

**BICENTENARY OF THE LEGISLATIVE COUNCIL**

**THE STATE OF THE COLONY CONFERENCE**

**PEOPLE, PLACE AND POLITICS:  
NEW SOUTH WALES IN 1823**

**Thursday 8 September 2022**

**Friday 9 September 2022**

*First Day*

*Thursday 8 September 2022*

## WELCOME TO COUNTRY

**Uncle MICHAEL WEST**, Metropolitan Local Aboriginal Land Council

**Mr DAVID BLUNT [Clerk of the Parliaments]:** Good morning, everyone. It is such a privilege to have all of you join us here today for this very special occasion, the first of what will be a series of conferences to contribute to a scholarly legacy of works that record the history and development of both the Legislative Council and the New South Wales Parliament, and, importantly today, the landscape, communities and groups that preceded the Legislative Council. Indeed this country, Australia, is the land of the world's oldest living culture, with a history dating back at least 65,000 years. We meet here today on Gadigal land, and it is fitting that I introduce Mr Michael West from the Sydney Metropolitan Local Aboriginal Land Council to conduct the welcome to country.

**Uncle MICHAEL WEST:** I was going to say bujari gamarruwa Gadigal Eora, everyone—g'day, and welcome to Gadigal land, Eora land. I was looking up at the picture on the wall where Aboriginal people are represented. I think in 1823 Aboriginal people did not have many rights, did we? No. What I wanted to say is that we are on a journey of reconciliation and truth telling. We need to be honest in our conversations and we need to have a few different conversations. I am Uncle Michael from the Metropolitan Local Aboriginal Land Council. We are the custodians of the land, air, water and culture within our boundaries.

As Australians, you have a responsibility to look after our culture and our sites because our culture and sites are also your culture and your sites. We need to keep them not only for Australians but for humanity itself, when you think about it. We go back more than 65,000 years. I have talked to many different Aboriginal people and I have not heard one migration story from Africa. We believe we have been here all the time; we have never migrated. I will get you to get out your phones, as I think it is important to educate and to show you some of the examples of what I am talking about. To the people on my right, which is your left, I'll get you to have a look at "Brewarrina fish traps". To the people on my left, your right, I will get you to look at "hunting bird manuscript Vatican". It gives a bit of a context to things.

We are going through a pandemic and we are not at the end yet. We need to be good global citizens and help the world out. If we don't vaccinate the world then COVID is just going to keep bubbling along and there will be new variants coming along, as they are. We have a responsibility as a First World nation to help out other countries. I will ask the people to my right how old are those Brewarrina fish traps? We are lucky to have them here in New South Wales, aren't we? They are 40,000 years old. What they are is aquaculture and engineering. What did those on my left find out about the hunting bird manuscript in the Vatican? You will find a very familiar bird there. What is that bird? It is a cockatoo. No doubt you see them around here and around your place. They are down in the gardens down there, flying upside down and making a lot of noise. They do like chewing on things and destroying them, don't they? They can be very destructive, can't they?

What century was that manuscript from? Yes, it was from the thirteenth century. There has been trade and interaction going on for many centuries. Up in the Top End, Aboriginal people traded with Indonesia, Macassans and Asia for more than 400 or 500 years in things such as sea cucumbers. There was an exhibition several years ago—maybe a decade or more—down in Victoria, in Melbourne. I know it was said a few years ago that Australia signed the first trade agreement with Indonesia and Asia, but obviously if you are trading for 400 or 500 years there would be some type of agreement in place. It would not have been a signed one; more likely it was negotiated around a fire while sharing some stories, tucker and culture.

The people up the Top End do use chopsticks. If you saw Benjamin Law when he went back to find his history, he talked to some of the blackfellas up the Top End and they do use chopsticks. It is quite interesting. The previous Government of Canberra said that it was the first to sign that trade agreement, but obviously that's fake news! We need a little bit of a laugh, don't we? We are going through very difficult times. I think we have seen some great examples of leadership. Overseas we've seen some odd examples of leadership, I might say. They have tended to be males with bad attitudes and bad haircuts; I will let you think about that. I think we have done a pretty good job, but I think we have just let it slip a little bit since January.

We have got to look after our citizens: people in vulnerable categories like Aboriginal people, people with chronic conditions, people who are a bit older, people with compromised immunity and people with a

disability. We need to care for everyone and bring everyone into our society so they can fulfil their dreams and aspirations. Who knows who might come up with wonderful ideas and wonderful solutions to the problems that we face? That's why we need to give everyone the opportunity to hone their skills, to gain the knowledge to create a better society.

If you were in the harbour there, you'd more likely get around in a nawi, which is a canoe. "Nawi" is the traditional name for the canoes down there. If you look down at the Opera House now, there is a wonderful sculpture there. Have you seen it up on the headlands, this? And what is it? A fishhook; it's a Gadigal woman's fishhook. It's a bara in the shape of that fishhook, but that's made from a shell—traditionally what it would be made from. If you were in that nawi and you were heading inland, we are on the land of the Gadigal.

What's next door to us? What is the clan there? It starts with "W"; it's got six letters; "gal" is the last three. Wangal. What's across that beautiful coathanger? What is the clan there? Cammeraygal. This is a bit harder: What is the next one beside Cammeraygal? It starts with "W". Wallumettagal, yes, that's where Bennelong's resting. You keep going and you hit Burramattagal, and "burra" means "eel". I would like to see, one day, Parramatta Eels have Burramattagal Eels. Wouldn't that be great? And, hopefully, I'm going to talk to Sydney Swans to have Eora Swans. Maybe that might be a thing that they can do, I think. Wouldn't that be great?

Those five clans and the other Sydney clans would meet on a beautiful little island down here which is called Memel. Do you know about that island? Memel is the eye of the eel, so there's a whole creation story of the harbour and the waterways. That's where the eel is resting and its eye looking up. That's where clans would meet, so it's a very sacred and important place. We include that every year as part of 26 January at the land council. There's a flame that goes over there at night, stays there and then it comes back over in the morning to light a cauldron where we have a smoking ceremony. That also gets fed to other parts around Sydney for lighting other flames for smoking ceremonies.

We are adopting culture, and it's important we do adopt culture. You need to learn our culture—as I said, it's your culture—but we want you to also understand your own identity. That's important because "If you don't then you're like a tree without roots" is what the Elders say, so we need you to also understand who you are and find out who you are. We need to take a moment's silence to pay respect to country, because country has been talking to us the last few years, through the floods and through the firestorms. We need to look after country, and we need to do those ceremonial burnings. I know we have been working with the Government to learn and to continue teaching people about the ceremonial burnings, because they're low intensity. What they do is they give the opportunity for the animals to leave—because they're part of our totem system, so they're like our family—and then also about the flora. The different bushes and that can also be people's totems, and we need to look after it.

To us, fire is not about destruction; it's about ceremony, and it's about regeneration and cleansing. We need a moment's silence to pay respects to country; to pay respects to Aboriginal and Torres Strait Islander traditional owners, Elders and custodians of the past, present and future; and to pay respects to your ancestors—because we're all going to return to Mother one day, aren't we? We all return to Mother—the cycle of life—and we become part of Mother. It's important to remember that and also think about your journey right here, right now, in the continuum to this point in time—so just for a moment's silence, reflection and also to pay respects.

*[Moment of silence observed.]*

We have three beautiful rivers. We have the Hawkesbury, Nepean and Georges. These are the aquatic boundaries of our nation. To my Aboriginal and Torres Strait Islander brothers and sisters out there, we warmly welcome you from the country, the clan, the tribe and the nation you come from. To all our brothers and sisters—and we are all brothers and sisters; we belong to that one mob, one tribe, humanity—we warmly welcome you from the community, the family, the neighbourhood, the place, city or town that you're from, and ultimately the country you come from. We share a little sphere called Earth. It's a blue marble floating through the ever-expanding cosmos.

On behalf of the Metropolitan Local Aboriginal Land Council, we welcome you here for the next couple of days. It's important that we do work together and walk together. Always was, always will be, Aboriginal land—never ceded. We've just come out from up there at Redfern. It's so important that when we do work together, we can achieve great things. If the world can put a person on the moon, why can't we end poverty and end wars, is what I'm thinking.

As I said, we've got someone who in Europe has created the biggest war since World War II, a person whose mind might be questioned, but they want to take us back to another time. I don't think that is going to happen. Being a good person, being a good human and being a good man is not about riding around on horseback with no shirt on, is it, or playing hockey and games like that. No, it's about understanding your own emotions. It's

about being responsible. It's about being a good citizen, isn't it? Yes, and we need to be good citizens and good global citizens. I'll leave you with those thoughts. Make sure you self-care, whether it's art, whether it's telling stories, men's sheds or whatever it is that you have—crafts, whatever it is. Please take that time out to make sure that you do take care of yourself, that self-care, because we are going through difficult times. Thank you.

**Mr DAVID BLUNT:** Thank you so much, Michael, for that very warm and informative welcome to country. The Burramattagal Eels—I think it might be their year this year, 2022. Let's hope so.

## INTRODUCTORY REMARKS

**Mr DAVID BLUNT [Clerk of the Parliaments]:** I acknowledge and pay my respects to Elders past, present and emerging, and extend that respect to other Aboriginal and Torres Strait Islander people joining us here today and also via our live stream. I also acknowledge the lands of all those joining us online. As I said before, we're absolutely thrilled that you've chosen to join us for the next two days to explore our shared history of people, place and politics of the colony of New South Wales in 1823. We have a stand-out program of speakers planned for the next two days, and we're very keen to get the program underway, but first just some acknowledgements and also some housekeeping items.

