **CATHERINE SKELLEY**, for some time residing at Newtown, cohabiting with a

man named **RICHARD alias WILLIAM COWELL**; this man was committed on the Coroner's warrant to take his trial for wilful murder. Several witnesses deposed to having seen these parties together on Sunday, both drunk, on the Cook's River Road, but they had heard of no quarrel, nor were there any marks or bruises on the woman when they saw her. A man named **THOMAS HASSALL**, afterwards examined, deposed, that the prisoner came to him and requested him to come to his hut, saying that he had quarrelled with his woman and beaten her, and he was afraid, too much. Hassall went, but only saw her face, in his opinion she was perfectly insensible, if not dead; this was at nine o'clock in the evening. Dr. **CUTHILL** examined the body, which was found to have been shockingly ill-treated, ribs broken, one ear nearly severed, the eyes blackened, and various other injuries; he deposed that death had been caused by extravasation of serum at the basis of the brain, caused by external injury.

INQUEST. - On Thursday last an inquest was held on the body of a man named **JAMES WALSFORD**, the deceased was seen drunk in Sydney on Monday. It is probable that he died from apoplexy, caused by intemperance. The jury returned a verdict of died by the visitation of God, caused by intemperance.

MAITLAND MERCURY, 1/20, 20/05/1843

ANOTHER VICTIM OF INTEMPERANCE. - Notwithstanding the awful warning which was last week recorded in our columns in the death of a man named **EST EVANS** by fire, we have this week to record another violent death resulting from the same pernicious habit. On Sunday afternoon last, about five o'clock, two sons of Mr. **C.M. DOYLE** observed a man in a state of inebriety walking along the bank of the river, nearly opposite to that gentleman's residence, and whilst watching him they observed him make a sudden turn and walk into the river; they immediately called out that there was a drunken man in the river, and Mr. Doyle, hastening out of the house, saw the unfortunate wretch struggling in the water. He instantly jumped into a boat, accompanied by one of his sons and a servant man, and pulled with all possible speed to the drowning man's assistance, but before they could reach him he had sunk, and though they continued the search for some time, all their efforts to recover the body were unavailing. Another man was observed lying on his back close to the edge of the river, at no great distance from the spot where the unfortunate occurrence took place, and Mr. Doyle sent his servant man to him; he was also found to be stupidly drunk, and two hats were found lying by him. Mr. Doyle having previously sent notice of what had occurred to the police, he gave this man in charge, in order to prevent a similar fate happening to him, and he was conveyed to the lockup. He proved to be an assigned servant to Mr. **ANDREW LANG**, and was on Monday morning brought before the bench, and sentenced to receive fifty lashes for his misconduct. The body of the drowned man was not found until about half-past ten on Monday morning, when it was removed to Mr. Nicholson's public house, in High-street, at which place an inquest was held on the following day; at which it appeared that the deceased's name was **JOHN CASEY**; that he had been about eight months free, and was at the time of his death in the employ of Mr. A. Lang, and was probably making his way home when he got into the river and lost his life. The jury, after hearing the above facts, returned a verdict of death from drowning while in a state of intoxication. It is rather singular, to say the least of it, that no person from Mr. Lang's attended the inquest, either to identify the body of the man, or to give any evidence at all on the subject, and it was only from some persons present who had seen him drunk

in the streets, and from some of the jurymen having known him, that the name of the deceased was at all ascertained.

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TEETOTALLER, 1/21, 28/05/1842

A melancholy accident occurred on Tuesday; several lives were lost by the upsetting of a schooner of 45 tons. Mr. **GANNON**, the master of a small schooner that trades between Sydney and Broulee, being at present in port, had invited a few friends to take a sail within the harbour to see the regatta (sic) on the Queen's birthday. The party consisted of Mrs. **FRANCES GAUNSON**, of Lower George-street, and her four children; Mr. **JAMES SMITH** and his eldest daughter, Miss **COOK**; two Misses **CRAWFORD**, nieces of the Rev. **H. GILCHRIST**, of Campbelltown, and one or two others. The vessel was returning to the Cove at dusk, after cruising about during the day, when a furious squall caught her, and capsized her instantly. Providentially there was a boat in tow, in which some of the party escaped, after being all thrown into the water; but we regret exceedingly to state, that the two Misses Crawford (recently arrived with their widowed mother from the north of Ireland, Miss Cook, two of Mrs. F. Gaunson's children (a son and a daughter), Miss Smith, and a maid servant, sank to rise no more.

- - - The events which have lately occurred are of that character. It has been proved that the monster **LYNCH**, who, since his arrival in this colony, has murdered ten persons, was, during the commission of these murders, under the influence of liquor. **WALSH**, who was condemned to death at the last Bathurst Assizes, was intoxicated when he committed the deed for which he suffered; he has put an end to four mortal persons. To enumerate all the cases, would fill our columns; we can only give a few more. One person, is now in jail for the murder of his wife, while in a state of intoxication – three publicans in the town of Sydney have died in the last two months of delirium tremens.

RELIGIOUS PUBLICANS. The Coroner, **JOHN RYAN BRENNAN**, Esq., said, when the inquest was held on **LAURENCE KENNEDY**, publican, "That he was drunk behind the *Bar*, when the magistrates went to his house ... we have been informed that he died drunk.

INQUEST. - Four inquests were held on Monday last; three of the parties from intemperance. One of them was Mr. **L. KENNEDY**, the landlord of the public house known as the Yorkshire Stingo. We do not think it worth while to give the verdicts, the manner in which inquests are held is such a complete farce. Mr. Ryan Brennan may, and no doubt does, perform the duties of his office in the most exemplary manner. If so, we think that the colony may be saved the expense of such an officer altogether.

TEETOTALLER, 1/22, 04/06/1842

INQUEST. - On Monday, an inquest was held on the body of a man named **THOMAS FINNEY**, residing in Castlereagh-street. Dr. **WALLACE** certified that death was caused by apoplexy. The majority of the jury were of opinion that the disease was caused by intemperance.

THE 'ELIZA ANN'. - Great exertions have been made to raise the *Eliza Anne*, whose loss we reported in our last number, and to recover the bodies of the unfortunate sufferers on board, and we are happy to say not without success. The Government having lent the use of their punts, the vessel has been gradually raised and carried into shallow water in Farm Cove. On Monday last the body of Mr.

**GAUNSON**'s female servant was found in the rigging, and in the course of Tuesday those of the two Misses **CRAWFORD**, aged 18 and 16 years, Miss **SMITH**, aged 11, and Miss **ELIZABETH GAUNSON**, aged 5 years. These were all interred on Tuesday evening. The bodies of Miss **A. COOKE**, and Master **GAUNSON** have since been found.

TEETOTALLER, 1/23, 11/06/1842

TEMPORARY INSANITY. - An inquest was held on Thursday the 2<sup>nd</sup> instant, at the Three Tuns Tavern, (Mr. Driver's Elizabeth-street,) on the body of a man named **PEARCE**, who drowned himself the preceding Wednesday. The jury returned a verdict of temporary insanity.

We regret very much the manner in which inquests in this town are conducted, is not such as to show to the public the cause of these distressing occurrences. The country is at some expense in paying a Coroner, &c., and we think that at least the public ought to get correct, because useful, intelligence of the causes of sudden deaths. Destroyed himself! - such was the end of a man who once moved in good circumstances, and was possessed of considerable property, who has left a wife and two children in his native land. He had by intemperance reduced himself so low, that he accepted in London the situation of a wine-taster at the London Docks. Why he left this situation, we do not know. He arrived in this colony about five months ago, in the 'Bencoolen,' and went to lodge at the Australia Hotel. He told one of the passengers only a few days ago, that he was living gloriously. He was then in possession of his faculties. At the hotel we have mentioned, he spent all his money; while in a state of intoxication he lost his hat, and not having the means of purchasing another, the fact of his destitute and forlorn condition was forced upon him. From the absence of his accustomed stimulus, his system was depressed and weakened, the balance of his mind overthrown, and he was led to the commission of the rash act. The insanity under which he laboured was the effect of wine and spirits. He was another victim to intemperance.

TEETOTALLER, 1/24, 18/06/1842

COUNTRY NEWS

ILLAWARRA

A shepherd of Mr. **JOHN WAIT**, of Broulee, who had been missing for three or four weeks, was found dead in the bush on Tuesday the 2<sup>nd</sup> instant. From an enquiry which was instituted into the cause of his death, it appeared that he had been drinking for some time, and while in a state of intoxication, had laid down, and a heavy storm coming on, he had perished through the inclemency of the weather.

??Case quoted, presumably NSW. Congestion of the brain, in bed 6 weeks, warned patient and the local publicans??? Also quotes Wakley, Middlesex Coroner.

TEETOTALLER, 1/25, 25/06/1842

At a meeting of magistrates at the Police Office on Thursday, five licenses were granted, one of them to Mrs. **JOHANNA KENNEDY**, "Yorkshire Stingo!" An inquest was held on the late Mr. Kennedy, a few weeks ago, at which it was proved that he died from drinking. The Magistrates seem as a body, determined that they will not do anything to help forward the Temperance Reformation.

BIRTHS.

In Fort-street, on Saturday last, the lady of Major **CHRISTIE**, of a still born child.

TEETOTALLER, 1/27, 09/07/1842

INQUEST. - An inquisition was held on Thursday at the "Three Tuns," on the body of a compositor named **PETER TYLER**, who was found suspended on a tree, in the vicinity of Government House, on the preceding evening. It appeared from the evidence, that His Excellency the Governor cut down the body, and that the deceased had destroyed himself while labouring under insanity.

INQUEST. - On Wednesday evening, a young man, under the effects of liquor, hung himself, in the vicinity of Government House: he has left a wife and family to deplore his loss. He had promised to join the Total Abstinence Society on Thursday evening. The jury returned a verdict of temporary insanity.

On Thursday night, a drayman, while in a state of intoxication, burst a blood vessel, and fell down dead.

TEETOTALLER, 1/28, 16/07/1842

SUPREME COURT – CRIMINAL SIDE

WEDNESDAY

Before Mr. Justice Brown.

**RICHARD POWELL**, a sawyer, was indicted for the wilful murder of **CATHERINE SKELLY**, at Newtown, on the 8<sup>th</sup> May last, by beating, bruising, and kicking her. There was also a count charging the offence as manslaughter.

The Solicitor-General, in opening the case, stated that the prisoner and deceased had cohabited together, were much addicted to liquor, and were both intoxicated when the deceased lost her life. He then called the following witnesses:-

**HENRY HUNTER**, deposed:- I am a house-carpenter, and reside about three-quarters of a mile from the prisoner; about the beginning of May I saw the prisoner and the deceased at Kelso's public-house, at about four in the evening; we were all drinking there, and we all went homeward; I parted with them at the slip-pannel leading to their hut, at about half-past six; they were both in liquor, the woman was so drunk that she fell; I did not see anything more of them until the next day, when I saw her dead at the inquest; I should not have recognised her had I not been told that it was her.

**MARY LYNCH** deposed: I knew the deceased; **HASSALL** took me to her hut, between seven and eight o'clock on Monday morning; he told me she was dead in bed; the prisoner was there; when I said, what will become of us? And Hassall said to me, "never take a glass of rum." The prisoner said he wanted a constable, and Hassall went for one: while he was out I asked him how it happened, when he said he and she had been from home on the preceding evening, that when he returned home he flung himself down on the bed, and awaking through the night, missed her from the hut, and hearing her moaning he called to her, but she did not answer; he then struck a light and went out to look for her, when he found her lying insensible on the ground; he then carried her in and bathed her stomach to recover her, without effect.

Cross-examined: He appeared very sorry about her death, and wished it had been himself instead of her. The deceased was much addicted to drink.

**JOHN HARRIS**, constable, deposed: that when the prisoner was apprehended, he admitted having beat the deceased, and said he was afraid he had beat her too much, and that it was a bad job; I took him into custody, and after we were a little way from the hut he requested me to turn back and let him have a last look at her. I did so, when he turned down the clothes and kissed her; after which we left the place. After leaving him safe, I searched about the place and found this twig, with spots of blood

on it, between the hut and the fence – it was near two stumps; there was no blood on them. I also found this waist coat, belonging to the prisoner, with these spots of blood on it. Close by where I found the twig I saw marks of blood on the ground and also marks as if people had been struggling.

In putting the case to the Jury, His Honor lamented that his oath as a judge would not allow him to relieve them from considering how far the evidence was applicable to the major charge in the information, but he left it to them. He afterwards adverted to the evils which the use of intoxicating liquors were daily inflicting on the community, which he said were such as to induce every well wisher of our species to desire that they were banished from our land, although he was not one of those who was at all inclined to lessen the comforts of the working classes, but when they day after days saw the evils which liquor was causing, and the crimes which it gave rise to, they could not avoid regarding it as the source of many of the crimes which prevailed amongst us.

The Jury retired for upwards of an hour, and returned a verdict of manslaughter against the prisoner.

His Honor, previous to pronouncing sentence on the prisoner, addressed him in a very powerful manner on the enormity of his offence, alluding to the immoral manner in which he had been living with the deceased, and the degrading condition to which he had brought himself by indulging his sensual appetites; and earnestly implored the by-standers to take warning from his fate. He also informed the prisoner, that the Jury had taken a most merciful view of his case; and he was happy that, by their verdict, they had relieved him from passing the last sentence of the law upon him. He appeared as an awful example of the result of a vicious course of living, and ought to be grateful that he was not a spectacle suspended between heaven and earth. His life had been spared, and he earnestly conjured him to reform his course of life, in whatever condition of life he might spend the remainder of his days. He was then sentenced to be transported for the period of his natural life.

**DISTRESSING ACCIDENT.** - A fatal accident occurred on Monday, near Girard's Wharf, through the indiscreet use of fire-arms. The Steward of the *Seahorse* and a seaman named **DUNCAN**, having been sent on shore to borrow a pair of muskets, were returning, each carrying his piece, when they met another seaman named **PIDDELL**, belonging to the vessel, with whom Duncan was on terms of the greatest intimacy. - Some "skylarking" ensued, when Duncan in a frolic presented the gun, and drawing the trigger without being aware of its being loaded, shot the unfortunate man through the head, a little above the right ear. The young man expired almost instantly. Duncan, in a state of distraction went and delivered himself up to the police authorities, but on an inquest afterwards held, a verdict of accidental death was returned, and the innocent cause of the accident was released.

EDITORIAL: re **POWELL** trial and Mr. Justice Burton's remarks.

TEETOTALLER, 1/29, 23/07/1842

NEWCASTLE.

Last Saturday week, a corporal of Her majesty's 99<sup>th</sup> Regiment having gone in a state of intoxication into a night auction, held at Groves's hotel, some of the persons present knocked his hat over his eyes; upon which a fight commenced. The man was dreadfully beaten, and has since died from the wounds he received. A Coroner's inquest has been held on the body, and a verdict of wilful murder against some person or persons unknown, returned. This is the second person killed in this public-house,

within a few months. The public-houses in Newcastle are kept open all day on Sunday. The authorities are not so strict as in Sydney.

TRAGEDY

... Another has been sentenced to be transported for life for killing the woman who lived with him as if she were his wife, while in a state of intoxication.

A publican has been sentenced to be transported for fourteen years for killing a man on the Liverpool road, while in a state of intoxication.

A man was so severely burned a short time ago, in consequence of a burning tree falling on him, that he died of the injuries he received; he laid down at the root of the burning tree, while in a state of intoxication.

... We have great pleasure in transferring to our columns the admirable speech of the Chief Justice, when passing sentence on the publican **KERR**. These are not the sentiments of an enthusiastic teetotaler, but the opinions of the highest judicial authority in the land; and they are worthy of an attentive perusal. –

**JAMES KERR**, you are to receive the judgement of this Court, having been found guilty of feloniously killing and slaying **WILLIAM FROST**, otherwise **JONES**.

A jury of intelligent citizens, many of whom were not only of the same rank, but of the same vocation in life with yourself, felt themselves constrained by the weight of evidence to find you guilty. Their verdict is satisfactory to the Court. Everything that zealous counsel, learned in the law, could do, was done in your behalf, to persuade the jury that the death of the miserable man, whose life was so suddenly cut short, was from pure *misadventure*. The verdict of the jury negatives that conclusion, they doubtless gave full credit to the testimony of the witness **SCOTT**, and believing it as I do to be true, and coupling it with other indisputable circumstances in the case, it exhibits another lamentable indication of the utter recklessness of human life with its fearfully engendered in this colony by demoniacal habits of intemperance.

Your case is, however, marked by circumstances of high aggravation. You had administered the maddening poison to the deceased – and drinking of the same cup, you placed yourself and your victim on the same level of brutal abandonment. But this is not all. The detestable vice of gambling was added, and seemed indeed but the forerunner of that prostration of reason which ended in the tragedy of the 9<sup>th</sup> April.

The facts proved on your trial, must, in the judgement of all dispassionate persons, who heard them detailed, disentitle your conduct to any very lenient consideration. What topic could reasonably be urged in favour of a licensed publican, instead of administering to the reasonable refreshment of the wayfaring traveller, decoying his guests by gambling into the indulgence of another vice in its train, bringing the fearful crime of blood-guiltiness? It may be, that such scenes of profligate debauchery, of which your house was the den on the day in question, are not of frequent occurrence in the road-side inns of the Colony; but there is too much reason to fear that much of the robbery of masters by their servants is cherished, and the reckless plunder of working-men of their hard earnings, notoriously perpetrated, by the temptation to profligate drunkenness, held out in these hospitiiums of intemperance.

I have fully communicated with my brother Judges on the circumstances of your case, and they confer (sic) with me in thinking that it is one which demands a severe example.

It is not the ordinary and all but too common case of drunken men quarrelling with each other, and working themselves up to an utter carelessness of life, but that of a publican, himself the guilty mover in that cause of excitement, which has ended so fatally. In your conduct there was something of deliberation. The entering of the house for the gun, and the exclamation, that if the deceased did not come back, you

would bring him back; and your subsequent threat to Scott, that if he meddled, you would serve him in a like manner, are circumstances which would seem to gainsay the high character for peaceableness and humanity, given to you by the witnesses.

In every view of your case, it is one which demands exemplary punishment, and involving a solemn warning to licensed dealers in that liquid fire which consumes the sentient faculties, and leads its victims on while it levels them to the grade of vicious animals of the desert.

A petition, numerously signed, and even by the jury who pronounced you guilty, has recommended you to mercy. The Judges have a solemn duty to perform as conservators of the justice of the country, and however agreeable it might be to them in discharging their higher functions, to yield to the dictates of human sympathy, yet they cannot shrink from the stern demands of justice, in a case where the interests of the community require a warning example.

Giving full effect to every topic which could be urged in your behalf, the Court, after deliberate consideration of the whole case, is bound to award that sentence which public justice demands – and that sentence is, that you be transported for fourteen years.

SUPREME COURT – CRIMINAL SIDE: Trial of **JAMES KERR** for the manslaughter of **SCOTT @ FROST**. [p.2]

COL. OBSERVER, 45, 27/07/1842

Great fears are entertained of a man having lost his life in attempting to cross the Wollondilly in the neighbourhood of Goulburn on horseback, a horse with saddle and bridle having been taken out of the river. The horse has not been identified. Several others have had a narrow escape.

COL. OBSERVER, 47, 03/08/1842

INQUESTS. - On Saturday last and inquest was held at the Star public-house, corner of Phillip and Hunter-streets, on the body of **G.C. MOLE**, who had destroyed himself on the previous day by swallowing a quantity of arsenic. It appeared that the deceased had come to this colony from South Australia, and, being unsuccessful in obtaining a situation as a clerk, his spirits had become so depressed as to lead to the rash act of taking away his own life. He was a native of Birmingham, and received a most excellent character from those persons who had known him since his arrival here. He left a will, with a list of his property, and requested his executors to defray out of it the costs of his funeral. On examining his box, three sovereigns and twelve shillings were found in it, besides an ample supply of clothing.

Another inquest was held at the same time and place on the body of **JOHN MAHON**, a prisoner of the crown, who had been sent dead from Cockatoo Island to the General Hospital on Friday morning. It appeared that the deceased had died of apoplexy; and it having come out during the inquiry that there was no surgeon on the Island, and that the only opportunity afforded for a surgeon visiting there was a boat two days in a week, the jury requested the Coroner to communicate to the proper quarter their unqualified disapprobation of such parsimonious conduct on the part of the government, which the coroner promised to do at the earliest opportunity.

TEETOTALLER, 1/30, 03/08/1842

INQUEST. - On Saturday last, an inquest was held at the Star public house, on the body of **G.C. MOLE**, who had destroyed himself on Friday by swallowing a quantity of arsenic. It appeared that the deceased had come hither some months ago from

South Australia in search of employment as a clerk, and being unsuccessful, that circumstance so preyed on his mind, that he eventually committed the act which led to this enquiry; he left a will, with a list of his property, and requested his executors to defray the expenses of his funeral out of the sale of the same. The deceased was a native of Birmingham, aged twenty-six years, and received a good character from those who had known him since his arrival. On examining his boxes, three sovereigns and twelve shillings were found in them, besides an ample supply of clothing.

INQUEST. - An inquest was held on Saturday week, on the body of a man named **WARNE**, formerly residing in Cumberland-street. It appeared from the evidence, that the deceased was addicted to the use of spirits, by which he had destroyed his appetite, and induced diseases common to the use of spirits, and ultimately death. Verdict – Died from natural causes induced by Intemperance.

INQUEST. - An inquest was held at the house of Mr. Driver, the Three Tuns, corner of Elizabeth and King-streets, on Tuesday. The inquisition was upon the body of a woman named **ELIZA RICHARDS**, who died in the hospital on Sunday week. This was the unfortunate creature who had both her legs broken by the wheels of a dray on the Parramatta road on Tuesday the 12<sup>th</sup> instant. It appeared from the evidence that the woman and her husband, an elderly man, named **JAMES RICHARDS**, were on the 12<sup>th</sup> instant riding upon a dray, both of them being in a state of intoxication, when they quarrelled and struck each other. The man who was driving the dray was also drunk. Some persons on the road called out to the man not to beat his wife, and he desisted. The dray went on, and shortly after the woman was heard to scream, and, on the dray being stopped, both her legs were found to be entangled in the wheel, and broken; she was conveyed to the general hospital, where she lingered until Sunday week. Dr. **HARNETT** certified that death was caused by the injuries in the legs, one of which had been in a state of mortification for some days previous to her death. The following statement, on oath, was made by the woman to Mr. **MILES**, Superintendent of Police, on Friday, the 15<sup>th</sup> instant: **ELIZA RICHARDS** states on oath, that on Tuesday evening, (the 12<sup>th</sup>,) she was returning home with her husband, James Richards, from Sydney to Major Druitt's, near Penrith. The driver of the dray was nearly drunk, his name was Coates; he is a servant to Mr. Paul, beyond Penrith. Eliza Richards further states that she was on the dray with her husband, who was drunk. They quarrelled, she asked him for the money he had; he had never struck her before; he struck her several blows, and her legs got entangled between the wheel and the side of the cart; she called out to the man to stop the cart, but he did not; the man was drunk. Her husband, on seeing her leg entangled, shrieked, jumped down, stopped the horses, and moved the wheel back to extricate her legs. A constable came up, and deponent was brought to the hospital, and the husband was taken into custody.

After the evidence had been heard, the coroner briefly addressed the jury, pointing out the law as it related to murder and manslaughter, and stated that the present case did not come under either of these heads, as it was clear that the woman had not died from the blows received from her husband, but from the mortification which had arisen from the injuries upon her legs; and it further appeared that she had accidentally slipt between the wheel and the side of the dray after her husband had left off beating her. He was therefore of opinion that death had been caused by misadventure, but he left it to the jury to consider their verdict. The jury almost immediately returned a verdict of accidental death, and the unfortunate man Richards,

the husband of the deceased, after receiving a suitable admonition from the coroner, was discharged.

COL. OBSERVER, 48, 06/08/1842

INQUESTS. - There were seventeen inquests held before **J.R. BRENNAN**, Esq., coroner for Sydney, during the month of July; of this number two committed suicide under temporary insanity, one died of apoplexy, five were accidental deaths, one was drowned, one was a still born child, six died from natural causes, and one was accidental homicide.

COL. OBSERVER, 50, 13/08/1842

INQUEST. - On Saturday last an inquest was held at Le Burn's public house, Parramatta-street, on the body of a female infant, which had been found on the previous day, near the bottom of Bathurst-street west, wrapped in a piece of old canvas. Surgeon **CUTHILL**, of the Benevolent Asylum, having made a *post mortem* examination of the body, gave it as his opinion that the infant was dead before birth, and the jury accordingly returned a verdict of still born. Every endeavour had previously been made to discover the mother, but without effect.

COL. OBSERVER, 51, 17/08/1842

ACCIDENT. - On Saturday last, as a man driving a cart with a load of wood, by Crampton's Family Hotel, at the corner of Margaret-place and Kent-street, the cart upset and fell upon him, severely crushing him. The man was instantly released from his position, but was removed in a frightful condition. We understand that he has since died.

TEETOTALLER, 1/32, 17/08/1842

GOULBURN

There was an inquest held at Pomeroy on the 30<sup>th</sup> ult., on the body of **MARTIN HASSETT**, a ticket-of-leave holder, in the employ of Messrs. Moore and Gwynne, he was missed on the 13<sup>th</sup> June, on which day, he had gone to Goulburn, as was supposed, to get some money, which he thought had been left there for him. On his return in the evening, he called at a hut about two miles from his master's where he and others had liquor; he left the hut about 11 o'clock that night, considerable intoxicated, with three other men, but after going about a mile was missed by them, and nothing more was heard of him till 29<sup>th</sup> July, when the body was found in a large water-hole, near the place where he was last seen alive. Several witnesses were examined, but nothing elicited from which the jury could draw a satisfactory conclusion as to the cause of death. Dr. **CARTWRIGHT** made a *post mortem* examination, and found a swelling on the top of the head, with corresponding marks under the scalp, and immediately under the skull; he believed these appearances had been produced by external violence prior to death, but could not swear that they were sufficient of themselves, to cause it. From the decomposed state of the body, he declined giving positive evidence on this point. During the examination of one of the men in custody, he gave his evidence with undue deliberation, and in cross-examination equivocated so much, that it excited a suspicion that the deceased met his death by violence. It will be remembered, from a previous communication, that this affair arose out of a sly grog-selling, and that, we then supposed it would furnish work for the Supreme Court, and yet suppose there will be more of it, for we fear very much, the real merits of the case are at present unknown. The following is the verdict

returned, after a lengthened investigation:- "Found dead in a water-hole, but that there was no evidence to shew how he came by his death."

COL. OBSERVER, 53, 24/08/1842

DROWNED, on the 19<sup>th</sup> June last, while crossing the mouth of Lake Illawarra, Mr. **JAMES INNES STEVENSON**, late of the firm of Stevenson and Magny, Merchants, Sydney. His remains were found on the 7<sup>th</sup> instant.

TEETOTALLER, 1/33, 24/08/1842

PARRAMATTA

FUEL FOR THE FIRE OF TOTAL ABSTINENCE

This day, (August 13,) a man assigned to Messrs. Byrnes died suddenly; he had been a hard drinker. During the day he died he had been drinking; he was drinking raw rum when he fell down. A post mortem examination was made by surgeon **GWYNNE**; he found in the ventricles of the brain a quantity of fluid, which smelt as strongly of rum as a rum puncheon.

On the same day, a man of the name of **CLARKE**, while returning from Parramatta to his residence at the Pennant Hills, drunk as was his usual custom, was killed by the upsetting of the cart on his body. He has left a wife and large family unprovided for.

ABSTRACT OF RETURNS ON INQUESTS, 1840 & 1841. Table.

TEETOTALLER, 1/34, 31/08/1842

INQUEST. - An Inquest was held a few days ago, on the body of a woman [**ELIZABETH MANUEL**] residing in Queen's Place, who hung herself in a state of intoxication. She has left six children unprovided for. The inquest was held at the Crooked Billet, the nearest public-house.

TEETOTALLER, 1/37, 21/09/1842

A FACT FOR THE CONSIDERATION OF LADIES

On Wednesday last, an inquest was held on the body of **MARY PARSONS**, who was reported to have been killed by a blow she had received from a woman named **BOLTON**. A post mortem examination had been made of the body. The Surgeon, Dr. **RUSSELL**, deposed, that the death of the deceased had been caused by habits of Intemperance - verdict, died from Intemperance. Bolton was in custody, having been sentenced to the cells for drunkenness; she was returned to the cells to finish her term of imprisonment. Ladies of Sydney, this is the second female upon whom a similar verdict has been returned within the last fourteen days. The inquests on each where (sic) held in a public-house, the sign of one of them was the 'Labour in Vain.'

TEETOTALLER, 1/38, 28/09/1842

INQUEST. - On Wednesday last, an inquest was held on the body of a woman which was discovered in the water on the Grose Farm. From the appearance of the body, it is supposed, that it had lain upwards of fourteen days in the water. Mr. **CUTHILL**, surgeon, deposed, that from the appearance of the body, it was probable that the death of the woman had been caused by holding her head down in the water, till suffocation had taken place. A verdict of Wilful Murder against some person or persons unknown, was returned.

WINDSOR

An inquest was held on the body of **JAMES MEEHAN**, who was undergoing the punishment of one months' imprisonment for drunkenness and assault. Verdict – apoplexy, induced by habits of intemperance.

**PATRICK'S PLAINS**

On the 25<sup>th</sup> ult., ... A few days since, a man named **LYNN** having mounted his horse when in a state of intoxication, was thrown, whereby his neck was broken.

TEETOTALLER, 1/40, 12/10/1842

INQUEST. - An inquest was held on Saturday, at Park House, Park-street, on the body of Mr. **FREDERICK NICHOLSON**, who had destroyed himself, by cutting his throat, on the previous evening. It appears that the deceased, some days before, had been under the care of Dr. **LITTLE**, for *delirium tremens*, caused by intemperance. The jury returned a verdict that the deceased had destroyed himself while labouring under temporary insanity. The deceased was most respectably connected, having been a lieutenant in the army, but had sold out prior to his arrival at this colony, in which he had arrived about six weeks ago. A few days prior to the perpetration of the rash act which deprived him of existence, he had requested Mr. **W. WILLIAMS**, attorney, one of his fellow-lodgers, to prepare a will for him, leaving considerable property to his relatives, which he duly executed in favour of his brother, Captain **NICHOLSON**, of the Grenadier Guards, leaving Mr. **MUNROE**, of the R.N., executor.

TEETOTALLER, 1/42, 26/10/1842

**GOULBURN**

There was an inquest held this day, (October 18,) at the Goulburn Inn, on the body of **WILLIAM CLOUT**, who was found floating, yesterday morning, about seven o'clock, in the large water hole adjoining the Brewery. It appeared in evidence, that deceased had been to the races on the 4<sup>th</sup> instant, where he got intoxicated, and in returning home staggered into the hole in which he was found, in the neighbourhood of which he had been left by an associate. Deceased was a young man, twenty-two years of age. Verdict, "found drowned."

TEETOTALLER, 1/43, 02/11/1842

WATER POLICE COURT – SATURDAY. - A seaman, belonging to the 'William Fulcher,' who attempted self-destruction, and had been given into custody for safety, was ordered to be sent to the hospital. The case had arisen in drunkenness. It appeared that on the preceding night, about eleven o'clock, this sailor, named **JOHN BYRNES**, being then under the influence of liquor, on board his vessel, took a razor and cut his left arm a little above the wrist, and also a little above the elbow, upon which he flung the razor overboard, and seemed determined to be bled to death; the Water Police were sent for, and Byrne placed under their care; he was taken to Dr. **M'KELLAR**'s, where the wounds were bound up, after which he was lodged in a cell in Harrington-street watch-house until the morning, when he was brought up and forwarded to the hospital to remain till his wounds are healed.

**ACCIDENT.**

A fatal accident occurred in the immediate vicinity of Windsor, on Monday morning, the 24<sup>th</sup> ultimo. As **JOHN TREASURER** and **JOHN SHERING**, both in the employ of Mr. **ROUSE**, were returning to South Creek, Treasurer unfortunately met his death in the following manner:- On their way homeward, at what is called the Second Hollow, on the Brickfields, the wheel of the cart came in contact with a

stump, which overturned it, and falling upon Treasurer, who was sitting on the rail, caused almost instantaneous death. Shering, who was inside, was buried under the cart, and although at first stunned, shortly recovered so far as to disengage himself by unfastening the tail board, when he lost no time in giving the alarm. Immediately on receiving the information, the chief constable repaired to the spot, and having ascertained that life was extinct, placed one of his corps in charge of the body. An Inquest was held on Tuesday morning, at the Commercial Hotel, when the Jury after viewing the deceased and hearing the evidence, returned a verdict of "Accidental Death." Dr. **STEWART**, who made a *post mortem* examination, certified that Treasurer had died from dislocation of the neck. Several witnesses swore that on the evening in question, the unfortunate man was perfectly sober, and his general character seems to bear out that testimony; but to his incaution may, in some measure, be attributed the catastrophe, he having placed a quantity of wood on one side of the cart, while there was nothing to counter balance the weight on the other. The night was dark and boisterous.

**INQUEST.** - An Inquest was held on Saturday, at the Liverpool hospital, on the body of **CATHERINE HUGHES**, who died that day from the effects of fire; her clothes having ignited on the Thursday previous while lighting her pipe at the kitchen fire of the Dove Inn, on the Liverpool road. The inquest was adjourned on account of the absence of several material witnesses, [Haven't found the continuation.]

An inquest was held on Monday, at le Burns public-house, Parramatta-street, on the body of a man named **JAMES RAM**. From the evidence adduced in this case, it appeared that the deceased had been a man addicted to intemperance, and had been in a state of almost continued intoxication for several days previous to his death, and as by the testimony of the surgeon, it appeared evident, that this disorderly habit had been the cause of the sudden disease (sic); a verdict to that effect was returned.

**TEETOTALLER**, 1/45, 14/11/1842

**ATTEMPT AT SELF-DESTRUCTION.** - On Sunday, a man named **MICHAEL M'CARTHY**, attempted to cut his throat with a razor, on Johnson's bridge, Parramatta. He was seen by a constable who went towards him to prevent him, he ran away, followed by the constable, who succeeded in capturing him near the Old Toll Bar. On being asked where he was going he said, to the new Gaol to be hanged! Being under the influence of liquor, he was confined. On his examination at the Police Office on Monday, it appeared that he had, for several days, been under the influence of liquor.

**TEETOTALLER**, 1/46, 23/11/1842

**INQUEST.**

On Monday an Inquest was held on the body of **WILLIAM GILL**, formerly landlord of the Brougham Tavern, corner of Brougham -place. In the absence of the Coroner, the enquiry was conducted by Captain **INNES**. Mrs. Gill deposed, that early on Sunday morning she heard a noise in the room in which her husband slept, a different room from her own; that she went to the door, and by the light of the moon, she saw him standing with his back to the window, his two hands resting on the bed, and a stream of blood issuing from his throat or nose, she could not tell which. She ran and called her neighbours and Dr. **BLAND**, after they came she did not return to the room; she had had no words with him that day, except that he charged her with taking money out of the till, and he showed her four notes and said, here is four pounds, all that I have taken this week. She told him that she had only taken three pounds, the

notes which he said were only four pounds, were a ten, a five, and two one pound notes; her husband was addicted to drinking.

Mr. **LEFTWICH** was called up early on Sunday morning by Mrs. Gill, who told him that her husband had cut his throat; he immediately went into the house, when they obtained a light, the body was discovered lying under the window alongside the bed. Mr. Gill and his wife were always quarrelling. He had told him a few days ago, that his wife had tried to stab him, and had shewn him his waistcoat cut right through.

Dr. **BLAND** was called in to deceased, found him quite dead, lying under the window with his throat cut on the left side, the wound extended downwards from the angle of the jaw to the windpipe, which was cut quite through; it was his opinion, from a consideration of all the circumstances, that the wound was inflicted with his own hand.

An assistant of Mr. **FOSS** gave similar evidence to Dr. Bland, as to the position in which the body was found. Mr. **FERNHEAD** had known deceased for some time, he was latterly talking of becoming insolvent, from which believing him to be a man of property, he considered that he was not of sound mind; he had a great deal of property.

A woman occasionally employed as a servant was next examined; the last time she saw him was on Saturday night, about eight o'clock, he had been drinking a little; he wanted to know what he was to do under the following circumstances. He had been drinking for some time past, and about a month ago **JOHN RYAN BRENNAN**, Esq., one of the Police Magistrates, came to his house and administered the *pledge* to him; he now told the woman that he had broken the pledge, that the people next door had found him out, and that they were going to get a warrant for him, and he should be transported for seven years for breaking the pledge. Cross-examined; he often used to accuse his wife of taking his money, stating sometimes that it was £300 she had taken, and sometimes £500.

Mrs. Gill's daughter was examined, but her evidence was of no importance.

Captain Innes ordered strangers out of the room, while the jury considered their verdict, when we got outside, we heard some one in the crowd ask if it was all right. The door was opened in about two minutes, when the strangers were re-admitted. Captain Innes said – Gentlemen, are you agreed upon your verdict? – The Foreman of the Jury, a publican, said, Yes. Temporary Insanity.

Besides the publican who was the Foreman of the Jury, there was another who keeps one of the worst houses in Sydney; there were only two respectable men on the Jury, besides the two publicans, some of the remainder we know to be worthless characters.

TEETOTALLER, 1/48, 07/12/1842

INQUEST. - An inquest was held on Monday at the house of Mr. Driver, corner of King and Elizabeth-streets, on the body of a female infant about two months old, name unknown, which was found in the Domain, near Fort Macquarie, on Friday last, with a handkerchief round its neck. The colonial surgeon, who had examined the body of the child, stated his belief that it had been suffocated; and the watchman of the Domain stated that he observed a woman with a bundle on Thursday evening near the place where the body was found, to whom he spoke, but she returned no answer; he would not know the woman again. The jury returned a verdict of "Wilful murder against some person or persons unknown."

TEETOTALLER, 1/50, 21/12/1842

INQUEST. - An Inquest was held on Thursday, on the body of a woman [**MARY MACDONALD**] who met his death under the following circumstances. She was serving at the bar of a public-house on the Parramatta road, before breakfast time a man [**THOMAS CAVEY**] came into the house, and requested that he might be served, seeing that he was in a state of intoxication, she refused to serve him; when excited by the liquor which he had drunk, he beat her in the most cruel manner. It was proved that her death was caused by the injuries she had received. A verdict of Wilful Murder was returned, and the Coroner issued his warrant for the apprehension of the man, who has disappeared from the neighbourhood.

TEETOTALLER, 1/51, 28/12/1842

STONEQUARRY.

A man named **ALFRED DARLING**, assigned to Mr. **THOMAS INGLIS**, at the Oaks, was committed on Saturday, the 17<sup>th</sup> instant, after a long examination, for the murder of a man named **PENNY**. As usual, the rum bottle was the cause of this man's death. A number of the people had been drinking in a house on West's farm, occupied by **JOHN RICHARDS**, who holds a clearing licence, when a quarrel ensued, in which Penny lost his life. It was proved that Darling had repeatedly jumped on the breast of the deceased, and struck him also; it was at first reported that the man had been struck by lightning, and he was interred at Redbank without any enquiry or inquest. Information was however given to the police, and several people were apprehended; the body was disinterred four days after burial, but it was in such a state of decomposition, that nothing could be elicited.

SYD1843

MAITLAND MERCURY, 01/01, 07/01/1843

DESTITUTION. - On last Monday week an aged man named **JOSEPH SAMPSON** was found in the bush at the back of Mrs. Muir's Family Hotel East Maitland, by a constable; he was perfectly helpless when discovered, and appeared to have been for some time in a state of the utmost destitution, his beard having grown to a great length, and his clothes being very tattered. He was removed to the Benevolent Asylum, and placed under proper treatment; he appears now to be in a fair way for recovery.

TEETOTALLER, 2/53, 11/01/1843

INQUEST. An inquisition was held on Monday, in Mr. Armstrong's public-house, South Head Road, on the body of **JOHN COOPER**, well-sinker, who had lost his life on Friday last, while sinking a well at Brereton's cottage, on the Surry Hills, by the earth closing in on him. Surgeon **CUTHILL** having examined the body, deposed, that death had been caused by suffocation; and a verdict to that effect was recorded.

Another inquisition was afterwards held at Hooper's public-house, opposite the Custom House, on the body of **CHARLES TAYLOR**, who had been for some days before employed as a cook on board the *Benares*, lying at Campbell's wharf; from the evidence adduced, it appeared that the deceased was in liquor on Sunday last, and happening to go forward, had fallen over the bows of the vessel; his body was recovered in about fifteen minutes, and every prescribed means employed to restore animation, without effect. Dr. **M'KELLAR** having certified that death had been caused by drowning, a verdict to that effect was returned.

MAITLAND MERCURY, 01/02, 14/01/1843

THE MURDER CASE. - We understand that there are twenty-four witnesses for examination on the trial of **WILLIAM ROTHERY** for the wilful murder of **MARY ANN FINCH**, at the ensuing Maitland assizes; several of whom were on Tuesday and Wednesday last bound over to appear when called on.

DEATH BY DROWNING. - A shocking accident occurred on Sunday last at Nobby's Island. Some of the prisoners stationed there were fishing with a line, which became entangled amongst the rocks and could not be got up again. One of the men named **JOHN BENNETT** (per Claudine) being a good swimmer, was so foolish as to plunge into the water for the purpose of disentangling the line, with his irons on. His companions thought he was a considerable time before he reappeared, and at length became somewhat alarmed; and after undergoing much risk to themselves in searching for him, they at length succeeded in getting him on shore, but not until life was quite extinct. By some means or other the line, which was a very strong one, had become fastened around the man's irons, and it required a good strong pull to break it. What makes the case still harder was the fact that the poor fellow was only within a few days of obtaining his freedom, his term of imprisonment having nearly expired.

SYDNEY NEWS

The Supreme Court sat today, and the convict **MACDONALD**, who effected his escape some time ago from Parramatta gaol, was tried, and found guilty of the murder of the turnkey, and sentenced to be executed.

TEETOTALLER, 2/54, 18/01/1843

SUPREME COURT

Thursday

(Before Mr. Justice Stephen)

**JAMES M'DONALD** was indicted for having, on the 4<sup>th</sup> December last, wilfully and maliciously assisted in the murder of one **ABBOTT**, turnkey of the Parramatta Gaol. The circumstances of the case have already been related in the public papers. On Sunday, the 4<sup>th</sup> of December, the man Abbott was endeavouring to confine a maniac in a cell; the man made much resistance, and the prisoner, with several others, ran up under the pretence of assisting the deceased, whom they afterwards overpowered and confined. They then seized the fire-arms of the gaol, and fired at the gatekeeper and turnkey, wounding the latter in the abdomen, from which he died on the 7<sup>th</sup> December. Three of the prisoners succeeded in making their escape, of whom the prisoner was one. A great deal of evidence was called, and it was fully proved, that although the prisoner was not the man who had actually shot the deceased, he was one of the men who escaped. The jury, without retiring, found a verdict of guilty, and sentence of death was passed.

#### INQUESTS

On Wednesday last, an inquisition was held in Mr. R. Driver's 'Three Tuns Tavern,' corner of King and Elizabeth-streets, on the body of **CHRISTOPHER CRANSLOW [CRANSHAW]**, who had been found lying dead on the North Shore, on Sunday the 8<sup>th</sup>. In consequence of several circumstances connected with the finding of the body, several persons were in custody. After the Jury had been impannelled, and had viewed the body, the following evidence was recorded:- **THOMAS REDGRAVE**, publican, residing at the North Shore, deposed:- I knew the deceased, he was at my house on Saturday evening last, and left my house in company with his mates about ten o'clock at night. There was a woman present; she was in my house with the deceased about half an hour. A man named **JARVIS** slept in the same room with the woman, but on a separate stretcher. There was no row between any of the party while they were in my house; I have been told that the woman's name is **OSBORNE**. About half-past one, on Sunday last, the man Jarvis came and told me that his mate was lying dead; I told him to report the circumstances to the constable, which he did; he also told me he thought the deceased had died from the heat of the sun. I accompanied the constable to view the body, and found he was quite dead; the woman Osborne left my house on Sunday morning, between seven and eight o'clock, and Jarvis left a few minutes after her. The woman Osborne was in liquor, and was lying near the body; I put down my hand to feel his pulse, and found his wrist hot; I could not stand the heat of the sun myself, it was so warm; I told Jarvis to throw some water on the woman to cool her; I did not see any marks of violence on the deceased nor did I see any blood on the ground where the deceased lay, nor near that place. The deceased came to my house about seven o'clock on Sunday morning for some sawyer's iron dogs; he told me he had lost his hat and coat, and that he had not been home since last night; he was a little in liquor when in my house on Saturday night, but he was not so in the morning; he left my house on Sunday morning in company with a woman named **DUNNE**; Jarvis and Osborne did not leave until after Dunne and deceased had left.

**JAMES ROACH**, assigned to Captain **M'LEAN**, deposed:- I saw the deceased at Redgrave's on Sunday morning; the woman Osborne was there (sic) also; it was about seven in the morning; I had been sent by the overseer for rations, I left the house in company with Mrs. Dunne and the deceased, he was carrying Mrs. Dunne's child, when I told her to take the child, as he was too tipsy to carry it safely; she then took it, and we went on and left him; I think the deceased had a glass of brandy with me at

Redgrave's on Sunday morning; there was no person in the tap room when I was there with him; I have heard the deceased complain of a shortness of breath, and he has been taken with cramps in the side in my presence; I heard him on Saturday fortnight complain of his heart; he was a pit sawyer; Jarvis and deceased had no quarrel neither had deceased with Osborne.

A *post mortem* examination of the body having taken place the following medical testimony was recorded by **PATRICK HARNETT**, Esq., colonial Surgeon:- I have made a *post mortem* examination of the body of the deceased, in conjunction with Dr. **M'KELLAR**. Considering all the appearances presented, I am of opinion that the man's death was caused by pulmonary apoplexy; and from the extent of it in both lungs death must have been sudden. Dr. M'Kellar having deposed that he coincided with the foregoing report, the Jury, under the Coroner's direction, returned a verdict that death had been caused by apoplexy.

The Coroner also held an inquest on Thursday the 10<sup>th</sup> in the afternoon, at Wilkie's 'London Tavern,' opposite the Post Office, on the body of Mr. **THOMAS DANIELLS**, who died in the watch-house at about 10 o'clock, in the morning. It appeared that Mr. Daniells, was formerly in business as a grocer, had of late given way to habits of intemperance, and that he had several fits of *delirium tremens*. On Monday night he went to the house of Mr. **ALEXANDER GREY**, publican, at the corner of Bathurst and Sussex-streets; he was then labouring under what are ordinarily called "the horrors;" he fancied that some person or persons had murdered Mr. **IRONSIDE**, formerly a friend of his, and that they were about to murder him. Mr. Gray, and Sergeant **SMITH** persuaded him that he would be safer under the protection of the police than any where else, and he went with them to the watch-house. There he was left in the care of the keepers of the watch-house, and they put him into a cell – as alledged at his own request. Constable **HAYES**, one of the keepers, swore that he saw him alive, and walking up and down the cell, at 9, a.m., yesterday morning; at a little after 10, when he was sent for to be brought before the bench he was found dead. It appeared also in evidence, that a person named **CLIFFORD** had gone more than once, after daylight, and had requested to be allowed to see the unfortunate deceased and to give him some breakfast, but had been refused by the keepers of the watch-house. A cut was found on the upper posterior of the head, which was accounted for by the fall which deceased must have had, from the position in which he was found. The inquiry before the Coroner occupied some two hours, and the Jury at length returned the following verdict – "That the deceased came by his death from the effects of a fall while confined in a cell in the watch-house, and while labouring under a fit of *delirium tremens*." The jury expressed a decided dissatisfaction as to the conduct of the keepers of the watch-house, more especially with regard to the refusal to admit the friends of the deceased to see him and give him refreshment; they also expressed their disapprobation of his having been put in a cell at all, as most of them knew him to be, even under the circumstances a most harmless and inoffensive being. The Coroner said that every inquiry should be instituted as to the conduct of the men before the proper authority, Mr. **MILES**, and that due notice should be given to the parties interested.

An inquest was held on Saturday at the Black Dog, corner of Frazer's Lane, on the body of **WILLIAM BOOTHIE**, when the following evidence was taken:- **CATHERINE WILLIS**, residing in Frazer's Lane, deposed:- I was in the house with the deceased for the last few days; deceased was in his proper senses, he had been drinking very hard for the last three months; he was unable to eat anything, he only drank; he died yesterday (Friday, the 13<sup>th</sup> inst.,) between one and two o'clock. Mr.

New South Wales Inquests, 1843; 24/03/08

**M. SALTER**, Surgeon, deposed:- I was called in to see deceased, when I found him labouring under “delirium tremens;” I had been attending him for a cut on the thigh; deceased’s wife told me he had drunk as much as twenty glasses of braw spirit in the day; I am of opinion that he died from exhaustion, the consequence of “delirium tremens.” **FREDERICK HARPUR**, surgeon, deposed, I have viewed the body of the deceased, and am of opinion that death was caused by “delirium tremens;” I have also examined the cut in the thigh, and find that it had nothing to do with the immediate cause of death. The jury, under the direction of the Coroner, returned a verdict, that the deceased died of “delirium tremens.”

MAITLAND MERCURY, 01/03, 21/01/1843

SYDNEY NEWS

Two constables were escorting two prisoners of the crown from Queanbeyan to Goulburn, and on Thursday night week stopped at Mr. Dwyer’s inn at Bungendore, where the constables very imprudently took the irons off the men, and agreed to watch by turns. At one time, both the constables being inclined for sleep, one of the prisoners seized the carbine belonging to the constable whose turn it was to watch, and shot him through the breast, wounding him so dreadfully that he died almost immediately. He was seized instantly, and has since been committed to take his trial for the murder.

SUPREME COURT

THURSDAY, JANUARY 12

*(Before Mr. Justice Stephen)*

**JAMES MACDONALD** was indicted for the wilful murder of **HENRY KINGSMILL ABBOTT**, at Parramatta, on the 4<sup>th</sup> December last. The prisoner was one of the convicts who on the day named in the indictment effected their escape from the gaol at Parramatta, after having shot the turnkey. The jury returned a verdict of guilty, and the prisoner was sentenced to be executed.

MAITLAND MERCURY, 01/04/, 28/01/1843

FATAL ACCIDENT. - On Sunday last, as Mr. Mann’s overseer, of Swan Reach, was riding through the bush, he came in contact with a tree with such violence that he was thrown from his saddle, and killed on the spot.

MAITLAND MERCURY, 01/05, 04/02/1843

MAITLAND MERCURY, 01/06, 11/02/1843

HORRIBLE OUTRAGE BY THE BLACKS. - On Saturday morning last, between eight and nine o’clock, two of the aboriginals called at an outstation of Mr. **R. SCOTT’S**, of Glendon, about seven miles from the house, and enquired for the shepherd; on being told by the watchman that he was after the sheep on the mountain, they asked the watchman whether he came to the colony an immigrant, or a prisoner, and when he replied that he came as a prisoner they said it was well for him, as prisoners were obliged to come here against their will, but the immigrants came of their own accord, to rob the black man of his land and gave him no food, and that they (the blacks) would pay them (the immigrants) off for it. They then took whatever they could carry off in the hut, and said they would have the two women who were there. Whilst the two black fellows were talking to the watchman the woman made their escape out of the back of the hut and ran into the bush to conceal themselves; each of the woman having an infant in her arms. When the blacks missed them they went in pursuit, and soon overtook one of the women, and were going to spear her,

when she cried out, "There are two horsemen coming after some cattle," which just then appeared in sight. The blacks stopped to look, and the woman fortunately escaped to the mountain. They soon afterwards came up with the other woman, whose name is **KEOGHUE**, and who had a child with her about three months old, and gave her several blows with a waddy, which left two deep wounds on her head and one on the neck. She fell senseless to the ground, and they mangled in a dreadful manner her child and a boy about nine years old named **CAVANAGH**, who happened to be at the station on a visit for a few days. Their mangled remains were interred at Black Creek on the following day. The poor woman was conveyed to Glendon, where every attention has been paid to her by Dr. **GLENNIE**, and she now appears to be in a fair way of recovering from the murderous attack.

The blacks, after this deed of blood, examined the mountain in every direction in search of the shepherd, who heard them cooeing for him not a hundred yards off, and who knew nothing of what had happened. One of the murderers is supposed to be the same who killed **MULCAHEY'S** children some time ago. The Glendon tribes are very indignant at the shocking affair, and are preparing to go in pursuit of these bloodthirsty savages; and we sincerely hope that we shall before long hear that the villains have been captured.

**ATTEMPTED SELF-DESTRUCTION.** - On Sunday morning last, about six o'clock, as the Rose steamer was coming up from Sydney, one of the passengers on board, named **WINTERS**, shortly after the vessel had left the heads of Port Jackson suddenly jumped overboard. Notwithstanding that the sea was running very high at the time Captain **PATTISON** stopped the engine, and a boat was instantly lowered, with the second mate and two sailors. After a long pull they happily succeeded in getting the unfortunate man into the boat almost the very moment that he had become exhausted and was sinking. The names of the second mate and the two seamen who thus nobly ventured their own lives to save that of a fellow creature are Mr. **HARDING, JOHN DAVIS, and THOMAS JOHNSON.** This is the second time that Captain Pattison, by his coolness and intrepidity, has been the means of rescuing a fellow creature from a watery grave: a circumstance which cannot fail to be gratifying to his feelings as a man.

#### **HUNTER RIVER DISTRICT NEWS**

##### **DUNGOG**

On Thursday week last, a little boy, about two years old, son of a clearing leaser named **JAMES GILL**, close to this township, strayed from home, and no tidings have up to this period been had of his mysterious disappearance, although his footmarks could be distinctly traced for nearly two miles, and his cap was picked up on a footpath, near to where his visible footmarks terminated. A strict search has been made, but no vestige of his remains has been discovered. There are divers opinions as to the manner in which the child met its end, some supposing that native dogs have destroyed it, others asserting that the blacks have fallen in with it, and devoured it. This latter opinion is too absurd to be entertained for one moment by any one who has the slightest knowledge of the manners and disposition of the all-but-civilised blacks of this river. The father and mother are in a state bordering on distraction, and they deplore the loss the more as this was their only son.

A few days ago one of the Australian Agricultural Company's overseers named **TITCOMB**, while in pursuit of some cattle, in company with his son, was attacked by a wild bull, and he and his horse were gored to death; the son escaped by getting up into the fork of a tree.

SUN, 1/3, 11/02/1843

ATTEMPTED SUICIDE ON BOARD A STEAMER. - A CORRESPONDENT of this days' *Observer*, says that "on Sunday morning, about six o'clock, as the *Rose*, steamer, was proceeding on her passage to the Hunter, about five miles from Sydney Heads, a passenger named **WINTERS**, suddenly jumped overboard." Captain **PATTERSON**, with becoming alacrity, instantly perceived the occurrence, and stopped the engines at some risk, the seas running mountains high at the time. The boat was lowered and manned under the superintendence of the two mates. After a long and dangerous pull the gentleman was brought back, rather the worse for a sound ducking, but providentially free from greater damage.

COUNTRY NEWS.

BERRIMA.

We are surprised to learn, that the woman **DUNKLEY** and her paramour were found in bed together by the Matron, a Mrs. **FOSTER**, of the Berrima Gaol. It may be remembered that these wretches perpetrated a most diabolical and cold-blooded murder on the woman's (**DUNKLEY**) husband some few weeks ago. It may also be remembered, that the old Legislative Council was continually protested against grants of money for the erection of this costly Berrima prison; yet, we learn, after all the cost it has been to the country, that such is the system of discipline pursued there, that an adultress and murderess and her accomplice are permitted, while awaiting their trials for the murder of the woman's husband, to have unlimited and unrestrained liberty in the body of Berrima Gaol! - There are no less than five cases of murder for trial at the next assizes, and yet such grossly improper laxity of prison discipline is tolerated.

CORONER'S INQUESTS. - An inquest was held on board H.M. Ship *Hazard*, on Wednesday, on the body of **WILLIAM TURNBULL**, who met with his death as follows:- The deceased was under arrest, on charge of theft; and, being accompanied by a marine, into the "heads," on the 5<sup>th</sup> instant, he seized the opportunity of throwing himself overboard, just as a steamer was passing and perished. The verdict of the jury was, *Felo-de-se*. A second inquest was held on the same day at the Rose and Thistle, on the body of a child fifteen months old named **THOMAS O'BRIEN**, who fell into a mash tub, and was smothered. Verdict, "Accidental Death."

WILFUL MURDER. - On Thursday morning a man named **JOHN CONDREN** was committed on the Coroner's warrant for the wilful murder of **JOHN CARPENTER**, by stabbing him with a clasp knife, during a quarrel at Tavenor's public house, on the 26<sup>th</sup> ultimo.

TEETOTALLER, 2/58, 15/02/1843

INQUESTS. - VERDICT OF WILFUL MURDER

On Thursday last, an inquest, summoned by the coroner to view the body of a man named **JOHN CARPENTER**, and to return a verdict as to the causes of his death, returned a verdict of wilful murder against **JOHN CONDRON**, and he was committed for trial on the coroner's warrant. It appeared that on the 26<sup>th</sup> ult. the prisoner and deceased were quarrelling in Taverner's public-house, when the prisoner inflicted a wound with a knife on the deceased, which ultimately led to his death.

ACCIDENTAL DEATH. - An inquest was held on the body of a bullock-driver, named **SMITH**, on Saturday; it appeared that he had been drinking freely, and shortly afterwards passing the turnpike-gate with his team, had fallen off the pole on which he was riding, and the dray had passed over him. The verdict was of course "Accidental Death."

MAITLAND MERCURY, 0107, 18/02/1843

DESTITUTION

A most deplorable object [**wife of Richard Bowers, see Maitland Mercury 1/21, 27<sup>th</sup> May, below**] has been for some time walking about this town; namely, a poor woman in a state of insanity, and almost of nudity. It appears she was some time ago sent to Newcastle hospital, but was returned, in consequence of that institution having been broken up by the government. It is a great pity that some place has not been provided where such unfortunate creatures might be taken care of; at all events, as this poor woman has a husband, he ought to be made to keep her in a decent manner until such time as something could be done for her. February 10.

SUDDEN DEATH.

On Monday last a man named **DENIS MALONEY**, gardener to Mr. **WYNDHAM**, of Dallwood, died very suddenly. He was at breakfast along with the rest of the men in good health, and was laughing and joking with them upon various matters; immediately afterwards he went to fetch a pot of water from the river; but as he was away a longer time than what his companions thought necessary some of them went in search of him, and found him laying on his face, speechless and insensible. He was conveyed into his own place and died almost immediately. His remains were interred at Black Creek on the following day.

SUN, 1/4, 18/02/1843

DOMESTIC INTELLIGENCE

ACCIDENTAL DEATH. - On Saturday last an inquest was held upon the body of a bullock-driver named **SMITH**, who, on leaving town with his team, fell off the shaft of his dray, upon which he was seated in a state of helpless inebriety, and the wheel passed over him.

MAITLAND MERCURY, 01/08, 25/02/1843

THE BLACKS. Follow-up story re Glendon murders.

FIGHT AMONGST THE ABORIGINES. As above.

HUNTER RIVER DISTRICT NEWS

WOLLOMBI

THE WOUNDED BUSHRANGER. [previous issue for details of capture] - On Wednesday evening the bushranger, **PATRICK BRUEN [BROWN]**, breathed his last, after a week's suffering from the time he received the gunshot wounds that caused his death. The neglected situation of this man, and the repulsive appearance which he presented during his last days of misery, tempts us to inquire what person had charge of him in his last illness? He was left to die without surgical aid, or any other save the casual attendance of the humane inhabitants, in a dilapidated bark hut, his bedclothes saturated with the drenching rain, and swarming with vermin. He was buried without any form of judicial inquiry.

HINTON.

DREADFUL ACCIDENT. - Early on Friday morning, the 10<sup>th</sup> instant, a shocking accident occurred on the farm of **GEORGE HILL**, Esq., of Wallalang, to a poor man named **THOMAS LEONARD**, who was assisting the feeder of a thrashing machine, and who while doing so incautiously set his foot on the top of the drum, where the board is so thin in all machines of this kind that it will not sustain the weight of a man. The board at once gave way, and Leonard's leg slipping in, it was mangled in a dreadful manner. Dr. **STREET** was immediately sent for, and in a few minutes he was in attendance, but finding that the poor man's leg was so dreadfully mutilated as

to render amputation necessary he sent for Dr. **EDYE**, of Maitland, on whose arrival the leg was amputated above the knee. The operation was performed in the short space of three minutes, and we are happy to say that the poor man is now doing well.

SUN, 1/5, 25/02/1843

CORONER'S INQUEST. - An inquest was held on Saturday, at Petty's Hotel, Church-hill, before Captain Innes, on the body of a soldier of the 80<sup>th</sup> regiment, named **ROBERT FROSDYKE**, a servant to Colonel **BAKER**, who put a period to his existence, in the kitchen of the Colonel's quarters, during a fit of temporary insanity, by blowing out his brains with his musket, while labouring under the effects of previous intoxication. Medical evidence having been taken as to the cause of death, a verdict was returned accordingly.

NEWS AND RUMOURS OF THE WEEK

An inquest was held at Le Burn's public house, on Saturday, on the body of a new-born infant, which was found, enclosed in a shell, in the burial ground on the previous Thursday. A *post mortem* examination was made by Surgeon **CUTHILL** of the Benevolent Asylum, from which it appeared that the child, although born alive, died from natural causes.

MAITLAND MERCURY, 01/09, 04/03/1843

MAITLAND MERCURY, 01/10, 11/03/1843

INQUEST. - On Sunday last the body of a man named **WILLIAM PORTER** was found in the river just below the Falls, in a rather decomposed state. An inquest was held upon the body at Mr. Reeves's, the Albion Inn, West Maitland, before **I.S. PARKER**, Esq., coroner. It was at first thought that some unfair usage had been given to the deceased, and suspicion attached to his wife, who had been in company with a bullock driver; but after a very lengthy investigation it was satisfactorily proved that the poor man had met his death accidentally, he having been seen on the evening of the 1<sup>st</sup> inst., and cautioned not to cross the Falls, which he persisted in doing. His wife was reprimanded by the coroner for her misconduct and then discharged, having agreed to go into service. The jury returned a verdict of "accidental death by drowning."

SUN, 1/7, 11/03/1843

CORONER'S INQUESTS. - On Thursday afternoon an inquest was held at Farris's public house, Windmill-street, on the body of a private watchman, at Gosling and Brown's Wharf, named **ANDREW GATELEY**, which had been found in the water, alongside the wharf, on the previous day. A man of colour named **JOHN ANTONIO**, cook of the *Victoria*, was taken into custody on suspicion of having murdered him, in consequence of an altercation which was overheard on the previous night, in which he was heard to say, "you old -----, you have often stopped me from coming through the gate, but I will have your life before long." Previous to this the deceased had been perfectly sober, until the carpenter of the *Victoria* arrived, when he and the deceased went drinking together. He was afterwards observed lying on the planks of the stage, one of which were deficient, in a state of apparent insensibility. When the deceased was discovered Antonio, who is an excellent diver, was requested to dive for the body; but he declined on the ground that, should any marks of violence appear on the body, he might be accused of smothering the deceased under water; consequently, a young lad, about sixteen years of age, an apprentice of Mr. Farris, gallantly stripped off his clothes, plunged into the water, and

recovered the body. Marks of blood were visible about the face and neck, and a very slight scratch on the side of the neck; but Dr. **HOSKING**, having made a *post mortem* examination of the body, pronounced it as his opinion that the deceased was suffocated in the water, and the jury returned a verdict accordingly. Antonio has since procured his discharge from the *Victoria*, alleging that, as the mate has been in the habit of getting drunk, and lying about, he did not consider himself safe in the ship, should any similar accident occur. The coroner has been much censured for allowing the body to remain so long, without holding the inquest, that the wife of the unfortunate deceased had to be in constant attendance upon the corpse, which was partially decomposed, to keep the rate from mutilating it.

TEETOTALLER, 2/62, 15/03/1843

INQUEST. - An inquest was held on Thursday last in Faris's public house, on the body of **ANDREW GATELEY**, night watchman on the wharf of Messrs. Gosling and Brown. It was at first supposed, that in consequence of the cook of the vessel and the deceased having had a quarrel in the early part of the evening, that he had been murdered, but the evidence of the carpenter satisfactorily explained the cause of the man's death. From the evidence it appeared, that about nine o'clock he was going on board perfectly sober, when a drinking bout commenced between him and the deceased, liquor having been first brought to the gate, of which the deceased partook; after which he went and drank several glasses of brandy. When he resumed, or attempted to resume his duty as night watchman, he was quite intoxicated, and was seen lying across the stage which connected the vessel with the wharf, either drunk or dead drunk. The body was subsequently found in the water, how it came there could not be ascertained; it is supposed that he had fallen off the stage. The jury returned a verdict that death was caused by drowning.

BERRIMA ASSIZES

A wife for the murder of her husband, has yet to be tried; ...

MAITLAND MERCURY, 01/11, 18/03/1843

MAITLAND ASSIZES

THURSDAY, MARCH 16

**THOMAS HIPPISSAN** was charged with the wilful murder of **WILLIAM PARKES**, at the Clarence River, in July last. The prisoner was undefended, but at the suggestion of the judge, Mr. **PUREFOY** and Mr. **PLAISTOW** undertook his defence.

There were five witnesses examined. The melancholy event arose unexpectedly, in a fit of drunkenness, the deceased Parkes being sworn to have been dead drunk, and the prisoner being intoxicated. The case was peculiar, inasmuch as just previously to the attack of the prisoner upon the unfortunate man, they had been good friends; and the former had some time previous saved the latter from drowning.

The judge addressed the jury at considerable length, and dwelt upon the various points of the evidence with great exactness.

The jury retired from the box for several minutes, and on their return delivered a verdict of guilty of manslaughter; and his Honor sentenced the prisoner to be transported for life.

FRIDAY, MARCH 17

**WILLIAM THOMPSON**, a soldier of the 80<sup>th</sup> regiment, was placed at the bar and indicted for the wilful murder of **MARY ANN FINCH**, on the 22<sup>nd</sup> November, 1842, by throwing her into Wallis's Creek, and thereby drowning her.

The Solicitor General conducted the case for the crown, and the prisoner was defended by Mr. **PUREFOY**.

The Solicitor General having stated the facts of the case to the jury, called a great number of witnesses, from whose testimony it appeared that the deceased was the wife of **JOHN FINCH**, butcher, West Maitland, and about twenty-four years of age; both herself and her husband were acquainted with the prisoner and his wife, he was in the 80<sup>th</sup> regiment, then at Maitland. On the day above mentioned the deceased left home about three o'clock in the afternoon, in company with the prisoner's wife, to go to the prisoner's quarters, the regiment being about to leave Maitland. A person named **MILLER**, who resides on the banks of the creek, near the road which leads to West Maitland by M'Donald's Point, had occasion to go to West Maitland by that road about eight o'clock on the evening of the day mentioned in the indictment, and when he had gone some 200 yards from his house, he saw a man dressed in dark clothes lying by the road side with a dog, which attacked him, and he went aside. On returning from West Maitland, in about a quarter of an hour, the man was still lying in the same position, and the dog by him still in the same place; when he got about 102 yards nearer home, he met a soldier and a woman arm in arm, the soldier was a rather tall man, and had on a red jacket and white trousers, going in the direct of West Maitland; they appeared to be drunk, but friendly; the woman had on a straw bonnet and redish coloured gown, and was carrying something in her left hand; he spoke to them, and told them to beware of a big dog and a man that was lying in the road, and the woman said never mind the dog. He then went home, and in about half an hour afterwards he heard screams and something said about the creek; he thought some one was in the creek, and ran to the fence, but as he got there the cry ceased, though he heard persons talking on the opposite side of the creek; he remained there for fifteen or twenty minutes, but saw no one pass.

**WILLIAM ROTHREY**, cabinet maker, West Maitland, had been in East Maitland that day, and returned home about eight o'clock in the evening through the scrub. In going along he heard a woman scream, and going into the bush in that direction he saw a woman and a soldier lying on the ground; he said, "Halloo, what game's this?" and the soldier got up; the woman said, "Oh Thompson, or Johnson, you have deluded me, take me home, you know my husband." Rothrey asked who her husband was, but she made no answer; he then asked the soldier if she was his wife or belonged to some of their men; the soldier replied that she belonged to one of their men; Rothrey said that was no place for them at that time of the night and he had better take the woman home; the soldier asked what he had to do with it, and he said nothing, but hearing the screams he came to see what was the matter; the soldier then struck him on the mouth with his fist; the woman appeared to be tipsy, and went away in the direction of East Maitland; she had no bonnet on. Rothrey then went on towards home, and when he had left the soldier and woman about a hundred yards he found a woman's bonnet near the footway, which he picked up and took home, and the following morning he gave it to the chief constable and told him what he had seen in the scrub. The soldier was dressed in white trousers and a red jacket, with a stripe on the arm, and a foraging cap, on which was the figure 80. The bonnet was produced in court, and Rothrey said it was the same he found. It was identified by the deceased's husband as her bonnet.

Several screams were heard by a woman named **CATHARINE PAWLEY** about half past eight that night, and she went out, and it was repeated, when attempts appeared to be made to prevent it; she heard the voices of two men and a woman on the opposite side of the creek, but it was so dark she could not see them, but she heard the woman say, "Thompson, Thompson, loose me; you know my husband." Mrs.

Pawley thought the men were ill-using a woman, and she called out that they must be hardened men to bring a woman into such a place as that at night, that the creek was right under them, and they had better go away; one of the men said something, but Mrs. Pawley did not understand what, and she replied that she knew their voices, and would report their conduct to the chief constable. The woman again screamed, and said "Thompson, take me home, you know my husband;" and one of the men replied, "Mary Ann, get up, the strange man is helping you home as well as me." Soon after the voices were heard lower down, and the two men appeared to be speaking to each other, when the woman said "Lord, I'm drowned," and immediately there was a splash, as of some body falling in the water; and the woman's voice was heard no more. Mrs. Pawley cried out "murder," and her husband ran off into the road to obtain assistance. Whilst he was away one of the men appeared to go to the water's edge, and Mrs. Pawley heard him say in a low voice, "It's all right." [Mrs. Pawley, her husband, and a woman named **M'CUE**, all deposed to the above circumstances.

The next morning the body of the deceased was found near the spot where Mrs. Pawley heard the splash in the water, without a bonnet, lying on her face, with her head towards Pawley's house; and, about fifty yards from that place, on the opposite bank to Pawley's, was found a soldier's kid, marked W.T. wrapped in a handkerchief that had belonged to deceased, and near it were footmarks, as if persons had been struggling, and the ground appeared as if some heavy body had been dragged along it for some distance.

The prisoner was at the house of Mr. Adams, the Black Horse, East Maitland, in company with a woman whom he called Mary Ann, and she called him Thompson. They staid until about half past eight o'clock, and then both went away; after nine o'clock he returned alone, with his hands dirty, and apparently scratched, and complained that he had got some splinters in his hands, and wanted Mrs. Adams to remove them, but she did not. The bonnet produced in court appeared to be the same as that worn by the woman when at Adams's. The prisoner came back to Adams's some time after they had heard of the woman being in the creek. Rothery called at the house the same evening, but he went away again before the soldier and the woman came.

The prisoner was apprehended at Morpeth going on board the steamer, by Mr. **WOOD**, the chief constable, on the same morning that the woman's body was found. He was asked by the police magistrate what had become of the woman, and he said he could give an account of her; he was going to West Maitland the bush road with a woman, and passed a farm house, and a constable met him, took the woman in charge and took her away, and that was all he knew of the matter.

