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Author

Butterworth, Lee

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Investigating death in Moreton Bay: Coronial inquests and magisterial inquiries

Lee Butterworth

l.butterworth@griffith.edu.au

Abstract

English common law was applied in the New South Wales penal colony when it was founded by Governor Arthur Phillip in 1788. Phillip's second commission granted him sole authority to appoint coroners and justices of the peace within the colony. The first paid city coroner was appointed in 1810 and only five coroners served the expanding territory of New South Wales by 1821. To relieve the burden on coroners, justices of the peace were authorised to conduct magisterial inquiries as an alternative to inquests. When the Moreton Bay settlement was established, and land was opened up to free settlers, justices were relocated from New South Wales to the far northern colony. Nonetheless, the administration of justice, along with the function of the coroner, was hindered by issues of isolation, geography and poor administration by a government far removed from the evolving settlement. This article is about death investigation and the role of the coroner in Moreton Bay. By examining a number of case studies, it looks at the constraints faced by coroners, deaths due to interracial violence and deaths not investigated. It concludes that not all violent and unexplained deaths were investigated in accordance with coronial law due to a paucity of legally qualified magistrates, the physical limitations of local conditions and the denial of justice to Aborigines as subjects of the Crown.

Introduction

For he can take inquisition of death only upon view of the body and not otherwise; therefore if the body be interred before he come [sic], he must dig it up.¹

If the body cannot be viewed, the coroner can do nothing; but the justices of the peace shall inquire thereof.²

These quotes, taken from Burn's *Justice of the Peace and Parish Officer*, unequivocally state that before holding an inquest, the coroner and jury must view the body. In colonial New South Wales, with its extremes in climate and isolated settlements, deceased persons were often buried before the arrival of the coroner, who then

exhumed the body to facilitate the view. Due to these unfavourable conditions, magisterial inquiries were far more common than coroner's inquests in the colony's remote areas.

The English office of coroner, dating back to 1194, was received in New South Wales as part of English common law. Prior to the appointment of the first coroner, justices of the peace conducted inquests in New South Wales. The rapid expansion of settlement during the early 1820s led to a significant increase in demand for the services of the handful of appointed coroners, consequently, justices of the peace were authorised to conduct summary inquiries — although not formal inquests.³

When established in 1824, the Moreton Bay penal settlement operated under military rule. The system of justice changed little until the opening up of the land to free settlers in the 1840s. Although the pre-contact Aboriginal population found the penal settlement's encroachment alarming, resistance was limited to raids on grain crops and sporadic attacks on soldiers and itinerant labourers. Settler expansion into Indigenous territory met with increased Aboriginal resistance, which led to violent reprisals by European colonists;⁴ nevertheless, the Sydney central government was slow to react to calls from settlers for better administration of justice for the northern districts.

Although magistrates were relocated from southern New South Wales to the far northern settlement of Moreton Bay, their numerous administrative and judicial duties were hindered by issues of isolation, geography and poor administration by a government far removed from the evolving settlement. When it came to investigating death on the frontier, the function of the coroner was likewise impeded. The provision of trained officers to conduct inquiries into sudden and suspicious deaths remained wholly inadequate.

This article explores death investigation and the role of the coroner in Moreton Bay from 1824 to 1861. In examining a number of case studies, it looks at the constraints faced by coroners, interracial violence and deaths not investigated. It discusses the failure of the Sydney government to appreciate the needs and problems of Moreton Bay, and concludes that not all violent and unexplained deaths were investigated in accordance with colonial law, due to a paucity of legally qualified magistrates, the physical limitations of local conditions and the denial of justice to Aborigines as subjects of the Crown.

Origins of the office of coroner

By the time English colonial law arrived in New South Wales with the First Fleet, the function of the coroner, under Article 20 of the *Articles of Eyre* in 1194, had changed considerably. Although a means of raising revenue for the King, in the form of large fines or 'amercedments', the holding of inquests into the causes and circumstances of unnatural, sudden or suspicious deaths was at that time considered a less important function of the coroner. By the fourteenth and fifteenth centuries, the prestige and fiscal functions of the medieval coroner had diminished as a result of the increased power of justices.⁵ Justices were either landowners or well-to-do merchants, whose social position and economic power meant they showed no interest in remuneration for performing their duties. While the role of the medieval coroner had been diminished through the increased power of the justices, the office continued.⁶

Legislation passed in England in 1487 allowed for a payment to coroners per inquest held, and the right to claim fourpence from the party found guilty of the

homicide. It was not until 1751 that further legislation increased the payment for coroners to 20 shillings (plus ninepence per mile travelled) for each duly held inquest. Then, in 1860, English coroners were granted a salary and finally freed from the constraints of justices of the peace.⁷ According to Freckleton and Ranson, the gradual move away from justices' control during the eighteenth century elevated the status of the coroner, whose role evolved into one that formed a more effective system for reporting and investigating cause of death. This in turn further legitimised the role of the office of coroner in the English legal system.⁸ It was this 'modernised' institution that formed the foundation of coronial law and practice in Australia.

The New South Wales coroner

English Law relating to coroners became part of Australian law when the colony of New South Wales was established in 1788. The penal settlement of New South Wales operated under military rule until the Colonial Office formulated a plan for civil governance. Under the First Charter of Justice, dated 2 April 1787, Governor Phillip, the Lieutenant-Governor and Judge Advocate were authorised to convene a Court of Criminal Jurisdiction and a Court of Civil Jurisdiction. Furthermore, they were appointed justices of the peace and were invested with the same powers as English justices. Although the Charter of Justice provided for the appointment of a coroner, it provided no guidance for the working of the office.⁹ Burn's *Justice of the peace and parish officer* was the authoritative manual instructing magistrates, but it is doubtful whether justices had ready access to the publication.¹⁰

With imperial authorities appreciating the difficulties of upholding the rule of law in an expanding jurisdiction, Governor Phillip's second commission authorised him to appoint additional justices. Augustus Alt, Surveyor General for the colony, therefore became the first justice appointed in Australia without assent from London. Alt convened the first hearings in the colony before magistrates on 18 February 1788.¹¹ As stated by Hilary Golder, 'The governors of New South Wales were given the chance to expand and exploit the possibilities of an office which in England was the lynchpin of local law, order and government.'¹² In the new colony, English common law was modified to address the difficulties that government officials encountered in maintaining law and order on the frontier.