I acknowledge the President of the Legislative Council, the Hon. Matthew Mason-Cox, who I'll be formally introducing to you all in a few minutes; the Speaker of the Legislative Assembly of New South Wales, the Hon. Jonathan O'Dea; my colleague the Clerk of the Legislative Assembly, Helen Minnican; my colleague the chief executive of DPS, the Department of Parliamentary Services, Mark Webb; and the Legislative Council members here with us now, Ms Abigail Boyd and the Hon. Robert Borsak. There'll be a number of members of the Legislative Council joining us throughout the next few days.

Each of the sessions over the next two days will be held here in the theatrette. Each session will be introduced by a different member of the Legislative Council and will be delivered by an absolute expert in the field. There will be a question-and-answer component of 15 minutes before the end of each session, so make sure you save up those questions. In order to indicate that you'd like to ask a question at that time, just raise your hand and there are some roving microphones that'll come to you. For those of you who are following us online today, please write your questions into the comments function on the screen and our moderators will read them out at the end.

I ask those who are following online not to record anything that they see online today. There will be materials from the conference, both in terms of transcript and recordings, that'll be made available officially in the weeks and months to come, but please do not record anything yourselves today. For those of you who are sitting in the front rows in the theatrette, you may see a number of people with handheld cameras make their way towards the stage at different times during the day. Please don't be alarmed; they're simply capturing images and footage of the day. This morning we will commence with a reading of country from Dr Danièle Hromek. I have participated in one of Danièle's readings of country for this place and, I must say, it has completely changed the way that I view the land on which we are here today and the land on which I have worked for more than 30 years. So you have something really special in store. It is a special session that warrants our focus. It will be quite lengthy: It will run right through until 12.30 p.m. when we will break for lunch.

I understand that some of you have purchased the option of a specially themed 1823 lunch, which will be served in the members' lounge. If so, your conference passes have been marked with a blue dot, and I am delighted to say mine has a blue dot, so I am looking forward to that. Tickets for those special lunches have sold out, so for those not attending that lunch, you may like to avail yourselves of some of the options available either in the precincts or in the neighbouring streets and buildings. I understand there is a list in your show bags of some of the choice places. If you are going outside, though, please be sure to return by 1.40 p.m. because we have a fantastic session this afternoon with Dr Paul Irish and Ray Ingrey. So please be here on time for that.

After Paul Irish and Ray Ingrey, there will then be an afternoon tea break for 15 minutes. I should take this opportunity to do an advertisement for our wonderful parliamentary catering service. We have an exceptional parliamentary chef here and the catering team is fantastic, so you can be assured of very high standards of morning and afternoon teas over the next couple of days. For those of you who are following online, to get into the spirit of what people are experiencing here, can I suggest that you do a quick trip out to the very best cafe or bakery in your town or suburb and treat yourself? Perhaps bake something really special for tomorrow and you will be experiencing what everyone is experiencing here. But please be back from those breaks five minutes before the scheduled start time so that we can keep to time but also so that you do not miss anything.

Some of you have also purchased tickets to a special History Week tour being offered this evening. In that case you have a pink dot on the back of your pass—no, I do not have one of those. For those of you who do have a pink dot, we will explain where to meet later today. That tour is also fully subscribed. However, for those of you who missed out, we have an informal option available tomorrow evening that will ensure you get to see and sit in each of the parliamentary Chambers. Public bathrooms can be found outside in the foyer and upstairs on the north—that is that side of the Fountain Court. If you need assistance to find anything, just speak to Josh or Nathan, who are stationed in the foyer. Water is also available in the foyer.

In the very unlikely event of an emergency, the main exit is at the rear of the Theatrette and it leads to Macquarie Street. There is also an emergency exit on my right. Just remember, if there is an emergency for any

reason, please follow the directions of the parliamentary staff and we will get you to safety. Finally, just a reminder that it is a condition of entry into the parliamentary precinct that if you are feeling unwell, start to experience any COVID symptoms or have a temperature over 37.5, you leave the precinct. If you wish to wear a mask, feel free to do so, but it is not obligatory. If you have any questions, please look for the Legislative Council staff wearing Council name tags or black lanyards, and we they will be very happy to answer your questions. That is all the housekeeping.

With those formalities aside, what has prompted this opportunity to reflect on the state of the colony in 1823? Why 1823? To set the scene, I will play a short video that our tour guides and comms team put together that introduces briefly the bicentenary of the Legislative Council and the evolution of the Council over the last 200 years.

[Video played.]

**Mr DAVID BLUNT:** And, in many ways, today is the start of that 2½-year program. This conference marks an opportunity to reflect on all that was before the events of 1823: the land, the people and the agitation that contributed to the establishment of the Legislative Council. Next year our program will explore the members of the first Council, constitutional developments and the evolution of the whole Parliament from a deliberative body to a fully elected, representative, bicameral Parliament. To get proceedings underway it is now my privilege to introduce the President of the Legislative Council, the Hon. Matthew Mason-Cox. A member of this Parliament since 2006, he has served as a Minister, as a Parliamentary Secretary and on an extensive list of parliamentary committee assignments, and now is the fair and impartial independent Presiding Officer of the Legislative Council. I can also attest that he is a delightful travelling companion. All present, may I introduce Mr President.

**The PRESIDENT [The Hon. Matthew Mason-Cox]:** Thank you very much, David, for those very kind words of introduction. It is a long introduction because it is a long celebration. It is certainly my great pleasure to welcome you all here today to New South Wales Parliament, the first of Australia's parliaments. We are very proud of that tradition. I too acknowledge and pay respects to Elders past and present and extend that respect to other Aboriginal and Torres Strait Islander people joining us today, both here and via our live stream. Thank you, Michael, for a wonderful welcome to country in that regard. It was certainly very special, and we do appreciate you being here today on behalf of the Metropolitan Local Aboriginal Land Council.

Today marks the latest in a series of events to celebrate and commemorate the bicentenary of the Legislative Council. Not only is the bicentenary a significant milestone for the Council, it also represents 200 years of democracy in Australia. Over the next 2½ years the rich history of this House will be explored in a series of exhibitions, educational programs, re-enactments, conferences, orations and panel discussions. We are also commencing a significant program of capital works to ensure that the building can continue to meet the needs that a modern parliament demands. It is important to understand as we go through this process that the history and the origins of the Legislative Council indeed hark back to another time. In coming here today you would have passed through the old Rum Hospital section, completed in 1816 by the fifth Governor of New South Wales, Major General Lachlan Macquarie, as part of his first phase of public building works. It is now Australia's oldest continuously used public building and serves both as a House of Parliament and a living museum.

The Legislative Council is the institution that gave the people of New South Wales and Australia the beginnings of representative government in 1823 and 1824. In 1823 the Legislative Council was established by the passage of the New South Wales Act through the British Parliament, while on 25 August 1824 the Legislative Council met for the first time with Governor Brisbane presiding. This was, as is referred to, Australia's *Magna Carta* moment—the first restraint on governors' Executive power from which our unique democratic institutions have evolved. Just last week the Clerk and I stood in the rooms of Westminster in London—and I think there is something coming up on the screen shortly—and had the privilege of gazing upon the original of the founding document in the Parliamentary Archives.

It's a handwritten scroll. You can see it there. It is in often unintelligible old English and extends to about 10 metres. We weren't sure exactly of its length. We wanted to roll it out on the carpet but the guardians who were present refused to let us do that but I think it might be somewhere between 10 and 12 metres long. It is a parchment with a wax seal so it is quite a unique document that we hope to have out, probably next year, as part of an exhibition that we will be holding late next year. With a bit of luck, we will be able to convince the House of Commons to let it go. Indeed, it is 12 metres of history.

From these humble beginnings the Council has evolved into what today is widely recognised as one of the most powerful houses of review in the Commonwealth. The Council fearlessly represents the interests of the people of New South Wales and plays a crucial role in reviewing legislation and holding the Government of the day to account. Throughout that journey there have been great successes, great leaps forward, and there have been missteps and sometimes hurt and pain. The golden thread that ties this unique, if complex, history together is the

people of New South Wales. As we are here today this Parliament was established in response to a deep dissatisfaction with autocratic power and later agitated to temper that power. Since 1824 we have benefited from a slow, steady drive towards representation, deliberation and democracy.

The bicentenary affords the opportunity to consider what lies ahead and, indeed, look to a more inclusive, more representative future. As Nathan observed in the video that David played earlier, 200 years is still very young compared to our First Nations people's rich 65,000-year history. It is for this reason that we will start our conference today with a unique Aboriginal reading of country and reflect on early Aboriginal history both prior to and following the arrival of Captain Arthur Phillip and the First Fleet in 1788. As we will learn, much of that history is hidden in plain sight. Some of it is challenging to digest, but it is essential to an honest portrayal of our early collective history.

It is with that goal of learning and reflection in our minds that I have the pleasure of handing to Ms Abigail Boyd, who will introduce our first session with Dr Danièle Hromek. Abigail is a Greens party member in the Legislative Council who is a great support to the Parliament in her capacity as Temporary Chair of Committees, which means she has the privilege of presiding over proceedings in the Legislative Council from time to time. Abigail also serves as chair of the transport portfolio committee and is a member of some 12 other committees of the Legislative Council. Abigail is a very, very busy person indeed and we are pleased to have her here today. Please join me in welcoming Abigail to the stage.

## READING OF COUNTRY

Dr **DANIÈLE HROMEK**, Budawang/Yuin Country-Centred Designer, Director and Professor of Practice

**Ms ABIGAIL BOYD [Member of the Legislative Council]:** I acknowledge that we are meeting here today on the lands of the Gadigal people of the Eora nation and pay my respects to Elders past, present and emerging. This land is, was and always will be Aboriginal land; sovereignty was never ceded. With the immense honour and privilege that I have being in the Legislative Council, I am always aware of the immense harm, as well, that not only this place but also colonisation has caused to the First Peoples of this land. That is why I am incredibly pleased and privileged to be here today to introduce what will be an amazing session. Because if we are to progress with truth telling, treaty and voice, we really do need to understand our pre-colonial history as well as our colonial history.