The case for the prosecution having closed, Mr. Purefoy then addressed the court and the jury at great length, in an able and eloquent speech, in behalf of the prisoner, and called **JOHN GODKINS**, sergeant in the 80<sup>th</sup> regiment, who had known the prisoner for nearly eleven years, and gave him a good character as a quiet and well disposed man. On the night of Mrs. Finch being drowned the prisoner reported himself at the stockade five or ten minutes after the bell rang, which was usually about nine o'clock at night. He was not drunk when he reported himself.

Mr. **MOORE DILLON**, criminal crown solicitor, came out in the same ship as the prisoner, and had many opportunities of observing his conduct; he considered him to be a quiet and inoffensive man.

His Honor then summed up at great length, in a most luminous and impartial manner, presenting the case to the jury in every point of view. He observed that the evidence given by the Pawleys was of a most circumstantial kind, but it might easily

be reconciled with the hypothesis that the unfortunate woman had come by her death otherwise than by violence. He had particularly questioned the surgeon on that point, and that gentleman had stated that there were no marks of violence whatever on the body. There could be no question that the prisoner, or some other person, at the time Rothrey came up was taking improper liberties with the woman, and the conversation which took place between them might be that of the two men spoken of by the Pawleys. The woman then went away towards East Maitland, and it was possible that she might endeavour to hide herself from the person who had been ill-using her, and in so doing had come so near the steep bank of the creek as to fall into it. It was to be observed that she never uttered a cry the cry of murder, and there was nothing to indicate any attempt of the kind. It might also be reasonable supposed that the prisoner, missing the woman after Rothrey had gone, might think that Rothrey was a constable, and had taken her in charge; which accounted for the story he told to the magistrate. After his Honor had read over the whole of the evidence, and had recapitulated its chief points, the jury retired for twenty minutes, and returned a verdict of not guilty. The prisoner was then discharged, and the court adjourned, ...

HUNTER RIVER DISTRICT NEWS.

PATERSON

On Friday, the 10<sup>th</sup> instant, Mr. **SULLIVAN**, our chief constable, received information that **MELVILLE** and **HARRY**, two aboriginals for whose apprehension a warrant had been issued for the murders at Glendon, accompanied by another black, were concealed on Hog Island, in the Paterson river. He immediately proceeded thither, accompanied by constable **M'GEE**, and several ticket of leave holders; on approaching the island they were perceived by the blacks, who, on being ordered to surrender, raised their war whoop, and commenced showering their spears on the party. After an encounter which lasted nearly an hour the blacks were obliged to surrender. They were yesterday brought before the bench, and Melville and Harry were identified as being present near Bulwarra, aiding at the murder of a black boy, a servant of Mr. Boydell's, Allyn river; they were fully committed upon this charge, and will be forwarded to Maitland, to appear before Mr. **DAY**, on the charge of murdering the two white children at Glendon, and leaving the mother for dead. Melville is the most ferocious looking black I have ever seen in the country.

HINTON.

DEATH BY DROWNING. - On Monday last an inquest was held at Berry Park, the estate of **J. EALES**, Esq., before **J.S. PARKER**, Esq., coroner, on the body of **GEORGE ELDRIDGE**, who was accidentally drowned on Sunday morning while crossing the Hunter, near Mr. Jermain's farm, in company with two other persons, in an old boat that was hardly safe for one man to have ventured in. One of the party, named **BALL**, who had come to Maitland that morning, had a very narrow escape, and was saved by taking hold of a dog that was in the boat at the time, and which kept him above water till rescued from his perilous situation by one of Mr. Jermain's servants. A verdict of accidental death was returned. The deceased has left a wife and two children to lament his untimely end. The man who took the body out of the water was entitled to a reward of five shillings, which he requested the coroner to hand to the widow of the deceased.

SUN, 1/8, 18/03/1843

NEWS AND RUMOURS OF THE DAY

An inquest was held at Le Burn's public-house, Parramatta-street, on Saturday, on the body of **JOSEPH HICKLESTON**, who died of lock-jaw in the Benevolent Asylum, where he had been conveyed for medical treatment. The primary cause of tetanus was a wound he had some time previously, received in the heel.

A man was found with his throat cut in a paddock belonging to Major **ANTILL**, a few days since.

**MARTIN BEECH** and **LUCRETIA DUNKLEY**, who, it will be in the recollection of most, perpetrated the horrid murder of the husband of the latter, were arraigned at the Berrima Assize Court on the 9<sup>th</sup> instant, pleaded not guilty and were remanded to the next Assizes, in consequence of the absence of necessary proof.

Mr. **E.A. HUGHES** formerly collecting clerk to the firm of Levick and Younger was unfortunately drowned a few days since, in passing the Hawkesbury during the flood in that river.

MAITLAND MERCURY, 01/11, 22/03/1843

SUPPLEMENT – MAITLAND ASSIZES

**WILLIAM ROTHREY** was then placed at the bar and proclamation was made for any person who might have any accusation against him to come forward. No person appeared, and the prisoner was discharged.

TEETOTALLER, 2/63, 22/03/1843

TRIAL FOR MURDER. - On Friday, a corporal in the 80<sup>th</sup> regiment, named **W. THOMPSON** was tried for the murder of **MARY ANN FINCH**, on the 22<sup>nd</sup> of November, 1842. The deceased was a married woman, twenty-four years of age. The prisoner is a married man – the prisoner and his wife were acquainted with the deceased and her husband, they came from the same part of the Country. The deceased left her house on the 22<sup>nd</sup> of November last, in company with Thompson's wife (the detachment of the 80<sup>th</sup> regiment stationed at Maitland were going to Newcastle that day,) nothing more was heard of her by deceased's husband till she was found drowned in Wallace's creek. On the bank of the creek a soldier's kit was found with the initials W.T., where the kit was found was foot marks asof persons scuffling, and as though something had been dragged. A person residing near where the body was found, stated that he had seen a soldier and a woman on the 22<sup>nd</sup> of November, going in the direction of West Maitland, it was about half-past 8 o'clock, they were both what he called drunk. Other witnesses deposed that they had heard screams near the water's edge [ ] o'clock, and a woman's voice saying, oh! Johnson or Thompson, you know my husband, take me home; at that time there were two men with her. Mr. **PUREFOY**, for the defence, contended that there was no evidence to criminate the prisoner, they were drinking together in Adam's public-house at 8 o'clock, and it was most probable that she had slipped into the creek and was drowned. - The prisoner was acquitted.

MAITLAND ASSIZES

(Before Mr. Justice Burton)

MURDER

**THOMAS HIPPERMAN** was charged with the wilful murder of **WILLIAM PARKER**, at the Clarence River, on [??] July last.

From the evidence it appeared that the deceased was very drunk, and so was the prisoner. Several witnesses were examined; they all appeared to have been drinking.

The wounds that caused death were inflicted with a tea-kettle and an empty five gallon keg. The prisoner made a statement of the case, and acknowledged that he did not know whether he struck the man or not, for he was drunk; he had previously pulled deceased out of the water, and saved him from drowning.

He was found guilty of manslaughter.

His Honor said that the prisoner ought to feel grateful to the Jury for the humane consideration they had taken of his case, and sentenced him to be transported for the term of his natural life.

#### BERRIMA ASSIZES

(Continued from our last,)

Before Mr. Justice Stephen

**ALFRED DARLING**, late of Picton, labourer was indicted for killing and slaying one **WILLIAM PENNY**, on the 25<sup>th</sup> of November, 1842. From the evidence it appeared that the deceased was in the employment of a farmer named **JOHN RICHARDSON**, residing at the Oaks, - that the prisoner was reaping for him on the 24<sup>th</sup> November, together with the deceased, the master (Richardson) on Wednesday the 25<sup>th</sup>, sent to the house at 11 o'clock for some wine, and afterwards he got drunk. The next morning when he came to his senses he found deceased lying on a bed in the house. He sent a pound to Sydney, for the wine, it was common red wine, it came up in a five gallon keg which was full. It appeared that the two men likewise partook of the wine, when quarrelling and fighting the deceased was knocked down and jumped upon by the prisoner; they were previously on very good terms. The jury found the prisoner guilty of a common assault.

The prisoner was warned by the Judge against excess, which in this case had accelerated, if not, caused the death of a fellow creature. He then sentenced him to be imprisoned in Berrima gaol three months, the first and last fourteen days in solitary confinement.

The woman confined in Berrima gaol waiting to take her trial for assisting when under the influence of liquor to murder her husband, and her paramour, were not tried in consequence of material witnesses. Their trial was postponed to the next assize.

#### MAITLAND MERCURY, 01/12, 25/03/1843

**ANOTHER BUSHRANGER APPREHENDED.** - On Saturday last as a constable from Muswellbrook was coming to Maitland he was stopped by a man on the new line of road just beyond the accommodation paddocks, who presented a pistol at him and demanded his money. The constable also drew a pistol, and both stood hesitating for some time, neither of them daring to run away, and yet neither offering to fire. At length it was agreed that both should pass on their way, and no notice be taken of the affair by either of them; but the constable on arriving at the nearest house procured a loaded musket, his own pistol being unloaded when he met the bushranger, and went in pursuit of the latter, with whom he came up, and apprehended him, when it was found that the bushranger's pistol was likewise unloaded. He was brought before the police bench on Monday, when he gave his name **JAMES YOUNG**, free. He was committed to take his trial for having fire arms illegally in his possession.

#### TEETOTALLER, 2/64, 29/03/1843

**INQUEST.** - **DAVID BOGG**, who had been lodging in Kent-street, with a man named **ANDERSON**, for eight months past, died at his lodgings about two o'clock on Sunday last; the deceased having been for the last three or four months under medical treatment, for what reason an inquest was called did not appear, (except that he had

been going about on the day of his death.) An inquest, was however summoned to be held yesterday, at two o'clock, in Cracknell's, Green Dragon, public house, corner of Kent and Erskin-streets, and at half-past four, the jury, who had been waiting from the time they were warned for, were impanelled, when it was given in evidence that the deceased had been labouring under a complaint of the heart for the last three or four months, and that he was by trade a ship carpenter. The Coroner stated that he had requested Dr. **HOSKING** to view the body, and to attend the inquest; that gentleman had viewed the body, but was unable from his other engagements to attend the enquiry, he had however sent a certificate which the Coroner read; the document stated that it was Dr. Hosking's opinion that death had been the result of natural causes. There being no other evidence tendered, the jury returned a verdict that the deceased died by the visitation of God.

MAITLAND MERCURY, 01/13, 01/04/1843

THE BLACKS. - From two letters which appear in this day's paper, it will be perceived that the blacks are continuing their depredations in the districts of the Namoi, Barwin, and Big Rivers, with a degree of system and perseverance which promises ere long to relieve the government from the trouble of interfering in the matter. A stockman named [**THOMAS**] **RHODES** and a black boy have been added to the list of human victims. ...

THE BLACK MURDERERS. - On Saturday last the two aboriginal blacks, **MELVILLE** and **HARRY**, who were apprehended on the 10<sup>th</sup> ult., at Hog Island, in the Paterson River, were brought before the police bench, East Maitland, charged with the murder of the two children on the Glendon estate, on the 4<sup>th</sup> February. They are two most ferocious and remarkable looking individuals, and any person who had once seen them would not readily forget their horrid looking visages. The evidence of the hut keeper and the two woman was taken, all of whom positively swore to the identity of the prisoners. The mother of the murdered infant, who has so far recovered from the wounds she herself received as to be able to attend, most positively identified Melville as the man who killed the child in her arms by striking it on the head with a waddie; but which of the two struck her she had no recollection, as she was utterly deprived of her senses by the horrid catastrophe which she had witnessed in the barbarous murder of her infant. The other prisoner Harry was described by the hut keeper to have a large scar on his thigh, occasioned by a burn, and on examination the mark was found upon him exactly corresponding with that described by the witness. No doubt being entertained as to their identity, they were fully committed for trial, and on Monday last were forwarded to Newcastle gaol.

HUNTER RIVER DISTRICT NEWS

NEWCASTLE

The two aboriginals, **MELVILLE** and **HARRY**, were on Tuesday safely lodged in the gaol, whence it is not likely that they will escape.

LETTERS TO THE EDITOR. Two long letters from the region re the blacks. AND MORE page 4

SUN, 1/10, 01/04/1843

NEWS AND RUMOURS

An inquest was held at the Green Dragon, public-house, corner of Kent and Erskin-streets, on the body of a ship carpenter named **DANIEL BOGG**, who died, on the previous day, after an illness of three or four months, of an affection of the heart. Verdict, "died by the visitation of God."

TEETOTALLER, 2/65, 05/04/1843

CORONER'S INQUEST. - On Monday an enquiry took place at Leburn's public-house, Parramatta-street, on the body of **WILLIAM KEY**, who had been received into the Benevolent Asylum on Saturday last, and who had died about four o'clock on the afternoon of the same day. Mr. Surgeon **CUTHILL** having certified that death was the result of natural causes, a verdict that deceased had died by the visitation of God was recorded.

Another inquisition was held, at Murray's Farrier's Arms, George-street, opposite the Royal Hotel, on the body of **JACOB MANDELSON**, an infant, who was to have been circumcised on the day preceding the death. After the enquiry was commenced, evidence to the following purport was recorded:- The deceased was about to be circumcised, in consequence of which the parents were desirous that a composing draught should be administered to it. A draught of this description was procured from the shop of a druggist named **CONROY**, residing in the vicinity of the place where the inquisition was held, and was administered by a female named **AARONS**, to the extent of two or three drops in a tea-spoon-ful of warm water, part of which was spilt by the restlessness of the child while the potion was being administered. The child was soon after taken from the woman Aarons, circumcised, and again returned to her, and while in her arms the neck and lips of the deceased having assumed a bluish hue, Dr. **WALLACE** was sent for, but being unable to visit, Dr. **FULLERTON** was sent for, and when he arrived the child appeared to be recovering, and no symptoms of death were visible until about four a.m. on Monday morning, when it expired. **SAMUEL EMANUEL** also proved that the soothing draught had been administered at the request of the circumcisor, and that it had been obtained from Conroy's shop, but he, Samuel, had no reason to believe that the draught was given for any improper motive. Dr. Fullerton also deposed that when called on to attend the deceased he found him labouring under what he conceived to be an over dose of opium. He also made a *post mortem* examination of the body, and had no reason to believe that death was caused by apoplexy – the brain appeared quite healthy, and the heart had also a natural appearance, as well as the stomach and bowels, and it was his opinion that death might have been caused by an over dose of some opiate. The jury ultimately returned a verdict of death per *infortunium*.

MAITLAND MERCURY, 01/14, 08/04/1843

MAITLAND MERCURY, 01/15, 15/04/1843

MAN MISSING. - On Thursday afternoon a poor man named **SAMPSON**, who was some time ago found in the bush at the back of Mrs. Muir's Family Hotel, East Maitland, and conveyed to the Benevolent Asylum, of which place he has ever since been an inmate, left that establishment and has not since been heard of. \The poor fellow has always appeared to be in a state of great weakness, being scarcely able to sit in a chair, and was also quite childish. He however left the place in the temporary absence of the man in charge, and as soon as he was missed an enquiry was set on foot, but all that could be ascertained was that he was seen going towards Wallis's Creek by a woman named Mrs. **HARDY**, and a hat similar to the one he wore was seen by a man floating down the creek. It is therefore conjectured that he has either drowned himself or accidentally fallen into the creek. The police were searching for him but up to last evening nothing had been discovered.

SUN, 1/12, 15/04/1843

CALAMITOUS EVENT. - A Mr. **CONNER, WHOLOHAN**, who had resided for a number of years in Wollongong, was unfortunately drowned a few days since while crossing a creek. He has left a widow and seven children.

TEETOTALLER, 2/67, 19/04/1843

INQUEST. - A coroner's inquest was held on Monday afternoon, at Blackwell's public house, corner of George and Goulburn-streets, on the body of a man named **WILLIAM GRIFFITHS**, who had resided in the last named street, and had expired suddenly on the previous day. By the evidence adduced during the enquiry, it appeared that the deceased had been labouring under severe indisposition for some months past, but on Sunday appearing rather better than usual, he had been sitting up, when at the hour above named he died in the most sudden manner. Under these circumstances, the jury returned a verdict of death from natural causes.

MAITLAND MERCURY, 01/16, 22/04/1843

INQUEST. - On Saturday morning last, about eleven o'clock, the poor man named **SAMPSON**, whom we mentioned in our last had disappeared from the Benevolent Asylum, was found drowned in Wallis's Creek, a little above the bridge. An inquest was held on his body the same day, at the house of Mr. Henry Adams, the Black Horse, East Maitland, when, there being no evidence to show how the unfortunate man got into the creek, nor any marks of violence upon his body, a verdict of found drowned was returned.

WOLLOMBI

DEATH BY DROWNING. - An untimely death, caused, as it is in most cases, by the accursed habit of drinking, took place last week in our district. A shoemaker named **BRYAN EGAN**, a lately arrived immigrant, was found drowned, after a search of five days, in the Cockfighter's Creek. On enquiry by the police magistrate into the particulars of the man's death, it appeared that the deceased had been drinking with some other men until a late hour, at a short distance from his own home. When he started to go home he was accompanied by one of the party with whom he had been drinking, who subsequently left him by the way side, helplessly drunk, at a short distance from the scene of their debauch. It is supposed that the deceased afterwards attempted to cross the creek, which lay between him and his home, and that he fell in and perished. As the man who left him to his fate did not appear at the inquest, he was brought by summons before the bench on Tuesday last, where he underwent a strict examination, and his conduct was justly censured in the strongest terms by the magistrate.

MAITLAND MERCURY, 01/17, 29/04/1843

MURDER AT THE MANNING RIVER.

An account of a most diabolical murder committed on the 1<sup>st</sup> January, at Mount George, on the Manning River, has been furnished to the Sydney Morning Herald by a correspondent, the substance of which is as follows:- It appears that one **JOHN CHAPMAN**, an assigned servant to Miss Kelly, had for a long time past cohabited with a black gin named **MARIA**, belonging to a black fellow called **MICKEY UGLY**, of the Gangat tribe. About the 2<sup>nd</sup> or 3<sup>rd</sup> of January last Mickey was missing, and search being made for him in all directions without effect, the rest of the tribe expressed their suspicions that he had been murdered by Chapman. On the morning of the 8<sup>th</sup> January, as a Mr. **ROSE** and Mr. **WATSON** who reside on Yankangat

estate were standing in front of the house, they heard a sudden and dreadful yelling from the natives on the opposite bank of the river, some distance higher up. On going to that place they found a number of blacks assembled round a heap of ashes which appeared to have been recently on fire; and several fragments of bones, some human teeth, pieces of lead, a few buttons, and some fragments of burnt cloth, were found among the ashes. These were collected and lodged with the resident magistrate, and examined by a surgeon, who pronounced them to be human bones. Chapman was almost immediately afterwards apprehended; he appeared much agitated, and on being asked where the gin of the deceased was he denied all knowledge of her; she was, however, discovered secreted in Miss Kelly's kitchen (who was absent in Sydney), and the key of which was found on Chapman; a loaded musket was also found in the room.

The matter was subsequently investigated by Mr. **ROWLEY**, the resident magistrate, and the evidence went to show that the prisoner cohabited with the gin, and had a child by her; that he had often beaten and ill-treated the deceased; and that the deceased had once requested the interference of a person to take away a gun from Chapman, as he (deceased) was afraid Chapman would shoot him. The last time deceased was seen was on the 1<sup>st</sup> January, in Chapman's company, and from that day the gin was never seen to quit the side of Chapman, but followed him wherever he went, even if it was only for a drink of water. A shirt belonging to the prisoner was found in soak in the river near his hut, upon which there appeared something like blood stains, and it was also much burnt about the sleeves and breast. Upon this evidence the prisoner was committed. A few days afterwards, the gin Maria made the following voluntary disclosure to Mr. Rowley:-

She stated that on the morning of Sunday, the 1<sup>st</sup> of January, deceased was "gammoned" by Chapman to go into the brush, on the opposite side of the river, to shoot paddy-melons for him – that she accompanied Mickey Ugly – that when they were together in the brush deceased wanted to light his pipe from some fire which she carried in her hand – that while deceased was stooping down and lighting his pipe, she saw four men at a short distance behind them advancing stealthily from behind a tree. The four men were, John Chapman, a shepherd, and two bullock drivers. One of the bullock drivers presented his double barrelled piece and shot Mickey, who fell wounded, when the shepherd advanced with a musket and shot him dead. The deceased was then cut open from his throat downwards to his breast. Chapman handled the wound, and the four men carried the body a little distance to the side of a fallen log, where it was subsequently burnt: the party then went into the river, and washed themselves and their clothes, which had been covered with blood. She heard R----- tell Chapman that he had loaded the piece with ball. Chapman told her that night that he was going to burnt he dead body; she told him that he had better bury it. Next morning she went with Chapman, and saw him carry logs and burn the body; and the next day after, he again went and heaped the ashes together. He told her not to tell what she had witnessed, as if she did the "white men" would murder her.

The above evidence and depositions were forwarded to the Attorney General. No communication has been received from any person or any quarter by Mr. Rowley relative to the matter; "and now I understand," says the writer, "the parties are discharged from prison, and are at large without trial or investigation."

SUN, 1/14, 29/04/1843

ASSASSINATION OF A BLACK BY WHITES

Murder of **MICKY UGLY** by **JOHN CHAPMAN** and others.

TEETOTALLER, 2/69, 03/05/1843

SUICIDE FROM INTEMPERANCE. - On Monday last, an inquest was held before **J.R. BRENAN**, Esq., at O'Donnell's public house, corner of Kent and Market-streets, on the body of a man named **JAMES [JOSEPH] WORSLEY**, who put a period to his existence, by hanging himself during a fit of *delirium tremens*. It appeared, in evidence, that the deceased was a carpenter, and a married man, but fortunately had no children; that he came to this colony about eight years ago, and had for a long period pursued a career of intemperance and that for the last twelve or thirteen days, he had not once taken his clothes off. The jury returned a verdict, "put a period to his existence while labouring under temporary insanity."

AND ANOTHER

The second inquest was held at the sign of the "Crispin Arms," Clarence-street, touching the death of Mr. **JAMES CRUIKSHANKS**, of the same street. It appeared the deceased had been for some years past a habitual drunkard, and that his constitution had suffered much from his excesses. On Monday evening he was seized with a fit of apoplexy, and notwithstanding the efforts of Dr. **WELSH** to save his life, he expired two hours afterwards. Verdict accordingly.

MAITLAND MERCURY, 01/18, 06/05/1843

RUMOUR, unfounded, that **J.R. BRENAN** had been dismissed as magistrate and coroner.

SUN, 1/15, 06/05/1843

An inquest was held at the Salutation Inn on the 28<sup>th</sup> ultimo, on the body of a little boy, aged two years, the only child of Mr. **MURGRAVE**, who was accidentally drowned in a water hole while playing with another child of his own age. Verdict – Accidentally Drowned.

TEETOTALLER, 2/70, 10/05/1843

(From the Maitland Mercury)

DEATH BY DROWNING. - An untimely death, caused, as it is in most cases, by the accursed habit of drinking, took place last week in our district. A shoemaker named **BRYAN EGAN**, a lately arrived immigrant, was found drowned, after a search of five days, in the Cockfighter's Creek. On enquiry by the police magistrate into the particulars of the deceased's death, it appeared that the deceased had been drinking with some other men until a late hour, at a short distance from his house. When he started to go home he was accompanied by one of the party with whom he had been drinking, who subsequently left him by the way side, helplessly drunk, at a short distance from the scene of their debauch. It is supposed that deceased afterwards attempted to cross the creek, which lay between him and his house, and that he fell in and perished. As the man who left him to his fate did not appear at the inquest, he was brought by summons before the bench on Tuesday last, where he underwent a strict examination, and his conduct was justly censured in the strongest terms by the magistrate.

MAITLAND MERCURY, 01/19, 13/05/1843

ACCIDENTAL DEATH. - On Wednesday last an inquest was held at the house of Mr. James Young, the Queen's Arms, High-street, before **J.S. PARKER**, Esq., coroner, on the body of a man named **WEST EVANS**, a carpenter, and ticket of leave

holder. It appeared from the evidence which was adduced that on Monday last the deceased and two other men called in at Mr. Young's, and had a glass of rum each; from thence they went to Mr. Brackenreg's, and had a glass ach there; then they went on to Mr. Court's public house, where they fell in with a few friends, and continued drinking for some time; after which they returned to Mr. Young's and each had another glass. They then wanted some more on trust, which was refused; the man who fetched and paid for the liquor was sober. The companions of the deceased went away, leaving him in the taproom unknown to Mr. Young, but on the latter going to shut up the house at nine o'clock at night he found the deceased there quite drunk, and knowing him to be a harmless sort of man, he thought it would be better to allow him to remain in the taproom all night than to turn him into the street in so helpless a condition. The fire was accordingly put out, and everything done to prevent any danger arising. At a late hour in the night Mrs. Young, who was in the next room, heard the deceased groaning, and perceived a very disagreeable smell; upon which she called Mr. Young, who opened the taproom door, and the body of the man immediately rose up in a flame. Mr. Young procured a blanket, and threw it over the man to extinguish the fire. Dr. **HARRINGTON** was immediately sent for, and notwithstanding his attention, the man died about mid-day on Tuesday. No evidence appeared as to hoe the deceased had taken fire, and the only probable supposition is that it was occasioned by a hot coke in his pipe, which he had in his pocket. Under these circumstances the jury returned a verdict of accidentally burnt to death while in a state of intoxication. The coroner stated that the conduct of Mr. Young throughout the melancholy occurrence was highly praiseworthy and humane.

SUN, 1/16, 13/05/1843

On Friday the 7<sup>th</sup>, inquests were held in this city, on the bodies of three individuals who died suddenly – the verdict, in one case, was 'apoplexy' – and in the other two, "died from natural causes."

**SHOCKING ACCIDENT.** - On Tuesday, **HENRY LLOYD**, brother to Mr. Lloyd, the auctioneer, fell from the upper story of a new house in George-street North a depth of thirty-eight feet, and received so many injuries in the fall that he died early the following morning. The accident was occasioned by stamping on the end of a plank which overhung the beam that was supporting it, and, tilting up, precipitated the lad down the well-hole of the staircase.

MAITLAND MERCURY, 01/20, 20/05/1843

**ANOTHER VICTIM OF INTEMPERANCE.** - Notwithstanding the awful warning which was last week recorded in our columns in the death of a man named **WEST EVANS** by fire, while in a state of intoxication, we have this week to record another violent death arising from the same pernicious habit. On Sunday afternoon inst., about five o'clock, two sons of Mr. **C.M. DOYLE** observed a man in a state of inebriety walking along the bank of the river, nearly opposite to that gentleman's residence, and whilst watching him they observed him make a sudden turn and walk into the river; they immediately called out that there was a drunken man in the river, and Mr. Doyle, hastening out of the house, saw the unfortunate wretch struggling in the water. He instantly jumped into a boat, accompanied by one of his sons and a servant man, and pulled with all possible speed to the drowning man's assistance, but before they could reach him he had sunk, and though they continued the search for a long time, all their efforts to recover the body were unavailing. Another man was observed lying on his back close to the edge of the river, at no great distance from the

spot where the above unfortunate occurrence had taken place, and Mr. Doyle sent his servant man to him; he was also found to be stupidly drunk, and two hats were found lying by him. Mr. Doyle having previously sent notice of what had occurred to the police, and a constable having arrived, he gave this man in charge, in order to prevent a similar fate happening to him, and he was conveyed to the lockup. He proved to be an assigned servant to Mr. **ANDREW LANG**, and was on Monday morning brought before the bench, and sentenced to receive fifty lashes for his misconduct. The body of the drowned man was not found until about half-past ten on Monday morning, when it was removed to Mr. Nicholson's public house, in High-street, at which place an inquest was held on the following day; at which it appeared that the deceased's name was **JOHN CASEY**; that he had been about eight months free, and was at the time of his death in the employ of Mr. A. Lang, and was probably making his way home when he got into the river and lost his life. The jury, after hearing the above facts, returned a verdict of death from drowning while in a state of intoxication. It is rather singular, to say the least of it, that no person from Mr. Lang's attended the inquest, either to identify the body of the man, or to give any evidence at all on the subject, and it was only from some persons present who had seen him drunk in the streets, and from some of the juryman having known him, that the name of the deceased was at all ascertained.

**TWENTY FIVE POUNDS REWARD, OR A FREE PARDON**

The bushranger who shot constable **RUTLEDGE**, about twelve miles from Merton, on the 6<sup>th</sup> instant, an account of which we gave in our last, has not yet been apprehended. It appears the murder was witnessed by the two other prisoners whom Rutledge had in custody as well as the hutkeeper of the place where it occurred, none of whom attempted to stop the murderer when he escaped. The unfortunate constable left a wife and three children to deplore his untimely fate. The name of the murderer is **BENJAMIN HARRIS**, per ship "James Laing," a runaway from the Newcastle boat's crew. The government has offered a reward of £25 to any free person who may apprehend and lodge him in any of her Majesty's gaols; and if he is apprehended by a prisoner of the crown, application will be made to her majesty for a free pardon.

SUN, 1/17, 20/05/1843

On Sunday evening a young female, wife of a butcher, lately in the employ of Dr. **CLEEVE** of Hunter Street, dropped dead in York Street, in consequence of the bursting of a blood vessel while sneezing.

**TEETOTALLER**, 2/72, 24/05/1843

**INQUEST.** - An inquest was held on Monday morning, at eight, A.M., in the Debtor's Prison, formerly known as Carter's Barracks, on the body of **RICHARD THEOBALD PLATT**, accountant, who expired in that place about two o'clock on Sunday morning. From the evidence, it appeared that deceased had been imprisoned about fourteen days ago, being then in a bad state of health, that his schedule had subsequently been filed in the Insolvent Court, when he was discharged from custody; but in consequence of the feeble state in which he then was, it was deemed advisable that he should remain. Mr. Surgeon **CATES** having deposed that from what he knew of the case, as well as from the evidence he had heard given before the court, death had been caused by a disease in the chest, induced by intemperate habits, and that the fatal effects of the disease had been accelerated by a previous cold, - a verdict to that effect was recorded. The age of the deceased was sworn to be about thirty-three

years, and he was regarded as one of the most expert accountants in the colony – so much so, that he was appointed trustee of upwards of sixty estates under the present insolvency law, upwards of fifty of which had not been wound up. The amount of his defalcations are not known, but they probably amount to several thousand pounds. His prospects of being ultimately a wealthy man were very good, ass besides what he could have secured by his own industry, he was the nephew and heir of **THEOBALD PLATT**, Esq., an English gentleman possessing a large income.

MAITLAND MERCURY, 01/21, 27/05/1843

DESERTING A CHILD. - On Monday last **RICHARD BOWERS** appeared at the police office, to answer a charge preferred against him by Mr. **W. LIPSCOMB** for deserting his child. Mr. Lipscomb stated that about two months ago, the defendant's wife became insane, and was wandering in that state about the streets, the defendant having left her and her two children some days previously. The woman was removed by the police into the lockup, from whence she was sent to Newcastle gaol, and had subsequently been forwarded to the lunatic asylum. The youngest child, now about three months old, had been taken in by Mr. Lipscomb, who had put it to nurse, and for the last eight weeks had been paying ten shillings a week for it. Previous to taking in the child, Mrs. Lipscomb had furnished the mother and the other child with food, as there was none in the house. Mr. Lipscomb further stated that he had spoken to the defendant requesting him to provide for the child, and he had promised that he would take it away in a few days, but he had never offered to do so. Mr. Lipscomb said he wished for no remuneration for what he had already done, but that the bench would order the defendant to provide for the child himself. In answer to the charge the defendant said he had not deserted his wife and children, he had only gone away for three or four days on business, and had left money in the house. During his absence his wife became lunatic, and he was greatly obliged to Mr. Lipscomb for all he had done both for the woman and children, and as soon as it was in his power he would remunerate him, but at present he was not in employment. The bench said they had reason to know that the defendant was not without the means of obtaining money, and they would therefore order that he should pay ten shillings to Mr. Lipscomb every Saturday morning until a further order was made by the bench, and that if he failed, on the complaint of Mr. Lipscomb the bench would issue a warrant for his apprehension, and commit him to Newcastle gaol. [See also Maitland Mercury, 1/22, 03/06/1843; POLICE OFFICE. - **RICHARD BOWERS** was fined in the sum of £5, for neglecting to obey an order of the court to pay 10s. weekly to Mr. Lipscomb for the support of his child, and in default of payment was committed to Newcastle gaol for two months, he not having sufficient goods to meet the demand.]

ANOTHER MAN SUPPOSED TO BE DROWNED. - On Wednesday last a man named **FOX**, in the employ of Mr. **P.J.COHEN**, and who resided at Mr. Cohen's farm, on the opposite side of the river, was engaged in bringing some green stuff from the farm to the Rose Inn, in a small boat, with a pair of paddles; the man and boat did not arrive at the inn, nor has he or the boat been heard of since; the paddles were found by the river side. It is therefore supposed that the man is drowned and the boat sunk to the bottom. It is generally said that the man was in a state of intoxication at the time. Search has been made for the body, and on Thursday several black fellows were engaged in diving, in order if possible to recover it, but up to last evening it had not been found.

HUNTER RIVER DISTRICT NEWS

DEATH FROM DROWNING. - On Saturday last an unfortunate man named **SAMUEL TAYLOR**, free by servitude, being in a dreadful state of intoxication, jumped from a boat lying at the wharf to recover his hat, which had blown into the water, and was drowned, before any assistance could be obtained, although he was but a few yards from the steps. Such was the helpless state in which he was that he was not observed even to struggle in the water.

**RICHARD THEOBALD PLATT**, accountant, died in the debtors prison, Carters' Barracks, on Sunday morning last. An inquest was held on Monday, from which it appeared that the deceased had been imprisoned about a fortnight ago, being then in a bad state of health; that he subsequently filed his schedule in the insolvent court, and was discharged from custody, but was so ill as to be unable to be moved. It appeared also that death had been caused by a disease in the chest, induced by intemperate habits, and accelerated by a previous cold. He had been appointed trustee in upwards of sixty insolvent estates, only about ten of which he had wound up. The amount of his defalcation is not known, but it is supposed to amount to several thousand pounds.

SUN, 1/18, 27/05/1843

An inquest was held on Monday last, in the Debtors' Prison, on the body of **R. THEOBALD PLATT**, Accountant, who expired on the Saturday previous. Mr. Surgeon [ ] deposed the disease which caused his death, was brought on by intemperate habits, and the verdict was given accordingly.

A man named **MOORE** has been apprehended within the last four days, on suspicion of perpetrating a murder on a person named **DICKSON**, who was found murdered on the South Head Road about two years ago.

MAITLAND MERCURY, 01/22, 03/06/1843

ABORIGINAL TRIBAL BATTLE. ...

An inquest was held on the bodies of the two men who had been killed on Thursday afternoon, at the Northumberland Hotel. The coroner was anxious to discover if possible by whom the blacks had been furnished with fire arms, as there is a penalty of £20 upon any person for so doing. It appeared from the evidence of constable **TONGE** that one of the blacks of the Glendon tribe said that the arms were given to them by Mr. **SCOTT**, of Glendon, for the purpose of shooting ducks. A musket which had been hid in the head of a tree, and the lock of which was a good deal out of repair, and an empty powder horn marked P, which had been found upon the ground after the battle was over, were produced at the inquest. The jury returned a verdict of wilful murder against some persons unknown, supposed to be aboriginal blacks, and the coroner said he should cause an enquiry to be instituted to ascertain whether the arms had been given them by Mr. Scott, and for what purpose.

A post mortem examination was made on the bodies of both the men who were killed by Dr. **SLOAN**, the body of the one who had been buried being exhumed for that purpose. He was buried in a very shallow grave near the spot where he was shot, wrapped in his blanket and a sheet of bark laid under him, with his broken waddie by his side.

INQUESTS. - On Sunday last an inquest was held before **J.S. PARKER**, Esq., coroner, at Mr. castles' farm, below Hinton, on the body of a little girl named **SARAH NEEL**, aged eight years, who had been accidentally drowned on the previous day, while crossing a log which was laid over a creek. It appeared that the little girl had been in the habit of frequently crossing the log, and had been repeatedly

cautioned against it, which she disregarded, and on Saturday last she unfortunately slipped into the creek, and was drowned before any assistance could be obtained. This is the second accident of a similar nature which has occurred at this log, and the jury returned a verdict of accidental death, and recommended that the log should be removed, which has since been done by Mr. **CASTLES**. - Another inquest was held on Thursday last, at the Rose Inn, West Maitland, on the body of a man named **JOHN FOX**, a ticket of leave holder, who was accidentally drowned in the river on Wednesday, May 24<sup>th</sup>. It appeared from the evidence that the deceased was in the employ of Mr. **P.J. COHEN**, at his farm. On the day in question he came over about sundown, with two gentlemen in a boat, which he had himself injured a few days before by running her bows against the wharf; and making a large hole in them nearly upon a level with the water. He remained at Mr. Cohen's until between nine and ten o'clock at night, when he determined to go home, being at the time somewhat intoxicated. One of the men servants remonstrated with him, and wished him to stop all night; but he refused, and departed in the boat. He did not reach home, and neither him nor the boat was seen anything of until Wednesday last, when his body was found in the river. The man was not a habitual drunkard, but would occasionally break out and drink for two or three days together, when he was very obstinate and uncontrollable. The jury returned a verdict of accidentally drowned while labouring under the effects of intoxication.

MAITLAND MERCURY, 01/23, 10/06/1843

TEETOTALLER, 2/75, 14/06/1843

INQUEST. - On Saturday last, an inquest was held before the Coroner, **J.R. BREMAN**, Esq., at Mr. Driver's public house, in Elizabeth-street, on the body of Mr. **CHARLES ALDRICH**, late master of the whaling brig 'Genii,' which was found in a highly decomposed state last Thursday evening, by Mr. **T. VINCENT CURTIS**, late clerk of the George-street market, when out shooting in the neighbourhood of Botany. He, and a number of other witnesses, including Messrs. **PETERS, SHEARER**, and **a'BECKETT**, surgeons, were all examined as to the appearances of the body, and the cause of death, without being able to elicit anything that could be regarded as decided evidence as to the manner in which the deceased came by his death. From the circumstances of an open razor having been found under the body, it is feared that his death was occasioned by his own hands. After due deliberation, the jury returned the following verdict:- "That the body of the deceased was found in a far advanced state of decomposition, but when, or by what means he came by his death, there is no evidence to show."

The conduct of a Mr. **PULLINGER**, an intimate acquaintance of the deceased, who ought to have been present to be examined at the Inquest, but was absent, was severely animadverted on, and is to be enquired into by the Coroner. We cannot close our notice of this inquest, without expressing our surprise that *so* little attention was paid to the circumstance of a grave having been found *dug* in the neighbourhood. Is it too late *yet* to make inquiry into this *point*.

MAITLAND MERCURY, 01/24, 17/06/1843

SYDNEY NEWS

The body of Captain **ALDRICH**, of the Genii whaler, was discovered on Thursday, the 8<sup>th</sup> instant, at Botany Swamp, in a very decomposed state. The captain had been missing from his lodgings for a month previous, and no intelligence could be

ascertained of him. An inquest was held on the body on Saturday last, and the jury returned a verdict "that the body of the deceased was found in a far advanced state of decomposition, but when or by what means he came to his death there is no evidence to show."

A man named **PATRICK DWYER**, an immigrant, has been committed to Berrima gaol for murdering two men belonging to a road party at the Tumut River, while in a state of intoxication; three other men whom he injured at the same time are under medical attendance.

The blacks have been committing serious depredations in the M'Leay district. They murdered a man on one of the outstations of Messrs. Betts & Panton, and a stockman belonging to Messrs. M'Kenzie and Graham, and they drove off a number of sheep. Three of the most notorious have been captured, and it is said three others shot in the capture. One of the men captured is called **FOWLER**, a desperate character, supposed to have been concerned in some murders at Gogo some years back.

TEETOTALLER, 2/76, 21/06/1843

FATAL AFFRAY. - The poor man, **DANIEL FENNIE [FINNIE]**, who was wounded in the affray on Thursday [elections], died in the Benevolent Asylum about half an hour afterwards. An inquest was held on the body, which ended by bringing in a verdict of murder against some person or persons unknown. The man **MOONEY**, who was in custody charged with the offence, was therefore discharged.

MAITLAND MERCURY, 01/25, 24/06/1843

ALL FOR LOVE. - Yesterday morning a gentler baker who is in the employ of Mr. **R.A. WISEMAN**, and who had fixed his affections on a young damsel who is in service at the opposite public house, despairing of making a successful attack upon her heart, took two-penny worth of oxalic acid, which he had previously purchased at Mr. Lipscomb's. As soon, however, as he had taken it, he mentioned the circumstance, and Mr. Lipscomb's shopman was sent for; he immediately prepared the necessary antidote, but the despairing swain refused to take it, until his Dulcimer was fetched over, and persuaded him to do so. In the meantime Dr. **SLOAN** was sent for, but before his arrival the antidote had had a beneficial effect. Dr. Sloan administered some castor oil, and the unfortunate lover is now in a fair way of recovery.

SYDNEY ELECTION. - ... A poor man named **FINNEY**, who was wounded on Brickfield-hill by the mob, was conveyed to the Benevolent Asylum, where he died in about half an hour afterwards from the injuries he had received.

CHARGE OF MURDER. - On Saturday last an inquest was held on the body of the unfortunate man **DAVID FINNIE**, who was so severely injured by the wounds he received in the late riots at the election that he died soon afterwards. A man named **DANIEL MOONEY** was in custody on the charge of having murdered Finnie. A very respectable jury was sworn in, and a long and searching investigation took place. It appeared that the deceased had come by his death in consequence of blows which he had received on the head from some heavy weapon, such as a bludgeon; but there was no evidence to show that the prisoner was the one who struck him; nor had any person been seen to do so. Under these circumstances the jury returned a verdict that murder had been committed, but that the perpetrators were unknown. [page 4 for an account of the election riots. A poor man named **FINNEY**, who was wounded on Brickfield-hill by the mob, was conveyed to the Benevolent Asylum, where he died in about half an hour afterwards from the injuries he had received.]

MAITLAND MERCURY, 01/26, 01/07/1843

ACCIDENT. - A fatal accident occurred on Monday morning last, at the well near the engine of the old coal pit. A poor fellow named **JOHN CHANDLER**, assigned to the Australian Agricultural Company, was with some others engaged in drawing water for the boiler of the engine, and some obstruction having occurred at the bottom of the well, which is a very deep one, Chandler jumped on the rope to go down and remove it, but owing to the rope being wet and slippery he could not hold sufficiently fast, and fell into the water, about twenty feet deep. A man descended the rope on the instant, but the body could not be found until life was quite extinct.

Two black fellows named **FOWLER** and **JEMMY JEMMY**, both notorious characters, have been committed for trial by the Port Macquarie bench for attempting to murder a watchman named **CARROLL**, in the employ of Messrs. Betts, Panton, and Kerr, at a station on the M'Leay, on the 14<sup>th</sup> of May last. Mr. Commissioner **MASSEY** and his troopers, who captured the above prisoners, are in pursuit of another man called **JACKEY JACKEY**, who was also engaged in the same affair. Another black fellow, called **TERRAH-MITIHIE**, has also been apprehended at Rolland's Plains, in the Port Macquarie district, for the murder of three men at a station called Kogo, about six years ago.

MAITLAND MERCURY, 01/27, 0807/1843

PATERSON. - On Thursday, June 29, an inquest was held on the body of **DUNCAN M'GILLAVRY**, the man who died from the injuries he received during the election riots at Paterson. Several witnesses were examined, from whose evidence it appeared that the deceased was about thirty years of age, and that he was struck twice on the head by a man with a large stick, the first blow single handed, and the second blow the man struck with both hands. At the time he was struck down he was shouting for Lang, but none of the witnesses who were examined could identify the man who struck the blows, though one of them had been told by another person that he was one of Mr. Lang's party. The deceased walked home from Paterson on the morning after the election, assisted by his brother, a distance of three miles and a half; it was not thought necessary to call a surgeon until Monday, and the deceased died on Wednesday. It was found necessary to summon a number of other witnesses, and the inquest was adjourned until Monday last, but we have not yet heard the result.

CASSILIS

CAPTURE OF HARRIS THE BUSHRANGER

**HARRIS**, the bushranger who murdered constable **RUTLEDGE**, of Cassilis, while under escort in May last *en route* to Merton, was captured on the 28<sup>th</sup> ult., by constable **DOYLE**, of the Cassilis establishment; and the prisoner is now on his route to Merton, in which district he stands charged with the murder of Rutledge. Doyle is a prisoner of the crown holding the Governor's ticket, and it is to be hoped that his Excellency will for the praiseworthy conduct he has displayed on this occasion grant him a free pardon. He has been out for a month, fully determined to apprehend Harris, and he captured him without assistance.

TEETOTALLER, 2/79, 12/07/1843

IMPORTANT REMARKS OF HIS HONOR THE CHIEF JUSTICE, IN PASSING SENTENCE ON **THOMAS CAVEY**.

This case was tried in the Supreme Court on last Wednesday, before Sir **JAMES DOWLING**, Chief Justice. The prisoner was charged first, with the murder of **MARY MACDONALD**, of Parramatta-street, Sydney, on the 30<sup>th</sup> of November last;

secondly, with manslaughter. The case as stated in evidence was as follows. The deceased was the wife of a publican in Parramatta-street, in a very delicate state of health. The prisoner, who had previously been drinking, at the time he committed the assault, was scarcely able to stand, went into Macdonald's house between three and four o'clock of the day specified, for more liquor, which deceased very properly refused to give him. The prisoner then became furious, "seized her by the throat with one hand, struck her with his open hand twice upon the head, and then threw her against a cask." She died in about twelve hours after. Dr. **BLAND** was called in and attended her till her death; but he testified to her death having been occasioned by natural causes. The prisoner, therefore, escaped conviction either for murder or manslaughter, and the Jury found him guilty of an assault.

His Honor, in passing sentence, said: Fortunately for the prisoner, the Jury had, by their verdict, relieved him of the painful duty of pronouncing sentence of death. They had taken a discriminating view of the circumstances of the case, and, though they had pronounced a verdict of not guilty as to the charges of murder and manslaughter, they could not, as conscientious men, shut their eyes to the fact that an assault had been committed upon the unfortunate deceased under circumstances of great aggravation. The prisoner presented before the face of the country another melancholy instance of the dreadful consequences of the abominable vice which he had been in the habit of indulging – that of drunkenness. He was now called to receive the sentence of the Court for an attack made upon a helpless woman. He had sought forcible entry into the house to indulge his filthy vicious propensity; and, because she conducted herself properly in her station of life as the wife of a publican, and refused to grant his request in proper vindication of the good order and character of the house, and used some degree of gentle violence – the prisoner knowing her weakness, had the brutality to strike her twice, and throw her down. Fortunately for him, the Jury had not attributed the deceased's death to his violence; but his Honor was bound, taking all the circumstances of the case into consideration, not to exercise too great lenity. As a warning to him and others who indulged in that propensity which led to such acts of violence – the Court sentenced him to be imprisoned in Parramatta Gaol twelve calendar months.

MAITLAND MERCURY, 01/28, 15/07/1843

THE ELECTION RIOTS AT PATERSON. - The adjourned inquest was held on the body of **DUNCAN M'GILLAVRY** on Tuesday and Wednesday week, at Paterson. A great number of witnesses were examined, and the result was that a person named **MICHAEL KELLY** was committed by the coroner to take his trial for the murder. The prisoner was on Saturday forwarded to Newcastle gaol. On Monday last several persons engaged in the riots were brought before the police bench, and committed for trial.

CASSILIS

SUICIDE. - We have just heard of a very melancholy occurrence. An immigrant, in the employment of Mr. **CHARLES BLAXLAND**, of Gammon, named **PATRICK CUMMESKEY**, put an end to his existence by cutting his throat with a razor on Sunday morning last; he lingered until Wednesday morning, when he died in great pain. It appears to us that a coroner ought to be appointed for this district; and we trust his Excellency the Governor will not delay the appointment of such an officer, as when such melancholy events as the above occur it cannot be expected that unpaid magistrates will perform the necessary duties required by the laws, and indeed they have no authority for holding inquests.

**THE WIDOW OF CONSTABLE RUTLEDGE.** - We are happy to hear that £50 has been raised by subscription in this neighbourhood, and a similar sum has been given by the government, for the use and support of the wife and family of the late constable **RUTLEDGE**, who was shot by **HARRIS** the bushranger. July 8<sup>th</sup>, 1843.

**MAITLAND MERCURY, 01/29, 22/07/1843**

**MURDER AT CLARENCE TOWN.** - An inquest was held on Thursday, the 13<sup>th</sup> inst., and adjourned until Monday, the 17<sup>th</sup>, at the house of Mr. **JAMES WILLIAMS**, Clarence Town, before **J.S. PARKER**, Esq., coroner, on the body of a man named **JOHN LENNON or LENNARD**, a ticket of leave holder. A great number of witnesses were examined, and from the evidence which was given by them it appeared that on Saturday, the 1<sup>st</sup> July, a person named **HOGUE** opened a new public house at Clarence Town; the deceased, his wife, and from forty to fifty other persons, were drinking there, and a great many of them became most beastly drunk. The deceased and his wife were both drunk; they continued there drinking for two or three days, and on Monday night, nearly all of them being drunk, there was a disturbance, which arose, as it appears from the evidence, about the deceased's wife, who was in a most helpless state of drunkenness. A battle took place, and there was some fighting with sticks outside the house. The deceased was severely beaten about the head, and on the following morning his wife, who had been in a loft all night with two or three men, heard of the circumstance. On seeing her husband she found that his face and head had been very much beaten, and were covered with blood; she washed him at a brick-maker's house, and with some difficulty got him home that day, and put him to bed. When asked how he received the wound, his reply was, "Never mind, it is an old grudge; I will see to it bye and bye." Finding him getting worse, the woman sent for medical assistance to Raymond Terrace, but not obtaining it there, she sent to Dungog for Dr. **M'KINLAY**, but before he arrived the man was dead. He died on the 12<sup>th</sup> instant. No evidence whatever appeared as to whom the blows were given by, or when they were received; nearly the whole of the party having been quite drunk at the time.

A post mortem examination was made by Dr. M'Kinlay, from which it appeared that the skull was fractured in several places, and the bone actually forced in upon the brain; the wounds were very extensive, and appeared to have been inflicted by the forcible throwing of some blunt angular stone or heavy body from a height, or whilst the deceased was stooping.

The whole of the evidence having been taken, the jury, after a very patient and anxious investigation, returned a verdict of wilful murder against some person or persons unknown.

**HANNAH LENNON**, the wife of the deceased, was committed by the coroner to the house of correction, Sydney, to be kept to hard labour for two calendar months, as a common prostitute and vagabond, not having any lawful means of subsistence.

Such a disgusting scene of drunkenness, riot, and obscenity as was unfolded by the evidence given on the above inquisition, never before came under our notice; and it is to be hoped for the credit of human nature that even amongst the most depraved such scenes are of rare occurrence. We certainly think that the authorities of Clarence Town ought to keep a very strict eye upon all the parties who have been proved to have been in the slightest degree implicated in the occurrences which have led to the death of the man Lennon, and very strict enquiry ought to be made, as to who were the parties with whom he was last seen, as no account whatever could be given of this by the witnesses who were examined, all of whom, except two, appeared to have been

amongst the party who were drinking during the course of the day on which the man was killed.

MAITLAND MERCURY, 01/30, 29/07/1843

MORETON BAY. - It appears from a correspondent to the Sydney Herald that the blacks are making fearful ravages in the vicinity of Moreton Bay. At Wide Bay they have murdered four men who were minding sheep upon Mr. **EALLES'S** run. Five men were in company, when they were surrounded by a body of blacks; the men fired upon them, when the blacks instantly rushed upon them, knocked four of them down, and beat out their brains with waddies. The fifth escaped to a hut five miles distant, in which there were two other men; they were bailed up for eight days by two or three hundred blacks, until they were released by a party despatched from the head station... continues

HUNTER RIVER DISTRICT NEWS. - JERRY'S PLAINS.

A man of the name of **CONNORS**, a few nights ago, whilst in a state of intoxication, fell down a precipice which overhangs the river, and dislocated his hip, broke his ribs, &c. After laying there till morning, he was conveyed to Mr. Brown's, of Jerry's Plains, in a cart, and on the following evening Dr. **JENKINS** was called in, and succeeded in reducing the dislocation, which was of a dreadful description, the thigh bone being nearly forced through the groin. The man is still in a precarious state, and, at the best, will probably be a cripple for life. July 26<sup>th</sup>, 1843

**JAMES M'FARLANE**, Esq., of Inverslochy, in the district of Goulburn, who had been for some time missing, was found a few days ago sheltered under a rock, by Messrs. Harnett and Lambie, who were in search of him. He was in a very exhausted state, having been for nine days without sustenance. He had been taken ill, and having dismounted, was unable to regain possession of his horse.

WREGISTER, 1/1, 29/07/1843.

INQUEST. - An inquest was held on Wednesday last, at Walker's public-house, corner of King and Kent-streets, before Captain **INNES**, on the body of **SARAH GLYNN**, aged nine days. After hearing the evidence of Mr. Surgeon **RUTTER**, the jury returned a verdict of manslaughter against the midwife who attended the mother of the deceased, for whose apprehension the acting coroner issued his warrant.

WREGISTER, 1/2, 05/08/1843.

INQUESTS. - On Saturday, 29<sup>th</sup> July, an inquest was held in the St. John's tavern, corner of George and Bridge-streets, on the body of **WILLIAM DUNBAR**, a seaman belonging to the *Governor Phillip*, who had been landed for the purpose of being lodged in the hospital, but died before he reached his destination. Mr. Surgeon **JONES** having certified that death was the result of natural causes, the jury returned a verdict that deceased had died by the visitation of God.

Another inquest took place at the Black Dog, public-house, on the body of **GEORGE MOFFIT**, also a seaman, who had been landed some time before in a bad state of health. Mr. Surgeon **HARPUR**, of King-street, having certified that death had been produced by natural causes, a verdict in accordance with the evidence was returned.

On Thursday an Inquisition was held in Mr. Driver's on the body of **EDWARD RYAN**, lying in the General Hospital. It appeared the deceased on Sunday, with some of his fellow-servants in the employ of Mr. **J.T. HUGHES**, set up a pole and commenced leaping over it. Ryan tried it once and failed; on the second attempt he

went over the pole, but alighted on an uneven part of the ground, by which means one of his legs, a little above the ankle, was so shattered that some of the splinters protruded through the skin to some extent, he lost a great quantity of blood, and was immediately removed to the hospital, where he died on the following day of the injury received. A verdict to that effect was returned.

MAITLAND MERCURY, 01/32, 12/08/1843

MAITLAND MERCURY, 01/34, 26/08/1843

ROBBERY AND ATTEMPT AT MURDER.

A most daring robbery and attempt at murder was perpetrated on Friday evening, the 18<sup>th</sup> instant, on the property and person of a small settler named **WILLIAM HURLEY**, residing near Hexham. Intelligence of the outrage was received by the police in Maitland between two and three o'clock on Saturday morning, and chief constable **WOOD**, accompanied by constables **FRY** and **PRITCHARD**, set off to the place, and were soon afterwards followed by Mr. **DAY**. On arriving at Hurley's hut it was discovered that he had received a very dangerous gunshot wound under the shoulder, and was much exhausted from loss of blood. Nearly all of the assigned servants and tick-of-leave holders in the neighbourhood were apprehended by daylight on Saturday morning, and taken to Hurley's hut. The following statement was made by him on oath before Mr. Day:-

"I am, I believe, dying from the effects of a wound I received last night; it was a gun shot wound. Yesterday, after dinner, **HARRY HEALY** came to my house, and some time after **CHRISTOPHER COOPER**. Healy told me that he was to rob my hut one night, but he was speaking to a friend of mine, who hindered him, and that I was now in no danger. Cooper said nothing to me, except that he asked me would I buy a dray; he spoke to me about making a plough and harrow, but I did not ask him about them. They remained about half an hour the first time. Cooper and Healy went away at the same time, Cooper towards Edwards's, and Healy towards Weakley's. Healy came back from Weakley's, and remained with me a good bit. It was about five o'clock in the evening when he left me. About eight o'clock that evening, while I was at supper, I heard Weakley talking to some one coming towards my hut; they stopped a short bit outside, and I went out to speak to Weakley. I saw him and two men more outside the door. The men clapped a pistol or blunderbuss to our breast, and forced us into the hut. They said I should hand them the money; I said they might take what I had, and search the hut if there was any more, to have it. They searched the hut, and found nothing; they then seized me to put me on the fire until I delivered the money to them. I got away from them, and ran out. The short man followed me, and shot me; I fell, and after that they dragged me into the hut, and struck me a couple of times, and cut me on the head. I think from the manner they handled me some of my blood must have been on their clothes. The men were clothed very badly, and had old hats on, and handkerchiefs on part of their faces. One of the two men, the tallest, had one or two remarkable teeth in the lower jaw, in front; I think they were shorter than the others. I never saw Cooper or Healy before that I can remember. They were both nearly half drunk, but Healy the most. The prisoner **GEORGE BODDEY** resembles the tallest of the two men very much, but I cannot swear to him. The man who fired at me was shorter, a short, stout man."

In consequence of this statement, three of the men who had been apprehended, named **GEORGE HEALY**, a prisoner for life, assigned to Mr. Greenaway, **CHRISTOPHER COOPER**, a prisoner for life, assigned to Mr. **E. SPARKE, jun.**, and **GEORGE BODDEY**, under sentence of transportation for fourteen years,

assigned to Mr. **E. SPARKE, sen.**, were detained in custody; and on Monday morning they were brought before Captain **DAY** for examination. The evidence against Boddey went to show that he had been absent from his hut, which was about three or four miles from Hurley's place, without permission, from Thursday after dinner until between twelve and one o'clock on Saturday, when he returned, and went to bed. The evidence against Cooper also showed that he was absent from his hut, which is about a mile from Hurley's, at the time the outrage was committed. After this evidence had been taken the men were remanded.

On Tuesday a fourth man named **JAMES KAIN**, assigned to Mr. **W. SPARKE**, was apprehended.

On Wednesday all four men were brought before Captain Day, and the following evidence was taken:-

**GEORGE WEAKLY** stated that on Friday evening, about eight o'clock, he was coming from a neighbour's house, and in the paddock near Hurley's hut he heard some persons talking, and on approaching the place he saw three men; he bid one of them good night, but the man made some insolent reply, and one of the others came up and struck him with a gun; he stumbled, but did not fall, when the man placed the muzzle of the gun to his head and threatened to blow out his brains if he made the least noised. They made him go towards Hurley's hut, but before coming there they searched him, and finding no money, the man with the gun again struck him. One of the other men had a gun and a pistol. Before they reached the hut Hurley opened the door, and one of the men rushed upon him, and Weakly was immediately forced into the house by the other two; they left the door open, and two of the men entered the house. They made Hurley and Weakly strip themselves, and whilst the latter was stooping to unlace his boots he looked up at one of the men, who threatened to shoot him if he looked at him again. One of the three men was walking about, as if keeping a watch outside, and one of those in the hut repeatedly called out to him, "Look out, Jumbo." When Hurley and Weakly had stripped themselves the robbers made them stand in the chimney corner with their faces to the wall. There was a fire, but one of the men asked Hurley for a light, and on his replying that he had nothing to get a light with the man took him out of the house, whilst the other, who was the tallest of the two, kept watch over Weakly, every now and then swearing he would blow out his brains. He was then removed to the other side of the house, and his hands tied behind him with a handkerchief, the man still keeping watch over him; he having his face to the wall. Hurley was brought in again by the other man, who ransacked the hut, and again asked Hurley where his money was, and he replied in his jacket pocket over the door. The man having searched that, asked for more, and said if Hurley did not tell him he would put him on the fire, and immediately proceeded to put his threat into execution. Hurley shouted out, and in struggling got away from the man, and ran out of the hut; the robber ran after him, and fired, and Hurley fell; he was then dragged into the hut, and the robber again swore he would put him on the fire if he did not tell where the money was. All this time the other robber was keeping guard over Weakly, who by glancing his eyes saw Hurley's naked feet in the fire place, and the other man endeavouring to put him on it. After a short struggle Hurley fell by the fire, and the man having left him there, again ransacked the hut. Hurley lay on the floor groaning dreadfully, and the men swore that if he did not tell them where the money was they would finish him. After some they gathered up the clothes of Weakly and Hurley and took them away, telling the former on their departure that if he left the hut for two hours they would blow his brains out. As soon as they had gone Weakly turned round, and saw Hurley lying on the floor, bleeding from the back, and groaning very

much, completely naked. He got his hands at liberty, put a shirt upon Hurley and rolled him in a blanket, went to his own house, which was not far distant, and got a pair of trousers as quickly as possible, called upon two men to go and stop with Hurley, and then got a horse and rode to Maitland as quickly as he could, where he gave information to the police and obtained a doctor. Weakly positively identified Cooper as the man to whom he had bid good night in the paddock, and he had not the least doubt that Boddey was the man who had kept watch over him; Healy, he thought, was not there, but Kain very much resembled in height and general appearance the short man who was with Hurley.

Some further evidence was taken, which went to show that Cooper, Healy, and Boddey had been seen together in the afternoon not far from Hurley's hut; and either Boddey or Healy had said to a man named **BOSELEY** that they would knock out somebody's brains but they would have the price of a bottle of rum before they slept. They were remanded, and the man Kain was sent under the charge of two constables to Hurley's place to ascertain if the unfortunate man could identify him.

Kain, it appears, was apprehended by constable **KERR** near Newcastle on Tuesday, he having been sent with a letter to the chief constable there by his master to be returned to government. He was taken to Hurley's hut the same evening, but the old man was very bad, and suffering extreme pain, which he said affected his eyesight; he felt satisfied, he said, that Kain was the man, though he could hardly venture to swear to him. Kain was again taken to him on Thursday morning, when there was good daylight, and Hurley was considerably better; he then at once identified him, and without the least hesitation swore positively that Kain was the man who shot him. All the four men were brought before the police bench again yesterday, and from the evidence of Dr. **EDYE**, who is in attendance on Hurley, it appears that the muzzle of the gun must have been nearly close to the old man's back when he was shot, as the skin all about the wound was discoloured by the powder. The wound was just under the right shoulder blade, about the size of half a crown; it had fractured the bone and penetrated considerably towards the chest. The wound has since become more extensive. When first called upon Dr. Edye considered the life of Hurley to be in imminent danger; he is now something better, but still lies in a very dangerous state, and spits blood. Some of the wadding has been extracted from the wound, but Dr. Edye has not as yet been able to extract any of the shot.

After Dr. Edye had given his evidence, some further evidence was given by the chief constable relative to two bags which were found upon Healy's dray, and which he said were given to him by Hurley, but which Hurley swears were stolen from him on the night he was shot, and by the men who committed the outrage.

Constable Kerr also gave some evidence as to the apprehension of Kain, and all the prisoners were then remanded until Tuesday next, in order to being some additional evidence against them.

MAITLAND MERCURY, 01/35, 02/09/1843

**THE HEXHAM ROBBERS.** - These men were all fully committed, on Wednesday last, to take their trials for robbing and shooting **WILLIAM HURLEY**, and yesterday morning they were forwarded to Newcastle gaol. The poor man Hurley is still alive, and slowly getting better, and there are now hopes of his recovery.

**ACCIDENT.** - A lamentable accident occurred yesterday at Bengalla; four of Captain Scott's men were attempting to cross the river there with a team of bullocks and a dray, and in doing so (owing to the height to which the river had risen) one of the men and three of the bullocks were drowned.

WREGISTER, 1/7, 09/09/1843.

**BERRIMA ASSIZES.**

Before Sir James Dowling, Chief Justice.

**MARTIN BEECH** and **LUCRETIA DUNKLEY**, both of Goulburn, were indicted for the wilful murder of **HENRY DUNKLEY**, the husband of the female prisoner, at Gunning, on the 13<sup>th</sup> September last. The prisoners pleaded not guilty.

It appeared from the evidence, that Henry Dunkley, the unfortunate victim of one of the most cruel murders ever committed, was a farmer at Gunning, thirty miles from Goulburn, and the prisoners (his wife and farm servant,) between whom a criminal intimacy had existed for some time previous, which ended in the male prisoner murdering Dunkley one night while asleep with a hatchet. The evidence was of a circumstantial nature but could leave no doubt of the prisoners' guilt.

The Court was adjourned at nine o'clock, the Jury being accommodated with apartments in the Court-house – the case to be resumed.

MAITLAND MERCURY, 01/37, 16/09/1843

MAITLAND CIRCUIT COURT. - His Honor then delivered the following charge to the jury:- "It is with deep concern, that, in entering on the duties which we are here once more assembled to discharge, I have to notice the calendar, as exhibiting a most serious amount of crime; amongst the instances of which are several of an unusually distressing character.

If the thirty-nine prisoners for trial, I am glad to find that only eight are of the class originally free. Twenty-four are persons free by servitude, or still convicts; and seven are of our benighted and unfortunate aboriginal or native population. Of these last, three are charged with murder, and the other four with aggravated attempts to murder. There are two other cases of homicide; of which one (by whomsoever committed) is certainly murder, but the other may possibly be a degree less than murder. ....

The crimes imputed to the seven aboriginals, I regret to say, if you shall believe the witnesses, of the most atrocious description; such indeed, as, in two at least of the cases, should the unhappy men be found guilty, to preclude all expectation or hope of mercy in this world. To the evidence which may be given, therefore, in these cases, I thus early invite and implore attention. Carefully search, I beg you (I here address myself, of course, to such of you as shall discharge the solemn trust of jurors, on the trial of any of them), and examine, and weigh well, that evidence; for much will depend on your verdict. It must be remembered that the prisoners labour under unusual and peculiar disadvantages; which you will do honour to yourselves in labouring to counteract, by even more than your ordinary care and caution. To one point I would more especially direct your attention; the question, namely, of *identity*. It will be important to ascertain, in each case, whether the persons of the men on trial were described beforehand, or were merely sworn to after apprehension.

Beyond the care thus peculiarly your duty to exercise, and the duty which I conceive to be imposed on the government, or, if they do not discharge it, on the court, of providing men thus circumstanced with the valuable protection and assistance of counsel (to which, however, I have always thought there should be added, from the time of committal to prison, the assistance of an attorney, to prepare and arrange their defence before the day of trial), I know of nothing more due to the aboriginal population of this country, than is due to any other class or body of her Majesty's subjects. The same measure of justice, and in the same scales, must be meted out alike to all. If they offend against each other, our laws will take cognisance of the

wrong; if the white man injures or aggrieves them, the same laws will, I trust and believe, be found to afford them redress; and, when they are guilty of offences against their white brethren, by those same laws must they be tried and punished. Humanity requires, for their sakes, not less than that of the solitary stockman, or hutkeeper, who is exposed to their incursions, that thus they should be dealt with. And this, for reasons much too obvious to need enumeration. But, whilst we take care to afford no pretext for the prosecution of a blind and lawless revenge, soon to end in the extermination of a race to which we owe so much, let us be more than ever cautious to tempt them also to no acts of retaliation, still more indiscriminate and savage. From the horde of transported offenders, whom it has been thought wise to spread, in all directions, over our plains, that unhappy race has, in times even yet scarcely gone by, endured much evil. Let us not now wholly forget these things. The people may be assured, that, in these courts, at all events, there is administered equal justice, to black as well as white; and any act of aggression, or inroad on rights, domestic or other, will here be visited, whatever the offender's colour, with the same severe but just punishment.

THURSDAY, SEPTEMBER 14

**THERRAMITCHIE**, an aboriginal native, was indicted for the wilful murder of **JOHN POCOCK** on the 9<sup>th</sup> February, 1837, at Cogo, by beating him on the head with a stick.

The Attorney General stated the facts of the case, and called upon the Jury to give their greatest attention to the evidence which would be laid before them, as the case was one of such importance that should the prisoner be found guilty there could be no doubt of the sentence which would be passed upon him. In cases where property only was concerned the matter was not of so much importance, but in cases where the life of a fellow creature had been sacrificed the matter was different. The same Creator who had written upon the heart of every white man "Thou shalt do no murder," had engraved the same commandment upon the heart of every human being, whether black or white; and even the aborigines of this country knew that it was wrong to kill, and they had laws amongst themselves for the punishment of murderers; so that though the prisoner was now placed in a peculiar position, one to which he was altogether unused, there could be no doubt that he was perfectly aware that he should not commit murder. The learned gentleman then gave a brief outline of the case, and called

**JOHN SPOKES**, who deposed that he resided on Mr. M'Leod's farm at Cogo in February, 1837; he lived in a hut along with three other men. A party of blacks came one morning before daylight, and one of them asked for a drink of water; witness told him to take it out of the bucket at the door; he pretended to do so, but dropped the pannakin, and the party then rushed into the hut; there were eight or ten of them; witness received a blow on the back of the neck, which felled him to the ground, and two of the other men, named **POCOCK** and **SOMERVILLE**, were struck in bed, and afterwards pulled on the floor. The other man **LENNOX** fell upon witness. The blacks began to rifle the hut of rations and clothes, and the prisoner at the bar was watching the men who had been struck down; he struck them several times with a nullah nullah and a boomerang; witness saw him strike Pocock twice on the head; he also struck Somerville, whose brains were knocked out. Witness made his escape as soon as he could; he heard one of the blacks ask where he was, and another replied that he was dead. Witness got away to where the other men lived, and in about half an hour returned with them; the two men Pocock and Somerville were then insensible. Witness knew the prisoner well, and had known him for 3 or 4 years; he had a

withered leg, but he knew him independent of that. When he returned to the hut the blacks had gone; they took away everything but the beds. They saw him going away from the hut and pursued him, but he outran them. After the murder the prisoner, who was before always about the farm, disappeared from about the district, and witness had never seen him since until he was apprehended, about two months ago. The prisoner's name translated into English means "small leg." Witness saw Pocock and Somerville dead, and buried them both.

Mr. **PUREFOY** cross-examined the witness at considerable length, but nothing was elicited to shake his testimony.

The witness was also examined at some length by the court.

The witness's evidence was then interpreted to the prisoner, and the prisoner's leg was exhibited, when it was seen to be exactly as the witness had described it.

**WILLIAM BROWN** deposed that the last witness called him up an hour before daylight on the morning in question; and six or seven men went back with him. They found Somerville with his brains protruding, and Pocock with the back of his head knocked in, apparently with a waddie; both of them were insensible, and Pocock died about eleven o'clock on the following day. He was bled about ten minutes before he died by Dr. **FATTORINI**; he never spoke nor attempted to speak; the doctor took about a pint of blood from him, and he had been bleeding profusely before. Witness saw the prisoner about the place on that night, but he had not seen him since, until he saw him in the court house. He did not recollect that any inquest was held on the body. He had never heard of any quarrel between the whites and blacks in that neighbourhood, either about the gins, or from any other cause; as far as he knew, they were upon friendly terms. He would have known the prisoner independently of his deformity.

**JOHN KINSHELA**, district constable of Port Macquarie, apprehended the prisoner on the 14<sup>th</sup> June last, at Major Innes's farm, on the information of some blacks of another tribe, about two miles from the place where the murder was committed, more than six years ago. When witness went into the camp prisoner ran away, but some of the blacks who were with witness ran after him and overtook him; he was taken to the lockup, where Spokes was, and prisoner said he knew him (Spokes).

This closed the case for the crown.