Magistrates occasionally conducted inquests between 1788 and 1810.¹³ The first coroner for New South Wales, artist and naturalist John Lewin, was appointed Sydney coroner in 1810, and by 1821 there were five coroners serving a colony of approximately 37,000 people.¹⁴ According to Freckleton and Ranson, most early coroners were not legally or medically trained; however, it was 'presumed that gentlemen accepting the office and taking upon themselves the duties' were 'acquainted in a general way with those duties'.¹⁵

The colonial method of appointing coroners was quite different from that in England, where coroners were elected by freeholders until the *Local Government Act 1888* allowed for the appointment of coroners by the County Council.¹⁶ New South Wales coroners were appointed by the state. During this period, the coroner held inquests into violent and suspicious deaths to determine the identity of the deceased, and the cause and manner of death.¹⁷ Additionally, the Governor and his military officers relied heavily on the pluralistic role carried out by unpaid justices.

Their authority in remote regions was considerable, given that they were the government's sole representative. Problems of distance and climate made it unrealistic for town officials to travel to isolated regions to perform administrative, judicial and legal functions.¹⁸ Paid magistrates, known as stipendiary police magistrates, were subsequently appointed from 1833.¹⁹

The first statute enacted in the colony concerning coroners was *An Act to Define the Qualifications of Medical Witnesses at Coroners' Inquests and Inquiries Held before Justices of the Peace in the Colony of New South Wales*.²⁰ Passed in 1838, the legislation adopted provisions of the British legislation, *An Act to Provide for Attendance of Medical Witnesses at Coroners' Inquests and Inquiries Held Before Justices of the Peace*, which provided for the coroner to summon a registered medical practitioner as a witness in cases where the deceased had not been attended by a medical practitioner at, or immediately before, the time of death.²¹ The New South Wales legislation allowed the Governor to appoint at least three members of the medical profession to form a Medical Board that was responsible for examining and approving the qualifications of those seeking registration as legally qualified medical practitioners. The Medical Board's register of names of qualified medical practitioners was published annually in the *Government Gazette*. The *Medical Witnesses at Inquest Act 1844* provided for a Medical Board to be established for the district of Port Phillip.²² A further amendment act, *An Act to Define the Qualifications of Medical Witnesses at Coroners' Inquests 1845*, enabled members of the Apothecaries Hall, Dublin, to be legally qualified medical practitioners.²³

A notice in the New South Wales *Government Gazette* in 1845 defined the limits within which coroners could exercise their jurisdiction. This was in response to complaints made by police magistrates and justices of the peace in relation to coroners intruding on their rights to conduct inquests. The Colonial Secretary, Edward Deas Thomson, directed that:

Some misapprehension being entertained as to the limits within which the several Coroners throughout the Colony should exercise their jurisdiction, His Excellency the Governor directs it to be notified, that in future no Coroner is to act except within the Police district in which he may reside and for which he is understood as holding his appointment. In Police Districts in which there may be not Coroners [sic], the inquiries into the causes of any sudden deaths which may happen within the same, are to be conducted by the Police Magistrate (if there be one), or if not, by any Justice of the Peace of the District, under the powers granted by the Act of the Governor and council, 1 Victoria no.3.²⁴

Having police magistrates and justices substitute for the coroner relieved the burden on the small number of coroners in the colony. When it came to death investigation in remote locations, magisterial inquiries were more practical, as assembling a jury of twelve was difficult. Such inquiries were summary in nature unless the presiding police magistrate was also commissioned as a coroner, in which case a coronial inquest was appropriate. Needless to say, confusion reigned among these government officials as to their jurisdiction and power in relation to the coronial system. Golder argues that the later *Coroners' Act 1901* 'was designed to eliminate such confusion and also to promote efficiency and economy'.²⁵

The Moreton Bay settlement

In 1824, colonial authorities sent Lieutenant John Oxley north to Moreton Bay to establish a penal colony for recidivist convicts. Redcliffe Point was selected as the location on account of its isolation and the settlement began in September 1824 under the military control of Lieutenant Henry Miller. This site proved unsuitable for crop production and, combined with an outbreak of sickness and fear of Aboriginal attack, it was closed. The inhabitants moved up-river in May 1825 to Petrie Bight. Situated on the Brisbane River, the new colony had a more reliable water supply and the acute bend in the river meant escape by convicts would be more difficult.²⁶

The commandant controlled the colony, consisting of civil and military officers, soldiers, free settlers and convicts. Dr Henry Cowper was the first assistant surgeon to take up duties in Brisbane Town in September 1825, followed by the appointment of Dr John Murray on 1 May 1830. In December 1838, Dr David Ballou took up the position of assistant surgeon. The commandant conducted inquests, calling medical practitioners to give evidence of cause of death when necessary.²⁷ The convict settlement was closed officially on 5 May 1839 and a majority of the population was evacuated to Sydney. A small number of officials and convicts remained to protect the town and prepare for free settlement. Surveyors Dixon, Staplyton and Warner arrived to survey the district. Other officials, servants, labourers and squatters had made their way to the town by the early 1840s.²⁸ Eventually, on 10 February 1842, Governor George Gipps proclaimed that the District of Moreton Bay ‘shall no longer be continued as a penal settlement, but that the same shall be open for settlers, all free persons desirous of proceeding thither’.²⁹

Free settlement

As to the impact of the penal settlement on the Indigenous population, Raymond Evans maintains that the disruption to Aboriginal traditional lifestyle was minimal.³⁰ Paradoxically, historical documents indicate that Aboriginal raids and incursions proved more troublesome to the military authorities protecting the settlement than the reverse.³¹ It was only after the opening up of the land to free settlers that Aboriginal resistance escalated and in turn resulted in violent reprisals from white settlers.³² Squatters claimed land extending to the Ipswich, Darling Downs and Maryborough regions, and the spread of settlement under this ‘land grab’ led to an expectation by settlers that the state would provide an effective system of justice. This was slow to eventuate in these regions due to the small population and distance from Brisbane.³³

New districts were proclaimed and for each district a Commissioner of Crown Lands and a site to conduct Courts of Petty Sessions were assigned. The *Offenders Punishment and Justices Summary Jurisdiction Act*, passed by the Legislative Council of New South Wales in 1832, defined the powers and authorities of the Courts of Petty Sessions and regulated the summary jurisdiction of justices of the peace. The Act provided that two or more justices sitting together would constitute a Court of Petty Sessions.³⁴ The Court of Petty Sessions was conducted by Captain John Wickham, commissioned in 1842 as Moreton Bay’s first police magistrate, and two lay justices. Serious criminal matters that fell outside the jurisdiction of the local court continued to be heard in the Supreme Court of Sydney. Circuit court hearings

of the New South Wales Supreme Court commenced in May 1850 and the *Moreton Bay Supreme Court Act 1857* established the jurisdiction of the Supreme Court of New South Wales in the Moreton Bay district.³⁵