It is my privilege to welcome Dr Danièle Hromek, a saltwater woman of the Budawang tribe of the Yuin nation with French and Czech heritage. Danièle is a spacial designer and Country-centred designer. She holds a Doctor of Philosophy in design in spacial disciplines and a bachelor of design in interior spacial design, performance major. She is the first Indigenous person in Australia to achieve a PhD in spacial disciplines. Her research and experience contributed to the Connecting with Country framework and *Designing with Country* discussion piece by the Government Architect NSW. Danièle is currently working with the University of Sydney as professor of practice to bring Indigenous knowledges and values gained through her experience working in the profession to the curriculum.

As director of Djinjama cultural design and research, Danièle's methodologies lead their approach to working with country. Her work as a researcher, educator and cultural advisor brings country, culture and community to the built environment by creating spaces to substantially affect Indigenous rights and culture. Clients include State and local government, museums and galleries, as well as industry including architects, planners, designers, heritage and engineering firms. I think you are far busier than I am. Today we will be joining Danièle for a reading of country to understand the site on which Parliament stands—a visual verbal essay providing a preliminary understanding of country and the relationships and responses Aboriginal communities have to country as those who originated from and remain a part of it. This promises to be a real highlight of this conference. Thank you for being here, Danièle, and welcome.

[*Reading of Country by Dr Danièle Hromek*]

**(Luncheon adjournment)**



## HIDDEN IN PLAIN VIEW

**Mr RAY INGREY**, Chair, Gujaga Foundation

**Dr PAUL IRISH**, Director, Historian, Archaeologist, Coast History & Heritage

**Ms JENELLE MOORE [Usher of the Black Rod]:** Welcome back from lunch. I heard a couple of people earlier asking what the Black Rod is. I am the senior protocol officer and the person who bangs on the door when they open Parliament. I hope you had a fantastic lunchbreak after that amazing session with Danièle this morning. I now welcome the Hon. Peter Poulos, who is the co-chair of the NSW Parliamentary Friends of Reconciliation. His co-chair is the Hon. Shaoquett Moselmane, who is busy with committee duties today.

The group comprises members with an active interest in promoting reconciliation and connection with members of the Aboriginal and Torres Strait Islander communities. Peter is a member of the Liberal Party, having been elected to fill the vacancy left by the former President of the Legislative Council, the Hon. John Ajaka, in May 2021. Since joining the Legislative Council, Peter has been an active committee member, representing the Government on select committee inquiries into water trading, the Powerhouse museum and, more recently, into the Fisheries Management Amendment Act, which is focused on Aboriginal cultural fishing. Peter is the Parliamentary Secretary for Wollongong and the Illawarra. To introduce our next session with Dr Paul Irish and Ray Ingrey, please welcome the Hon. Peter Poulos.

**The Hon. PETER POULOS [Member of the Legislative Council]:** Thank you, Jenelle. It is my privilege to introduce Dr Paul Irish and Ray Ingrey. Paul is an historian and archaeologist, and the director of the Sydney firm Coast History & Heritage. For 15 years he has been piecing together the Aboriginal history of coastal Sydney with researchers from the La Perouse Aboriginal community, including the 2015 NSW History Fellowship exhibition *This is where they travelled*. His 2017 book *Hidden in Plain View* won the New South Wales Premier's History Award for regional and community history. Ray is a Dharawal person from the La Perouse Aboriginal community. He has a number of leadership roles within his community, including chairman of the Gujaga Foundation.

Paul and Ray know that Aboriginal people from coastal Sydney were astute politicians before Europeans arrived, and they quickly worked out who held power in the early colony. They developed relationships with the early governors and with politicians once the Parliament was formed, which had a great influence on their lives throughout the nineteenth century. However, by the early twentieth century parliamentarians had little contact with Aboriginal people. They had passed laws to segregate them and split up their families, the legacy of which is still being felt painfully today. To explore these themes and to engage in this session for *Hidden in Plain View*, may I introduce Ray and Paul.

**Mr RAY INGREY:** Naggangbi, ngayagang Ray Ingrey ba Paul Irish nhaya. Gamayngal ba gadhungalngay. Guriwaldha ngalamangngay. Gadigalguilli nguranhung ngalamanjang nhaya ba gamaringngay dharawalanga. Hello, my name is Ray Ingrey. This is Paul Irish. I belong to Botany Bay and coastal Sydney. I live at a place called La Perouse. I am speaking to you in Dharawal and we're on the lands of the Gadigal family group. Thanks for having us this afternoon, and thanks for taking some time to hear a little bit about our shared history. Before we start I had better give the Gujaga Foundation a bit of a plug.

In about 2018 our leadership within our community got together. There were about 40 leaders made up of our LaPa Deadlys, which is our think tank—"deadly" means "great" in Aboriginal English. Our LaPa Deadlys and our leaders within our community-controlled organisation who make up the La Perouse Aboriginal Community Alliance got together at KPMG for a forward-thinking workshop. We were two years into our 20-year plan. One of the recommendations out of that was that we need a charitable arm for our community, we need to call it the Gujaga Foundation, and it needs to lead language, culture and project-based activities in our community. Before that our sister organisation, the Gujaga Aboriginal Corporation, was leading and supporting our Gadhungal research program and the Dharawal Language Program. "Gujaga" in our language means "child", of any gender.

I think the name "La Perouse Aboriginal community" is a bit misleading. You'll understand what we mean by that in some slides coming up. When we say "the La Perouse Aboriginal community", the concept goes to the suburb of La Perouse on the northern arm of Botany Bay. However, it was named the La Perouse Aboriginal community from 1883 onwards, when the New South Wales Government at the time created the Aborigines Protection Board and moved people who were living in traditional camps around Sydney Harbour and Botany Bay to the permanent settlement of La Perouse. Our people started to cause offence to non-Aboriginal people by being in and around the colony at that time. The New South Wales Government had to deal with the Aboriginal problem of the colony, so they created a permanent camp there. It suited our mob, our old people back then,

because it was a good fishing ground, so it allowed us to continue cultural enterprises. It was also an old traditional camp site, so our people were quite familiar with it, and it was protected from the weather. It was a good location for the colony because it was out of sight, out of mind. Some 130 years or so later, we're still there and we're still thriving. The 20-year plan I talked about is to ensure that our community is there for another 130 years into the future. That is a little bit about our community.

**Dr PAUL IRISH:** Today we want to talk to you a bit about the ways that the relationships between Aboriginal people and colonial Sydney—particularly with leaders in colonial Sydney, many of whom became parliamentarians, as you'll see—developed from the earliest days in 1788 and through into the twentieth century and the period that Ray is talking about with the La Perouse community out at La Perouse. It starts from one of familiarity. It is important as we go through time to look at how that relationship changed and why. Often we think that there has only ever been one way that Europeans and Aboriginal people have interacted. But when you drill down into a particular location and to a particular time, you start to see that it is more complicated than you might think.

As Peter hinted at in the introduction, it is fair to say that Aboriginal people have always been very astute politicians. Their family and clan groups interacted regularly. Those sorts of interpersonal as well as intergroup politics were very much front and centre in Aboriginal life. It is no surprise then that when Europeans arrive in January 1788 Aboriginal people very quickly work out the differentiation in both class and different stations of Europeans within that very early colony. Many of you would no doubt be familiar with Aboriginal identities in that early time such as Bennelong. His relationship with the first governor, Arthur Philip, is quite well documented. He was one of many who had these interrelationships.

It is also fair to say that most Aboriginal people within a very short space of time came to know not just the types of Europeans—soldiers, convicts and some of the officers—but also got to know them individually by name. Sometimes surprisingly for most people, the same could be said of the Europeans as well. Anyone who has taken the time and interest to read some of the officers' journals and publications from the first couple of years of the colony will be struck by just how much interaction there ultimately ends up being, and how familiar many of those officers in particular are with a number of Aboriginal people. They didn't see them as being one undifferentiated group, as we've tended to view history at that time. So that beginning of familiarity is really important.

The other thing that will particularly strike you reading those diaries is the unbearable tragedy and decimation of disease around coastal Sydney, with the smallpox epidemic sweeping through the harbour and much further afield just a year after the First Fleet arrived. Those relationships that developed after that time also have to be seen in that context. Many Aboriginal people lost their lives. Whilst they rebuilt their traditional groupings, which often came to be referred to as tribes by Europeans, they were still family groupings—amalgamated, perhaps, with other neighbouring families—but in the shadow of that hugely tragic decimation of their population and a massive shift in the power balance in Sydney that saw Aboriginal people go from being the majority of people in Sydney to being a minority within 12 to 18 months. That dynamic, of course, never changed.

One thing that's also worth bearing in mind when we are talking about Sydney and Sydney's Aboriginal people is to have a sense of what the colony looked like at different times. For a lot of people it is surprising how long it took for the areas around the rocky harbour to become highly populated by Europeans. What the First Fleet needed most desperately was to feed itself, and they quickly discovered that the rocky, sandy, swampy lands around the harbour were not going to do that job. So that is why we get farms popping up along the Hawkesbury at Windsor and up the Georges River and so on. That does not mean that there was no-one living around the coastal part of Sydney, but outside of the actual town of Sydney itself you did not have to go very far until you were just in thick bushland. When you consider the jagged edges of the harbour and the importance of fishing to Aboriginal people, that gave quite a lot of areas where Aboriginal people were able to continue living in sometimes quite surprising ways, as an image like this shows.

**Mr RAY INGREY:** Just around this time frame, bigger estates started to be established. Alexander Berry created the Crow's Nest estate quite close to where this painting was viewed from. A lot of those estates that then started to pop up, their employment, their workforce, was Aboriginal people. That allowed a bit of not only to work but to keep your family and stuff within that safe haven of that vicinity. When they worked for people like Alexander Berry and later W. C. Wentworth, it created a bit of a safe haven for Aboriginal people to work and keep their families together.