Mr. Purefoy then addressed the jury at considerable length, directing their attention to the solemn and serious enquiry in which they were engaged, in which a question of life or death was involved. He trusted they would not allow any prejudice to exist in their minds on account of the colour and character of the prisoner, in consequence of the late outrages which had been committed by some of his countrymen. They must give their verdict upon the evidence they had heard, and they must be satisfied beyond all reasonable doubt that the prisoner was the man who had caused the death of Pocock by the means mentioned in the information. The learned gentleman then went through the evidence which had been given, and urged upon the jury the consideration that the witness Spokes was the only material witness, and there was a possibility that he might be mistaken as to the identity of the prisoner. He also alluded to the fact that Pocock had lived for thirty hours after receiving the injury, and it was possible that he might have died for want of proper treatment. He then called

**Dr. CAMPBELL**, who had heard the evidence of the witness Brown, and he was of opinion that the wound described by him was such as would produce a depression of the skull, which ought to have been removed as soon as possible, and that bleeding would have been of no use without. He had no doubt that death was originally caused by the blow.

The Attorney General then briefly replied, pressing upon the jury the necessity of dealing with the case precisely in the same manner as they would do if the prisoner at the bar was a white man; and stating that nothing had transpired to show that the evidence which had been given was not credible; and upon that evidence he conceived they had but one duty to perform.

His Honor then summed up; and the jury returned a verdict of guilty.

The Attorney General then prayed the judgement of the court upon the prisoner.

Proclamation for silence was then made, and his Honor passed sentence of death upon the prisoner. On the sentence being explained to him, the prisoner shook his head, and said "bail me."

He was then removed.

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**TOM, alias KAMBAGO**, was indicted for wounding **WILLIAM VANT** in the back with a spear, with intent to kill him, on the 24<sup>th</sup> April last, at Durrundurra.

The Attorney General briefly stated the facts of the case, and called the prosecutor, from whose evidence it appeared that he was in the employ of Mr. **DAVID ARCHER**, at Durrundurra, near Moreton Bay; that on the 24<sup>th</sup> April last he had been to take some young lambs from his hut to their mothers, about eight o'clock in the morning, and in returning he took a log up to the hut, and threw it on the fire, which was outside the hut, and whilst rising up again the prisoner threw a spear at him, which entered his back just below the shoulder blade; there was another black man along with him, who endeavoured to thrust his spear into the bowels of witness, but he caught it in his hand, and told them to come on, for he was not afraid; they were not more than seven or eight feet from him; when witness said he was not afraid of them they run away. The spear was cut out by the shepherd, and the wound was dressed by the Rev. Mr. **ELEPER**, of the German mission. The witness had no doubt whatever as to the identity of the prisoner. He was ill from the effects of the wound for five days after he received it.

After the case for the crown was closed, Mr. Purefoy submitted that under the statute 1 Victoria, c.85, s.2, under which the prisoner was indicted, he was entitled to his acquittal, as the statute required that the wound should be dangerous to life, but the evidence did not show that that was the case.

His Honor overruled the objection, and said he should leave that question to the jury, but should put it to them that if the wound was inflicted by the prisoner with intent to kill, whether it was dangerous or not, that was sufficient, and it was a capital offence.

Mr. Purefoy then addressed the jury on behalf of the prisoner, and his Honor having summed up, the jury, after a few minutes consideration, returned a verdict of guilty.

The Attorney General prayed judgement on the prisoner, and the prisoner being asked what he had to say why sentence of death should not be passed upon him, he replied through the interpreter that he did not do it – white people told lies.

His Honor then passed sentence of death upon the prisoner.

The court then adjourned.

In both these cases Mr. Purefoy was assigned by the court as counsel for the prisoners. Mr. Chambers was the solicitor.

FRIDAY, SEPTEMBER 15

His Honor took his seat upon the bench at ten o'clock this morning, and ...

**JACKEY JACKY, SORETHIGHED JEMMY, and FOWLER**, three aboriginal natives, were placed at the bar; the former was indicted for wounding **PATRICK CARROLL** with a tomahawk on the throat, with intent to kill him, at the M'Leay River, on the 4<sup>th</sup> May last, and the two latter with being present, aiding and abetting.

The Attorney General stated the facts of the case to the jury, and called Patrick Carroll, who deposed that in May last he was a watchman in the employ of Messrs. Betts, Panton, and Kerr; on the 4<sup>th</sup> of that month about 16 blacks came over the range towards his hut, the door of which they broke open; he thought to quiet them by giving them some flour, sugar, and tea; as he went towards the door Fowler was near him, and knowing his character he kept his eyes on him, and while doing so Jackey Jackey struck him on the throat with a tomahawk, with his left hand; he tried to escape, and Fowler then struck him a blow on the temple with another tomahawk, which felled him. He afterwards got away, and ran towards the next station, when he was followed by Jemmy and three others; Jemmy struck at his head, but he received the blow on his hand, which split his thumb. He again fell, and the four men stood over him; he pretended to be dead. After lying there for some time his watch dog came to him, and appeared as if it wanted to raise him up; the dog then went away howling towards the hut, and soon after came back, from which Carroll judged that the blacks were gone. He then endeavoured to get to the hut, but fell down several times from loss of blood; he at length reached the hut, and got a drink of water, but more of it came out of the hole made by the tomahawk than went into his stomach; his throat was cut quite across. He remained in that state until the shepherds came home in the evening; he found that all the clothes and provisions had been taken out of the hut; and he was six weeks before he recovered. The station was about 107 miles from Port Macquarie. The blacks had been at the hut several times before, and witness knew them well; they had been at the hut three or four times. He knew Sorethighed Jammy and Fowler about four years ago, at Major Innes's station. He told the shepherds at night who had committed the outrage.

The witness positively identified the prisoners; he stated that Jackey Jackey's right arm was bent, and could not be straightened, and that Sorethighed Jemmy had a large sore on his thigh. This was proved to be the case by the exhibition of Jackey's arm and Jemmy's thigh to be the case. The witness had had no quarrel with the blacks; there had been no quarrel with them on the station; they had been working for him, and he gave them meat, flour, tea, and sugar. The rations had only been brought in three days before, and the blacks were about the station when they came in; he had no doubt they knew of the rations being there.

The witness was cross-examined by Mr. Purefoy at great length, but nothing new was elicited.

**HENRY JOHN MADDEN**, a surgeon residing on the M'Leay, attended the last witness, and found him in a very weak and exhausted state; he had a deep and incised wound on his neck, which nearly divided the windpipe; the gullet was partially injured; he had also a wound on the right temple, which penetrated to the bone, and a contused wound on his hand. He was in a highly dangerous state, and so continued for nine days. The wounds in the throat and on the temple appeared to be made with some sharp instrument.

**ROBERT MASSEY**, Esq., commissioner of crown lands at the M'Leay, deposed that the outrage was reported to him on the 6<sup>th</sup> May, and he sent off two troopers

immediately, and started himself on the following day. He issued a warrant for the apprehension of the prisoners and another black called **POTHOOKS**. Fowler and Sorethighed Jemmy were apprehended on the 30<sup>th</sup> May, in a camp; Jackey Jackey was apprehended by a stockman about three weeks afterwards.

**JAMES SMITH**, a trooper in the border police, accompanied Mr. Massey, and was in the camp when Fowler and Sorethighed Jemmy were apprehended; he found a waistcoat in the camp, which Fowler said belonged to him, and which Carroll identified as the one stolen from his hut along with other property on the morning of the assault.

The case for the crown having been closed, Mr. Purefoy briefly addressed the jury, and his Honor then briefly summed up, recapitulating the facts of the case, and highly complimented Mr. Massie on the promptitude which he had exhibited in the apprehension of the prisoners.

The jury at once returned a verdict of guilty.

The verdict was interpreted to the prisoners, who all denied having committed the offence.

His Honor then passed sentence of death upon all three prisoners, observing on the enormity of their offence, and the necessity there existed for making examples of them; which he believed to be the most humane course which could be adopted, both towards the blacks, and towards the unprotected stockman and shepherds.

The sentence was then interpreted to the prisoners, and they were removed from the bar.

His Honor said it had been intimated to him by one of the magistrates that it would be well if these prisoners could be executed at the scene of their crimes, and though he had no power to make any order as to the place of execution he would recommend that course to be adopted as far as practicable.

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**HARRY and MELVILLE**, two aborigines, were indicted for the wilful murder of **MICHAEL KEOGHUE**, by beating him on the head, on the 4<sup>th</sup> February last, at Stanhope.

Both the prisoners, in good English, pleaded not guilty.

The Attorney General stated the facts of the case to the jury, and expressed his own satisfaction, in which he had no doubt the jury would concur, at the degree of intelligence which the prisoners of the bar, particularly Melville, exhibited, as that relieved both them and the court from great pain and anxiety. The learned gentleman then gave an outline of the evidence, and called

**EDWARD THOMPSON**, who deposed that he was an assigned servant to Dr. Mitchell on the 4<sup>th</sup> February last, and was a watchman at the station at Stanhope, about twenty miles from Maitland. He had known the prisoners for two years. On the 4<sup>th</sup> February they came to his hut about breakfast time; there were two women, named **KEOGHUE** and **DOYLE**, with two children, in the hut, and a boy nine years old, named **PATRICK CAVANAGH**. The prisoners asked for some tobacco, and he gave them some; they enquired for a musket to go and shoot wild ducks, but he had not one. He told Melville that there was a reward of £5 for his apprehension, for killing a black fellow at Paterson; the prisoner said he knew that it had been offered by Mr. **BOYDELL**. Witness then gave them both some bread, and they lit their pipes, and went about fifty yards to smoke them; they returned to the hut in about a quarter of an hour, and Melville threatened to spear Thompson if he did not give up all he had in the hut; Thompson said he thought that was all gammon, but Melville said, "By G---- it is not, and if you don't give it up I'll kill you and the woman."

Thompson then gave him some more tobacco, and Melville then rushed into the hut, saying, "White fellows have black gins, and now black fellows have white gins." Thompson got him out of the hut, and the woman, with the children, escaped out of the back window; witness told Melville if he molested the women he would be hanged, and he replied that if he was caught he knew he should be hanged for what he had already done. He missed the woman from the hut, and went to the back of the hut, Thompson following him, and Harry after him; the woman named Doyle concealed herself behind a tree, but the other woman was about 200 yards off; they came up with Mrs. Doyle, and threatened to spear her; but she said she saw two stockmen coming, and the prisoners turning to look she escaped from them, and concealed herself about the hut. Melville followed her, but did not find her, and he stripped the hut of all the blankets; he told Thompson that he had speared the woman in the hut, and would spear him if he did not go to where the other woman was. They came up to the other woman, who had the child, Michael Keoghue, in her arms, and forced her further up the hill, when Thompson said he would go no further until he knew their intentions. The two prisoners then spoke to each other in their own language, and Harry raised his spear, as if to strike Thompson. Melville then forced the woman higher up the hill, out of Thompson's sight, but Harry whistled, and Melville and the woman came back. The prisoners again spoke to each other in their own language, and Melville said he "knew that the white fellows hang Melville when they catch him, and so he rob all white fellows he could, as white fellows come to this country, take all land, and give nothing for it." He said this in allusion to immigrants. Melville said he would not hurt Thompson, because he was a government man, and always good to the blacks; and at the same time he struck the boy Cavanagh on the head two or three times with the waddie, and killed him. He then struck the woman on the shoulder twice, and she fell with the child, which was three months old, the prisoner saying, "you b----- b----- would hang us all;" the child fell by the woman's side, and he struck it twice with the waddie on the legs and on the head. Harry then rushed forward, and struck both the woman and the child, which he killed with his waddie. Melville then told Thompson that if the police came after him he was to send them to a place he named in the mountains. Thompson then went back to the hut, and found the woman Doyle and her child there, with whom he went to another station, and almost immediately gave information of the outrage. When he returned in about two hours he found the prisoners and all the property gone, the two children lying dead, and the woman insensible.

The evidence of Thompson was fully corroborated by the two females, **ANASTATIA DOYLE** and **MARY KEOGHUE**.

The prisoner Melville cross-examined all the witnesses, and vehemently protested that he was innocent, and knew nothing at all of that part of the country.

Dr. **H. GLENNIE**: Examined the head of the child, and found the skull to be very much fractured; it appeared to have been beaten by some blunt instrument.

This closed the case for the crown.

The prisoner Melville then said that he knew nothing at all about it; he never was in that part of the country; he did not know either of the women; and as for Harry he had fits, and could not go about at all; he never went about the country, but stopped in the camp, and Melville used to feed him well with kangaroo, wallabie, or anything else he could find in the bush.

Harry said he was murry bad; not say much; had fit, and couldn't walk about; he knew nothing about it.

Mr. Purefoy then addressed a few observations to the jury, stating that he had no doubt, notwithstanding the atrocity of the crime, as it had been given in evidence before them, they would consider their verdict calmly and dispassionately.

His Honor then summed up, and the jury immediately returned a verdict of guilty against both the prisoners.

His Honor then passed sentence on the prisoners, telling them that though they had so strongly denied the murder, no person who had heard the trial could have the least doubt of their guilt. The act was more the act of fiends than of men; it was one of the most atrocious murders of which he had ever heard, either in this or any other country, and the prisoners therefore could not look for any mercy in this world; he would not be doing justice to the public if he did not pass upon them the sentence of death, and as far as he was concerned it must and should take effect.

The prisoners were then ordered to be removed, and Melville said to the Judge he was murdering him; he ought to order him to have 2lb of sugar, and half a pound of tea, while he was in Newcastle gaol. The prisoners were then removed.

#### THE BLACKS ON THE BARWIN.

Since our last we have received some additional particulars of the murder lately perpetrated by the blacks on the Barwin. The melancholy intelligence of Mr. **HALLEN'S** death has been confirmed; it appears that he survived the injuries he received for about ten days. The attack, as stated in our last, was made in the night, in a very sudden and unexpected manner, accompanied by a most terrific yell from the savages, although two of the party encamped were on guard at the time. An immense quantity of weapons, consisting of spears, clubs, waddies, &c., were all at once thrown by the blacks, many of which struck the trees about the encampment with great force, several of them being barked. After throwing these weapons, the blacks instantly rushed off at great speed. Several of the white party were slightly wounded. The stockman who was reported in our last as killed was badly wounded in the head, and was delirious for some days, but is now recovering. Of the others, the gentleman most severely wounded was not so much injured but that he was able to ride to Mudgee for assistance. So startling was the horrid yell which immediately preceded and accompanied the attack, and so sudden was the attack itself, that one gentleman who was slightly wounded jumped up, and in his alarm rushed into the fire, and was very much burnt.

#### SYDNEY NEWS

*(From our Correspondent)*

Thursday evening. A sailing match came off yesterday, between the sailing boats Dodger and Corsair, when the Breeze (a small yacht in attendance at the match) was capsized in a squall near Bradley's Head, and two lives were lost. One of the bodies, that of Mr. **BATTEN**, was picked up, and an inquest was held on it this afternoon, when a verdict of accidental death was returned. By the evidence adduced on the inquest, it appeared that a brig, with a pilot astern, passed within a very short distance of the spot where the accident occurred, but did not render the least assistance, although the crew of the pilot-boat might with ease have rescued the unfortunate men from their watery graves. The jury have taken a special notice of this fact in their verdict, requesting the coroner to give the matter a full investigation, with the view, if possible, of punishing the parties who were guilty of such abominable inhumanity. With this request the coroner had readily promised to comply. The body of the other gentleman, a Mr. **CURTIS**, has not yet been recovered, although active search has been made for it.

#### DEATH.

On Wednesday, the 13<sup>th</sup> instant, a few minutes after birth, the infant son of **J.S. PARKER**, Esq., of Hinton.

WREGISTER, 1/8, 16/09/1843.

FATAL ACCIDENT IN THE HARBOUR. - On Wednesday afternoon, during a sailing match in the harbour, one of the boats, the *Breeze*, was caught by a sudden squall, and immediately went down. Of four persons who were on board at the time, we regret to say, two were drowned, namely, Mr. **[RICHARD] BATTEN**, a broker and commission agent, and Mr. **[TIMOTHY] CURTIS**, one of the Chief Clerks, in the Union Bank. Both gentlemen were highly respected, and their premature death has inflicted much grief in a numerous circle. Mr. Curtis had been but a short time married. An inquest was holden on Thursday, at the Blue Bell, Erskine-street, on the body of Mr. Richard Batten, and a verdict of "accidentally drowned" returned, the jury at the same time recording a vote of censure on the crew of the pilot boat, who were within a short distance of the *Breeze* when the accident happened, but who made not the slightest effort to afford any assistance to the unfortunate men.

**BERRIMA ASSIZES.**

*Wednesday, September 6.*

Before his Honor Chief Justice Dowling.

**MARTIN BEECH** and **LUCRETIA DUNKLEY**, charged with the murder of **HENRY DUNKLEY**, husband of the female prisoner, and whose trial was proceeded with till a late hour the previous day, were again placed at the bar, when the remainder of the evidence was gone through, and the jury returned a verdict of guilty. Prisoners remanded for sentence.

*Friday, September 8.*

**JACOB JAMES** was then placed at the bar, charged with the wilful murder of **MICHAEL FOGARTY**, at the Tumut River, on the 28<sup>th</sup> May last. The offence was also laid as manslaughter. The jury found the prisoner guilty of manslaughter, and he was sentenced, on account of his excellent previous character, to the lenient punishment of six month's imprisonment in Berrima gaol.

*Monday, September 11.*

**AUSTIN KENNA** was indicted for the murder of **THOMAS CLARK**, at Goulburn, on the 19<sup>th</sup> November, 1842. - Guilty, received sentence of death.

**MARTIN BEECH** and **LUCRETIA DUNKLEY** who had been convicted of the murder of **HENRY DUNKLEY**, were sentenced to be hanged, after receiving a most impressive admonition from the judge.

**HENRY MACKAY**, convicted of violating a child, was then brought up for judgement, and sentenced to be imprisoned in his Majesty's Gaol at Berrima for twelve calendar months, during eleven months to be placed in solitary confinement in the second week of each month, and the last week be kept in like solitary confinement.

DEATHS. - At Bathurst, on the evening of Monday, the 11<sup>th</sup> instant, after having a miscarriage, **LORN JANE**, wife of Mr. **HENRY ROTTON**, of that place, aged twenty-six years; leaving her disconsolate husband and two young.

MAITLAND MERCURY (SUPPLEMENT), 01/37, 19/09/1843

MAITLAND CIRCUIT COURT

SATURDAY, SEPTEMBER 16, 1843. His Honor took his seat upon the bench at ten o'clock, and the jury having been called,

**MICHAEL KELLY** was placed at the bar, and indicted for the wilful murder of **DUNCAN M'GILLAVRAY**, at Paterson, by beating him on the head with a stick, on the 24<sup>th</sup> of June last; from the effects of which he died on the 28<sup>th</sup> of the same month.

The Attorney General conducted the prosecution; Mr. **PUREFOY** appeared for the prisoner; solicitor Mr. **CHAMBERS**.

The Attorney General opened the proceedings by stating that the prisoner was charged with the murder of Duncan M'Gillavray. There were a number of witnesses to be examined, some of whom, only, would identify the prisoner as the man who struck the blow, but they would all agree in stating that the deceased had come by his death in consequence of blows which he received at Paterson on the 24<sup>th</sup> June last. The question material to the prisoner was, whether he was the person who gave the blows. The deceased had met his death under circumstances which must be deplored by every lover of good order and regularity. It had occurred at an election, on the first introduction of the free institutions of the mother country into this colony, and was therefore much to be deplored. There were two candidates; a great deal of confusion had arisen, but it did not satisfactorily appear to which of the parties the deceased belonged. He was, however, in the riot; there was a great deal of excitement at the time, and it would be proved that the person who struck the deceased was a tall man, with black hair, and wearing a peculiar coat, which, notwithstanding all the efforts which had been made to produce it, he was sorry to say was not there. The jury must, however, deal with the case according to the evidence which would be produced. Some of the witnesses would swear positively to the prisoner. He would not, however, go into detail, but leave the evidence to speak for itself. As the unfortunate affair had arisen out of an election, it was probable that the jury might have heard exaggerated accounts of it; he would therefore entreat of them to dismiss from their minds all prejudice, and come to the trial open to no impression except such as should be produced by the evidence alone.

The learned gentleman then called

**ALEXANDER M'GILLAVRAY**, the father of the deceased, who deposed that his son went to Paterson on the day of the election, and was then in good health; he saw him in the township several times during the day; he saw him about four o'clock, he was then quite well; he saw him again about five o'clock near Mr. Keppie's inn, he was then in a very bad state, having his head, which was bleeding, bound up with a napkin. He walked home the next morning with the assistance of his brother. Dr. **PARK** saw him on Monday; he continued to get worse, and died on Wednesday morning. He was about thirty years of age. He had on a glazed hat; the one produced was it.

Cross-examined:- Witness returned home about five o'clock; deceased could then speak, but was in a very weak state. He returned about ten the next morning, and he then appeared a little stronger.

**ALEXANDER M'GILLAVRAY**, jun., brother of the deceased, deposed that he was with the deceased at Paterson on the 24<sup>th</sup> June, and between four and five o'clock in the evening he saw him received a blow near Cook's hotel. There was a great row in front of the hotel between Windeyer's and Lang's parties; they were fighting with sticks and stones. He was about ten yards from the deceased, and did not see him take any part in the fight. Deceased was struck with a round stick, about six feet long, and as thick as witness's arm; he was struck twice; the second time the man held the stick with both hands, and struck deceased on the back of the head; he did not quite fall with the first blow. The prisoner very much resembled the man who struck deceased, particularly about the hair and whiskers; he had on a dark frock coat, not a very dark

one. The man who struck him afterwards went into the middle of the crowd. Witness and deceased had not had anything to drink

Cross-examined:- There were more than a hundred people in the street; they were standing as thick together as the persons in the court-house; the people were fighting. Deceased was not as tall as witness; there were several taller people between them; he was told that his brother was down, and he then went to him. Witness did not see any hats there similar to the one worn by deceased; the man who struck deceased had a hat on like a Manila hat, that had been worn with a broad leaf about six inches wide; his coat was not a very dark one. When witness went up to his brother he could not tell whether he was dead or alive for about two minutes; witness and another raised him up, and carried him to the inn. He did not know whether the man who struck the blow belonged to Windeyer's or to Lang's party. [The latter part of this witness's evidence was taken through an interpreter.]

**JAMES PHILLIPS** was at Paterson on the 24<sup>th</sup> of June, and saw the deceased struck; he saw him running away, and the prisoner at the bar followed him with a large bludgeon, about six feet long; it appeared to be a sapling, and the prisoner wielded it with both hands. The prisoner was dressed in a frock coat, and had on a round black beaver hat, with a narrow brim. The first blow was struck on the back of the deceased's head, and prisoner struck him again as he was falling. Witness went up to deceased after he was struck, and saw that he would die. The prisoner entered further into the crowd, and witness got pretty near for the purpose of being able to identify him; a red handkerchief, or one much saturated with blood, was hanging from under prisoner's hat; he appeared to belong to Mr. Lang's party. Deceased had on a glazed hat. Witness never saw prisoner before that day; he had him in view for at least an hour afterwards, during which time he was fighting in the crowd; he watched him for the purpose of being able to identify him.

By a juror:- Deceased and prisoner were running from the crowd; there was a clear space between them and witness.

Cross-examined:- Witness, Mr. **DUNN**, Mr. **FELIX WITNESS**, and several other persons, were in the hotel when the disturbance began; he thought Mr. **WINDEYER** was up stairs. The mob appeared to be breaking in the door, and witness and his friends jumped out at the back window. Witness knew neither the prisoner nor the deceased before that day; he was only in the hotel a few minutes before the riot commenced. There were above 200 people in the riot, a good many blows were struck, and several people were knocked down; blows were struck by Mr. Windeyer's friends as well as Mr. Lang's. There might be 150 of Mr. Windeyer's friends; they were armed with sticks; many stones were thrown. The deceased had no doubt received some blows before he ran out of the crowd; he was about fifty or sixty paces from the crowd when he was struck. The rioting did not cease till sundown. The deceased was struck exactly in front of Cook's hotel; the whole occurrence was the work of a moment. Witness knew a person named Cook, and saw him in the crowd; he had the back of an old chair in his hand; witness did not see him in the direction of deceased; he did not know whether he assisted in lifting deceased or not. The whole transaction was one of a moment, and as soon as it was over the prisoner mingled with the crowd. Witness could not swear positively that he said that evening that he should know the man, but he very likely did. The ground between deceased and witness was level, so that he could see all that passed. He did not know whether the deceased was one of the men who were breaking into the hotel.

**WALTER SCOTT** was at Paterson on the day of the election, and after the close of the poll, about four o'clock, he proceeded to Cook's hotel. He heard a great noise,

which proceeded from Mr. Lang's party, and was afraid some mischief would be done. An attempt was made to force open the door of the hotel; stones were thrown, some of which went through the side lights. Witness went out along with Mr. **MUIR** and Mr. **M'MAISTER**; the people were fighting with sticks; some of them were lying on the ground, bleeding profusely. Witness saw the prisoner at the bar strike a man down, he struck him once after he was down. He never saw prisoner before, and thought he had on a black hat; he had a long stick, which he wielded with both hands. Witness went up to him, and desired him to desist. Deceased was struck in front of the hotel, a little to the right; there was not a great crowd about where he was struck; the crowd was more towards the punt; witness was about fifteen yards from the spot. After prisoner had struck the blow he moved off; when witness spoke to him he stood for a second or two. There was another man with prisoner, who said if witness would take away Cook they would go away; witness did take away Cook, and both men moved off. The police did not interfere that witness was aware of; he saw no magistrate there. He did not know whether prisoner was an elector. He (witness) was one of Mr. Windeyer's committee.

Cross-examined:- The bulk of the crowd stood a little to the right of the inn door; witness did not recall seeing Mr. Phillips there. After witness had sent Cook away, the prisoner and the man who was with him moved off, and he saw them no more; they did not mingle with the crowd. One side of the prisoner's head was or had been bleeding; there was a handkerchief, or something of the kind, hanging from under his hat. The piece of wood with which deceased was knocked down was a heavy piece, about as thick as witness's arm, and his impression was that it was square. When he spoke to the prisoner he stood as if he was horror-struck for a second or two, and then went away; he had on a surtout coat, light trowsers, and a black hat.

**DUNCAN M'INTYRE** knew the deceased; saw him at Paterson on the day of the election, and saw a man strike him two blows on the head with a piece of wood, the last of which felled him to the ground. The man who struck the blow was a tall, hardy looking man, with dark hair; he had on a frock coat; the prisoner resembled him very much.

**HECTOR M'DONALD** was at Paterson on the day of the election; he saw some people fighting near Cook's hotel; the prisoner was amongst them. Witness had known the prisoner for four years; he was a farmer residing on Mr. Eales's land. Witness saw the prisoner strike a man with a large stick, as thick as his arm; he held it with both hands, and struck the man on the head. Witness had no knowledge of the man who was struck, except by hearsay; he had a glazed hat on, similar to the one produced in court.

[The evidence of the two preceding witnesses was received through an interpreter, as they spoke in the Gaelic language.]

**HUGH M'MAISTER** was at Paterson on the 24<sup>th</sup> June; people were fighting in front of Cook's hotel; deceased ran towards them, and witness cautioned him not to go; he did go, and witness saw a man strike him with a stick which he held in both hands; he was a tall, stout man, very much like the prisoner at the bar. The deceased was struck twice; the man who struck him had on a long coat, and witness thought a black hat; after striking him he went into the crowd again.

Cross-examined:- There was a general fight; several were knocked down. Deceased had a small stick in his hand, witness thought, and was sober. Witness saw Dr. **SCOTT** speak to the man who knocked deceased down; the man was bleeding from the left side of the head.

**ROBERT PARK**, surgeon, saw the deceased on the 26<sup>th</sup> June; he had a large wound on the back of the head; he died on the Wednesday following. Witness made a post mortem examination, and found the skull was fractured.

This closed the case for the prosecution.

**MR. PUREFOY** then addressed the jury, pointing out the discrepancies which existed in the evidence, particularly that of dress, as given in evidence by the brother of the deceased, who differed from all the other witnesses; and he strongly called their attention to the fact mentioned by Dr. Scott, that after he had spoken to the person who had struck M'Gillavray both that person and his companion went away, they did not mingle with the crowd, which evidence was altogether at variance with that given by Mr. Phillips, who stated that after the blows were struck the prisoner again mingled with the crowd, and continued fighting for upwards of an hour, during which time he (Phillips) had his eye upon him. It had not been clearly proved that the person knocked down by the prisoner was the deceased Duncan M'Gillavray; it had been given in evidence that several persons had been knocked down, and there were circumstances about the case which might reasonably lead the jury to suppose that the person struck by the prisoner was not M'Gillavray; and unless they were fully satisfied on that point they must return a verdict of acquittal. The learned gentleman then proceeded at considerable length to state the law as to the offences of murder and manslaughter, and after having commented upon the evidence, and directed the attention of the jury to the verdict at the coroner's inquest, which was that the deceased came by his death in a row, under circumstances of suspicion against the prisoner, he concluded by stating that he felt confident the offence did not exceed manslaughter, but the jury were at liberty, if they thought proper, to find the prisoner guilty of a common assault, which verdict would subject him to considerable punishment.

The learned gentleman then called Messrs. **JOHN EALES, JAMES ROBINSON, and ANDREW LANG**, all of whom had known the prisoner for some time, and gave him a most excellent character as an honest, sober, and industrious man. Mr. **JOHN SULLIVAN**, chief constable, Paterson, proved that the prisoner gave himself up to him, after hearing that there was a warrant for his apprehension.

His Honor then summed up at great length, and read over most of the evidence, and laid down the distinction which the law made between cases of murder and manslaughter. The jury retired for about ten minutes, and returned a verdict of guilty of manslaughter.

The prisoner was remanded for sentence, and the court was then adjourned. The trial lasted from ten o'clock in the morning until eight in the evening.

**LACHLAN M'LUCAS and JOHN M'DONALD** were indicted for riot at Paterson on the 24<sup>th</sup> June last.

Mr. Purefoy appeared for the prisoners; solicitor, Mr. Chambers.

There were four counts in the indictment.

The Attorney General opened the proceedings at some length. He stated that on first looking over the depositions he felt some surprise, on seeing that one of the prisoners was a convict, that he had not been dealt with by the bench of magistrates, as they could have dealt with the offence with which he was charged it being not a felony, but a misdemeanour. They might, however, have sent the prisoner to this court in the view that justice would be more evenly administered in a court which was so far removed from the scene of the riot, and from all political feeling, and also that it might obtain more notoriety. It appeared to him extraordinary that no more than two prisoners had been brought before them. Though the police might be few in

number, and not able to stand against the rioters, they could surely have their eyes about them, and could mark such as were in the riot, in order that they might afterwards be brought to justice. If such scenes were to be enacted at every election it would be better that the privileges with which the inhabitants of New South Wales had been invested, and for which they had so long been in expectation, should be thrown to the winds; it would be better that they never should have the privileges of free man, than thus to abuse them, for no man would wish to encounter such scenes of riot and confusion as would be detailed to them in evidence. It was therefore of the utmost importance that the rioters should be brought to justice, and a warning given to others. He also wished it to be known that an election was no place for assigned servants. Those who went to exercise the privileges of free men had a right to complain of assigned servants being brought there, as they were not upon the same equality. Nor was it fair to the assigned servants themselves, who were no more than men, and whose passions and feelings were as likely to be excited as those of other persons. It was dangerous to their own interests; it was dangerous to the public peace; and it was objectionable in every view.

The learned gentleman then called **WALTER SCOTT**, who deposed that he was at Paterson on the day of the election; he saw the prisoner M'Donald there; he was carrying a flag; he appeared to be the leader of the mob. He saw him at different times in the day, making a great noise, and behaving in a very riotous manner.

**STEPHEN DARK** was at Paterson on the 24<sup>th</sup> June; he saw both the prisoners there, near Cook's Hotel; M'Donald attempted to strike Mr. **WINDEYER** with the staff of his flag; he also threw a bottle through the hotel window. Lang's party, of which M'Donald appeared to be the leader, threw a great number of stones, and attempted to break open the door with a ladder. The prisoner Lucas was in the crowd, but witness did not see him do anything, except shout "Lang for ever."

**WALTER SCOTT** recalled:- When the rioters arrived in front of Cook's Hotel, they broke in all the windows; there was a great deal of fighting with sticks, and many stones were thrown; there had not been much rioting previous to the close of the election. Major **JOHNSTONE** afterwards came down, but the riot had nearly subsided.

**JAMES ATKIN COOK**, innkeeper, of Paterson, saw both the prisoners in front of his house; M'Donald had a flag staff; the windows were all broken in; the chairs, tables, glasses and crockery ware were all broken. Witness was struck several blows. He saw M'Lucas in the crowd, but he did nothing.

Evidence of a similar nature was given by Messrs. **WILLIAM DUNN, W.M.M. ARNOLD, and ROBERT MUIR**, which closed the case for the prosecution.

Mr. Purefoy then addressed the jury for the defence.

Several witnesses were called, who gave the prisoners most excellent characters.

The Attorney General briefly replied.

His Honor summed up, and the jury returned a verdict of guilty against both prisoners on the first and second counts, and strongly recommended them to the mercy of the court.

The prisoners were remanded for sentence, and the court then adjourned.

TEETOTALLER, 2/88, 20/09/1843

**FATAL ACCIDENT IN THE HARBOUR.** - On Wednesday afternoon, during a sailing match in the harbour, one of the boats, the *Breeze*, was caught by a sudden squall, and immediately went down. Of four persons who were on board at the time,

we regret to say, two were drowned, namely, Mr. **BATTEN**, a broker and commission agent, and Mr. **CURTIS**, one of the chief clerks in the Albion Bank. Both gentlemen were highly respected, and their premature death has inflicted much grief in a numerous circle. Mr. Curtis had been a short time married. An inquest was holden yesterday, at the Blue Bell, Erskine-street, on the body of Mr. **RICHARD BATTEN**, and a verdict of “accidentally drowned” returned, the jury at the same time recording a vote of censure on the crew of the pilot boat, who were within a short distance of the *Breeze* when the accident happened, but who made not the slightest effort to afford any assistance towards the unfortunate men.

WREGISTER, 1/9, 23/09/1843

**MAITLAND ASSIZES.**

Before his Honor Mr. Justice Stephen.

*Thursday, September 14.*

**THERRAMITCHIE**, an aboriginal native, was placed at the bar, and indicted for the wilful murder of **JOHN POCOCK**, on the 9<sup>th</sup> February 1837, at Cogo, by beating him on the head with a stick. The jury returned a verdict of guilty. His Honor then, in a most impressive manner, passed sentence of death upon the prisoner. When the sentence was explained to him, he shook his head and said “bail me” [It was not I.].

*Friday, September 15.*

**HARRY** and **MELVILLE**, two aborigines, were indicted for the wilful murder of **MICHAEL KEOGHUE**, by beating him on the head, on the 4<sup>th</sup> February last, at Stanhope – Guilty, sentenced to be hanged.

*Saturday, September 16.*

**MICHAEL KELLY** was placed at the bar, and indicted for the wilful murder of **DUNCAN M’GILLIVRAY**, at Paterson, by beating him on the head with a stick, on the 24<sup>th</sup> of June last, from the effects of which he died on the 28<sup>th</sup> of the same month. The jury returned a verdict of manslaughter. – Remanded for sentence.

MAITLAND MERCURY, 01/38, 23/09/1843

MAITLAND CIRCUIT COURT. - FRIDAY, SEPTEMBER 22.

His Honor took his seat upon the bench soon after nine o’clock.

**WOUNDING WITH INTENT TO MURDER.**

**JAMES KAIN** was indicted for wounding with intent to murder **WILLIAM HURLEY** by shooting him in the back, at Hexham, on the 18<sup>th</sup> of August last; **CHRISTOPHER COOPER** and **GEORGE BODDEY** were indicted for being present, aiding and abetting; and **GEORGE HEALY** for being an accessory before the fact. From the evidence which was given, it appeared that on the 18<sup>th</sup> of August the prisoner Healy went to Hurley’s house, near Hexham, about three o’clock in the afternoon, nearly drunk, and asked him if he knew **JERRY NEWLAND**; Hurley said he did; and Healy said Newland was a friend of Hurley’s, who wanted to know how the prisoner knew that, and he replied that Newland had prevented Hurley from being robbed before that, but he might sleep easy now, there was no fear of him. Cooper was along with him, and they both had some dinner in Hurley’s house; Healy said he had been drinking all day in the bush. When they went away from the house they separated, and Healy went towards Weakley’s, to ask if he knew the man, and he said he was assigned to Mr. **GREENAWAY**. Between eight and nine o’clock on the same night Hurley heard some men outside the hut, and knew one of them to be **GEORGE WEAKLY**, his nearest neighbour, by his voice; he opened the door, and saw two men with Weakly; they jumped towards him, laid hold of him, and placed their pieces to

his breast, and demanded his money. He had a few shillings in his pocket, which they took. They then took Hurley and Weakly into the house, gave Weakly a push with the gun, and made him turn his face to the wall. They asked Hurley for more money, and he told them it was under the bed tick; he had about eighteen or nineteen shillings, which they took, and said if he did not tell them where the rest was they would burn him on the fire. He told them there was a memorandum for £10 on the Commercial Bank, and another for £5, in his jacket pocket. These they also took. They searched the hut, and stripped Hurley of all his clothes, and endeavoured to pout him on the fire, which was blazing; he got away from them, and ran out, when the prisoner Kai followed him, and almost immediately shot him. They brought him into the hut again, and threatened to put another charge into him, and he begged they would, to pout him out of pain. Only two of them were in the house, but they kept calling out, apparently to some one outside, "Look out, Jimbo." They staid in the house about a quarter of an hour after Hurley was shot, ransacking it for money, and on going away they threatened Weakly that if after they had left the house they found him for two hours they would blow his brains out. One of the men who entered the hut had a handkerchief tied over his head like a nightcap, and the other had a handkerchief tied under his chin, as if to hide his whiskers, and an old similar to a cabbage tree hat, which was pulled down over his eyes. A day or two after ther robbery two bags were found concealed amongst some timber on a dray belonging to Healy's master, and of which Healy was in charge, which were stolen from Hurley's hut on the night he was shot. The prisoners Cooper, Boddey, and Healy, had been seen together between one and two o'clock that day, by a man named **WILLIAM BOSSELEY**, and he had heard either Boddey or Healy say that before night they would knock some one's brains out but they would have the price of a bottle of rum. They also said they had been on the spree for a week, and they were determined to see it out. Boddey and Healy were drunk; Cooper had been drinking, but was sober. Information of the outrage was given almost immediately to the police, and the police magistrate, chief constable, and a number of constables, went to Hexham before daylight, and saw Hurley, who was then very bad. A number of prisoners were taken, and amongst them Boddey and Cooper, whose shoes exactly fitted some tracks of footmarks about fifty yards from Hurley's hut. Kain was apprehended about a week afterwards. Boddey and Cooper were assigned to Mr. W. Sparke, Healy to Mr. Greenaway, and Kain to Mr. E. Sparke. Hurley positively identified Kain as the man who shot him, and Boddey as the other man who was in the house at the time. Healy and Cooper admitted having been there in the day.

**GEORGE WEAKLY**, the man who was attacked in the paddock, and forced into Hurley's hut, also swore positively that Cooper was the man to whom he bade good night in the paddock, and that Kain and Boddey were the men who forced him into the hut, and ill-treated Hurley. He gave it also as his belief that Kain was the man who shot Hurley. Healy he did not see there at all, nor did he see him that day; he had known him before. Cooper, Boddey, and Kain he did not know previously.

After the case was closed for the fcrown, the prisoner Kain said he had several witnesses to call, who would prove that he was in his hut reading the Arabian Nights' from sox o'clock till ten that night.

Cooper asserted that he was an innocent man, and had witnesses to call; Boddey and Healy said the same.

Kain called several witnesses, who swore that he was reading the Arabian Nights' Entertainments, on the night of the robbery, in his hut, to a fellow servant, from six or seven o'clock until after eleven.

Cooper also called a number of witnesses, as did Boddey and Healy.

His Honor then summed up at great length, recapitulating a large portion of the evidence which had been given, and pointing out its applicability to the case of each prisoner individually, and stating the law as it related to each prisoner; first, Healy, as an accessory before the fact; second, Kain as the principal; and third, to Bonney and Cooper, as principals in the second degree.

The jury then retired for about two hours, and returned a verdict of guilty against Boddey and Cooper; Kain and Healy not guilty.

His Honor said that from what had transpired he should recommend the prisoners Kain and Healy to be returned to government service, and no more assigned to private service.

The Attorney General said he hoped a further enquiry would be made into the conduct of the Messrs. Sparke with respect to their assigned servants.

His Honor concurred in this opinion, and passed sentence of death upon both the prisoners who were found guilty.

The court then adjourned sine die, at two o'clock this morning.

INTERPRETER. Re **THOMAS M'KENZIE JEFFREY**, Paterson riot trials, "several of the witnesses being Highlanders who had a very limited knowledge of the English language, had not a very efficient interpreter been found, ..., whose services gave great satisfaction. Also comments, with example, on evidential problems when using interpreters.

INQUEST. - An inquest was held on Sunday last, at the house of Mr. **W. NICHOLSON**, the Maitland Inn, West Maitland, on view of the body of an old man well known as a mendicant in the town, named **WILLIAM WOMFORD**, who was found dead on the previous morning, in an old hut not far from the river bank, and near the Catholic chapel, West Maitland. The old man had been in the habit of sleeping in this hut, the sides of which were open, which had no floor except the ground, no door, and was partly unroofed, for some time past. He was seen entering it as usual on Friday night, and on Saturday morning was found dead. The jury returned a verdict of "Died by the visitation of God."

MAITLAND CIRCUIT COURT

TUESDAY, SEPTEMBER 19

SENTENCES.

His Honor took his seat upon the bench at half-past nine o'clock, and **MICHAEL KELLY, JOHN M'DONALD, LACHLAN M'LUCAS**, ... were placed at the bar for sentence.

The prisoners were separately called upon to know if they had anything to say why judgement should not be passed upon them, but they all remained silent.

His Honor first addressed the prisoners M'Lucas and M'Donald. He said they had been convicted of an offence which on reflection they must see was of a most serious nature, and it was the more necessary to make an example in the case, as being the first of the kind which had occurred. Such scenes endangered men in the exercise of their highest privileges, and it was important to the character of the colony and its inhabitants that the actors should be punished. M'Donald was not a free man; he therefore had no business at the election. His position in life did not take him there. M'Lucas was not a voter, and had no need to go; he was a mere lad, and ought to have abstained from entering into such scenes of outrage. The jury recommended them both to mercy, and if he was to consult his own feelings only, especially in the case of M'Lucas, he would give merely a nominal punishment, but he was there to discharge a stern duty. Punishment was not inflicted with reference only to the parties before

the court. The true end of punishment was to deter others from the like offences, not by way of retaliation or revenge, but to restrain others from committing the same crimes. The election had terminated, and all persons ought to have returned to their homes. Instead of this, a crowd followed one of the candidates and his party to a public house. The prisoners and their party, it was due to them to say, were on their way homeward, but in passing they saw a flag hanging from it. That might have excited them, or some of the crowd which was with them. Stones were thrown, and the flag removed. The violence, however, continued, and the party inside barricaded the doors. Stones were still thrown; the glass in the windows was broken, the furniture much injured, and the lives of the inmates periled. Several persons were struck by the stones; men on both sides procured sticks; one or two persons went out to pacify the crowd. Some of the mob went away, but the prisoner M'Donald cheered them back. During the whole of the day his conduct was violent, though it appeared he was under much excitement. In the latter part of the day his conduct became more outrageous, but he ought never to have been there. His master had stated that he had not his permission to go, and he only regretted that his master seeing him there did not order him to return home. If he had done so, much that had occurred would have been avoided. In the end much blood was shed, more than one life was endangered, and one was actually lost. He conceived therefore that the ends of justice might warrant him in passing a severe sentence, but on that occasion he was about to pass what might be called a lenient one, and the following were the reasons which influenced him to do so. The prisoner M'Donald was in a situation of great temptation, and forgetting his situation he became excited by an aggression which had been made upon him. On the other hand his conduct was eventually very violent; he was, however, of maturer age and experience than the other prisoner, and therefore his conduct was the less excusable. The main grounds on which he rested his sentence were – first, the recommendation of the jury, who were, after all, the great depositories of justice on such occasions. That was the principal ground. The next was the high character which they both appeared to bear, not merely for honesty and industry, but quiet, peaceful, and orderly conduct. M'Donald had been seven or eight years in the service of one master, without a single complaint having been made against him. He trusted all who heard him would observe the vast importance and value of a good character; he wished them to remember that character would always be taken into consideration. With regard to M'Lucas the same remarks applied, if possible, still more strongly. He had brought a good character to the colony, and had been well conducted since his arrival. He had also heard from a magistrate well acquainted with the prisoner that he had given himself up to justice, although he might easily have passed into another district. The prisoner himself might believe he was innocent, for he might forget the part he had taken, but there was no doubt of his being in the crowd; it was sworn that he had thrown stones. The sentence that he would pass upon him was that he should be imprisoned for one calendar month. M'Donald was sentenced to be imprisoned and kept to hard labour for six calendar months, and his Honor would recommend that he should not be returned to this district.

His Honor observed that if the statement made by Mr. **WALTER SCOTT** had not been explained, and Mr. Lang had not upon oath declared that he did not recollect Mr. Scott having spoken to him, and requested M'Donald's removal from the ground, he should certainly have recommended every assigned servant of that gentleman to have been withdrawn from him.

His Honor then proceeded to pass sentence on **MICHAEL KELLY**, observing that what he had said in the preceding case applied to Kelly in a still greater degree, and after dwelling for some time on the nature of the offence, and the good character which the prisoner had received, he sentenced him to be imprisoned for twelve calendar months, the first week in every alternate months to be in solitary confinement.

**MURDER.**

**BENJAMIN HARRIS** was indicted for the wilful murder of **JOHN RUTLEDGE**, by shooting him with a gun, on the 5<sup>th</sup> May last, at Merton.

It appeared that the prisoner was being escorted from Cassilis to Merton by the deceased, along with two other prisoners; they were not linked or chained together, and only one of them was handcuffed. On arriving at a station of Captain Pike's, about twelve miles from Merton, the prisoners went into the hut, and were followed by the constable, who left his musket outside; the prisoner went out of the hut, seized the musket, and said if the constable did not give up his ammunition he would put the contents of the piece through him. The constable said, "Do it," and advanced towards the prisoner, who stepped back a few paces; the constable went out, and in less than a minute the gun was fired, and on the men going out of the hut they found the constable dead. The prisoner took his ammunition, belt, and pouch, and the musket, and made off to the bush. He was apprehended by **PATRICK DOYLE** on the 27<sup>th</sup> June, with the musket, belt, and pouch in his possession.

The prisoner put in a written defence, in which he stated that the gun went off accidentally, and that he was at times, particularly when he had liquor, subject to an affection of the head, owing to some wounds he had received when he was a soldier.

Some evidence was taken for the prisoner on this latter point, but it was not established.

His Honor then summed up, and the jury returned a verdict of guilty. Sentence of death was passed upon the prisoner.

MAITLAND MERCURY, 01/39, 30/09/1843

LETTER RE ATTITUDES TO, AND TREATMENT OF, THE ABORIGINES, and Editorial reply.

We are quite alive to the many obligations we owe to the aboriginal natives of the country, but we think the first step necessary in civilising and improving those in the interior is to make them fully sensible that, while the *protection* of the law is extended to *them*, they will not be allowed to make aggressions upon the lives and property of their white neighbours. When this essential point has been accomplished, it will be a much more agreeable task to co-operate with the government in devising plans for the amelioration of the condition of the aborigines, than our present one of awarding blame for its neglect alike of the interests of both races. EDS. M.M.

INQUEST. - An inquest was yesterday held at the house of Mr. Mayo, East Maitland, on the body of a man named **HENRY SEYMOUR**, a prisoner of the crown belonging to an iron gang working at Pitnacree, who was drowned in the river on the previous day. There was no evidence to show how the deceased got into the water, and Mr. Surgeon **BROWN** having certified that death was occasioned by drowning, and that there were no external marks of violence on the body, the jury returned a verdict of "found drowned."

HUNTER RIVER DISTRICT NEWS  
NEWCASTLE.

ATTEMPTED ESCAPE FROM NOBBY'S ISLAND. - On Saturday last a dreadful circumstance took place at Nobby's Island. About three o'clock in the afternoon the sentry on duty observed two prisoners in the water naked, without irons, and swimming away. They were then but a short distance from the shore, and he ordered them back, at the same time firing over their heads. One of them, named **THORP**, complied with the order, but the other, named **BRENAN**, continued swimming in the direction of the North Shore. The soldiers fired several shots with a view to intimidate the man, but finding him bent on making his escape, if possible, they fired at and shot him; he instantly sunk, and his body has not been since seen, although the boat which arrived very soon after the occurrence was sent out to search for it. Indeed the chance of finding it was but small, as the tide was then rapidly running out.

THE CONDEMNED PRISONERS.

The ten unfortunate convicts now in our gaol under sentence of death are most assiduously attended by the Reverend Chaplain and Mr. **STEWART**, minister of the Scottish Church, but we fear the poor aborigines will obtain very little religious instruction, from the want of interpreters, as they are all of different tribes, and are not able to converse with each other, although Melville, the Port Stephens black, can speak a little English.

WREGISTER, 1/10, 30/09/1843.

DEATHS.

On the 27<sup>th</sup> instant, Mrs. **S.H. LEVEY**, of Castlereagh-street, in childbirth.

By drowning, on the 13<sup>th</sup> instant, in Sydney Harbour, in consequence of the yacht *Breeze* having capsized in a squall, **TIMOTHY CURTIS**, of the Union Bank of Australia, only son of **CHARLES CURTIS**, of the late firm of Sir William Curtis, Bart., Clarke, Curtis, and Clarke, of Wapping, London.

MAITLAND MERCURY, 01/40, 07/10/1843

HUNTER RIVER DISTRICT NEWS

NEWCASTLE

POLICE OFFICE. - MONDAY, SEPTEMBER 25

*(Before Major Crummer, P.M., and Captain Armstrong, J.P.)*

ESCAPE FROM NOBBY'S ISLAND. - **WILLIAM THORP**, a convict in irons at Nobby's Island, was charged with making his escape from the island on the 23<sup>rd</sup> September. **ROBERT BACKOP**, a soldier in the 99<sup>th</sup> regiment, deposed that he saw the prisoner and another convict in the water off Nobby's Island, making for the North Shore; he called out several times to them to return. Thorp returned, but the other prisoner, whose name was **WILLIAM BRENNAN**, was shot at by the guard. The shot struck Brennan, and witness saw him sink, and his body has not yet been recovered. Thorp was conveyed to the lockup to answer the charge of escaping from the Island. The bench found the prisoner guilty, and he was sentenced to receive one hundred lashes. The prisoner said he would do his best to escape from Nobby's, or perish in the attempt.

DUNGOG.

ACCIDENT. - On the night of the 19<sup>th</sup> of September a man named **SULLIVAN** was drowned in attempting to cross the river. He had been in Dungog on business for his master, Mr. **JOHN CUMMING**, of Monia, Upper William River, and had called at Mr. Hector's on his way home, where the servants endeavoured to persuade him not to cross the river, but in vain. How the accident occurred does not clearly appear. The horse arrived at home the next morning, and some things which the unfortunate

man had with him at the time were found by the side of the river, near the crossing place, on the following day. The river was very high at the time, owing to the great quantity of water which has lately fallen. Search has been made, but the body has not yet been found. October 2<sup>nd</sup>, 1843.

WREGISTER, 1/11, 07/10/1843.

ATTEMPTED ESCAPE FROM NOBBY'S ISLAND. - On Saturday last a dreadful circumstance took place at Nobby's island. About three o'clock in the afternoon the sentry on duty observed two prisoners in the water naked, without irons, and swimming away. They were then but a short distance from the shore, and he ordered them back, at the same time firing over their heads. One of them, named **THORP**, complied with the order, but the other, named **BRENAN**, continued swimming in the direction of the North Shore. The soldiers fired several shots with a view to intimidating the man, but finding him bent on making his escape, if possible, they fired at and shot him; he instantly sank, and his body has not been since seen.

ORDER FOR EXECUTION. - **MARTIN BEECH** and **LUCRETIA DUNKLEY**, at present under sentence of death in Berrima gaol, are ordered for execution, at that place, on Monday the 16<sup>th</sup> instant.

RECORD, 1/1, 07/10/1843

SUPREME COURT – CRIMINAL SIDE

(Before the Chief Justice)

Tuesday [October 3]

**THOMAS HUNT** was acquitted [probable misprint – see Record ½, 14/10./1843] on an indictment, charging him with having committed an assault on a child under ten years of age.

Friday [October 6]

**JANE WRIGHT** was indicted for manslaughter, for having, in her capacity as midwife, caused the death of a child, by unskilful treatment.

The trial excited considerable interest, from the number of medical gentlemen who were examined, and the singularity of the case. The jury found the prisoner guilty, and the Court sentenced her to be transported for seven years.

MAITLAND MERCURY, 01/41, 14/10/1843

RESPITE. - His Excellency has been pleased to respite, for the present, **TOM, alias KAMBARGO, JACKY JACKY, SORETHIGHED JEMMY, and FOWLER**, all aboriginal natives, and sentenced to death at the last Maitland Circuit Court. There is also an order for their removal from Newcastle gaol to Sydney gaol. *Australian.*

(Summary Jurisdiction)

**THOMAS BAGNELLY** was charged with an assault on the person of **HENRIETTA DAVIS**, at Paterson, on the 24<sup>th</sup> August last. The assault was clearly proved, and the prisoner in his defence said that some years ago, when in the service of the Australian Agricultural Company, he received an injury in his head, from which, whenever he had the misfortune to take a drop of drink, he was distracted, and did not know what he was doing. The court found the prisoner guilty, and in passing sentence upon him observed that there appeared reason to believe that what he had stated was true, but he ought on that account to refrain from taking any drink, and this would be no excuse for him if he came before them again on any other offence. In the present case, however, they would pass upon him a lenient sentence, which was that his ticket should be cancelled for three calendar months. The court then adjourned.

RECORD, 1/2, 14/10/1843

SUPREME COURT – CRIMINAL SIDE

Thursday

(Before their Honors the Three Judges)

**THOMAS HUNT**, for an assault on a child under the age of ten years, was sentenced to be imprisoned and kept to hard labour for two years.

**MICHAEL MOORE** charged with murder was remanded.

WREGISTER, 1/13, 21/10/1843

EXECUTION. - On Monday, **MARTIN BEECH** and **LUCRETIA DUNKLEY**, convicted of the murder of the husband of the latter, were executed at Berrima, pursuant to their sentence, and their bodies handed over to the surgeon of the place for dissection. They made no confession of any kind.

MAITLAND MERCURY, 01/42, 21/10/1843

EXECUTION. - On Wednesday last the sentence of the law was carried into effect on the two aborigines **MELVILLE** and **HARRY**, who were convicted at the late assizes of the murder of **MICHAEL KEOGHUE**, of Stanhope, near Glendon. The two prisoners were since the time of their condemnation attended by the Rev. Mr. **WILTON**, of Newcastle, and there was reason for believing that they had profited by his instruction. They were brought up to Maitland for execution by the steamer on Tuesday last, and lodged in one of the empty boxes in the new gaol yard, where they were attended by the Rev. Mr. Wilson and the Rev. Mr. **CAMPBELL**. They both expressed their sorrow for the crime they had committed, and appeared to lend a willing ear to the ministrations of the rev. gentlemen who attended them. The time for their execution was fixed at twelve o'clock, and previous to that hour a large concourse of people had assembled in front of the gaol wall at East Maitland, where a gallows was erected for the execution of the criminals. Very few of the aborigines were to be seen about, but three of the young gins belonging to the same tribe as the two unfortunate men were brought into the gaol to take leave of them. At the sight of these females Harry wept loudly, and during the whole of the time they continued in the gaol yard. Melville also wept a little, but he overcame his grief. Both men conversed with the gins for a length of time in their own language, and on their departure shook hands with them very affectionately. Both the prisoners conducted themselves with great firmness, though it was evident that Harry suffered mentally much more than Melville. Soon after eleven o'clock Mr. **KECK**, who acted for the sheriff, entered the gaol, and the prisoner's irons having been previously knocked off, their arms were pinioned. Shortly afterwards the clergymen, who had been absent for a short time, returned, and after a short exhortation, to which both men attentively listened, the procession moved towards the gallows. On arriving at the foot of the gallows, the warrant for their execution was read by Mr. Keck. The prisoners then knelt down with the clergyman in prayer for a few minutes, and very clearly and distinctly repeated the prayers after the clergyman. They then ascended the scaffold with a firm step, and on gaining the platform they both bowed to the multitude. After the ropes had been adjusted, the Rev. Mr. Wilton said, "Melville and Harry acknowledge that the Governor has done right in taking their lives, and die confessing the crime they have committed." The clergyman then left the unhappy men, and in a few minutes the bolt was drawn and the drop fell. Harry struggled for a long time, and appeared to suffer a great deal. Melville being a heavier man died sooner, though

it was some time before the quivering in his limbs subsided. After hanging for an hour their bodies were lowered from the gallows, and placed in coffins, and buried in the grave yard. Both the prisoners during the whole of the awful scene conducted themselves as became men in their awful situation.

**BENEVOLENT ASYLUM.**

It will be seen by an advertisement in another column of today's publication, that a public meeting of the friends and supporters of the Maitland Benevolent Asylum will be held at the Court House, East Maitland, on Thursday next. We are glad in being able to state that the institution is now in a prosperous state, being fully able to meet all demands against it. There are at present three male patients in the hospital, and as an instance of the usefulness of the institution we may mention that last week a poor man was received into it who died within twenty-four hours afterwards, and who but for the Asylum must have perished in the streets, being in a state of the utmost destitution.

**FATAL ACCIDENT.** - On Thursday evening last, as Mrs. **CUNNINGHAM**, whose husband resides on Mr. Mitchell's farm at Melville, was returning home from Maitland, with a cart in which she had brought some vegetables for sale, the cart came in contact with a stump, and was overturned, at some distance from her residence, and unfortunately fell upon her neck, which some of the ironwork of the cart penetrated. It was some hours before the accident was discovered, and when found Mrs. Cunningham appeared to have been dead some time. The unfortunate woman was well known in Maitland as being a very industrious woman, who used to come into town regularly every day with vegetables for sale. She has left a large family to deplore her untimely end.

**NEWCASTLE.**

**EXECUTION.** - The execution of the unfortunate man **BENJAMIN HARRIS** took place on Tuesday last, about nine o'clock in the forenoon. He was attended on the awful occasion by several gentlemen of the Wesleyan Methodist connexion. He met his fate with great fortitude, and died without a struggle.

**WREGISTER, 1/14, 28/10/1843.**

**EXECUTION OF TWO ABORIGINES.** - On Wednesday week, the last sentence of the law was executed, at East Maitland, upon **HARRY** and **MELVILLE**, the two aborigines who were convicted at the last assizes of the murder of **MICHAEL KEOGHUE**, at Stanhope, near Glendon. They were attended by the Rev. Messrs. **WILTON** and **CAMPBELL**, and conducted themselves in a very becoming manner. Very few of the aborigines were to be seen among the crowd that assembled to witness the execution; but three of the young gins belonging to the same tribe as the two unfortunate men were brought into the gaol to take leave of them. As the sight of these females Harry wept loudly, and during the whole of the time they continued in the gaol yard. Melville also wept a little, but he soon overcame his grief. Both men conversed with the gins for a length of time in their own language, and on their departure shook hands with them very affectionately. Both the prisoners conducted themselves with great firmness, though it was evident that Harry suffered mentally much more than Melville. They ascended the scaffold with a firm step, and on gaining the platform they bowed to the multitude. After the ropes had been adjusted, the Rev. Mr. Wilton said, "Melville and Harry acknowledge that the Governor has done right in taking their lives, and die confessing the crime they have committed." The clergyman then left the unhappy men, and in a few minutes the bolt was drawn and the drop fell.

MAITLAND MERCURY, 01/43, 28/10/1843

DEATH FROM DROWNING. - On Saturday last, an immigrant miner, named **JOHN PARRY**, was unfortunately drowned. The deceased had been shooting on Bullock Island, and on returning, without his companions, attempted to cross the creek at the wrong place, where the channel was deep, and the current very strong; and not being a swimmer he was drowned, when within but a short distance from the mainland. Every exertion was promptly made, but without effect. The body was found on the following morning. The funeral of the unfortunate man took place on Monday evening; his remains were interred in the Protestant burial ground. Upwards of fifty brethren of the Lodge of Odd Fellows, of which order poor Parry was a member, attended the funeral. The procession looked very interesting and affecting. This is the first funeral of any member of this society since its institution in this town, and the members are every week increasing. The widow of the unfortunate deceased has, it is said, received £20 from the society.

ESCAPE FROM NOBBY'S ISLAND. - Three of the prisoners confined at this stockade effected their escape on the night of the 18<sup>th</sup> instant, by cutting through the box in which they were locked up. Early next morning a report was made to Captain **ARMSTRONG**, assistant engineer, and two military parties were despatched in pursuit; one of whom, under the command of lance serjeant **JAMES COOK**, after a most active and persevering pursuit, captured two of the runaways, on the estate of Colonel **SNODGRASS**. The other prisoner, it is supposed, must have been drowned in endeavouring to reach the North Shore. The other two, (as is customary among this class of men) denied having any knowledge whatever of the missing prisoner. Serjeant Cook was ably assisted by Mr. **M'DOUGALD**, as well as by Mr. Smith's overseer, who promptly lent the serjeant his horse, which was in great measure the means of having these desperate characters so soon apprehended.

MURRURUNDI

ACCIDENT. - An awful accident occurred a few days ago at Roache's wine and beer shop, a house of accommodation beyond the boundaries. A party of bullock drivers were drinking there until they became so intoxicated as to be unable to take care either of themselves or their masters' property. On leaving, one of the party, who was unable to stand, fell under a dray, when the wheel passing over his head he was killed on the spot. It really appears astonishing that houses of this kind should be permitted to exist beyond the boundaries, where there are neither magistrates nor constabulary to watch their proceedings. They were prohibited by Mr. Commissioner Mayne, and we are sorry that Sir George Gipps has thought proper to restore them, as they are amongst the direst evils which afflict the colony, as every employer of labour or owner of stock beyond the boundaries can certify to his cost. It is to be hoped that an enquiry will be made into the circumstances of the above case, as it is a fact that of late upwards of half a dozen men have lost their lives one way or another through drink supplied to them at houses beyond the boundaries, and in no case that I am acquainted with has any investigation taken place. October 24<sup>th</sup>, 1843

DUNGOG

SUICIDE. - On Monday last, about half-past seven o'clock in the morning, a trooper in the mounted police, named **JOHN STEPHENS**, put an end to his life by shooting himself with a pistol. The ball entered just below the stomach, passed downwards, and came out close to the spine; a medical gentleman was speedily in attendance, but on seeing the wound he pronounced it fatal, and said he could do nothing for the relief of the sufferer, who died in about half an hour afterwards. On

the following day an inquest was held before **J.S. PARKER**, Esq., coroner, when the jury returned a verdict of *felo-de-se*. It appeared that on the previous evening deceased had returned to the barracks in liquor, and from that, as well as other misconduct, Serjeant **TIGHE** made a report, to be forwarded to Captain **SCHOFIELD**, the commanding officer, who was at Jerry's Plains; before sending the report the serjeant read it to the deceased, and when he left him to take it to the post office the man shot himself.

**ACCIDENT.** - A melancholy accident occurred on Sunday evening last, about six o'clock, at a place about five miles from this township. A boy about seven years of age was left in charge of a younger child, while the parents were absent for a short time, and on their return they found the child burnt nearly to a cinder. The unfortunate little creature lingered until twelve o'clock at night, when death released it from its sufferings. The parents are in a state bordering on distraction. October 26, 1843.

**SYDNEY NEWS.** - **MARTIN BEECH** and **LUCRETIA DUNKLEY**, convicted at the Berrima assizes of the murder of the husband of the wretched woman, were executed on Monday se'nnight. Their bodies were handed over to the colonial surgeon for dissection.

**RECORD, 1/4, 04/11/1843**

**INQUEST.** - An inquisition was taken in Castlereagh-street, on Sunday last, by the coroner, on view of the remains of a bricklayer, named **M'EVOY**, who died suddenly on the previous day. Dr. **TIERNEY** stated to the jury that he was sent for to attend the deceased, but before he reached the poor man's dwelling he had expired. By direction of the coroner, Dr. Tierney made a *post mortem* examination of the body and stated that it was his opinion the deceased had been seized with a fit of apoplexy, brought on by excessive drinking, which terminated fatally. The jury returned their verdict accordingly. We give publicity to this melancholy case, in order that others may be deterred from following similar destructive habits.

**MAITLAND MERCURY, 01/44, 04/11/1843**

**MELANCHOLY ACCIDENT.** - On Saturday last a labouring man named **CHRISTOPHER GRANT**, who was employed on Mr. **P.H. RAPSEY'S** farm, Morpeth, fell from a load of lucerne hay upon which he was riding, and was so much injured that he died on Sunday evening. An inquest was held on the body at Mr. Anlaby's, before **J.S. PARKER**, Esq., coroner, on Monday, and a verdict of accidental death was returned. - We understand that the deceased was a very industrious and sober man, and that he has left a widow and several children in a state of the greatest destitution, he having been for some time previous to his death out of employment. We have heard that it is intended to raise a subscription for the widow, who is said to be a very deserving woman, and we sincerely trust that something may be done for her.

**WREGISTER, 1/15. 04/11/1843.**

**EXECUTION OF THERREMITCHIE, THE BLACK.** - This culprit suffered the penalty of the law, at Port Macquarie, on Wednesday, the 25<sup>th</sup> instant. Previous to his execution, he acknowledged that he was present at the murder for which he was about to suffer, but denied having any participation in it. He also confessed to having been present at the murder of a young man named **WATERS**, a shepherd, in the employ of Messrs. Tod and Fenwicke, of New England, about eighteen months since. He further

stated that he was present at the murder of a poor woman of the name of **SHAW**, who was found cruelly murdered in her hut, on the Plains, about a year before the murder was committed at Gogo, for which he was now about to suffer. The culprit was attended several times in his cell by the Rev. **JOHN CROSS**, but who failed to make any religious impression on him.

**ESCAPE FROM NOBBY'S ISLAND.** - Three of the prisoners confined at this stockade effected their escape on the night of the 18<sup>th</sup> ult., by cutting through the box in which they were locked up. Early next morning a report was made to Captain **ARMSTRONG**, assistant engineer, and two military parties were despatched in pursuit; one of whom, under the command of lance serjeant **JAMES COOK**, after a most active and persevering pursuit, captured two of the runaways, on the estate of Colonel **SNODGRASS**. The other prisoner, it is supposed, must have been drowned in endeavouring to reach the North Shore. The other two denied having any knowledge whatever of the missing prisoner. - *Maitland Mercury*.

**SUICIDE.** - It is our melancholy duty to record the untimely death of **JOHN M'LEAN**, Esq., an extensive sheep farmer in New England, who committed suicide at the Hotel Royal, Port Macquarie, on Sunday morning, the 22<sup>nd</sup> ultimo, by cutting his throat, arm and temporal artery. An inquiry was held on Monday, before Dr. **CARLYLE**, J.P., as to the cause of death, the result of which was, a decision that the deceased had destroyed himself while labouring under a temporary fit of insanity.

MAITLAND MERCURY, 01/45, 11/11/1843

ORIGINAL CORRESPONDENCE

ACCIDENT AT LIVERPOOL PLAINS

*To the Editors of the Maitland Mercury*

GENTLEMEN - Observing in your paper of October 28<sup>th</sup> an account of the death of a bullock driver, said to have occurred at my public house a few days previous, while the man was in a state of intoxication, I beg to deny the report in the fullest manner. Such an accident, or any similar one, has never occurred at my house. I have heard that some time ago a bullock driver was killed in the manner described at Caryubia, a distance of at least twenty-five miles from my house; but neither the man nor the dray he was with had been at my place. As such false reports are calculated to do me great injury in my business, I hope in future you will make inquiries before publishing any such.

The report is false in other respects, too, as there are two magistrates, viz., Mr. Commissioner **ALLMAN**, and Mr. Commissioner **MITCHELL**, in my district. Trusting, etc.

**WILLIAM ROACH,**

Innkeeper, Liverpool Plains.

MAITLAND MERCURY, 01/46, 18/11/1843

**ACCIDENT AT LIVERPOOL PLAINS.** - Since our last Mr. **ROACH**, the proprietor of the accommodation house beyond the boundaries at which the accident mentioned in our journal of the 28<sup>th</sup> October was said to have happened, has called upon us, and given us the following account of the particulars. The man who was unfortunately killed was travelling with some drays belonging to Mr. **PRINGLE**. They called at Mr. Roach's house, but the men did not go in, and after having received from Mr. Pringle some beef and flour they proceeded on their journey, without having had anything to drink. Mr. Pringle staid and dined at the house, and about an hour afterwards followed the drays. The accident did not occur until the day

but one afterwards, when Mr. Pringle (Mr. Roach believes) was with the drays. The unfortunate man had got upon the pole of the dray for the purpose of doing something to the load, when owing to the bullock upon which he was resting his hand shying, he slipped off, and the wheel passed over him. He was perfectly sober at the time, and had been so all the way up, and was rather remarkable for being a man of sober habits.

LIST OF SUBSCRIPTIONS collected at Morpeth for Widow **GRANT**, whose husband was accidentally killed at Phoenix Park, Morpeth, on the 28<sup>th</sup> October last. [Very long list, no total.]

MAITLAND MERCURY, 01/47, 25/11/1843

INQUESTS. - On Friday, the 17<sup>th</sup> instant, an inquest was held at Langlands, on the William River, before **J.S. PARKER**, Esq., coroner, on view of the body of a man named **GEORGE MORGAN**, in the service of Mr. **RICHARD LANG**. It appeared that on Tuesday, the 7<sup>th</sup> instant, the deceased, in company with another person, was assisting a Mr. **M'CORMICK** to put up a wall plate of a barn at Clarence Town. They had raised one end upon a post, and in endeavouring to raise the other it fell, and struck the deceased on the head so forcible as to render him insensible. The deceased was assisted home by his companions, and died some time afterwards. The evidence of two medical men was taken, from which it appeared that the external injuries were not such as to cause death, but the deceased had long been afflicted with water in the chest, to which cause his death was attributed. The jury returned a verdict that the deceased died from natural causes, accelerated by the injuries he had received. - Another inquest was held before the same gentleman on Wednesday last, at the house of Mr. **Wm. NICHOLSON**, the Maitland Inn, High-street, on the body of **SARAH NICHOLS**, a child about seven years of age, the daughter of Mr. **THOMAS NICHOLS**, stonemason. It appeared that on the Monday morning previous, about nine o'clock, the deceased had been fetching a firestick from a neighbour's house, when by some means her clothes caught fire in the street. Her mother heard the deceased's screams, and ran out, and with the assistance of another person tore off the child's burning clothes. Proper applications were immediately applied, but the child was so much burnt about the back and abdomen that she died about two o'clock on Tuesday morning. Dr. **SLOAN** certified that death had been caused by the injuries received from burning, and the jury returned a verdict of accidental death.

NEWCASTLE

**COOPER and BODDEY**. - On Tuesday last the two men Christopher Cooper and George Boddey, who have been under sentence of death since the last Maitland Circuit Court for shooting with intent to kill **WILLIAM HURLEY**, at Hexham, on the 18<sup>th</sup> of August last, were forwarded to Sydney, his Excellency the Governor having been pleased to commute their sentence to transportation for life.

RECORD, 1/9, 02/12/1843

SHOCKING EVENT. - On Wednesday an inquest was held at the Builders Arms, in Castlereagh-street, on view of the remains of **TERENCE M'ELHONE**, whose death had been occasioned by a fall from the window of his bed-room into the street on Sunday morning last, whilst labouring under the effects of *delirium tremens*. The jury returned a verdict of accidental death. This case affords another awful example of the fatal effects of intemperance.

