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978-1-107-07073-8 - Imperial Underworld: An Escaped Convict and the Transformation of the British Colonial Order

Kirsten McKenzie

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Introduction

‘A soul reared in the lap of liberty’

Norfolk Island, a tiny green speck upon the expanse of ocean that separates Australia and New Zealand, is now a place of somewhat improbable beauty. Ringed almost entirely by cliffs, the first European explorations dubbed it ‘only a place fit for angels and eagles to reside in’.¹ Today the landscape is still dominated by the eponymous pine trees whose name belies their quintessentially Pacific appearance. They present an incongruous backdrop to the sound of imported blackbirds, the shops stocked with duty-free Royal Doulton and Crown Derby porcelain, and the Burne-Jones stained-glass windows of the mission church. If ever there were an edge of empire, this is it.

In 1825 British imperial reforms decreed that Norfolk Island become part of a system designed to render convict transportation, in the words of the secretary of state, ‘an Object of real Terror to all Classes of the Community’.² A previous settlement on the island had been abandoned in 1814 as too remote and costly. Now this distance, 1700 kilometres east of the increasingly prosperous colony of New South Wales, would be put to new disciplinary use as part of a major transformation in penal governance. As the declared destination for reoffenders of the worst type, the outpost would be feared and despised as ‘Norfolk’s fell Isle’ and, because all women would be banned, ‘the modern Gomorrah’.³ This dark history continues to figure prominently in the Gothic-inflected commentaries of tour buses and nighttime ghost walks. Convicts unlucky enough to end

William Edwards, conducting his own defence in *Fiscal v. Cooke, Edwards and Hoffman*, 20 February 1824, in G. M. Theal (ed.), *Records of the Cape Colony* (London: Clowes Printers, 1897–1905) (hereafter *RCC*), vol. 17, p. 185.

¹ The words of French explorer Jean-François de Galaup, Comte de La Pérouse, reported in Chief Surgeon White to Mr. Skill, 17 April 1790, *Historical Records of New South Wales (HRNSW)* (Sydney: Government Printer, 1892–1901), vol. 1, part II, p. 333.

² Earl Bathurst to Commissioner John Thomas Bigge, 6 Jan. 1819, *Historical Records of Australia (HRA)* (Sydney: Library Committee of the Commonwealth Parliament, 1914–1925), series 1, vol. 10, p. 7.

³ *Monitor*, 20 Dec. 1828.

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up on Norfolk Island, it is widely assumed, often chose death rather than endure its horrors. With suicide regarded as a crime against God, some would even cast lots to elect one of their number to the office of executioner. The man with the short straw would only await the hangman's noose before joining his murdered comrades in the afterlife.

Like much of what we know about transportation to Norfolk Island, this image of depravity and mass despair needs to be tempered with a more prosaic reality. Both the intentions of imperial policy and the lurid reputation of the island were undercut by the messy practices of actually running a penal system. From unlucky circumstance or bureaucratic bungling, a far wider variety of prisoner ended up there than the hardened criminals of legend.⁴ If assumptions about the character of the inmates needs reassessment, so too do other commonly held beliefs. Despite their inclusion in a high-profile history of convict Australia, no incidents of Norfolk Island murder–suicide lotteries can be verified beyond hearsay, and there were in fact only two conventional suicides recorded during the thirty years of the second penal settlement there.⁵

About the first death we know almost nothing: only that an unidentified man threw himself over a cliff in 1826.⁶ The second attracted far more official attention, as well as considerable public debate. On 9 June 1828 a man who began his life as Alexander Loe Kaye and ended it as William Edwards hanged himself from the rafters of the hut that he shared with three other convicts. He had barely arrived on the island. Sydney's *Monitor* newspaper mourned the loss of 'a man of literary talents, and of an unconquerable spirit of independence'.⁷ In life Edwards had declared himself a 'patriot' and a 'soul reared in the lap of liberty'.⁸ Contemporaries variously regarded him as a 'champion', a 'maniac' and a 'desperadoe'.⁹ With some justification, opinions differed considerably

⁴ The complexities of Norfolk Island's history and the arbitrariness of transportation there during the second penal settlement are convincingly demonstrated in the revisionist work of T. Causer: "'Only a place fit for angels and eagles': The Norfolk Island penal settlement 1825–1855", PhD thesis, University of London (2010).