According to Ross Johnston, the earlier appointment of Circuit Courts under the 1828 Act provided only a ‘rough and rudimentary form of justice’.³⁶ Accordingly, state provision of facilities of justice remained inadequate and was ‘useless’ to the northern population, due to the challenges of ‘distance and time’. The inhabitants of the growing colony from 1842 onwards ‘were dissatisfied with the impoverished and dilatory help which the Sydney government gave in the development of this region’ and began to take the administration of justice into their own hands.³⁷ Additionally, as the frontier extended, settlers demanded the government take action to ‘protect them from Aboriginal depredations’, and threatened to ‘take the law into their own hands’ if their demands was not met.³⁸

Aboriginal protection

Protecting the Aboriginal population as British subjects caused a dilemma for the colonial and British governments. While instructions were issued from senior government officials directing colonial agents to respect Indigenous rights, historical records contain many examples of the disregard — even contempt — shown to this formal policy. When several Aborigines were killed under Major Thomas Mitchell’s orders in May 1836, Principal Secretary of State for the Colonies, Lord Glenelg, expressed his approval of the suppression from publication of ‘those passages respecting the Aborigines by which the reputation of that officer might have been compromised’.³⁹ Yet Lord Glenelg was cognisant of the predicament faced by imperial authorities, noting that ‘if the rights of the Aborigines as British Subjects’ were to be upheld, then with regard to any deaths attributable to the ‘Queen’s Officers, or of persons acting under their Command, an Inquest should be held to ascertain the cause which lead [sic] to the Death of the deceased’.⁴⁰ Formal acknowledgement of the authority of the law was customary in events involving atrocities committed against Aboriginal people, but in reality the unlawful killing of Aborigines continued to go unpunished. As Finnane and Richards argue, the evidence may suggest that the colony appeared to operate under the rule of law but the government failed to enforce legal accountability for actions of state employees.⁴¹

Following Glenelg’s 1837 directive and in response to ever-increasing clashes between Aborigines and settlers, a proclamation by Governor Gipps in 1838 stated that Aborigines had equal rights with whites to protection under the law. All violent Aboriginal deaths resulting from conflicts with white settlers would be subjected to an inquest. The proclamation only applied to white and Aboriginal disputes. Inter se violence and death remained a matter for Aboriginal customary law. In directing non-interference in sole Aboriginal disputes, Douglas and Finnane argue that, ‘Gipps was endorsing a permissive practice that came to characterise Australian criminal justice policy’ for decades to come.⁴²

Some of the white population of the Moreton Bay settlement defended the right of Aborigines to fair and equal treatment under the rule of law. In 1849, an editorial in the *Moreton Bay Courier* maintained that sudden, violent or unnatural deaths of Aborigines should be investigated via an inquest. The article referred to an inquest

recently held by the coroner on the bones of a child found at South Brisbane that appeared to have been disposed of in keeping with Aboriginal cultural practice. Attention was drawn to the number of citizens who considered ‘an inquisition on such relics would establish an inconvenient and expensive precedent’.⁴³ The author questioned how an inquiry could lawfully be omitted when it was part of coronial law and highlighted the fact that if the skeleton of a white person was found secreted away in such a manner, the coroner would be bound to hold an inquest. That Aboriginal custom treated the dead in this manner was unacceptable as a reason for not investigating the death, which could be the result of murder.⁴⁴

In justifying coroners’ expenses, the editor stated that the colony must accept the expense of maintaining ‘peripatetic coroners, each with a corps of mounted jurymen . . . for the sake of carrying out a great principle. Utility and common sense are enduring . . . but they must not . . . interfere with the sublime operation of law’. Additionally, the view was expressed that the jury sitting at an inquest into the death of an Aborigine should consist of an equal number of ‘white men’ and ‘blacks’ to neutralise the verdict of an all-white jury, as ‘the pale faces would have a bias unfavourable to the native’.⁴⁵ The strong sentiments expressed in this opinion piece conflicted with the views held by many white settlers about justice for Aborigines, as expressed later in the 1858 Select Committee report on the murders at Dawson River.⁴⁶

Investigating death on the frontier

The shortcomings of the coroner’s function in the rapidly expanding territory soon became apparent. Isolation, distance and climate challenged the government’s ability to administer the territory. It was not unusual for early doctors to take on the responsibilities of magistrates and coroners. Whether acting as medical practitioner, magistrate or coroner, it was often necessary to travel long distances on horseback over rough terrain in all kinds of weather. Some perished while carrying out these duties. Otto Sasche MD Warwick refuted accusations that he would not go into the bush to treat patients, claiming that he would not refuse a call provided the fee of two shillings and sixpence per mile was paid. The amount of reimbursement per mile increased when he was required to travel more than 30 miles (48 kilometres) from Warwick.⁴⁷ A woman being transported by dray from Cunningham’s Gap to Brisbane for medical treatment died when the dray overturned on top of her. A doctor from Ipswich was sent for, arriving eight hours later to pronounce the woman deceased. Advising that the body was not to be moved until a magisterial inquiry was held, the husband sat by his wife’s body in the pouring rain from 2.00 am until noon the next day, when Pollet Cardew JP held the inquiry. That afternoon, the body was conveyed to Ipswich for interment.⁴⁸ Frontier conditions, such as long distances between settlements, rough terrain, extreme temperatures and inclement weather, significantly reduced the efficiency of death investigation and the coroner’s role in colonial Queensland.