**Dr PAUL IRISH:** So now as we sort of fast-forward to about the 1820s, we are looking at the period when Parliament is established and we are looking about 30 years after the First Fleet have arrived. We still see these relationships absolutely front and centre. We will come back and talk about some of the less pleasant aspects of Lachlan Macquarie in a minute, but it is of interest to note that he was very much familiar with the different

Aboriginal groupings around Sydney. Certainly, in the very same period when he was waging war on the Cumberland Plain with Aboriginal groups to the west and south-west of Sydney, he was setting up farms for Aboriginal families on Sydney Harbour, and he differentiated between those groups. However, they would have been interrelated people, I am sure.

In Elizabeth Bay, for example, in 1820 he and three boatloads of Aboriginal people rode around to pick out a spot for an Aboriginal farm and fishing settlement to be established. The land that was chosen was chosen by what he referred to as the Sydney tribe and they were the Gadigal people, descendants of Gadigal people, who are still living around Sydney. They picked the land, and that land was still bushland, and it was cleared and huts were built, as you can see in this image. A few years later, that farm was abandoned.

Aboriginal people did not want to live in one place. This has been sort of misconstrued by Europeans quite often, this concept of walkabout, as though it is some sort of lack of connection, whereas, in fact, it speaks to a very deep connection. Living in one place like Elizabeth Town, just outside Sydney, was not the way that suited people's relationships. They were connected up and down the coast. They moved around other camps in Sydney, and they were never going to be staying just in one place, much as Macquarie wanted them to. About the time that the Parliament is opened in 1823, the last people who were living in that Elizabeth Town settlement move on. They still live in the area; they are just not living in this nicely curated cleared bit of grass on the shore of the harbour. As I said, while this was going on in the coastal part of Sydney, very different policies were being pursued in the west.

**Mr RAY INGREY:** Yes, and a lot of people today—non-Aboriginal people—are familiar with things like the Appin massacre, which was around 1816. The proclamation by Governor Macquarie at the time allowed settlers themselves to drive Aboriginal people away by force of arms if they congregated in more than half a dozen. A typical Aboriginal family even today is above half a dozen. I have six kids at home, so that meant that by law settlers could drive my wife and I and our six kids away by force of arms. Back in those days, Aboriginal families included great-grandparents down, so you could have 30, 40-plus people in a settlement. As Paul said, even though there were stricter policies to our relatives out in south-west Sydney, at the same time they were also setting land up here for the Sydney tribe to remain.

**Dr PAUL IRISH:** One of the people that was living there was a man named Mahroot Senior, and his son pops up in a lot of records in later decades. I think it is interesting once we get past that frontier period—from the colony starting right up to the 1810s—in Sydney we find that Aboriginal people fade very quickly from the historical records, and that's something that Ray and I and others in Ray's community have been researching, along with other historians, for a number of years to try to tease out that hidden story. People living in the La Perouse community knew their ancestors lived in Sydney and knew some of the stories, but actually trying to piece together why that was and how that could work, pushing back against this idea that Sydney somehow from 1788 was a place that Aboriginal people could not be, is something that has taken a long time to piece together.

It is fair to say that after the time of Macquarie, I think we are sort of less used to hearing about the relationships that people of influence in the colony had with Aboriginal people, particularly around Sydney and particularly in that quite intimate and personal way. This story about Mahroot is a good example. Mahroot was born to Botany Bay parents in the 1790s. So he grew up in the aftermath of the smallpox epidemic as Aboriginal groups around Sydney were sort of reconfiguring themselves, drawing together perhaps from broader relationships. He very much identified with Botany Bay but, as a young man, he also lived with Europeans in Sydney and spent quite a number of years on whaling and sealing ships. So he was very much used to Europeans, and there were a number of other Aboriginal men working on those ships.

By about 1830—so he is probably in his thirties by that stage—he comes back to live in his homeland in Botany Bay. He stakes out 10 acres of land, builds a hut on it with his wife, and then walks into the city to ask for that land to be given to him. Governor Bourke at that time didn't give him land as a grant, as it was happening to most Europeans in that time—they were actually getting title to their land—but he did give Mahroot a lifelong lease to that land. Mahroot used that land to make money, so he ran a commercial fishing business with his wife. We know that because he came to this building in 1845 as part of a government inquiry and gave evidence to politicians about his life, and all of that has been recorded in a parliamentary inquiry. He also built five huts on the land and rented them out to local farmers and fishermen—he appears in the first Rates Books of Sydney council in 1843 as a landlord—and he ran fishing tours for the Joseph Banks Hotel just up the road at Botany. So he was quite successful.

I think you will hear later from Ray about the desire of Aboriginal people to continue living today in this way of being able to manage their own affairs, and Mahroot was definitely a pioneer whose legacy carried through to later generations. But perhaps because of his success and because he had staked out some nice land on Bunnerong Creek, his neighbours were trying to take his land. In 1843 there is a story of him being away on a

sealing trip and his neighbours break down his fences and trample his gardens and refuse to pay rent to his wife. Then a few years later they hatch another scheme—they enlist the help of a government surveyor to claim that Mahroot has died and, therefore, the lifelong lease has expired and they should be able to get grants to that land. That goes all the way to Governor Gipps, and Governor Gipps expresses some surprise at this because he had not heard of the death of such a well-known and intelligent Aboriginal, in his words. He knew Mahroot personally, and, in fact, his secretary had seen him just the other day, so a fairly scathing response came back to say, "Maybe you should check your facts."

But it does show that these relationships still persist. This is something that really is not kind of well known by this time. What sits behind that is a broader relationship or a series of relationships, and this is where we start to come into actual politicians who have worked in this place. In the research looking at coastal Sydney, we found that there were a group of men, particularly—there were also women, but in this case this particular group was comprised of men—who were the children of convicts. They grew up in the early 1800s, around that time; fairly humble beginnings but rose by the 1830s and 1840s to become quite influential people in Sydney.

As you can see here, in addition to having been members of Parliament, they were also businessmen, mayors of Sydney, running newspapers, and lawyers—things like this. They were quite well-to-do people, but they had grown up as young men hunting and fishing with Aboriginal people around Sydney. It is often on their properties—sometimes in the eastern suburbs, as we'll see later—that we find Aboriginal people living. By this time, in the 1840s, there might have only been around 100 Aboriginal people living around coastal Sydney—a huge depopulation from the previous 50 years, partly because of that smallpox epidemic, but also a range of other diseases. This was quite a small population, but it was a population that, nonetheless, maintained a presence in Sydney. With a population that size, the influential assistance of people like these men could have quite a big impact.

They come into view in 1844, when this man, William Annan, who is from southern Sydney—the Port Hacking area—passes away in Sydney in Hyde Park in 1844. Governor Gipps had suspended the annual distribution of government blankets on the Queen's birthday, which had become a bit of an event in the Aboriginal calendar. People would come into Sydney, and it would be a social occasion to gather. He had done that without telling anyone, so we think that William Annan came into Sydney the following year expecting to receive a blanket and meet relatives, and he was found dead from exposure in Hyde Park at that time. Very soon after, within a week, these men and some others had set up a fundraising committee to raise money for what they called the Sydney tribe—a group of several dozen Aboriginal people who were still living around camps in Sydney Harbour. It's those relationships that we'll see following through in some other areas around Sydney.

**Mr RAY INGREY:** William Warrell, also known as Ricketty Dick, was a popular Aboriginal identity. His cultural connections are from Sydney and the Illawarra, which was quite consistent with our cultural area. He was a well-known identity. Later on in his life, he became a bit less mobile, if I can say that in a respectful way. They described him in other ways back then. He actually had a friendship with the Wentworth family, so he camped either on, or sometimes close to, their estate. Here is a painting or a picture of him at Rose Bay. He actually set up his camp on Old South Head Road and would collect tolls from passers-by for travelling through his country. At times he would ask W. C. Wentworth for things, and the Wentworth family would pay for things for him when in need. We know that William had other relationships with other Aboriginal people throughout the colony—other identities he was closely related to—but he had that main relationship with W. C. Wentworth in the Vacluse estate, so he was able to remain on country and be a little bit cheeky and charge people.

**Dr PAUL IRISH:** When he passed away in 1863, as we find in Sydney and all across Australia, he was referred to as being the last of his tribe. It's this kind of trope about ushering the supposed last of the traditional Aboriginal people out of existence when they pass away. We know just from Rose Bay that Aboriginal people were continuing to live in that area for a long time afterwards. As I mentioned before, it's important to see the landscape at this time. This is what Rose Bay looked like in the 1860s. It's a little bit different now, although there's still a big golf course in the middle there. That's, again, a bit of a surprise for people because people are expecting the harbour to be chock-full of houses at that time, but that was another 50 years away.

It's easy to conceive of how, in theory at least, Aboriginal people could find a spot to live there, but it relied on a couple of things. It relied on a desire to keep fishing, which they absolutely had. It relied on a desire to remain connected to country, which they absolutely had. But it did also rely on these relationships. We know that from the 1870s there were Aboriginal people still spearfishing in Rose Bay with traditional pronged fishing spears—but with the prongs swapped out for umbrella spokes—trading fish and oysters with local families on the headlands on either side and re-carving Aboriginal engravings out at Point Piper. This was still going on, along with ceremonies, in the eastern suburbs in the 1870s from these people and, at the same time, maintaining relationships with W. C. Wentworth and other landowners in that area.