⁵ R. Hughes, *The Fatal Shore: A History of the Transportation of Convicts to Australia 1787–1868* (London: Collins, 1986), pp. 467–9. Hughes's account of suicide lotteries is based on the reminiscences of Foster Fyans, second-in-command on the island. Causer's meticulous research into the alleged incident casts serious doubt on its authenticity: no record exists of either the convicts involved or the trial for murder that would have followed. See Causer, 'Only a place fit for angels and eagles'; and M. Wolter, 'Sound and fury in colonial Australia: The search for the convict voice 1820–1840', PhD thesis, University of Sydney, 2014.

⁶ Causer, 'Only a place fit for angels and eagles', p. 213.

⁷ *Monitor*, 20 Dec. 1828.

⁸ Letters received from Court of Justice, CA, CO, 214, no. 31; *RCC*, vol. 17, 185.

⁹ Samuel Hudson, Diary, 11 March 1824, CA, A602, vol. 3; Somerset to Bigge, 12 May 1824, Rhodes House, MSS Afr 24, 126; T. Pringle, *Narrative of a Residence in South Africa* (London: Moxon, 1835), p. 198.

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as to his sanity. If his name is now largely forgotten, he was widely notorious across diverse localities when, as the Sydney press described it, he ‘terminated his wretched existence by self-destruction, and thus satiated the vengeance of his enemies’.¹⁰ The man who called himself Edwards went to his death claiming that his body would testify in his favour and clear his name, but in death he would prove no less controversial than he had in life.

Despite the obsession of both supporters and detractors over discovering the truth behind his multiple identities, *Imperial Underworld* is not a whodunit. There is arguably little mystery (though there was considerable subterfuge) involved in the question of whether Alexander Kaye and William Edwards were one and the same.¹¹ More intriguing is to consider how such an unlikely agent of change came to cause so much trouble across so many and such varied British imperial contexts and to ask how it came to be that by 1828 so many people knew his names. He was one amongst hundreds of convicts who used doubts over their identity as a tactical pressure point against an often-confused and inconsistent colonial legal apparatus. But he was also a fulcrum around which much larger changes in imperial administration would revolve.

The turn of the nineteenth century was a period of profound significance for the relationship between personal freedom and the exigencies of state security and imperial governance. Debates over their relative importance were given a heightened resonance in the circumstances of revolutionary wars in Europe and America, social unrest in Britain, and humanitarian activism over the abolition of slavery and the treatment of indigenous peoples across the globe. Britons were fond of claiming that, unlike their continental rivals, they had managed to reconcile the notions of freedom and empire. Their national identity, it was said, made them uniquely adapted to found an empire based upon just principles. The loss of the American colonies had compromised such assertions. The struggle against revolutionary and Napoleonic France would stretch Britain’s internal cohesion to the limit. For a nation that premised its right to global domination on its ability to resolve what historian Peter Cochrane calls the ‘marvellous paradox’ of liberty and empire, the new colonies of the Southern Hemisphere offered the

¹⁰ *Monitor*, 20 Dec. 1828.

¹¹ To avoid confusion I will name my protagonist as ‘William Edwards’ from the time he took on this persona in 1823, despite the fact that it was almost certainly an assumed name. Prior to that date I will refer to him as ‘Alexander Kaye’. Given that his identity was contested, contemporaries continued to use one or the other depending on their position in the dispute.

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possibility of a fresh start, a crucible in which the right kind of empire could be forged.¹²

Early nineteenth-century Southern Africa and Australasia share commonalities with other theatres of colonial expansion and dispossession. They witnessed their own distinct local variations on broader questions such as sovereignty, free trade, the cost of defence and relations with indigenous peoples (in particular their place under British law). Yet they also offered a set of peculiar challenges to delivering on the supposed promises of liberty and empire, challenges in which the life and death of William Edwards became embroiled. As such, they are especially suitable places to examine how the parameters of British imperial rule were tested and defined.

In the Antipodes, the operation of the rule of law in penal colonies with expanding free populations and a growing economy posed an increasing challenge. As New South Wales Governor Ralph Darling complained in 1827, 'the Papers' taught people 'to talk about the rights of Englishmen' when this concept had no relevance to the society he ruled.¹³ Analogous conundrums were faced by the British at the Cape of Good Hope. It had been a slave colony, seized at the end of the eighteenth century just as a passionate commitment to abolishing the slave trade was reaching its climax. It possessed the further complication of its prior Dutch history that over the past century and a half had seen (to British eyes) a peculiarly foreign settler society emerge on the tip of the African continent. Like other colonies conquered during the Revolutionary and Napoleonic Wars, the Cape remained in constitutional limbo for decades, technically under temporary military occupation. The result was a thin veneer of British legal and administrative practice stretched over an entrenched and alien system of governance. As with the Australian penal colonies, problems in the judiciary were amongst the most acute of the challenges to effective governance faced at the Cape. Administration in both localities evolved on the ground with an often-blatant disregard for metropolitan niceties.