As magistrates (later stipendiary magistrates) were appointed throughout the colony, the government decided they should act as coroners, as a cost-saving measure, but without the same powers and duties. Magistrates and justices of the peace held magisterial inquiries, which meant they were not required to view the body of the deceased or to summons a jury to investigate the death. Justices of

the peace were also unable to commit any persons for trial.⁴⁹ Justices providing government services in outlying territories filled a need to reduce costs, but were highly criticised by the legal fraternity, which was concerned about their inexperience and lack of formal instruction in legal matters. The largely unqualified magistracy comprised local officials, landowners and squatters, all of whom tended to look after their own interests.⁵⁰

An 1856 Select Committee progress report entitled *The Administration of Justice and the Conduct of Official Business in Country Districts* found that the multiple functions of magistrates were acceptable, but failed to provide a solution for the scarcity of magistrates to administer the regions.⁵¹ In 1858, New South Wales Premier Charles Cowper reported on the indifference and unwillingness of some members of the unpaid magistracy to perform the duties of their office. He called for justices who had entirely abandoned their functions to resign.⁵² On appointing magistrates drawn from the working class, Cowper challenged the power of the landholding magistrates.⁵³ According to Golder, the new class of magistracy was ‘justified on the grounds of efficiency as well as equity’.⁵⁴

Untrained magistrates

Nineteenth-century colonial attitudes towards the law were influenced by the difficulties of accessibility to the law. According to Barry Wright, ‘relevant statutes and legal texts were scarce and expensive and institutional holdings limited’.⁵⁵ Guides to magistrates were compendiums of the law that were relied on by lawyers, justices of the peace, magistrates and clerks of petty sessions to interpret and clarify the law. These works were a valuable asset to magistrates in discharging their duties but the government closely monitored the distribution of these texts as they were both limited in number and very costly.⁵⁶ It was necessary for the Registrar-General’s Office to publish a notice in October 1858 calling attention to sections 28 and 29 of the *Act for Registering Births, Deaths and Marriages*.⁵⁷ This was in response to findings that ‘magistrates, ministers, coroners, undertakers, constables and others’ frequently failed to carry out their duties in relation to births, deaths and marriages. Publishing the sections of the Act, the Registrar-General urged all persons to gain a better knowledge of this law and its application.⁵⁸

Ross Johnston argues that in the early stages of settlement unpaid justices ‘filled a need’ to reduce costs but complaints were made over the appointment of justices as ‘political rewards’ to local squatters.⁵⁹ The squatter-magistrates were also criticised for continued absenteeism that resulted in a build-up of cases waiting for a hearing. A letter in the *Moreton Bay Courier* in January 1859 drew attention to the shortage of justices required for the working of the Magistrates Court in Ipswich, due to the need for justices of the peace to work on their own stations. Of the twelve magistrates on a monthly roster, seven did not attend court at all; of those, only two attended twice. Dr Henry Challinor, medical practitioner, coroner and magistrate was the exception, attending eleven times.⁶⁰

The poorly trained magistrates attracted accusations of bias against the working class and incompetence based on their ignorance of the colonial statutes.⁶¹ In 1841 an article in the *Sydney Herald* highlighted the numerous letters of complaints received by the press from settlers ‘exposing glaring magisterial abuses’, as well as protesting against what they judged to be the ‘marked injustice daily occurring in

this department in the interior'. Paid magistrates were accused of pocketing 'public money' to 'either do nothing or perform what they pretend to do, improperly'. It was also claimed that coroner's inquests were 'grossly neglected by paid magistrates'.⁶² In July 1847, the government proposed to make provision for the appointment of coroners in all districts, stating that 'it is hoped that this arrangement, by bringing into operation the intervention of a jury, and the laws relating to inquests, will be an improvement in the administration of this important branch of public justice'. A further twenty-six coroners would be appointed at an additional cost of £250.⁶³ Despite this declaration, the *North Australian, Ipswich and General Advertiser* was calling for the appointment of a coroner for the Ipswich district as late as 1856.⁶⁴

Dr Ballow, acting as coroner, was called to hold an inquest at Mt Flinders in April 1848 on the body of a sawyer believed to have been murdered. Due to a shortage of horses, seven jurors instead of the usual twelve accompanied the coroner to Mt Flinders. The body had quickly been buried as a consequence of the extreme heat, causing rapid decomposition of the body. For the coroner to view the body, exhumation was necessary; however, decomposition prevented a full forensic evaluation of the deceased. The inquest resumed the following morning at the Court House and the jury brought down a finding of accidental death.⁶⁵ The incomplete jury, the time taken to reach Mt Flinders from Brisbane and the requirement to view the body were factors that hindered the investigation of death according to coronial law.⁶⁶

In November of the same year, Dr Ballow held an inquest in Ipswich and ordered the exhumation of the deceased, seven days after burial, in order to view the body. The deceased died on a Monday night and Edmund Uhr JP held an inquiry on Tuesday, found the death resulted from an accident and had the body interred. It transpired that Ballow was sent for by steamer, and the message delivered to the post office, where it remained until he 'accidentally heard of it on Tuesday evening'. The *Moreton Bay Courier* editorial commented that the exhumation of the body was justified and that, as Ballow was the appointed district coroner, it was unlawful for any other party to conduct an inquiry.⁶⁷ It is unclear why Uhr held the inquiry, but this incident exemplifies the confusion and lack of experience of public servants operating within a system lacking adequate governance.

Subverting the office of coroner

Even when reported, Aboriginal deaths often did not result in an inquest. Due to the isolation of the frontier, some Native Police officers and white settlers were able to successfully conceal acts of violence and deaths of Aborigines. Furthermore, when coronial inquests were held, magistrates did not always fully investigate the circumstances surrounding Aboriginal deaths. Evidence showed that the inquest was not always effective in making those responsible for acts of violence against and deaths of Aborigines in the northern district accountable.⁶⁸

In January 1861, Henry Challinor attracted the wrath of station owners in the Fassifern district by his determination to investigate the death of three Aborigines. A coroner's inquest was void if not conducted on a view of the body. In this case, however, the bodies were in such a putrefied state when discovered that Challinor applied to the Colonial Secretary for a special commission to hold an inquest

without viewing the bodies. The legal position on the matter dictated that without the special commission he could not legally hold an inquest, but a magisterial inquiry should be conducted instead. The Attorney-General 'could not advise the Crown to issue such commission' because, as a magistrate and a coroner, Challinor was already 'invested with the necessary power' to hold the magisterial inquiry. Taking this approach meant a viewing was not necessary.⁶⁹ The details of the killing of the Aborigines by Native Police, under the command of Lieutenant Frederick Wheeler, and the resultant findings of Dr Challinor on conclusion of the magisterial inquiry, generated intense debate in the press.⁷⁰