WREGISTER, 1/19, 02/12/1843

INQUEST. – On Wednesday at one p.m., an inquisition took place at the Builder's Arms, corner of Castlereagh and Liverpool-streets, on the body of **TERENCE M'ELHONE**, when it was proved that the deceased, while under the influence of liquor, fell from the window of his bedroom into the street between two and three o'clock on the morning of Sunday last; that between nine and ten o'clock on the preceding evening he had been so outrageous that his wife and family were compelled to fly from the premises, and that having been left in his bedroom without a light, he had got out of the window apparently under the impression that he was stepping into the street. By the medical evidence of Messrs. **BLAND** and **DUIGAN**, it was rendered apparent that death had been caused by a fracture of the pelvis. The jury returned a verdict to the effect that death had been accidental, and the result of a fall which the deceased had got while in a state of intoxication, he being at the time labouring under *delirium tremens*.

MAITLAND MERCURY, 01/48, 02/12/1843

SYDNEY NEWS. - As the Asia from London was about to enter the heads, on Friday night last, an apprentice on board, about sixteen years of age, was carried overboard by the main sheet whilst tacking ship. A boat was instantly lowered, and some planks and hencoops thrown overboard, but after pulling about the place for upwards of an hour the boat returned without having seen anything of the unfortunate lad.

MAITLAND MERCURY, 01/49, 09/12/1843

INQUESTS. - On Tuesday last an inquest was held at the house of Mr. J. Smith, the Golden Fleece, East Maitland, before **J.S. PARKER**, Esq., coroner, on the body of a woman named **REBECCA HICKSON**, the wife of a ticket of leave holder named **JOHN HICKSON**, residing at Mulberry Creek. The woman had been dead upwards of a fortnight, and was interred in the East Maitland burial ground, but some rumours having got afloat that her husband had ill-used her she was disinterred, and the inquest was held upon her. The inquest was adjourned until Thursday for further evidence, and a post mortem examination of the body was made by Drs. **CAMPBELL** and **EDYE**. On Thursday some additional evidence was taken, and the medical gentlemen having stated that death was the result of natural causes the jury returned a verdict of died by the visitation of God; and Hickson, who was in custody, was discharged. - Another inquest was held before the same gentleman on Sunday last, at the Rose Inn, on the body of a man who had died suddenly the day before. From the evidence it appeared that the deceased had been out reaping at the Paterson, and came into Maitland on Saturday, and when very much heated with walking drank a large quantity of cold water, soon after which he died. The jury returned a verdict of death from natural causes.

ACCIDENT. - On Thursday last a woman named **MARY JONES**, a ticket of leave holder in the Paterson district, was riding in a wool dray, when the dray was accidentally overturned, near Webber's Creek, and went over her body. The woman and driver were quite sober. She exclaimed, "Oh! George, the dray has gone over me," and expired immediately.

**An aboriginal named MICKEY** has been committed from Moreton Bay, on three separate charges, with intent to kill. There have been no further outrages committed by the blacks in the Moreton Bay district.

RECORD, 1/10, 09/12/1843

**VALENTINE GRIFFITHS**, Esq.

A melancholy report, causing a universal feeling of regret, reached town Thursday afternoon, of the sudden death of this gentleman, who, it is stated, shot himself through the head. It is supposed that his feelings were overpowered by circumstances connected with his pecuniary affairs, which, acting on a highly sensitive mind, led him to commit the rash act. As a man of honour and tried bravery in action, the late Mr. Griffiths held the highest and most gratifying testimonials it was possible for a man to earn.

WEEKLY MELANGE. - Inquests were held during the week on three individuals, two of whom died from the effects of intoxication.

RECORD, 1/12, 16/12/1843

ADVERTISEMENT BY Dr. **TIERNEY**, and an editorial paragraph referring.

MAITLAND MERCURY, 01/50, 16/12/1843

FATAL ACCIDENT. - Yesterday morning a fatal accident happened to a person named **JOHNSON**, who was formerly steward to one of the steamers, and latterly a waiter at Mr. Yeomans's, the Northumberland Hotel, West Maitland. Since Johnson has left Mr. Yeomans's service he has resided at Morpeth, and has been in the habit of going out with another party in a small boat, fishing. They had been out on Thursday evening as usual, and returned on Friday morning, leaving their fish in the boat while they both went home to sleep; Johnson afterwards went down to the boat, and in going down called upon his companion, telling him that he would call and leave a bucket-ful of fish as he came back from the boat. He did not, however, call, and in about three quarters of an hour afterwards the other went down to the boat to look for him, and observed that the sides of the boat were splashed with water; his fears being aroused he looked further around, and discovered the bucket which Johnson had taken with him floating on the river. The man instantly gave the alarm, and a pair of grappling irons were procured from Mr. Portus; after searching for about half an hour the body was found. It is supposed the unfortunate man, whilst standing in the boat, lost his balance, and fell overboard. He has left a wife and four children to lament his untimely end.

RECORD, 1/13, 23/12/1843

INQUESTS. - On Tuesday morning an inquest was held on the body of **MARY ANN HALLER**. The jury returned a verdict of "died by the visitation of God." On Thursday, another inquisition was taken touching the death of Captain **JOHN GREGORY**, commander and owner of the *New York Packet*, at present lying in Darling Harbour, and loading for London. The jury returned a verdict that the deceased was accidentally suffocated.

CURIOUS SURGICAL CASE. - Dr. **TIERNEY** and case of new born child with lump in thigh which eventually produced a needle.

WREGISTER, 1/23, 30/12/1843.

INQUEST. - On Thursday afternoon, an inquisition was held at the Commercial Hotel, corner of Sussex and King-streets, on the body of **JOHN GREGORY**, commander and owner of the ship *New York Packet*, at present lying in Darling Harbour, and loading for London. It appeared in evidence that the deceased had been ailing for a considerable time, and his complaint was believed to be consumption, or disease of the lungs. At about eight o'clock on Thursday morning, the mate called the

carpenter to breach open the cabin door, as the captain was dead. The door was forced open and the deceased was found sitting on a box, quite dead, with the lanyard of his sleeping cot under his chin. It was believed that, as the deceased was very weak, he had taken hold of the rope found under his chin, for the purpose of placing it under one of his arms to support himself while coughing; but while in the act of doing so, his foot slipped, and the bight catching him under the chin, he had been suffocated. When the body was discovered in the morning, it was warm. Deceased had a brother at Kensington, near London, and a sister residing in the Borough. He was owner of the ship and part owner of the cargo now being shipped through the agency of Mr. **A.B. SPARK.** **G.WALLACE**, Esq., M.D., and Mr. Surgeon **HARPUR**, having conjunctly made a *post mortem* examination of the body, certified that death had been caused by suffocation. Dr. Wallace also informed the jury that deceased had been his patient for the last seven weeks; and in order to get him again restored to health, it had been necessary to reduce him very much. He had seen him on Wednesday, and found the symptoms so favourable, that he had ordered him additional support, and he was in better spirits than he had been for a month before; it was evident death had been caused by suffocation, by the deceased being suspended under the chin. The jury returned a verdict of accidental suffocation.

NSW Inquests 1844

MAITLAND MERCURY, 2/53, 06/01/1844

NEWCASTLE. - CORONER'S INQUESTS. - On Saturday last an inquest was held at Mr. M'Greavy's, the Victoria Inn, on view of the body of **CHARLES CLARKE**, a butcher, an immigrant. The deceased had been missing ever since the evening of Christmas Day, and although diligent search was made for him by his friends and relatives no tidings were heard of him until Friday morning last, when his remains were found floating in the harbour, by the crew of the boat attached to Nobby's Island, at only a few rods distance from the ballast wharf. After a very long and patient investigation, a verdict was returned that deceased had destroyed himself in a fit of temporary insanity. The deceased, from his vocal powers, and from his possessing a knowledge of music of no ordinary degree, was well known to the inhabitants of the town. He was the leader of a choir of singers inferior to none in the colony as amateurs, but unfortunately he was of a susceptible disposition, and a weak mind. He appears to have entertained a strong attachment to a respectable young woman who was engaged to another, and perhaps there were other circumstances connected with his future prospects which induced him, while under the influence of spirits, to commit suicide. His loss as a singer will be felt by the lovers of music, and his last performance, the Christmas Anthem, will be long remembered by those who were aroused from their slumbers on the morning of Christmas Day by the harmony of that beautiful anthem. The unfortunate man was in the 28<sup>th</sup> year of his age. - Another inquest was held at the same time and place on the body of **JAMES CLARKE**, a prisoner of the crown assigned to the hospital. On Friday, the 29<sup>th</sup> December, the deceased was brought to the police court for some breach of discipline, and while standing at the bar, before the case could be gone through, he fell down and expired on the spot. The jury returned a verdict of died by the visitation of God. The coroner and jury were occupied on the above inquests for fourteen hours.

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The warfare between the aborigines and the white settlers in the district of Moreton Bay is still going on. Within the last few weeks four lives have been lost, two whites and two of the aborigines.

RECORD, 1/14, 06/01/1844

INQUEST. - An inquisition was taken by the Coroner, on Tuesday afternoon, at an Inn near the Custom House, touching the death of **MARY SIMPSON**, who expired on the previous day. From the evidence it appeared that the deceased, who imagined that labour was coming on, sent for a midwife, who brought some cloves in her pocket, and afterwards sent for some mace, which she made into a drink and administered to the deceased. It was the opinion of one of the medical gentlemen who was examined, that the deceased was suffering from inflammation of the stomach; and if that opinion was correct, the drink made up by the midwife should not have been given to her. The jury returned a verdict, "died by the visitation of God." This is another instance of the little reliance to be placed upon midwives, in undertaking any medical treatment.

WREGISTER, 2/25, 13/01/1844.

SUICIDE. - On Thursday last, a man named **JOHN HOOD**, in the service of **JOSEPH COQUELIN**, baker, Pitt-street, was found dead, having cut his throat with a razor. It appeared that for nearly four months past the deceased had been entrusted

by his employer to deliver bread to a number of his customers, and had failed to account for the weekly payments, to the amount of £10 or £12. It was also given in evidence that the deceased had been married for about eight years, and had been purchasing land which he had not the means of paying for.

**Domestic Intelligence.**

**ATTEMPT TO MURDER.** - About twelve o'clock on Saturday night, the whole neighbourhood adjoining Kent and Erskine streets was alarmed by the cries of murder. The neighbours turned out, when it was discovered that the cries proceeded from the house inhabited by a widow named **[ELLEN] JAMIESON**, who for the support of herself and two children, had been keeping a small chandler's shop. The premises being surrounded by the neighbours, the back door was forced open by the police; on gaining admission, the constables found Mrs. Jamieson lying in a pool of blood, and on searching the house a man was apprehended and sent to the watch-house. It appears the prisoner is a **JOHN KNATCHBULL**; that he was formerly a captain in the navy, and is a near relative of Sir **EDWARD KNATCHBULL**; that he had been for some time a Norfolk Islander and was implicated in the mutiny of the *Wellington*, and in the attempt to poison the crew of the *Governor Phillip*. He was also one of the ringleaders in the disturbances which took place some years ago at Norfolk Island, for which several men were executed. He is now a ticket-of-leave holder, and of late has been employed on board a coasting vessel. On Monday he was brought up at the Hyde Park Police Court, before Captain **INNES**, and the evidence of the constable who apprehended him was entered on the record. From the evidence, it appeared that he had in his possession seventeen pounds in notes and two shillings in copper; also, a woman's pocket, in which were found eighteen sixpences and nine shillings in silver. There were no suspicious marks about the prisoner, and he was perfectly sober. The back door of the premises had been broken in, apparently with an axe. The female is lying in a dangerous state, quite insensible, and her recovery is next to impossible, as a portion of the brain had protruded through the skull, which was dreadfully fractured. The wound was supposed to have been inflicted with a tomahawk, as a weapon of that description, stained with blood, was found on the premises on Sunday morning. The prisoner was remanded till Monday next.

**MANSLAUGHTER.** - On Wednesday an inquest was held on the body of **PATRICK ROGERS** who had died on the previous day in consequence of Constable **[DENNIS] BARRY** having poked his stick into his eye, while in custody for drunkenness. The jury after hearing the evidence returned a verdict of manslaughter against the prisoner Dennis Barry who was accordingly committed for trial.

**MAITLAND MERCURY**, 2/54, 13/01/1844

**SYDNEY NEWS.** - There have been two cases of suicide today, but I have been unable to learn the full particulars. One was that of a collecting clerk **[JOHN HOOD]** of a baker in Pitt-street, who was said to have embezzled his master's money to the amount of £10 or £12, and on being ordered to make up his accounts, went into another part of the premises, and destroyed himself by cutting his throat. The other unfortunate victim of self-destruction was a female, who deprived herself of existence by poison, in consequence, it is reported, of having been thwarted in her desire of marrying some person who was not approved of by her friends.

**RECORD**, 1/16, 20/01/1844

**DOMESTIC RECORD.** - **CRIMINAL SESSIONS**

**MICHAEL MOORE** was indicted for the murder of **MICHAEL BISHOP**, on the 6<sup>th</sup> March, 1841.

The prisoner and the deceased were related to each other by marriage, and some quarrel having taken place between them, the prisoner actuated by a desire for vengeance, watched the deceased while going along South Head Road to his ordinary work, and falling upon his victim, beat him on the head with a piece of wood in the manner described in the indictment, which caused his death a few days after the occurrence. The prisoner then absconded, and was not apprehended until lately. All the witnesses swore to the identity of the prisoner.

The jury after a short consultation, found the prisoner guilty. The Judge then passed sentence of death upon him in a very impressive manner, and told the prisoner, that he dared not hold out any hope of mercy for him in this world. The prisoner was silent during the whole of the trial, and did not seem much affected by his dreadful situation.

INQUESTS. - On Monday, an inquest was held at Glenmore Cottage, Cumberland-street, on view of the body of **ELIZABETH CARR**. Dr. **BENNETT** stated, that the deceased had been subject for some time past to a pulmonary complaint, and that death had been caused by the rupture of a blood vessel. A verdict was returned in accordance with the evidence. [Probably misplaced—from the end of the paragraph below: The unfortunate deceased was thirty years of age, and has left two children to deplore her untimely end.]

Another inquisition was taken at M'Kenzie's public house, in Clarence-street, On Thursday, touching the death of **ELLEN JAMIESON**, who expired between seven and eight o'clock on the same morning. The particulars of this shocking event have already appeared in this journal. The evidence given before the coroner was corroborative of the account we have given of this distressing case. The coroner on summing up, paid a deserved compliment to Mr. **SHALLESS** for the praiseworthy manner in which he had acted throughout the whole transaction. The jury after a short consultation, returned a verdict of "wilful murder" against **JOHN KNATCHBULL**, who was committed to take his trial. The thanks of the jury was tendered to the coroner for the manner in which the whole case had been brought before them. After the warrant for the committal had been made out, he was hurried into a hackney-coach, which had been sent by the Chief Commissioner of Police, who feared the crowd might lay violent hands on him; the bystanders expressed their detestation of the culprit by hooting, hissing, and cheering, in which men, women, and children alike joined. The jury room was crowded to excess by a considerable number of private gentlemen, as well as several military and naval officers. It is expected that the prisoner will be tried during the present sessions. He is about thirty-six years of age, but looks much older. He has large features, is of middle size, and of muscular frame.

On Wednesday, the coroner held another inquest at Toogood's Rainbow Tavern, on view of the remains of **MICHAEL HEALY**, late landlord of the Brougham Tavern, corner of Brougham Place. According to the evidence, the death of the deceased had been caused by his imprudent conduct in taking diet, and using remedies, improper for his complaint, and which were not recommended by his medical advisor. The jury returned a verdict of "died by the visitation of God," and expressed their belief that there was no foundation for the rumours that had been circulated, and which had rendered the inquisition needless.

GROOMAGE FOR THE SEASON; Mr. **HENRY ECKFORD** v. **JOSEPH PERCOCK**, his hired servant.

DEATH OF MRS. JAMIESON. - This unfortunate woman, who was so brutally ill-used and robbed about a fortnight ago by a man named **KNATCHBULL**, died this morning about half-past seven o'clock. An inquest was held on her body this afternoon, and the jury returned a verdict of guilty of wilful murder against Knatchbull; he will probably be tried during this sessions of the criminal court.

WREGISTER, 2/26, 20/01/1844.

**SUPREME COURT.**

Monday.

*Before his Honour Mr. Justice Burton, and a Common Jury.*

**MICHAEL MOORE** was indicted for having on the 6<sup>th</sup> day of March, 1841, feloniously, wilfully, and of malice aforethought, assaulted one **MICHAEL BISHOP**, by striking him upon the right side of the head with a piece of wood, thereby inflicting a wound of which he the said Michael Bishop expired on the ninth day of the same month. The Jury found the prisoner guilty, and his Honor, in a solemn and impressive manner passed sentence of death upon the prisoner.

**JOHN PUNCH** and **LOUGHLIN O'BYRNE** were placed at the bar, the former charged with the wilful murder of one **WILLIAM NORRIS**, at Windsor, on the 16<sup>th</sup> September last, by striking him on the head with a piece of wood, thereby inflicting wounds of which he expired on the 24<sup>th</sup> of the same month; and the latter, with being present aiding and abetting in the crime. A second count charged the murder as having been committed with the hands and feet only.

Mr. **MICHIE** applied on behalf of the prisoners, to be allowed until Thursday morning next to plead to the above indictment; and the Attorney General having expressed his consent, the prisoners were remanded to that day.

Friday.

*Before His Honor Mr. Justice Burton, and a Common Jury.*

**JOHN PUNCH** and **LAUGHLIN O'BYRNE**, arraigned on a former day, the former for killing and slaying one **WILLIAM NORRIS**, and the latter for being present aiding and abetting in such offence, were then placed at the bar. Guilty – each to be imprisoned and kept to hard labour for sixteen months in addition to their previous imprisonment.

INQUEST. - On Monday, the 18<sup>th</sup> instant, an inquest was held on the body of **JOSEPH BARNES**, a servant of Mr. **ROBERT GREEN**, of Pennant-street, Parramatta, at whose house the inquisition was held. The deceased had been into Parramatta twice during the previous day, for manure, and left the last time at about seven in the evening, quite sober; about half-past eight he was found on the road, and brought back to his master's house, the arm and four or five ribs were broken, and from the appearance of an injury on the neck, there is little doubt that the wheel of the loaded cart passed over him. Dr. **GWYNNE** was examined, and his evidence favouring such an opinion, a verdict of accidental death was passed.

INQUEST. - An inquest was held on Thursday, on the body of **ELLEN JAMIESON**, who expired between seven and eight o'clock the same morning. From the evidence it appeared that, on the 6<sup>th</sup> instant, the prisoner **JOHN KNATCHBULL** had been seen lurking about the premises of the deceased between ten and twelve o'clock, P.M., - that he was at length observed to go in and shut the door, after which there was a noise of something falling, and several strokes as of one breaking a cocoa nut. Murder having been suspected, an entrance by the back door was effected, and

the deceased was found lying insensible and covered with blood. The prisoner was found standing behind the front door, and was immediately secured. In his pockets were found £17 2s. 8d. in money, besides several bills of exchange drawn upon his brother, Sir **EDWARD KNATCHBULL**. There were also several spots of blood upon his trousers. The jury returned a verdict of wilful murder against John Knatchbull, who was committed to take his trial. The prisoner appears to be about 36 years of age.

RECORD, 1/20, 27/01/1844

EDITORIAL ; Re Sale of Poisonous Drugs.

CRIMINAL SESSIONS.

Friday.

**JOHN PUNCH** and **LOUGHLIN O'BYRNE** were indicted for killing and slaying one **WILLIAM NORRIS**, and the latter with aiding and abetting the former in such offence. Guilty – sentenced each to be imprisoned and kept to hard labour for sixteen months.

**DENNIS BARRY** was indicted for manslaughter, in having caused the death of **PATRICK ROGERS**, by striking him with a stick on the right eye. The particulars of this case have already appeared in this journal. The evidence having been adduced, the jury found the prisoner guilty, and recommended him to have mercy on account of his previous good character. Remanded for sentence.

**DENIS GAVIN** was charged with having maliciously assaulted **JAMES BYRNE**, by wounding him in the stomach and thigh, thereby inflicting certain wounds which caused his death. The deceased was a patient in the hospital at the time of the occurrence, and the prisoner was attached to that establishment; his duty was to remain in the passage and prevent communication between the male and female prisoners. The deceased, in attempting to break through the rules of the establishment in this particular, was prevented by the prisoner, and during the scuffle which took place, received the wound of which he died, from a pair of scissors. The prisoner in defence said that the deceased attacked him with great fierceness, and that he had unwittingly inflicted the wound which caused his death. The jury found the prisoner guilty, but strongly recommended him to mercy. The judge sentenced him to be worked in irons for the space of twelve calendar months.

MAITLAND MERCURY, 2/56, 27/01/1844

A WOMAN SUSPECTED OF POISONING HER HUSBAND

On Friday, the 12<sup>th</sup> instant, a man called at Mr. Earle's, druggist, High-street, West Maitland, and asked for some strychnine, to poison native dogs with, saying he had been sent for that purpose by Captain **BIDDULPH**. Mr. Earle having been in the habit of selling drugs occasionally for the same purpose to Captain Biddulph, suspected no wrong, and told him he had no strychnine by him just then, but he had some morphine, which would answer the purpose as well. The man inquired the method of administering it, and being told, bought and paid for a shilling's worth; which he said was the money young Mr. Biddulph had given him to pay for it. Mr. Earle made the morphine up into three small packages, carefully writing "poison" on each one, and cautioned the man about its use, particularly not to leave it in the way of woman or children.

On the Monday afternoon following, **JOHN THORNTON**, a man living on Mulberry Creek, about sixteen miles from Maitland, was taken very ill with violent vomiting. Towards night he got heavy and sleepy, but awoke again in a delirious

state, foaming at the mouth, and finally died about four o'clock in the morning of Tuesday, having been in a state of heavy stupor for some time previous, neither speaking nor opening his eyes. Some remarks reported to have been made by the husband some time previous about his wife **MARY THORNTON**, and a man living in the same hut with them, named **JOSEPH VALE**, induced the neighbours to believe that he had not come fairly by his death.

On the following day an inquest was held on the body, and in consequence of the reports which were about as to the manner in which Thornton died, the coroner requested Mr. **EDYE**, surgeon, of Maitland, to make a post mortem examination. Mr. Edye accordingly opened the body, but observed no appearances but what might have been equally produced by apoplexy arising from natural causes, or brought on by poison. Wishing, however, to have an opportunity of testing the contents of the stomach, the inquest was adjourned to the next day, and the stomach carefully removed to Maitland. On the most careful examination, Mr. Edye, who was assisted by Mr. **MUTLOW**, druggist, of East Maitland, was unable to detect any evidence of poison, the stomach containing very little dilute liquid, but a quantity of undigested food; thirty-eight hours having at this time elapsed since the man died. The stomach was carefully returned to Mulberry Creek, the inquest resumed on the Thursday, and Mr. Edye's evidence given to the above effect. The coroner then proceeded to take the evidence of parties residing on the spot.

The report that Thornton had said some time previously that his life had been attempted once, but he was lucky and escaped, was traced through seven parties, who had each heard some one else say so, till it ended in a shoemaker having heard some of his customers say so, who he could not remember. The main evidence against the wife was that of a woman named Mrs. **CUTTS**, who, with her husband, had lived in the same hut with Thornton, his wife, and Vale. She stated that on the Sunday preceding Thornton's death, his wife said to her while walking together, "I suppose now if my husband were to die, they would say Joe and I had murdered him." To which she replied, "Why he isn't ill, is he?" And that the wife rejoined, "Why no, he is only a little queer." This woman's evidence was strongly denied by Thornton's wife, who said some such conversation took place on the Monday after he was taken unwell, but not exactly as Mrs. Cutts reported. The jury returned a verdict of "Died by unfair means, through some person or persons unknown."

It having been ascertained on the second day of the inquest that Mr. Earle had stated that a man had bought some poison to kill native dogs from him in the name of Captain Biddulph, that gentleman called on Mr. Earle a day or two after, and said that he had not sent any man for such a purpose into Maitland, as he had a large quantity of strychnine by him for the express purpose of killing native dogs.

The coroner having requested the Maitland bench to examine further into the matter, yesterday Joseph Vale was placed at the bar, and Mr. Earle being sworn, after giving the particulars as above mentioned of the purchase of the poison, said he was almost sure the prisoner was the man who bought the poison from him, and that he was then dressed in white trousers, blue jacket, and he thought a blue shirt, with a coloured silk neckerchief; that the neckerchief worn by the prisoner at the bar was the same pattern as that worn by that man; but that he could not swear that it was the same article. Mr. Earle further stated that there was a little girl in the shop at the time, who had told him she was sure she should know the man again. In answer to a question from the prisoner, Mr. Earle stated that on Monday or Tuesday last constable **FRY** brought Vale into his shop, when he was busy, and asked him if he was the man, and that he then said he was not; he had then dirty trousers on. The bench requiring the

prisoner to put his hat on, Mr. Earle said the resemblance was much stronger, and he was almost certain he was the same man; the voice, too, seemed to him exactly the same.

**ROBERT CUTTS** was then sworn, and deposed that on last Friday week his brother **THOMAS CUTTS**, Joseph Vale, and John Thornton, came to his house with a dray loaded with wheat, and stopped there; that he bought the wheat from the three, and sold Vale a watch on credit, his brother telling him that he might safely trust him, as he lived on his ground. Vale was dressed in a blue jacket, white trousers, and a cabbage-tree hat, and he believed had on a neckerchief; the prisoner at the bar was Vale, and the hat he had with him appeared to be the same he had then on. The whole party appeared on friendly terms. About three or four o'clock Vale left the house, the other two remaining the night, and at tea-time Thornton remarked to Thomas Cutts, "I wonder where Joe's gone; d'ye think he has gone home?" To which Cutts replied, "I'm sure I don't know." He believed Vale was at the house again for a short time about dusk. The next morning, about nine o'clock, Thornton and Thomas Cutts left to go home with the dray.

**MARY CURTAIN** was then sworn; witness lives at Dr. Earle's, West Maitland; knows she will be punished if she tells a lie; knows her prayers; does not know her age; saw the prisoner Vale in the shop about four days ago, and heard him asking for poison to kill native dogs, which had killed a great many sheep belonging to Captain Biddulph; saw him pay a shilling for the poison, and heard Dr. Earle tell him it was poison when he got it. Prisoner had on a white moleskin trousers, blue jacket, and cabbage-tree hat; believed he had on the same hat then; he had also a colored neckerchief on, similar to the one he then wore, but looking newer. Witness had had no conversation with any one concerning prisoner since the day he bought the poison. She saw a constable there with a man, but did not notice him.

**GEORGE WOODS**, chief constable, deposed that he took the girl to see five men in the cellar in the rear of the court house, and that she immediately picked prisoner out from among them.

Constable **KERR** deposed that he brought the girl over from West Maitland in a gig; had had no conversation with her; did not tell her what she was coming for.

The prisoner was then remanded.

[We have given the most correct account we could gather of the inquest, as we have not been able to see the depositions taken on the occasion, the coroner having kept them to forward, along with the depositions taken at the police office, to the Attorney General.]

MAITLAND MERCURY, 02/56, 27/01/1844

SUPREME COURT – CRIMINAL SIDE

MONDAY, JANUARY 22

**DENIS GAVIN** was indicted for manslaughter, in having , on the 8<sup>th</sup> December last, assaulted **JAMES BYRNE** by wounding him in the stomach and thigh, of which wounds Byrne expired on the 10<sup>th</sup> of the same month. The prisoner was attached to the hospital at the time, and the deceased was a patient there; prisoner was placed between the wards to prevent any communication between the male and female patients, where he worked at his trade as a tailor, and on Byrne attempting to pass him and go into the female ward, a scuffle ensued between the, and the prisoner having his scissors in his hand inflicted the wounds of which Byrne died. Guilty, with a recommendation to mercy; to be worked in irons for twelve months.

WEDNESDAY, JANUARY 24

*(Before Mr. Justice Burton and a common jury)*

This morning **JOHN KNATCHBULL** was placed at the bar charged with the wilful murder of **ELLEN JAMISON**. The prisoner pleaded not guilty.

The Attorney General conducted the prosecution. The principal part of the evidence against the prisoner was a recapitulation of that given before the coroner and jury on Thursday last, and which was fully reported in the Sydney papers of the following day.

Mr. **LOWE**, who appeared on behalf of the prisoner, rested his defence principally upon the improbability of a person of sound mind committing a crime of such enormity, and endeavoured by ingenious arguments to prove that he must have been impelled to it by some irresistible and unknown agency.

Dr. **HARNETT** and one or two other witnesses were called to speak on behalf of the prisoner, but nothing was elicited to shake in any way the evidence that was brought against him. Dr. Harnett stated that he had known the prisoner a long time; he was of a respectable family, and had been a captain in the royal navy; he had been sent to Norfolk Island, and bore a very indifferent character.

His Honor, in summing up the evidence, repudiated the dangerous doctrine laid down by the prisoner's counsel; there had been no evidence to show that the prisoner was not of sound mind at the time he committed the act. His Honor, after reading over the whole of the evidence, left the case in the hands of the jury, who, after considering for about three minutes without leaving the box, found the prisoner guilty.

The prisoner, on being asked if he had anything to say why the sentence of the court should not be passed upon him, denied having committed the crime with which he was charged, and said that had sufficient time been allowed he should have been able to disprove a part of the evidence that was sworn against him. He had been a member of an honourable profession, and had never drawn a sword but in his country's defence, far less for the destruction of an unprotected female. He trusted the judge would be lenient with him. The prisoner, who had previous to this preserved a very firm demeanour, seemed much affected, and was observed to shed tears.

His Honor, after commanding silence in the court, put on the black cap, and said that he had not the slightest doubt of the prisoner's guilt; the evidence against him was clear and conclusive. He trusted that during the short time that would be allotted to him here he would endeavour to make his peace with God, as he could not have the slightest chance of mercy on this side the grave. The Judge then sentenced the prisoner to be hanged by the neck until he was dead, at such time and place as his Excellency the Governor might appoint.

The trial lasted the whole day, and during the greater part of the time the court was crowded to excess. The court then adjourned ...

SUPREME COURT – CRIMINAL SIDE

FRIDAY, 20<sup>TH</sup> JANUARY

**JOHN PUNCH** was indicted for killing and slaying **WILLIAM NORRIS**, and **LAUGHLIN O'BYRNE** for aiding and abetting in the same. The prisoners had been tried for the offence at Windsor Quarter Sessions on 6<sup>th</sup> April last, and had been found guilty of an assault; Norris being then alive. Since that time Norris had died, and his death having occurred within the period of a year and a day from the assault being committed, the prisoners were now indicted for manslaughter. On the part of the prisoners' council (sic) it was objected that they could not be tried a second time for the same offence; but it was decided that the death of Norris in the meantime from the injuries he had received in the affray, by altering the charge against them from assault to manslaughter, justified their now being tried on the latter charge. The jury returned

a verdict of guilty, and his Honor sentenced them to sixteen months' imprisonment with hard labour from date of trial, being merely the fulfilment of the punishment awarded to Punch by the Court of Quarter Sessions, with the addition of hard labour.

SATURDAY

**DENNIS BARRY** was indicted for manslaughter, in having, on the 9<sup>th</sup> January instant, struck **PATRICK ROGERS** with a stick on his right eye, and inflicted a wound of which Rogers died immediately after. After the examination of a number of witnesses for the prosecution, and defence, the latter bearing strong testimony to the prisoner's generally good character and contrition for the offence, the jury returned a verdict of guilty, but recommended him to mercy; he was remanded for sentence.

FATAL ACCIDENT. - A drayman in the employ of Mr. Chalker, named **JAMES M'CLUSKY**, when proceeding along the Western Road, on Monday week, fell off the shaft of his dray, and had his intestines smashed to pieces by the wheel passing over his body. An inquest was held on his body at Watsford's public house, on the Friday following, and the jury returned a verdict of accidental death. *Parramatta Chronicle*.

WREGISTER, 2/27, 27/01/1844.

**SUPREME COURT.**

Saturday.

Before his Honor the Chief Justice, and a Common Jury.

**DENNIS BARRY** was indicted for having, on the 9<sup>th</sup> of January instant, assaulted one **PATRICK ROGERS**, by striking him with a stick on his right eye, and thereby inflicting a wound, of which the said Patrick Rogers immediately afterwards died. Guilty, with a recommendation to mercy, in consideration of his former good character – remanded for sentence.

**DENIS GAVIN** was indicted for having, on the 8<sup>th</sup> day of December, maliciously assaulted one **JAMES BYRNE**, by wounding him in the stomach and thigh, thereby inflicting certain mortal wounds, of which the said James Byrne expired on the 10<sup>th</sup> of same month. Guilty – to be worked in irons for the space of twelve calendar months.

Wednesday.

*Before Mr. Justice Burton, and a Common Jury.*

**JOHN KNATCHBULL** was placed at the bar indicted for the wilful murder of one **ELLEN JAMIESON**, by striking her on the head with a tomahawk, on the 6<sup>th</sup> of January instant, thereby inflicting divers mortal wounds, of which the said Ellen Jamieson expired on the 18<sup>th</sup> of the said month. A second county of the indictment charged the prisoner with having committed the assault which caused the death of the said Ellen Jamieson, by forcibly casting her on the ground and beating her with his hands and feet. The facts, given in evidence, were that the prisoner had been seen lurking about the door of the deceased's house, on the corner of Kent-street and Market-place, for upwards of an hour and a half, by Mr. **SHALLES**, the builder, and was finally seen by the same party to enter the house, when, suspecting the evil nature of his intentions, Mr. Shalles ran up to the door and listened – hearing no sound except a noise like that of someone breaking a cocoanut with a hammer; he suspected foul play, and procured the assistance of a Mr. **JAQUES** and others, by whom the house was forcibly entered and the prisoner secured. On entering the house, the deceased was found lying insensible, with her head dreadfully cut, but the instrument with which these injuries had been inflicted was not discovered until the next day, when Mrs. Jaques, who was attending the deceased, found a tomahawk spotted with blood concealed between the mattress and battens under the bed whereon Mrs.

Jamieson was then lying, which tomahawk was proved afterwards to be the property of one **CHARLES HOLLOWELL**, with whom the prisoner was then lodging. The prisoner was also seen by two of the witnesses while up-stairs, and was observed to push aside the blind and look out upon them when the alarm had been given. On getting the prisoner to the watch-house, and searching him, a woman's pocket was found upon him, containing ten shillings and eighteen sixpences, and apparently torn by force from her person; they also found a bag containing £4 2s. 8d. in silver, £1 1s. also in silver, six £1 notes, and one £5, the whole of which money had been concealed on various parts of his person. Besides this money they also found six bank bills, three of which were filled up for £50 each, signed by the prisoner, and addressed to Sir Edward Knatchbull, and the others left blank as far as the amount and signature were concerned, but addressed to the same party. Upon examining the prisoner's trousers, they were found to be spotted with blood, and they were accordingly taken from him for production at the trial. The trousers were accordingly produced, and sworn to, and the tomahawk and pocket was also produced, but neither of them could be proved by the police to be the identical ones procured in the manner above stated. The tomahawk, however, was sworn to by Mr. and Mrs. Jaques as the one which was found on the premises, and Inspector **MOLLOY**, although he could not swear positively that the pocket produced was the one which was found on the prisoner, stated he believed that it was so, inasmuch as it every way resembled that article. The pocket was likewise sworn to by a Mrs. **BROWN** as having belonged to the deceased. To prove that the deceased had lost her life from the injuries she had received, Mr. **JONES**, of Jamison-street, the surgeon who had first been called to the unfortunate woman, was examined, and after describing the nature of the wounds, and the probability of their having been inflicted by such an instrument as the tomahawk produced, gave it as his decided opinion that her death had been produced by those wounds.

An able defence of the prisoner was made by Mr. **LOWE**, on the plea of monomania, but the facts having been clearly proved, the jury, without leaving the box, returned a verdict of guilty, and his Honor passed sentence of death upon the prisoner.

The court was crowded during the trial, which lasted till four o'clock.

MAITLAND MERCURY, 02/57, 03/02/1844

THE MURDER AT MULBERRY CREEK.

On Saturday last **JOSEPH VALE** was again brought up in the above case, and **THOMAS CUTTS**, (the person in whose hut the unfortunate **JOHN THORNTON**, his wife, and Joseph Vale were living) deposed that on Friday week Thornton, the prisoner, and himself came together towards Maitland as far as Brook's Flat, where prisoner left them; and that they arrived at his brother's in Maitland, about half-past two. Prisoner on that day was dressed in white trousers, blue jacket, and a cabbage-tree hat; his neckerchief was a coloured handkerchief, of a dark mixed colour, neither brown nor red. Of the two handkerchiefs produced witness could not say which he wore that day, but to the best of his belief he had seen the prisoner wear the red handkerchief. Prisoner's hat being produced witness believed that was the hat he had always worn. Witness gave evidence at the inquest. The prisoner declined putting any questions to the witness.

On Monday, the 29<sup>th</sup> ult., the coroner having forwarded the depositions taken at the inquest to the Maitland bench, the prisoners **MARY THORNTON** and Joseph Vale were brought up, and committed to take their trial for the murder of John Thornton.

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We have had an opportunity of examining the depositions taken at the inquest held on the 17<sup>th</sup> and 18<sup>th</sup> of January in the above case; and as they differ something from the accounts which we heard and gave in our last, we take this opportunity of giving a correct account.

From the evidence of Thomas Cutts, Rebecca Cutts, his wife, and William Cutts, his father, who all lived in the same house with Thornton, his wife, and Vale, it appears Thornton had been a strong healthy man up to Sunday, the 14<sup>th</sup> January, but that he had frequent disputes with his wife, generally with respect to Vale's intimacy with her, of which the witnesses considered he had reason to be jealous. On Saturday the 13<sup>th</sup> Vale returned home from Maitland alone, bringing a bottle of wine and two parcels; he went into Mrs. Thornton's bedroom at once, and presently Mrs. T. brought out a glass of wine to Mrs. Cutts, of which she and William Cutts partook. Mrs. Thornton then got Vale something to eat, and they all sat down and took some tea. In the evening, after Thomas Cutts and Thornton had come home, Mrs. Cutts mixed some wine with eggs and spice, of which Thornton partook with the rest, and then appeared quite well; no one had observed him drink any of the wine Vale had brought with him, but he had been heard to say it was very good and he wished he had some more of it. On the Sunday he complained of being very heavy and sleepy, but after eating a hearty dinner, and smoking a pipe, he retired to his room, and was not seen by any of the witnesses till the next morning. On Monday morning he still complained of great pain in his head, and that he felt sleepy, and could not go to work; he afterwards went to bed again with his clothes on. When Thomas Cutts returned to dinner he heard him talking to his wife and asked him how he felt, and he said much better. In the evening when Cutts returned home he went in to see Thornton and found him in bed; he asked Thornton how he was, who said he was much better but still heavy in his head and sleepy. Cutts and his wife went in again at half-past ten to see him, and he looked pretty well, and on Cutts asking him if he shouldn't send for a doctor, he said "No, he didn't want a doctor." Vale at this time offered to go for a doctor, but Thornton refused. After this all went to bed, but about twenty minutes to two Vale came to Thomas Cutt's bedside, and woke him, telling him Thornton was much worse. Cutts immediately rose, and went into his room, and in a quarter of an hour after Mrs. Cutts joined him. When Cutts went in he found Mrs. Thornton in bed with her husband, holding a handkerchief before his eyes; soon after she left the bed, saying, "Oh God, he is dying." Cutts went and called up a neighbour, and then returning sent off Vale to Maitland for a doctor, but it was too late; long before he could arrive, the unfortunate man expired, at about four o'clock. Cutt's suspicions had been so strongly aroused by all that passed that he would not allow Mrs. Thornton to wipe her husband's mouth, or wash his body after it was all over.

Mrs. Cutts and William Cutts, the father, both testified that Mrs. Thornton had not appeared much affected by her husband's death; and Mrs. Cutts stated in answer to a question from a juror, that on the Sunday evening Mrs. Thornton and herself went out together after tea, and Mrs. T. asked her "What she supposed her husband had said to her?" She asked, "What is it?" "Why," said Mrs. T., "he says that I am too young for his wife, and that when he's dying he has something to say to me." "Supposing," Mrs. T. continued, "he dies, what will become of me and Joseph? I suppose they would hang us." Mrs. Cutts answered, "I don't know if they would hang you, but if they found out anything wrong against Joseph Vale, they would hang him." The prisoner, Mary Thornton denied that any such conversation took place at all on the

Sunday, and that only the first part really passed on the Monday, not a word being uttered about hanging. Mrs. Cutts repeated that her statement was true.

**EDWARD ABREY** and **JOHN YORK** both deposed that Thornton had some time previously told them Vale and his wife had attempted to poison him in some tea, but it was not his luck. Abrey stated that it was told him by Thornton in presence of his wife and Vale, which the prisoners both denied. York stated that Thornton and his wife formerly lived with him, and appeared very happy together; Vale was not then living with them.

**SAMUEL ASQUITH** deposed that he believed that there was an improper intimacy between Vale and Thornton's wife, and that Thornton complained of her conduct, and threatened to turn her into the factory.

Mr. **EDYE**'s evidence, and the remainder of the proceedings, were in substance much the same as given in our last.

**SUPREME COURT.** - You will have observed from the Sydney papers that Mr. **LOWE** made an application to the three Judges, on the part of **JOHN KNATCHBULL**, convicted at the late criminal sessions of the Supreme Court of the murder of **ELLEN JAMIESON**, to fix a day on which the Court would hear arguments respecting the validity of the sentence pronounced against him. This day the Chief Justice delivered the opinion of their Honors on this application. His Honor, after citing cases and quoting Acts of Parliament in support of the conviction, said that their Honors were of opinion the application ought not to be granted. The sentence of death might be pronounced in this colony in the same manner as in all other capital sentences. The course his Honor Mr. Justice Burton pursued on that occasion had been undeviatingly acted upon for some years, and it would be only calling in question the practice were they to entertain the application; it could not therefore be granted.

**JOHN KNATCHBULL.** - The career of this unfortunate wretch is fast drawing to a close. The executive have this day appointed Tuesday next for his execution, at the new gaol, Woolloomooloo. I am informed that since his condemnation he has been in a constant state of feverish excitement, which has no doubt been kept up by his knowledge of the now unavailing efforts of Mr. Lowe. He will most probably be made aware of his fate to-night, when he will be removed to the condemned cell.

**SUPREME COURT – CRIMINAL SIDE**

**THURSDAY, JANUARY 25**

**DENNIS BARRY**, who had been convicted of manslaughter, was sentenced to be imprisoned for three months.

**RECORD, 1/18, 03/02/1844**

**CRIMINAL SESSIONS**

**Saturday, Jan. 27**

(Before their Honors the three Judges)

**DENNIS BARRY**, who had been convicted of manslaughter on a previous occasion, was ordered to be imprisoned in Parramatta Gaol for three months.

**MARY ANN FRENCH**, who had been found guilty, was placed at the bar, and sentenced to be imprisoned and kept to hard labour in the Female Factory for the space of two years.

**GAOL DELIVERY**

**JAMES READY**, who was charged with manslaughter, was the next person on the list, but the Attorney-General stated, that he was perfectly convinced, from what he had heard, that the case was wholly one of accident; the unhappy man was at the

present moment insane, and could not be brought before the Court, having been detained by the surgeon for greater safety, to have him under his own eye, as from a recent order it appeared that no person could be admitted to the Government Lunatic Asylum, unless they were not only insane but dangerously so. The court ordered the prisoner alluded to to be discharged.

**THE CONVICT KNATCHBULL.**

On Thursday, the Chief Justice delivered the decision of the Court respecting the petition which had been promoted by Mr. **LOWE**, on behalf of his wretched client, praying that counsel might be heard before all the judges for the purpose of arguing the question as to the legality of the sentence of the court, inasmuch as the learned judge who delivered the sentence of the court, had omitted to express that the body of the prisoner should be dissected and anatomised; and also, that the body of the prisoner should be directed to be buried within the precincts of the gaol. The Court fully considered the propriety of yielding to the prayer, and were of opinion that it ought not to be granted. The judges were of opinion that sentence of death might be pronounced after conviction for murder in the same manner as under convictions for other capital offences, namely, by simply awarding the punishment of death and execution thereon, without directing any disposition of the body after execution. Similar objections had been made to the Court prior to this application, but had always been overruled, and the judges were of opinion that the soundness of their decision ought not again to have been called in question.

**MELANCHOLY LOSS OF LIFE.**

We regret to state that between two and three o'clock on Tuesday afternoon as the *Dove* sailing boat, of Brisbane Water was passing through the Heads, owing to some accident, filled, and immediately sank. There were five passengers on board, three of whom were rescued from a watery grave by the crew of the *Currency Lass* which, fortunately, was sailing near the spot where the accident occurred. One of the two who were lost was Mr. **COURTNAY**, of Brickfield Hill. We do not know the name of the other individual.

**THE CONVICT KNATCHBULL**

The execution of this wretched man has been ordered to take place on Tuesday next, outside the walls of the gaol, in accordance with instructions given by the Executive Government. Let us hope that the example that will be afforded by his fate, may not be lost upon the thousands who may be expected to witness his departure from this to (we hope to him) a better world.

**INQUEST.** - An inquisition was taken by the Coroner on Wednesday, at Mr. R. Driver's, corner of Elizabeth and King-streets, on view of the remains of Master **SIDNEY JOHN DUKE**, son of Captain Duke, who was drowned while bathing near Vaucluse on Monday. A verdict was returned in accordance with the evidence.

WREGISTER, 2/28, 03/02/1844.

**SUPREME COURT.**

Saturday.

Before their Honors the three Judges.

**DENNIS BARRY**, convicted of Manslaughter, was sentenced to be imprisoned in her Majesty's Gaol at Parramatta for the space of three calendar months.

Monday, January 29.

Before their Honors the three Judges.

In re Knatchbull. - An objection having been raised by Mr. **LOWE** against the sentence of **JOHN KNATCHBULL** on the ground of its informality, which

objection, on its being submitted, on Saturday last, to the Governor and Executive Council, was referred by them to the Judge who tried the case, Mr. Lowe made an application, to the Court to appoint a day for arguing the validity of the objection.

A long conversation ensued, during which Mr. Burton expressed his regret at the irregular course pursued by Mr. Lowe in the matter, and it was again ruled by the Court that the proper procedure for the learned Counsel would be to embody his his (sic) objections in the form of a petition to his Honor Mr. Justice Burton, who had tried the prisoner, which petition would be duly considered by their Honors in Chambers.

Mr. Lowe, in withdrawing his application, assured their Honors that in the course he had adopted he had not the remotest intention of offering the least slight to the Bench, and had only been actuated by a stern sense of duty to his miserable client.

Mr. Lowe afterwards petitioned as suggested, and, after duly considering the prayer on

#### THURSDAY

Their Honors delivered an opinion that it ought not to be granted.

EXECUTION. – A warrant for the execution on Tuesday, February 13, of **JOHN KNATCHBULL**, convicted of murder, was issued yesterday. **MOORE**, the other man under sentence of death, has been respited.

TWO LIVES LOST. - Between two and three o'clock on Tuesday afternoon, as the *Dove* sailing boat, of Brisbane water, was passing through the Heads, she swamped, and immediately went down. Of five passengers which were on board, three were saved by the exertions of the *Currency Lass*, which happened to be going out at the time; but the other two, one of whom was Mr. **COURTNAY**, of Brickfield-hill, met a watery grave.

WREGISTER, 2/29, 10/02/1844.

#### Domestic Intelligence.

KNATCHBULL. – On Wednesday last, Mr. Surgeon **BENNETT** and Dr. **W.B. NEVILLE**, at the request of persons interested in the case, examined **KNATCHBULL**'s mental capabilities, and saw no reason to doubt his sanity. It has finally been determined that she shall be executed outside the gaol.

DEATH BY DROWNING. – An inquest was held on Wednesday afternoon at Mr. R. Driver's, corner of Elizabeth and King-streets, on the body of **SYDNEY JOHN DUKE**, son of captain Duke, aged between eleven and twelve years, who had been drowned while bathing near Vacluse, on Monday last. Dr. **BLAND** having certified that drowning was the cause of death, and evidence being adduced to prove that this was the case, a verdict of accidental death was recorded.

MAITLAND MERCURY, 2/58, 20/01/1844

A DANGEROUS PRACTICE. - THREE CHILDREN BURNT. - On Tuesday last an accident happened on Mr. Howe's farm, near Morpeth, that was nearly attended with fatal consequences. A person named **LEE**, who lives in a hut on the lagoon there, had left his house as usual, and his wife had also left it for a short time, leaving three young children, two girls and a boy, by themselves in the hut. The fire having burnt low, the boy got his father's powder-flask, and went to throw some gunpowder into the fire to light it up. In an instant, the whole contents of the flask caught, and exploded with a loud report, bursting the flask, and setting fire to and burning the three children very severely. The children fortunately ran out of the hut, and the clothes of one of the girls were observed by their neighbours on the other side of the

lagoon, whose attention had been attracted by the report, to be all on fire. Some of them crossed immediately, and fortunately put the fire out before the poor girl was fatally injured. The others were not so much burnt, and we are happy to say that the whole of them are likely to do well.

RECORD, 1/20, 17/02/1844

EXECUTION OF KNATCHBULL = full column

EDITORIAL ARTICLE RE USE OF GODFREY'S CORDIAL AND INFANT DEATHS.

WREGISTER, 2/30, 17/02/1844.

EXECUTION OF KNATCHBULL. – This individual terminated his unhappy career on Tuesday morning. He continued to believe that his life would be spared up to the time that Mr. **KECK** received the official instructions for his execution. After this he began with apparent earnestness to prepare for another world.

On Saturday he wrote the following confession:

Condemned Cell,  
Woolloomooloo Gaol,  
10<sup>th</sup> February, 1844.

In the presence of Almighty God, Amen. I am Guilty of the horrid deed for which I am to suffer death; and may the Lord have mercy on my soul. Amen.

John Knatchbull.

In his last moments which were spent in prayer he was assisted by the Rev. Messrs. **ELDER, SHARP, ROSS** and other religious persons. He ascended the ladder with a firm step and continued in prayer till the drop fell. The vast crowd that went to witness this execution, consisting in great part of women and children is a bad evidence of the public taste, which it would be desirable to see directed into other channels.

MAITLAND MERCURY, 02/59, 17/02/1844

ACCIDENT. - An accident of a distressing nature occurred on Thursday morning to the second son of **JOHN EALES**, Esq., of Berry Park. It appears that he was riding to school in East Maitland, in company with his elder brother, when his pony shied at a sheet of water near Four-mile Creek. The boy was thrown from his seat, and dragged for nearly a quarter of a mile among the stumps and trees, and kicked very severely; he also sustained a comminuted fracture of the arm. He lay for a considerable time in the road in an insensible state. The medical gentleman of the family, Dr. **CAMPBELL**, proceeded to the spot in his gig, and conveyed the boy home, where he now lies in a very precarious state, the extent of the injuries not being accurately ascertained. What renders the accident still more painful is the circumstance that his father is absent in Sydney. - Yesterday, on enquiring how he was getting on, we were sorry to learn that he was considered in very great danger, and still insensible; having, we believe, been so ever since the accident occurred.

SYDNEY NEWS

KNATCHBULL. - On Tuesday last **JOHN KNATCHBULL** was executed outside the New Gaol, Woolloomooloo. The papers state that 5000 persons assembled to witness the scene, of whom no less than 2000 were women and children. He is said to have exhibited great contrition for his crimes during the last few days of his life, after all hope was gone of a reprieve or mitigation of sentence. It is also stated that he

made a formal written confession of his having committed the murder of Mrs. **JAMIESON**, for which he suffered; and some of his visitors assert that he made to them unreserved confessions of former crimes.

**BRUTAL ATTEMPT AT MURDER.** - On Sunday evening last a man named **JOHN BROWN** called on a tinman living at Morpeth, named **JAMES M'KAY**, with whom he had a slight acquaintance, bringing a book with him. Shortly after he came in he called M'Kay's attention to the book, and asked him to read some of it to him, with which M'Kay complied, and continued reading till a late hour, Brown often asking him to read a little more. At last M'Kay said he could read no more, and as it was late he allowed brown to sleep on his house, on some chairs. The night passed over quietly, and in the morning Brown left. He returned again on Monday evening, about dusk, and brought Bunyan's Pilgrim's Progress with him, which, after sitting a-while, he requested M'Kay to read to him. M'Kay complied, and read for some time, when he wished to lay the book down, as he said he was tired with sitting up the night before; Brown, however, pressed him to read on a few pages, which he did. This was repeated three or four times, until it was between ten and eleven o'clock, when Brown suddenly struck M'Kay a violent blow on the head with a hammer, which had been lying in a corner of the room. The blow knocked him down, and half-stunned him, and he cried out, "For God's sake, John, what's the matter? Can't you come and help me?" At the moment the unfortunate man was not aware who had struck him, nor indeed what it was that had happened to him. As he finished speaking, however, he became sensible that a blow was falling on him, and before he could move he received a second blow from the hammer, which rendered him totally insensible. How long he lay thus he could not tell, but when he finally recovered his senses he could just perceive that Brown was leaving the house, the door of which he locked on the outside, and went down the street, first looking in at the window so see if his victim was moving. A lamp was burning when M'Kay was first struck, but it had been afterwards put out, and he saw Brown go out at the door, and afterwards looking in at him through the window, by the light of a good fire. Instinctively M'Kay caught at an iron tool laying near him, in case the wretch should come in again to finish his work, but he found his right hand was powerless. He then repeatedly called out "murder," and several of his neighbours came almost immediately to his help.

Instant notice was given to the police, and an active search commenced for Brown by the police and the neighbours, but no tidings or trace could be found of him then. The search continued through the night, our active police magistrate, **E.D. DAY**, Esq., with a strong body of police, headed by Mr. **WOOD**, the chief constable, being very early on the spot after the information was given, but without success. Outside the house the police found the hammer with which the unfortunate man had been struck, with blood on it, and in the house was the Pilgrim's Progress; and early in the ensuing morning the police met with a man who said he had seen such a man as they described enter a privy on the previous night hastily, but not noticing anything remarkable had passed on his way. On the police searching this place they found the key of M'Kay's door thrown in. These circumstances, however, while they corroborated M'Kay's statement in every particular, led to no clue to finding his brutal assailant.

M'Kay states that he knew John Brown well, and was positive no other person was in the house when he was struck but Brown and himself, nor had been all the evening; but he had not seen Brown strike him either time. While he was lying on the ground he must have been struck on the head several times, and he thinks he felt a kick on the lower jaw. He says he never had a quarrel or even an angry word with Brown, and he

does not know that Brown was aware whether he had any money in the house or not. Brown took nothing away with him except the key, as far as M'Kay could tell, on Monday night, so that his desperate attack and sudden departure seem unaccountable at present, as nothing is known to have occurred to alarm him. We are happy to hear that M'Kay, whose wounds were dressed immediately by Mr. **WHYTLAW**, is considered likely to do well.

It appears that Brown has been knocking about the neighbourhood of Mirpeth for some time, sometimes at work in the bush, and sometimes idle; and as the man's habits and tastes, as a sailor, would apparently unfit him for enjoying such a life, he has been noticed by the police for some little time past. There has been at present no clue as to his movements after leaving the privy, but as he is rather a remarkable man he can scarcely long escape detection. Having been a sailor, it is supposed he will make for Sydney or some other port, with the intention of entering some craft to leave the country. The following is a description of him: "Name, John Brown; native place, France; trade or calling, labourer, splitter, and fencer, originally a sailor; age, about 35 years; height, 5 feet 7 inches; complexion, sallow; hair, sandy and curly; eyes, blue; general remarks, two bracelets on each wrist, blue marks on breast, several marks on the arms, a blue mark under one of his eyes."

MAITLAND MERCURY, 02/60, 24/02/1844

INQUEST. - An inquest was held on Thursday last, at the Northumberland Hotel, West Maitland, on the body of an infant of five months old, named **JAMES DARBYSON**, who had died in bed on the preceding morning, in his father's house, near the Falls.

**JOHN DARBYSON**, being sworn, deposed that he was the father of the child, and that himself, his wife, and three children, including this infant, slept in the same bed. On Wednesday morning he got up at six o'clock as usual, and heard the child sucking; he woke his wife to get up to go to work, and then left the child apparently asleep. He did not hear the child cry. He stopped about the place all day, but did not discover the child was dead until about twelve o'clock, when he went to wake it up. His wife often went out to work, and left the child asleep, when he fed it with gruel on its waking. When he found the child was dead he went to where his wife was working washing, and told her to come home. The child was never sick or ailing.

**MARY DARBYSON** deposed that she was the mother of the child. At six o'clock on Wednesday morning her husband called her to go to work; she woke up, and gave the baby a suck, but fell asleep again, and did not wake till eight o'clock, when she got up and went out to work. She had often gone out and left the child asleep, as he would sleep till ten o'clock in the day. She could not be positive the child was alive when she left to go to work, but she had not observed any uneasiness about it. She was a heavy sleeper. She was obliged to work hard, as her husband was a sickly man, and could not get work, and she therefore could not be so particular about her children as she otherwise would be. About twelve o'clock her husband came and told her the child was dead, when she went home and found it was so. They had been living five months in Maitland, but were perfect strangers, and had no one to speak to their character; they had no money to bury the child, as they could not get their wages from their late employer. The little she could earn was barely sufficient for themselves and their children.

Dr. **SLOANE** deposed that he had examined the body of the deceased James Darbyson, and was of opinion that he had died from suffocation. There were no

marks of violence on the body, or any symptoms to lead to the conclusion that he had died of convulsions.

John Darbyson being re-called, deposed that he went at ten o'clock to call up his eldest child, and that then the infant appeared asleep. He noticed a good many flies about his face, but did not remove them, as he did not wish to wake him. The child was lying in the same position from eight o'clock to twelve, up to which hour he had no suspicion of his death.

**MARGARET GLEESON** deposed that she resided quite close to the home in which the Darbysons lived, and had never heard any quarrelling or noise there, and thought they had always behaved kindly to their children. The last time witness saw the child alive was on Tuesday evening, when she saw it in the mother's arms. Mrs. Darbyson was a poor, hard working woman, and the husband was sickly and out of employ. Witness was the first woman who went into the house after the report that the child was dead. She went in about one o'clock, when there appeared some marks of vomiting on the bed, and the child appeared cold and discoloured, as if dead for some hours.

The jury, after deliberating about a quarter of an hour, returned a verdict of "Died from suffocation; and that they thought the father deserving of blame for neglecting the child."

We believe the coroner directed the body to be buried. A small subscription has been commenced for the assistance of the distressed family, which we earnestly hope will meet the general support such a case so well merits.

#### FATAL ACCIDENT.

We noticed in our last that a serious accident had occurred to the second son of Mr. **EALES**, in being thrown from his horse and dragged for nearly a quarter of a mile. We regret to state that on Saturday last he died from the effects of the injuries he had received. The funeral took place on Monday, and was attended by a great number of friends of the family.

WREGISTER, 2/32, 02/03/1844.

DROWNING. – On Thursday afternoon, the body of a man named **SIMPSON** was taken from the water near Lady Macquarie's Chair. He had been observed struggling in the water, and the body was warm when taken out. It appears that the unfortunate man had of late been drinking to excess – On Wednesday he exhibited such decided signs of madness on Church Green, that some parties who were near by called upon the police to take him into custody. It would appear, however, that yesterday morning he was released, and within a few hours afterwards his existence was terminated.

RECORD, 1/22, 02/03/1844

FATAL OCCURRENCE. - We regret to state that on Monday evening as one of the royal engineer boats was returning from Goat Island, she met with a sudden puff of wind which caused her to fill, and she immediately went down. There were four persons in the boat at the time, two of whom were unfortunately drowned, viz: Mr. **D. M'KINNON**, free overseer of engineer works, and **CHARLES STAPLES**, coxswain.

INQUEST. - On Monday an inquisition was taken by the Coroner at the Scotch Thistle in George-street on view of the remains of **THOMAS GORDON**, who expired on the same day, in Mr. Chapman's sale room. From the evidence adduced, it appeared that the deceased was labouring under enlargement of the heart, and disease

of the lungs, to which cause death was to be attributed. The jury returned a verdict, "died by the visitation of God."

MAITLAND MERCURY, 02/61, 02/03/1844

FATAL ACCIDENT. - A melancholy accident occurred in this neighbourhood on Friday, the 10<sup>th</sup> February. A day or two previous Mr. **JOHN ASHWORTH**, Mr. Lord's superintendent at Gloucester, had missed some sheep. On the morning of the 10<sup>th</sup> he, with some other parties, went in search of them. While passing a native camp they saw the aborigines sitting round the fire, and very deliberately roasting some mutton. Mr. John Ashworth called to the party to surround the blacks to make prisoners of them, but they started immediately. The ground was very rough and broken, and Mr. Ashworth putting his horse to speed, he stumbled, and Mr. Ashworth was thrown on his forehead. He was picked up immediately, and medical aid sent for, but on the 21<sup>st</sup> he died, deeply regretted by all who knew him. He was in the bloom of life. I should mention that previous to the party going in search, the shepherd who had the sheep in charge had come on the blacks while slaughtering them, when they threatened to kill him, until he promised he would say nothing of it. February 28.

THE ATTEMPT AT MURDER AT MORPETH.

**JOHN BROWN**, the man who stands charged with attempting to murder at Morpeth one **JAMES M'KAY**, on the 11<sup>th</sup> instant, as reported in the Australian of the 20<sup>th</sup> instant, was taken by chief constable **RYAN** on Sunday morning. He was apprehended at Castle Hill, within a short distance of the commencement of the Dural roads, where he had obtained employment. *Australian, Feb. 29*

HUNTER RIVER DISTRICT NEWS. - DUNGOG.

FATAL ACCIDENT. - A melancholy accident occurred in this neighbourhood on Friday, the 10<sup>th</sup> February. A day or two previous Mr. **JOHN ASHWORTH**, Mr. Lord's superintendent at the Gloucester, had missed some sheep. On the morning of the 16<sup>th</sup> he, with some other parties, went in search of them. While passing a native camp they saw the aborigines sitting round the fire, and very deliberately roasting some mutton. Mr. John Ashworth called to the party to surround the blacks to make prisoners of them, but they started immediately. The ground was very rough and broken, and Mr. Ashworth putting his horse to speed, he stumbled, and Mr. A. was thrown on his forehead. He was picked up immediately, and medical aid sent for, but on the 21<sup>st</sup> he died, deeply regretted by all who knew him. He was in the bloom of life. I should have mentioned that previous to the party going in search the shepherd who had the sheep in charge had come on the blacks while slaughtering them, when they threatened to kill him, until he promised he would say nothing of it.

STAR, 1, 02/03/1844

SUDDEN DEATH. - On Monday morning about half-past ten, a man named **THOMAS GORDON** expired suddenly, in Mr. Chapman's sale-room. It appears the deceased was an out-patient of the Dispensary, and was labouring under an enlargement of the heart and disease of the lungs.

A boy three years of age, whose parents reside in Cumberland-street, was killed by his falling into his father's lie-tub, on Saturday last.

STAR, 2, 09/03/1844

On Sunday evening, as a sailing boat was running before the wind, in Johnson's Bay, the wind suddenly threw the main-sail a-back, which capsized the boat, when one of the two men who were in it managed to get on the bottom of the boat, but the other, a

German, in the employ of Mr. **ELLIOTT**, baker, Brickfield-hill, sunk, and has not since been seen.

**JAMES REEVES** has been convicted for the wilful murder of his wife, **JANE ANN REEVES**, at the Berrima Assizes.

MAITLAND MERCURY, 02/62, 09/03/1844

CALENDAR FOR THE ENSUING CIRCUIT COURT

**ROBERT FLEMING**, bond, for rape and robbery;

**MICKY MICKY**, an aborigine, for various attempts to murder;

THE ATTEMPT AT MURDER AT MORPETH. - On Monday last **JOHN BROWN**, alias "**Jack the Sailor**," who had been brought up the previous day from Sydney per steamer, was placed at the bar, and identified by Mr. **WOOD**, the chief constable, as the man whom **M'KAY** had told him had committed the assault on him. Witness knew Brown personally. - M'Kay being too ill to be removed without danger, Brown was on Wednesday escorted down to Morpeth, when M'Kay fully identified him as the man who had assaulted him, as stated in his previous deposition. Witness believed that Brown was about to be married, and wanted money, and that he intended to murder him to get it. The prisoner declined putting any questions to M'Kay. - On Friday Brown was again placed at the bar, and surgeon **WILLIAM JOHN WHITELAW**'s evidence taken as to the dangerous nature of the wounds inflicted on M'Kay, which had been caused, he verily believed, by the hammer produced in court, and which hammer he (witness) found just outside the house, covered with blood, soon after he had dressed M'Kay's wounds after the assault. M'Kay had lost the use of his right arm from paralysis when witness saw him. On the table in the room was the Pilgrim's Progress, much splashed with blood; the book was produced, and witness swore it was the one he saw on the table, and pointed to two leaves, then stuck together, as those on which most of the blood had been spilled. M'Kay had been very ill ever since, and though witness did not now attend him, another medical man having been called in, he believed from personal observation in his life eas even yet in danger. On the morning after the assault, a man named **JAMES COLLIER** told him he had seen a man the previous evening hastily stoop down at the back of a privy which was adjacent to both their premises, and then go away. Witness and Collier went to the place, and Collier pointed out to him the exact place where he saw the man stooping; he saw a key lying there, and told Collier, who got over the fence, and went and picked it up. Witness took the key to M'Kay, who said it was his key, and on being tried in the lock of M'Kay's front door, it fitted exactly. The prisoner declined asking any questions, and was remanded for further evidence.

RECORD, 1/23, 09/03/1844

DEATH BY DROWNING. - On Thursday afternoon an unfortunate man named **SIMPSON**, an engraver, and who came out to this colony on the *Frankfield*, committed suicide under the following circumstances: On Wednesday evening he had been drinking to excess, and exhibited signs of a deranged intellect in Church Green, when he was taken into custody. On the following morning he was released, and a few hours afterwards, it appears that he was observed struggling in the water, near that part of the Domain known as Lady Macquarie's Chair. Assistance having been procured, the body of the unfortunate man was taken out of the water, but life had departed. Yesterday an inquest was held on the body, when the jury returned a verdict in accordance with the foregoing particulars.

**ATTEMPT AT MURDER AND SELF-DESTRUCTION.**

On Saturday evening, a private soldier of the 80<sup>th</sup> Regiment, named **IRVING**, quartered in Carter's Barracks, in a fit of jealous rage took up a stone of several pounds weight, and hurled it at the head of a young woman named **JONES**; it struck her with such violence that she was immediately felled to the ground, and bled most profusely. She was conveyed to the Benevolent Asylum immediately after the occurrence, but little hopes are entertained of her recovery. Irving was secured and lodged in the guard-house at Carter's Barracks, where he attempted to cut his throat with a knife. The wound was soon after sewed up, and he was removed to the Hospital, where he now remains. His recovery is confidently expected.

WREGISTER, 2/33 (Printed 2/32), 09/03/1844.

**ATTEMPTED SELF-DESTRUCTION.** – About half past two o'clock on Wednesday, a man who had been lingering about Steele & Maroley's Wharf, went on board to brig *William* and threw himself overboard. Having been brought to land, Mr. **STEELE** supplied him with a suit of dry clothes, and he was placed under the care of Sergeant **MOORE**, of the Sydney Police, who lodged him in the watch-house; he was brought up before the Mayor yesterday, when he was admonished and discharged. According to his own statement his name is **CRAWFORD**, a native of Leith, where he had been employed as a banker's clerk; he emigrated from thence to Port Phillip, where he remained unemployed till nearly the whole of his means were expended; thinking to meet an engagement in Sydney, he came here about four weeks ago, but had not succeeded in getting anything to do. His money being all expended, he had given way to despair, and attempted to destroy himself, as he had no means of returning to his native country.

**Berrima Circuit Court.**

Monday, March 4.

**JAMES KENZIE** was indicted for killing and slaying one **WILLIAM COOK**, at Queanbeyan, on the 11<sup>th</sup> of January last, by beating him with his hands and feet, thereby inflicting several mortal wounds, bruises, and contusions, of which the said William Cook immediately died. The jury found the prisoner guilty, with a recommendation to mercy, and his Honor sentenced him to be imprisoned in Berrima Gaol for three months.

Wednesday, March 6.

**JAMES REEVES** was indicted for the wilful murder of his wife, **JANE ANN REEVES**, in the vicinity of Goulburn, on the 7<sup>th</sup> October last. Guilty – sentence of death was pronounced upon the prisoner.

MAITLAND MERCURY, 02/63, 16/03/1844

**ASSAULT BY AN ABORIGINAL.**

**MICKEY MICKEY** was indicted for having assaulted **WILLIAM SINCLAIR** with a spear, at Sandy Creek, on the 10<sup>th</sup> October, 1843, with intent to murder him.

After some difficulty in trying the capability of the interpreter to explain his language, -- **TAYLOR** was sworn to interpret faithfully and to the best of his ability as to the aboriginal and for him what passed. Mr. Purefoy was requested to act as counsel for him.

The Attorney General opened the proceedings, and called

**WILLIAM SINCLAIR**, who deposed that he was employed as a labourer on a station of Mr. R. Jones's, about 60 miles inland from Moreton Bay. A shepherd named **SLIGHT**, and a hutkeeper named **WELSH**, also lived on the station. On the

morning he was attacked Slight and him parted about ten in the morning, to look after their flocks. About ten minutes after, while passing alongside a scrub, a spear passed by his leg, and looking round he saw about twenty blacks rushing out and coming as to surround him. He ran back, keeping his face towards them, and they followed; he pointed his gun towards them, but did not fire. One of them threw a waddie at him, which missed, and immediately a shower of spears were thrown by them, seven of which struck him. He still ran, and waddies and boomerangs were thrown at him, one of which struck him heavily on the back, and knocked him down; he got up again, losing his gun in the fall, and presently got into the road, where he saw his companion Slight coming towards him. On seeing Slight the blacks fled. He knew only the prisoner among the blacks, and him he knew well, having frequently given him food when he had been at the station. He was positive as to his identity.

Cross-examined by Mr. Purefoy:- Witness had no doubt of the prisoner's identity; he did not tell Slight of having seen him among the blacks; did not inform any one of it till the prisoner was brought to him, while he was in the hospital, by the military, when he knew him again immediately. He spoke to prisoner, but did not say anything of the assault; the scrub was close when the affair occurred. He saw prisoner throw one spear.

This witness's evidence was then interpreted to the prisoner, who said he was at the scrub, but did not wound Sinclair; a black named **JACKEY JACKY** was the man, and another named **PETER**; witness was prisoner's brother.

**WILLIAM DORCEY**, being sworn, deposed that he was a surgeon at Limestone, Moreton Bay, and that some time in October last the witness Sinclair out put under his care, suffering from several severe wounds, one of which was dangerous. He was perfectly collected when brought to him, though a little excited by the heat of the sun.

Mr. Purefoy, having raised a point which was overruled by his Honor, proceeded to address the jury in an eloquent speech, dwelling forcible on the weak points in the evidence.

His Honor summed up, and addressed the jury in a solemn manner on the importance and difficulty of their duty in such cases as this, in which they were bound, while making due allowance for the unprotected native, to administer equal justice to all. The jury retired for about half an hour, and returned a verdict of guilty. The prisoner having been informed of the decision by the interpreter was remanded for sentence.