**Mr RAY INGREY:** As Paul mentioned earlier, with what happened at Elizabeth Bay, Aboriginal people didn't stay in one spot because we live sustainably. You wouldn't deplete one spot and allow that to get to nothing. We would move on and let that area flourish again, and then have that ready for the next time we come. Our old people who knew the old people who lived in these old camps in the mid to late 1880s would talk about them living there. They would say things like, "They had a camp at Rose Bay" or "They had a camp at Camp Cove." They would live near fresh water. We would scratch our head because you think of Rose Bay today, but you'll see in that painting that there are freshwater lagoons over the back that were filled in for housing et cetera. Our old people would live near those places and move around quite a bit so that no one area was depleted. There are records later on that show if someone passed away they would move camp, and then people would go back to deal with that person passing away. They were able to move quite freely throughout places like Rose Bay.

**Dr PAUL IRISH:** In a little bit we'll come to one of Ray's ancestors, who also at one point was living at Rose Bay. A lot of people who we see cropping up in the historical records we find in a number of these places. That's the template, I guess, for most of the nineteenth century—that a relatively small number of Aboriginal people tied culturally to coastal Sydney were able to keep living in these fishing settlements around the harbour and around Botany Bay. Really, that was because the Government had no real interest in Aboriginal affairs at that point. This was a time when there were frontier wars still happening in the distant parts of New South Wales. There were no official policies and there were no laws about Aboriginal people at this time in the way that there came to be in the twentieth century. Aboriginal people made advantage of that. They cultivated these relationships with people who could help them live, as much as possible, on their own terms and on their own country. That's what we see happening.

That starts to unravel in the later decades of the nineteenth century and comes to a head at this place, the Circular Quay government boatshed. If you see that cut sandstone wall behind the boatshed, that's the cut sandstone wall you see as you walk down to the forecourt of the Sydney Opera House. The boatshed is no longer there, but that's what it looked like in the 1870s. It was an abandoned repair shed for government boats. By the late 1870s, Aboriginal people were living there. They weren't living there permanently; they were coming from places like Rose Bay, Rushcutters Bay and some of these other Aboriginal settlements. They were coming into the city to meet with other Aboriginal people who were coming by ferry and steamship from up and down the coast, but also making goods to sell in the city.

This was a camp that was tolerated, and even encouraged, by the Government. Rations were issued to the residents there weekly by the Government, but by the 1870s there were rumblings from missionaries and others that the Government needed to do something about Aboriginal welfare, coming from quite different perspectives. Missionaries were starting to get quite influential within the Government and seeking that the Government do something to fund their missionary activities in western New South Wales, but also to develop a policy more generally about Aboriginal welfare. This man really ended up setting the scene for what the Government's response would be.

George Thornton was like many of these other men who we showed. He was the child of a convict. He's a little bit younger than the other men, which was quite significant. By the 1870s, he was a member of Parliament and really the unofficial adviser on Aboriginal affairs to the Government. He got a bee in his bonnet about this place in about 1881 and thought that the Aboriginal people there were not from Sydney and shouldn't be tolerated in Sydney, and events happened that led to him being instated as the first Protector of Aborigines, so called, in New South Wales, and in 1883 the establishment of what became known as the Aborigines Protection Board. Ray, you've got a connection to this place.

**Mr RAY INGREY:** Yes, my grandmother's grandmother was one of the people that lived in the traditional camps around Sydney Harbour in the mid to late 1800s and actually would make shell baskets while they were camped there to then sell them to the colony and the tourism within the colony. An interesting life—she was considered a half-caste even though she had both Aboriginal parents. Her father was also considered half-Aboriginal because it seems that his father was an early convict. She worked for Alexander Berry in the mid to late 1800s for a small period of time because she was only paid in food, like rations. Her father worked for Alexander Berry and his father before him, so it was quite generational throughout the 1800s.

Unfortunately there was an incident where her 18-month-old drowned—he was playing with some other kids and drowned at the boatshed—and there was an inquest into his death, young Joseph. Because she could speak English well enough, she actually gave evidence to the inquest, and she stated that the young fella was born at Double Bay and that they were moving between camps at certain times. Her younger brother Thomas Sims was also documented living at Rose Bay and Double Bay, by the death of a small child that attracted some attention from the media.

But what was really interesting is my grandmother's older sister remembers her personally, remembers living with her at La Perouse, staying there for a long period of time, and she would always say to us, "Nanny lived down Sydney Harbour and she would live at Rose Bay and near the Opera House," and she did not have any evidence. Unfortunately, those old women passed away. But after their death and the access to places like Trove, our research team was able to pull up articles of that inquest that I talked about, which actually confirms what our community's oral history was saying. Unfortunately, it seems from the research that we have done, the death of that young child gave George Thornton the backing to get the Government to deal with the issue of Aboriginal people being in and around the colony and shortly after that created the Aboriginal Protection Board.

**Dr PAUL IRISH:** As Ray said earlier, that was one of the things that led to La Perouse being set up as a sort of permanent settlement from the Aboriginal fishing camp that it was. Even in that first decade of the Protection Board, it was a bunch of volunteers who met once a week in the city on a Thursday afternoon at three o'clock to decide which requests from Aboriginal communities would be responded to and assisted throughout the State. For people in Sydney, they still maintained relationships. Richard Hill was the early chair of the Protection Board. He had a personal relationship with Emma Timbery from La Perouse—they were from Sydney. Anytime a request came in from La Perouse, he would just walk down personally to La Perouse and sit down with her and work it out.

That sort of thing was still going on, but a very different situation arises by the early twentieth century, which is when the Protection Board in 1915 becomes a bureaucracy of appointees with no interest, really, and background in Aboriginal people and community. We have laws passed in 1909 and 1915 that give the Protection Board legal powers over Aboriginal people, including the now well-known right of removing children, and places like La Perouse become managed missions and reserves where people's movements are very much controlled.

That control was happening from a building right here. It is no longer here, but these terrace houses, one of those terrace buildings in the 1920s and thirties at the peak of the board's powers in terms of segregating Aboriginal people was situated right between the Parliament building and the State Library. So much misery was perpetuated from that building, and many Aboriginal people would come there to petition these bureaucrats to have their children removed to no avail. But we wanted to sort of end up by sort of talking about the ways that Aboriginal people responded at that time in the 1930s, people who grew up in the 1880s and 1890s with those last decades of that more free and controlled way of life that Aboriginal people had around Sydney—people like these two men.

**Mr RAY INGREY:** Joe Anderson's parents tried to find different ways of avoiding protectionism, even to the extent where they established their own reserve at Kangaroo Valley in the Shoalhaven for a couple of years and then owned privately owned land up at Salt Pan Creek, which allowed people like Joe Anderson and others to come into places like the Domain and champion for Aboriginal rights and then go home to that privately owned land outside the reach of government intervention. In 1933 when there wasn't much filming happening here in Sydney, Joe Anderson's older brother Jackie was an Aboriginal actor, so his contacts in the film industry came out to Salt Pan Creek and filmed Joe Anderson calling for Federal representation in Parliament. That is 1933, so not that far. The same conversations are still happening today for Aboriginal people.

You've got Kate Sims' son, my grandmother's uncle, Uncle Tom Foster, who was part of the Day of Mourning conference and the Aboriginal rights movement as well, alongside Doug Nicholls, William Cooper, Uncle Jack Patten and them, and again they will be championed for Aboriginal rights because it was the parents of these men and women who ran commercial businesses. They knew of Mahroot. In the first 20 years of La Perouse, the majority of supply to the fish markets at Woolloomooloo was provided by Aboriginal men fishing. They were in the transport business. They managed oyster leases and were able to provide some of that material to the kilns and stuff at St Peters for the lime for the construction industry. Our people were in that, and when Paul talks about the relationships finishing and it becoming a real bureaucratic-run Protection Board, La Perouse was a place where they didn't rely on rations because they were economically independent. What does the board do? It takes away the nets, takes away the fishing boats and forces our people to become welfare dependent.

These guys living the majority of their life at that time under those freedoms resisted intervention to the extent that it was going. That is something that you will hear our community still say today, "Take us back before 1883 where we can be economically sustainable and non-reliant on government." That is a lot of work and it is from people like Uncle Tom Foster and Uncle Joe Anderson and others, because they remember what it was like living with some of those freedoms. The communities knew these people—like I said before, our old people knew them, they knew of them—and knew the benefits of having relationships with influential people within government. We even have that in audio tapes that were at places like the Australian Institute of Aboriginal and Torres Strait Islander Studies, where you have Mrs Timbery's grandson recalling her working for Mr Hill and said, "I think he was a member of Parliament and he lived in Bent Street." So it was informing you of these

relationships that our old people had. It wasn't perfect, but it was far better than what our people were exposed to from the 1920s to the 1980s.

**Dr PAUL IRISH:** I think that's a good place to finish up.

**The Hon. PETER POULOS:** Thank you very much, Ray and Paul. This is an opportunity where we will be taking questions from the audience, and from our audience viewing the proceedings over the livestream. The team here will be reading out comments sent from our livestream audience, if they come through. If you have a question, please raise your hand. We will have two roving microphones in the audience. If I call you, please wait for one of our team to come over with your microphone before speaking. We will do our very best to get to all the questions. Is there anyone who would like to kick off with some questions?

**QUESTION:** Ray, when you introduced yourself right at the start in Dharawal, I don't speak Dharawal but I thought I picked up the word "Gweagal" in there. Was I right? Are you a Gweagal man?

**Mr RAY INGREY:** No, I don't belong to the Gweagal clan. I said Gadhungal and Gamayngal. Gadhungal is the saltwater people that identify with Sydney and Gamayngal just means "belonging to Botany Bay".

**QUESTION:** Earlier in the year, Sydney University at one of their museums had an exhibition of three spears stolen from the Gweagal people by Captain Cook and his wonderful scientific men. I was the first person in line to see those and it was very moving. But I wasn't sure how people like yourself would feel about us appropriating those things that were stolen from you and displaying them in a museum.