Faced with these problems, the British Parliament ordered a series of investigations into what were increasingly untenable systems of governance. The new disciplinary structures at Norfolk Island were but one iteration of a set of interconnected equations designed to generate a transformation in the colonial order. A major overhaul of imperial administration took place in the aftermath of the Napoleonic conflict.

¹² P. Cochrane, *Colonial Ambition: Foundations of Australian Democracy* (Melbourne University Press, 2006), p. 9.

¹³ Darling to Hay, 9 Feb. 1827 (secret and confidential), *HRA*, 1:8, p. 99.

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The key mechanisms by which this overhaul was achieved were parliamentary Commissions of Inquiry. Massive and expensive undertakings that frequently took years to complete, they were part of a ‘burgeoning culture of information collection which underwrote early nineteenth-century notions of good government’.¹⁴ At the Cape and in the Australian colonies they were also led by the same man, John Thomas Bigge. Formerly chief justice of Trinidad, Bigge began his work in New South Wales and Van Diemen’s Land in 1819.¹⁵ He had barely completed his reports on these colonies before being ordered to lead another commission into the former French and Dutch possessions at the Cape, Mauritius and Ceylon. Together with Co-Commissioner William Colebrooke, Bigge’s Commission of Eastern Inquiry arrived in Cape Town in July 1823. Pressure of work was such that the two men were joined by a third commissioner, William Blair, in 1825. Their final reports from this second inquiry were only completed a decade later. By the end of the process, few areas of colonial life remained untouched.

The commissions of Bigge and others constituted part of a vast imperial stocktaking prompted in part by growing public criticisms over reckless spending and the system of self-interested government known as ‘Old Corruption’. First coined by radical pamphleteer William Cobbett, the term encompassed far more than just misappropriation of funds. Its key characteristics were parasitic: a malignant growth that fed on the nation’s wealth, diverting it ‘into the pockets of a narrow political clique whose only claim to privileged status was its proximity to the sources of patronage’.¹⁶ Although prompted by public opinion and parliamentary criticism, the imperial Commissions of Inquiry were also an attempt to keep the direction of reform as far as possible under the control of the Colonial Office, for it was the secretary of state who appointed the commissioners and to whom they directly reported.¹⁷ In the cut and thrust of parliamentary politics, such investigations could also act as useful delaying tactics.

The context in Britain itself is as important in understanding these investigations as the situation in the colonies. In circumstances of increasing social unrest, in which many saw the threat of outright revolution,

¹⁴ Z. Laidlaw, ‘Investigating empire: Humanitarians, reform and the Commission of Eastern Inquiry’, *Journal of Imperial and Commonwealth History*, 40:5 (2012), 752.

¹⁵ It was as a result of Bigge’s investigations and recommendation that Van Diemen’s Land became a separate colony in 1825.

¹⁶ P. Harling, *The Waning of ‘Old Corruption’: The Politics of Economical Reform in Britain 1779–1846* (Oxford: Clarendon, 1996), p. 1.

¹⁷ J. Ritchie, *Punishment and Profit: The Reports of Commissioner John Bigge on the Colonies of New South Wales and Van Diemen’s Land 1822–1823 ~ Their Origins, Nature and Significance* (Melbourne: Heinemann, 1970), p. 29.

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solutions were sought abroad to problems of crime, surplus population and economic stagnation at home. These domestic British concerns constantly ran up against vexed local debates that were playing out on the imperial periphery about the rights and responsibilities of settlers, convicts, slaves and indigenous peoples. The commissioners' investigations and recommendations thus became bound up in circuits of political contestation that linked Britain and its antipodean colonies.

Designed to acquire the necessary information on which to base widespread reforms, the investigations of the Cape and the Australian colonies would utterly recast the boundaries of colonial administration and direct policy in these regions for decades to come. They resulted in major changes in both the constitutions and the governance of Britain's antipodean colonies as they established new supreme courts, legislative councils and councils of advice that increasingly curbed executive power. These reform initiatives, however, were accompanied by sustained efforts to control the diverse groups and interests which challenged state authority.