**THE MULBERRY CREEK CASE.** - The trial of **JOSEPH VALE**, and **MARY THORNTON**, for the murder of **JOHN THORNTON** at Mulberry Creek, is expected to come on on Monday next.

**FATAL ACCIDENT.** - We regret to hear that on Thursday night a fatal accident occurred in Sydney harbour as the Rose steamer was leaving for Morpeth. The Rose, in coming down the harbour, had to pass close by a vessel lying near Pinchgut, and while in the act of doing so a boat shot from under the vessel's stern, directly in the track of the steamer. The captain immediately sang out, "Back her," but it was impossible to do so in time to avoid the collision; in an instant the boat was cut in two, and the unfortunate persons in her, two or three in number, hurried into eternity. The steamer was stopped, boats lowered, and every exertion made for upwards of an hour to save the lives of the persons who had thus suddenly been cast into the water, but in vain - no trace of them could be found. We understand one half of the boat has been picked up, and has been brought on by the steamer; it was apparently a waterman's boat, named the Wonder. Under the circumstances, it is evident no human skill could have prevented the collision; has it been possible, Capt.

**PATTISON'S** well-earned reputation for courage and determination in the cause of humanity is a sufficient guarantee that it would not have occurred.

**THE ATTEMPT TO MURDER AT MORPETH.**

On Saturday last **JOHN BROWN** was again brought before the bench for this offence, and Dr. **STEWART**, of Morpeth, deposed that he saw **M'KAY** the morning after the occurrence, and did not think he was in a dangerous state. He did not consider his life to be in danger now. The wounds might have been caused by a hammer, such as that produced. - **JOSEPH GEORGE WHITE** deposed that about twenty minutes before he was alarmed by cries of murder he had passed by M'Kay's house, and saw him and a man with dark hair and large whiskers apparently sitting at a table together, M'Kay reading, and the man listening. When he heard the cry of murder he ran to M'Kay's house, and saw him inside, with his head covered with blood; the door was locked. M'Kay came round by the back door, and told him Brown had tried to murder him. - **SAMUEL WHITE** also deposed to having passed the house before the cry was raised, and seen the two men sitting as the previous witness had described. The door was partially open, and he look in, but did not take any particular notice of the man with M'Kay. - On Monday, Drs. **CAMPBELL and EDYE** deposed to having seen M'Kay on Saturday, the 9<sup>th</sup> March, and that they believed his life was not in danger at present, but that the wounds must have been very dangerous when inflicted. - On Tuesday, **MARTHA GRADY** deposed that she lived about two miles from Morpeth, and that Brown had been living at her place about two months. She had lent him a book some time back, and when he returned it he asked her to lend him a Pilgrim's Progress, which she did, and he took the book away during her absence. The Pilgrim's Progress was her son's, and she believed it to be the one produced, from some writing in it. Brown had not been at her house since the assault was committed, to her knowledge. - **JOHN BROWN, alias AMBROSE PROVOST**, was then fully committed for trial.

**MAITLAND CIRCUIT COURT.**

... After the proclamation against vice and immorality was read, and the jury lists called over, the Chief Justice delivered the following

**CHARGE**

... There are, indeed, some offences which will invite your serious attention.

The calendar, I perceive, exhibits a case of violence towards a married woman, under circumstances of imputed aggravation. When this comes on, your vigilance will be awakened in applying the tests by which the truth of such painful charges is evolved.

I regret to observe that there is another of those embarrassing incidents which have so frequently arisen from the juxtaposition of civilised men with hostile tribes of aborigines.

This is the case of a wild savage of the woods (regarded in the eyes of the law as a responsible British subject), charged with wounding with intent to murder a white man, in the district of Moreton Bay.

Surrounded by almost insuperable difficulties as is the application of our laws to men in the civilised and in the savage state respectively, it must be our careful and anxious province to sift this case to the very bottom, and see, if possible, that evenhanded justice is dealt out, so far as the appliances thereto will enable us to arrive at a satisfactory conclusion.

Mutual persuasion that the laws of England will be impartially administered on such occasions will, I trust, avert the dreadful consequences of a war of extermination, or a sanguinary struggle for ascendancy, between the native lords of the soil, and those

who, under the encouragement of the crown, have entered on the confines of barbarian dominion. Let us study to effect such a conviction in the minds of both races of our fellow men, and this, as a human tribunal, will have performed the duty prescribed by our institutions.

**MICKEY MICKEY** was then placed at the bar, and having been asked through an interpreter what he had to say why sentence of death should not be passed upon him, made no reply. Proclamation having been made, his Honor placed the black cap upon his head, and addressed the prisoner in a solemn manner, observing that it was almost an idle ceremony to explain to the prisoner why he had been brought to that bar. The prisoner, at all events, knew that it was a bad thing to attempt to kill a white fellow. He knew that **SINCLAIR** had been kind to him, and had given him bread; he had even at that bar called him his brother, which in his language meant that he had been kindly treated by Sinclair. It was necessary that the laws of the whites should be enforced against the black people when they transgressed them. He was sensible that the prisoner did not understand him, and he had therefore a painful duty to perform, but he looked upon that as a fitting occasion for it to go forth elsewhere, that the blacks were as much under the protection of the law as the whites, and that any ruthless or wanton aggressions which might be made upon them would be visited with the heaviest penalty. It was painful to reflect that the march of the white man was generally the herald of the extinction of the black race. The prisoner had had a fair trial; a jury of Englishmen, after paying the greatest attention, had pronounced him guilty, and it was now his painful duty to pass sentence of death upon him. His Honor then passed the usual sentence of death, and the prisoner was removed.

**WILFUL MURDER.**

**JOSEPH VALE** and **MARY THORNTON** were indicted for the wilful murder of **JOHN THORNTON**, the husband of the female prisoner, by poisoning him, at Mulberry Creek, on the 16<sup>th</sup> January, 1844.

A vast body of evidence was given on the part of the crown, which went to show that the deceased was a man about thirty years of age, generally healthy, and that he lodged at the house of **THOMAS CUTTS**, Mulberry Creek, with his wife and Joseph Vale, the prisoners. A good deal of unpleasantness appeared to have existed between the deceased and his wife, on account of some jealousy respecting the prisoner Vale. The deceased, Thomas Cutts, and Vale came into Maitland about the 12<sup>th</sup> January; deceased and Cutts staid all night, and on arriving home the following day they found Vale had arrived before them. The next day, which was Sunday, deceased complained of a dizziness in his head, and an unusual drowsiness. No notice was taken of this, but on the Monday he complained of it again, and at night Cutts wished him to have a doctor, but he refused. At about two o'clock on Tuesday morning the prisoner Vale called up Cutts, and said Thornton was worse; on Cutts going into the room he found him in the agonies of death, and sent off Vale for a doctor, but the man shortly after died. Circumstances aroused Cutts's suspicions, and he sent word to the chief constable, and the coroner, and an inquest was held. A post mortem examination was made by Dr. **EDYE**, who analysed the contents of the stomach, but was unable to detect poison in it. It was proved that some poison had been purchased at Mr. Earle's shop about the time in question, and though Mr. Earle could not positively identify the prisoner, yet he had very little doubt of his being the man. He was however positively identified by a little girl named **MARY CURTAIN**, who resides with Mr. Earle, as the man who purchased the poison. On purchasing the poison he represented himself as the servant of Capt. **BIDDULPH**, and said that he wanted it to destroy native dogs with. It was proved, however, that the prisoner was

not then, though he had been formerly, the servant of Capt. Biddulph, nor did Capt. Biddulph send either him or any other person to purchase poison, nor had he had sheep destroyed by native dogs about that time. The deceased had formerly charged both the prisoners with attempting to poison him before, and it was also shown that the prisoner Vale had attempted to purchase poison before.

The prisoner Vale, when called upon for his defence, said he was innocent of the charge. The female prisoner said nothing, but called a witness to prove that her husband had been slightly ill on one or two previous occasions.#

His Honor then summed up at length, and with great perspicuity, and the jury having retired for about two or three minutes, returned a verdict of guilty.

His Honor, in a most impressive manner, passed sentence of death upon both the prisoners, holding out no hopes of mercy.

During the trial his Honor observed that the conduct of Mr. Earle was highly censurable in selling the poison to Vale, and said he thought he was not a proper person to keep a chemist's shop, but that the conduct of Mr. Lipscomb at a former period, in refusing to sell the prisoner some prussic acid, was very correct, and he hoped it would be imitated by other persons.

RECORD, 1/25, 16/03/1844

INQUEST. - An inquest was held on the afternoon of Monday last, at the Light House Tavern, corner of Bathurst and Sussex-streets. The subjects for enquiry were the deceased Mrs. **ALICE GRIFFIN** and her **FEMALE STILL-BORN INFANT**, the delivery of which was accomplished after the death of the mother. It appeared that the deceased, perceiving that her period of travail had arrived, had called in the assistance of a midwife, named **COMBER**. The labour proving difficult, this woman took upon herself to prescribe a stimulant, for which she sent a girl to a druggist's shop. The assistant, on his own responsibility, gave three grains of tartar emetic, ordering the same to be dissolved in water, and a portion of the solution to be administered at intervals. We understand that an unqualified medical practitioner was also called in, but as the woman, instead of rallying, fell into strong convulsions, Mr. Surgeon **RUSSELL** was sent for, who, however, did not arrive until after death had put an end to the sufferings of the unfortunate patient. Another medical gentleman arrived afterwards, with a view to a *post mortem* examination, but it is to be regretted that none took place. The verdict of the jury was, that the deceased "died by the visitation of God." Without expressly asserting, or even insinuating, that the medicine administered by the midwife was the cause, even remotely, of the fatal result which occurred, we cannot forbear stating that the conduct of this person, as well as of the druggist's shopman, was highly reprehensible. Had *professional* advice been procured, the poor woman's life might, humanly speaking, have been saved; but thus it is in this community; so long as any druggist's apprentice or shopman is permitted to prescribe as well as compound – so long as any soi-disant doctor is permitted to tamper with the lives of her Majesty's subjects, so long must we expect to have our feelings shocked by occurrences similar to that which we have now recorded. It is to be hoped that this matter will be taken up in earnest in the Legislative Council, a petition to which body on the subject would not be without effect.

BOAT ACCIDENT. - Scarcely a week passes but some unfortunate person loses his life in our harbour owing to the unskilfulness of the parties entrusted with the management of sailing boats. On Sunday evening a boat of this description was running before the wind in Johnson's Bay, when by some accident it broached-to and

immediately turned keel up, precipitating the two men who were in her into the water. One of these individuals managed to maintain his hold on the bottom of the boat until assistance reached him, but his companion, a German, in the employ of Mr. **ELLIOTT**, of Brickfield Hill, sunk, and never rose again alive. A number of persons in boats repaired to the spot, but their endeavours to find the body turned out unsuccessful.

WREGISTER, 2/34, 16/03/1844.

BOAT ACCIDENT. - On Thursday night, about half past ten o'clock, a waterman named **WILLIAM PRITCHARD**, belonging to the new jetty, and two other men, whose names are still unknown, were coming up the harbour, for the purpose of landing at the new jetty, when off Pinchgut, it appears they attempted to cross the bows of the steamer *Rose*, and being unable to do so, they were unfortunately and unperceived run down by that vessel and were drowned. The boat was picked up yesterday, cut right across midships. The two men were supposed to have been taken from on board the Edward schooner. Yesterday parties were dragging for the bodies, but up to last night were unsuccessful.

INQUEST. - Yesterday, an inquest was held in the bush, at the Redfern estate, on the body of **SUSAN DAVIS**, a girl about four years, who had been left in a house in the care of another child, from which she strayed about ten minutes before she was missed; a search was made, when deceased was discovered drowned in a well near her father's door. It appeared that her father was absent on necessary business, and that her mother some time since deserted the father and two children. Dr. **KATES** certified that death was caused by drowning, and the Jury returned a verdict of accidental death.

DREADFUL ACCIDENT. - On Thursday evening last, when it was nearly dark, two drays heavily laden were passing close after each other at the bottom of Brickfield Hill, when the attention of the drivers was attracted by the cries of a fellow creature, who evidently had sustained some injury. On looking around, they discovered that a man, who had been sitting on top of the load in the first dray, had accidentally rolled off, and his body had been nearly severed in two by one of the wheels of the second dray. The unfortunate man, who it is supposed was asleep at the time when he was dislodged from his seat, was quite insensible when discovered, and was immediately conveyed to the Benevolent Asylum - little hopes being entertained that he will ever leave it alive.

STAR, 4, 23/03/1844

A few days since **ROBERT PRICE**, a prisoner of the Crown, assigned to the Surveyor General's department, came to his death under the following circumstances. It appears that the deceased agreed with two draymen, in the neighbourhood of the Bull's Head, George-street, for a conveyance up the country, and soon after stated (sic); but before they got out of town, the unfortunate man, who was in liquor at the time, fell from the dray, and received a severe wound, which caused his death.

On Monday **JAMES MURPHY**, a quarryman, died from the effects of a wound which he received on the 29<sup>th</sup> ultimo, while at work near Campbell's Wharf. It appears that a piece of rock, over where Murphy was at work, nearly half a ton in weight, gave way, and in falling, severely grazed his back, injured him on the thigh, and dislocated and made a compound fracture of the ankle.

On the 15<sup>th</sup> of the present month the remains of Mr. **GEORGE HEAVEN**, who had been drowned on the last Anniversary of the Colony, by the upsetting of a sailing boat

of which he was the owner, was found in Darling Harbour. The head and part of the spine was all that was found of the unfortunate gentleman.

Yesterday week a girl, four years of age, was drowned by falling into a well, in the neighbourhood of the Redfern Estate. We are not at all surprised at this fatal accident, and only wonder that similar accidents are not more frequent, when we see the number of wells that are constantly left open in the suburbs of the city.

On Monday an inquest was held on the remains of **WILLIAM PRITCHARD**, a waterman, when, from the evidence given, the jury found "the deceased had been accidentally drowned by his boat being run down by the iron steam ship Rose." The Jury expressed their dissatisfaction that it did not appear that the paddles of the vessel were not stopped when the cry "a boat a head" was first made on board.

MAITLAND MERCURY, 02/64, 23/03/1844

INQUEST. - An inquest was held on Thursday, and by adjournment yesterday, before **J.S. PARKER**, Esq., coroner, on the body of **ELIZABETH HART**. From the evidence which was given it appeared that the deceased had resided for some time past at the house of **WILLIAM CANE**, blacksmith, West Maitland. On Wednesday last Cane and the deceased were drinking spirits, and the deceased became in a state of beastly intoxication. In the evening Mrs. Cane came home, and a quarrel ensued, but no blows were struck, and the drinking was continued. On Cane and his wife retiring they left the deceased lying drunk upon a couch in the kitchen, and she was found the next morning lying upon the floor dead. No marks of violence were observed upon the body, and Dr. **LIDDELL**, who was sent for, certified that death was occasioned by the depressing influence of cold to which she was exposed while laying in a state of intoxication, aggravated by the fall and the position of the face. On the first day of the inquest the coroner felt it his duty to give Mrs. Cane into custody, she being in a state unfit to give her evidence. At the close of the inquest the jury returned a verdict "that the deceased came by her death from excessive drinking of ardent spirits, accelerated by cold; and that Mr. and Mrs. Cane merited a severe reprimand for very great misconduct."

RECORD, 1/26, 23/03/1844

CHARGE TO THE JURY, Mr. Justice Burton, Berrima, 4<sup>th</sup> March.

MAITLAND ASSIZES

The Judge passed sentence on the following prisoners on Monday, the 18<sup>th</sup> instant:

**MICKY MICKY**, an aboriginal, was sentenced to be executed, for the wilful murder of a man named **SINCLAIR**.

**JOSEPH VALE** and **MARY THORNTON** were found guilty of the murder of **JOHN THORNTON**, the husband of the female prisoner, by poisoning him, at Mulberry Creek, on the 16<sup>th</sup> of January last. The Judge remarked, in passing sentence of death upon the prisoners, that it had been his painful duty to pass the sentence of death upon a wife and her guilty paramour, in a case as nearly as might be similar to this, in which they had conspired to dip their hands in the blood of the husband. He could not hold out any hope of mercy to them this side the grave, as every one who had heard the trial must be satisfied of their guilt. Sentence of death was then passed in the usual manner.

INQUESTS. - It is our painful duty to record the particulars of no less than six inquests that have been held within the last week. The first inquisition was taken on board the Bethel floating chapel on view of the remains of Mr. **GEORGE HEAVEN**, who, as our readers will recollect, was unfortunately drowned on the day of the

regatta. The head, the spine, and a portion of the left side, only remained of the body of the deceased, which was recognised as that of Mr. Heaven, by a black tooth in one of the jaws, the absence of one of the front teeth, the colour of the hair, and the particular formation of the head and jaws. The jury returned a verdict that the deceased was accidentally drowned.

The second inquest was held on the same day on the body of **ROBERT PRICE**, a prisoner of the Crown who was killed by the wheel of a dray which passed over his body, thereby causing injuries of which he died on the day after the occurrence. A verdict of "accidental death" was returned, with a deodand of 1s. on the dray.

The third inquest was held at the Emu Inn, corner of Bathurst and George Streets, on the body of an infant named **MARY SHORT**, who died from the effects of a convulsive fit. The jury found that the deceased "died from the visitation of God."

The fourth inquisition was taken on view of the body of **JAMES MURPHY**, who died in consequence of injuries he received while quarrying near Campbell's Wharf, by a piece of rock falling upon him. A verdict of accidental death was returned.

The fifth inquest was that on the remains of **WILLIAM PRITCHARD**, a waterman, whose boat was run down by the *Rose* steamer off Pinchgut Island, on the night of Thursday week last. It appeared from the evidence that Pritchard with two other persons, was crossing the Bay, and imprudently attempted to cross the bows of the steamer, when the cutwater struck the boat, and it disappeared. The steamer was immediately stopped, and great exertions were made to recover the parties who were in the boat, but without success. The bodies of Pritchard's companions in misfortune have not yet been recovered. The jury after a lengthened investigation found that the deceased was accidentally drowned, and expressed their dissatisfaction that the paddles of the steamer were not stopped when the cry was heard on board "of a boat ahead." The jury at the same time respectfully requested that the Coroner would submit the result of the inquest to the proper authorities in order that some regulations might be established respecting the speed of steamers plying in the harbour, especially at night. The body of the unfortunate deceased presented a most shocking appearance, the fleshy parts having been eaten away by fishes.

The sixth inquest was on the body of **GEORGE BAILEY**, a freed man, and well known as a pugilist. The jury found that the deceased died from natural causes, induced by previous habits of intemperance.

GUARDIAN, 1/2, 23/03/1844

CORONER'S INQUESTS. - On Saturday last, on board the 'Bethel' ship, on the head, part of the spine and left side of a human being, which was identified by Mr. **DENT** as part of the remains of **GEORGE HAVEN**, drowned on the 26<sup>th</sup> January last. Verdict - "Accidentally drowned." Same day, at Le Burn's public-house, Parramatta-street; on the body of a prisoner of the crown, named **ROBERT PRICE**, who met his death by a fall from off the top of a loaded dray when in a state of intoxication, the wheel of the dray passing over his body. Verdict - "Accidental death." On Monday last, at the Emu Inn, on the body of a female infant, who died in a fit of convulsions. Verdict - "Died by the visitation of God." - Same day, at Mrs. Watkins' public-house, corner of Liverpool and Pitt-streets, on the body of **GEORGE BAILEY**, who had expired on the previous day from dropsy, induced by intemperance. Verdict - "Death from Natural causes." - Same day, at Gannon's, Old Sportsman's Arms, on the body of **JAMES MURPHY**, who had received his death from the fall of a piece of rock on the which he was quarrying. - Verdict, "Accidental death." - Same day, at Hooper's, King's Head Inn, on the body of

**WILLIAM PRITCHARD**, a waterman, who met his death by the boat in which he was conveying two passengers, being run down by the steamer *Rose*. "Accidentally drowned."

LOVE AND JEALOUSY. - News has reached Sydney of a most horrible murder committed at Hartley, by a young man, on a female whom he had been courting, but who had ultimately turned him off for another. In a fit of jealousy, it is supposed he took the life of her, for whom, but a short time since, he would have died. We hope to be enabled to lay the full particulars on this dreadful affair before our readers, in our next number.

WREGISTER, 2/35, 23/03/1844.

INQUESTS. - On Saturday morning last, an inquest was held on the head and part of the spine and left side of a human body, found on the preceding evening in Darling Harbour. The body being identified as that of a man, by Dr. **TIERNEY**, Mr. **DENT**, the ship builder, deposed, that the remains viewed by the jury were part of the body of **GEORGE HEAVEN**, who had been drowned on the 26<sup>th</sup> January last, by the upsetting of the sailing boat, of which he was one of the crew. Several witnesses having proved that the death of the deceased was not occasioned by carelessness or neglect on the part of any on board when the accident happened, the jury found a verdict, that the remains were part of the body of George Heaven, who had been accidentally drowned.

Another inquisition was held, the same afternoon, on the body of **ROBERT PRICE**, a prisoner of the Crown, assigned to the Surgeon General's Department. From the evidence adduced, it appeared that early on the afternoon of Thursday last, the deceased went up to two drays standing in George-street, opposite the Bull's Head, and agreed with **JESSE BARTON**, the man in charge, holding a ticket-of-leave for the district of Yass, to be conveyed with them up the country, for which he was to pay one pound; that his terms being accepted, he went up and took his seat, being then in liquor. The drays being loaded, soon after they drove off, and stopped at Naphthali's public-house, bottom of Brickfield-hill, for nearly an hour and a-half, while the men in charge had their dinner there, the deceased keeping his place on the dray the whole time the drivers were in-doors. They started about five o'clock, and had not proceeded above two hundred and fifty yards when the deceased fell over the near side of the dray, and received the injuries which caused his death. The jury found a verdict of accidental death, caused by injuries received while in a state of intoxication, and found a deodand of one shilling against the wheel which had inflicted the injuries.

Another Inquest was held on view of the body of **JOHN ANDERSON**. From the evidence given, it appeared that the deceased had been at work at a quarry near Campbell's Wharf, where he received the injuries which caused his death, by a large stone falling upon him. He was taken to the hospital on Saturday evening, where he expired. A verdict of accidental death was recorded.

An inquest was held on Monday evening, on the body of **WILLIAM PRITCHARD**, who met his death on Thursday night by his boat coming in contact with the steamer *Rose*. The body was in a shockingly mutilated state, but was identified. The jury returned a verdict - That the deceased met his death by being accidentally drowned. They considered some degree of blame was attached to the Captain for not immediately stopping the vessel when the cry of a boat-ahead was made from on board the vessel.

An Inquest was held on Monday afternoon on the body of **GEORGE BAILEY**, when, after a lengthy examination, Dr. **J.D. TIERNEY** gave it as his opinion that the

deceased had died of apoplexy, brought on by habits of intemperance. A verdict to that effect was accordingly returned.

**MAITLAND CIRCUIT COURT.**

Monday.

**JOSEPH VALE** and **MARY THORNTON** were indicted for the murder of **JOHN THORNTON**, the husband of the latter. Guilty – death.

STAR, 5, 30/03/1844

A young woman died a few evenings ago since from the effects of taking some “white powder,” as she termed it, but which it appears must have been poison, and taken with the intention of destroying herself. The Jury which sat on the body brought in a verdict that the deceased had destroyed herself while labouring under a fit of temporary insanity.

MAITLAND MERCURY, 02/65, 30/03/1844

INQUEST. - On Tuesday last an inquest was held at Cox’s Hotel, East Maitland, before **J.S. PARKER**, Esq., coroner, on view of the body of an infant named **ELLEN RISBY**, aged about four months. The supposed mother of the child, Mrs. Risby, was in custody. From the evidence it appeared that Mrs. Risby had only lived in her present residence for about two months before the child’s death. The child was usually nursed by a little girl about twelve or fourteen years of age, and Mrs. Risby was scarcely ever seen to nurse it; for two or three nights previous to its death the child was almost constantly crying, and though it appeared to be a healthy child was a very small one; Mrs. Risby herself said it was not her child, she never suckled it, and most of the witnesses were of opinion that the child would have been better if it had received its mother’s milk; after it was buried Mrs. Risby said it was a heavy loss to her that it died, as she was well paid for it. There was no concealment as to the death of the child, and it was buried in the usual manner by the Rev. Mr. Rusden. Mrs. Risby said that she had had Dr. **BROWNE** to it, and he had done all he could for it. The jury, after a patient investigation, which lasted until twelve o’clock at night, returned a verdict “That the deceased, Ellen Risby, died a natural death, and that no fault is to be laid to the charge of Mrs. Risby in her treatment of the said child. The jury having no evidence before them who the mother of the deceased child is, under all the circumstances do not hesitate to pass a vote of censure upon her.”

HUNTER RIVER DISTRICT NEWS

WOLLOMBI

ACCIDENT AND DEATH BY DRUNKENNESS. - On Tuesday evening the township quiet was disturbed by a man running wildly about and shouting for help to extricate a man named **JORDAN**, a servant to Mr. **R.A. WISEMAN**, from under a cart, which he said had overturned upon him about half a mile south of the township. A party of the inhabitants immediately flew to the spot. Clearing away the load was the work of a moment, but all hurry was vain. The poor fellow was found a crushed and blackened corpse. In a few minutes the police magistrate arrived, and strongly questioned the man who was the first to give the alarm. He said that the deceased was drunk at the time of the accident, and that in spite of remonstrance from the informant he persisted in riding while driving over the most difficult places. On viewing the narrow and remarkably steep part of the road where the accident took place, it appeared that in descending this steep a wheel had been suffered to gradually ascend one of the banks, which on either side are close to the road, until the cart with its load had passed the balancing point, when of course it overset, bringing with it the

unfortunate driver, who must have been instantly deprived of life. We wish to record an opinion, in which we heartily join, given involuntarily by a spectator, a respectable and non-abstinence man, who, at the first sight of the bruised and lifeless body of the man he had known for many years, exclaimed, "After all, there is nothing like being a teetotaller." March 28, 1844.

RECORD, 1/27, 30/03/1844

INQUEST. - On Tuesday afternoon an inquest was taken by the coroner at the Forth and Clyde Hotel in Bridge-street, on view of the remains of **MARIA WADE**, whose death had been caused by her taking poison, while labouring under a temporary insanity. The jury returned a verdict according to the evidence.

WREGISTER, 2/36, 30/03/1844.

**BATHURST ASSIZES.**

[Monday, 25<sup>th</sup> March]

**JEREMIAH CREMAN**, late of Bathurst, labourer, was placed at the bar, indicted for the wilful murder of one **JOHN GORE**, by casting and throwing him against the ground, on the 23<sup>rd</sup> December last, and otherwise so far injuring him, that he expired on the 27<sup>th</sup> day of the same month. Guilty of manslaughter – to be transported beyond the seas for the period of his natural life.

GUARDIAN, 1/3, 30/03/1844

CORONER'S INQUESTS. - On Tuesday, at the Forth and Clyde, Bridge-street, on the body of **MARIA WADE**, aged 18 years, who was living in the service of Mr. **M. STREET**, and who put a period to her existence by taking poison. Verdict – Death from poison taken in a fit of temporary insanity. On Wednesday last, at Leggatt's public house, corner of Sussex and Druitt-streets, on the body of an infant. Verdict – Born dead.

GUARDIAN, 1/4, 06/04/1844

DEATH OF AN INFANT FROM IMPROPER MEDICAL TREATMENT. - We have just heard of the death of an infant, named **ANN DUNN**, aged 18 months, which for the last few days prior to its decease had been attended by a Lascar, who has been prescribing in this town to some extent lately. As an inquest will be held on the body of the infant on Thursday, we forbear entering into particulars till the result is made known.

**MAITLAND ASSIZES.**

We understand that his Excellency, with the advice of the Executive Council, has been pleased to direct the following commutations of sentence, with respect to the undermentioned parties convicted at the late Maitland Assizes, namely:-

**MICKEY MICKEY**, an aboriginal, convicted of an attempt to murder, and sentenced to death, transportation for life;

**WOLLOMBI**. - On Tuesday evening the township quiet was disturbed by a man running wildly about and shouting for help to extricate a man named **JORDON**, a servant to Mr. **R.A. WISEMAN**, from under a cart, which he said had overturned upon him about half a mile south of the township. A party of inhabitants immediately flew to the spot. Clearing away the load was the work of a moment, but all hurry was in vain. The poor fellow was found a crushed and blackened corpse. In a few minutes the police magistrate arrived, and strongly questioned the man who was first to give the alarm. He said that deceased was drunk at the time of the accident, and

that in spite of remonstrance from the informant he persisted in riding while driving over the most difficult places. On viewing the narrow and remarkable steep part of the road where the accident took place; it appeared that in descending this a wheel had been suffered to gradually ascend one of the banks, until the cart with its load had passed the balancing point, when of course it overset, bringing with it the unfortunate driver, who must have been instantly deprived of life. We wish to record an opinion, in which we heartily join, given involuntarily by a spectator, a respectable and non-abstinence man, who, at the first sight of the bruised and lifeless body of the man he had known for many years, exclaimed, "After all, there is nothing like being a teetotaller." – March 25, 1844.

**MORETON BAY.** - A dreadful accident occurred here on the 27<sup>th</sup>:- A poor fellow named **BRACEFIELD** who was working at Wogooroo, the residence of Dr. **SIMPSON**, the Commissioner of Crown Lands, was employed with his mare clearing a piece of land. A tree, however, which had been nearly cut through, fell unexpectedly and before the unhappy man was aware of the fall, the heavy mass was upon him, literally crushing him to pieces. The body on being got from under the tree was not recognizable by any one – so completely had the work of destruction been done.

**MAITLAND MERCURY, 02/66, 06/04/1844**

**DEATH OF AN INFANT FROM IMPROPER MEDICAL TREATMENT.** - We have just heard of the death of an infant, named **ANN DUNN** aged 18 months, which for the last few days prior to its decease had been attended by a Lascar, who has been prescribing in this town to some extent lately. As an inquest will be held on the body of the infant on Thursday, we forbear entering into particulars till the result is made known.

**INQUEST AT NEWCASTLE.** - On Thursday last an inquest was held at Newcastle, before **J.S. PARKER**, Esq., coroner, on the body of **REBECCA DUNN**, an infant, aged 18 months, who had died on the previous day, and, as was supposed, through the injudicious medical treatment of a man named **PETER ROSARIO**, a Lascar.

From the evidence of the child's mother it appeared that the deceased had been under the medical care of Dr. **BOWKER**; but that she was continually wasting away, and about six weeks ago Dr. Bowker said he had no hopes of her recovery, as she was affected with the liver complaint. He recommended oatmeal, arrowroot, and beef tea, which food the child would not take, and still continued to waste away. The mother was recommended to call in the assistance of Peter Rosario, which she did, and informed him that Dr. Bowker said the child was labouring under the liver complaint. He ordered the flannels in which the child was wrapped to be removed, and mixed some aloes in a table spoonful of water, with some lump sugar, a teaspoonful of which he gave the child. After giving this medicine he cut up a white onion, which he bruised with half a teaspoonful of salt, and rubbed the child all over, when he prescribed a teaspoonful of castor oil to be given to her, and ordered her to be laid down to sleep. The next day he recommended a little more castor oil, and rubbed the child all over again with onion and salt, and ordered her to be fed with chicken broth, boiled with whole pepper. This was the only kind of medicine used, and after four or five days the mother, who resided a short distance from Newcastle, then took the child home. Some time after the mother, having occasion to go to Newcastle, took the child with her, when it caught a fresh cold. Rosario again came to see deceased, and said she had caught a cold in her stomach, and she would not live, as she had been neglected. On Wednesday morning last, he gave the child a mixture of aloes, in order

to cut the phlegm, and ordered her some chicken broth, of which the mother gave her half a tea cup full, and in about an hour afterwards the child died.

The mother further stated that her reason for sending for Peter Rozario was because she had been told that he was a very skilful person, and had cured several persons, and she thought her child would have survived if she had had the means of furnishing it with proper nourishment.

Two other witnesses, named **JOHN BARKER**, a ticket of leave holder, and **DAVID ROBERTSON**, a shoemaker, were examined, both of whom were or had been under the medical care of Rozario, the former for an asthmatic complaint, and the other for rheumatism; they detailed the form of treatment they had received, which was nearly similar, being chiefly castor oil, rice, and chicken broth, and rubbing Robertson with ointment. They both said they were much better for the treatment they had received.

Dr. Bowker stated that he had been the medical attendant of the deceased from about the 27<sup>th</sup> February to about the 3<sup>rd</sup> March, with the exception of one day, on which Dr. **BROOKS** saw it; and that he informed the mother that it was dangerously ill, and had a disease of the liver, and would require every attention to be paid to it. In conjunction with the colonial surgeon he had made a post mortem examination of the body, and found a disease of the liver, that organ being enlarged to double its proper size, and containing several abscesses. He had heard the evidence of the child's mother, and did not consider the treatment to have been directly injurious, unless violent purging was produced, but indirectly so, by hindering efficient remedies from being employed; and he thought Rozario had misled the woman in stating that the child had died of cold in the stomach.

After hearing the above evidence, the jury returned a verdict that "Rebecca Dunn died by the visitation of God, and that Peter Rozario be cautioned by the coroner from practising as a quack doctor."

MAITLAND ASSIZES. - We understand that his Excellency, with the advice of the Executive Council, has been pleased to direct the following commutations of sentence, with respect to the undermentioned parties convicted at the late Maitland Assizes, namely:- **MICKY MICKY, an aboriginal**, convicted of an attempt to murder, and sentenced to death, transportation for life; ...

STAR, 6, 06/04/1844

MORETON BAY

A poor fellow named **BRANFIELD** was smashed to death by the falling of a tree, at the residence of Mr. **SIMPSON**, Commissioner of Crown Lands, at Wagaroo, Moreton Bay.

WREGISTER, 2/37, 06/04/1844.

THE HARTLEY MURDER. - **FREDERICK alias ABRAHAM GASTON**, the murderer of **ELIZABETH ROBERTSON**, for whose apprehension a reward of £20 was offered a short time since by the Government, was taken on Friday last week, by two mounted policemen, at Wanimblie, a short distance from Hartley, near the residence of Mr. **WILSON**. He was discovered by the troopers in the bed of a creek, armed with a gun to the trigger of which a string was attached, and with this he thrice attempted self-destruction before they were able to secure him, but the piece fortunately missed fire each time, and he was seized before he had time to make any further attempt at suicide. He made no resistance when secured, and was safely conveyed to the Hartley lock-up, where he now lies.

**Central Criminal Court.**

Friday [5<sup>th</sup> April]

**ISAAC AINSWORTH** and **LOUISA TAYLOR**, who were both under committal upon the charge of murdering the husband of the latter, were placed at the bar and discharged – the former entering into his own recognizance for £100, to appear and take his trial when called upon. The prisoners, previous to leaving the court, both asserted their innocence in strong terms.

GUARDIAN, 1/5, 11/04/1844

LOVE, JEALOUSY, AND MURDER. – Our readers will recollect that a fortnight ago we informed them that a dreadful murder had been committed at Hartley. We now hasten to lay before them the particulars of the horrid deed which we have just received. The perpetrator of the vile act is named **FREDERICK** otherwise **ABARAHM GASTON**, and his unfortunate victim a young girl named **ELIZABETH ROBINSON**. It appears that the murderer and the poor girl were on terms of the greatest intimacy for some time, and she had promised to marry him – Gaston, however, in an evil hour left her and came down to Sydney on business, and during his absence the fickle fair one conferred her affections on a man known in the district as Long Jack. On his return, Gaston found his betrothed in the arms of another, and all his fond hopes of future happiness blighted. Brooding over his wrongs, he went to his hut and taken his fowling piece from the corner it occupied, he proceeded straight to the hut of the unfortunate girl. Unhappily she was alone, and Gaston, after taunting her with treachery, and bidding her prepare for death, for that she should never go to his rival's arms except as a corpse. In vain the poor girl entreated, the villain raised the piece to his shoulder and drawing the trigger, the unfortunate girl fell to the ground pierced through the heart. As if the sight of his victim's blood had made him still more fierce, the murderer left the house, and uttering dreadful imprecations on his rival, took to the bush. The next day the Police Magistrate of Hartley, received a letter from him stating that he need not trouble himself to look after the writer as he (Gaston), meant to put an end to his life, but that he first intended to have the blood of Long Jack. The Police, however were out in every direction and they at last succeeded in falling in with him at Kanimbie Creek near Mr. Wilson's station. As soon as the unhappy man caught sight of the Police, he placed the muzzle of his piece to his mouth and with his foot drew the trigger but the piece missed fire. Three times, he did the same in a most determined manner, but every time, did the piece miss fire. He was therefore secured by the police and conveyed to Hartley lock-up. He has since been fully committed to take his trial. It is said, that he informed the lock-up keeper that he never intended to shoot the girl, but that he only meant to *bounce* her out of her love for Long Jack, and that had he known the piece was loaded he should not have presented it.

MAITLAND MERCURY, 02/67, 13/04/1844

THE CONDEMNED CRIMINALS VALE AND THORNTON. - These two culprits, who were convicted at the late Maitland Assizes of the murder of **JOHN THORNTON** by poison, are to be executed at Newcastle on Wednesday, the 17<sup>th</sup> instant, a notice to that effect having been received by Mr. **FIELD**, the governor of Newcastle gaol, on Sunday last, which that officer communicated to the prisoners on the same day.

INQUESTS. - An inquest was held on the 6<sup>th</sup> instant, before **J.S. PARKER**, Esq., coroner, at Seaham, on the body of a child named **PATRICK LAWLER**, aged about

three years. It appeared from the evidence of the child's father that the deceased was left playing with the other children, and got to an open well about fifty yards from the house, into which he fell, and when taken out was quite dead. The jury returned a verdict that the deceased was found drowned in a well. - On the following day another inquest was held at the house of Mr. **G. CORY**, Paterson, on the body of **HARRIET HUXLEY**, a child about fifteen months old. It appeared that the mother of the child left it in the house by itself on Thursday, the 4<sup>th</sup> instant, and it got to the fire, when its clothes ignited, and it was so severely burnt on the back, belly, and legs, that it died on the following evening, about eight o'clock. The jury returned a verdict that the deceased came to her death from the injuries received by burning, and they considered the mother deserved a severe reprimand for allowing so young a child to be left alone in a hut with a fire burning."

WREGISTER, 2/38, 13/04/1844.

DEATH BY DROWNING. - About four o'clock on Sunday afternoon, a female child, aged one year and nine months, named **BARTON**, while playing near her father's residence in Liverpool-street, fell into an uncovered well on the premises of Mr. **M'DONNELL**, and was unfortunately drowned.

[[LIBEL CASE re Midwife of Alice Griffin and infant.??]]

SUICIDE. - Yesterday evening an Inquest was held at the Glebe, on the body of Mr. **GEORGE HIRST**, aged 34, who had destroyed himself by a pistol shot. It appeared by the evidence that the deceased arrived by the *Alfred*, two months ago; he laboured under mental excitement, which was attributed to his having found his affairs embarrassed; but he had not been so much excited latterly, precautionary means having been taken with him. When he first arrived he drank freely, but not so much latterly. He had symptoms of *Delirium tremens*. The Jury, under the Coroner's direction, returned a verdict that the deceased had destroyed himself while labouring under a fit of temporary insanity.

STAR, 7, 13/04/1844

ACCIDENTAL DEATH. - On Sunday last an infant female child of Mr. **BURTON'S**, who resides in the neighbourhood of Liverpool Street, came to an untimely end by falling into an uncovered well, on the premises of Mr. **M'DONNELL**, of the same neighbourhood. This is the second case of the kind it has been our painful duty to record within the last month.

MAITLAND MERCURY, 02/68, 20/04/1844

EXECUTION OF VALE AND MARY THORNTON AT NEWCASTLE. - On Wednesday last, the 17<sup>th</sup> instant, the extreme penalty of the law was carried into execution at Newcastle upon **JOSEPH VALE**, aged 30, and **MARY THORNTON**, aged between 20 and 21, convicted at the late criminal court held at Maitland of the murder by poison of **JOHN THORNTON**, the husband of the latter. Both prisoners had been regularly visited for spiritual instruction since their condemnation by the Rev. **C. PLEYDELL N. WILTON**, M.A., chaplain of the gaol; and the female prisoner had received the unremitting attention of Mrs. **FIELD**, the wife of the governor of the gaol. To her, on Monday evening last, Mary Thornton made a full confession of her crime; and after Mr. **KECK**, the acting sheriff, had read to her in the condemned cell her death warrant, on Tuesday, there appeared to the chaplain that a visible change for the better had taken place in her mind. With regard to her partner in crime, in the presence of the Rev. **W. STACK** (who had kindly come from

Maitland to assist in preparing them for their awful end), the Rev. C.P.N. Wilton, and Mr. Field, Vale, on the night before his execution, acknowledged his equal guilt in the murder. At the request of both the 4 criminals, the chaplain of the gaol announced from the drop to the assembled crowd that they confessed that they were guilty of the crime for which they were about to suffer, as well as the justice of the sentence which had been passed upon them. The firmness of the female culprit, both in ascending to the drop, and when upon it, was exceedingly great.

#### CONFESSION OF MARY THORNTON

We have been obliged by **E.D. DAY**, Esq., P.M., with permission to copy the following confession of Mary Thornton, which was forwarded to him by Mr. Field, the governor of Newcastle gaol.

“On Christmas Eve, 1843, Joseph Vale gave my husband something out of a small bottle which he had brought from Maitland; he gave it to him in some rum. I did not know of it until the next morning, when Vale told me he had given it to him; he said he had given him enough to settle him; but he had a strong constitution, it did not affect my husband at all. He gave him some more on Christmas night; I made the spirits hot, and mixed eggs with it; Vale blamed me for making it hot, as he said it was the cause of it's not taking effect; he asked me if my husband died would I marry him? I said yes; he said that if I did not he would have revenge on me. The last time that Vale and my husband went into Maitland together I did not tell him to buy poison, but when he came back he gave me a paper, and told me to empty the powder into another paper, and burn the piece it was in, that no one might see it, as it was poison, and give that to John (meaning the powder), as that would do for him, for he had given half a crown for it. I gave part to my husband the next morning in some tea; about dinner time he complained of giddiness in his head; when Vale perceived that he looked at me and laughed; he told me to put some on his pudding at dinner time, but I did not; he wanted me to put some more in my husband's tea that night, but I did not. I put some in his gruel the next morning; I told Vale that I had put it in his gruel, he said that I did not put enough in. My husband wanted a dose of salts, which I gave him; Vale urged me to put some of the powder in them, but I did not. On the Monday evening my husband called me, and said, ‘Mary, never let this happen again, for if I die Joe will be hung, as round as a robin.’ I said, ‘What happen again?’ He replied, ‘I will tell you when I am dying.’ But those were the last words he was able to say. A short time before he died Vale went for a doctor; when he returned I was crying; he asked me what I was crying for, and called me a fool, and said, ‘I am afraid it will be found out now he has been poisoned, and it will be known where I bought the poison.’ When there was a great deal of talk and confusion among the people, who suspected how it all was, Vale said, ‘They will hang us now without judge or jury,’ and also said, ‘We will both die together.’ Vale often brought herbs and a kind of vine from the bush for me to boil as tea, and give to my husband, and which he said would act as a poison.

(Signed) MARY THORNTON.”

Condemned Cell, H.M. Gaol, Newcastle, 15<sup>th</sup> April, 1844.”

Mr. Field adds the following paragraph: “The prisoner Joseph Vale, who was tried with Mary Thornton on the same charge, confesses himself equally guilty with her of the crime for which they are sentenced to suffer.”

INQUEST. - On Monday last an inquest was held at Mr. Harper's farm, Harper's Hill, on the body of a child of six years old, named **ANNE WAKE**. It appeared from the evidence of **JANE WAKE**, her mother, that the deceased was playing on Sunday afternoon in front of the house with her little brother and sister, a tree being on fire

near the spot at the time, when suddenly her little boy came in to say that his sister was all on fire. The unfortunate mother rushed out, and tore the burning rags off her child, and found she was dreadfully burnt; she then took her to Mrs. **BEATTIE** for assistance, and Mrs. B. rubbed the body of the poor child over with sweet oil, when Mrs. Wake brought her home again, and her husband came into Maitland for Dr. **LIDDELL**, but before he could reach the place the child was dead. The mother had not seen the clothes take fire, nor had she thought at first of asking her how the accident happened, and when she did afterwards the poor girl was in too great agony to tell her. The evidence of a man named **JAMES RUSSELL**, who was near the spot at the time, was then taken, and he corroborated Mrs. Wake's account, though he had not seen the commencement of the accident; he said Mrs. Wake was very careful and fond of her children. Dr. Liddell then gave his opinion that the child had died from severe and universal scorching, and the jury returned a verdict to that effect.

**FATAL ACCIDENTS.** - On Saturday last two women were drowned in the river William, near Raymond Terrace. We have heard different versions of the manner in which the accident occurred, but the following is the most general. Four persons, two men and two women, had left their home up the William in a boat, and come down to Raymond Terrace for a cask of water. Having filled the cask they left the Terrace, and had only just entered the William when the boat struck a tree, and, canting up slightly, the cask, which was not made fast, rolled down to the lowest side, and the boat went over. One of the men, being a good swimmer, soon rose to the surface, and on looking round saw the other man just struggling up from underneath the boat, and going to him he assisted him to reach the shore, the unfortunate women not having been seen to reach the surface. One of the bodies had been found, but up to last night no news of the body of the other woman (named **CAMPBELL**) having been recovered had reached Maitland. - On Tuesday last a man named **DANIEL FLYNN** died in the Maitland Benevolent Asylum, from severe injuries received about three weeks before. It appears Flynn, who was in the service of Mr. **P. GREEN**, had gone to the Falls for a cask of water, and on his return the horse took fright and ran away, the unfortunate man being thrown off by the shock, and dreadfully injured by the horse's feet, and the wheel of the cart, which passed over his leg.

#### **HUNTER RIVER DISTRICT NEWS**

##### **DUNGOG**

**MAN FOUND DROWNED.** - Last Sunday evening Mr. **GEORGE LANE** having gone down to bathe in the William, observed the body of a man floating, and gave information to the chief constable, who went and got out the body. Decomposition had proceeded so far that it was impossible to recognise the features, but in the pocket was found a ticket of leave for **THOMAS GRACE** in the district of Dungog, who had not been seen for about three weeks, but whose absence had not excited surprise, having been of a roving disposition. An investigation was held before **T. COOK**, Esq., and the body examined by Dr. **M'KINLAY**, who found a fracture in the skull, but nothing was elicited to show how the deceased met with his death. It was supposed he must have thrown himself from a bank near where the body was found. The ticket of leave holders in the neighbourhood have raised a subscription, and intend to inter the body very decently.

*To the Editors of the Maitland Mercury*

**GENTLEMEN** - I beg to offer you a few remarks on the want of a law for the suppression of unqualified medical and surgical practitioners. They have been prompted by hearing the evidence at the inquest on the body of the child **DUNN**, who

was, as far as human reasoning can teach, another victim to the want of the above mentioned law.

Continues...

The case of the child Dunn will shew the infatuation of the ignorant portion of the community – well exemplifies how much that portion of the people requires the protective care of a fatherly government. I have seen several of these pretenders, but never did I see one so profoundly ignorant as **PETER ROSARIO**. After the inquest he was asked a few questions. If he could read or write? No. Did he know the human body? No. Could he bleed? No. Where did he acquire his knowledge of medicine? All his family had been herb doctors (and I suppose the mantle had descended to him). What was wrong with the child? Belly full of water, nothing besides. During the inquest the mother seemed to me to be afraid of being punished for her neglect of the child, and wished to make it appear that the doctors had entirely given up the child before she had taken it to the Lascar. Thus she swore that Dr. **BOWKER** said he had no hopes of her child, whereas that gentleman when on oath stated (although such is not in your report) that he had told the mother it was a dangerous case; and she asked him if he had hopes of it, when he answered that if he had no hopes he would not give the medicine he had administered. (On Dr. B.'s saying this the woman contradicted him.) Since the inquest I have been informed by a woman, whose credibility no one can doubt, that Mrs. Dunn had told her that her child was dangerously ill, but by care and attention he had hopes of its recovery.

I am, gentleman yours most obediently, AGRYPNON.

[We have omitted the concluding portion of Agrypnon's letter, because it contains personal reflections which are hardly warranted, and which do not bear strictly upon the general question. – EDS. M/M.]

SUICIDE. - Yesterday evening an inquest was held at the Glebe, on the body of Mr. **GEORGE HIRST**, aged 34, who had destroyed himself with a pistol shot. It appeared by the evidence that the deceased arrived by the Alfred, two months ago; he laboured under mental excitement, which was attributed to his having found his affairs embarrassed; but he had not been so much excited latterly, precautionary means having been taken with him. When he first arrived he drank freely, but not so much latterly. He had symptoms of delirium tremens. The jury, under the coroner's direction, returned a verdict that the deceased had destroyed himself while labouring under a fit of temporary insanity. *Register*

STAR, 8, 20/04/1844

SUICIDE. - On Yesterday evening week Mr. **GEORGE HIRST**, who resided with his brother, at the Glebe, and who only arrived in the colony about two months since, by the Alfred, terminated his existence by shooting himself through the head during a fit of temporary insanity, supposed to have been accelerated by discovering his affairs to be in an embarrassed state on his late arrival.

WREGISTER, 2/39, 20/04/1844.

CONFESSION OF MURDER. - The following is the confession of **MARY THORNTON**, who was tried before his Honor the Chief Justice at the Circuit Court held at Maitland, in March, 1844, and found guilty of, and sentenced to be hanged for, poisoning her husband; and while in the condemned cell, in her Majesty's Gaol, at Newcastle, to Mrs. **ELIZA JANE FIELD**, Matron of that establishment: -

On Christmas Eve, 1843, **JOSEPH VALE** gave my husband something out of a small bottle, which he had brought from Maitland; he gave it to him in some rum. I did not know of it until the next morning, when Vale told me he had given it to him – he said he

had given him enough to settle him; but he had a strong constitution – it did not affect my husband at all. He gave him some more of Christmas night; I made the spirits hot, and mixed ages with it. Vale blamed me for making it hot, as he said it was the cause of it not taking effect. He asked me if my husband died, would I marry him? I said, Yes. He said, if I did not he would have revenge on me. The last time that Vale and my husband went into Maitland together, I did not tell him to buy poison; but when he came home he gave me a paper, and told me to empty the powder into another paper, and burn the piece it was in, that no one might see it, as it was poison, and to give that to John, meaning the powder, as that would do for him, for he had given half a crown for it. I gave part to my husband and next morning in some tea; about dinner time he complained of giddiness in his head. When Vale perceived that, he looked at me and laughed; he told me to put some more on his pudding at dinner time, but I did not; he wanted me to put some more in my husband's tea that night, but I did not; I put some in his gruel next morning. I told Vale that I had put it in the gruel; he said that I did not put enough in. My husband wanted a dose of salts, which I gave him; Vale urged me to put some of the powder in them, but I did not. On the Monday evening my husband called me and said, Mary, never let this happen again, for if I die, Joe will be hanged as round as a robin; and I said what happen again – he replied, I will tell you when I am dying – but those were the last words he was able to say. A short time before he died, Vale went for a doctor; when he returned, I was crying. He asked me what I was crying about, and called me a fool, and said, I am afraid it will be found out now that he has been poisoned, and it will be known where I bought the poison. When there was a great deal of confusion and talk among the people who suspected how it all was, Vale said, they will hang us now without judge or jury; and also said, we will both die together. Vale often brought herbs and a kind of vine from the bush to boil as tea, and give to my husband, and which he said would act as a poison.

Her Majesty's Gaol, Newcastle, April 17.

- Vale, last night, at ten o'clock, confessed himself to be equally guilty with Thornton, in every respect, as to the poisoning of her husband, and acknowledged the justice of his sentence. **J. FIELD**, Gaoler.

**BUSHRANGING AND MURDER.** - On the 24<sup>th</sup> March, one of the most atrocious outrages ever perpetrated in the Colony of New South Wales, was committed by two armed bushrangers, near Mount Rouse, Portland Bay Road. Two men named **JOHN BUCHANAN** and **WILLIAM HOLMES**, left the Messrs. Burchett's station (the Gums) on that day, having just had their wages, and were on their way to town. In the afternoon, they were met by two armed men, who presented guns at them, and compelled them to deliver up their money, including a cheque for £21. The ruffians then pinioned the two poor men back to back, and retired to a short distance, and commenced firing at them; one of them having the piece loaded with ball, and the other with slugs. Having thus disabled their victims, the bushrangers made their escape, but the men managed to get clear of the bandages, and crawled back to the station they had left. Information of the outrage was immediately despatched by express to Geelong, and on Thursday, last week, the depositions were taken, and warrants issued for the apprehension of the offenders. Copies of tem, with descriptions of the men suspected, were sent to Melbourne by the steamer on Friday, and within twenty-four hours afterwards the ruffians were safe in custody – their names are **JAMES WATTS** and **PETER STRATTON**. The two victims have since died from the effects of their wounds, so that the culprits will be tried for wilful murder, in addition to the crime of bushranging.

**DEATHS BY DROWNING.** - An Inquest was held on Saturday evening, at Leburn's public house, Parramatta-street, on the body of a boy, aged nine years, named **FRANCIS**, who fell into an open well on his father's farm, at Canterbury, on the previous day, and was unfortunately drowned. Mr. **CUTHILL**, house surgeon of the Benevolent Asylum, performed a *post mortem* examination upon the body, and

pronounced his opinion, from the overloaded state of the stomach with undigested food, that a giddiness in the head attacked the deceased when endeavouring to draw up water, and he fell in. The jury, therefore, returned a verdict of accidentally drowned.

Another inquest was held the same afternoon, at the Napoleon Inn, Kent-street North, on the body of an old man named **JOHN O'BRIEN**, who came to his death on the previous night by falling into the water, from Jones's Wharf. A man named **JONATHAN HARDY**, who was fishing at the wharf at the time, heard a splash in the water, and a little boy called out to him that a man had fallen into the water. Hardy immediately procured a rope and endeavoured to pass it round his arms, and by that means draw him out, but failing in the attempt, he got a pair of iron hanks and succeeded in recovering the body; but, although less than five minutes had elapsed from the time he heard the deceased fall into the water until he recovered the body, life was extinct. Dr. **MACKELLAR**, having examined the body, and certified that death was caused by drowning, the jury returned a verdict accordingly.

GUARDIAN, 1/6, 20/04/1844

FATAL ACCIDENT. - On Friday evening Mrs. **LAKEMAN** of Parramatta, her daughter, and a man named **TOPPER**, were returning from Windsor races in a gig, about half-past even o'clock, the night being excessively dark, on their arriving at the bottom of McGrah's Hill, Mrs. Lakeman, who had been driving, herself, previously for the purpose of safely getting over the bridge, gave the reins to Topper; when the horse made a false step, and the party were instantaneously precipitated over the bridge. Mrs. Lakeman and her daughter, though stunned by the fall, managed to gain the road, and walk back to Windsor; but the unfortunate driver appears to have died instantaneously from the injuries he received. An inquest on the body was held the following day, and a verdict of accidental death returned. The bridge is without a hand-railing, and is in a most dangerous condition.

WREGISTER, 2/40, 27/04/1844.

EXECUTION. - On Wednesday, the 17<sup>th</sup> instant, the extreme penalty of the law was carried into execution, at Newcastle, upon **JOSEPH VALE**, aged thirty, and **MARY THORNTON**, aged between twenty and twenty one, convicted at the late Criminal Court held at Maitland, of the murder, by poison, of **JOHN THORNTON**, the husband of the latter. Both prisoners had been regularly visited for spiritual instruction since their condemnation by the Rev. **C.P.N. WILTON**, M.A., who, at the request of both the criminals, announced to the assembled crowd that they were guilty of the crime for which they were about to suffer, as well as the justice of the sentence which had been passed on them. The firmness of the female culprit, both in ascending the drop and when upon it, was exceedingly great.

ACCIDENT FROM FIRE. - On Thursday morning a young girl, named **MARGARET BURFIELD**, aged 14, in the service of Mr. **WILLIAMS**, cabinetmaker, of York-street, very narrowly escaped being burnt to death by her clothes catching the flames, as she was making the fire about half-past eight o'clock, in her master's kitchen. The girl imprudently ran out of the front door into the street, when she was enveloped in flames almost immediately, and must have perished, had she not been observed by the police messenger, who happened to be at the adjoining house, who promptly jumped over the fence, and catching her up in his arms, succeeded in extinguishing the fire before it had penetrated too far beyond the surface

of the skin. Notwithstanding, the legs and lower part of the body, as far up as the chest, was dreadfully burnt. She has since been removed to the Colonial Hospital.

INQUEST. - On Monday afternoon an inquisition was held at the Sportsman's Arms, corner of Hunter and Phillip-streets, on the body of **MARY TRANT**, aged about fifteen years, an inmate of the School of Industry, Macquarie-street. It appeared that on Saturday the deceased was leaning over the fire, when her frock caught fire; she ran out to the bake-house, where some person jumped over the wall, and another took a table cloth and wrapped it round her, which put out the fire. Surgeon **HARNETT** certified that he had viewed the body, and was of opinion that death had been caused by a severe burning, produced by her clothes taking fire. The jury found a verdict accordingly.

STAR, 27/04/1844

On Saturday last a girl named **MARY TRANT**, an inmate of the school of industry was, burnt to death by her clothes becoming accidentally ignited while leaning over the fire.

MAITLAND MERCURY, 02/69, 27/04/1844

INQUESTS. - An inquest was held on the 19<sup>th</sup> instant, at Raymond Terrace, before **J.S. PARKER**, Esq., coroner, on the bodies of two females named **CATHERINE M'NEILL** and **JESSY CAMPBELL**, who had been drowned a few days before in the William River. It appeared from the evidence that the two deceased woman and two men named **LODY M'NEIL** and **KENETH M'DONALD** were on the 13<sup>th</sup> instant returning from Raymond Terrace in a small boat, and when near the junction of the William the boat was capsized. One of the men, M'Donald, as soon as he got out of the water, stated to Mr. Pearse that the accident happened in consequence of his companion M'Neil falling on the side of the boat, and he afterwards said he did not know how it happened. M'Neil, who swam ashore soon after, could give no account of the occurrence, and appeared to be in liquor. Several other witnesses also who saw M'Neil immediately after the accident deposed that he was in liquor at the time; and the jury, after a patient investigation, returned a verdict "that Catherine M'Neil and Jessy Campbell came to their deaths by the upsetting of a boat, which the jury consider unsafe, and place a deodand on her to have her destroyed. We also think Lody M'Neil deserves censure for being tipsy when in charge of females in so small a boat." After the inquest, we understand the boat, which was a very small one, and had twice capsized before, was immediately dragged upon the beach and cut in two.

On Monday last, the 22<sup>nd</sup> instant, an inquest was held at East Maitland, before **J.S. PARKER**, Esq., on the body of **ELIZABETH ANN AVERY**, a child about five years old, who died on the preceding Saturday. It appeared from the evidence of the child's mother that on Saturday last she went out of the hut, leaving the child by herself, and she had not been out more than three minutes before it came running to her enveloped in flame. Deceased said that a bit of fire had fallen on her clothes, and set fire to them. She lingered for about three hours, and then died. The jury returned a verdict "accidentally burnt." The parents of this child were in the greatest poverty, living in a most wretched hovel, and subsisting almost entirely on pumpkins. They had not a shilling in the house, and constable **KERR**, who knew them to be honest and industrious people, kindly undertook to raise a small subscription for their assistance. He collected £2 13s. 6d., out of which the funeral expenses of the poor child were paid, and the remainder, amounting to £2 5s., was on Thursday afternoon handed over to Mrs. Avery, who received it with tears of gratitude.

On the same day another inquest was held, at West Maitland, on the body of **JOHN BRIGGS**, a youth apprenticed to Mr. **EARLY**, saddler. It appeared that on Sunday morning last, between ten and eleven o'clock, the deceased came out of Mr. Early's yard with a filly belonging to Mr. **P. HUGHES**, which he mounted at the gate. Several boys were standing there, viz., **JOHN DILON**, **W. KNIGHT** and ----- **KINCHELA**; deceased was not a good horseman, and they began to laugh at him; Knight caught hold of the horse's tail, but let go immediately, and Kinchela threw a small stone at the filly, which hit her. Deceased kicked the filly with his heels, and she began buck jumping, and threw deceased over her head. Mr. **T. EVANS** and Mr. **N. HART** saw the accident, and went up to deceased as he was lying on the ground. Mr. Evans asked him if he was hurt, and he said no. Both Mr. Evans and Mr. Hart were of opinion that the accident would not have occurred had not the boys shouted and the stone been thrown. About half an hour after the accident deceased began to vomit, and complained of a pain in his head. Dr. **MALLON** was then called in, who tried to bleed him, but very little blood was obtained, and about four o'clock he died. Dr. Mallon certified that in his opinion the deceased had died of concussion of the brain, and the jury returned the following verdict, "That the deceased came to his death by accidentally falling from a horse in the High-street of West Maitland, occasioned by a number of boys shouting, and a stone thrown by one of them at the horse; and it is the opinion of the jury that the boys present on the occasion be called in, and seriously admonished by the coroner for their conduct."

GUARDIAN, 1/7, 27/04/1844

INQUEST. - On Saturday last **MARY TROUT** [**TRANT?**], aged 14 years, died at the Female Orphan School, Macquarie-street, in consequence of her clothes having caught fire. A verdict was returned accordingly.

EXECUTION. - On Wednesday last, the 17<sup>th</sup> instant, the extreme penalty of the law was carried into execution, at Newcastle, upon **JOSEPH VALE**, aged 30, and **MARY THORNTON**, aged between twenty and twenty-one, convicted at the late Criminal Court held at Maitland, of the murder, by poison, of **JOHN THORNTON**, the husband of the latter. Both prisoners had been regularly visited for spiritual instruction by the Rev. **C.P.N. WILTON, M.A.**, Chaplain of the Gaol, and the female prisoner had received daily the unremitting attention of Mrs. **FIELD**, wife of the Governor of the Gaol. To her, on Monday evening last, she made a full confession of her crime, and after Mr. Keck had read the death warrant to her, on Tuesday, there appeared a visible change had taken place in her mind; and in the presence of the Rev. Mr. **STACK**, the Rev. Mr. **C.P.N. WILTON**, and Mr. **FIELD, VALE**, on the night before his execution, acknowledged his equal guilt in the murder. At the request of both the criminals, the chaplain of the gaol, from the drop, announced to the assembled crowd, that they acknowledge that they were guilty of the crime for which they were about to suffer, as well as the justice of the sentence which had been passed upon them. The firmness of the female culprit, both in ascending the drop, when upon it, was exceedingly great.

STAR, 10, 04/05/1844

Early on Tuesday morning a man, named **GEORGE POWELL**, aged about fifty years, died suddenly from the bursting of a blood vessel.

ACCIDENT. - It is our painful duty to record the death of another child by burning. It appears that a female child, aged eleven years, of the name of **MARGARET MURPHY**, at service in York-street, was so severely burnt, by her clothes becoming

ignited while in the act of supplying the fire with fuel, that she died a few days after the accident occurred.

MAITLAND MERCURY, 02/70, 04/05/1844

ACCIDENT. - On Thursday morning last a girl, about eleven years of age, named **CROUCH**, whose parents reside at Coolie Camp, was washing a basin near the fire, when her clothes accidentally ignited. Her mother, who was sitting with her back towards the fire, did not observe the circumstance, but a person who came in at the time called her attention to it, when she ran to procure a blanket for the purpose of extinguishing the flames. The girl ran out into the air, and was immediately enveloped in flames; Dr. **LIDDELL** was sent for, but as soon as he saw the girl he expressed his opinion that her case was hopeless. She lingered until yesterday evening, about five o'clock, when she died of the injuries she had received.

SHOOTING WITH INTENT TO KILL.

On Monday last a man named **JAMES BRADY** was committed for shooting at **JOHN SPOONER**, with intent to kill. It appeared that on 24<sup>th</sup> April **GEORGE GEDDES**, of Morpeth, in company with Spooner, went to a run occupied by the prisoner at Cockadyngym which was formerly held by Geddes, but which he had given up about three months ago, for the purpose of fetching away some milking cows, the property of Geddes, and also some bows, yokes, and chains. Prisoner refused to let them go, saying he had a demand upon them, and struck Spooner several times, first with a stock whip, and afterwards with a stick, ordering him off the farm. Spooner and Geddes got into a cart for the purpose of going away, when they heard the prisoner call for his gun, which his wife brought to him. As they were going off the gun was fired within two yards of Spooner, and the shock knocked him down, but he was not wounded; the prisoner exclaimed, "Oh, my God, see what I have done." Spooner stated his belief that the prisoner fired with the intention of shooting him, but Geddes said he heard Brady call for the gun to shoot a dog which was fighting, and he believed the gun went off accidentally. Upon this evidence the prisoner was committed for trial.

GUARDIAN, 1/8, 04/05/1844

INQUESTS. - On Saturday last an inquest was held at the Sportsman's Arms, public-house, on the body of **ANNE WILLIAMS**, where she had been placed for protection. It appears that the deceased had been wandering about in a state of great destitution, and that she was taken to the watch-house from a paddock in which she was lying. A verdict of "died by the visitation of God" was returned. - At the same place, on the same day, an inquest was held on the body of **MARGARET MURPHY**, who died at the Hospital from the effect of a burn, occasioned by the ignition of her clothes whilst engaged in lighting the fire, in the house of her employer, Mr. **WILLIAMS**, of York-street, on Thursday morning last. A verdict of accidental death was returned. - An inquest was held on Tuesday at the Sportsman's Arms' Inn, on the body of **GEORGE POWELL**, aged forty-four years. It appeared from the evidence of a man named **JONES**, a fellow-lodger of the deceased, that between two and three o'clock on Tuesday morning, he was awakened by something dripping on the floor, and, on getting up and striking a light to discover from whence the noise proceeded, he ascertained that it was caused by blood which was rapidly flowing from the deceased. The body was examined by Mr. Surgeon **CUTHILL**; who deposed that there were no marks of violence on the body, and that the death had

been caused, in all probability, by the rupture of a blood vessel. Verdict – died by the visitation of God. - On Wednesday an inquest was held at Le Burn's public-house, Parramatta-street, on the body of **CHARLOTTE TAMMARAR**, an aboriginal female of the Sydney tribe, who was found dead at the door of Mr. **GABRIEL THOMSON** of Ultimo. It was proved that the deceased was intoxicated on the previous evening, and that she had previously been in a very bad state of health. Verdict – “died by the visitation of God.

MAITLAND MERCURY, 02/71, 11/05/1844

MAITLAND MERCURY, 02/72, 18/05/1844

INQUEST. - An inquest was held on the 10<sup>th</sup> instant, at Dungog, before **J.S. PARKER**, Esq., coroner, on the body of **MARY STEVENSON**, an infant about two months old. From the evidence, it appeared that the child had been christened the previous day, and several friends had been present on the occasion. There was some drinking going on, but about nine o'clock both the parents retired to rest, perfectly sober, taking the child with them. About three o'clock on the following morning Mrs. Stevenson awoke her husband, and said she thought the child was dead. He got up, and on obtaining a light found that it was dead, and quite cold. The mother said it had been sucking about an hour and a half before. Dr. **M'KINLAY** examined the body, and was of opinion, from certain marks which he saw upon it, that the child had been laid on, and thus death was produced, but the appearances were equivocal. The jury returned a verdict “That Mary Stephenson came by her death from being accidentally overlaid by her parents.”

MELANCHOLY EFFECT OF A BITE FROM A SNAKE. - On the evening of Tuesday, the 7<sup>th</sup> instant, a man named **THOMAS DOUGLASS**, who was engaged in building a house at Cockle Creek, in the district of Brisbane Water, was about to clean out an iron pot for the purpose of boiling some meat, when a diamond snake, which had coiled itself up inside, bit him in the arm. He immediately informed a man named **TAYLOR**, who was living with him, of what had occurred, when he produced a chisel, and cut out the part he supposed was bitten, and left to obtain the advice of some of his neighbours. He returned in about half an hour afterwards, but the arm had swelled to a considerable extent, so much so that the wound occasioned by the bite was not at all perceivable. The man did not complain of the least pain from the wound made by the chisel, but appeared fully aware of what would be the result of the bite, which in about an hour and a half caused his death. Unfortunately there was no medical advice to be had. *Sydney Herald*.

MANSLAUGHTER.

A warrant was last week received from the Attorney General for the apprehension of the two boys, **PATRICK KINCHELA** and **WILLIAM KNIGHT**, who, it was stated at the inquest held on the body of **JOHN BRIGGS**, an apprentice of Mr. Early's, the saddler, who was killed from a fall from a horse on the 21<sup>st</sup> April, had one of them pulled the horse by the tail, and the other thrown a stone at it. They were accordingly brought before the police bench on Tuesday last, and the depositions of the witnesses at the inquest having been read, some further evidence was taken; and Mt. **T. EVANS** identified Knight as the boy who pulled the horse by the tail, and Kinchela as the one who threw the stone. They were then remanded until Thursday, bail being given for their appearance on that day. On Thursday they were again brought up, and some further evidence taken, when it appeared that two other youths, one named **WILLIAM HUTCHINSON**, an apprentice to Mr. **STEWART**, the tailor, and the other the son of Mr. **WILKINSON**, of the Waterloo Inn, were present

when the accident occurred. They were then remanded until yesterday, when all the four were brought up; but there was no evidence to show that Hutchinson and Wilkinson had taken any part in attempting to frighten the horse, but merely happened to be there at the time, young Wilkinson being on his way to church; they were accordingly discharged, and Patrick Kinchela and William Knight were remanded until today.

GUARDIAN, 1/10, 18/05/1844

BITE OF A SNAKE. - On Tuesday, the 7<sup>th</sup> instant, a man named **THOMAS DOUGLASS**, at Cockle Creek, in the district of Brisbane Water, was bitten in the arm by a diamond snake; and, although he cut out the bitten part with a chisel, he expired in an hour and a half.

MAITLAND MERCURY, 02/73, 25/05/1844

COMMITTAL. - The two boys **PATRICK KINCHELA** and **WILLIAM KNIGHT**, who were charged with the manslaughter of **JOHN BRIGGS**, were again brought before the police bench on Saturday morning, and fully committed for trial; they were allowed bail to appear when called on.

NEWCASTLE

INQUEST. - An inquisition was held before **J.S. PARKER**, Esq., coroner, on Saturday last, at the Queen Victoria Arms, on view of the body of **SAMUEL REYNOLDS**, otherwise known as **CRANKY SAM**, from his being of unsound mind, whose remains were found on Thursday, the 16<sup>th</sup> inst., at the "Folly," near Mrs. Tighe's farm, about three miles from Newcastle. The disappearance of the unfortunate deceased was noticed in the Mercury a few weeks back. The body, as it lay at the lower hospital, presented a very emaciated appearance, and the beard had grown to an unusual extent. The poor fellow was well known in this town as a harmless insane being, and many of the inhabitants occasionally supplied him with food and clothing, in return for his services in drawing water and chopping wood. The jury, after a patient hearing of the evidence, returned a verdict that the deceased died of hunger and exposure to the weather. The enquiry commenced at two o'clock, and terminated at half-past six.

BIRTH.

On Wednesday, the 1<sup>st</sup> May, at Luskintyre, Hunter River, Mrs. **TODHUNTER**, of a daughter.

DEATHS.

On Saturday, the 18<sup>th</sup> May, at Luskintyre, Hunter River, **ELIZABETH**, the wife of Mr. **W. TODHUNTER**, aged 37 years, leaving a family of nine children to lament her loss.

WREGISTER, 2/45, 01/06/1844.