**Mr RAY INGREY:** Yes, it's an interesting topic. Probably the quickest way to answer it is our Elders campaigned for repatriation of objects, including the Kamay spears. Obviously, the UK laws are quite strong on repatriation. But they quickly came to realise if they weren't actually taken and put in museum-grade facilities in that period of time, we won't be looking at them today. And so, to shed a positive light on it, they knew of instances where they've picked spears up that had been on the ground for a very long time and they've just perished. So we're able to still see them today in that sense. But we've also got a positive relationship, because the Gujaga Foundation was partnered with the La Perouse Local Aboriginal Land Council to have it displayed at the Chau Chak Wing Museum. But we've created, out of that, positive relationships with Trinity College so that we can continue to access them for educational purposes, and that's the wishes of our Elders from the 1980s.

**QUESTION:** Hello, Ray, this is a question to you. Why were the fishing rights taken away? That's awfully cruel, without knowing anything else about why it happened.

**Mr RAY INGREY:** Yes. Part of a strategy to control Aboriginal people's lives was to make them welfare dependent. Aboriginal people at La Perouse didn't need rations or food or weekly support unless the weather was bad, because you can't fish in bad weather. And so, during the 1880s and 1890s it was okay because we had relationships. But after that they couldn't control the people at La Perouse, so to do that they had to take that away and force us to become welfare dependent. So it was a strategy by the government of the day.

**Dr PAUL IRISH:** You can also see echoes of what happened to Mahroot in that as well, because local non-Aboriginal fishermen around Botany Bay were quite envious of the industry that was happening at La Perouse. There was a number of instances where local residents, the local councils, tried to evict Aboriginal people from La Perouse, send them down the coast or over to Kurnell, and also complaints by fishermen about the permissions that Aboriginal people had to continue to fish, that they felt was, sort of, an unequal treatment. So there was pressure being applied from that side too, wasn't there?

**Mr RAY INGREY:** Yes.

**QUESTION:** I apologise, first, if I get the words wrong. You were talking about the coastal people and their relationships. I can see that as being quite positive, from what you're saying. What was the influence of later when people who weren't the coastal people started arriving in Sydney from different country out west or wherever? Did that significantly change the relationships with the colonists?

**Dr PAUL IRISH:** Mostly, by that time, the impetus for a lot of people coming from country areas—it was certainly happening even by the late nineteenth century and perhaps even earlier. But, certainly, the large-scale migrations that started happening from the twenties and thirties and definitely post the Second World War, that is when those government policies were already happening and often they were coming to the city to try and escape the quite intense scrutiny that was applied to Aboriginal settlements, reserves and missions in country areas, where there was really no other places for them to go. La Perouse was definitely subject to the same controls, but it was in the middle of a city—or, you know, on the outskirts of a city—and so a lot of people were coming to Sydney, to places like Redfern and Alexandria, where there were industries where they could seek work

and live outside the control of the government. So, really, those relationships had already changed by that time, and they were actually trying to escape the very dynamics that had shifted in their own areas, for the most part.

**QUESTION:** Ray and Paul, thanks so much. Your research and the team you've got working with you, it's incredible work. I'm so grateful that you're doing it, because when you look at this it's all about power, isn't it? And it's that way people had that type of mentality and the racism. You spoke about those three convict fellows who were much more congenial to have a feeling of, like, "Have a go," or "Everyone deserves an equal right." But then was it Thornton that was a bit older or a bit younger who came through with different attitudes? I suppose that maybe he wanted power, and this was a way he could get a position?

I just sort of feel that when you look at your Uncle and Joe who—like, 1933, calling for a voice in Parliament, it's taken that bloody long for these seeds of change to happen and people's eyes to be opened. But it's only through books like yours, *Hidden in Plain View*, because when there's not truth-telling, when people have been written out of history, you know, they're still there. They're there. And so, thank you so much for everything that you do and for the work that is happening—and thank God it's happening, because I think we're going to have a richer, fuller place where all people can be part of this place we live, which is humanity. So thank you.

**Dr PAUL IRISH:** Thank you for referring to the work that we have done. I guess I would like to mention, as Ray did in an earlier answer, about the work of some of the Elders in the community in the 1980s. I would very much recommend you read a book called *La Perouse: the place, the people and the sea*. If you're not familiar with that, that came out in 1988 and that was people of Ray's grandmother's generation who were speaking from very intense personal experience of their own treatment under that system but also of knowledge of people like Kate and Joe and others who had lived in previous generations.

That was a huge influence on me, and I was very privileged to know some of the Aunties who worked on that book before they passed away. But that work has been going on and that book shows that that knowledge was very much alive and well in the community. It is people outside that community who have not been aware of that story. It has been hidden, from that point of view, but certainly not within your community—it has been well known. Maybe we have been able to find some historical records that back up that story, but it certainly has not contradicted it.

**Mr RAY INGREY:** Correct.

**QUESTION:** I am just wondering to what extent the processes you have talked about, particularly the later ones, reflected what was happening more generally in society—the idea of what would have been, in some senses, good intentions that actually involved restricting people. I'm thinking of things like what happened with children who were brought out here from England. The way that children's homes basically worked and indeed mental asylums—the whole business of trying to help people but actually making more restrictions. I quite accept that Aboriginal people got the very worst of that, so I'm not just sweeping it aside. But do you think there is a parallel there in what was happening generally in society, particularly in the late nineteenth century and early twentieth century, in regard to trying to so-called "help" people but actually in retrospect you can see it was probably in most cases doing exactly the opposite?

**Dr PAUL IRISH:** There is definitely a parallel. I think the difference for Aboriginal people and Indigenous people around the world is that you can see from the mid-nineteenth century these attitudes just start to harden, and you start to get these very racially based views of superiority and inferiority that infuse their way through the way that people in the general public, and eventually politicians and bureaucrats, view and act on that with Aboriginal people. There is this element that is influenced by these broader policies, but something like the segregation of Aboriginal people was actively happening in the 1920s in New South Wales, which is not something that even now is particularly well known. There is a racial element to that that is about preventing Aboriginal people from continuing to practise their culture.

The system that the Government set up in the 1910s of removing Aboriginal children—the protection board employed people called "home-finders" to take people from their families, as if they didn't have a home, and placed them in these soulless institutions like Kinchela boys home and Cootamundra girls home and trained them for domestic service. Yes, those broadly mirror things that were happening in the attitudes to people more broadly in society. But there is a racial element there that is about actively depriving people of any sense of their cultural identity. That is very much being felt by the people themselves, their children and their grandchildren today. So it has come to affect everyone.

**Mr RAY INGREY:** I think the missions and reserves—that was quite a paternalistic approach. It was out of sight, out of mind. So people were oblivious to what was actually happening. Child removal was common practice in the 1910s. It was based on eugenics. If you look at what was happening around the world with segregation and eugenics, it actually came later in those parts. We were doing it first here. What I mean by that is



the Stolen Generation was about removing children so that they could not continue to practise culture, to take their identity away. Children were going to places like Kinchela boys home, where all their belongings would be put in front of them and they would be burnt. Their head would be shaved, they would be given a uniform and they would be known by a number.

That was happening before Nazi Germany here in New South Wales. It is documented. The concept of eugenics was happening, segregation was happening before apartheid in South Africa. We have Elders in remote communities in New South Wales who still remember delegations from South Africa coming and having a look in New South Wales in those places to see how we do segregation here in New South Wales—still in people's lived memories. So it hasn't been a real positive relationship over the last 100 years and a little bit more than what I'd say it was the 100 years before. A lot of it is based on relationships.

**QUESTION:** There was a moment when you spoke about that photograph of the boatshed in Circular Quay, Ray. It proved that oral history that you got from your family. I am just wondering what it is like to have to—do you feel like you need that kind of western documentation for yourself? Is it to prove your stories? What is that like, that feeling when those two things collide: oral history and more western documentation?

**Mr RAY INGREY:** From growing up hearing those stories, you never doubt it. We would never doubt it. We had trust in the people who were telling us that. We had those close relationships with them. They were the ones who were guiding us to be who we are. So there was no doubt in questioning the authenticity of that. Unfortunately, today in a western sense we have to provide that evidence to show our legitimacy to our connection. That is through native title and it is through other legislation, both in New South Wales and the Commonwealth.

The time that we spent with the Elders, as Paul referred to, there was no interest. I would drive Elders around throughout the early 2000s and they would do welcomes to country for a cup of tea and a biscuit because it was their cultural responsibility. It is a good thing, but now there is a bit of a market out there to be Aboriginal. So people are claiming everything—they are "the last of the last". We are saying, "Okay, that's well and good. Provide the evidence." So there is a place for evidence-based material. The work that we do—we show oral histories side by side with western evidence because that is the best way to get your story across. But there are a lot of people who would just make things up to make themselves sound good or for an economic benefit.

**The Hon. PETER POULOS:** Unfortunately, we have run out of time. Thank you very much to all of you who have shared your questions. I acknowledge two of my parliamentary colleagues who are here—the Hon. Robert Borsak and the Hon. Aileen MacDonald—and thank them for joining us. Most importantly, I take this opportunity to sincerely thank Ray and Paul for sharing these very important reflections and for their contribution today.

**Ms JENELLE MOORE:** Thank you, Peter, Ray and Paul. We have a 15-minute afternoon tea break. We will move to the Fountain Court for those refreshments. I ask that everybody come back at 3.00 p.m. for a sharp start. We have a session on the Bigge inquiry.