Commissioner Bigge [Figure 1] exemplified a type of information-gathering bureaucrat who was transforming British imperial governance in this period. Historians have paid increasing attention to how such men, and the networks of information and surveillance they set up, bound the administration of formerly distinct localities together.¹⁸ Bigge was one of a new breed of reforming administrators forging transnational networks by connecting men of literate and legal status across colonial borders and vast oceans. But there were also other far less conventional actors making similar links, making similar claims to expertise, and also seeking a part in the same unfolding dramas of imperial governance.

Alexander Kaye reluctantly stepped onto this stage when he was transported to New South Wales in 1819 for stealing a chestnut horse worth £30. It proved the first in an uncanny series of temporal and geographic connections between his travels and those of Bigge's various Commissions of Inquiry, which began work in the Australian colonies in the same year. So closely did their colonial itineraries seem to coincide with one another's that the man known variously as Kaye and Edwards would later be accused of acting as a covert agent for Bigge. Kaye escaped from Sydney in 1821 and made his way to the Cape Colony via Batavia in the Dutch East Indies and the Indian Ocean island of Mauritius. He landed

¹⁸ For example, Z. Laidlaw, *Colonial Connections 1815–1845: Patronage, the Information Revolution and Colonial Government* (Manchester University Press, 2005); D. Lambert and A. Lester (eds.), *Colonial Lives across the British Empire: Imperial Careerism in the Long Nineteenth Century* (Cambridge University Press, 2006).

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Figure 1 Commissioner John Thomas Bigge in 1819, the year he began his investigations into the Australian colonies.

in Cape Town in 1823 under the name of William Edwards, just as Bigge was beginning his second set of colonial investigations there.

Kaye was born in 1791 to a provincial English family on the margins of gentility. As we learn in the following chapter, he was poorly regarded

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by certain members of his immediate circle before he fell foul of the law. His conviction for theft was the final act in a pattern of increasingly erratic behaviour, but he nonetheless managed to achieve some legal training before he was forced to leave England. Taking the name William Edwards, Kaye set himself up as a notary in Cape Town. In 1823 he was employed by Cape Town merchant Lancelot Cooke to draw up a memorial protesting official corruption in the assignment of 'Prize Negroes'. His exposé of the treatment of these former slaves, liberated by the Royal Navy following the banning of the slave trade, threatened to undermine the moral high ground of British abolition. It would unexpectedly catapult him into imperial notoriety. Edwards now joined a loose alliance of disaffected British emigrants at the Cape who had been galvanised by the presence of the Commissioners of Inquiry. More mainstream campaigners from the humanitarian lobby, however, regarded men like Edwards as 'desperadoes', and many commentators (not without reason) even judged him to be insane. His was very much the lunatic fringe of liberal reform.

Edwards's continued protests against the Cape administration ended with him sentenced to transportation to New South Wales under his new identity for seditious libel of the governor, Lord Charles Somerset. Widely recognised as escaped convict Kaye upon his return to New South Wales in 1824, he nonetheless continued to insist that he was Edwards, to protest against the illegality of his transportation from the Cape and to lambast the injustices of the convict system in Australia. He remained a thorn in the flesh of the imperial system until he was charged with absconding and transported to Norfolk Island in 1828. Committing suicide shortly after his arrival, his death coincided with significant transformations in the imperial structures of both New South Wales and the Cape, reforms he had played a role (part deliberate, part inadvertent) in bringing to fruition.

Placing a maverick outsider like William Edwards at the centre of a study of colonial governance may appear a curious decision. His colourful tale includes daring escapes, courtroom pyrotechnics, alleged cross-dressing, letters smuggled into jail in the collars of faithful dogs and even some really bad love poetry. It might then seem equally perverse to limit the audience of such a manifestly 'ripping yarn' by turning it into a book about constitutional law and transformations in colonial administration. In choosing to do so I want us to take a fresh look at how these changes were brought about.