**Domestic Intelligence.**

MURDER. - On Sunday evening, about seven o'clock, three men dressed as if from the bush, called at the house of Mr. **JAMES NOBLE**, in Clarence-street, and presented to him a letter, which one of them held in his hand. While Noble was in the act of opening it, the three men rushed on him, one of them turned the key in the door, and another raised a small pocket pistol within a few inches of Mr. Noble's head and snapped it at him, when it luckily missed fire. Mr. Noble immediately seized hold of the miscreant, and held him till the servant girl ran out by the back door and brought some of the neighbours to his assistance; he still held the fellow fast, although one of

his companions had inflicted a deep and dangerous wound with some sharp instrument in his (Mr. Noble's) breast, within two inches of the pit of the stomach, and from the effects of which Mr. Noble expired on Monday night. On assistance arriving, two of the fellows rushed out, and on their perceiving Mrs. Noble's sister alarming the neighbours, they picked up some stones, threw them at her, and ran off along the street, and made their escape. A constable was sent for, and the third man was given into custody. He is a **JAMES MARTIN**, and has been about two months in Hyde Park Barracks, as an invalid from Norfolk Island. On this being ascertained, a muster of the Hyde Park Barracks men took place, when it was discovered that twenty-five men were absent, including the prisoner, with two other Norfolk Island ex-convicts, supposed to be Martin's associates in the above outrage; it also appeared that neither of the three men on the report was absent from their quarters when the muster took place. On Tuesday an inquest was held on the body of the deceased, when, after hearing the evidence, the jury returned a verdict of wilful murder against James Martin, and two other persons unknown. Martin was accordingly committed to take his trial. The other two men, **VIGARS** and **BURDETT**, were taken yesterday, on the Dog-trap Road, near Parramatta.

**Domestic Intelligence.**

**CAPTURE OF RUNAWAYS.** - On Monday morning, an escort of the Parramatta Police lodged **BURDETT** in Woolloomooloo Gaol, from Parramatta.

**MURDER.** - A most cruel and cold-blooded murder has been committed in the Hunter River District. A person named **CAMPBELL**, who resided near Dungog, was returning on Friday last week from the Court of Requests at Maitland, where he had obtained £10 in sovereigns. The following morning his body was found in the bush, in a very mutilated state, with his throat cut, and a wound from a pistol ball through his cheeks. A messenger belonging to the court of requests, a ticket-of-leave holder, was apprehended on suspicion of murder. The fellow had an entirely new set of clothes on, and on repairing to the store where he had purchased them, it was found that one of the sovereigns paid was covered with blood, and on finding his old suit, they were completely saturated. From these and other convincing proofs, there is little doubt of his being the perpetrator.

MAITLAND MERCURY, 02/74, 01/06/1844

SYDNEY NEWS

**MURDER.** - On Sunday evening last, about seven o'clock, three men called at the house of Mr. **JAMES NOBLE**, in Clarence-street, and on the door being opened they all entered, and while one of them presented a letter to Mr. Noble, another of them locked the door, and the third, presenting a pistol at Mr. Noble's head, pulled the trigger, but it missed fire. Mr. Noble instantly rushed upon the man, when one of the other men stabbed him in the stomach with a knife. An alarm was given and two of the miscreants made their escape, but Mr. Noble, notwithstanding his wound, kept his hold of the man he had first seized until assistance came, when he was secured. On Monday evening, about eight o'clock, Mr. Noble died of the wound. An inquest was held on the body on Tuesday, and a verdict of wilful murder was returned against the man in custody, whose name is **JAMES MARTIN**, an "invalid" from Norfolk Island, and against two other persons unknown. On a report of the outrage reaching Hyde Park Barracks, on Sunday evening, there was a muster of the prisoners, when it was found that 25 were absent, and among them were the prisoner and two other Norfolk Islanders, who, as well as several others, were not reported as being absent, either at the gate, or to the police.

GUARDIAN, 1/13, 08/06/1844

ANOTHER MURDER. - By the steamer *Rose*, which arrived last night from the Hunter, news was received of the perpetration of a most cruel murder in the vicinity of Maitland. The deceased was named **CAMPBELL**, and had a station near Dungog; having obtained a verdict for £10 from another party at the last sitting of the Court of Requests, he received the sum on Friday last, in sovereigns. The following morning his body was found in the bush, in a mutilated state, with the throat cut, and a wound from a pistol ball through the cheeks. The deceased had been met on the road by a Mr. **BLAMFORD**, in company with another man, and from the description given, a messenger belonging to the Court of Requests, a ticket-of-leave holder, was apprehended. The fellow had an entirely new suit of clothes on, and on repairing to the store where he had purchased them, it was found that one of the sovereigns paid was covered with blood, and on finding his old suit they were completely saturated. From these and other convincing proofs, there is little doubt of his being the perpetrator.

STORY: Capture of **BURDETT** and **VIGORS**, for the murder of Mr. **NOBLE**; also mentions **MARTIN**.

MAITLAND MERCURY, 02/75, 08/06/1844

The two men **VIGORS** and **BURDETT**, supposed to be the accomplices of **MARTIN** in the murder of Mr. **NOBLE**, have been apprehended on the Liverpool Road, and safely lodged in the gaol at Woolloomooloo.

THE MURDER CASE.

The two prisoners **STANLEY** and **GARRETT** were on Wednesday, as mentioned in our fourth page, forwarded under a strong escort to Seaham to attend the coroner's inquest to be held there on the body of **ROBERT CAMPBELL**. The inquest closed the same evening, when from the evidence which had been adduced the coroner committed both the prisoners for trial; Stanley for wilful murder, and Garrett as an accessory before the fact. They were both brought to Maitland again on Wednesday night, and on Thursday they were again brought before the bench, when the evidence of **CAIN**, the blacksmith, and his wife, who reside beyond Hinton, was taken, from which it appeared that on the afternoon of Thursday, the day on which the murder committed, the prisoner Stanley came into his house about three o'clock, very pale and agitated, and much heated. Cain asked him which way he came, na dhe said by the back of the mountain; which was not the direct road to Cain's house, but led directly from the scene of the murder. This was all the additional evidence which was taken, and yesterday morning both the prisoners were forwarded to Newcastle gaol by the steamer. We observe that the Sydney journals have fallen into considerable error respecting the perpetrator of this horrid deed, having stated that Garrett (and not Ganett, as in our fourth page) was the actual murderer; but such is not the fact, as will be seen by our report.

WILFUL MURDER. - On Sunday evening last intelligence reached Maitland of a most diabolical murder which had been perpetrated on the road from Maitland to Seaham, near the fence of A. Warren, Esq. The information was given to the chief constable between six and seven o'clock on that evening, by a person named **JOHN CAMPBELL**, who resides at Clarence Town, and who stated that his father, **ROBERT CAMPBELL**, had been robbed and murdered on the previous Thursday, and that he had given a man named **FREDERICK GANETT [GARRETT]** into custody on suspicion of being concerned in it. The chief constable recollected that he

had on the previous evening seen a man in Maitland with a new set of clothes on, and it struck him that he might know something of it; he accordingly went in search of him, and after a short time found him at the Waterloo Tap, West Maitland; but upon searching him nothing whatever was found upon him. Mr. **WOOD** asked him several questions however, and in the course of the conversation it was mentioned that a man named **BENJAMIN STANLEY**, a ticket of leave holder, was seen talking to Ganett [Garrett] one day last week, and upon this the chief constable immediately commenced an inquiry after Stanley. He called aside the tap keeper, **SPALLS**, and found from him that Stanley had been at the Waterloo Tap several days last week; that the last time he was there, which was on Saturday morning, he had left some of his clothes, and that he had changed two sovereigns in payment of his score. The clothes and sovereigns were given over to the chief constable, and he at once proceeded to find out Stanley. After calling at several places he went to the house of a man named **JAMES ANTHONY**, who resides on Mr. Eckford's farm, on the race course, and there he found Stanley, who he took into custody. On being interrogated by Mr. Wood as to where he was on the Thursday previous he replied that Mr. Wood was neither judge nor jury, and he would not tell him.

On Monday morning both men were brought before the police bench, when they gave their names as follows:- Benjamin Stanley, per Planter, life, out of employment; Frederick Ganett [Garrett], per Moffat, 1836, 14 years, in the employment of Mr. **H. GORDON**, court of requests bailiff. Both prisoners hold tickets for the Maitland district.

Stanley was charged with the wilful murder of Robert Campbell, and Ganett [Garrett] with being an accessory to the fact.

After undergoing an examination they were both remanded until Tuesday.

From the evidence given on both days it appears that on Tuesday, the 28<sup>th</sup> May, the deceased Robert Campbell, who resided with his sons at Clarence Town, left home upon a chestnut mare with a long tail to come to Maitland, to receive some money from the court of requests office, intending to return home the next day. He did not, however, receive payment until Thursday morning, and in the meantime stopped at Mr. Mayo's. On Thursday morning, about nine o'clock, Mr. Gordon gave Campbell a cheque on the Bank of Australasia for £11 2s. 6d, which was cashed soon after by Mr. **W.G. BELL**, the accountant at the Bank, who paid Campbell five sovereigns, six one pound notes, and two and sixpence in silver. Soon afterwards Campbell left Mr. Mayo's for home on the same mare upon which he had arrived in Maitland. The prisoner Ganett [Garrett] knew that Campbell had been paid.

The old man did not reach home on Thursday evening, and nothing was heard of him by his sons until Friday morning, when a man named **JOHN CONNOR** went to their house, and informed them that a man had been found murdered near Mr. Warren's fence, about a mile from the punt over the William River, and that he believed that it was their father. His two sons immediately went to the place, and recognised the body as that of their father, which they found lying on the road with the throat cut so dreadfully that the head was nearly severed from the body; and on washing it they found a gunshot wound on the jaw. They traced the blood from where the body was found to about a quarter of a mile back on the road towards Maitland, where it appeared that the deceased had been shot. A large quantity of blood was upon the ground, and a sixpence covered with blood was found there. No money was found upon the deceased, and there was no appearance of any struggle at the place where the body was found.

On the morning of Wednesday, the day before the murder, the prisoner Ganett [Garrett] was seen talking to Stanley for some time on the race course near Anthony's, and a little boy named **PRIOR** heard Ganett [Garrett] say there was a man in Maitland who lived at Clarence Town, and wanted a man to clear some land for him, and Stanley said he would go and see him. On the same night Stanley slept at the Waterloo Tap, and on Thursday morning, about seven o'clock, he went away, saying he was going to East Maitland; he then said he had no money, and he could not pay for what he had had. He had been living at Anthony's for about twelve days, and during that time he never had any money, and was in no employment. Ganett [Garrett] and Stanley had formerly lived together in the same service.

The puntsman at Hinton remembered the old man passing over the punt twice last week, once to Maitland, and afterwards from Maitland; but he could not recollect on what day it was, but he remembered that on the same day Campbell passed going from Maitland he was told of the murder having been committed. He also recollected that Stanley went over the punt about nine o'clock one morning last week, when he said he had no money, and between three and four o'clock in the same afternoon he returned and paid the puntage, but the man could not tell upon what day this was.

On Thursday Mr. **C. BLANDFORD** was riding between Hinton and Mr. Warren's, about one or two o'clock, when he met an old man riding upon a chestnut mare with a long tail, and a man was walking alongside of him. The old man stopped, and asked Mr. Blandford which was the way to the Seaham punt, and he directed him to go through Mr. Bartle's yard and by Mr. Warren's fence. He observed the man who was walking, as he thought he had seen him before; he had very much the appearance of the prisoner Stanley, both in height, figure, and complexion, but he had more whiskers than the prisoner; his whiskers being very large, black, and bushy, and meeting under the chin; the prisoner's whiskers were very small; in every other respect he resembled the man; he would almost swear he was the same man, but he thought the man had a darker eye than the prisoner, though he might be mistaken. He had some knowledge of the prisoner's face, and he thought at the time he met the man that he had seen him before. The more he looked at the man the more he felt convinced he was the same man, though he would not swear to him on account of the great difference in the whiskers.

After this evidence had been given, it was proved by Mr. **RANDALL**, hairdresser, West Maitland, that one day last week, though he was unable to say what day, the prisoner came to his shop to be shaved; that he had very large black whiskers meeting under his chin, and that he desired Mr. Randall to shave them all off, and leave him only a very small whisker, and that he afterwards had his hair cut; and when this was done Mr. Randall remarked to him, "Why, you don't look like the same man." It was also proved by Mr. Spalls, the keeper of the Waterloo Tap, that when Stanley left his house on Thursday morning he had the large whiskers on, but when he came there on Friday morning they had been shaved off, upon which Spalls said to him, "Why, you've been barberized;" to which prisoner made no reply, but merely put his hand to his chin.

About seven o'clock on Thursday evening Stanley returned to Anthony's, and appeared to be very weary from travelling; he was quite sober. On Friday he was assisting a man named **JACKSON** ploughing; and on the same day he paid a sovereign to Spalls at the Waterloo Tap. On Saturday morning he was at Spall's again, and changed another sovereign; both of which Spalls put into a box where there was other money, and they were given up to the chief constable; upon one of these sovereigns a spot of blood was discovered. On the same morning he went to Mr.

**RICKARD's** shop, and purchased a hat and coat, which came to £1 8s. 5d. for which he paid with two £1 notes, and received the change in silver, and in about two hours afterwards he went again and purchased a print dress, and a mousseline de laine dress, and a pair of braces, which amounted to a £1, and for which he paid a sovereign. He afterwards, on the same day, went to the shop of Mr. **JOSEPH CLARKE**, shoemaker, and purchased a pair of half boots, for which he paid another sovereign, and received five shillings in change.

Some of the clothes he had previously worn were found at the Waterloo Tap, where he left them on Saturday, and the remainder at Anthony's. They were produced in court, and upon his straw hat there was a small dash of blood; his trousers were also slightly stained with blood; there was a small spot of blood upon one of his braces, and also upon the handkerchief which he wore round his neck.

Such is the substance of the evidence given against both the prisoners, and at the close of the examination they were remanded to the coroner's inquest, which was to be held on Wednesday, at Seaham, whither they were conducted under a strong escort, accompanied by the chief constable.

#### HUNTER RIVER DISTRICT NEWS. - WOLLOMBI.

On Wednesday morning a report reached the township that a man was lying in the vicinity by the road side in a dying state. A few of the humane inhabitants immediately proceeded to the place with a horse and cart, where they found an old wretched looking being in the last stage of existence, lying helplessly by a fire, where he had been exposed to the heavy rain of the preceding night. He was lifted into the cart and brought to the township, where he expired in about half an hour after his arrival. An immediate enquiry into the circumstances of his death was entered into by the police magistrate, when it appeared that he had been seen the evening before his death by two persons, one of whom advised him (seeing his infirm state and the signs of coming rain) to seek the shelter of some house. This advice he seems to have disregarded. Another witness stated that he had known the deceased for many years, and that he was a person of very penurious habits, which character was somewhat confirmed by an enormous bulk of miscellaneous trash that was found in his possession, and which clearly evinced on inspection the diseased provident notions of their late possessor. This witness further stated that the deceased was named **ROBERT PRICE**, and that he had heard him say that he had money to a large amount in one of the banks. After a minute inquiry the magistrate gave orders for his interment, which took place on the next day, near the road side, as we have not yet (to our shame be it said) a proper burial ground for the reception of the dead.

#### GUARDIAN, 1/14, 15/06/1844

**MR. SURGEON JONES.** - An inquest was held on Monday last, on the body of this gentleman who died so suddenly on Sunday last, whilst visiting a patient in Cumberland-street. A verdict of died from natural causes was returned. The much respected gentleman had long been afflicted with a complaint of the heart.

**COMMITTAL OF THE MURDERERS OF THE LATE MR. NOBLE.** - Our readers are aware that since the verdict of the Coroner's inquest committing the man **MARTIN**, for the murder of Mr. Noble, his two suspected accomplices - **BURDETT** and **VIGORS** - have been apprehended, and in consequence of disclosures made by Martin a ticket-of-leave holder, named **RANKIN**, residing in Kent-street, and his son, were also taken into custody. The facts elicited appear to be, briefly, as follows. On the Saturday before the murder was committed, a man named **MALCOLM**, a convict, was employed by Vigors to buy three pistols and ammunition, and a

sovereign was given him for that purpose. He fell in with Rankin, who said he had a pistol, promising if he would call the following day he would provide the others. On Sunday, Malcolm, Martin, Burdett, and Vigors, having slipped away from their gang and put off their slops, all went to Rankin's house, where they dined; and had some rum. In the afternoon Rankin went out, but returned about half-past four. During the Sunday he procured some percussion caps; and was perfectly aware of the intention to commit the robbery. He told them he had a room for them, where they could come when they liked, and gave them the key of it. Mrs. **NOBLE** swore positively that it was Vigors who first entered the house and snapped the pistol, but could not swear to the other men. Vigors and Burdett were committed as principals to the murder, and Rankin as an accessory before the fact.

MAITLAND MERCURY, 02/76, 15/06/1844

HUNTER RIVER DISTRICT NEWS

WOLLOMBI. - On Wednesday morning a report reached the township that a man was lying in the vicinity by the road side in a dying state. A few of the humane inhabitants immediately proceeded to the place with a horse and cart, where they found an old wretched looking being in the last stages of existence, lying helplessly by a fire, where he had been exposed to the heavy rain of the preceding night. He was lifted into the cart and brought to the township, where he expired in about half an hour after his arrival. An immediate enquiry into the circumstances of his death was entered into by the police magistrate, when it appeared he had been seen the evening before his death by two persons, who advised him (seeing his infirm state and the signs of coming rain) to seek the shelter of some house. This advice he seems to have disregarded. Another witness stated that he had known the deceased for many years, and that he was a person of very penurious habits, which character was somewhat confirmed by an enormous bulk of miscellaneous trash which was found in his possession, and which clearly evinced on inspection the diseased provident notions of their late possessor. This witness further stated that his name was **ROBERT PRICE**, and that he had heard him say that he had money to a large amount in one of the banks. After a minute inquiry the magistrate gave orders for his interment, which took place on the next day, near the road side, as we have not yet (to our shame be it said) a proper burial ground for the reception of the dead.

SUDDEN DEATH. - On Sunday last Mr. Surgeon **JONES**, of Jamison-street, died suddenly. Shortly after the termination of divine service he was called to see a patient, and while in the act of giving advice fell from his chair and expired. Mr. Jones was highly esteemed by the members of the profession.

WREGISTER, 2/47, 15/06/1844.

**Domestic Intelligence.**

SUDDEN DEATH. - We regret extremely to state that Mr. Surgeon **JONES**, of Jamison-street, died suddenly on Sunday afternoon. Shortly after the termination of divine service, Mr. Jones was called to see a patient in Cumberland-street, and proceeded thither. He was in the act of giving advice when he fell from his chair and expired. Drs. **MITCHELL** and **M'KELLAR** were in the room within five minutes, but no assistance whatever could be afforded. The cause of death, there is no doubt, was the rupture of some large vessel near the heart, the result of organic disease which must have existed for some years previously. An inquest was held on the body on Monday, when, on the evidence of Dr. M'Kellar to the above effect, the jury returned a verdict of died by the visitation of God.

COMMITTAL. – On Tuesday **VIGORS** and **BURDETT** were committed to take their trial as principals in the murder of Mr. **NOBLE**. A ticket-of-leave holder named **RANKIN** was also committed as an accessory before the fact, in having furnished them with pistols and other articles, and offered them the protection of his house.

DEATH. – At Sydney, suddenly, on Sunday last, the 9<sup>th</sup> instant, **ROBERT JONES**, Esq., Surgeon.

GUARDIAN, 1/15, 22/06/1844

AWFUL EVENT. - We have with much regret to announce the sudden death of Mr. **FRANCIS KEMBLE**, a gentleman well known in Sydney, from his connection with the Australian Sugar Company. Mr. Kemble has for many years been labouring under some affection of the heart, but was in his usual state of health up to the moment of his death, which took place suddenly whilst sitting at his breakfast yesterday. An inquest will be held on the body at three o'clock this afternoon.

CAPTURE OF BUSHRANGERS. - **BRADISH and BRANIGAN**, captured by **YATES and CULLEN**.

MAITLAND MERCURY, 02/77, 22/06/1844

SYDNEY NEWS.

The three men, **MARTIN, VIGORS**, and **BURDETT**, have all been committed to take their trial for the wilful murder of Mr. **NOBLE**. A man named **RANKIN**, who resided in Kent-street, has also been committed as an accessory before the fact.

WREGISTER, 2/48, 22/06/1844.

**Domestic Intelligence.**

SUDDEN DEATH. - We regret to announce the death of Mr. **FRANCIS KEMBLE**, of the Australasian Sugar Company, which took place suddenly while sitting at his breakfast on Wednesday morning. An inquest was held on Thursday afternoon, before **J.R. BRENNAN**, Esq., Coroner for Sydney. Dr. **BROWN**, of the Parramatta Road, assisted by Dr. **WALLACE**, of Sydney, performed a *post mortem* examination on the body, and having pronounced the sudden death of the deceased gentleman to have been caused by a diseased state of the heart, under which he had been labouring for many years previous to his arrival in the colony, the jury, under the direction of the Coroner, found a verdict of "died by the visitation of God."

MAITLAND MERCURY, 02/78, 29/06/1844

INQUEST. - A poor fellow named **THOMAS PENDER**, a convict belonging to the stockade, where he was employed as a government stock-keeper, was drowned off Crosby's Creek on Monday last. The deceased could not swim, and had on a very heavy watch cloak. The cause of his death was as follows:- Deceased was in a small punt, accompanied by a man named **THOMAS RUDGE**, a ticket of leave holder, and as the punt was crossing the creek it suddenly capsized. Deceased caught hold of Rudge, who told him to let go, and he would save him; but he held on, and Rudge, to save himself, was obliged to push the unfortunate man from him. Rudge regained the shore, and saw no more of Pender. On arriving at Newcastle he reported what had occurred, and the chief constable went to the place in a boat, and the body was found on the opposite side of the channel. An inquest was held before Major **CRUMMER**, and Dr. **BOWKER** having given his opinion that death was caused by drowning, a verdict to that effect was returned.

WREGISTER, 3/50, 06/07/1844.

**Central Criminal Court.**

Monday, July, 1.

*Before his Honor Mr. Justice Stephen, and a Common Jury.*

**WILLIAM HENRY** was indicted for the wilful murder of **JOSEPH PERRY**, at the Clarence River, on the 19<sup>th</sup> May, by stabbing him in the stomach with a knife, thereby inflicting a wound from the effect of which the said Joseph Perry expired on the following day. Guilty of manslaughter – to be transported for life.

Friday, July, 5.

**JOHN HEGGERTY** (an invalid) late of Port Macquarie, was indicted for having, on the 6<sup>th</sup> May last, murdered one **JOHN PHEENY**, a private in the detachment at Port Macquarie, by throwing him into the sea, whereby he was drowned. Not guilty.

MAITLAND MERCURY, 0279, 06/07/1844

INQUEST. - On Thursday, the 27<sup>th</sup> ult., an inquest was held upon the body of **MATILDA PRYER**, a married woman residing on Mr. **C.M. DOYLE**'s farm, who died suddenly on the preceding day. The deceased had been suffering for the last six years from a cough and affection of the lungs, and Dr. **MALLON** having certified that death was produced from natural causes, the jury returned a verdict to that effect.

GUARDIAN, 1/17, 06/07/1844

SUPREME COURT – CRIMINAL SIDE

(MONDAY, JULY 1, 1844)

(Before Mr. Justice Stephens)

MURDER.

**WILLIAM HENRY** was placed at the bar, charged with having on the 19<sup>th</sup> May, wilfully murdered one **JOSEPH PERRY** by stabbing him with a knife, at the Clarence River.

The Attorney-General stated the circumstances of the case, as follows: the crime was committed in a public-house whilst the prisoner was in a state of intoxication; that the deceased came into the public-house, and had no ill-feeling with the prisoner, who grew violent, and wanted somebody to fight him. By chance he came in contact with Perry, a quiet and peaceable man, whom he stabbed in the belly with a knife, inflicting a wound, six inches deep and three long, from which his victim died the next day.

**PATRICK DONNOHOE**, labourer, Clarence River, sworn: I recollect the 19<sup>th</sup> of May; I went down in the evening to Mr. Sharp's, the publican, about seven or eight o'clock; the public-house was near a wharf; I had seen the prisoner before I went into the public-house; I heard a noise as of quarrelling inside; I went up to the public-house; I saw the deceased there; he was sitting by the fire with his pipe; the prisoner was also there and seemed uneasy; he was walking up and down in a kind of fighting way, wanting to fight somebody; he came to the door after Perry; I went up to him and pushed him back, and tried to keep him quiet; Perry spoke quite quietly and civilly; if he touched him it was not in a rough manner; deceased was sober; I don't know whether the prisoner was drunk or not; he had some liquor in him; he was tipsy; I did not see the deceased quarrel with anyone in particular; Perry went back to the fire, and I saw the prisoner put his hand into his pocket and take out a shut knife from it, which he opened, and saying he would rip his bloody guts out made a stab at Perry; I was standing at the door, and Perry came to me and said, "Donnohoe, I'm done, he's

stabbed me;" he then opened his trousers, and I saw his entrails hanging out; I went with Perry to a man named Craig who kept the house, but who refused to give me any assistance; afterwards he came in, and we dressed Perry's wounds as well as we could; I kept my eye on the prisoner; he saw what he had done; I afterwards, with the assistance of Mr. **MACDONNELL** and others, secured the prisoner; whilst we were securing him he said he would stab a dozen of us if he had time; the knife was afterwards taken from him; the man was stabbed on a Sunday night, and died on the Monday night; I saw him dead on the Tuesday morning; the wound was in the stomach, an inch or two below the naval, and appeared about two inches long; the entrails had burst out when Perry first opened his trousers; the prisoner assigned no reason for the act.

By the Judge: I had seen the prisoner before; and also the deceased; prisoner was within an arm's length of Perry when he stabbed him; I did not see Perry strike him; I did not hear prisoner complain of Perry's pushing him.

**JOHN MACDONNELL**, shoemaker, sworn: I live at Clarence River; I went with Donnohoe to Sharpe's public-house on the 19<sup>th</sup> May; I saw Perry come out of the house; he spoke to me; the prisoner came out too; he went in again, and in a few minutes the deceased came out and said he was ruined, and opening his trousers showed us where he had been stabbed; I took him over to Craig's, but as we could not get assistance brought him back, when we tried to dress his wounds; we went into the kitchen, and whilst there the prisoner came in, when he was told that if the man died he would be hanged for it; he said "there is no harm in stabbing that man, he is no Christian;" he said he would rip the guts out of a dozen like him; the tap-room was about twenty or thirty feet from the house; Mr. Craigh got up and came and assisted us to dress the wound; he keeps the house; the prisoner was taken, in the tap-room, by Patrick Donnohoe; he made no resistance then but he afterwards tried to escape as we took him to Mr. Sharp's; a knife was taken from his pocket at Mr. Sharp's; I knew Perry before; I should say he had been drinking but not drunk; there was no doctor within reach at that time.

**RICHARD CRAIGH**, sworn: - I knew the deceased Joseph Perry, he was a labouring man. I superintend the public house for Mr. Sharp; at about eight o'clock on the night in question, Donnohoe and Macdonnell came down to my place, and I heard Donnohoe and the prisoner having some words at the rear of the hotel. They then went into the tap-room, and, in a few minutes, a rap came to the door, and I was told that a man had been stabbed; it was Donnohoe's voice; I did not believe him till M'Donnell came and told me again, when I got up and came and took the deceased into the kitchen, and laid him on the table and sewed up his bowels. I then gave out rope and ordered the prisoner to be taken which was done, and his hands tied behind his back. He then tried to make his escape, and ran into the bush; he was brought back and confined for the night in a store. Next morning I sent a man on horseback for the commissioner; the prisoner was standing by my side when I was sewing up the wounds; I asked him what had induced him to do it - he said he had been struck and knocked down, it was Donnohoe that struck him. There was no liquor served in the tap-room that night; the prisoner came about six o'clock and did not seem in liquor; I did not serve him with any. There were nine or ten men in the tap-room; the deceased was stabbed about eight o'clock; there was no drunken woman about the huts that I saw. The prisoner had been in Mr. Sharp's service four months, and received 8s. per week; he was paid what was owing to him before he left; his account with me was 28s. for rum, beer, &c. Donnohoe told me it was the prisoner stabbed Perry, in his presence, and he admitted he had done so; was sober; there was a slight wound near

the fatal one, which seemed to have been inflicted with a sharp knife, the prisoner said afterwards that he drew the knife to protect himself. The deceased said in the presence of the prisoner, that the prisoner was knocked down by Donnohoe, whilst he Perry, was standing between them and when he got up he found himself stabbed, but did not know how, or by whom; I am Mr. Sharp's servant and act for him.

By the prisoner:- I do not recollect you drinking any rum, with Larry M'Donnell or Cooper; I did not see you drink – Larry M'Donnell and Donnohoe were fighting while I was sewing up the wound.

Re-examined:- I am not a special Constable; there was no constable within twenty miles of the spot. I don't know what the quarrel was about, but Larry M'Donnell was punished for it.

**THOMAS WESLEY**, sworn, ticket-of-leave holder for the district of Scone. - I hauled a boat up to the wharf near the public house; I heard a noise in the house of quarrelling; the deceased came to the door where Patrick Donnohoe was standing, and said he was stabbed and was a dead man. Donnohoe asked me if I would assist him to apprehend the prisoner, I said I would; the prisoner had his hands between his legs, and after about a minute we seized him, and having got a rope tied his hands behind him; we then gave him in charge to Mr. Sharp and he tried to get away. He was retaken and made fast at Mr. Sharp's; whilst being tied he said he would serve a dozen so; he did not seem intoxicated.

Mr. **OLIVER FRY**, Commissioner of Crown Lands, for the district of Clarence River, sworn. – I reside about 13 miles from the public house; I heard by a messenger, from Mr. Sharp on the Monday, that a man had been stabbed; I immediately went down, and saw the deceased, he was most weak and in great agony; I did not ask if he knew he was dying but he said he did not think he could last long; and seemed to be aware of his situation; he was in intense agony and only lived about ten minutes after he had made his dying declaration; I understood him to mean, that he would not live.

His Honor rejected the dying declaration of the deceased, as it did not appear that he was positively apprehensive of immediate death.

The deceased said he had no quarrel with the prisoner, and he believed the blow was not intended for him, as he had been fighting outside the door with some other person.

**PATRICK DONNOHOE**, recalled. - I never knocked the prisoner down; I did not strike him; I only pushed him; I was two or three yards from deceased when the prisoner made the stab; I do not think he could have mistaken me for the deceased. The prisoner was not drunk, but he had been drinking; I had no previous quarrel with the deceased at any time. I have never told anyone that I knocked the prisoner down in the tap.

The prisoner, on being asked for his defence, said he had nothing to say. He knew nothing at all of the transaction, as he had been completely drunk throughout the transaction.

His Honor then summed up. This was one of the many cases which came before them, arising out of drunkenness. The case was made the more disturbing and perplexing by the contradictory statements relating to the state of intoxication in which the prisoner was. This difficulty, however, was got over by the fact, that, whether intoxicated or not their verdict must be the same, for the law as laid down by the Attorney-General was perfectly right, that drunkenness was no palliation or excuse for crime. The evidence of the death of the deceased by being stabbed by the prisoner was conclusive. The circumstances under which he was stabbed, he would put to them, and unless they found that the blow was struck under the influence of great passion, excited by a blow or push, whether the blow was intended for the

deceased, or not the crime was murder; except only, they could find that the blow had been struck altogether accidentally. The learned Judge then went through the evidence.

The Jury retired for about ten minutes, and found a verdict of guilty of manslaughter.

His Honor then proceeded to pass the sentence of the court upon the prisoner. He felt indeed relieved by the verdict of the jury, as if he had been pronounced guilty he should have had to pass the sentence of death upon him, and he did not see how he could consistently have interrupted to prevent the course of the law. The sentence of the court was, that the prisoner should be transported to a penal colony for the term of his natural life.

The court adjourned shortly before 6 o'clock.

THURSDAY.

SHOOTING WITH INTENT TO MURDER. **MARGARET SIZE** was charged with having on the 18<sup>th</sup> of April, fired a musket at one **JOSEPH WILLIAMS**.

The prosecutor, who was a man of colour, proved that his real name was **JOEL WILLIAMS**, and his Honor decided that the indictment was in consequence bad. – The prisoner was remanded for re-indictment.

DEATH BY DROWNING. - About mid-day on Tuesday, **THOMAS ROONEY**, aged about two years, son of Mr. Commissioner Miller's butler, on the North Shore, strayed from his father's door, fell into an adjoining waterhole, and was found drowned about half an hour afterwards. The Coroner being absent in Parramatta, no Inquest was held, but an inquisition took place on Thursday morning at half past eight, before Captain **BROWNE**.

MR. NOBLE'S MURDER. - The trial of the three prisoners of the crown **MARTIN, BURDETT, and VIGORS**, for the murder of Mr. Noble, and of **RANKIN** as an accessory before the fact, will probably not come off before the middle or latter end of next week.

GUARDIAN, 1/18, 13/07/1844

MURDER CASE. - The trial of the murderers of Mr. **NOBLE**, will come on to day at the Supreme Court, Darlinghurst.

MAITLAND MERCURY, 02/80, 13/07/1844

MAITLAND MERCURY, 02/81, 20/07/1844

MR. NOBLE'S MURDER. - On Monday last the trial of the men for the murder of Mr. **NOBLE** was concluded, when the jury, after retiring for about half an hour, returned a verdict of guilty against the prisoners, who were sentenced to death, some hope being held out to **BURDETT** only.

GUARDIAN, 1/19, 20/07/1844

SUPREME COURT – CRIMINAL SITTINGS

(Before Mr. Justice Stephen)

Trial of the murderers, Saturday, July 13, and Monday, July 15; full page four columns.

SUDDEN DEATH. - Mr. **J. WESTON**, formerly a Governor of Sydney gaol, was suddenly seized with a fit of coughing, on Tuesday afternoon, while at dinner, during which he burst a blood vessel, and immediately expired. On Sunday last Captain **GUNTON**, late of the 50<sup>th</sup> regiment, was suddenly seized with a fit at his place of

abode, Bailey's Farm, Parramatta, and was a corpse before professional assistance could be procured.

WREGISTER, 3/52, 20/07/1844.

**Central Criminal Court.**

Saturday, July, 13.

*Before his Honor Mr. Justice Stephen, and a Common Jury.*

**GEORGE VIGORS**, labourer, late of Sydney, was indicted for the wilful murder of **JAMES NOBLE**, late of Clarence-street, Sydney, by stabbing him with a knife on the evening of the 26<sup>th</sup> May last, thereby inflicting a mortal wound, of which the deceased died the following day; and

**THOMAS BURDETT**, labourer, late of Sydney, was indicted for being present, aiding, and abetting, the said George Vigors, in the committal of the said murder; and **JOHN RANKIN**, late of Sydney, was indicted as an accessory before the said murder, by hiring, counselling, commanding, or otherwise conspiring with the said George Vigors and Thomas Burdett, previous to the committing of the said murder.

The Attorney General prosecuted on behalf of the Crown.

Messrs. **PUREFOY** and **MICHIE** appeared to defend the prisoner Rankin, the other two prisoners were undefended.

The case for the prosecution closed about half-past eleven o'clock, having taken about twelve hours to go through.

Mr. Purefoy applied to the Court for a postponement, for at that late hour he felt, from the fatigue he had undergone during the day, that he should be unable to do that justice to his client that the importance of the case required, he therefore requested that the case might stand adjourned till Monday.

His Honor having consented to the proposal, four Special Constables were sworn in to take charge of the jury, and they were locked up till eleven o'clock on Monday morning, to which hour the Court stood adjourned.

MONDAY

At about half-past eleven o'clock his Honor took his seat at the bench, and the names of the Jury having been called over, proceeded at once with the trial, and which closed about ten o'clock that night, at which time the Jury, after half an hour's absence, returned a verdict of Guilty against all three prisoners.

His Honor then, in a most impressive manner, passed the sentence of death in the usual form upon each of the prisoners, holding out no hopes of mercy whatsoever.

SUDDEN DEATH AT PARRAMATTA. - On Sunday last, Captain **GUNTON**, late of her Majesty's 50<sup>th</sup> regiment, was suddenly taken ill, apparently of a fit, at his residence, Bailey's Farm, District of Parramatta, and expired before medical assistance could be obtained.

SUDDEN DEATH. - On Tuesday afternoon, Mr. **JOHN WATSON**, formerly Governor of the Sydney gaol, was eating his dinner, when he was suddenly seized with a fit of coughing, in which he burst a blood vessel, and expired immediately.

GUARDIAN, 1/20, 27/07/1844

POLICE HISTORIES. Criminal records, UK and Australia, for all the Noble case accused: **GEORGE VIGORS**, **THOMAS BURDETT**, **JAMES MARTIN**, **RONALD MALCOLM** and **JOHN RANKIN**.

MAITLAND MERCURY, 0282, 27/07/1844

INQUESTS. - An inquest was held at Hinton on Sunday last before **J.S. PARKER**, Esq., coroner, on the body of **PATRICK QUINN**, a ticket of leave holder, who died on the previous night. It appeared that the deceased had been ailing for some time; he was a sober man, and after retiring to rest on Saturday night he was seized with a fit of coughing and burst a blood vessel. Dr. **STREET** certified that death was the effect of natural causes, and the jury returned a verdict of "died by the visitation of God." - Another inquest was held on the following day, at Dungog, on the body of Mr. **MATTHEW CHAPMAN**, of the Grange. It appeared from the evidence that on Saturday last Mr. Chapman was at Dungog attending Mr. Wilkinson's sale, and in the evening he started to return home, in company with Mr. Wilkinson. Owing to the doubtful light of the moon they got off the road, but after some time found it again, and Mr. Wilkinson took the lead until they approached Stoney Creek, about three miles from Dungog, when Mr. Chapman's mare passed Mr. Wilkinson quickly and broke into a canter. On getting into the bed of the creek, where it was very dark, Mr. W.'s horse shied violently, and would not pass over, upon which he dismounted, and found Mr. Chapman lying on his back in the bed of the creek; he was breathing hard, but insensible. Assistance was obtained as soon as possible, and he was removed to Mr. **STEPHENSON's**, at Dungog, where he died on the following morning. The saddle, it appeared, was not in good order; and Dr. **M'KINLAY**, who was called in, stated that death was occasioned by the injuries Mr. Chapman had received by falling with his head upon the rock. The jury returned a verdict that the deceased came by his death from accidentally falling off his horse, caused by the saddle being out of repair, and found a deodand of one shilling on the saddle. The mare was described as being a particularly quiet and safe mare.

MAITLAND MERCURY, 02/83, 03/08/1844  
SYDNEY NEWS.

NOBLE'S MURDERERS. - We have heard that one of the points raised by Mr. **PUREFOY**, in arrest of judgement on the prisoner **RANKIN** is, as far as yet ascertained, without an analogous case, and that there is a difference of opinion in the Executive Council as to the law upon the subject, so much so that it is thought the whole particulars of the case, with points reserved, will be sent home for the opinions of the English Judges. *Australian*

INQUEST. - On Friday, the 26<sup>th</sup> ult., an inquest was held at Mr. John Hickey's, Miller's Forest, on the body of **ROBERT CLIFFORD**, aged three years and nine months. It appeared the child had been in the habit latterly of playing with the fire, and a few days previously had set fire to the chimney, and been chastised for it; but notwithstanding this, on Wednesday, the 24<sup>th</sup> ult., he had gone to light a pipe-stem at the fire, and while attempting to do so his clothes caught, and in an instant he was enveloped in flames. His sister, of nine years old, was in the room at the time, and screamed out, on which a servant, who was just outside, ran in, and snatching up a blanket wrapped it round him and put out the flames. He was immediately put to bed, and every care taken of him, though no medical man was sent for, but on Thursday morning he died. The jury returned a verdict of accidental death by burning.

DUNOGG.

A most melancholy accident took place here on Saturday evening last, at the close of our half-yearly sale. **MATTHEW CHAPMAN**, Esq., of the Grange, well known in this part for his hospitality, was on his way home from the sale, accompanied by Mr. **WILKINSON**. They had only proceeded about two miles, when, on coming to Stoney Creek, which is one entire flag or rock, Mr. Chapman's horse cantered down,

and on reaching the bottom the girth broke, and Mr. Chapman fell off on the left side, head foremost. Mr. W. endeavoured to raise him up, but could not, and he then returned to the township for medical aid. Dr. **M'KINLAY** hastened to the spot, but on his arrival found that Mr. Chapman was insensible; he had him removed back to the Dungog Inn, where every attention was paid him, but it was of no avail; at half-past seven the next morning he expired. On Monday there was an inquest held on the body before **J.S. PARKER**, Esq., coroner. It appeared that Mr. Chapman had left home with two girths, but that during the day some bad person had taken one off the horse, to which may in a great measure be attributed his lamented death. On Tuesday his body was carried to the Grange by a large party of the respectable inhabitants of the district. His death is universally regretted; Mr. C. was in the habit of keeping open house for all travellers. It is feared the shock will be almost fatal to Mrs. Chapman.

GUARDIAN, 1/21, 03/08/1844

GAOL DELIVERY

**JAMES MARTIN** the approver in the murder case ... being prisoners of the crown were returned to gaol.

WREGISTER, 3/54, 03/08/1844.

**Central Criminal Court.**

Saturday, July, 27.

The approvers, **MARTIN**, **PHELPS**, and **HALL**, the first of whom had been a witness in the trial of **VIGORS**, **BURDETT**, and **RANKIN**, for the murder of Mr. **NOBLE**, ... were severally discharged from their commitment, but being all prisoners of the crown, were returned to gaol.

WREGISTER, 3/55, 10/08.1844.

ORDER FOR EXECUTION. - **Burdett** and **VIGORS** have been ordered for execution, on Tuesday next, for the murder of Mr. **NOBLE**. The consideration of **RANKIN**'s case stands over for the opinion of the Chief Justice.

MURDER. - A horrid murder occurred at Parramatta, on Thursday afternoon. As Constable **BRAGGE** was proceeding along his beat along Church-street, about six o'clock, a boy met him and told him that an old man of the name of **M'MANUS** had murdered his wife; he instantly proceeded to the house, and opening the door found M'Manus sitting on the side of the bed: and on the floor, close to his feet, his deceased wife, who on examination was found to have had her brains beat out, and arms, ribs, and almost every limb in her body smashed to atoms; close by her side was found a wooden bar, which had been used for the purpose of securing the door, which, from its being covered with blood, brains, and hair, leaves no doubt of its having been the instrument with which the dreadful deed was perpetrated. The Chief Constable was, within a few minutes after the alarm being given, on the premises, and the murder coolly observed to him, pointing to his murdered wife, "that he had settled her."

MAITLAND MERCURY, 02/84, 10/08/1844

INQUEST. - On Sunday last an inquest was held at Morpeth, on the body of Mr. **JOHN HENDERSON**, who had expired suddenly on the previous day. From the evidence of two of his neighbours and intimate friends, it appeared that Mr. Henderson, who had up to a recent period been a remarkably healthy man, had latterly

become unwell, though not so as to excite serious apprehension until the day or two before he died. On the Tuesday previous one of the witnesses had seen him fall in his own wheat field, while driving out some bullocks, and thought it arose from exhaustion, as he knew, though he was ailing at the time, that deceased was in the habit of working late thrashing. On the day before the death of deceased, the same witness went to his house to assist him a little, and found him so ill that he pressed him to send for a doctor, but he refused, saying he had never had a doctor, and wouldn't begin then. On the Saturday, about twelve o'clock, while talking to the other witness and Mrs. Henderson in his own house, deceased fell on the sofa on his side, as if in a fit. Assistance and a medical man were sent for, but before the doctor could arrive he was dead; not having spoken after he fell. A post mortem examination was made by Dr. **STEWART**, who certified that his death was caused by apoplexy; and the jury returned a verdict of "Died by the visitation of God."

MAITLAND MERCURY, 02/85, 17/08/1844

EXECUTION OF MR. NOBLE'S MURDERERS. - On Tuesday last the two criminals, **VIGORS and BURDETT**, underwent the extreme penalty of the law, on a drop erected in front of the new gaol, Darlinghurst. Burdett appeared to be touched with sentiments of compunction, but Vigors displayed a hardened indifference to his fate. Before the rope was placed round the neck of Vigors he addressed the crowd outside the gaol, and said he felt it due to the prisoner **RANKIN** to state that he had no knowledge whatever of their intention to rob Mr. Noble's house; that he was not aware whom they were going to rob; and that he (Vigors) had never seen Rankin before the day he was introduced to him by **MALCOLM**. He afterwards requested Captain **INNES** not to forget what he had said to him respecting Hyde Park Barracks, and Captain Innes promised that he would not. The drop soon after fell, and the wretched criminals died almost without a struggle.

SYDNEY NEWS.

The blacks have again become very troublesome at Moreton Bay. Several drays have been robbed, and a number of cattle belonging to different parties speared. The blacks themselves justify these proceedings on the ground of retaliation; one of their tribe, called Docto, having been poisoned by a convict named **SELLER**, employed on a government station at Limestone. Seller it seems was in the habit of encouraging Docto's gin to remain at his hut, at which the black fellow took umbrage, and beat the gin. Seller invited Docto into his hut to partake of tea and fritters, and soon after leaving the hut he was seized with severe pains and vomitings, and shortly afterwards died. His body was exhumed, and on examination his stomach was found to contain a quantity of arsenic, an article which Seller was in the habit of using to harden tallow before packing it. Seller is now in custody.

A horrid murder was committed at Parramatta on Thursday, the 8<sup>th</sup> instant. As constable **BRAGGE** was on his beat, about six o'clock in the evening, he was met by a boy, who told him that an old man named **M'MANUS** had murdered his wife; he immediately proceeded to the house, and found the old man sitting by the bed side, and his wife lying upon the floor. On examination it was discovered that the unfortunate woman's brains were beaten out, and her arm, ribs, and almost every limb broken; close by her side was a wooden bar used for fastening the door, which was covered with blood, hair, and brains. The unfortunate deceased was nearly ninety years of age. M'Manus has been committed for the murder.

WREGISTER, 3/56, 17/08/1844.

EXECUTIONS. - On Tuesday, **GEORGE VIGORS** and **THOMAS BURDETT**, who had been convicted of the murder of the late Mr. **NOBLE**, underwent the extreme sentence of the law, over the gateway entrance to the New Gaol at Woolloomooloo, They were attended by the Rev. Mr. **ELDER**, chaplain of the gaol, and Mr. **PROUT**, Under Sheriff. When the executioner was after the ropes were adjusted, Vigors stepped forward to the front of the scaffold, and with a firm strong voice said he felt it his duty to state, that the old man **RANKIN**, was innocent of the charge for which he was at present under sentence of death; he further stated that he had never known Rankin before that Sunday on which he and his companions went to Mr. Noble's, and that until that day, he had never been in Rankin's house. Vigors afterwards turned to Captain **INNES**, and said he hoped he would not forget what he had informed him of respecting Hyde Barracks, which Captain Innes said should be remembered. The executioner having completed his arrangements, both men shook hands with the chaplain of the gaol, after which the bolt was drawn, and in less than a minute both bodies appeared dead. Vigors, shortly before his execution, stated to some of those in charge of him, that he had been a thief since he was nineteen years of age, when he made a voyage to sea, that being the last and only time he had tried to earn an honest livelihood; he had been in many prisons both at home and here, and had undergone different punishments; but he had never been in such a place where so much crime and rascality was carried on as in Hyde Park Barracks.

ATTEMPT AT SELF-DESTRUCTION. - On Thursday evening, the wife of a man named **HUNT**, a dealer, residing in Erskine-street, feeling annoyed at something which had been said respecting her, took a quantity of laudanum for the purpose of destroying herself. Soon after it became known what she had done, a surgeon was sent for, and by a successful application of the stomach-pump the poison was extracted before it had time to produce a fatal effect.

AWFUL DEATH. - On Thursday night, the 6<sup>th</sup> instant, about half-past nine o'clock, the servant of Mr. **WILLIAM CROSS**, of Windsor, on going to bed, discovered the room in which her mistress slept in flames: she immediately called out "master, master!" Mr Cross ran up stairs and rushed into the room, but from the smoke and flames, he was unable to see anything. On feeling in the bed, he found his wife was not there, but at length discovered her under the bed, dreadfully burned. Life was not quite extinct, but by the time she was carried down stairs she had breathed her last.

GUARDIAN, 1/23, 17/08/1844

RECHABITE FUNERAL. - On Tuesday last a funeral of one of the members of the Independent Order of Rechabites, named **THOS. ROBINSON**, who had died the Sunday previous of lock-jaw took place. The deceased Brother was attended to his resting place, the Wesleyan grave-yard, by a numerous and respectable body of the Order, and the Reverend. **D.J. DRAPER**.

EXECUTION of the Noble case murderers.

DREADFUL MURDER. - On Friday, the 9<sup>th</sup> instant, an inquest was held at Mr. Livingstone's, the Glasgow Arms, in Church-street, Parramatta, on view of the body of **SARAH M'MANUS**, who was found on the previous evening with her skull fractured in two places, her arms near the shoulder broken – literally crushed – and several ribs broken. The deceased was ninety years of age, and the mother of twenty-one children. Her husband, **TERENCE M'MANUS**, having admitted that he did the deed, was taken into custody, and was present at the inquest. From his debilitated appearance and morose manner, it was supposed that he was labouring under insanity; more especially as he had attempted to cut his own throat a few weeks since; but from

the evidence of several witnesses, and the conduct and language of the prisoner himself during the inquest, it became evident that he was perfectly sane: and from the evidence of Dr. **GWYNNE** it appeared that the attempt to cut his throat was only delusive – that it was a mere scratch – and for some sinister purpose./ The prisoner made more than one confession of the dreadful deed. It would appear that he must have murdered his wife with a thick door-bar, as such an instrument was found, with fresh blood and hair upon it, in the house. M'Manus, who is sixty-eight years of age, appears to be a man of the most ungovernable temper at times; while at other times he is equally morose and stubborn. The evidence so clearly established an opinion in the minds of a respectable jury of eighteen persons, that the husband had committed wilful murder, that they unanimously and immediately returned a verdict to that effect, and Terence M'Manus was committed for trial upon the Coroner's warrant.

**INQUESTS.** - On Saturday last two inquisitions were held at Le Burn's public-house, on the Parramatta road. The first was on the body of **MARY ANN WILLIAMS**, lying in the Benevolent Asylum, when the following evidence was given:- **ELLEN MILLS**, living in a court adjoining George-street, deposed that she knew the deceased, who came to reside with her about a fortnight ago; on Monday week she became ill, and on the evening of Thursday last, after she had taken some salts and some tea, witness went out on some business for about fifteen minutes; on returning witness spoke to her, but receiving no answer went to ask what was the matter, and found her dead. Deceased was addicted to drink, but had taken no liquor on the day of her death. Mr. **CUTHILL**, surgeon, certified that he had examined the body of the deceased, and found no marks of violence on it. From the history given by Mills, as well as from his previous knowledge of the case, it was his opinion that death had been the result of natural causes. The Jury returned a verdict of "Died by the visitation of God."

The second inquisition was held on the body of a female, **NAME UNKNOWN**, whose body had been found in a water-hole adjoining Carter's Barracks, on the morning of Saturday. The following evidence was given:- **FREDERICK WILLIAMS**, of Carter's Barracks, deposed: he was going to the water hole in the Government Paddock with some rubbish, when some children, who were about the place, informed him that there was a man or woman in the water; witness went and found the body of female; the same which had been viewed by the Jury; he placed it on the cart and conveyed it to the Benevolent Asylum. There were some marks on the ear, but in his opinion they had been made by the eels in the pond; it was deep water where she was found, and he thought the body must have been a long time in it, as it was floating with the face downwards. Mr. Surgeon **CUTHILL** had examined the body, and where the marks were about the head, but found no marks of violence, fracture, or extravasation of blood; in his opinion the wounds must have been produced by eels, or some other animal, and that death had been produced by drowning. The Jury returned a verdict of "found drowned, but from what cause the Jury cannot say for want of evidence."

**ACCIDENT.** - **PATRICK MURRAY** burnt in tree fall, Liverpool-road, severely injured in Benevolent Asylum??

**MAITLAND MERCURY**, 0286, 24/08/1844

**INQUESTS.** - On Sunday, the 11<sup>th</sup> instant, an inquest was held before **J.S. PARKER**, Esq., coroner, at Paterson, on the body of **MARMADUKE BOROUGHS**, a servant of Mr. **DOUIDGE**, of Paterson, who had died suddenly the same morning. Evidence having been taken as to the manner of his death, and the

body examined by Dr. **STREET**, the jury returned a verdict of died from a disease of the chest. - On Wednesday another inquest was held before Mr. **PARKER**, at Dungog, on the body of **THOMAS BURDEKIN**, a boy of three years old. It appears the child's father, named also Thomas Burdekin, is a small settler, residing on Mr. **BLAIN'S** land, near Dungog, and that on the Saturday afternoon previous he was digging near his house, when he heard a scream from it, and ran in, and found his youngest son in flames, the only other person in the house being his eldest son, aged four years old, who told him his brother was playing with a whip when it caught fire, and the flames communicated to his clothes. The children had only a few minutes before been out with their father. The father applied every remedy he could think of, but without avail, and on Sunday evening, about eight o'clock, the poor child died. The father was sober, and bore the character of being a sober man, very fond of his children. The jury returned a verdict of accidentally burnt to death.

HUNTER RIVER DISTRICT NEWS. - NEWCASTLE.

MURDEROUS ASSAULT. - On Tuesday night last, about twelve o'clock, the lockup keeper, **THOMAS HARRISON**, who resides at the court-house, was awakened by some persons knocking at the outer door. He arose and having obtained a light, went in his night dress to open the door, under the impression that it was the constable on duty, with some one in charge. On opening the door, he observed two men, one of whom had on a fustian jacket and a cap, the other keeping back. Before he had time to ask them what they wanted, the candle was knocked out of his hand and extinguished; one of the villains then presented a pistol at Harrison, which he dexterously knocked aside, and in doing so he received from the other man as violent blow, which was followed by a stab on the face, which penetrated completely through the cheek, deluging the unfortunate man in his blood. His wife then ran out from an opposite door, and called for assistance, which was not obtained until some time after. Meanwhile the assassins, having effected their diabolical purpose, made their escape, and up to this hour (seven o'clock, Wednesday evening) they have not been traced. The police, however, are on the look out, and we have reason to believe that the guilty parties will speedily be apprehended and brought to justice. We regret to learn that Harrison is in a dangerous state. He is now under the care of Dr. **BOWKER**, and all that skill and unremitting care could do for him has and will be done. Harrison has retained his present situation for some years, and holds besides the office of bailiff of the Court of Requests; he is in every respect a very meritorious public officer.

GUARDIAN, 1/24, 24/08/1844

INQUEST. - On Monday afternoon a Coroner's Inquiry was held at Kirkman's public-house, the Coach and Horses, Cumberland-street, on the body of **EDWARD ROWLEY**, a private in the 80<sup>th</sup> regiment, who died suddenly on Sunday morning. The following evidence was adduced:- **JOHN BISHOP**, lance-corporal of the 80<sup>th</sup> regiment, deposed that when the roll was called on Saturday night deceased was in bed, and witness answered for him; at six o'clock on Sunday morning, when witness went to call him to the *reveille* he was in bed; witness shook him, at which time he breathed very hard; witness went into another room to make up the report, and while there another man came in and said Rowley was dead; he did not go near the bed till about quarter of an hour after, when the surgeon attempted to bleed him. The deceased had been left with the baggage on board the boat the day before his death, and was perfectly sober when he came to the Barrack-yard at half-past six at night. **SAMUEL COMPTON**, a private in the same regiment, saw deceased at the Military Canteen about half-past seven on Saturday evening; he was then tipsy and lying

down; he was removed by some of his comrades to his bed; he was not able to walk or speak from the effects of drink. Witness saw no more of him after he was put to bed. **JOHN WATTS**, a private soldier, went on Saturday night with the deceased to the Canteen and saw him drink some spirits out of a pint pot, which contained about half a pint of rum. Some others had drunk a portion of the liquor before it came to the deceased; witness did not see it have any effect on Rowley, but witness did not stay long in the Canteen. Mr. **GEORGE THOMAS GALBRAITH**, Assistant-Surgeon of the 99<sup>th</sup> regiment, deposed to making a *post mortem* examination of the body of the deceased, and found a great degree of congestion on the brain, but no extravasation of blood, and only a small quantity of serous fluid. He found a fluid in the stomach which smelt strongly of rum; the lungs had congestion of blood, but every other organ in the body appeared quite sound and healthy; there were no marks of violence on the body, it presented the appearance of one who had died of apoplexy; drinking ardent spirits to excess would be likely to produce such appearance. The jury found that deceased had died by the visitation of God, in a fit of apoplexy brought on by drinking ardent spirits to excess.

**CORONER'S INQUEST.** - On Friday evening, the 9<sup>th</sup> of August, an inquisition was held at Mr. Elliott's, Edinburgh Castle, on the body of Mr. **ANDREW MACNISH**, who died at that inn on the same day. Mr. **GEORGE DENSHIRE** being called in and examined, deposed – that on Thursday evening, between five and six o'clock, the deceased arrived in a cab, and, having alighted, entered the parlour, in which he (Mr. D.) was alone. Witness thought deceased looked very wild and nervous; which might have been the effect of drinking. Deceased remarked he was not well, having been “jolted about in a cab all day;” as if to account for the tremulousness in which he was. He chatted in a desultory and rather incoherent manner with witness, who advised him to go to bed, and not drink any more in his weakly state. Witness left about eight o'clock, finding deceased getting weary and prosy, and saw no more of him till the next day, when he was lying in agony writhing on the sofa. - **JOHN LEWIS**, cook at the Edinburgh Castle, deposed that he was sent on the Friday morning to call deceased to breakfast, and finding him helpless, he, with a fellow-servant's assistance, dressed and led deceased to the parlour; when a doctor was sent for. Witness found, under the bed, a small bottle emptied of its contents – a strong preparation of opium. - Dr. **RUSSELL** stated that, on examining deceased, he found he had swallowed opium: he used the stomach-pump and emetics; but to no effect, as deceased gradually declined and died in consequence of the opium. Dr. **DAY** confirmed the above testimony, and, on a *post mortem* examination, declared that the inner coat of the stomach was absorbed by (as supposed) the practice of chewing the deadly drug – The coroner, **J.R. BRENNAN**, Esq., having capitulated the evidence, left it to the jury; who, having previously viewed the body, returned a verdict that deceased had died from the effect of swallowing opium, and that he was labouring under a temporary insanity, produced by indulgence in the same. - Mr. Macnish was formerly the possessor of that shop and premises, corner of Hunter-street, now kept by Mr. Spence; but had latterly resided in Launceston. He was an utter stranger at the Edinburgh Castle, having just come there before he died; the Australia Inn being the house where he had lodged since his arrival, of a few weeks, in the colony.

**WREGISTER**, 3/57, 24/08/1844.

**PARRAMATTA.** - An inquest was held at the Parramatta Gaol, on Thursday, on view of the body of **TERENCE M'MANUS**, the man whose horrid murder of his wife, appeared in the papers a few days ago. Since his committal this man made no

concealment of his crime, in fact, he told the visiting magistrates that he did it because his wife and others had deprived him of all his property. He was in a very debilitated state when he was committed, and death has now removed him to answer for his crimes at a higher tribunal. The evidence of the keeper of the Gaol, and Dr. **ROBERTSON**, proved, that the deceased was in a very debilitated state when he was committed to Gaol, and had refused to take any nourishment since he has been there; that he wished to be taken out to be hanged; but that he had no intention of starving himself, his refusal to take food arising from loathing. Verdict – natural death accelerated by the refusal of the deceased to take food.

MAITLAND MERCURY, 02/87, 31/08/1844

HUNTER RIVER DISTRICT NEWS. - NEWCASTLE.

THE ASSAULT ON THE LOCKUP KEEPER. - On Friday last, the 23<sup>rd</sup> instant, **WILLIAM FAWCETT** and **THOMAS MAPLES**, both prisoners attached to the lower hospital, were brought before the bench, charged with having committed the brutal assault on **THOMAS HARRISON**, the lockup keeper, on the night of the 21<sup>st</sup> instant, the particulars of which were given in the Mercury of last Saturday. From the evidence of Harrison (who appears to be in a very weak state), Dr. **BOWKER**, **JOHN BROWN** (a wardsman in the hospital), and the chief constable, the following facts were elicited. When Harrison heard the knocking at the door, he got a light, and went out to it, and asked "Who's there?" to which the answer was, "Open the door, Tom." He opened the door a little way, and saw Fawcett, whom he had known before, standing on the step. The door was pushed open upon him, and another man jumped on the step with a weapon in his hand, which he raised, and Harrison observed he had a kind of crooked hand. Fawcett then presented a pistol at Harrison's head, which he (Harrison) knocked aside with the candlestick, and in doing so the light was extinguished. Fawcett and the other man then tried to force their way in, but Harrison put his back to the door to prevent them, and received two or three severe blows on the back of the head, and one on the face. At this time the man with the crooked hand was in the passage, but Harrison pushed him out, when Fawcett dragged Harrison into the street, his face being then bleeding profusely. Harrison held on, crying out murder, until they broke from his grasp, and got off. Harrison then went across the street to Dr. Bowker's, still crying murder, and got admittance into the house, when the Dr. dressed his wounds. While he was there the chief constable came to him, and he told him of the assault, and described the dresses worn by the man, whom Harrison said he knew perfectly well as being either stockade or hospital men, one of them having a crooked hand, or some defect in his hand. The chief constable then went to the stockade, and thence to the hospital, where Brown went and called the two prisoners, but they would not rise from their beds until the chief constable went to them, and peremptorily ordered them to do so. When they got up he searched their clothes, and then told them to go to bed again, when as he was leaving he heard one of them, he believed Fawcett, say, "It's a robbery;" and the other prisoner answered, "Yes, and blood too." On the next day the chief constable went to the hospital again, and took the two prisoners in charge, and brought them before Harrison, who was then in bed, and Harrison immediately identified Fawcett as one of the men; on which Fawcett seemed confused and trembled. Harrison then identified Maples, who has some complaint in his right hand. From the evidence of Brown it appeared that on the next evening he found that two legs of an iron bedstead had been taken off, and were lying loose in the ward. Dr. Bowker was of opinion that a blow from the sharp edge of the iron leg might have caused the wound in Harrison's face. At the close of

Harrison's evidence he said, "I have not the least doubt in the world that the prisoners are the men who assaulted me." They were both fully committed for trial. It is generally believed that others were concerned in the outrage, and fresh facts are being elicited to support the idea. We are happy to report that Harrison is convalescent, and no longer confined to bed.

GUARDIAN, 1/25, 31/08/1844

INQUEST. - An inquest was held, on Wednesday, in Mr. Joseph Le Burn's public-house, opposite the Benevolent Asylum, on the body of **PATRICK KELLOGHAN**, labourer, aged twenty-four, who had arrived here per ship *Moffitt* in the year 1839, when the following evidence was adduced. **CHARLES SMITH**, labourer, living on Mr. Holmes's ground, Liverpool Road, deposed: I live between the Dove Inn and Mrs. Chisholms's property; in the course of the night my neighbour heard some one cooeing in the bush, and in the morning I and another man went a little way into the bush, when we saw a naked man lying down on his back; when we came up to him we found a large log of wood lying on his right leg and pinning him fast to the ground; with great exertion we got the log moved off his leg; there was a boot on each leg, which was all the covering he had; after we got him free he was able to stand and speak; the first thing he did was to ask for a drink of water; I left him in the care of the other man while I ran home for a pot of tea, a shirt, and a pair of trousers; we then brought him to the Dove Inn, it being the nearest public-house. He gave an account of himself by stating, that he had lately been in the employ of Sir John Jamison, but was then travelling in search of work; that on the preceding evening he called at Falconer and Seales' public-houses, for lodging for the night, but, not having the means of paying for it, he could not obtain it; seeing a tree on fire in the bush, he made towards it for shelter, and to keep himself warm for the night, as it was very wet; that while he was sitting close to the burning tree it gave way in different directions, and part of it fell on him, had ignited his clothes, and burned them entirely off him. On looking among the ashes where we got him, we found his pipe and some buttons; he was very severely burnt on several parts of the body, and in the course of the day he was taken to the Benevolent Asylum. **JONATHAN WILSON**, district constable, on hearing of the deceased being found in the bush went to see him, and found him sitting on the verandah of Dear's public-house; he appeared very ill, being burned on several parts of the body; he was also very stiff, having been out, he said, in the rain during the whole of the night; he was hardly able to speak; I conveyed him in a cart to the Benevolent Asylum. Mr. **ALEXANDER CUTHILL**, surgeon to the Benevolent Asylum, deposed: The deceased was received there as a patient on the 9<sup>th</sup> instant; he had been severely burned in different parts of the body, and had several of his ribs broken on the right side; death ensued on the 27<sup>th</sup> instant, and was caused by the effects of the injuries I have mentioned. The jury found that death had been caused by injuries received by accident.

INQUEST. - On Monday an inquisition took place before Mr. **J.R. BRENAN**, AND A Jury, on the body of **HARRIET EDMONDS**; when the following evidence was given: **GEORGE BURNETT** deposed: On Saturday night last I was returning home from the market when I met the deceased; she asked me to take her home; she was then drunk; I took her home and put her to bed; she could not drink her tea; the husband of the deceased locked the door and put the key under it, saying, "I will not stop with a drunken woman." He also said, "She will find the key to come out tomorrow - I have done so before." The husband then left the house, and returned about seven o'clock on Sunday morning. He got my key, which opened the bed-room

door; he then went into the room and came down immediately after, saying, the deceased was dead. I went up with some others and found her lying on her face on the pillow, quite dead; she frequently got drunk, and the husband used, when she was so, to leave her to sleep alone. The husband is a very quiet man, but the deceased was very much addicted to ardent spirits. **ALEXANDER EDMONDS**, husband of the deceased, deposed; I returned home shortly before twelve o'clock at night, on Saturday last, and found the deceased lying in bed very drunk; she was drunk the night before; I said I would not stop with her; I locked the bed-room door, put the key under it, and left the house; she was very much addicted to drinking ardent spirits. I returned to the house on Sunday morning, between seven and eight o'clock, when I found the door locked; I then got a key from George Burnett and opened the door, when I found the deceased lying on her face in the bed; I then called the landlady, who came up to the room with me; she then turned over the deceased and said, she is dead; this was about half-past seven on Sunday morning. I reported her death to my master (her brother), and afterwards to the Coroner's constable. Mr. **FREDERICK HARPUR**, surgeon, deposed: I have carefully examined the body of the deceased, and am of opinion that death was the result of apoplexy, which may have been produced by drinking ardent spirits. The jury found a verdict of died from apoplexy, induced by intoxication.

INQUEST. - On Saturday last a Coroner's inquisition was held in the "St. Andrew's Tavern," corner of King and Kent-streets, on the body of **HELEN M'CROW** *alias* **HARRIET SMITH**. **LETITIA LOWE** deposed that the deceased lived near her; about eleven o'clock on the forenoon of the day of the inquest, a person told witness that the deceased was dying; she went to her house and sent for a clergy-man, but the woman was dead before he came. **SARAH LONGMAN** lived with the deceased; on Thursday afternoon she complained of a sore throat, and at night was seized with spasms; the only injury she had received was a bruise on one of her toes, a short time before she was taken ill; the spasms lasted till late on Friday night; when the Doctor came she was better. Dr. **MABERLY** saw the deceased on Friday, and found her labouring under contraction of the muscles, with severe spasms; he found she had received an injury on one of the right feet, and that she had suffered from exposure to cold; he considered the wound on the toe and the effects of the cold quite sufficient to cause the symptoms he witnessed, and which caused death, as he could not get any medicine into her stomach. Verdict – Died by the visitation of God.

GUARDIAN, 1/26, 07/09/1844

SELF-DESTRUCTION. - On Thursday morning Mr. **STEPHEN COXEN**, of Yarundah, Scone, called at the shop of Mr. **A.FOSS**, Pitt-street, to whom he was personally known, and purchased half a grain of *strychnia*, stating that he was to use it in destroying the native dogs on his farm; in the course of the forenoon he spoke to his landlord, Mr. **COHEN**, of the Saracen's Head, corner of King and Sussex-streets, about his inability to settle for his board and lodging, and expressed his regret that he had not been able to obtain the means of defraying his passage to the Hunter on the previous evening. Mr. Cohen told him never to mind, that he was welcome to stay there until he got his affairs settled. As he appeared very much annoyed that no expenses had been allowed him, Mr. Cohen went about one o'clock to the office of the Chief Commissioner, where he stated that Mr. Cohen (sic) was without the means of supporting himself or of returning to Scone. The official assignee being consulted, it was arranged that even though the creditors had not fixed any allowance for Mr. Coxen, that he should receive at the rate of two guineas per week for the time he had

been and was likely to be detained in Sydney. Immediately after this arrangement had been made Mr. Cohen returned home, and told Mr. Coxen to keep up his spirits, as an allowance had been made to him. Mr. Coxen replied that it was all over with him, and gave Mr. Cohen to understand that he had taken poison. Medical aid was immediately sent for and means applied to defeat the effects of the *strychnia*, all of which he had taken, but without success, as he expired within half an hour after it was known that he had taken it. An inquest was held on the body yesterday.

**CHILD MURDER.** - Under the head of Inquests in Tuesday *Herald* there is a report of an inquest held on Monday in Cavenagh's public-house, on the body of a female infant which had been discovered in the Episcopalian burial ground, concealed in a box a few inches below the ground. As marks of violence were observed on the neck, and the medical witness swore that the violence which had caused these marks had been the cause of death, a verdict of wilful murder against some person or persons unknown was recorded. In order if possible to lead to the discovery of the perpetrators, a coffin was ordered for the body, and the box in which it was found, sent to the Police Office for the purpose of being seen by the police, that they may make enquiries after the person who owned it before it was found in the cemetery.

**INQUESTS.** - On Monday afternoon an inquisition was held in Mr. Kettle's public-house (Star in the East), George-street, on the body of **EDWARD F ABRAHAMS**, late a groom in the employ of Mr. **MINITHORPE**, attorney, when the following evidence was given:- **JOHN HENRY SMITH**, of Jamison-street, deposed, - I saw the deceased in his bed on Sunday evening, in Jamison-street, he complained of a pain in his stomach; he said that a mustard poultice, which had been applied, had done him much service; when I left him he said he was free from pain; I know nothing about his death. **THOMAS BAWARI**, residing with Mr. Minithorpe, deposed: the deceased was a fellow servant of mine; on Thursday last he complained of being ill, when I and my wife attended on him; he went to bed on Sunday night as usual, and this morning I found him dead on the floor. P.M. **HOSKING**, M.D., I was called on to see the body of the deceased, and found it in a reclining position on the floor; he had been dead for some time, as the body was quite cold and stiff; from the history of the case he thought death had been produced by inflammation of the bowels. A verdict was returned of "Died by the visitation of God."

Another inquest was afterwards held in Cavenagh's public-house (the Cheshire Cheese), corner of Elizabeth and Campbell-streets, on the body of a female infant, when the following evidence was adduced:- **JOHN FRY**, gravedigger of the Episcopalian burial ground, deposed, - On Sunday morning last my attention was attracted by a portion of the ground, which appeared to have been fresh turned up; I examined it; it was at the back of a stone near the wall; a little under the surface I found a box containing the body of the female infant which has been viewed by the Jury; the box had been secretly deposited where I found it, as it was not buried in a regular manner; the flesh appeared sound, as if it had not long been dead. **DANIEL JOSEPH TIERNEY**, M.D., I made a *post mortem* examination of the body, and found the left side of the lungs inflated; there were marks of violence on the neck, as if the deceased had been strangled at its birth; and from all the circumstances I am of opinion that death had been caused by strangulation at the time of birth; it was decently dressed; and it is not possible that it could have been born more than two or three days ago. The Jury returned a verdict that Deceased had been wilfully murdered, on or about the 31<sup>st</sup> of August, by some person or persons unknown.