According to Wheeler, he had responded to communication from Messrs Compigne, Henderson, Collins and Hardie seeking his assistance in dealing with the 'blacks' who were killing stock, and entering and stealing from huts on their stations. Wheeler located a group of Aborigines at the Dugandan Scrub and 'dispersed them'.⁷¹ Francis Lucas, medical doctor, testified that after conducting an examination on three bodies in the scrub, he informed Mr Hardie, owner of Fassifern Station, that Dr Challinor would be holding an inquest into the shootings. Showing contempt for the judicial process, Hardie replied that 'there would be no inquest held'.⁷² When advised by Edward Quinn, Chief Constable of the Ipswich Police, that an inquest would be necessary Hardie once again stated 'that there would be no inquest there as there had been no blacks shot'.⁷³ Despite Hardie's opposition, the inquiry proceeded and, taking the evidence given into consideration, the coroner found that:

The information of witnesses . . . will not allow me to arrive at any other finding than that the said Aborigines were wilfully and wantonly murdered on the twenty fourth day of December last of [sic] Lieut. Wheeler and the detachment of Native Police on that day under his command; and also that John Hardie, Grazier of Fassifern was cognizant of this fact, yet endeavoured to prevent a judicial enquiry into the cause of the death of the said Aborigines by falsely asserting that no blacks had been shot on that station as had been reported.⁷⁴

In associated communication with the Attorney-General, Challinor wrote:

As no committal can take place under this enquiry but the evidence will have to be retaken before the persons implicated I venture respectfully to request that this important case may not be left to be conducted by non-professional men.⁷⁵

On receipt of the depositions, Attorney-General Pring ruled that the evidence was insufficient to make a criminal charge against Wheeler and that further investigation was unnecessary unless significant evidence of a 'direct' nature was produced to uphold a charge of murder or manslaughter.⁷⁶

Elected as the Member of Parliament for West Moreton in January 1861, Challinor took the opportunity to oppose the squatter faction's control of the legislature.⁷⁷ He also drew attention to the atrocities committed by the Native Police Force, which he encountered through his role as coroner.⁷⁸ In May 1861 the government authorised a Select Committee to inquire into the Native Police Force and the condition of Aborigines generally. The committee was immediately judged by the press to be pro-squatter and incapable of impartiality. The *Moreton Bay Courier* forecast that 'it would be too much to expect, from a committee so composed, "even-handed justice"'.⁷⁹ Challinor was not invited to sit on the

committee; he simply appeared as a witness. As foreseen by local newspapers, the inquiry turned into a white-wash orchestrated by the “pure merinos” of the legislature with the purpose of maintaining an effective means of protecting their livelihoods. According to Denis Cryle, the chairman of the Select Committee, Robert Ramsay McKenzie, ‘upheld the use of native troopers’ and ‘as a large landholder in the Burnett and Leichhardt districts, he used his influence on the Police Committee to protect his personal investments’.⁸⁰ The unprovoked ‘dispersal’ of Aborigines was concomitant with the expanding occupation of the land by the ‘squattocracy’.⁸¹

The Select Committee found that the Native Police were necessary for protecting property and preventing loss of life. According to the report, any disciplinary problems were due to ‘the inefficiency, the indiscretion, and the intemperate habits of some of the Officers, rather than from any defect in the system itself’.⁸² The committee highlighted the difficulties of making the “blacks” amenable to British Law and went on to state that it could not sanction the indiscriminate slaughter of Aborigines, as had occurred on occasions in the past.⁸³ In a response to the Select Committee’s report, the Colonial Secretary advised Wheeler’s superior officer that Wheeler should be reprimanded for his ‘one or two’ indiscretions and recommended he practise ‘circumspection and humanity’ in dealing with the Aborigines in the future. Finnane and Richards note that the coroner’s inquest findings alluded to a conspiracy between Wheeler and Hardie to prevent an inquiry taking place.⁸⁴

The report carefully avoided the reality of the force operating in accordance with an unstated, yet condoned, expectation among squatters that Aboriginal resistance to dispossession of their lands would be constrained via a process of ‘dispersal’. In September 1862, Wheeler and a Native Police detachment were accused of an ‘unprovoked’ attack on Aborigines at Caboolture, killing and wounding both men and women. Wheeler reportedly claimed that he was following orders to disperse the ‘blacks’ wherever they congregated, and despite the matter being raised with the Attorney-General in anticipation of an inquiry being instituted, nothing further happened.⁸⁵

When Henry Challinor returned to Fassifern in September 1861 as a medical witness at the inquest into the death of an Aboriginal woman named Boonooroo, an incident occurred as the body was exhumed and placed at the graveside to allow for an examination of the wounds. The coroner, jurors, Mr Hardie and others were present. While bending over the deceased, Dr Challinor was pushed forward onto the corpse when a man’s body fell heavily against him. Richard Spencer, Hardie’s superintendent, had fallen onto him, ‘apparently in a fainting fit’. The *Brisbane Courier* reported that Spencer later apologised to the jurors then turned on Challinor, stating that ‘he only wished the body had been as putrid as it could be, and that instead of falling on her as he did — the remainder of the speech being much too filthy and disgusting to appear in print’.⁸⁶ Commenting on the ‘undeserved, the illegal, the coarse insult’ given to Dr Challinor at the Fassifern inquest, the *Brisbane Courier* accused Mr Hardie and Richard Spencer of displaying a ‘vulgar passion for mere revenge’ for the trouble Challinor had caused Hardie at the January inquest and ensuing Select Committee hearing.⁸⁷

In his comprehensive study of the Native Police Force in Queensland, Jonathan Richards argues that although coronial inquests were held into some Aboriginal deaths in frontier Queensland, a large number of Indigenous deaths

went unrecorded partly due to the fact that bodies were burnt to cover up killings. According to Richards, the executive council directly controlled the Native Police in Queensland but never took responsibility for frontier violence. Rarely was action taken as a result of an inquest finding against the force.⁸⁸ Archival and historical investigations into Native Police actions reveal that ‘racial violence was accepted on the Queensland frontier’ and the force ‘was a major cause of Aboriginal deaths ... in colonial Queensland’.⁸⁹

Hornet Bank and Cullin-la-Ringo massacres

Coronial investigations were not held into two violent episodes involving the murder of white settlers by Aborigines on the colonial frontier. The murder by Aborigines of nine members of the Fraser family and two employees at Hornet Bank Station on 27 October 1857 triggered acts of revenge by armed squatters, their employees and Native Police detachments. For several months following the tragedy, punitive expeditions slaughtered large numbers of Aborigines throughout the area.⁹⁰ No inquest was held into the deaths of the settlers due to the refusal of the police magistrate at Taroom, William Yaldwyn, to travel to Hornet Bank. Crown Lands Commissioner William Wiseman, in a report to the Governor dated 2 December 1857, stated:

I was informed by Mr Boulton, Superintendent at Euroombah, that no inquest had been held on the bodies and that no Magistrate had visited the scene of the slaughter whilst the bodies were unburied. Mr Boulton states that both himself and Mr Cardew applied to the nearest Magistrate to hold an inquest but that he declined doing anything and likewise declined to lend any assistance in burying the bodies ... This will account for the fact that no inquest was held and no warrants issued immediately.⁹¹

When asked the name of the magistrate who refused to hold an inquest, Cardew replied that it was Mr W. H. Yaldwyn, as alluded to by Wiseman.⁹² Yaldwyn defended his actions in a letter to the Editor of the *North Australian, Ipswich and General Advertiser*. Yaldwyn claimed that he had replied to Mr Boulton when asked what should be done in regard to holding an inquiry, informing him that the Native Police had set out in pursuit of the murderers and hopefully caught up with them. The next step was to have a neighbour identify the bodies and bury them.⁹³ The imperative was that punitive action was taken not only against the Aborigines who attacked the settlers, but all Aborigines.

Although no inquest was held into the tragedy, a Select Committee was appointed in 1858 to inquire into the murders. The report blamed the reduction of the Native Mounted Police force and its inefficiency for the increase in frontier violence. It recommended sending ten mounted troopers to Brisbane or Maryborough, stressing that they were to act independently to the Native Police. Condemning any attempts to ‘wage a war of extermination against the Aborigines’, the report sanctioned severely punishing ‘all future outrages upon life and property’. Evidence given to the committee by settlers revealed a resolve to take the land from the Aboriginal people, no matter the cost. The attitude of dispersal overrode any humanitarian concerns for Aboriginal people.⁹⁴

In the largest single mass killing by Aborigines in Australian history, nineteen Europeans, including women and children, were murdered at Cullin-la-Ringo on 17 October 1861.⁹⁵ Retribution came swiftly in the form of revenge parties of squatters

who dispersed every Aboriginal person they saw. An exhaustive search of the murder files, inquest records and Colonial Secretary's correspondence at the Queensland State Archives to date has not uncovered records of an inquest into the Cullin-la-Ringo tragedy. European response to the murders implied a collective consciousness that rejected the need to establish cause of death in accordance with the law. The settlers set forth on a mission of retaliation and annihilation. The punitive expeditions mounted in response to Cullin-la-Ringo and Hornet Bank resulted in the massacre of large numbers of innocent Aboriginal people by settlers, who rejected the formal system of justice and took the law into their own hands.

Three coroners served the northern parts of the colony prior to the proclamation of Queensland's formal separation from New South Wales on 10 December 1859: Kearsy Cannan, appointed 15 August 1853 to the district of Brisbane; Henry Challinor, appointed 21 October 1859 to the district of Ipswich; and William Armstrong, who serviced the district of Drayton from February 1859. All three coroners were qualified medical practitioners. Cannan was Brisbane's first private practitioner, and held a number of part-time positions in addition to that of coroner.⁹⁶ He was paid a salary of £20 per annum while Challinor and Armstrong, in the absence of an annual salary, claimed fees of 20 shillings per inquest and ninepence per mile for travelling from place of residence to the location of the inquest.⁹⁷ Contrary to claims that no coroners existed in colonial Queensland, by the end of 1860 six coroners served the new state.⁹⁸

Conclusion

Following centuries of transformation, the principal role of the coroner was to determine the identity and cause of death of deceased individuals. New South Wales inherited the office as part of English common law. Prior to Governor Phillip's appointment of the first paid coroner in New South Wales, justices carried out inquests. Due to an increase in population, in conjunction with the rapid growth of the settlement, demands on coroners mounted. The government's solution to this dilemma was to sanction the holding of magisterial inquiries by justices, as opposed to coronial inquests. This eliminated the requirement under coronial law to view the body and gather a jury. At this time, the coroner needed no medical or legal qualifications.

Legislation pertaining to the English coroner was ill-suited to colonial conditions, as the rough terrain, long distances and adverse climate often prevented the immediate holding of an inquest. Inquests were a more exhaustive means of determining cause of death, but allowing justices to hold summary inquiries solved the problem of empanelling a jury and viewing the body. Subsequently, this led to tension and confusion between coroners and magistrates related to their coronial jurisdiction and power. The practice of substituting justices for coroners increased the administrative burden on justices and restricted death investigations, which were often haphazard and inconsistent. At the same time, landed magistrates attracted accusations of inadequate legal training and acting in their own interests. In response, the government introduced legislation to indemnify justices against prosecution related to any ruling made in the execution of their duty.

Few records exist related to the function of the coroner at the Moreton Bay penal settlement, but limited evidence shows that inquests were conducted by the commandant. It was not until Moreton Bay was opened up to free settlers in

1842 that a rudimentary system of justice was established, with the appointment of the first paid police magistrate. Early medical practitioners acted as coroners and magistrates to assist civil servants. Requests to Sydney for more appropriate and effective administration of the rapidly expanding colony fell on deaf ears. Inexperienced magistrates and justices of the peace were invested with the power to investigate cause of death, but their uneven application of coronial law and justice undermined the role of the coroner.

Aboriginal peoples responded to encroachment on their tribal lands with violent attacks on white settlers. Large numbers of Aboriginal people were massacred in reprisal raids by Europeans. Despite government directives that, as British subjects, Aborigines were entitled to the protection of British law, frontier conflict in Moreton Bay continued. Aboriginal deaths were rarely subjected to inquests, as most were not reported. Both sides committed atrocities but Aboriginal people were victims of a campaign of extermination by settlers. Conversely, a minority of colonists were critical of the treatment of Aborigines and advocated their protection as British subjects.

Complications of distance, topography, climate and a lack of legal qualifications clearly impacted the performance of magistrates' duties on behalf of the government. Budgetary restraints and hostile relations between colonists and Aboriginal people meant coronial investigations into violent, suspicious or unnatural deaths were conducted arbitrarily. The government's continued acceptance of the imperfections in the delivery of an efficient, effective and cohesive inquest system meant that the legitimacy of the office of coroner remained in question through the founding decades of Queensland settlement.