As I argue, the view from the margins provides us with a different way of understanding the cultural history of imperial politics. However,

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it is also worth remembering that this approach is faithful to the events of the time. Politics on the imperial periphery set impressive standards for feuding and factionalism. Yet the two administrations in which Edwards played notable roles in the 1820s – one in New South Wales and one in the Cape Colony – rank highly within even this fractious company. Local attitudes to Ralph Darling, governor of New South Wales from 1825 to 1831, were evident in the celebrations at his departure, including a notoriously riotous party attended by a large proportion of the town's inhabitants. Illuminations in the window of Sydney's *Monitor* newspaper claimed 'He's Off! The Reign of Terror Ended'.¹⁹ In the years immediately following the arrival of the Commission of Eastern Inquiry at the Cape, Governor Somerset's administration (1814–1826) was rocked by so many and such fruity scandals that it began to resemble, in the memorable description of historian Robert Ross, 'the more racy type of comic opera'.²⁰ Yet far from being separate from the real issues at hand, these seemingly frivolous disputes were considered central to the Commission's investigations and to parliamentary discussions more generally. An official's honour and reputation were acknowledged political resources, and interpersonal conflicts were inseparably bound up with broader policy debates. Accusations of misconduct made against colonial officials (by both settlers and rival administrators) were eagerly taken up in Commons debates, generating extensive press coverage and lengthy printed parliamentary papers. They absorbed significant quantities of the commissioners' time and energy, spawning large and numerous volumes of evidence (the one concerning Edwards ran to more than 800 double-sided manuscript pages) and significantly delaying the tabling of their final reports. This would spark criticism at the time, but it is abundantly clear that not only the commissioners but also their superiors in the Colonial Office felt it necessary to investigate these ostensibly frivolous matters. Smoothing away the more salacious elements in the controversies over colonial administrations, I argue, significantly distorts our understanding of them. These scandals were not regarded by contemporaries merely as distractions from the real business of enquiring into colonial governance, and we need to take them equally seriously.²¹

¹⁹ B. Fletcher, *Ralph Darling: A Governor Maligned* (Oxford University Press, 1984), p. 292.

²⁰ R. Ross, *Status and Respectability in the Cape Colony 1750–1870: A Tragedy of Manners* (Cambridge University Press, 1999), p. 46.

²¹ J. M. Bennett suggests the Bigge reports on New South Wales abounded with accusations of petty factionalism and a preoccupation with 'personalities', and that various investigations were simply irrelevant and 'satisfying the parliamentary taste for gossip': see 'The day of retribution: Commissioner Bigge's iniquities in colonial New South Wales', *American Journal of Legal History*, 85 (1971), 93, 97. As I argue repeatedly

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As their sometimes-exasperated correspondence testifies, officials both in London and on the periphery were constantly bombarded by individual complainants seeking redress against the perceived injustices of colonial administrations. Although Edwards was by no means alone in this regard, as this book makes clear, his case became bound up in an array of vexed issues to which reformers were simultaneously directing their attention. That these important and far-reaching debates should be connected with ostensibly marginal, interpersonal disputes is the central proposition of my investigation into Edwards and his world.

C. A. Bayly's influential 1989 study *Imperial Meridian: The British Empire and the World* rightly emphasised the establishment of 'overseas despotisms' in the late eighteenth century as a response to the challenges presented by imperial expansion. This conservative reaction in the wake of revolutionary challenges in North America and Europe lasted from the 1780s until a liberal shift in the 1830s. It was a system that encouraged and supported 'viceregal authority' backed up by military rule and (where relevant) alliances with local elites from previous colonial regimes. Thus, in Bayly's view, colonial reform in the period between 1780 and 1830 was

autocratic in style, tending to create or confirm social and racial hierarchies through the liberation of private property. Government remained militaristic and monopolistic in practice in spite of the softer protestations of constitutional and political theory.²²

This climate allowed the controversial 'despots' who figure largely in this story to flourish – men like Somerset at the Cape and Darling in New South Wales.²³

Yet it bears remembering that these *were* controversial figures, and not just with their colonial critics. Proconsular autocrats caused a great deal of difficulty for their political allies in London, even when both sides held outlooks on the same conservative end of the contemporary political spectrum. In the social and economic upheaval that followed the Napoleonic Wars, heightened public concern about fiscal responsibility and proper governance meant that complaints about imperial administration from the periphery gained political traction in the metropole.

across these pages, this is to fundamentally misread both the very real power and the proper place that such 'gossip' occupied in the workings of imperial politics and the elaboration of reform initiatives.

²² C. A. Bayly, *Imperial Meridian: The British Empire and the World 1780–1830* (London: Longman, 1989), pp. 8, 162.

²³ As Brian Fletcher subtitled his biography of Darling, 'A Governor Maligned'.