**(Short adjournment)**

## THE BIGGE INQUIRY

**Dr MATTHEW ALLEN**, Senior Lecturer in Historical Criminology, University of New England

**Associate Professor DAVID ROBERTS**, Associate Professor of History, University of New England

**Professor KIRSTEN McKENZIE**, Professor of History, The University of Sydney

**Professor LISA FORD**, Legal Historian, via videoconference

**Mr DAVID BLUNT [Clerk of the Parliaments]:** Welcome back, everybody. The Bigge inquiry and the Bigge report is a big topic indeed, and it is apt that the member of the Legislative Council to introduce this session specifically referenced his admiration for parliamentary tradition in his inaugural speech. It is my pleasure to introduce the Hon. John Graham to welcome the next set of presenters, who will lead us through a thoughtful examination of the Bigge inquiry that, perhaps unintentionally, brought about the establishment of the Legislative Council. John is a member of the Labor Party and is Deputy Leader of the Opposition in the Legislative Council. His areas of interest include economic justice, inequality, the environment, education and public libraries. In view of his strong and continued interest in the importance of the arts and music, John was founder of Labor Loves Live Music and is the shadow Minister for Night Time Economy and Music. Fittingly, he is also a member of the Procedure Committee, which is tasked with examining and reporting on the practices and procedure of the House and its committees. There is more to tell, as well, but please join me in welcoming the Hon. John Graham.

**The Hon. JOHN GRAHAM [Member of the Legislative Council]:** Thank you very much, David. Welcome, all, to this session. I firstly acknowledge David and his team on behalf of all the members across the Chamber. David is very much the keeper of the traditions, and I think this audience would really appreciate just how important that is to the institution of Parliament and to the ongoing fate of democracy in New South Wales. I also acknowledge that we are meeting on Gadigal land and pay respect to Elders past, present and emerging. I hope you enjoyed the very first session, the Reading of Country session, if you were able to be here for that this morning. It was a great example of how much we have to learn about the places in this city and this State and how deep the knowledge is that we can really appreciate. I look forward to more of that learning and more of that programming in future years.

This is a very exciting session to be a part of. On 26 September 1819 John Thomas Bigge arrived in New South Wales with instructions for Lord Bathurst, Secretary of State for War and the Colonies in Britain, to carry out a wide-ranging commission of inquiry into the state of the colony. This moment, this date, is a fascinating study in power. Here you had Lachlan Macquarie, with almost absolute power for nearly 10 years as Governor, and then John Thomas Bigge arriving with some formal authority but also a nuanced and immediate understanding of the thinking in London—some of the financial and the political pressures in London—and with the power of information at a moment in time, a time in history, when information was scarce. That is something almost unimaginable to us in this moment, when knowledge travels around the world so fast. It's a fascinating study of those two forms of power meeting at this moment.

The commission of inquiry into New South Wales led by Bigge is widely regarded as a transformative moment in Australia's history, in part for the reason David outlined. Today we are joined by some of the foremost experts in this field. We are going to explore the context, mechanics and legacies of Bigge's three reports. Despite the inquiry's transformative effects, we will hear that Bigge arrived with strict orders to control change in the colony rather than to unleash it. Firstly I will introduce Kirsten McKenzie, who is a professor of history at the University of Sydney. Her books include *Scandal in the Colonies*, *A Swindler's Progress* and *Imperial Underworld: An Escaped Convict and the Transformation of the British Colonial Order*. She is a fellow of the Australian Academy of the Humanities and of the Royal Historical Society. Her current work on imperial commissions of inquiry is funded by the ARC for the project *Inquiring into Empire: Remaking the British world after 1815*, led by Professor Lisa Ford.

David Roberts, who joins us, is an associate professor of history at the University of New England, where he researches Australia's early history and edits *The Journal of Australian Colonial History*. He is best known for his work on the history and legacy of Australia's convict past. His research is also funded by an ARC grant for the project *Inquiring into Empire: Remaking the British world after 1815*. We will shortly be joined by Professor Lisa Ford, who is today speaking to us live from the UK. We thank her especially, given it is 6.00 a.m. over in London. Thank you for being awake and being with us on this occasion. Lisa is a legal historian whose prize-winning work explores ideas and practices of order in the British Empire and the early national United States from 1763 to 1850. Her work is notable for uncovering the role of colonial contests in shaping national, imperial and international law. She has published three monographs, *The King's Peace*; *Rage for Order*, co-authored with Professor Lauren

Benton; and *Settler Sovereignty*. She has also co-edited two significant collections, *Between Indigenous and Settler Governance* and the forthcoming *The Cambridge Legal History of Australia*.

Dr Matthew Allen is a senior lecturer in historical criminology at the University of New England. His diverse research focuses on understanding the unique and extraordinary transition of New South Wales from penal colony to responsible democracy and the way that this process was shaped by the conflict between liberal ideals and authoritarian controls within the British world. His work on the history of alcohol, policing, summary justice and surveillance has been published in *Australian Historical Studies*, *History Australia*, *The Journal of Religious History* and *The Australian and New Zealand Journal of Criminology*. He is currently writing a monograph entitled *Drink and Democracy: Alcohol, Politics and Government in Colonial Australia 1788 to 1856*, which I am sure will inform modern discussions of politics as well. You can see that it is a remarkable panel. We are very lucky to be joined by so much expertise in the room. It promises to be a fascinating session. With that, it is my privilege to hand over to our first presenter, Professor McKenzie.

**Professor KIRSTEN McKENZIE:** Thank you very much, John, and thank you so much for inviting me. It is a privilege to be here. I begin by acknowledging that we are speaking to you from the Gadigal land of the Eora nation. We pay our respects to Elders past, present and emerging. I was born on the other side of the Indian Ocean to this continent, on the lands of the Zulu people, in what is now known as KwaZulu-Natal. In 1879 the AmaZulu wiped out an invading British force at the Battle of Isandlwana. This Zulu victory was so humiliating that the British propaganda machine kicked into gear and essentially did some misdirection. They celebrated a somewhat obscure action on the sidelines of the Battle of Isandlwana, and they celebrated it to the extent that artists and writers depicted it in heroic vein.

I mention this because *The defence of Rorke's Drift 1879* actually sits about 300 metres from where we are; this painting is now in the Art Gallery of New South Wales. The Art Gallery of New South Wales paid an extraordinary amount of money to secure this painting at the very beginning of its history. I urge you to visit it, especially as it is now hung, presented in conversation with Zulu artists and works by contemporary South African artists. I begin here to remind us that, as Ray said in the last session, we are talking about entangled histories here. What might seem local or national are global histories of invasion and struggle. In our case, these are imperial histories of struggle. Let me now turn to the Bigge inquiry, which, as we heard mentioned earlier by John and in the video at the beginning, was instrumental in the formation of the New South Wales Act of 1823.

Between 1819 and 1821, John Thomas Bigge of the Inner Temple, formerly Chief Justice of Trinidad, conducts a commission of inquiry into New South Wales, and it causes a stir then. For many people it is still well remembered, but not perhaps quite as we have heard about it up to this point today. *The Day of Retribution* is the title of a 1971 assessment. *Creating 'an object of real terror'* is the title of Raymond Evans' essay on the Bigge reports—an essay in turning points in Australian history, coedited by my learned friend on my right. The title underscores the focus on one aspect of the investigation and its consequences: the intention that convict transportation be made, in the words of Secretary of State Earl Bathurst, "an object of terror to all classes of the community". To quote Chief Justice James Spigelman in his 2009 History Week address, Bigge occupies "a pre-eminent place in the annals of Australian infamy".

To quote from my own work, the popular vision of Bigge might be that he "did an imperial hatchet job on colonial egalitarianism". So how do we reconcile this narrative, which some of you will know, with the fact that the New South Wales Act leads to the Legislative Council and therefore becomes a route towards where we are now? The significance of Bigge's inquiry, as I've indicated, is well recognised here. Bigge even appears in a recent novel. I confess I have not read it, but I would lay money on Bigge playing a villainous role. But Bigge's commission is part of a much larger story than the one that is commonly told in New South Wales. It is one that unfolds across multiple imperial sites, it has multiple agendas, it has complications, and what I'm going to do in the first talk in this session is provide a brief introduction to that moment.

Bigge lands here in Sydney when Britain is suffering from a moment of profound social and economic unrest, and I will return to this in a moment. It is led by a government whose hold on power is precarious. Secretary of State Earl Bathurst wants to disincentivise metropolitan crime. He wants to be tough on crime—we are all very familiar with that kind of rhetoric. The calling of the inquiry is fed by myriad overlapping and contradictory political agendas both here and in London. A growing number of parliamentarians are wondering why the public is paying for this hugely expensive enterprise. Transportation is horrendously expensive. And then, when convicts get here, the rumours are getting back to London that they live it large, they marry informally, they set up businesses, they even take public offices. As we will hear, they get invited to dinner. It is really bad stuff. So this does not look like order and moral reform.

Others are seeing New South Wales in quite a different way, as a bellwether of Crown tyranny. We have heard from John about these tyrannous moments of power—free colonists angry at the limits placed on their

liberty to make money by exploiting cheap land and convict labour and, of course, seizing land from Indigenous people by force and violence. These worries are of long standing. New South Wales has already formed the subject of two parliamentary select committees before Bigge even gets here. The latter one of these, which happened in 1812, caused a great deal of public embarrassment because the investigation raised the prospect of introducing trial by jury, maybe even representative institutions. This did not go down very well. So the problem of a colony comes to a head after 1815 during the tenure of Lachlan Macquarie.

We have heard about Lachlan Macquarie already today—a complex man with a complex set of legacies. What I want to talk about in this talk is his reputation for pro-convict policy; his penchant for expensive public works, like some of these beautiful buildings you see around you—the Government didn't like paying for these; his alleged appointment of corrupt officials; and his oppression and neglect of a growing and assertive free European population. What we have is basically a perfect political storm. This is a story that is known, maybe, by many in this room. It is usually told as one that is distinctive to Australia, but it needs to be set on a much wider stage.