Notes

- 1 Burns, *Justice of the peace and parish officer*, Vol. 2, 29th edition (London: Sweet & Maxwell, 1845), p. 30.
- 2 Burns, *Justice of the peace and parish officer*, p. 30.
- 3 The ancient office of justice of the peace was commonly known as magistrate. Gordon Dean, *Here comes the judge: The Queensland magistrate* (Brisbane: Department of Justice and Attorney-General, 2008), pp. 5–6; Hilary Golder, *High and responsible office: A history of the NSW magistracy* (Sydney: Sydney University Press in association with Oxford University Press, 1991), p. 117.
- 4 Raymond Evans, 'Racial assaults 1849', in Raymond Evans, *Radical Brisbane* (Melbourne: Vulgar Press, 2004), pp. 33–4; Raymond Evans, 'The Mogwi Take Mi-an-jin', in Raymond Evans, *Fighting words: Writing about race* (Brisbane: University of Queensland Press, 1999), pp. 75–6. See also Kerkhove, in this volume.
- 5 R. F. Hunnisett, *The medieval coroner* (Cambridge: Cambridge University Press, 1961), pp. 197–9.
- 6 Ian Freckelton and David Ranson, *Death investigation and the coroner's inquest* (Melbourne: Oxford University Press, 2006), p. 11; Hunnisett, *The medieval coroner*, pp. 190–9.
- 7 *County Coroners Act 1860*, 23 & 24 Vict, c. 116.
- 8 Freckelton and Ranson, *Death investigation*, pp. 11–15.
- 9 Alex Castles, *Australian legal history* (Sydney: Law Book Company, 1982), p. 69; Dean, *Here comes the judge*, pp. 7–8; Golder, *High and Responsible Office*, pp. 2–7.

- 10 Burns, *Justice of the peace and parish officer*, Heather Douglas and Mark Finnane, *Indigenous crime and settler law: White sovereignty after empire* (London: Palgrave Macmillan, 2012), p. 37.
- 11 Dean, *Here comes the judge*, pp. 7–8; Golder, *High and responsible office*, p. 2.
- 12 Golder, *High and responsible office*, p. 2.
- 13 Castles, *Australian legal history*, p. 83.
- 14 Golder, *High and responsible office*, pp. 117–18.
- 15 Freckelton and Ranson, *Death investigation*, p. 36.
- 16 *Local Government Act*, 51 & 52 Vic c. 41.
- 17 Castles, *Australian legal history*, p. 84; Golder, *High and responsible office*, pp. 117–18.
- 18 Castle, *Australian legal history*, pp. 67–8; Golder, *High and responsible office*, p. 117.
- 19 Golder, *High and responsible office*, p. 41.
- 20 *An Act to Define the Qualifications of Medical Witnesses at Coroners' Inquests and Inquiries Held Before Justices of the Peace in the Colony of New South Wales 1838*, 2 Vic. no. 22.
- 21 *An Act to Provide for Attendance of Medical Witnesses at Coroners' Inquests and Inquiries Held Before Justices of the Peace*, 1838, 2 Vic no. 22.
- 22 *Medical Witnesses at Inquests Act 1844*, 8 Vic no. 8.
- 23 *An Act to Define the Qualifications of Medical Witnesses at Coroners' Inquests 1845*, 9 Vic. no. 12.
- 24 *New South Wales Government Gazette*, 15 March 1845, p. 300.
- 25 Golder, *High and responsible office*, pp. 117–18.
- 26 Dean, *Here comes the judge*, p. 12; Raymond Evans, *A history of Queensland* (New York: Cambridge University Press, 2007), pp. 30–3.
- 27 John G. Steele, *Brisbane town in convict days 1824–1842* (Brisbane: University of Queensland Press, 1975), pp. 49, 125, 154, 270; *Sydney Gazette and New South Wales Advertiser* 1830, p. 2.
- 28 Evans, *Fighting words*, p. 75.
- 29 *New South Wales Government Gazette*, 11 February 1842.
- 30 Evans, *Radical Brisbane*, pp. 33–4.
- 31 Steele, *Brisbane town*.
- 32 Evans, *Radical Brisbane*, pp. 33–5.
- 33 William Ross Johnston, 'A study of the relationship between the law, the state and the community in colonial Queensland', MA thesis, University of Queensland, 1965, pp. 8, 11. For the Redcliffe settlement, see Keys, this volume.
- 34 *Offenders Punishment and Justices Summary Jurisdiction Act 1832*, 3 Wm 4, no. 3.
- 35 Bruce Kercher, *An unruly child: A history of law in Australia* (Sydney: Allen & Unwin, 1995), pp. 60–1. Samuel Frederick Milford was appointed as the first resident judge for the Moreton Bay district.
- 36 Johnston, 'A study of the relationship', pp. 6–7.
- 37 Johnston, 'A study of the relationship', p. 7.
- 38 Douglas and Finnane, *Indigenous crime and settler law*, p. 73.
- 39 Lord Glenelg to Sir Richard Bourke, *Historical Records of Australia*, Series 1, Governors' Despatches to and from England, Volume XIX, July; 1837 to January, 1839, p. 47.
- 40 Lord Glenelg to Sir Richard Bourke, *Historical Records of Australia*.