INQUEST. - Yesterday an inquest was held at the Saracen's Head, on the body of Mr. **STEPHEN COXEN**. From the evidence of Mr. **P.J.COHEN**, with whom deceased had lodged for the past fortnight, it appeared that he was an insolvent, and had become greatly excited at the opposition of one of his creditors, so as at length to have lost his reason. On Thursday Mr. Cohen went with Mr. **MORRIS** and Mr. **JAMES** to the Chief Commissioner, and represented to him the state of mind under which he had just left the deceased, when they obtained an allowance of two guineas a week for his maintenance from the time he had been in Sydney; about two o'clock, immediately after the order had been made, Mr. Cohen returned home and communicated the intelligence to the deceased, when he said, "I am very much obliged to you, but your communication comes too late; had it been five minutes sooner I might have been saved;" Mr. Cohen endeavoured to rally him, when he said, "that cursed **SAUL LYONS** has killed me, I have taken poison." Mr. Cohen called the waiter and barman, and secured him; he was at this time becoming violent, and crying out, "let me die in peace, I shall take no medicine;" they took him to his bed room, and there he snatched up a razor that lay on the table, which they wrested from him. Medical aid was sent for, but he refused to take anything, and at length was seized with spasms and expired. On a post mortem examination it was found that he had taken strychnia. The jury found a verdict that deceased had died from taking poison, while labouring under temporary insanity.

MAITLAND MERCURY, 02/88, 07/09/1844

CALENDAR OF PRISONERS FOR TRIAL AT THE MAITLAND CIRCUIT COURT.

**BILLY**, alias **TOMBO**, an aboriginal, for assault with intent to commit a rape;

**BENJAMIN STANLEY**, for wilful murder, and

**FREDERIC GARRETT**, for being accessory to the same.

**JAMES POWERS** and **MARY FINIGAN**, for manslaughter

**JOHN JACKSON**, for rape.

MELANCHOLY SUICIDE. - News reached Maitland from Sydney yesterday of the melancholy death of Mr. **STEPHEN COXEN**, who committed suicide on Thursday last by taking poison, while labouring under great depression of mind. The unfortunate gentleman was universally respected and liked in this neighbourhood, as well as in the parts of this district nearer his late residence, and he has left a large circle of friends to mourn his untimely death.

GUARDIAN, 1/27, 14/09/1844

INQUEST. - On Saturday last an inquisition took place, before the Coroner and a Jury, on the body of **JOHN BATES**, who died in the General Hospital on Thursday last, when the following evidence was given:- **EDWARD HONOUR**, Dispenser to the Woolloomooloo Gaol, deposed, - the deceased, a surgeon, was committed to the Gaol a fortnight ago to take his trial on a charge of having stolen some tobacco; he became very much debilitated, when a form was drawn out, and used on Wednesday last, to admit him to the General Hospital, and on Thursday morning he was removed thither; saw him taken away from the Gaol on a cart; for three days previous to his removal he appeared to be quite foolish, and had lost the power of utterance. **JAMES SMITH**, Wardsman in the General Hospital, proved that after deceased had arrived in the gaol-cart at the Hospital he never spoke, and appeared to be in a dying state; when he arrived a clean shirt was put on him, and being wrapped up as warmly as possible he was laid in a bed, on which he expired about seven o'clock that evening; he never

spoke after being admitted. Mr. **HARNETT**, Colonial Surgeon, certified that he had made a *post mortem* examination of the body, and found that death was caused by congestion of the brain, with a considerable effusion of serous fluid into the ventricles, and between the convolutions of it. The Jury found a verdict of "Died by the visitation of God in the General Hospital, on the 4<sup>th</sup> instant."

WREGISTER, 3/60, 14/09/1844.

SUDDEN DEATH. – We lament having to record the death of Mr. **HARNETT**, Colonial Surgeon, which occurred last evening. He left the gallery of the Legislative Council, on its adjournment, in apparent health, and in a few minutes after, suddenly expired. His death is supposed to have been caused by aneurism. Mr. Harnett was one of the most skilful of his profession, and was highly esteemed in private life. His funeral will proceed from St. Mary's tomorrow at 4 p.m.

MAITLAND MERCURY, 02/89, 14/09/1844

MAITLAND CIRCUIT COURT. - THURSDAY, SEPTEMBER 12.

SHOOTING WITH INTENT. - **JAMES BRADY** was indicted for wilfully and maliciously shooting at **JOHN SPOONER**, with intent to do him some grievous bodily harm, at Cockadingy, on the 24<sup>th</sup> April last. From the evidence which was given it appeared that a man named **GEORGE GEDDES**, step brother to the prisoner, had formerly rented the farm at Cockadingy, and left some cattle, yokes, bows, and chains, &c. On the day in question he went to the farm, accompanied by Spooner, to take them away. Prisoner said he had a claim upon them, and refused to let them go. A dispute arose, and Geddes's dog was fighting a dog belonging to the prisoner, when he called for his gun to shoot it; he afterwards said he would shoot Spooner if he did not go off the premises, and as Geddes, his mother, and Spooner were going away in the cart the gun went off. Neither Geddes nor Spooner could swear that the prisoner fired the gun, and both said they did not think he intended to shoot them. The jury acquitted the prisoner, and his Honor, at their request, reprimanded Geddes for having made such a charge against him

ACCIDENT. - On Wednesday last two little boys, named **ALFRED** and **GEORGE CREDLAND**, one four years of age, and the other six, were playing in company with another child named **RYAN**, about five years of age, near the Queen's Wharf, at Morpeth. They were sent away once or twice by a man who was employed there, but some time afterwards they were missing, and a search was made for them. About half an hour after little Ryan told his father something about the children being in the water, and the river was dragged, when one of the bodies was found quite dead. The body of the other poor child was subsequently found among some weeds at the rear of Mr. Pott's premises. An inquest was held upon the bodies on Thursday, before **J.S. PARKER**, Esq., but there was no evidence to show how the children got into the water; the jury returned a verdict of death by drowning.

INQUEST. - On Monday last an inquest was held, at the house of Mr. **EDWARD TURNER**, West Maitland, on the body of **JANE INGRAM**, a child about nine months old. It appeared that some days previously the mother of the child, whilst getting breakfast ready, placed the teapot full of hot water on the hearth, and the child, who was on the floor, crawled towards it, and upset it over its chest. It was so badly scalded that notwithstanding medical assistance it died a few days after. The jury returned a verdict that the deceased was scalded by the upsetting of a teapot full of hot water, which caused her death.

NEWCASTLE

**CORONER'S INQUEST.** - On Monday, the 9<sup>th</sup> instant, an inquest was held at the Victoria Inn before **J.S. PARKER**, Esq., Coroner, on the body of **SARAH LANGHAM**, aged two years and ten months, who was most unfortunately killed on the previous Saturday, at noon, by the falling of a considerable portion of sand, soil, &c., under which she and other children were playing, near the gate of the churchyard. The jury, after a short consultation, returned a verdict of accidental death.

We think it shows a great want of judgement, to say the least of it, on the part of the carters who dig sand at that place, that they do not lay it open from the top, instead of undermining it, and leaving a heavy bank of earth, &c., without anything to support it. Newcastle, September 11.

**MAITLAND CIRCUIT COURT.** - **ASSAULT WITH INTENT TO MURDER.**

**JOHN BROWN**, alias **AMBROSE PROVOST**, was indicted for wilfully and maliciously wounding **JAMES M'KAY**, by striking him on the head with a hammer, with intent to murder him, at Morpeth, on the 12<sup>th</sup> February last.

It appeared that the prisoner was in the habit of going to prosecutor's house, who read to him, and on the night in question he was reading the Pilgrim's Progress, and after reading some time he said he would read no more, as he was up late the previous night. Prisoner requested him to read a little further, with which he complied, and whilst engaged in doing so he was struck on the head and knocked down; he was struck several times afterwards, and saw the prisoner in the house; he also saw him go away, and heard him lock the door after him. Mr. **WHYTLAW**, surgeon, of Morpeth, examined the wounds some time after the injuries were received, and found one of them to be very dangerous. The book, which was covered with blood, was produced in court, and identified by a woman named **GRADY** as being the one she had lent to the prisoner. The jury returned a verdict of guilty, and the prisoner was remanded for sentence.

**MAITLAND BENEVOLENT ASYLUM**

**PUBLIC meeting**, excerpt. 3<sup>rd</sup> column, ... With respect to the poor man, **SAMUEL REYNOLDS**, named by his Excellency as having died in the bush near Newcastle of starvation, while there was a correspondence going on with the government about him, the committee begged to state that the case was entirely unknown to them until the poor man's death was noticed in the papers; had application been made to them they would at once have forwarded him to the Benevolent Asylum, having no accommodation for insane persons themselves.

**MAITLAND MERCURY**, 2/89, 17/09/1844 [SUPPLEMENT]

**MAITLAND CIRCUIT COURT.** - **SATURDAY, SEPT. 11**

**ASSAULT WITH INTENT TO DO BODILY HARM.** - **WILLIAM FAWCETT** was indicted for assaulting **THOMAS HARRISON** with intent to do him some bodily harm, at Newcastle, on the 21<sup>st</sup> August last; and **THOMAS MAPLES**, **WILLIAM AYTON** and **HENRY RYAN** were indicted for being present aiding and abetting.

The Attorney General called Thomas Harrison, who deposed that he was lockup keeper at Newcastle, and on the night mentioned in the indictment he was aroused by a knock at the door; he got out of bed and asked who was there, when a voice replied, "Open the door," and thinking it was a constable, he did so; he saw two men, one armed with a bludgeon in one hand and a pistol in the other, who either said he would blow or knock witness's brains out; witness struck the pistol up with the candlestick, and immediately received a blow on the neck with a heavy instrument. The prisoner

Fawcett was the man who struck him, and had the pistol. He received another blow on the cheek, and he observed the other man raise his hand to strike him; he saw the man had a crooked hand; the prisoner Maples had such a hand. During the scuffle the prisoner Ayton came; witness did not know whether he received the second blow from Ayton or from Maples; he heard a fourth man walking outside the house, but did not see him. He called out "Murder," and struck either Maples or Ayton, and knocked him off the step into the street; witness held Fawcett by his waistcoat, and in his attempt to get away prisoner dragged witness into the street, but he got away. The men came from the hospital, which was about three hundred yards from the lockup. He knew all the men well, except Maples. The instruments with which the men were armed he had since ascertained were the iron legs of iron bedsteads belonging to the hospital. Witness got to Dr. Bowker's, and after being there some time he sent for the chief constable; he lost a deal of blood; he still felt the effects of the wounds; he described the men to the chief constable, and saw two of them took the following day.

**R.S. BOWKER**, surgeon, New castle, stated that he recollected Harrison coming to him on the morning of the 21<sup>st</sup> August; he was covered with blood, and had a bruise on his neck, and a wound on the cheek, which was bleeding profusely; the superior artery leading to the mouth was divided. Such a wound might be inflicted by the instrument produced. There would have been danger from loss of blood, if the artery had not been tied.

**JESSE HANNELL**, chief constable of Newcastle, recollected the night Harrison was wounded; witness saw him at Dr. Bowker's, and afterwards went with some constables to the hospital, where he found Fawcett and Maples in bed; this was about three o'clock in the morning. He searched Fawcett to see if there was any blood on his clothes, but found none; he then searched Maples, but found no blood on him; he sent them back to bed, and he heard Fawcett say to Maples, "It's a robbery;" to which Maples replied, "and with blood." They did not know what he went for. The next morning he took them into custody, and brought them to Harrison, who identified them. Witness found a small spot or two of blood on the waistcoat Maples wore. The other two prisoners were taken three or four days after.

**JOHN BROWN** deposed that he was senior wardsman at Newcastle hospital; he had nothing to do with the men at night; he remembered being called by the watchman and the chief constable on the night Mr. Harrison was wounded; he called up Fawcett and Maples, and their clothes were overhauled. The men could not get out unless the watchman left the door unlocked. The two bedstead legs produced belonged to two beds in the ward.

**JOHN JONES**, watchman at the hospital, stated he was a prisoner for life. About one o'clock on the morning of August 21<sup>st</sup> Ayton and Ryan got out; Ayton had previously told witness that if he would let him out he could get some money, and he would give witness part; he refused at first, but after some time consented, and subsequently Ayton and Ryan got out of the window by two sheets tied together and witness let them out at the gate. In about half an hour they returned; Ayton asked if any one had been there, and witness said "No;" they pulled off their shoes, and emptied the sand out; Ayton said he was afraid there was one fellow settled, and showed witness a knife covered with blood, and told him to clean it; Ryan said "Throw it down the privy." The knife was left there; prisoners wanted to go in at the window, but witness said, "No, the sentry over the stockade would see them," and he let them in at the door; he then returned to where the knife was, and threw it down the privy. Shortly after the wardsman called for a light, which witness took to him. He did not know how Fawcett and Maples got out; they could not get in or out without his

knowledge. They might get out of the window, but he had no knowledge how they did get out. He did not know either of them before they came to the hospital. Witness went on as watchman about twelve o'clock that night; a man named **HARRIS** was watchman the previous part of the night; he mustered the men when he went on duty; Fawcett and Maples were then in bed. There was a ladder in the yard; he never used it. He did not acknowledge that he had let out Ayton and Ryan until he was put in prison. It was easier for Fawcett and Maples to get out than for Ayton and Ryan.

**GEORGE GRAY**, wardsman, stated that the prisoners Ayton and Ryan were in his ward; he did not see them go out, but he saw them come in; he had occasion for a light that night, and called to the watchman Jones to bring him one; he was a long time before he did so; he called for it soon after Ryan and Ayton came in; Jones did not bring the light until witness threatened to alarm the sentry at the stockade. Fawcett and Maples did not sleep in witness's ward. He had to go next day to the upper hospital for milk; on his return Ayton asked him if he had been in the town; he said yes, and he had heard that Mr. Harrison, the lock-up keeper, had been stabbed; and Ayton replied, "it's a pity but what they had settled the wretch."

Thomas Harrison re-called:- He could identify Maples only by some deformity in his hand; he did not know him personally; the man who attacked him had a deformity in his hand; he believed the prisoner Maples had such a deformity.

The prisoner's hands were here examined by the jury, but it did not appear that there was any deformity in either of them.

The prisoners all strenuously asserted their innocence, and Ryan said Jones the watchman was an infamous liar. Fawcett and Maples called a witness to prove that they were not out that night, but his evidence was that he did not see or hear them go out.

His Honor then summed up, stating that the main point to which the jury would have to direct their attention was as to the identity of the prisoners. His Honor then went carefully through the evidence, and observed that if the jury were of opinion that there was a confliction of testimony it would be for them to decide which of the two parties they would believe as to the identity of Fawcett, Mr. Harrison, who appeared to know him well, or Jones the watchman.

The jury retired for about half an hour, and returned to court with a verdict of guilty against Fawcett, Ayton, and Ryan, recommending the latter to mercy; Maples not guilty.

His Honor said he would reserve judgement on Ryan until he had made some further enquiry, and sentenced Fawcett and Ayton to be transported for life.

The court then adjourned.

MAITLAND MERCURY, 02/90, 21/09/1844

MAITLAND CIRCUIT COURT.

CRIMINAL SIDE. - THURSDAY, SEPTEMBER 19

MANSLAUGHTER. - **JAMES POWERS and MARY FINIGAN** were indicted for the manslaughter of **MARY POWERS**, an infant two months old, by beating, starving, and otherwise ill-using it, between the 22<sup>nd</sup> March and 17<sup>th</sup> June last, at Mulberry Creek. There were three counts in the indictment, naming the child at **MARY FINIGAN**, and as a child unknown.

Mr. **BROADHURST** appeared for the prisoners; solicitor, Mr. **LONG**.

The Attorney General opened the case to the jury, stating that as it did not appear that the child had been christened, and it was not known that it had any name at all, it was to meet these difficulties that the three counts were in the indictment. The child

was only two months old, and unable to provide for itself; it was the child of both the prisoners, and by the common law of the land the parents were bound to provide for the sustenance of their children. He was not able to show, though he had made every enquiry, that the prisoners were really married; that question would arise, and if it could be shown that they were married, the wife was not bound in law to furnish sustenance if the husband neglected to do so. The learned gentleman then quoted one or two cases in support of this; and said if it should appear that the prisoners were not married, as he expected it would, then the woman, as well as the man, was bound to provide for it. With regard to the prisoners, it would be shown that the man had a small farm, and ample means of giving support to the woman and her child; that after her confinement he obliged her to work in the fields, to leave the child in the house wholly unprotected; and that it at length became so exhausted that it died. The neighbours frequently complained of the manner in which the child was used, and the woman herself had complained of lack of food; although a charitable lady in the neighbourhood and several of the neighbours had offered her a sufficiency of food, if she would only leave this man. When the child died it was buried secretly in a piece of government land. It would be shown that the man had plenty of provisions in his house, wheat, eggs, poultry, pigs, &c., but that he and the woman after her confinement lived chiefly upon pumpkins. The offence was one of a very serious nature, and he must say that the law as it was before him was in such a state that he was not in a position to put it fully before them; they would however take the law from the bench, and deal with the case accordingly. The learned gentleman, after a few other observations, called

**BRIDGET HANLEY**, who deposed that she was a married woman residing at Mulberry Creek, within half a mile of the prisoner Powers. The woman was living with him; they were both there when witness first went; Powers said they were married, but witness did not know whether they were or not. This was before witness saw the woman; she had never heard them say a word on the subject since, and she thought they were married. The female prisoner came to witness about a fortnight before the baby died, and said the child was sick; she once before came with the baby rolled up in a shawl; witness did not see it then; she came to ask the witness for some milk; she gave her some; prisoner said she had no milk to suckle the child. Witness had four or five cows giving milk, and she told prisoner to come for milk, and she came three times more before the baby died. Witness saw the child again about ten o'clock on the Saturday morning before it died; and it was in a very poor state; it had a sore on the back of its neck, and a lump on its hand. She asked witness what she thought of the child, and she replied that she thought it would not live long, and told her to sit down by the fire and warm it; she did so; witness warmed a drop of new milk, and desired prisoner to give it some; she did, when it fainted, but recovered again, and swallowed a little of the milk; some time after prisoner went away. Witness asked her what she had fed the child with before, as she had no breast milk, and she replied with flour and water, and a little sugar. She came next day, and witness asked how the child was, when the prisoner replied that it died a little after dark on the Saturday night. Witness saw it dead on the Sunday evening; the child was called Mary. Witness believed it was Powers's child. On the Sunday evening witness asked Powers when he was going to bury the child, and he said tomorrow, and that he would take some corn into Maitland to get money to pay the expenses of burying it. Powers had a team of four working bullocks and a dray; he had some corn in the house, there was a room nearly full; a good many fowls were about the door.

Cross-examined:- She appeared to be taking proper care of the child when I saw it.

By a juror:- The child might be about two months or ten weeks old when witness saw it.

**ELLEN BELL** deposed that she lived near the prisoners. Powers had two children; she did not recollect when the last was born; it was going on three months old when it died. Witness never heard the woman called by any other name but Mary Powers; witness was with her when the child was born; she did not know whether it was christened; the prisoners called it Mary. Witness saw the child after its birth; it appeared to be a healthy child when born. Whenever witness saw prisoner she appeared to be taking proper care of the child; it had some clothes on it, but witness thought it was short of flannels. The mother had no suck for it; she had a bad breast. Witness had seen the woman working in the fields two or three times after the child was born, but whether she had the child with her she did not know. Witness observed that the child was very bad five or six weeks before it died; it had a large lump, witness thought, under its left jaw. The child began to decline when it lost the breast milk, which was about a month after it was born. Witness did not recollect seeing the prisoners eating more than once, and then they had bread and tea. She did not know whether they were married.

**WILLIAM WELLER** knew the prisoners; he lived near them. Powers had been at Mulberry Creek about three years; he thought the woman came about eighteen months ago. Powers was living alone before that time. Witness did not know whether they were married; they passed for man and wife in the neighbourhood. They had two children since she came. He went to prisoners' house on hearing that the child was dead; he said to prisoner, "I hear you have had a death in the family," and he said he had, the child was dead; and witness asked him where he had buried it, and he said on some government ground. The woman was in the habit of working in the fields; he believed in about a week after her confinement she used to drive the plough; she was in the constant habit of working in the fields, mostly the whole day; sometimes they were forty or fifty rod from the house, and sometimes not more than ten or twelve. He did not see the child. He only saw the prisoners go to the house at meal times. The woman had a bottle of milk from his hut once for the child; she could always have had milk if she asked for it. Witness did not know upon what food they lived. He knew Powers had four good working bullocks, plenty of fowls, and ten or a dozen pigs.

**ELIZABETH WELLER**, wife of last witness, knew the female prisoner had a baby three or four months ago; witness saw it when it was about a fortnight old; it appeared to have nothing the matter with it; she never saw it after. Before witness saw it prisoner said it was getting sore, and witness told her to keep it clean. It had had the breast up to that time. When witness saw the child the mother had a very bad breast. They were living in a good strong hut, but it was a very dirty one. The prisoner said she had had no bread since the baby was born, and witness said "dear me, have you no flour?" she said no, when prisoner pointed to some bags, and said that was all wheat; there might be half a dozen bags. Nothing further was said about the food; pumpkins were the only thing mentioned as being the food they lived on. Powers was present; witness asked Powers to go with her to get some lard to mix with a poultice for the woman's breast, and he said she was as well able to go as himself. Witness told Powers he ought to be flogged for making the woman work in the state she was in, and he said he did not make her work, she did as she pleased; she made no reply, but said she was very weak, and Powers said she had not the feeling of another woman, and witness replied that she looked as if she felt something. Witness believed both prisoners lived badly. Before the child was born witness heard the woman say

she would not mind the work if Powers would give her plenty to eat. Witness had seen the female prisoner in the field for two or three hours together; she never saw the child with her. The day witness saw the child it had no clothes on; it was only wrapped up in a bit of a skirt of a dress; the body was naked. When witness heard that the child was dead she went to prisoner's house, but could not find either of them; she called three times, but no one was at home but the little child she has now, which was then little more than twelve months old; she saw it lying by the fire, and stopped till the fire was burnt out, because she considered the child to be in danger.

By a juror:- The woman was working in the field about the time her breast was so bad, but witness could not say that she was working on the day she saw her.

**CATHERINE GLOVER** lived near the prisoners. Powers came there after witness; he had been there a good while before the woman came. Witness thought, as near as she could recollect, the female prisoner had told her she was not married. Witness attended her at her confinement, along with Mrs. Bell; Powers came for her; the child appeared to be a healthy born child. Witness saw the child again when it was about a fortnight old, in company with Mrs. Weller. The witness then narrated the same facts as had been deposed to by Mrs. Weller relative to the interview. Witness saw the child again some time in May; it was then very poorly; it was lying on a sort of bed in the kitchen; it had a rag with a bit of sugar in its mouth sucking it; witness did not see any sores on it. Witness said the child wanted something, and prisoner said she had nothing to give it but water; witness asked how that was, and the prisoner said Powers would not give it her; she said the man was gone to Maitland. Witness spoke to the woman about being out working so much, and leaving the child, and she said she would stay with it if Powers would let her.

Cross-examined:- Powers was not present when the woman said he would not give her sufficient food. The prisoner had a very bad breast when the former child, the one just taken out of court, was born; she had a bad breast then, and lost her milk. They appeared to be living then in the same way as when the last child was born.

**ELIZABETH BELL** recalled:- The child was dressed as soon as it was born; but there were no flannels to put it on.

**EMILY ADAMS** went out to stop a few days at Mulberry Creek, when Mrs. Glover came to Mrs. Weller's, and said how bad a woman was with a bad breast; she went to look at it, and found it very bad. The woman complained that she had been pulling corn all day, and witness asked her why she did so, when she replied that she was compelled to do it; but Powers said she was not compelled. The house was a most desolate looking place, not fit for any one to live in. The child was wrapped in a piece of an old gown.

**GEORGE WOOD**, chief constable, knew there was an inquest on the body of the child. Powers was bringing the child to Maitland to have it buried; he called at witness's house; he told him there was a constable gone out to his place, and there was going to be an inquest on the child. An inquest was held upon it, but witness was not present at it. He could not exactly remember to whom he gave the prisoner's dray in charge; he believed it was given by him in charge to constable **FRY**, and from him to constable **PRITCHARD**, who remained in charge of it all night.

**E.D. DAY**, J.P., remembered hearing of the death of a child. The prisoner Powers was about that time brought to him, by the chief constable, about the death of Powers's child; witness understood from him that the body was upon a dray in the town, and he directed a constable to take charge of the man, the dray, and the body, until the inquest was held. The man seemed very willing to meet any inquiry that might be made.

**GEORGE WOOD**, recalled in consequence of what Mr. Day said:- He ordered constable Pritchard to take charge of the dray and the man. Witness did not remember seeing the coffin on the dray; prisoner told him it was there.

Cross-examined:- He saw the dray in Pritchard's yard the next morning; prisoner was there then. Witness was not at the inquest.

Constable **PRITCHARD** took charge of the dray from constable **RAFFERTY**'s door; the prisoner was about the dray; witness saw a coffin on it; prisoner said to witness, "this is my little baby that I have brought in to bury, and there's a bother about it." Witness gave up the coffin to Dr. **BROWN**; he afterwards saw it opened and the child's body in it.

**WILLIAM BROWN**, surgeon, recollected getting a coffin from constable Pritchard; there was the body of a female child in it; he made a post mortem examination of it; in his opinion death was caused by disease on the external surface, which led to irritation (sic), which occasioned fever. The disease on the skin was caused by want of sufficient nourishment, and from improper food; the body was much emaciated; there was an abscess on the hand; there had been another on the head, and there were various sores on the body. He found no food in the stomach at all; he could not say that it died from starvation; there was no trace of food; there was a fluid, but that might have been caused by the secretion of the glands. The child might be from seven to nine weeks old. He should say that gruel was improper food for so young a child, even if it had not its mother's milk; he considered arrow root, sago, and milk to be the most proper food for such a child.

Cross-examined:- The want of the mother's milk would be very prejudicial to a child of a few weeks old. Scarcely any artificial food could be found to supply its place, and even with the best of care children in such circumstances may die.

Re-examined:- He was of opinion that improper food had been given, but he could not say what that food was.

**J.S. PARKER**, coroner, held an inquest on the body of the prisoner's child; it was the same Dr. Brown saw; it was in a most emaciated state, and in a shocking condition; prisoner said the body was that of his child.

**MARIA NOYES** deposed recollected going with Mrs. Adams and Mrs. Weller to prisoner's house; the woman had a dreadful bad breast, and complained of being very ill; she did not hear what passed inside the house.

This closed the case for the crown.

Mr. **BROADHURST** submitted that there was no case to go to the jury, and after a few words from the Attorney General, his Honor decided that there was no case against the woman, but as there might be some doubt respecting the man he would send his case to the jury.

Mr. Broadhurst then addressed the jury on behalf of the prisoner, stating that the whole of the evidence negatived the charge laid in the information. The conduct of the prisoners showed that they had done all they could for the child; and there was not a particle of evidence to substantiate the charge of manslaughter.

**HIS HONOR** then summed up, and said before the jury could return a verdict of guilty they must be satisfied that the child had died of starvation, or at all events of such wilful neglect as, combined with starvation, had caused its death. It would not be sufficient to know that improper food had been given to it, for that was no part of the offence charged. The jury were to exclude from their minds all that had been said by the woman in the absence of the prisoner, as that was no evidence against him. His Honor then made some comments upon the evidence which had been given, and left the case in the hands of the jury.

The jury then retired for about ten minutes, and returned a verdict of not guilty.

His Honor addressed the prisoner, and said he might consider himself fortunate. The jury were quite correct in their verdict, but there was some reason for believing that he was not quite innocent, and he would advise him the next child he had to take more care of it. The woman appeared to be a hard working and industrious woman; she was not compelled to stop with him, and his Honor wondered that she did unless he treated her better.

The prisoner was then discharged.

**MANSLAUGHTER.**

**PATRICK KINCHELA** and **WILLIAM KNIGHT** were indicted for the manslaughter of **JOHN BRIGGS**, at West Maitland, on the 21<sup>st</sup> April last, by shouting and throwing stones at a horse upon which the said John Briggs was riding, and frightening it so that it threw him, and the injuries he received caused his death.

The Attorney General addressed the jury, stating that it was a painful duty he had to perform in prosecuting two boys of such tender age as the prisoners at the bar, but his duty as a public prosecutor compelled him to do so. The law was so tender of the life of a human being that unless some excuse could be shown for it the person was obliged to be presented before a jury of his country; he was however happy that his duty did not compel him to prosecute those youths for the more serious crime of murder. The learned gentleman then stated the facts of the case, and said he was sorry to hear that it was a common practice for the boys in the colony to throw stones at horses and endeavour to frighten them, not only to their own injury, but to the endangering of other persons. He hoped, however, this case would operate as a warning to others. The learned gentleman then quoted a case in which a boy was found guilty of murder; it was brought before all the judges of England; the Chief Justice reported upon it, and all the judges concurred in the law as stated by him, that the boy, although only ten years of age, was amenable to the law, and that the law must have its course upon him. The present was the first case that had occurred here, and it was brought forward more for the sake of example than punishment, and if the prisoners should be found guilty he should not press for any heavy judgement. Several cases were then quoted by the learned gentleman to show in what the offence of manslaughter consisted.

Mr. **HUSTLER** voluntarily defended the prisoners.

From the evidence which was given it appeared that on the day in question the deceased had borrowed a mare from Mr. **PHELIM HUGHES**, with the intention of going to Lochinvar, but that he first rode the mare from Mr. Hughes' place to Mr. **H. EARLY**'s West Maitland. On coming out of Mr. Early's yard on the mare, about eleven o'clock in the morning, there were five or six boys standing at the gate, who shouted and laughed at him; the two prisoners were amongst the number, and Mr. **T. EVANS** saw the boy Kinchela throw a small pebble, which struck the horse either on the flank or thigh. Mr. **N. HART**, who was talking to Mr. Evans at the time, saw the stone thrown, but did not see who threw it. From the evidence of **JOHN DILLON**, who was amongst the boys, it appeared that the deceased struck the horse with his heels to spur it on, and he attributed the mare's buck jumping to this circumstance; before that the boy Knight had pulled the mare by the tail, when Kinchela threw a stone at her. When the mare buck jumped the deceased was thrown over her head on his back, and lay motionless. Mr. Evans went up to him, and asked him if he was hurt; he said "no;" but Mr. Evans, seeing that his leg was hurt, carried him into Mr. Early's house. The boy's leg was not broken, and he appeared to get better. In about two hours afterwards he became worse, and Dr. **MALLON** was sent for, and

remained with deceased for about an hour, when he died; and Dr. Mallon gave it as his opinion that his death arose from the effects of concussion on the brain; but he did not make a post mortem examination.

After the case for the crown had closed, Mr. **HUSTLER** briefly addressed the jury on behalf of the prisoners, contending that there was nothing whatever in the evidence to show that the two boys before them had acted in any wanton manner by which the life of the boy was lost. From the evidence of Dillon, who was amongst the boys and saw the whole transaction, and was in fact the only witness who had seen the boy Knight touch the mare, it appeared that the mare's buck jumping was owing entirely to the fact of the deceased having struck the mare on her sides with his heels. Taking into consideration the whole of the evidence which had been given, and all the circumstances of the case, he did confidently submit that there was no case against the prisoners.

His Honor then briefly summed up, and the jury without leaving the box returned a verdict of not guilty.

His Honor then suitably admonished the boys, desiring them for the future to be very cautious how they acted, and not to throw stones at horses again, and to prevent other boys from doing so.

The boys were then discharged, and the court adjourned.

FRIDAY, SEPTEMBER 19

MURDER.

**BENJAMIN STANLEY** was indicted for the wilful murder of **ROBERT CAMPBELL**, at William River, on the 30<sup>th</sup> May last, by shooting him with a pistol. A second count in the indictment charged the prisoner with murdering the deceased by cutting his throat with a knife. The prisoner pleaded not guilty.

He then enquired if the witnesses whom he had subpoenaed were in attendance, and two of their names having been called, and no answer made, the prisoner put in an affidavit stating that one of them, named **G.H. FARRES**, would prove that the money which the prisoner had passed away about the time of the murder was given to prisoner by him, and that the other, **SARAH WHITE**, would give evidence to the same fact; and that as this evidence was material to his defence he wished the trial to be postponed.

The Attorney General said that he was always unwilling to press on a trial for a capital offence when the prisoner was unprepared, but he understood that both witnesses had been in attendance during the assizes, and that the woman had gone away, having told Mr. **BOYDELL** that she had nothing to say in the matter.

His Honor said she ought to have remained, as what she might think immaterial might be most material to the prisoner.

The Attorney General said there were twenty witnesses to be examined for the crown, all of whom were in attendance, and the trial had been specially fixed for this morning, and he thought before the trial was postponed some means should be taken to trace out the witnesses.

Constables were then despatched in search of them, and it was agreed to wait until their return before the trial should be postponed.

The court waited until one o'clock, when the witnesses not having arrived the trial was postponed until Monday.

INQUESTS. - An inquest was held on Sunday last, at Butterwick, before **J.S. PARKER**, Esq., coroner, on the body of **ANDREW BLACK**, and from the evidence which was given it appeared that on the previous day the deceased, in company with his son and a man named **KELLY**, was felling timber, when a tree which they had

just felled got entangled with another; the deceased went to disentangle it, when a branch of the standing tree gave way and fell upon deceased's head, and fractured his skull. The jury returned a verdict that the deceased was accidentally killed by the branch of a tree falling on and fracturing his head. - Another inquest was held on Tuesday, before the same gentleman, at the Northumberland Hotel, West Maitland, on the body of **CHARLES M'LEAN**. It appeared from the evidence that the deceased had been seen on the previous evening at the Albion Inn in a state of intoxication, where he wanted more drink, which Mrs. Reeves refused to supply him with; he went from there when the house was shut, and the next morning was found lying by the Long Bridge, on his face, and quite dead. There were no marks of violence on the body to induce the supposition that he had come to his death by unfair means, and Dr. **LIDDELL**, who examined the body, gave it as his opinion that the man had died of suffocation by laying on his face in a helpless state of intoxication, exposed to cold, and a verdict to that effect was returned. [But see 2/91, 28/09/1844, page 3a]

CASE OF LIBEL. - COHEN V. LYONS.

On Wednesday last Mr. **SAUL LYONS** appeared at the police office, Sydney, on summons, to answer the complaint of Mr. **PHILIP JOSEPH COHEN** for a malicious libel. Mr. **G.R. NICHOLS** appeared for the prosecution, and Mr. **R. JOHNSON** for the defence. From the evidence which was given it appeared that a letter or advertisement signed "Saul Lyons" was published in the Sydney Herald of the 9<sup>th</sup> inst., imputing rancorous and malicious motives to Mr. Cohen in the evidence which he had given on the inquest held on the body of Mr. **STEPHEN COXEN**, the substance of which letter tended in the opinion of the witnesses to injure the reputation of Mr. Cohen. The handwriting of the letter was proved to be that of Mr. **SIMPSON**, a clerk of Mr. S. Lyons, and was signed by Mr. Lyons himself. Its publication in the Herald as an advertisement was charged to Messrs. A. and S. Lyons's account. After taking evidence to this effect, the bench committed the defendant to take his trial for the libel, but allowed bail, himself in £80, and two sureties in £40 each.

MAITLAND MERCURY, 02/90, 21/09/1844

MAITLAND CIRCUIT COURT

CRIMINAL SIDE. - TUESDAY, SEPT. 17

SENTENCES

**JOHN BROWN**, alias **AMBROSE PROVOST**, who had been convicted of an assault with intent to murder, was placed at the bar, and his Honor addressed him at some length, stating that though the court would be fully justified in passing sentence of death upon the prisoner, there were circumstances in the case which disposed the court to take a merciful view of it. From some of the circumstances it might be inferred that the prisoner had not at any one time an intention of committing murder, but that he merely sought for an opportunity to rob the prosecutor with impunity, and that being disappointed in this he might have struck him with the intention of disabling him. These circumstances induced the court to look favourably on the prisoner's case., and he would therefore award that judgement of death be recorded against the prisoner, who would be transported out of the country for life.

**HENRY RYAN**, who had been convicted of an assault upon **THOMAS HARRISON** at Newcastle, with intent to do him some grievous bodily harm, was then brought up, and his Honor said he had made enquiries into the prisoner's case on account of the recommendation of the jury, but he found nothing in it which could induce him to pass a more lenient sentence than had been passed upon his associates;

the sentence of the court therefore was that the prisoner be transported out of the colony for the term of his natural life.

WREGISTER, 3/61, 21/09/1844.

?? HOWE'S ISLAND : 2 drowned: John Duncan, a passenger; John Sanson, seaman?

CHARGE OF LIBEL. - Mr. **SAUL LYONS**, of Pitt-street, appeared on summons on Wednesday last, at the Police Court, before Mr. **WINDEYER**, at the instance of Mr. **P.J. COHEN** of the Saracen's Head, corner of Sussex and King-streets, Sydney, charged with having published a libel in the *Sydney Morning Herald* of the 9<sup>th</sup> instant, alledging that at the inquest held on the late **STEPHEN COXEN**, "extreme malice" was "evinced in the evidence of Mr. P.J. Cohen, before the Jury", also that "the feeling of rancour and malice which I knew to exist, and which has been so frequently and publicly expressed by him, arising in consequence of disputes respecting the Rose Inn, at Maitland, which he tenanted of me, requires no further comment." After several witnesses had been examined to establish the publication of the libel, hat the words complained of were calculated to injure the complainant, and that they had been published by his authority, having his signature attached to them, the defendant declining to enter on his defence, was committed to take his trial for libel, but allowed bail, himself in £80, with two sureties in \$40 each.

CORONER'S INQUEST. - On Monday afternoon an inquisition was held at the sign of the "Sportsman", corner of Phillip and Hunter-streets, on view of the body of a young man, name unknown, which was found floating in the water near Fort Macquarie, by Constable **CARROLL**, on Friday night. The constable deposed that the body had been previously discovered by two gentlemen, who directed his attention to it. The deceased, who was well dressed, and of a respectable appearance, appeared to be about five-and-twenty years of age; but although every inquiry had been made respecting him, no clue had been obtained as to his identity. In the pockets of his clothes were found four penny pieces, a song book, a key, and pocket knife. Dr. **GAMMART**, Colonial Surgeon, having certified that death was produced by drowning, the jury, under the Coroner's direction, found the following verdict:- "Found drowned, but how, or by what means, there was no evidence to show." - The deceased has since been ascertained to be a man named **SAMUEL WOOD**, who had been discharged from the service of Mr. **T.W. SMART**, for drunkenness, about ten days previously, and had since been out of employment. It is supposed, from his previous habits of intemperance, and unsettled state of mind, that he put a period to his own life. He has left a wife and two children.

GUARDIAN, 1/28, 21/09/1844

INQUEST. - An inquest was held at Parramatta, on Friday, on the body of Mr. **THOMAS PYE**, brother of Mr. **JOSEPH PYE**, of Breakfast Creek, who had been thrown from his horse on the preceding day, and killed. A verdict of "accidental death" was returned.

**P.J. COHEN v. SAUL LYONS**: report of the libel case arising from the inquest on **STEPHEN COXEN**.

MELANCHOLY DEATH. - It is our painful duty to record the sudden death of **PROSPER DE MESTRE**, Esq., which took place on Saturday evening last, at his farm, near Shoalhaven. Mr. De Mestre had only just returned from Sydney, and from the inclement weather had endured more than usual fatigue. This, together with the unsatisfactory state of his affairs, weighed him down; a violent fit seized him on

Friday night, and medical assistance was sent for, but arrived too late. The unfortunate gentleman expired on Sunday morning, leaving a widow and a large family to mourn his loss.

INQUEST. - On Saturday afternoon an inquisition took place in one of the rooms of the General Hospital, Macquarie-street, before **JOHN RYAN BRENNAN**, Esq., and a highly respectable jury, as to the cause of death of the late **PATRICK HARNETT**, Colonial Surgeon, who had expired suddenly on the preceding evening. The following evidence was adduced:- **CORNELIUS SHEAR**, servant in the family of the deceased, deposed: That on the preceding evening the deceased was sitting at tea in the parlour, when he suddenly drew back, and an alarm was given that he was taken ill; witness ran for a doctor, and another ran for a priest; before either of them returned, Dr. Harnett was lying dead on the sofa where the jury had viewed the body with the blood on it. **WILLIAM GALVIN**, messenger to the Legislative Council, deposed: About nine o'clock on Friday evening, as I was going up the stairs in the Council Chamber, I heard a scream from Miss Harnett, and on going to ascertain the cause, she asked me if there was any medical man in the Council Chamber, as Dr. Harnett was dying; I went to see, but all the medical gentlemen were gone; I went into Dr. Harnett's residence and found him sitting in an arm-chair in the parlour; there was a great deal of blood flowing from his mouth; I got some brandy to cleanse it out, but when we put the brandy in there was a gush of blood from it. We removed him from where he was to the sofa, where he now lies. In answer to Mr. **ROGER THERRY**, foreman of the jury, witness stated that when the brandy was put into the mouth of the deceased he was alive, as his lips moved and his body was warm; but he died very soon after. Mr. **WILLIAM WILSON**, residing in Macquarie-street, deposed: I was intimately acquainted with the deceased; he has frequently complained to me within the last eighteen months of a pain in his side, which he attributed to rheumatism of the muscles in the region of the heart. On the evening of Wednesday last I was walking with him, when he complained of a pain in the chest, and on my asking the cause of it he said it arose from rheumatism in the chest; latterly I have observed, that in the afternoon and evening he constantly wore his cloak, which he did not do formerly; he was a gentleman of the most abstemious habits. **FARQUHAR M'CRAE**, M.D., deposed: I was called to visit the deceased about half-past nine o'clock by Major **CHRISTIE**; when I arrived at his residence I found him dead, apparently from the quantity of blood which he had lost; it is probable that it came from him very rapidly, and had suffocated him; I do not think that if it had flowed slowly from him that it would have caused death; it is probable that deceased was labouring under *aneurysm* of the *aorta*, and that the flow of blood was caused by a rupture. The jury expressed themselves satisfied by the evidence that death was caused by the visitation of God, and a verdict to that effect was recorded. The deceased was thirty-five years of age.

MAITLAND MERCURY, 02/91, 28/09/1844

MELANCHOLY ACCIDENT. - On Wednesday last, as the Tamar was coming up the river, when nearly opposite Mr. Hickey's, a man [**JAMES COONFORD**] in a small boat suddenly shot from the bank and attempted to cross the river; his boat struck against one of the Tamar's paddle-boxes, and the unfortunate man was thrown out by the concussion. The boat from the Tamar was lowered as speedily as possible, and every exertion made to save the life of the poor fellow, but as he could not swim every effort was in vain, and the unfortunate individual perished. No blame whatever attached to any person of board the Tamar, the accident having occurred entirely through the man's own imprudence.

MAITLAND CIRCUIT COURT  
CRIMINAL SIDE. - MONDAY, SEPT. 23  
MURDER

**BENJAMIN STANLEY** was indicted for the wilful murder of **ROBERT CAMPBELL**, at William River, on the 30<sup>th</sup> May last, by shooting him with a pistol: a second count charged the prisoner with having murdered the said Robert Campbell by cutting his throat with a knife.

The Attorney General addressed the jury, and said the prisoner was arraigned on a charge of wilful murder, and his life or death depended on the verdict which they would return; he besought them therefore to banish from their minds all reports which they might previously have heard prejudicial to the prisoner. Even if any of the jurors had any private knowledge of the case they were not at liberty to disclose it to their fellow jurors except they were sworn as witnesses and what they knew was stated on oath, so that the court and the prisoner might be put in full possession of it. Their verdict was to be given solely on the evidence which would be laid before them. He would now proceed to give them a detail of the circumstances of the case, without making any observation of his own. The learned gentleman then detailed the facts of the case, and stated that the case depended entirely upon circumstantial evidence; but it frequently happened that circumstantial evidence was more satisfactory even than direct testimony, for it usually depended on such a chain of circumstances as made it impossible for them to be connected. The learned gentleman, after a few other observations, proceeded to call the witnesses, from whose evidence it appeared that on the 30<sup>th</sup> May last, about three o'clock in the afternoon, or something later, Major **JOHNSTON**, J.P., was riding in company with Mr. **JOHN CHARLES WILLIAMS**, of Clarence Town, and when about a mile and a half from Seaham, near Mr. Warren's fence, they found a dead body lying in the road on its back; the throat was cut nearly across, and there was a pistol or gunshot wound on the lower part of the left jaw, the ball from which had penetrated the mouth, and came out in front of the upper lip. A large quantity of blood was lying about on the road in a coagulated state, and from the appearance of the body it seemed that the wounds had been inflicted about an hour previously. On searching, no property, except a small tobacco box and a few other trifling articles, was found upon the body. A day or two previously to the body being found the deceased had crossed the Seaham punt on his way to Maitland, and he was then riding on a small chestnut mare with a long tail. Blood was traced from the place where the body was discovered to a dry creek about a quarter of a mile distant, where a large quantity of blood was lying. The deceased left home on the morning of Tuesday, the 28<sup>th</sup> of May, for the purpose of going to Maitland to receive some money which he had recovered in the Court of Requests, and was expected to return on the following evening, but his family heard nothing of him until the Friday morning, when the body having been found it was recognized by his sons. The deceased was a man of about sixty years of age. The mare on which he rode did not come home until the Saturday night. About ten o'clock on the morning of the 20<sup>th</sup> May the deceased received a cheque from Mr. **HENRY GORDON**, bailiff of the Court of Requests, on the Bank of Australasia, for £11 2s.6d, being the amount he had recovered at the time he came for it. A man named **GARRETT** and another man were present, but they were not present when the cheque was given. Immediately on receiving the cheque the deceased went to the bank and got it cashed, receiving in payment six notes and five sovereigns. This was about eleven o'clock in the morning, and he left Maitland on his return home immediately afterwards. He had been talking with Garrett for about a quarter of an hour on the day previous. On the

same evening, between four and five o'clock, the prisoner and Garrett were seen talking together on the race-course by a boy named **PHILIP PRIOR**: Garrett asked the prisoner if a clearing lease would be too much work for him, and the prisoner said "Yes." Garrett said there was a man from Clarence Town stopping in Maitland who wanted a man on a clearing lease, and he had better go and see him on that night. The prisoner said he would, and about sundown he went out. This was all that the boy heard, but the two men had been talking together for some time before he went up to them. The prisoner had then very large black whiskers meeting under his chin; the boy saw the prisoner again on the following Friday morning, and his whiskers were then cut and the hair shaved off under his chin. The prisoner had been in the employment of **WILLIAM CAIN**, who resides at Nelson's Plains, and was discharged about the 11<sup>th</sup> or 12<sup>th</sup> of May, when he received an order for 18s. as payment for the wages then due to him. He was at Cain's house again on the 30<sup>th</sup> May, about three o'clock in the afternoon. Mrs. Cain asked him which way he had come, and he said through the bush, pointing in the direction which he had come; he looked very ill, and was dressed in a fustian jacket and trousers; he had then very large whiskers, and his jacket was closely buttoned up; he wanted to come back again and work with Cain, who was much surprised to see him there; he asked Cain if he would go to Mr. **DAY**, and try to get his (the prisoner's) ticket changed for the Paterson district, which Cain refused to do. Cain's house was about four miles from the place where the deceased's body was found, and about an hour's walk from the Hinton punt. Prisoner remained at Cain's house about a quarter of an hour. On the Sunday night following he was apprehended by chief constable Wood, in bed, and there were spots of blood on his hat, jacket, braces, trousers, and shirt. The prisoner passed over the Hinton punt from Maitland about half past eight o'clock on the morning of the day that the murder was committed, and told the puntman that he had no money, but that he was going to Mrs. Cain's to hunt for money; the deceased went over the punt about one o'clock on the same day, on his return home; and the prisoner returned over the punt about an hour before sundown on the same day, when he paid the puntage. Cain did not owe Stanley any money, nor did he or his wife give the prisoner any that day. The deceased was met on the Hinton road by Mr. **CHARLES BLANDFORD**; Campbell inquired from Mr. Blandford which was the way to the Seaham punt, and he directed him which way to go. Campbell was on horseback, and there was a man on foot walking with him. Mr. Blandford thought he knew the man on foot, and looked particularly at him; he stood on the opposite side of the horse that Campbell was on, and Mr. Blandford saw that the man on foot had very large whiskers; he stood on the left side of Campbell. The prisoner appeared to be the height and figure of the man that was with Campbell, but Mr. Blandford could not swear that the prisoner either was or was not the man. Mr. Blandford knew the place where Campbell's body was found, and he thought it would take a man an hour to walk to that place from the place where he met them. Shortly afterwards the same man on horseback and the man walking alongside of him passed the house of a person named **M'PHEE**, who resides about two miles from the place where the body was found, and were seen by his wife, who remembered that the day was very cold and windy, and she saw no other person pass along the road that day. The man on foot had large whiskers, and was a dark complexioned man. The prisoner Stanley was much about the size of the man who was on foot, but Mrs. M'Phee could not swear positively to him. The prisoner had been living for about as fortnight at the house of Mr. **JAMES ANTHONY**, on the race course; he received no money whilst he was there, neither did Anthony or his wife see him with money during the time he was

there. On the evening previous to the murder Stanley went away, and said he was going to look for work. He did not return until the Thursday evening, when he appeared very fatigued, and said he had had a long walk, he had been to Cain's to look for work, but had not succeeded in getting any. He was then in the clothes he usually wore, and staid at work all day on Friday, and went away on Saturday morning in the same clothes. On Friday afternoon he got his hair cut and his whiskers shaved off, which made a great difference in his appearance; and on Saturday evening he returned to Anthony's with a new suit of clothes and some money. He threw down the old trowsers on Friday evening when he went home, and asked Mrs. Anthony if she was going to wash; she said no, but if he wanted the trowsers she would wash them for him on Saturday; but he said it did not matter much, and consequently they were not washed. The prisoner was at the Waterloo Tap on the Tuesday and Wednesday previous to the murder, and slept there on the Wednesday night. He ran up a score of about four shillings and sixpence, and went away on the Thursday morning, between seven and eight o'clock, stating that he had no money, but was going to East Maitland and would pay his score in a day or two. He returned on the Friday, and paid the four shillings and sixpence that was owing, and also paid for what he had afterwards. On Saturday morning he went to the Waterloo tap again on horseback, and called for a glass of rum, for which he paid with a sovereign, and the tap keeper gave him a pound note for another sovereign at his request. The sovereigns were put in a drawer by themselves, and **SPALLS**, the tap keeper, afterwards gave them to the chief constable, who when he came to examine them found upon one a small spot of blood. When he apprehended Stanley he found five shillings in silver in his pocket, and when he had handcuffed him told him that he was apprehended on a charge of murder and robbery; he said he was not guilty of it; and did not appear to be in the least alarmed. He denied having passed any sovereigns, and when questioned further by the chief constable, he replied that Mr. Wood was neither judge nor jury, and he (Stanley) would answer no more questions. The prisoner on Saturday, June 1<sup>st</sup>, purchased goods at Mr. Rickard's stores to the amount of £2 9s. 0d., for which he paid with a sovereign and two £1 notes, receiving change in silver; and on the same morning he purchased a pair of boots from Mr. Clark, shoemaker, of West Maitland, for which he paid with a sovereign, and received five shillings in silver in change. On the same evening he treated two men to a glass of grog each at Reeves's, for which he also paid with a sovereign; he was then on horseback. Between one and two o'clock of the same day he gave a couple of dresses to a woman who lived there of the named of **SARAH WHITE**. His hair was cut, and his whiskers shaved off by Mr. **RANDALL** the hairdresser, on the day previous.

The case for the crown having closed, Mr. Hustler, who voluntarily defended the prisoner, addressed the jury at considerable length, He said he felt much embarrassed at the position in which he was placed, and at the responsibility he had taken upon himself in defending the prisoner at the bar, and he would much rather have said nothing to the jury, especially as he had had no opportunity of communicating with the prisoner, and from the short notice he had had was so ill-prepared to defend him. He would, however, offer a few observations on the peculiar circumstances of the case, as they had been given in evidence; for though these circumstances were of a peculiar nature, and taken separately might make out a strong case against the prisoner, yet conjointly they might all be accounted for irrespective of the offence with which the prisoner was charged. It unfortunately happened that the prisoner at the bar bore the reputation of being a notorious character, and therefore he was the likeliest man upon whom to fix a crime of this nature. He had no doubt, however, that

the jury would discard from their minds all they might previously have heard to the prejudice of the prisoner, and judge the case solely by the evidence which they had heard. He must say that the circumstances of this case did not show the prisoner to be a bad character, but the contrary. They had seen that he was earning his livelihood by honest industry; and even after the suspicion of this crime was attached to him he remained at the same place kindly assisting Anthony and his neighbours in ploughing, although he received no money for his work. They had seen that he was anxious to obtain employment, and that he went about seeking for it. With respect to the conduct of the prisoner as regarded this offence, he would observe that on Monday and Tuesday nights he slept at Anthony's, where he was at work; he was there ploughing also on the Wednesday, and that night he slept at Wilkinson's tap. He would further observe that when questioned by any persons as to where he had been or what he had been doing he had invariably spoken the truth; a circumstance which was greatly in his favour. The prisoner slept at Wilkinson's on Wednesday night; early on Thursday morning he went away, and they had no account of where he was or what he was doing during a great portion of the day; he might be in the commission of some unlawful act, but was there anything in the evidence to induce the jury to say that he was engaged in the unlawful act with which he now stood charged? The evidence brought to identify the prisoner as the man who was seen walking with the deceased was very slight. The ferryman at Hinton punt was by no means clear in his evidence. In his endeavours to identify the old man he had called a chestnut mare a bay mare, and a long tailed horse a short tailed one; his recollection was not clear as to the prisoner, and when asked by the learned Attorney General to be more particular, he said he knew but little; he was too busy to take much notice, and he could not recollect all the persons that passed over the punt. When he heard of the murder, having some indistinct recollection of these parties passing his suspicions attached to the prisoner, and what with thinking upon this, and hearing the rumours which had been circulated, he had at length brought himself to believe that they were the parties. No doubt the prisoner did cross the punt on that day, and there could be no doubt that the deceased did also, but there was no evidence to connect the prisoner with the deceased. The prisoner crossed the punt soon after eight o'clock in the morning, some hours before the deceased had received a farthing of money, and this was a circumstance which he was sure would have due weight with the jury; for supposing the prisoner left Maitland with the intention of getting possession of the old man's money he had not used even ordinary caution; he had gone away before he knew or could know that the old man had got his money. They next came to the evidence of Mr. Blandford, who met the deceased riding along the road to Seaham, and a man walking alongside him. Mr. Blandford could not swear that the prisoner was that man, all he could say was that he was very like him, and Mr. Blandford might be mistaken; his evidence was however to be taken in connection with other circumstances. The prisoner had been for some time living at Cain's; he must therefore have been acquainted with that part of the country; yet the old man, in whose company it was presumed the prisoner was, stopped Mr. Blandford to enquire from him the road to the Seaham punt. If the prisoner has been the man who was in company with the deceased he would have said that he knew the road, and that there was no occasion for the old man to enquire; he would have been anxious to prevent such an enquiry, because it gave Mr. Blandford the opportunity of observing him. He would now offer an observation or two with respect to the time. Mr. Blandford met the two men about half-past one o'clock, at a distance of four miles from the place where it was supposed the deceased was first wounded; an hour at least must have

elapsed before they could arrive there at an ordinary rate of walking. The body was found a quarter of a mile from this place, and the surgeon had stated that from the effects of the gunshot wound and the great loss of blood deceased must have remained at the place where he was shot in a state of insensibility for nearly half an hour. Now it would take up no inconsiderable portion of time for the deceased to go from the place where he was shot to where the body was found, for the surgeon was of opinion from the marks which he saw on the road, that he did not ride there, nor that he was carried or dragged there, but that he walked there. At this place he was again seized by the assassin, and his throat cut; two attempts having been made to cut it, all of which must have taken up some time; so that supposing the man Mr. Blandford met walking with the deceased was the murderer they could not have arrived at the place where the shot was fired before half past two; the deceased must have remained there in a state of insensibility for at least a quarter of an hour, and he could not have been much less that the same period in going to where the body was found, which would make it three o'clock before the murder was perpetrated; but Major Johnstone and Mr. Williams found the body at three o'clock, when it was proved that the prisoner was at Cain's; the body was quite cold and appeared to them to have been dead an hour. It might, however, be reasonably supposed that the parties met by Mr. Blandford separated at the junction of the Paterson and Seaham roads; that then the deceased passed on at a brisk trot, and was met by some other person that the man with whom he had been walking, and that this person committed the murder. There was no other way of reconciling the apparent difficulty, and in fact to make the witnesses agree with each other the jury must suppose this to have been the case. They next found the prisoner at Cain's house, which he thought showed that he had nothing to do with the murder; for was it at all likely that a man who had just committed a murder and left the body of his victim lying on the road would go to a place where he was so well known as the prisoner was at Cain's, and that place only four miles from the place where this deed of blood had been perpetrated? And when the prisoner was asked which way he had come, was it likely, if he was the murderer, that he would point in the very direction where the body was then lying, and say that he had just come over the mountains? Such a thing was not at all probable, and there was nothing against the prisoner in his being on that day in Cain's house. He was there for the purpose of seeking employment, and was it likely that he should wish to go to work on the very spot where the crime had been committed, and where the murderer was the most likely to be discovered? Nay more, he wanted his ticket to be transferred to that very district, and such a desire as that did not evince guilt; it was not agreeable to the usual course pursued by guilty men. The spots of blood said to be found on the prisoner's clothes were very small and indistinct; something had certainly been said about a mark upon his trousers, where a knife with blood upon it appeared to have been wiped, but if that had been so, would he have gone immediately to Cain's, where it must have been seen? With respect to the clothes upon which they had been told were those damning marks of blood, the prisoner had openly changed them; they were lying in his bedroom when he was apprehended by the chief constable; he had given the trousers to Anthony's wife to be washed, and when she said she was not going to wash for a few days, but would wash them the next day if he wanted them, he at once replied that she need not mind. Why if he knew that marks of blood were upon them, which would have condemned him, he would at once have jumped at the opportunity thus afforded of having those marks obliterated, and the proof which they would have afforded against him at once and forever have been got rid of. Great stress had been laid upon the circumstance of the prisoner having changed five sovereigns, and his

having no money previously; but he would call witnesses to show that the old man had changed one of his sovereigns, and that consequently he could only have four, so that all the five which were changed by the prisoner could not have belonged to the deceased. This circumstance only come (sic) to his knowledge since the trial had commenced, but the witnesses were now in court, and he should call them. If this circumstance was proved there would be a failure of the point so much relied upon by the crown, and the prisoner would be entitled to the benefit of that failure. He had now touched upon the principal topics, and had done the best he was abler for the prisoner; it might be perhaps that instead of benefitting he had injured the prisoner's case, but what he had done had been done with the best intentions; and he would now sit down, and call his witnesses, leaving the case in the hands of the jury, who he was sure would deal with it as just and impartial men.

The learned gentleman then called

**WILLIAM ANDERSON OGG**, who deposed that he was in Mr. T. Skinner's stores at Morpeth, and he remembered the old man coming there on a Thursday in the month of May, to purchase an augur and file, for which he gave a sovereign, and received change in silver. This was about one o'clock in the day. Witness put the sovereign in the till, and to the best of his recollection it was the only sovereign taken that day.

This witness was cross-examined at great length by the Attorney General. During the cross-examination he said he would not swear that the old man paid him a sovereign, but he had some indistinct recollection of a sovereign passing between them: he did not remember anything of a pound note. He never mentioned the circumstance either to Mr. Skinner or any other person before now. When Mr. Skinner spoke to him about it he did not at first recollect the circumstance, but he did subsequently.

**Mr. T. SKINNER** knew the deceased, Robert Campbell; he was a customer at witness's stores at Morpeth; witness saw him there on the day he was murdered, about one o'clock; he purchased an augur and file, and either Ogg or the porter told witness that he paid for them with a sovereign. Witness had never thought of the circumstance since, but happening to be in court today, previous to any mention of sovereigns, he accidentally said to the gentleman who sat next to him that deceased called at his shop on the day he was murdered, and changed a sovereign. This was communicated to Mr. Hustler, who had some conversation with witness, the result of which was that he went to fetch the young man.

This witness was also cross-examined at great length by the Attorney General.

This closed the prisoner's case.

The Attorney General replied at some length, glancing at the principal facts which had been given in evidence against the prisoner, and stating that the defence which had been set up left those facts wholly untouched.

His Honor then summed up, reading nearly the whole of the evidence, and commenting upon it at great length.

The jury retired for about ten minutes, and returned a verdict of guilty.

His Honor then in a solemn and impressive manner passed sentence of death upon the prisoner, and said there could not be any doubt that he was guilty of the crime of which he had been convicted; exhorting him to repentance, and entreating him to make his peace with God, as his time in this world would be but short.

The trial lasted until nearly ten o'clock at night, and the prisoner throughout the day appeared to evince very little concern, looking about him with an air of great indifference as to the trial. On sentence being pronounced upon him, he said he was ready to die any time, and would as soon die in twelve hours as live longer.

This case was the last for trial this assizes, and the court consequently adjourned *sine die*.

**SUSPICION OF MURDER.** - In our last number we stated that an inquest was held on the 17<sup>th</sup> instant, on the body of **CHARLES M'LEAN**, who was found that morning lying on his face in the road beneath the Long Bridge, West Maitland; and that the jury returned a verdict of died by suffocation from lying in his face in a state of intoxication. On Thursday, the 19<sup>th</sup> instant, he was buried on Mr. Lang's farm, Dunmore, where he had been residing. While the burial was proceeding, some of the persons present pointed out to **ANN M'LEAN**, daughter of the deceased, that a man was approaching who had been drinking with her father the night before he was found dead. She observed that the man when he came near altered his course as if to avoid passing close by the burial party; she went up to him, and found that the hat that he was then wearing was the same her father had worn when he left home for the last time, and which she knew well from the ribbon round the edge having been sewn on by herself, and previously worn by her. She took it from the man, whose name was **JAMES GIBBS**, and asked him how he came by it. He said she was mistaken, and he could find the man in two minutes from whom he got the hat, and went away for that purpose towards the huts of Mr. John Dickson's men, leaving the hat in her hand. In about a quarter of an hour he returned alone, but persisted that he could readily find the man from whom he obtained the hat, and proposed to leave it in the meantime in the hands of Mr. **DICKSON**, who had come up while he was absent. To this she agreed. The above facts were deposed before the bench by Ann M'Lean on the 20<sup>th</sup>, and on the 21<sup>st</sup> she stated that her father had bought the hat about three months ago from Mrs. **BAKER**, at Morpeth; witness was positive as to the identity of the hat, and was certain that she had never before seen the hat which was then shown her as having been found lying by her father when he was found, Mrs. Baker corroborated the evidence as to the purchase of the hat, but could not swear that the hat found on Gibbs was the one she had sold to deceased, though she thought it was like it. **JEREMIAH BUNN**, the man from whom Gibbs said he obtained the hat, stated on the 19<sup>th</sup> that Gibbs had slept in his hut the night but one before, and that on the next morning, before Gibbs went away, they exchanged cabbage-tree hats; the hat claimed by Ann M'Lean as having been the property of her father was the same that he (Bunn) gave Gibbs on the morning of the 17<sup>th</sup>; he was certain of it; he obtained the hat about three or four months before from a man at Bolwarra, named Joe. Mrs. Bunn, his wife, also was positive as to the identity of the hat, from having altered the ribbon herself before Gibbs took it; she said her husband got the hat about six weeks before from **JOE the gardener**, at Bolwarra. On the 24<sup>th</sup> **KENNETH M'CRINNAN** deposed that on Wednesday evening, the 18<sup>th</sup> instant, Gibbs came to him and told him that Charles M'Lean was dead; witness asked, "How came that?" Gibbs replied that he died smothered with drink; that an inquest had been held on his body yesterday; and that constable **GRANT** had desired him to inform the people at Dunmore of it; Gibbs also told witness that he had been in company with deceased drinking on the evening before he was found dead; witness believed that the hat found on Gibbs to be the one deceased was in the habit of wearing; it was much more like it than the other one produced as found lying by deceased. Both Gibbs and Bunn were remanded till Thursday, the 26<sup>th</sup>, for further evidence. On Thursday morning they were again brought up, and a third man with them, named **WILLIAM HUGHES**, when from the evidence then adduced it appeared that on the Monday evening, the day previous to M'Lean being found dead, he went into Mr. Reeves's tap, in company with Hughes, and called for a gill of rum, which Mrs. Reeves refused to serve him, stating that from

his appearance he already appeared to have had sufficient; but she served a glass to Hughes, who was quite sober; and at nine o'clock, when the house was shut up, they both went away. The prisoner Bunn still persisted that he got the hat from Joe the gardener, who was called, and stated that he gave Bunn a cabbage tree hat about six or seven weeks ago, for having brought him some manure; and he had no doubt he should know it again if he saw it. About a dozen cabbage tree hats were produced, among which was the one in question, but the old man was unable to identify it, and said he thought it was not there. Another man named **JAMES ALLEN** was then called, who said that he knew the hat well, from having frequently seen Bunn wear it, but he also was unable to pick it out from among the rest. **JOSEPH MARKWELL** was then called by Bunn, and stated that he knew the hat, and on the hats being produced he picked it out, stating that he knew it principally on account of the lowness of the crown. This evidence having been given, and the prisoner Hughes wishing to call some witnesses in his behalf, the case was remanded until yesterday. They were brought up again yesterday, but nothing further was elicited, and they were remanded until this morning, for some further evidence which it was thought would be obtained.

GUARDIAN, 1/29, 28/09/1844

ATTEMPTED SELF-DESTRUCTION. - Between ten and eleven o'clock on Friday night, **HENRY REID**, gravestone cutter, late of Park-street went into Mr. Turton's public-house the "Barley Mow," corner of Castlereagh and Park-street, and being apparently unwell, he was shown into the parlour, when Mt. Turton, who happened to be at home, and was shutting up, had his attention called to Reid, who appeared very ill, and insisted on remaining in the house for the night; he was ultimately accommodated. After which Mr. Turton happened to go in the direction of the water-closet, and on looking in he observed an ounce phial with some red liquid in it, and apparently newly emptied; he immediately accused Reid of having taken poison, which he at first denied, but afterwards admitted having done so, on which he was conveyed as quickly as possible to the General Hospital, where, after considerable difficulty, the stomach-pump was successfully applied, and a considerable quantity of laudanum having been drawn off the stomach, proper antidotes, were administered and by two in the morning he was pronounced out of danger.

INQUESTS. - Yesterday an inquest was held at "The Sportsman," corner of Hunter and Phillip-streets, on the body of a man which had been floating near Fort Macquarie, on Friday last. The following evidence was given: **WILLIAM CLARK**, Overseer of the Colonial Engineer's boat's crew, deposed - On Friday last, a gentleman passing by where witness was told him that he had seen a body floating past in the water; that he had got it shore and placed it on a bank near the new jetty, below Government house; witness went and found it at the spot pointed out; it was dressed in a colonial tweed coat, a yellow waistcoat, and dark cassimere trousers; there was also a hat close by the body! There was a mark on the nose and forehead? but witness understood from his informant that before he drew the body ashore it struck against the stones; witness did not know the gentleman who told him. **BARRELL**, a constable in the Sydney Police: Had searched the clothes on the deceased, and found a small key, a double bladed clasp knife with horn handle, the pen blade broken, a small pocket song book, marked price sixpence, and entitled the Little Warbler - volume 3 - Irish songs. There was also four-pence half-penny 1 n coppers, and two cigars in the pockets; the body had been kept from Friday to allow enquiry after it to be made, but no person had recognised it. Mr. **ALEXANDER**

**GAMMACK**, Colonial Surgeon: Had examined the body and found no external marks of violence, except a few bruises on the head and face, which it was probable had been caused by the body being knocked against the rocks while in the water. The body presented the ordinary appearance of bodies found drowned, and witness was of opinion that death had been caused by drowning. It had been but a short time in the water when found on Friday; the face had been shaved that morning, so that it could not have been longer in the water. A verdict of found drowned was recorded.

Another inquest took place at the "Labour in Vain" public-house, Sussex-street, on the body of **JOHN MAY**, aged about sixty-four years. The following evidence was given: **MARIA DOREY** lived with the deceased in Sussex-street; about a fortnight ago he was seized with a pain in his head and chest, from which he recovered, and up to yesterday night was in his usual state of health; at night he took a glass of porter, and soon after went to bed, when he became very ill, and complained of his head and a doctor was sent for, who bled him, but he soon after expired. Mr. **THOMAS JOHN MARKHAM**; surgeon, had been called in about two o'clock on Monday morning to see deceased, and found him labouring under symptoms of apoplexy, and apparently dying; witness bled him, but he expired during the flow of blood, before the bandage was removed from his arm; in witness's opinion death was caused by apoplexy. A verdict of died by the visitation of God was recorded.

WREGISTER, 3/63, 05/10/1844.

NAMED: Vigors, Burdett and Rankin, page 174.

MAITLAND MERCURY, 02/92, 05/10/1844

INQUESTS. – An inquest was held on Wednesday, September the 25<sup>th</sup>, before **J.S. PARKER**, Esq., coroner, on the body of a man named **RICHARD BRYHAM**, at Haughton, on the Upper Paterson. From the evidence it appeared that the deceased was a person of intemperate habits; and he had complained of being unwell for a day or two before his death. He died about half past six o'clock on the morning of the 24<sup>th</sup>. Dr. **PARK** made a post mortem examination, and certified that the deceased appeared to have been labouring under acute inflammation of the lungs, particularly the left side, which was completely saturated with blood, and there was also an effusion of water into the pericardium. The jury returned a verdict of died by the visitation of God. - Another inquest was held on the estate of Courance, in the parish of Allnwick, on the body of a man named **JAMES COONFORD**. The deceased, it appeared, was on the 25<sup>th</sup> September crossing the river nearly opposite to Mr. Hickey's at the time the Tamar was coming up; a person on the paddle box called to him repeatedly to keep off, but he persisted on coming "stem on," when the boat struck against the paddle box, and was upset. Every exertion was made to save the man, the steamer being stopped, and a boat lowered in two minutes after the accident had occurred, and no blame appears to have attached to any persons on board. The jury returned a verdict that the deceased "came by his death in consequence of his boat striking against the side of the steamer Tamar by which he (at the time incautiously standing on the thwart of his boat) was precipitated into the water, and accidentally drowned, and no blame is attributable to the officer in charge of the steamboat." - A third inquest was held at Miller's Forest, on Tuesday, October 1<sup>st</sup>, on the body of **WILLIAM WILCOCK**. The deceased, it appeared, was labouring under sickness, and in a fit of temporary insanity jumped into the river, and was drowned before assistance could be procured. The jury returned a verdict that the deceased drowned himself while labouring under a fit of temporary insanity.

SUSPICION OF MURDER CASE.