- 41 Mark Finnane, and Jonathan Richards, “‘You’ll get nothing out of it?’: The inquest, police and Aboriginal deaths in colonial Queensland”, *Australian Historical Studies* 35(123) (2004), 86.
- 42 Douglas and Finnane, *Indigenous crime and settler law*, pp. 51–2.
- 43 *Moreton Bay Courier*, 28 July 1849, p. 2.
- 44 *Moreton Bay Courier*, 28 July 1849, p. 2.
- 45 *Moreton Bay Courier*, 28 July 1849, p. 2.
- 46 NSW Legislative Assembly, *Report from the Select Committee on Murders by the Aborigines on the Dawson River*, 1858, pp. 5–7.
- 47 Ross Patrick, *History of health & medicine in Queensland 1824–1960* (Brisbane: University of Queensland Press, 1987), pp. 26, 30.
- 48 *Moreton Bay Courier*, 28 April 1855, p. 2.
- 49 QSA Series ID: 13337, Item ID: 19604, Instructions to Coroners, Inwards Correspondence – Crown Law Office.
- 50 William Ross Johnston, ‘The growth of the lower courts’, *Queensland Heritage* (1978), 15–16; Dean, *Here comes the judge*, p. 10.
- 51 Johnston, ‘A study of the relationship’, p. 19.
- 52 *North Australian, Ipswich and General Advertiser*, 6 April 1858, p. 2.
- 53 Golder, *High and responsible office*, p. 72.
- 54 Golder, *High and responsible office*, p. 73.
- 55 Barry Wright, ‘Self-governing codifications of English criminal law and empire: The Queensland and Canadian examples’, *University of Queensland Law Journal*, 26(1) (2007), 39–65.
- 56 Lee Butterworth, ‘What good is a coroner: The transformation of the Queensland Office of Coroner’, unpublished PhD thesis, Griffith University, 2012.
- 57 *Act for Registering Births, Deaths and Marriages*, 19 Vic no. 34.
- 58 *North Australian, Ipswich and General Advertiser*, 12 October 1858, p. 3.
- 59 Johnston, ‘The growth of the lower courts’, p. 15.
- 60 *Moreton Bay Courier*, 8 January 1859, p. 2
- 61 Maurice French, *Pubs, ploughs and ‘peculiar people’: Towns, farms and social life* (Toowoomba: USQ Press, 1991), pp. 232–3.
- 62 *Sydney Herald*, 23 January 1841, p. 2.
- 63 *Moreton Bay Courier*, 17 July 1847, p. 2.
- 64 *North Australian, Ipswich and General Advertiser*, 14 October 1856, p. 3.
- 65 *Moreton Bay Courier*, 15 April 1848, p. 3.
- 66 Burns, *Justice of the peace and parish officer*.
- 67 *Moreton Bay Courier*, 25 November 1848, p. 2.
- 68 Finnane and Richards, “‘You’ll get nothing out of it?’”.
- 69 QSA Series ID: 13338, Item ID: 19645, Inwards Correspondence – Attorney-General’s Office, letter from Henry Challinor, coroner for Ipswich, to the Attorney-General, 22 April 1861.
- 70 Dennis Cryle, *The press in colonial Queensland: A social and political history 1845–1875* (Brisbane: University of Queensland Press, 1989), pp. 67–9.
- 71 Lieutenant Frederick Wheeler, *Report from the Select Committee on the Native Police Force and the Condition of Aborigines Generally*, Queensland Legislative Assembly 1861.

- The word 'disperse' became a euphemism for the killing of Aboriginal people. See Jonathan Richards, *A secret war: A true history of Queensland's Native Police* (Brisbane: University of Queensland Press, 2008), pp. 76–81.
- 72 QSA Series ID: 36, Item ID: 348602, Inquest File - Evidence of Francis Lucas MD.
- 73 QSA Series ID: 36, Item ID: 348602, Inquest File - Evidence of Edward Quinn, Chief Constable, Ipswich Police.
- 74 QSA Series ID: 36, Item ID: 348602, Inquest File.
- 75 Letter from H. Challinor to Attorney-General, QSA, Series ID: 5253, Item ID: 846742, Correspondence Inwards, 01/01/1861-31/01/1861.
- 76 Letter from Attorney-General to H. Challinor, QSA, Series ID: 5253, Item ID: 846742, Correspondence Inwards, 01/01/1861-31/01/1861.
- 77 *Moreton Bay Courier* 1861, 15 January, 17 January.
- 78 *Brisbane Courier*, 3 June 1861; *Moreton Bay Courier*, 21 February, 27 July 1861.
- 79 *Moreton Bay Courier*, 7 May 1861.
- 80 Cryle, *The press in colonial Queensland*, p. 69.
- 81 Cryle, *The press in colonial Queensland*, pp. 7–8; Bruce Kercher, 'Repugnant legislation', in Bruce Kercher, *An unruly child: A history of law in Australia* (Sydney: Allen & Unwin, 1995), pp. 103–23.
- 82 *Report from the Select Committee on the Native Police Force and the Condition of the Aborigines Generally* together with the proceedings of the Committee and minutes of evidence (Brisbane: Fairfax and Belbridge, 1861), p. 2.
- 83 *Report from the Select Committee on the Native Police Force and the Condition of the Aborigines Generally* together with the proceedings of the Committee and minutes of evidence (Brisbane: Fairfax and Belbridge, 1861), p. 3.
- 84 Finnane and Richards, "'You'll get nothing out of it?'" , p. 23.
- 85 *Courier*, 4 October 1862, p. 2.
- 86 *Courier*, 16 September 1861.
- 87 *Brisbane Courier*, 16 September 1861.
- 88 Jonathan Richards, 'The Native Police of Queensland', *History Compass*, 6 (2008).
- 89 Richards, *A secret war*, pp. 42, 43.
- 90 Raymond Evans, Kay Saunders and Kathryn Cronin, *Exclusion, exploitation and extermination: Race relations in colonial Queensland* (Brisbane: University of Queensland Press, 1978), p. 51; Gordon S. Reid, 'Black justice', in Gordon S. Reid, *A nest of hornets: The massacre of the Fraser family on Hornet Bank Station, Central Queensland 1857 and relative events* (Melbourne: Oxford University Press, 1982), pp. 51–67.
- 91 QSA Series ID: 12758, Item ID: 17619, Correspondence Inwards – letters addressed to the Government Resident by the Colonial Secretary Sydney and by the Inspector-General Police, on native police matters.
- 92 John Oxley Library, Cardew, P., Letter enclosed with correspondence of John Wickham, Government Resident, to the Secretary for Lands and Public Works, dated 23 March 1858, Heritage Collection, A2.47/674.
- 93 *North Australian, Ipswich and General Advertiser*, 29 December 1857, p. 4.
- 94 NSW Legislative Assembly, *Report from the Select Committee on Murders by the Aborigines on the Dawson River*, 1858, pp. 5–7.

- 95 Greg De Moore, 'The pride of Queensland', *Tom Wills: His Spectacular Rise and Tragic Fall* (Sydney: Allen & Unwin, 2008), pp. 116–18; Evans et al., *Exclusion, exploitation and extermination*, pp. 28, 52; Richards, *A secret war*, pp. 23, 66.
- 96 Douglas Gordon, 'Cannan, Kearsey (1815–1894)', *Australian dictionary of biography* (Canberra: National Centre of Biography, Australian National University).
- 97 Queensland Votes and Proceedings (1859), Statistical Register of Queensland for the Month of December.
- 98 Freckelton and Ranson, *Death investigation*, p. 36. Queensland Votes and Proceedings (1860), Statistical Register of Queensland for the Month of December. The six coroners were: Kearsey Cannan (Brisbane); Henry Challinor (Ipswich); William Armstrong (Drayton); Samuel W. Aldred (Warwick); Elias S. Rutherford (Rockhampton); W. H. Stevenson (Gayndah): Blue Book 1860, p. xi.