The three men, **BUNN, HUGHES**, and **GIBBS**, who have been some days in custody on suspicion of murdering **CHARLES M'LEAN**, have undergone several examinations during the week, but no further evidence has appeared against them than was given in our last. The chief point against Bunn appears to be the possession of the hat, which M'Lean's daughter positively swears to as being the property of her deceased father. Against Gibbs the evidence is that he was seen in company with M'Lean on the day of his death, and some spots of blood were found upon his clothes, which he accounted for by saying that a day or two previously his ears bled; but this he afterwards denied, and said he got the blood on his clothes in attempting to separate two policemen who were fighting at the Red Cow public house the night before. Hughes was also seen in company with the deceased on the night of his death. Both these men state that they left Mr. Reeves's house about nine o'clock on the evening that M'Lean came to his death, and went direct from there to Murphy's lodging house; but from the evidence of Mrs. Murphy it appears that neither of them came home that night until ten or eleven o'clock. An old man in company with another called at Mr. Yeomans's on the night M'Lean died, but nothing can be ascertained as to whether or not this old man was the deceased or not. The men were all brought up again for examination yesterday, but nothing further was elicited. Bunn was allowed bail, but the other two are still detained in custody. All the depositions taken in the case are to be forwarded to the Attorney General, and the two men, Hughes and Gibbs, will be detained until the Attorney General's answer has been received. [See 2/93, 12/10/1844; ... "The two men who were drinking and fighting in the public streets belonged to the border and not to the mounted police." – response to an anonymous letter "A resident of Maitland."]

GUARDIAN, 1/30, 05/10/1844

A man named **BURROWES**, formerly a carrier between Bathurst and Sydney, and lately residing between O'Connell Plains and the Fish River, has been missing for the last three weeks under strong suspicion of having been murdered. The Mounted and Bathurst Police are out in search, to endeavour to trace Burrowes or his body. Another man, a shepherd of Mr. **PATRICK WHITE**, has also been missing for ten or twelve days under suspicious circumstances.

WREGISTER, 3/64, 12/10/1844.

NEWCASTLE. - On Thursday evening last, Mr. **FLOOD**, Post Master at Newcastle, was stabbed in the neck and body in several places, with a knife, by a black servant in his employ. Mr. Flood was not expected to survive the effects of this outrage when the *Rose* left yesterday.

**Central Criminal Court.**

Wednesday.

Before his Honor Mr. Justice a'Beckett.

**LEVI BRENT**, late of Windsor, labourer, was indicted for the wilful murder of **CATHERINE M'GOWEN**, at North Richmond, on the 9<sup>th</sup> of July last, by stabling her in the throat with a knife, thereby inflicting a wound from the effects of which she expired on the 29<sup>th</sup> of the same month. The Jury acquitted the prisoner, on the ground that he was insane at the time the offence was committed. He was then ordered to be remanded until the Governor's pleasure be known.

MAITLAND MERCURY, 02/93, 12/10/1844

**ACCIDENT.** - On Tuesday evening, the 1<sup>st</sup> instant, as a man named **JOSEPH FERRIS**, who resided at Ravensfield, was returning home from West Maitland with a dray and a team of bullocks, when near the Long Bridge he stood up on the dray, upon which he was riding, to strike one of the bullocks, when he fell off. The wheel of the dray passed over the lower part of his body. He was conveyed home, and the next morning Dr. **BEARDMORE** was sent for to attend him. The injuries he had received, however, were such that he died on Wednesday evening. An inquest was held on the body on Friday, before **J.S. PARKER**, Esq., coroner, when from the evidence which was given it appeared that deceased while in Maitland had been drinking, and was not quite sober when accident occurred. The jury returned a verdict of accidental death; occasioned by the deceased having been previously drinking.

**SUSPICION OF ARSON.** - Two men are now in custody on a charge of setting fire to a hut belonging to a small settler at Four Mile Creek, on the Hexham Road. It seems that the family who reside in the house were all out at the time the fire occurred, except a child [**STEPHEN MAHONY**], which was burnt to death. An inquest was held upon the body at Mr. Keddie's, East Maitland, on Wednesday and Thursday last; but the investigation was not brought to a close, the inquest being adjourned until Monday.

**BUSHRANGER SHOT BY MOUNTED POLICE.** - On Saturday, the 28<sup>th</sup> September, troopers **HODGSON and ORMSTON**, belonging to the mounted police stationed at Mudgee, who had been for some time in pursuit of two notorious bushrangers named **ROURKE and M'INTYRE**, came up with the at the station of a man named **MALONEY**, between Dabie and Mudgee. Both the bushrangers fired at them, and then made off towards a rocky ridge. The policemen followed, and on coming up with the men, as they would not surrender, the troopers fired. Rourke was shot through the shoulder, and ran about three hundred yards, when he fell, and died in an hour afterwards. M'Intyre effected his escape. The troopers found the following articles:- One double-barrelled fowling piece, two pistols, twenty rounds of ball cartridge, one hundred caps, two horses with saddles, bridles, &c., six superfine cloth coats, four bolts of long cloth, and a quantity of other articles, which had been taken from the dray of Mr. **HENRY BAILEY** the night before.

MAITLAND MERCURY, 02/94, 19/10/1844

MAITLAND BENEVOLENT ASYLUM.

REPORT.

**SAMUEL REYNOLDS** mentioned again.

**THE MURDER AT THE WILLIAM.**

On Saturday last **BENJAMIN STANLEY**, who was convicted at the last assizes of the murder of **ROBERT CAMPBELL**, was informed by the governor of Newcastle gaol that he was ordered for execution on Thursday, the 24<sup>th</sup> of October instant. Up to that time he had refused to confess any participation in the murder, but in the course of that day he confessed, both to Major **CRUMMER** and to the Rev. Mr. **WILTON**, that he was an accomplice in the intended robbery, but did not commit the act himself, or see it committed. His tale is that he was informed by **GARRETT**, who was in the employ of Mr. **GORDON**, bailiff to the Court of Requests, that Campbell had received a considerable sum of money, which he would take home with him by a particular road. That he, Stanley, then agreed to rob Campbell with an acquaintance of his named **MILLINGTON FARRAH**, commonly known as **Sloan's George**, with whom he went over the Hinton punt on the day Campbell was to return home, and having pointed out to Farrah the old man, and told him to be sure not to hurt him, he

himself went away to Cain's house, leaving Farrah to commit the robbery alone. In an hour or so he returned, and met Farrah near the same place where he had parted with him, when Farrah gave him his and Garrett's share of the money Campbell had taken with him, when they again parted to return to Maitland by different routes, Stanley returning by way of the Hinton punt. That in the evening he again met Farrah by appointment near Mr. Brackenreg's, and going together thence across the race course to their homes, he received from Farrah the pistol with which Farrah had shot the old man, with an injunction to plant it at once, and to tell Farrah afterwards where he had planted it, as Farrah would have to return it to Payne. That he complied with this request so far as to plant the pistol, but had no opportunity of seeing Farrah to tell him of the spot before he was himself arrested by chief constable Wood.

The woman **SARAH WHITE**, with whom Stanley formerly cohabited, and of whom he had said after his conviction that if he ever confessed anything he should confess it to her, being at the same time also in Newcastle gaol, on the same afternoon he made to her a similar statement, going more into detail, and differing only in slight particulars. But he also told her the spot where the pistol was planted, describing it minutely as laying under a particular log in the creek at the bottom of the race course, near the fence that crossed over to Anthony's ground, where Stanley was then stopping; telling her that if she put her hand quite underneath the log, where there was a little chip off it, she would find the pistol there. This being made known to the authorities at Newcastle, she was forwarded the next morning (Sunday) by the steamer to the bench at Maitland, and a letter also sent enclosing Stanley's confession. The police magistrate and several constables went with her on Sunday afternoon to the place where Stanley had told her to look for the pistol, and when they arrived at the spot, she pointed out the log resembling the one Stanley described, and constable **KERR** putting his hand underneath pulled out the pistol, which appeared to have been laying there some time, and the hammer of which did not seem to have been raised since it was last fired off. Sarah White said she had never seen the pistol before, to her knowledge.

Immediately on receipt of the letter the police magistrate had despatched two constables to apprehend Farrah, and the two constables, taking a ticket of leave holder with them, went at once to Farrah's house, and found him sitting outside his door, sharpening a butcher's knife. The constables put handcuffs on him, and then told him why they apprehended him. Farrah replied "Yes, I suppose this is because I wouldn't go and swear for Stanley," On being asked by the police if he had any firearms, he said "No, nor ever had none," and being asked again, told them they were welcome to search his place, for he had none. The constables searched the place carefully, but found no firearms there.

The next day (Monday) Farrah was brought up before the bench, and Sarah White's deposition, taken as to Stanley's confession to her at Newcastle on the Saturday, in which the only material variations from his confession above were that the money was parted on the race course in the evening, and that he did not tell her he went over the punt with Farrah, but met him at the Paterson side. The witness swore she had never seen the pistol till she saw the constable draw it from under the log.

Constables Kerr and Walker having deposed to apprehending Farrah on Sunday, and to his having declared that he had no firearms, nor ever had any.

**WILLIAM PAYN** deposed that he lived in West Maitland, and was a tallow chandler, but for nearly six months had been at service at Captain Pike's, at Merton, from which he returned a week or two ago. That he had known Farrah two or three years, and that some time in March last Farrah came into his house, and while talking

saw a pistol above the mantel piece, which he took down, and after looking at it threw down half a crown, and said he should take it. Witness did not want to sell it, but as Farrah seemed anxious to have it he sold it to him; it was then clean, and in good order. It was a percussion pistol, the barrel screwing in, having a small silver plate in the stock and a small piece chipped out of the lock. The pistol produced resembled it in all those particulars, and was just like the one he sold, but he could not positively swear it was the same.

Farrah was then remanded for further evidence.

Garrett has been in custody ever since Stanley was apprehended, and was committed with him as an accessory, but he was not put on trial at the assizes.

#### SUSPICION OF ARSON.

The inquest on the body of **STEPHEN MAHONY**, who was in his father's hut at Four Mile Creek when it was burnt down on Monday, the 7<sup>th</sup> instant, and whose body was found nearly consumed in the ashes of the hut as soon as search could be made, was resumed on Monday last, and continued on Tuesday and Wednesday, when the jury returned a verdict "That the said Stephen Mahony came to his death by fire, but the jury do not consider the evidence sufficient against **JOHN and JAMES PEEDE** for the jury to consider they have committed the act." We mentioned in our last number that these two men were in custody on the charge of having set fire to the hut, and a very long and patient examination was gone into, in which a great number of witnesses were examined. It appears the hut was on a rising ground, and the father and mother had both quitted it, the mother only half an hour before their labourer, **THOMAS CONWAY**, on ascending a small knoll below which he and the father had been at work, and Mrs. Mahony talking to her husband, discovered the house to be on fire. Immediately all three rushed towards it, but on arriving there found the flames so fierce that the distracted father was repulsed again and again in the attempt to go in and search for his child. The two Peedes had been seen at work near the hut a short time before the fire took place, but neither of them were to be seen during the fire; and as some grudge existed between them and Mahony, suspicion was excited that they had robbed and fired the hut. There was no evidence, however, to prove that they had done so, and they were discharged.

#### EXECUTION.

On the 11<sup>th</sup> instant Mr. **FIELD**, agreeably to instructions he had received from the High Sheriff, informed **BENJAMIN STANLEY**, at present under sentence of death for murder, that the Governor had fixed Thursday, the 24<sup>th</sup> instant, for his execution.

**MURDEROUS ASSAULT.** - On Thursday last, the 11<sup>th</sup> instant, verry early in the morning, our postmaster, Mr. **FLOOD**, narrowly escaped being killed by a **man of colour named HAMLET**, who has been some time in his employ. It appears the man was thought cranky, but harmless: however on the morning of Friday, he, in a moment of irritation, attacked his master with a common case knife, and before he could escape inflicted no less than nine severe wounds on his head, face, and neck; and there is little doubt, had not the knife fortunately bent against a bone, Mr. Flood must have been murdered on the spot, it being so early that few people were about, and the black is a young and very powerful man. Mr. Flood still lies in a very precarious state, and Hamlet is of course in custody, until the wounded man can appear against him.

WREGISTER, 3/65, 19/10/1844.

**Central Criminal Court.**

Friday, September 20.

**PATRICK RYAN** was indicted for the wilful murder of **ROBERT HOWELL**, a prisoner of the Crown, by stabbing him with a knife, near to the lumber yard, at Norfolk Island, on the night of the 10<sup>th</sup> of February last. Not Guilty – discharged.

EXECUTION. - **HENRY ATKIN**, who had been convicted of wilful murder at the last Assizes, underwent the extreme penalty of the law, at Berrima, on Tuesday the 5<sup>th</sup> instant, at ten o'clock A.M., within the precincts of the gaol, and in the presence of a large concourse of the inhabitants. Every effort had been used by the Rev. Mr. **STONE** and others to persuade the unfortunate man to a confession of his guilt, but without effect. He protested his innocence on the scaffold, and declared, in the most solemn manner, that the crime with which he was charged, and for which he was now to suffer, was committed by two bushrangers of the names of **RYAN** and **WILLIAMS**.

ORDERED FOR EXECUTION. - **BENJAMIN STANLEY**, convicted of murder at the late Maitland Circuit Court, has been ordered to be executed on Monday next, the 21<sup>st</sup> inst., and **FREDERICK GASTON alias ABRAHAM GASTON**, convicted of murder before the last Bathurst Circuit Court, has also been ordered for execution at Bathurst on Thursday, the 31<sup>st</sup> instant.

WREGISTER, 3/66, 26/10/1844.

THE CONVICT RANKIN. - This old man is now at Cockatoo, and the orders are that he is to be sent with the first batch to Hobart Town.

MAITLAND MERCURY, 02/95, 26/10/1844

#### THE MURDER AT THE WILLIAM

In our last we gave the statement which had been made by Benjamin Stanley, who is under sentence of death for the murder of Robert Campbell at the William River, and the subsequent apprehension and examination of Millington Farrah, who was remanded for further evidence. On Saturday Farrah was again brought up, and the evidence of Mrs. **M'PHEE** was taken. She deposed that the prisoner Farrah was not so large a man as she saw walking with the old man, and the man who was with Campbell had larger and blacker whiskers than the prisoner, and to the best of her belief he was not the man. Mr. **EDWARD TURNER** stated that the prisoner Farrah was working for him, and though he could not speak positively, he had a strong impression on his mind that he was not absent from work any day during the week the murder was committed; and **JAMES NOBLE**, a man also in the employ of Mr. Turner, stated that he had particular reason for knowing that on the Thursday in question Farrah was at work with him all day. It appeared that a sovereign had about the time in question been seen in the possession of Farrah, but this was accounted for by a man named **WILLIAM BOULTON**, who stated that he had purchased the occupancy of a farm and a pig from the prisoner for £5, for which he paid with a sovereign and four notes, and also produced a receipt for the same, dated May 12<sup>th</sup>. This statement was confirmed by a person named **ROSSITER**, who witnessed the receipt. The puntman at Hinton was also examined, but he had no recollection whatever of such a man as Farrah having crossed the punt. This closed the case against the prisoner, who then made a statement to the effect that he was not aware of any other reason for Stanley bringing this charge against him, except that he (Farrah) would not come forward and swear at Stanley's trial that Stanley got the sovereigns which were traced to him from Farrah. A man who had been discharged from Newcastle gaol before the trial went to Farrah at the stockyard, and told him that Stanley wanted him to swear this. With respect to the pistol which prisoner bought

from Payn, it was stolen from his hut, together with a pair of new boots, a good while before the murder of Campbell. This closed the case, and the prisoner was allowed bail to appear when called on; himself in £100, and two sureties in £50 each. Bail having been procured, the prisoner was discharged from custody.

**THE MURDERER STANLEY.**

This unhappy man, who was ordered for execution on Thursday last, has been respited to Thursday, the 7<sup>th</sup> of November, to allow time to enquire into the allegations against Garrett and Farrah contained in his confession, but not the slightest hope is held out of mercy. Farrah has been discharged on bail, the evidence against him being very slight; Garrett still remains in custody.

**THE ASSAULT ON MR. FLOOD.** - Mr. **FLOOD**, we are happy to hear, is recovering; Hamlet was committed for trial yesterday.

Mr. **FIELD** this day received instructions to inform **BENJAMIN STANLEY** that the day of his execution is fixed for Thursday, the 7<sup>th</sup> November next.

**BEE, No. 2, 26/10/1844**

An inquest was held on Monday, in Edward Hancock's public-house, the Young Princess, Fort-street, on the body of **WILLIAM LUNN**, a boatman, who had been found in the water, about twenty yards from Windmill Ferry Stairs, on Sunday morning. The following evidence was given before the Coroner:- **CAROLINE FIELDING**, living at Windmill Stairs, Pottinger-street, deposed: About eleven o'clock on Saturday night I saw the deceased baling his boat at the Stairs, and a short time afterwards I heard a splash as of something falling into the water, on which I, **THOMAS SAVAGE**, and some children, went down to the water and found Lunn's hat floating but could see no person in the water, although it was moonlight, and little or no wind. Thomas Savage: Had seen the deceased baling his boat about a boat's length from the wharf, and in consequence of an alarm by the preceding witness went down to the place and found the deceased's hat and his boat hook bobbing up and down; his body had probably risen immediately after he fell into the water, and his head struck the wharf, or some of the boats, which stunned him; had seen the deceased about four minutes before he heard the alarm; deceased was perfectly sober. **JOHN LIHR**, a boatman: had been called on Sunday morning to look for the body of deceased; on throwing the grabbling hooks they caught the body by the left leg, and brought it to the surface, at the distance of about twenty yards from the place where the deceased had been last seen. Dr. Hosking: had seen the body of the deceased on Sunday; there were no marks of violence on it; death was caused by suffocation from drowning. - The jury returned - 'Accidentally drowned'.

**INQUEST.** - An enquiry took pace on Wednesday, at Leburn's public-house, Parramatta-street, before J.R. Brennan, Esq., and a jury, regarding the death of **ELIZABETH HARRIS** OF New Town, when the following evidence was given:- **JOHN HARRIS**, father of the deceased, deposed, that about two o'clock on Wednesday, he heard the mother of the deceased give a scream, and ran out to ascertain the cause, and saw her endeavouring to catch the body of the child, which was then floating on the water that had lodged in a brick-hole; witness immediately got the body out and shook it, but found it quite dead; the deceased was about thirteen months old, and had been seen alive about half an hour before the body was first discovered, by a little girl and another child belonging to the witness, who had called his mother to the hole; witness was satisfied the child had been drowned purely by accident; he had strayed to the water by himself, and had fallen in. Mr. Surgeon Cuthill had examined the body, which presented all the appearances of bodies found

drowned; in his opinion this had been the cause of death. Verdict, accidentally drowned.

At Parramatta, on Thursday, an inquest was held at Watsford's public-house, Church-street, on the body of Mr. **JAMES WATSFORD**, jun., who died on the day before. From the evidence of Dr. Stewart, it appears the deceased had expired in a fit of epilepsy, induced by anxiety of mind. The verdict of the jury was – 'Died by the visitation of God.

MAITLAND MERCURY, 02/96, 02/11/1844

TICKETS OF LEAVE. – CANCELLED.

**BENJAMIN STANLEY**, Planter, convicted of murder; Maitland bench.

THE FLOODS. - In our fourth page will be found a brief account of the recent floods on the Lachlan and elsewhere, and by the Herald of Tuesday last we perceive that intelligence has been received from Gundagai of a very extensive flood in that district. ... Three men and a horse, and a number of sheep, were drowned; ...

MORETON BAY. - ... Three persons had lately been drowned, one in the Brisbane, one in the Condamine, and one at Normandy Plains.

BEE, No. 3, 02/11/1844

INQUEST. – On Wednesday afternoon a coroner's enquiry took place in Mr. **JAMES GANNON**'s public house, the 'Old Sportsman', corner of Phillip and Hunter streets, on the body of **BHUTTUM**, aged 21 years, a native of Upper India, who died yesterday morning on board the Minerva, Captain Gatenby, lying off Campbell's Wharf. The following evidence was adduced:- **JOHN SHERIFF**, passenger per the Minerva, deposed: The deceased was also an immigrant per the same vessel; he was labouring under dysentery, for which he had medical treatment; he was confined to bed about forty or fifty days, about four days before death witness spoke to the deceased; he did not complain of want of attention; there was a native doctor on board, who attended deceased. An European boy died of the same disease on the voyage, and there is one of the passengers ill on board the Minerva of the same disease now; witness did not think any other person on board had been ill except those mentioned. Mr. **JOHN SILVER**, Assistant Colonial Surgeon: Had examined the body of the deceased; there were no marks of violence on it; from the history of the case, in his opinion, death had been produced by natural causes. The jury returned a verdict of died by the visitation of God. At the suggestion of Mr. Silver, the man who was sick on board was, on the recommendation of the coroner to the Colonial Secretary, removed to the General Hospital.

MAITLAND MERCURY, 02/97, 09/11/1844

EXECUTION OF STANLEY.

On Thursday last, the 7<sup>th</sup> instant, the extreme penalty of the law was carried into effect at Newcastle upon Benjamin Stanley, convicted at the late Maitland d Circuit Court of the wilful murder of Robert Campbell, at the William River, on the 30<sup>th</sup> May last. The wretched man, our readers will recollect, after having been ordered for execution on the 24<sup>th</sup> of last month, had been respited, in consequence of a confession he had made to the Rev. **C. PLEYDELL N. WILTON**, Chaplain of the jail, in which he had implicated Millington Farrah in the murder of Campbell. An investigation into his assertion was accordingly made by **E.D. DAY**, Esq., at Maitland, which terminated in the discharge of Farrah upon bail. Upon the occasion of his Excellency's late visit to Newcastle, Stanley presented, through the medium of the Rev. C. Pleydell N. Wilton,

a petition to the Governor for mercy. But there appearing to the Executive nothing by which the guilt of Stanley could be called in question, the sentence of the law was left to take its course. Up to the period of the reading of the *death warrant* to Stanley, in the condemned cell, on Tuesday last, by Mfr. Keck, the acting sheriff, Stanley maintained the most decided denial of his having had any part in the murder of Campbell, although he admitted he had been an accessory, both before and after, to the *robbery*. To Mr. Wilton, however, who was in daily attendance upon him, he stated on the morning before his execution, that *he COULD tell him something, and that he thought he should before he suffered.*” Accordingly, when the Rev. Chaplain proceeded on Wednesday evening to pass the night with him, at his earnest request, in the condemned cell, he made to him the full confession which appears below, and which Mr. Wilton took down in writing, and the truth of which Stanley afterwards confirmed in the presence of Mr. Field, the governor of the jail, to whom he expressed his thanks for the kind attention he had received while under his charge. Mr. Wilton declares that, until the *last* evening of Stanley’s life, he had never attended a more *hardened* criminal. During *that* night, however, after he had made the confession of his crime, he declared a heavy burden had been removed from his mind, and he spent the few fleeting hours before him engaged in prayer, in hearing the sacred Scriptures read and explained to him – dissolved in tears, especially upon reading out aloud, some passages in a religious book given him by the Chaplain, and which came home to his *own individual* case. After joining in prayer with the Chaplain in his cell, and acknowledging himself “*the greatest sinner in the colony,*” he walked out firmly to the scaffold, and having again offered up prayers with his spiritual adviser, he ascended the fatal ladder, and after addressing the ironed gang, cautioning them to avoid “*bad company and drink, which had been his ruin,*” and declaring himself guilty of the murder, and that he hoped for forgiveness of his many sins through the *alone merits* of Christ, he was launched into eternity. One of his *last* requests to the Chaplain was, that he would “*see as soon as possible that Garrett might be discharged from jail.*”

#### CONFESSION OF BENJAMIN STANLEY

Condemned Cell, Newcastle gaol,

November 6, 1844. – 8 o’clock p.m.

“I, Benjamin Stanley, under sentence of death, to be executed on me tomorrow morning, do now solemnly declare, as a dying man, that what I stated about ‘George Farrah’ being at the murder of Robert Campbell was a lie. I borrowed the pistol of Farrah on the night before the murder of Campbell, and I committed the murder myself, shooting at him twice, the first ball grazing the skin where it was said he was cut, and the second shot him dead, about a hundred rod from where I first shot him. He was riding when I came up to him, and shot him first. I pulled him off and then shot him; he fell down, and I took his horse and left it by the side of the creek. I thought he had been dead, but he got up and walked on the hill; I went after him, and shot him again; he died directly. Before I shot him the first time I made him kneel down and say his prayers; then I fired at him. He asked me – ‘You are not going to shoot me, are you?’ I said, ‘Yes.’ He resisted me at first, until I succeeded in pulling him off his horse. I came over the Hinton punt with him between one and two o’clock on the day of the murder, and we met Mr. Blandford, as Mr. B. stated in his evidence. I think Mr. Blandford a very just man in the evidence he gave in court on my trial. I made Campbell give me the money, £11 12s. 6d., consisting of five sovereigns, six £1 notes, and

twelve shillings and sixpence, when I first shot him. I was two or three yards from Campbell each time I shot him, and I think the blood found on my clothes could not have come from him, but must have been from some fowls I had killed for Cain about a fortnight before. I followed Campbell after the first time I shot him, because I was aware he knew me, and therefore I was determined to kill him. Farrah knew nothing about Campbell or the murder, and is quite innocent of it. Farrah on the day of the murder was putting up a stockyard for Mr. Edward Turner. Garrett, now in this gaol, had nothing whatever to do with the murder of Campbell. He just happened to say to me in the course of conversation, on the day before the murder, that Campbell was going to take some money, £10 or £11, from his, Garrett's master, viz., Gordon, the bailiff of the Court of Requests. I was the only person who murdered Campbell. The reason I shot Campbell was that having crossed the punt with him I knew I should be found out, and I thought I might as well be hanged as lagged.

The shot I received in my left arm about five years ago I had when attempting to rob the house of Mr. Simpson, near Mr. Pilcher's.

I had my whiskers cut off – big beard shaved, the day after the murder, to disguise myself, and to look cleaner.

Drink and bad company have brought me to this end.

(Signed) "BENJAMIN STANLEY."

Witness (signed) – C. PLEYDELL N. WILTON.

True copy (signed) – C. Pleydell N. Wilton."

#### OUTRAGES BY THE BLACKS.

We have been favoured with the perusal of a letter from the superintendent on Messrs. Yeomans and Baldwin's station, on the Macintyre River, by which we regret to see the blacks are again committing depredations and murders there unchecked. On the 7<sup>th</sup> September they commenced on Mr. Hargraves' station by killing four horses, although the men on the station endeavoured to save them, but were nearly cut off themselves by the blacks, and obliged to retreat across the river, Mr. H. being forced to abandon the station. Proceeding to Mr. Arnold's station they destroyed the hut, killed both the men in charge, and rushed all the cattle off the run; the bodies of the two poor fellows were not found until they had been dead apparently a fortnight. The blacks next made a rush on Mr. Yeomans and Baldwin's station, but were probably beat back, as no loss up to the date of the letter (October 6<sup>th</sup>) is recorded; but the blacks were known to have been hanging round the run for three days, probably waiting for a favourable opportunity; they had sent word they should come and kill all the horses and men on the station. Meanwhile the blacks rushed into a hut belonging to Mr. Russell, and were about to kill the hutkeeper, when the opportune arrival of two horseman saved his life. Here is a series of outrages, during which two murders at least are known to have been committed by the blacks, extending over a period of a month, and yet not a syllable is heard of protection by a police force, nor is such a thing apparently at all considered probable by the writer of the latter. Is it politic, is it just, is it even Christian to leave men thus exposed, and yet carefully convey the impression to their minds that if they resist, and in defending their own lives kill any of their savage assailants, they will be liable to be tried on a charge of murder – to refuse them the protection of the government, and yet, by giving them such an impression, take the strength from their arms, and the manliness from their hearts, till they fall an easy prey to the infuriated aboriginals? It is worthy of note that this is not the first time murders have been committed with impunity on this part of the

Macintyre by the blacks. Nearly three years ago they killed two men at the same place, when the station was occupied by Captain Drake; and since then have killed a stockkeeper of Mr. Drake's, named **MATT**, and speared a stockkeeper of Mr. Hoskisson's at the next station.

HUNTER RIVER DISTRICT NEWS. - NEWCASTLE.

**BENJAMIN STANLEY**. - Preparations are being made for the execution of this unfortunate man, which is to take place to-morrow morning, at ten o'clock. I understand he has this morning addressed and sent a letter to the prisoners in the gaol-yard, warning them to avoid treading in his steps, and assuring them that drink had brought him to thieving, and then to the death he was about to suffer; stating, however, that he was innocent of the murder, though accessory to the robbery.

**SINGLETON**. - About breakfast time on the day on which the Governor first paid a visit to this locality, a young man, who had only been in the colony about two months, was engaged in running some mares into the stockyard of his master, Mr. **BELL**, of Corinda, and had succeeded in placing one of the palings, and while in the act of putting up a second one of the mares made a rush to get out, causing the paling to bound back and strike the groom on the forehead with great force. The poor fellow fell backward, stunned, and though medical aid was instantly procured, it was not in the power of man to save him, as he lingered till two o'clock, when death put an end to his sufferings. He has left a wife and two children to bewail their heavy bereavement. We may mention that the skin was not cut, neither was the skull fractured, and it was supposed that a blood-vessel on the brain must have been ruptured.

BEE, No. 4, 09/11/1844

On Thursday last, the prisoner **STANLEY** who was lately convicted before Mr. Justice a'Becket of the wilful murder of **ROBERT CAMPBELL**, on the 30<sup>th</sup> of May last, underwent the fatal sentence of the law. Before his death he made a free confession of his crime.

**CORONER'S INQUEST**. - An inquest was held at the "Crispin Arms", Clarence-street, on Wednesday, on the body of **MARY COHEN**, wife of a hair-dresser, residing in the same street, who died on Tuesday morning of infection of the lungs, having been under treatment of an unqualified practitioner named **CUTTER**, for some time previously. Doctors **RUTTER** and **SILVER**, made a post mortem examination of the body, and expressed their disapprobation of the conduct of the individual who had undertaken the treatment of the disease, from the effects of which, the deceased had met her death. The jury, on the evidence of those gentlemen, found a verdict of died by the visitation of God.

**ATTEMPTED SUICIDE**. - On Tuesday evening last, an old man named **JOHN MAHONY**, a tailor, residing in Pitt-street, attempted to put an end to his existence, by swallowing a quantity of arsenic. The act was fortunately discovered before the poison had time to do its work, and he was removed by Inspector **PEARCE**, TO THE General Hospital, where the usual remedies were applied, with the desired effects.

On Wednesday last an inquest was held on a woman named **COHEN**, who died, according to the evidence of Messrs. **RUTTER** and **SILVER**, from the maltreatment she received at the hands of an empiric named **CUTTER**.

**ASSAULT**. - On last Friday week, a most brutal assault was committed in Pitt-street on the person of a tinker named **WILLIAM BROPHY**, by a man named **JOHN JOHNSON**, of the same trade, with whom he resided, and who struck him severely on the head with a soldering iron. Constable **HUGHES**, who was on duty in Pitt-

street at the time, saw a crowd assembled in a lane called Becket's Court, and on proceeding to see what was going on, found Brophy stretched on the broad of his back with a deep wound over his temple. The unfortunate man, in pursuance of medical advice, was immediately removed to the general hospital, where he remained in a state of insensibility. He was considered to be in a most dangerous state. Captain **INNES** attended at the general hospital on Monday last for the purpose of taking his declaration, but he was unable to give any account of the matter. Johnson was apprehended soon after the occurrence, but denied having assaulted Brophy. The unfortunate man expired on Friday last.

**EXECUTION.** – On Thursday last, **FREDERICK alias ABRAHAM GASTON**, convicted at the late assizes at Bathurst, of the wilful murder of **ELIZABETH ROBERTSON**, underwent the extreme penalty of the law on a gallows that had been erected for that purpose in front of the gaol. Mr. **KECK**, Governor of Sydney Gaol, officiated on this occasion as Sheriff. The prisoner, who was attended to the fatal drop by the Rev. Messrs. **LISLE** and **SHARPE**, exhibited an utter and callous recklessness of the fate he was about undergoing. Nothing could be more hardened than his demeanour. He denied to the last having committed the crime of which he had been convicted.

**WREGISTER**, 3/68, 11/11/1844.

**NEWCASTLE.** - On Thursday last, the 7<sup>th</sup> instant, the sentence of death was carried into effect, at Newcastle, on **BENJAMIN STANLEY**, convicted before Mr. Justice a'Beckett, at the Maitland Circuit Court, on the 23<sup>rd</sup> September last, of the wilful murder of one **ROBERT CAMPBELL**, at the William River, on the 30<sup>th</sup> May last, by shooting him with a pistol.

Up to the time of the arrival of his death-warrant, the prisoner appeared quite callous and indifferent as to his fate and a future world. After the reading of the death-warrant he appeared more thoughtful, and listened with considerable attention to the religious exhortations of the Reverend Mr. **WILTON** who attended him. The day previous to his execution he dictated and signed the following statement:

Condemned Cell,  
Newcastle Gaol.

November 6, 1844, 8 o'clock, P.M.

I, Benjamin Stanley, under sentence of death, to be executed on me tomorrow morning, do now solemnly declare as a dying man that what I stated about George Farrow being at the murder of Campbell, was a lie. I borrowed the pistol off Farrow the night before the murder of Campbell, and I committed the murder myself, shooting at him twice; the first ball grazing the skin, where it was said it was cut, and the second shot him dead, about a hundred rods from where I first shot him; he fell down; I took his horse and left it by the side of the creek. I thought he had been dead, but he got up and walked on the hill. I went after him and then shot him again: he died directly; before I shot him the first time, I made him kneel down and say his prayers, then I fired at him. He asked me, "You are not going to shoot me?" I said, "Yes." He resisted me at first until I succeeded in pulling him off his horse. I came over the Hinton punt with him, between one and two o'clock on the day of the murder, and we met Mr. Blandford, as he (Mr. Blanford) stated at the trial; I think Mr. Blanford a very just man, in the evidence he gave in court at my trial. I made Campbell give me the money, £11 12s. 6d., consisting of five sovereigns, six one-pound notes, and twelve shillings and sixpence. I was two or three yards from Campbell each time I shot him, and I think the blood found on my clothes could not have been from him, but must have been from some fowls I had killed for Cain about a fortnight before. I followed Campbell after the first time I shot him, because I was aware he knew me; and therefore I was determined to kill him; Farrow knew nothing about Campbell or the murder, and is quite innocent of it. Farrow on the day of the murder was putting up a stockyard for Mr. Edward Thomas Garrett, now in

this gaol, *had nothing whatever to do with the murder of Campbell*. He just happened to say to me in the course of conversation the day before the murder, that Campbell was going to take some money, £10 or £11, from his (Garrett's) master, Mr. Gordon, the bailiff of the Court of Requests. I was the only person who murdered Campbell; the reason I shot Campbell was, that having crossed in the punt with him I knew I should be found out, and I thought I might as well be hanged as lagged. The shot I received in my left arm about five years ago, I had when attempting to rob the house of Mr. Simpson, near Mr. Pilcher's. I had my whiskers cut off and my big beard shaved off the day after the murder, to disguise myself and to look cleaner. Drink and bad company have brought me to this end.

(Signed) Benjamin Stanley.

Witness – C Pleydell N Wilton.

EXECUTION. - On Thursday, October 31, at nine o'clock, sentence was carried into force on **FREDERICK alias ABRAHAM GASTON**, convicted at the Bathurst Assizes of the wilful murder of **ELIZABETH ROBERTSON**. Mr. **KECK**, Governor of Sydney Gaol, officiated as Sheriff on the occasion. Gaston was attended by the Rev. Messrs. **SHARPE** and **LISLE** and exhibited signs of penitence although he maintained to the last that the piece, which was the instrument of the woman's death, went off accidentally.

ATTEMPTED SELF-DESTRUCTION. – About Nine o'clock on Tuesday evening, a tailor, named **JOHN MAHONEY**, went into the Brougham tavern, and said he had got some cream of tartar to take, for this purpose he got the loan of a tumbler, poured some water into it and opened a small paper packet, of which he emptied the contents, a white powder, into the tumbler, and drank it off; a few minutes after he became apparently quite stupid, which alarmed the proprietrix of the tavern, especially when on looking at the envelope of the powder which had been taken, she observed the words "Arsenic", "Poison," written in legible characters. Inspector **PEARCE** was called in, who conveyed Mahoney to the General Hospital, when Mr. **BRYANT**, the dispenser, gagged the patient, in order to get the stomach-pump introduced, which was successfully applied, and drew off the greater portion of the poison; - tartar emetic, water, train oil, and raw eggs, were afterwards administered, and by eleven o'clock the patient was out of danger. The only reason assigned by Mahoney for attempting suicide is, that he has become a burthen to society, being unable to work, and that he was ready to die.

WREGISTER, 3/69, 16/11/1844.

INNQUEST. – WILFUL MURDER. - On Saturday an enquiry took place before Mr. **J.R. BRENAN**, coroner, and a jury, in Mr. James Gannon's public house, touching the death of **WILLIAM BROPHY**, who had died in the General Hospital on Friday last, and for the murder of whom a freed man named **JOHN JOHNSON**, then present, was in custody. From the evidence it appeared that the parties, both persons of vicious character, had been drinking for some days previous to the quarrel, and that Johnson, after beating the deceased for some time, gave him a tremendous blow on the left temple with his clenched fist, upon which he fell dead on the floor. The jury returned a verdict of wilful murder against John Johnson.

MAITLAND MERCURY, 02/98, 16/11/1844

FATAL ACCIDENT THROUGH INTOXICATION. - On Saturday, the 2<sup>nd</sup> instant, two men named **GEORGE BARNETT** and **WILLIAM BURLEY**, in the employ of Mr. **STANTON**, residing on Mr. Dowling's farm, near Dungog, were sent into Dungog with two drays loaded with cedar, and having drank a good deal of brandy at

the public houses in the township, left for Clarence Town about one o'clock, but had only got half a mile from Dungog when, the heat of the day acting on the liquor they had swallowed, they both became very drunk, and Barnett, who was driving the hindmost team, got on the wrong side of his bullocks, and while punching the shaft bullock with the butt-end of his whip, the bullock kicked him and knocked him down, and the wheel of the dray passed over his leg, crushing it dreadfully. Alarmed by his cries, his companion turned back, and assistance being procured, he was moved into Dungog, and Dr. **M'KINLAY** called in, who found he could not then ascertain the exact extent of the injury, Barnett being very drunk and violent. On Sunday morning Dr. M'Kinlay found that amputation would be necessary, and as he required the presence of another medical man before performing the operation, a messenger was sent off to Stroud, but without success; and on his return he was sent off to Paterson for Dr. **PARK**, who reached Dungog on Monday. On examination he agreed with Dr. M'Kinlay that amputation was the only chance for the man's recovery, and on Tuesday morning the man's leg was amputated accordingly. The hemorrhage was not violent, but the patient never recovered the shock, and, sinking gradually, expired between seven and eight o'clock that evening. An inquest was held on the body on the Thursday following, before **J.S. PARKER**, Esq., coroner, and the above facts having been deposed to, and the medical men having given it as their opinion that Barnett's sinking under the shock of the amputation was caused by his being intoxicated at the time of the accident, the jury returned a verdict of "Died from the shock he received by amputation of his leg, rendered necessary in consequence of the wheel of a loaded dray passing over it while he was in a state of intoxication."

**DISTRESSING ACCIDENT.** - On Saturday morning last, Mr. **GEORGE WATSON**, chief officer of the *Rose* steamer, was engaged in seeing to the cargo being got out of the hold of the steamer, which was then lying at the wharf, in Sydney. Between seven and eight o'clock a cask of tallow was being hoisted up, slung with flat hooks, when some part of the apparatus gave way, and the cask fell back into the hold, while the block and catt-hooks flew upwards, and the latter struck Mr. Watson just below the eye, penetrating through nearly to the brain, and fairly lifting him off the deck till he was released. He was immediately taken to the hospital in a cab, but refusing to remain there, he was taken to the house of a Mr. **JACK** in Cumberland-street. Medical assistance was promptly procured, and the injured eye removed, and every attention paid him, but in vain; he lingered until one o'clock on Monday afternoon, when he died, having been insensible nearly for nearly (sic) the whole of the time. He has left a wife, but no children.

#### **HUNTER RIVER DISTRICT NEWS**

**SINGLETON.** - On Sunday, the 20<sup>th</sup> ultimo, a young woman named Mrs. **CANEEN**, was unfortunately drowned in the creek between Rosemount and Murrumbah. At the inquest, which was held the following day, it was stated that she was subject to giddiness in the head; and, although frequently cautioned by her husband and friends, had very imprudently gone to the creek for a bucket of water, when it is supposed she was seized with a fit of giddiness, and had fallen in, where the creek was very broad and deep in consequence of the rain which had fallen a few days before. Her husband, who had been a short distance from home, upon his return wanted a drink of water, and finding neither his wife nor the bucket, the thought struck him that she had gone to the creek, whither he went, and the first thing that met his eyes was the bucket floating on the water. Some friends, who accompanied him, dived in to discover the body, but their attempts proving abortive, a grappling iron was obtained, which after some exertions brought it up.

The following sudden death occurred on Friday last. An elderly man named **TIBBS**, many years in the service of the eminent engineer, Mr. **BUSBY**, and latterly in that of Mr. B.'s son-in-law, Mr. **KELMAN**, of Kirktown, while in the act of cutting up a sheep in the store, fell down in an apoplectic fit. When found by Mr. Busby, who accidentally passed the store, life was not extinct, and the proper means in such cases were adopted to save if possible the life of the "faithful steward," but death took place in less than an hour. From the time he was found till he died not a word passed his lips; and when bled the blood oozed out very sluggishly, and of a very dark colour. Those who knew the man represent him as a thin, spare person, and very unlike one who was likely to die of apoplexy. November 6<sup>th</sup>

**BIRTH**

On Sunday last, the 10<sup>th</sup> instant, at Woodlands, Hinton, the lady of **JOHN S. PARKER**, Esq., of a daughter.

**ORIGINAL CORRESPONDENCE.**

*To the Editors of the Maitland Mercury*

**GENTLEMEN** - I beg to refer you to my evidence at the trial of **BENJAMIN STANLEY** for the murder of the old man Campbell.

Since Stanley has confessed (under circumstances that vouch for its truth) that he took five sovereigns from his victim, my evidence is exposed to the charge of being either imaginary, or given with the intention of frustrating the course of justice against Stanley. That such is not the case, I trust what follows will prove.

The forenoon after the trial Mr. **JOHN SAWARD** called on me, and stated that on the day the murder was committed *he paid me a sovereign*, and that after he heard that Campbell had received sovereigns, and that search would therefore be probably made for them, he, to prevent the possibility of anything being laid to his charge, went and told Mr. **WARREN**, the magistrate. I communicated this the same day by letter to his Honor Mr. Justice **a'Beckett**.

As Mr. Saward came into the store almost immediately after the old man left, which is proved by his having made his purchases and crossed the punt half an hour after him, and considering that a period of about three months elapsed between the occurrence and the time I was asked about it, it cannot occasion much surprise that I should have confounded the two transactions, more especially as the circumstances of Mr. Saward being on horseback and going the *same road* as the old man contributed to make the mistake more easy of commission.

It is with much reluctance, gentleman, that I bring the subject again upon your pages, but I think it necessary to show that I was not actuated by any unworthy motives. I am, gentlemen, your obedient servant,

W.A. OGG./

Morpeth, 12<sup>th</sup> November, 1844

MAITLAND MERCURY, 02/99, 23/11/1844

**THE MURDER AT THE WILLIAM.** - On Tuesday last a son of the unfortunate **ROBERT CAMPBELL**, the victim of Stanley, applied to the Bench for such of his father's property as had been recovered from Stanley to be given up to his family. The bench immediately complied, ordering the whole of the property found in possession of Stanley to be given up, except the pistol with which the murder was committed.

**SINGLETON.** - A few days ago, a fine healthy little girl, about two years of age, while playing near the fire place in her father's house, fell, and accidentally upset the tea kettle, the contents of which scalded her slightly behind the knee, upwards; and

owing to the want of medical aid, the little sufferer fevered, was ultimately seized with convulsions, and after lingering for two or three days, died. We believe the parents were reprimanded by our senior magistrate for not obtaining medical aid. The excuse offered for not sending for the doctor was poverty.

**FATAL ACCIDENT FROM LIGHTNING.**

On Sunday evening last, while the cutter *Mary Ann*, Captain Branker, was off Bungaree's Nore, on her passage from the Bellinger to Sydney, a storm of rain came on, accompanied by thunder and lightning. Shortly after it commenced the lightning struck the topmast, and passing down the mast drove a hole through it, when it passed down the bolt-ropes, then to the sheets, thence to the chain, and into the sea. Some portion of the electric fluid appears to have diverged from its course, as it entered the hold, and some of the cedar was set on fire, but was soon got under. Several of the crew were struck senseless for some minutes, and one unfortunate seaman, named **WILLIAM HENDERSON**, was killed by the lightning, without any apparent injury to the body except the burning off the hair on his breast. An inquest was held on the body in Sydney on Tuesday, when the above facts were deposed to.

BEE, No. 6, 23/11/1844

**SUICIDE IN JEDBUGH GAOL. – JAMES AINSLIES**, aged 60 [*formerly of NSW*]  
Committed suicide.

WREGISTER, 3/71, 30/11/1844. **HORRIBLE MURDER**; 3 columns.

Body of **THOMAS WARN**; **JAMES BIDEEL & JOHN DUVAL** committed; but **EDWARD TURNER & THOMAS WILSON** discharged.

**INQUESTS.** - On Saturday last an enquiry was held touching the death of a new-born male infant, the son of **ELIZABETH NIXON**. It appeared that the deceased was born in the house of Mr. **T.B. HUMPHREYS**, of Pitt-street, on Friday, the 15<sup>th</sup> instant, about five o'clock in the morning, there being no one to assist the mother. The cries of the deceased having attracted the attention of Mrs. **HUMPHREYS**, she went and ordered the mother to leave her house immediately; the mother knew of no house to go to, on which an assigned man-servant in Mr. Humphrey's employ, went to the house of a person named **GREEN**, living in Goulburn-street, who having agreed to receive the mother and infant, they were placed on a dray and driven from the house, the deceased died about ten o'clock the same morning. The Jury found a verdict "that death had been caused by gross neglect and inhuman conduct, on the part of Mr. and Mrs. Humphreys," and the Coroner recorded a verdict of manslaughter against them; upon which Mr. and Mrs. Humphreys were ordered into custody, and a warrant was subsequently made out for their committal to gaol.

Another inquest was held in Mr. John Wilson's, Queen's Head public-house, George-street, on the body of **GEORGE WALKER**, a training groom, who had been found in the morning hanging dead by the neck in Mr. **C. SMITH**'s hay-loft. The Jury found a verdict that deceased destroyed himself while labouring under temporary insanity, induced by previous intemperance.

**INFANTICIDE.** - 2 full columns; post mortem, child of 12 months. **EDWARD GALLIOTT.**

MAITLAND MERCURY, 02/100, 30/11/1844

**INQUESTS.** - On Sunday last an inquest was held at Morpeth, before **J.S. PARKER**, Esq., coroner, on the body of **CAROLINE GOUCHY**, a girl of four or five years old. By the evidence it appeared that the parents of deceased lived close to

the bank of the river at Narrowgut, and that the child had often been punished for wanting to go to the river, which her parents would never allow her to do. On Saturday morning last the father went across the river to Bulwarra, reaping, and was alarmed about the middle of the day by a report that his child was missing. Returning home he found that she could not be found, and that none of the neighbours had seen anything of her. Thinking it possible the unfortunate child might have fallen into the river, he endeavoured to discover her body, but without avail until Sunday morning, when her body was found in the river, a few yards from the bank. There was no mark of violence on the body, and the jury returned a verdict of found drowned, but how there was no evidence to show.

On Monday an inquest was held before Mr. **PARKER** at Newcastle, on the body of **JOSEPH SEWELL**. It appeared deceased and a man named **EDMOND HAYES** had come into Newcastle on Saturday morning from Mr. Groves' farm, each driving a bullock dray, and after remaining some hours started on their return home about six o'clock in the evening, Sewell being very drunk, and Hayes in liquor. They had barely got out of town when Hayes called at a blacksmith's shop to get a barrow, and Sewell went on. Hayes followed in a few minutes, but in the meantime Sewell had been run over by his own dray, having apparently fallen from the dray or in attempting to get on it, his hand being much scraped. When Hayes and a person named **RALPH THORNTON** came up to the body Sewell was lying across the road, unable to speak, but still alive. He was put into the dray, and Mr. **LATHAM**, near whose house it happened, called out to look at him; Mr. L. instantly sent for Dr. **BOWKER**, who promptly attended, but the poor man was dead before he arrived. The jury returned a verdict that Joseph Sewell came by his death by falling off a dray, which passed over his body, when in a state of intoxication and unable to take care of himself.

NEWCASTLE. - On Monday, the 25<sup>th</sup> instant, an inquest was held at the Victoria Inn, on the body of **JOSEPH SEWELL**, a bullock driver, well known in the town, who met with his death on Saturday, the 23<sup>rd</sup>, near the railroad, by falling from his dray, which passed over his body.

#### HORRIBLE MURDER.

On Sunday evening last a waterman at the stairs, Lower George-street, was asked by three men to take a box over to the North Shore, to which he consented, and had got the box into his boat, when he found such an offensive smell coming from it that he said it was not all right, and refused to take it. The men on this returned up the bank with the box, and the waterman, noticing some wet on the steps up which they had gone, looked at it and found it was blood. Giving information to the police on duty, the men were stopped, and the box broken open, when the half burned body of a man was found in it, the legs being cut off at the thighs. On enquiry it turned out that the body was that of Mr. **THOMAS WARNE**, a collector, and that **JOHN VIDELLE**, one of the prisoners, had lived with him as his servant, **JAMES DUVAL**, a second, was intimate with Videlle, and **THOMAS WILSON**, the third, and a man of colour, said he had only been engaged by the other two to convey the box to the wharf. On Tuesday an inquest was held on the body, when the above three prisoners were present, together with **EDWARD CHARLES TURNER**, who had lately been concerned in a dispute with Mr. Warne, as to a charge brought by Mr. Warne against **LOUIS BRETON** (a Frenchman, as were also Videlle and Duval), for biting off Warne's little finger, wherein Turner had sworn he saw Warne bite his own finger off.

The above facts came out in evidence, and it also appeared that the unfortunate Mr. Warne had been last seen by the neighbours on Saturday evening, between six and

eight o'clock, going into his house, at the bottom of Essex-street, with papers in his hand; that between nine and ten the chimney of his room was on fire, and that Videlle was seen on the roof pouring water into the chimney till the fire was put out; that at eight o'clock on Saturday evening Videlle, Duval, and Duval's wife left Duval's house together, saying they were going marketing, and did not return till eleven o'clock; that on Sunday morning, at eleven o'clock, and at three on Sunday afternoon, Videlle was seen with Duval and his wife; that between four and five o'clock that afternoon they all went out for a walk, from which Mrs. Duval returned alone about five; that on Sunday evening two men were seen getting a large black box out of the stair door leading up to Warne's rooms; and that a short time after Videlle, Duval, and Wilson were apprehended with the box. Mrs. Duval told Inspector **RILEY** that her husband was gone to assist Videlle in getting a box conveyed to the North Shore for Mr. Warne. It was proved by Dr. **MACKELLAR** that Mr. Warne appeared to have been killed by heavy blows with a blunt instrument on the lower side of the head, after which the body was burned, and then the legs sawn off. It was also proved by the police that on forcing open Mr. Warne's room they found a stream of blood on the floor, as if a body had been dragged on it; that a heavy axe was found there, with a slight chipping off the lower part of the handle; that the fire-place (a large one) had a mark as if blood or grease to some extent had lately run down the front on to the hearth; that a neckcloth and other articles were found clotted with blood; that a saw was found in the room which, on careful examination, showed spots of blood, and minute particles of flesh still sticking in the teeth; and that outside the window were hanging on a line, to dry, a waistcoat, shirt, and braces, recognised as Mr. Warne's, and on which traces of blood were visible. The prisoner Videlle could not speak English well, but through the Interpreter he expressed his concurrence in the truth of some of the witnesses' evidence, particularly that of **MARY ANN EDWARDS**, who had seen two men she could not recognise getting a black box out of Mr. Warne's stair door. The inquest lasted six hours and a half, and after a consultation of ten minutes the jury found a verdict of wilful murder against John Videlle and James Duval, finding no evidence to implicate Turner; and there being nothing to contradict Wilson's tale of his mere employment by the other two to carry the box to the wharf. Videlle and Duval were committed for trial.

ATLAS, 1/1, 30/11/1844

DEATHS.

Drowned, at Yass, on Tuesday, the 19<sup>th</sup> instant, Miss **HANNAH MOSES**, aged 14 years; and also, Miss **SARAH MOSES**, aged 12 years, both much regretted by all who knew them.

BEE, No. 7, 30/11/1844.

**THOMAS WARNE**, so barbarously murdered on Saturday last, arrived in this colony about the year 1824 or 1825; he was a native of Devonport in England, and had, previous to his emigration to these shores, been a domestic servant in the establishment of Sir Thomas Tyrwhitt, Bart., whose residence, we believe, is in that neighbourhood, and who gave him letters of introduction to the late **WILLIAM BALCOMBE**, Esquire, then appointed Colonial Treasurer. We are not certain whether he came in the same vessel with the last-named Gentleman, but if he did not, it was a very short time after. It is understood that he had two or three brothers on Sir Thomas Tyrwhitt's service at the time of his departure.

MAITLAND MERCURY, 02/101, 07/12/1844

INQUESTS. - On Sunday last an inquest was held near Paterson, before **J.S. PARKER**, Esq., coroner, on the body of **JAMES HARRINGTON**. It appeared deceased had accompanied a dray to Paterson, belonging to a Mr. **A WILLIAMS**, and driven by a man named **M'ENROE**, who was so addicted to drink, though otherwise a trustworthy servant, that Mr. Williams would not give him any money for the road. Harrington, however, brought into Paterson two kegs of tobacco, which he sold to Mr. **DAVID BROWN**, innkeeper, for five pounds, of which £1 18s. paid off an old debt he owed Mr. Brown, and 10s. paid for meat and drink from Thursday afternoon to midday Friday; the remainder was paid in five bottles of rum, 1½ cwt of flour, 2lb. of tea, and 30lbs. of sugar. Before the two men left Paterson on Friday evening they were quite drunk, and it appeared had continued drinking the rum at intervals, M'Enroe stating that he thought he had drank about fifteen glasses. About two o'clock on Saturday morning one of the bullocks fell in crossing a creek, and M'Enroe called to Harrington to come and assist him, but found he was off the dray. He then went back to search for him, and found him in the road in a creek they had passed previously, but whether dead or not he was too drunk to ascertain. He returned to his bullocks, leaving the body there, and drove on, and shortly after meeting another dray, he told the driver, **THOMAS CASSY**, that his mate lay in the next gully, and that he did not know whether he was dead or alive. Cassy proceeded on cautiously, and found him lying dead by the side of the road, M'Enroe having apparently shifted him out of the direct track. Dr. **PARK** having examined the body, found a deep cut on the temple and the chest much depressed, as if a heavy weight had passed over it; his opinion was that the injuries might all have been caused by the dray going over him, or the cut might have been caused by a blow. The jury returned a verdict of died from injuries caused by the wheel passing over him, and laid a deodand of £5 on the wheel, blaming Mr. Williams for sending one man addicted to drink such a distance with a dray. Constable **WILLIS**, who gave evidence at the inquest, stated that he saw two men in Paterson at three in the afternoon very drunk, and helped them to place the flour on the dray, was recommended to be censured by the Paterson bench for wilful neglect of duty.

On Monday an inquest was held before Mr. **PARKER**, at the house of Mr. Byrtrand, in the parish of Tyramin, county of Durham, on the body of **HENRY JUDD**. It appeared that deceased had been down to Maitland for a fortnight, receiving medical advice for some chronic disease, and on his return called at Mr. Byrtrand's, on Saturday, and asked to be allowed to remain till Mr. Williams's dray came past, which would take him on to Strathisla. He went to bed early, and the next morning called up Mr. Byrtrand to apply a blister to his stomach, as he felt very ill, and to give him some drops out of a bottle of medicine he brought with him from Maitland. As he continued to get worse Mr. Byrtrand went for a doctor, but before he arrived the poor man was dead. The jury returned a verdict of died from natural causes.

THE MURDER OF MR. WARNE. - **MARGARET DUVAL**, the wife of one of the men committed for the murder of Mr. Warne, has been apprehended and lodged in Woolloomooloo gaol, and it is said that statements have been made by the two men, Videlle and Duval, which are likely to lead to the instigator of the crime.

BEE, No. 8, 07/12/1844

INQUEST. - On Thursday afternoon, a coroner's enquiry took place in Mr. **RICHARD CULLIN**'s, Union public-house, Kent-street, south from Market-street,

on the body of **JOHN READ**, an infant aged about three years, when the following evidence was recorded: **JANE PENFREY** knew the deceased, who had been an invalid for a long time; on Wednesday morning the mother placed deceased on a bed, which was but a little raised from the floor, and while she was busied about the house, the deceased rolled from the place where it was lying on the ground, and died in a few minutes after it fell. The child after being laid on the bed had been seized with convulsions, in which it still was when the mother lifted it off the ground. The child had been several times afflicted in a similar way before; witness could not see any injury deceased received by the fall; the mother was always an attentive mother to deceased. Dr. **FREDERICK M'KELLAR** deposed: the deceased had been a Dispensary patient since 4<sup>th</sup> of October last, and was labouring under disease of the bronchial tubes. Children so weak as the deceased was, and under the same ailment, are subject to convulsions, which in this case caused death, and not any injury received by the fall. The jury returned a verdict of died by the visitation of God. On which the mother, who was in attendance, was called in at the request of several of the jurors, and informed that no blame was attributed to her.

WREGISTER, 3/72, 07/12/1844.

CORONER'S INQUESTS. - On Saturday afternoon, a coroner's enquiry took place in Mr. Kettles's City Wine Vaults, George-street, on the body of Mr. **CHARLES FREDERICK ROBINSON**, surgeon, Jamison-street, who died suddenly on Friday evening. From the evidence it appeared that the deceased believing himself to be labouring under spasmodic affection of the heart, was in the habit of taking some drops of prussic acid for the purpose of alleviating the pain, and that on the day on which he died he had taken two such doses, which caused death. The jury returned a verdict of – Died from the effects of taking prussic acid as a medicine.

On Monday morning another enquiry was held in Mr. Gray's public house, corner of Bathurst and Sussex-streets, touching the death of **SAMUEL MOSES**, an infant, who was found dead in a water-hole. The jury found a verdict of drowned by accident on the 30<sup>th</sup> November 1844.

On an adjourned inquest into the death of **EDWARD GALLIOTT**, aged eleven months, the jury met on Monday afternoon, when the case was closed, and the jury found a verdict of death by natural causes, on which the father and mother, who were both in custody of the police, were discharged.

ATLAS, 1/3, 14/12/1844

CORONER'S INQUESTS. - On Monday an inquest was held at the Currier's Arms, corner of Castlereagh and Bathurst-streets, on the body of **ALEXANDER VAN BRENNAN**, late a clerk. It appeared from the evidence that the deceased had for some time been labouring under a disease of the heart, and on Saturday became much worse, on which day he was bled, having shown symptoms of apoplexy, and on Sunday morning he expired. Verdict – Died by the visitation of God.

Another inquest was held at the Donnybrook Hotel in York-street, on **EUPHEMA**, the wife of **ROBERT MACKINTOSH**, who was found dead in her bed on Sunday night. It was shown that deceased had come home in a dreadful state of intoxication, and had thrown herself on the bed face downward, which, from the evidence of the medical man, had caused suffocation. Verdict – Died by suffocation while intoxicated.

An inquest was held on Tuesday, at the Cockatoo Inn, Surry Hills, on the body of **JESSY CAVE**, an infant. By the evidence, it appeared that the deceased had been

put to bed by her mother the previous evening, and after she had left the room, had crept to the end of the bed, and there had got its head between the bedstead and the foot-board, in which state she was found dead. The jury returned a verdict – died by suffocation.

On Wednesday another inquest was held, at Cavenagh's public-house, Elizabeth-street, on the body of **MARY ANN ALFORD**, an infant, who had expired while labouring under a fit. Died by the visitation of God.

MAITLAND MERCURY, 02/102, 14/12/1844

INQUEST. - On Wednesday an inquest was held before **J.S. PARKER**, Esq., coroner, at the Angel Inn, West Maitland, on the body of **FRANCIS BENJAMIN MACFARLANE**. It appeared that the deceased, who was a man of colour, and had been residing in Maitland for years, had recently taken a house opposite the Angel Inn, and on Monday went there to clean it out, leaving his wife and children at his old residence. Finding it took him till late, he slept in the new house that night, and his wife, getting alarmed at his not returning, sent a little boy early on Tuesday morning to see if anything was the matter. The boy found him very ill, and returning to Mrs. Macfarlane, she instantly went up to the house, and found her husband so ill that she sent for Dr. **LIDDELL**, who immediately attended, and applied means for his recovery, but in vain; the poor man died shortly after he came. As a grudge was understood to exist between Macfarlane and another individual, suspicions of foul play were entertained, and a post mortem examination was made, when it was found death had been caused by a flow of blood to the head, induced by violent vomiting, the deceased having been taken in the night by a severe bilious attack. Verdict, died from natural causes. As he has left a wife and four children destitute, the jury commenced a subscription for their assistance, and Mr. **LEDSAM** was requested to raise sufficient subscriptions to assist them efficiently.

STATEMENT OF AN ABORIGINAL RESPECTING A MURDER COMMITTED THREE YEARS AGO.

On the 4<sup>th</sup> December an aboriginal of the Namoi tribe, named **MONDAY**, made the following statement before the Maitland bench: "there were six blacks in the neighbourhood of **TIGHE'S** house at the time, viz., **NATTY, BOBBY, BUNGAREE, PETER, TOOLEY, and PADDY TIGHE**. Bungaree, I think, told me of a picanniny belonging to Tighe being killed in the bush by a black-fellow, I believe that the child was put in an old tree. Bungaree told me that they had killed the child with a nulla nulla, near Thurra Mullen; did not say where they put it after. Bungaree said they put it the child in a hollow tree." The communication with him was so imperfect, from there being no one present who knew his dialect well, that the inquiry was adjourned till the next day, until an interpreter could be got. Nothing further could be elicited clearly the next day, however. We are told that about two years ago a person named Tighe, living about Liverpool Plains, advertised for weeks together that he had lost a child, offering a reward for her recovery. This appears to corroborate the tale told by Monday.

MAITLAND MERCURY, 02/103, 21/12/1844

DREADFUL MURDER, BY A SUPPOSED MANIAC

This day (Thursday), between eleven and twelve o'clock, the city was thrown into a state of consternation and dismay, by the extraordinary report that a medical gentleman, named **MEYRICK**, who had recently arrived from Van Dieman's Land, had been shot by a supposed maniac in Hunter-street, opposite the lane known as

William and Adelaide Place, leading into George-street. Shortly afterwards a young man named **LUCIUS O'BRIEN**, about twenty-two years of age, was brought to the receiving watch-house, accompanied by a great crowd of persons, who had collected to ascertain the particulars of the tragic event.

It appears that as the unfortunate deceased was walking arm-in-arm with Captain **HARVEY**, of the *Giraffe*, the prisoner walked deliberately up to him, and, without speaking a word, levelled a pistol at his head from behind, and discharged it. The ball grazed Dr. Meyrick's cheek, and carried away a portion of the leaf of his hat. He then attempted to escape, but was pursued by the prisoner, who drew another pistol from his pocket, and discharged its contents into Dr. Meyrick's back, a little beneath the shoulder blade. The assassin was apprehended, without making any show of resistance, by the spectators, and the unfortunate gentleman was carried into Mr. Mappin's razor manufactory, in the same street, near which the deed was perpetrated. On entering the house he exclaimed, "The villain has shot me," which were the last words he uttered. He expired in about half an hour afterwards. Drs. **BLAND**, **M'KELLAR** (who was a personal friend of Dr. Meyrick, and had been in communication with him only a few hours previously), and **TIERNEY**, were promptly in attendance, but the wound was pronounced by them to be fatal, and beyond the reach of medical skill.

The prisoner, since he has been in custody, affects an indifference which appears assumed to hide the evident emotions under which he labours. The motives of the assassin cannot be traced, as Dr. Meyrick was a comparative stranger in Sydney, and had had no dealings with O'Brien whatever; and is, moreover, described by his friend, Dr. M'Kellar, as a man of amiable disposition, and particularly cautious of giving offence to any one. An inquest will be held on the body of the unfortunate gentleman. A very general sensation prevails this afternoon throughout the city, on account of the horrid event.

After the prisoner had been confined it was supposed that he had swallowed poison, and medical aid was immediately procured, but on application of the stomach pump nothing of a poisonous quality presented itself in the contents of the stomach. He was removed to Woolloomooloo Gaol this afternoon, in a very debilitated state, for better security. It is reported that the prisoner mistook Dr. Meyrick for a Mr. **HOLMES**, with whom he had had a dispute about the trifling balance of an account.

WREGISTER, 3/74, 21/12/1844.

MURDER. – On Thursday, about half past eleven, A.M., as Dr. **MEYRICK** was proceeding down Hunter-street, in company with Capt. **HARVEY** of the *Giraffe*, with whom he was to have proceeded to New Zealand, a young man, named **LUCIUS O'BRIEN**, employed at the *Despatch* newspaper office, came behind him and discharged a pistol, the ball of which passed through his hat; Dr. Meyrick ran a few yards forward, when O'Brien discharged a second pistol, the ball passing under the right armpit into the chest. He was immediately taken into Mr. **MAPPIN**'s shop and medical aid obtained, but the wound was pronounced mortal. The dying man expressed a wish to make his will, which was hastily accomplished, and immediately after he expired. He left his property, consisting of 300 sovereigns and navy bills to the amount of £300 OR £400, to his nephew, who is residing at Norfolk Plains, Van Dieman's Land. In the meantime O'Brien had been secured and conveyed to the watch-house. He there stated that he had swallowed a large quantity of arsenic, and the stomach pump was applied by Dr. **M'KELLAR**, but no poison was discovered in the contents. - A Coroner's enquiry was commenced yesterday morning, at 9

o'clock, in the Albion Inn. After the Jury had been impanelled, the Coroner stated that the young man charged with being the cause of the death of the deceased was, by a surgeon's certificate, so ill that he could not with safety be removed from the gaol to hear the evidence against him; all that could, therefore, be done at present was to have the body viewed by a surgeon, and a *post mortem* examination made, and to adjourn the enquiry till O'Brien was so far recovered as to be able to hear the evidence in the case. The Jury afterwards viewed the body, and Dr. **M'KELLAR** having identified it as that of Dr. **JOSEPH MEYRICK**, the enquiry was adjourned till Tuesday, at nine o'clock. – Yesterday morning, the watch-housekeeper discovered, in cleaning out the cell in which O'Brien was confined previous to his removal to Darlinghurst Gaol, a cake of white matter in one corner, which was found, on analysis, to consist of arsenic. This circumstance confirms the hitherto questionable fact, that he swallowed poison, which he, owing to the quantity taken, acted as an emetic, and was, no doubt, at once ejected from the stomach.

#### DISGRACEFUL OUTRAGE.

The funeral of the late Dr. **MEYRICK** was appointed to take place at four P.M. yesterday, in consequence of which preliminary arrangements were made, but at the instant when undertaker, Mr. **BEAVER**, and his assistants, were about to remove the body, a man calling himself a bailiff, appointed by the landlord's agent, Mr. **CHEERS**, stated, that according to his instructions nothing was to leave Mr. **MAPPIN**'s premises until the sum of £10, being rent due by Mr. Mappin, was paid. The Coroner's Warrant was then produced for the burial of the body, but it was found impossible to get it removed, until Mr. **DONALDSON**, a magistrate, arrived, and directed the undertaker and his assistants to proceed with the funeral, which they did, in the face of the landlord's agent and his bailiff. The company in attendance were detained for upwards of half an hour before the body could be removed from the room where it lay to the hearse at the door.

ATLAS, 1/4, 21/12/1844

#### MELANCHOLY DESTRUCTION OF LIFE.

On Thursday, between 11 and 12 a.m., the neighbourhood of Hunter-street was thrown into great alarm, by the report of two pistols in quick succession. It appeared that a Dr. **MERRICK**, who recently arrived from Tahati (sic), was parting with a friend, Captain **HARVEY**, of the Giraffe, with whom he was shortly going to New Zealand, when a young man named **O'BRIEN** came up and without the slightest intimation discharged a pistol at the head of Dr. Merrick, the ball passing through his hat and inflicting a slight wound on the side of the head, the deceased ran a few yards when O'Brien fired a second pistol, the ball of which took effect under the *scapula*, the deceased fell immediately, and he was taken into a shop in Hunter-street. Mr. Alderman **BROUGHTON** was close by at the time and attended to the last wishes of the deceased as regarded his property, he had just time to make his mark to his Will when he expired. Dr. **BLAND** and other Medical attendance was resorted to with all expedition but the wound was of that nature as to cause almost instant death. A Coroner's Jury were summoned for Friday morning and after hearing a part of the evidence the Coroner thought it prudent to adjourn the further investigation till Tuesday next.

WREGISTER, 3/75, 28/12/1844

INQUESTS. - An inquest was held on Wednesday on the body of Mr. **ALEXANDER ANDREWS**, grocer, George-street, who expired suddenly in his own

house on the previous afternoon, whilst lying on a sofa. The enquiry took place at Wilkie's public-house, before **JOHN RYAN BRENAN**, Esq., coroner. From the evidence of the medical gentlemen who made a *post mortem* examination of the body, as well as that from other witnesses who were acquainted with the deceased, it appeared that he died from *delirium tremens*. A verdict to that effect was returned.

Another inquest was held on Thursday, on the body of **WILLIAM HENRY RUSSELL**, residing in Sussex-street, bricklayer, who also expired suddenly under the following circumstances: - It appeared from the evidence that he had for a considerable time past been labouring under palpitation of the heart; on Tuesday last, about one o'clock, he was in the house of his mother, lying on a sofa, and at that time his mother went to him and gave him a brook; almost immediately afterwards, she heard a groan, and on turning to look, found the deceased speechless and motionless, his right eye appeared to have burst, and there was blood flowing from it, and his countenance rapidly assumed a blue and livid appearance. He expired almost immediately. The mother immediately asked a woman in the house to fetch a doctor, and Dr. **M'PHEE** came in about half an hour, The deceased was quite dead before the doctor came, and in spite of the remonstrances of the mother he proceeded forthwith to open the body. After hearing evidence to this effect, and directing a post mortem examination by Dr. **SILVER**, the coroner adjourned the inquest till one o'clock on Saturday, stating that he had been made acquainted with the evidence touching the opening of the body by Dr. M'Phee, which rendered it necessary that he should do so.

**CAUTION TO PARENTS.** - On Thursday, a little boy named **BOOKER** was amusing himself with one of the ship's boats lying at the Circular Wharf, when trying to lay hold of the wharf he over balanced himself and fell into the water. The boy rose to the surface, but went down again, when a prisoner of the crown, attached to the diving bell, leaped in and saved him.

**MAITLAND MERCURY, 02/104, 28/12/1844**  
**INQUEST ON DR. MEYRICK.**

On Tuesday last the jury impanelled to inquire into the cause of the death of Dr. **MEYRICK** met at the Albion Inn, George-street, when the coroner stated that in consequence of the continued illness of **O'BRIEN** the inquest would have to be adjourned again. The inquisition was accordingly adjourned until Tuesday next. Just after the jury had separated Mr. Keck arrived with the prisoner in a cab, and on being informed of the postponement of the inquiry, drove back immediately to the gaol.

**HUNTER RIVER DISTRICT NEWS. - NEWCASTLE.**

**ACCIDENT.** - Yesterday an accident of a dreadful nature occurred to a ticket of leave holder named **JOHN CLISH**, in the employ of the A.A. Company. As the poor fellow was preparing to ascend the shaft of the pit, which is of great depth, a pick fell from the top, the point of which entered his head, and report says there is but small hope of his recovery.