In John's kind introduction, he made reference to the book that myself, David, Lisa and our colleague Naomi Parkinson are writing about this extraordinary moment that attempts, essentially, a wholesale constitutional and legal reform of empire. You have to imagine Britain coming out of a titanic global war with revolutionary France and then Napoleonic France and their allies. Between that moment and 1832—which is the first transformative moment in British politics, the Reform Act—in that window, a vast imperial project takes place. Britain has emerged from this global war a much more diverse and extensive entity than ever before. It has expansive new territories and populations. Many of these are acquired by conquest from foreign European powers. They are directly ruled by autocratic governors like Macquarie, using quasi-military legal institutions.

Many of these new subjects are First Nations people, people of colour, unfree; a significant proportion are Europeans from former enemy nations. How do you meld these disparate people into empire? To answer this question, commissions of inquiry are sent to diagnose law, governance and economy in almost every British colony. So Bigge comes here in 1819, as we've heard. In 1821, commissioners investigate the management of Africans liberated from the slave trade in the Caribbean—briefly, when the slave trade ends in 1807, these slaves who are caught on enemy ships are "indentured" for seven years and become a labour source in the Caribbean. In July 1822, two new royal commissions are announced. One goes to investigate justice in the Caribbean; the other, the so-called Commission of Eastern Inquiry, investigates government, law and finance in three newly acquired colonies conquered from the Dutch and the French: the Cape Colony, Mauritius and Ceylon.

As some of you know, one of these commissioners of eastern inquiry investigating the Cape, Mauritius and Ceylon has a familiar name: John Thomas Bigge. So he no sooner comes back from Australia than he is sent out on his next mission. It is illuminating to compare Bigge's commission here and his investigation in South Africa, and also the way that those commissions are understood historiographically or in memory. In South Africa, Bigge's commission is actually seen as a moment of liberal constitutional reform and reorganisation that is so profound that, along with the emancipation of slaves, it leads to a mass migration known as the Great Trek. Ultimately, if you want to bring a long line of historical consequence to it, it leads to what is known here as the Boer War, the South African War, so it's a very consequential moment.

So apart from two exceptions—India, which is under chartered company rule; and Canada, which has an investigation later—essentially, for the entire British Empire it is like a big stocktaking investigation. In our forthcoming book, we argue that Bigge's investigations here are actually really consequential to the ones that follow, and Lisa is going to pick up that point. It sets a constitutional agenda, particularly for Crown colonies—colonies ruled directly from the Crown rather than having legislative assemblies like the ones in the West Indies. Ours is the first attempt to make sense of this project. It is a difficult task because it was so messy and so inconsistent, and it also spawned an absolutely enormous archive: two dozen reports printed for Parliament in manuscript form; 200 dedicated volumes of information—going back to the point about information collection—solicited by these commissioners; their correspondence with colonists and with the Colonial Office; and maybe as many volumes again of related material. This is an enormous archive and it collects surprisingly diverse kinds of information.

The commissioners investigated widely. They took testimony from slaves, from convicts, from African apprentices, from free people of colour, along with complainants all kinds. Metropolitan administrators hoped that this vast archive could be curated, could be managed, could be censored and could be woven into a blueprint for colonial reform. Of course, along the way, these commissioners collected enough material on all aspects of life across so many parts of the globe to keep historians busy for generations. We think that James Stephen Jr, who was permanent legal counsel to the Colonial Office in 1823, was the only person at the time to read all the commissioners' reports from cover to cover.

For those of you who don't know of James Stephen, he was such a chronic workaholic he periodically collapsed. The commissioners themselves actually complained a lot about overwork. Their health was undermined by the pressure and conditions of their research. They fell into acrimony with their superiors and with each other. At least one died along the way; if you like, he was sacrificed on the altar of investigation. I'm sorry to put it to you, but our commitment is much more modest. We want to use the commissions to understand a very particular reforming moment that links Britain and a range of its imperial peripheries. We want to look at why the commissions were sent out and what happened when the agenda—why they were sent out—comes up against what we think of as a cacophonous voice of colonial politics. Everyone wants a bit of the action. In particular, we want to investigate these commissions' paradoxical nature.

That goes back to my point right at the beginning: How can this day of retribution also be something that spawns a new, ultimately representative institution? They were designed to reform, but their architects were a conservative government that was haunted by revolutionary upheaval. You have to imagine a British government that has seen revolution engulf America, France and Haiti, and they really, genuinely think that Britain is going to be next. It came pretty close. Bigge's commission into New South Wales is a transformative moment in Australia's history, but it is an inquiry, as we have heard, that is designed to control change rather than unleash it. Unlike the select committees and investigations that precede it, Bigge's investigation and these commissions that we are looking at are royal commissions, not parliamentary select committees. That might seem like hair splitting, but I know a lot of members of this audience will know that it is not. It matters that these are royal commissions.

John Ritchie wrote a wonderful book called *Punishment and Profit* about the Bigge investigation. As he recognised, and as historians have argued since, these commissions are called at a fraught moment in British politics. This is a pattern we see across the 1820s, and it influences all our imperial investigations. It is relevant, as I explain in a moment, to why it is important that these are royal commissions and not parliamentary select committees. We argue that inquiry and reform were profoundly shaped by what we call "the dance of Crown and Parliament", dancing around each other. Maybe a fencing match would be a better metaphor, because the power of the Crown and the power of legislative Parliament in Britain at this time is still very unstable.

Let me explain about the government of the day. Robert Jenkinson, Lord Liverpool, runs the government of the day. He is the First Minister, now known as Prime Minister. He is remarkably long-lasting. He actually takes office in 1812 after his predecessor is stabbed to death in the vestibule of the House of Commons—set that aside. He takes office in 1812 until his stroke in 1827. It is actually remarkable how long this government lasts given how constantly challenged it was, both by external circumstances and internal divisions. In Britain in the 1820s, parties don't exist as formal entities, as we understand them today. They are loose coalitions formed around particular individuals. They are highly factionalised. Actually, perhaps they are quite a lot like the parties we have today—maybe more than we are willing to admit. They are essentially very factionalised and they are focused around particular interest groups.

While the idea of government and opposition is beginning to gain acceptance in the first decades of the nineteenth century, Liverpool's supporters are very broad. They are a very broad church; they have got very diverse interests and attitudes. In today's parlance, some are on the left, some are on the right, some have got very particular interests, and his ministry's hold on power is precarious. It comes close to collapse at several points. Liverpool actually threatens to resign in 1825. As soon as he has a stroke in 1827, his coalition essentially falls apart almost as soon as he leaves office. This is a very unstable political context. In this context, the ministry turns to royal commissions as a way both to deflect accusations of corruption and to manage reform directly.

Unlike parliamentary select committees, royal commissions are under the direct control of the Crown. That means the ministry, Bathurst, the Secretary of State are at one remove from the cut and thrust of the House of Commons. They are embodiments of the royal prerogative, their investigations amass on-the-spot information and they can underpin genuine conservative interventions in colonial law and governance—but they can also be smokescreens. They can also curate colonial controversy in order to subvert hostile parliamentary interference. Just at the time when Liverpool's hold on power is so tenuous, royal commissions can be delaying tactics. They can send out the investigation and they can be a perfect answer to critics in Parliament, to say, "No, well, we're investigating that. We're investigating that. Just hold off."

I will close now by saying that opposition critics in Britain and the colonies are keen to make political capital out of imperial mismanagement. The ministry is equally keen to deflect these—we know how politics works—but they also have a genuine commitment to reform. At the basis of these commissions are two objectives. One is genuine reform; the other is political management. At times these are in harmony; many other times there's dissonance and disaster. Either way, these twinned objectives profoundly impact how events play out here in New South Wales and more broadly. Now I will pass on to my colleagues to elaborate some of those local details. Thanks.

**Associate Professor DAVID ROBERTS:** Thanks, everyone. I and Matt bring greetings from the highlands of New England, the home of the Anaiwan people, whose lands we live and work on. We have talked about the Bigge inquiry as a transformative moment in national history and we have spoken a little bit about this sort of broader political phenomenon in which it occurred. I'm going to come back to the parochial, and I'm going to talk about the mechanics of the inquiry: How was the investigation conducted, and what was the evidential basis of these reports and recommendations? In particular, I want to talk about the monumental body of evidence. There we go; I have pictures.

We know that we have three formal reports, which are very well known to historians. These are the title pages of the original handwritten drafts; they were, of course, later printed up by Parliament. But the Bigge inquiry bequeathed so much more. Bigge also produced numerous private letters to the Secretary of State, which were not published, mostly because they contained information of a fairly scandalous and sensitive nature. There were also sections on public figures, which were written into the original reports and later omitted. You can see, on the left, that's actually a nineteenth-century version of liquid paper. I'm not quite sure what's going on there. But, on the right, you can see it says, "Omit from this point." The next several pages are omitted.

Again, these are mostly matters that were considered to be just a little bit too scandalous to be put to the Parliament and they were omitted from the final version. But there is also a monumental archive, as Kirsten indicated, sitting behind these. They are usually called the Bigge appendices. Here is a summary of them. The originals are held in the National Archives Library in Kew. There's 25 bundles of documents consisting of 11,000 folio pages. It is arranged in a number of categories that broadly reflect the main themes of the inquiry—so there's bundles on convicts, police, agriculture, trade, population et cetera. They are further divided into documents versus examinations. I'll come back that in a moment. There's also some bundles categorised as memorials and complaints. This is what I find to be some of the most interesting material; this is colonists coming forward with unsolicited information.

Now, this is an extensive archive because it was a such a huge inquiry. We know that it was commissioned amidst growing concerns about the efficacy of the colony as a place of convict transportation. We know, as we have just heard, that there were major concerns about Macquarie. But ultimately, Commissioner Bigge was given an extraordinary, far-reaching authority to investigate pretty much anything he wanted. He could consider all aspects of the administration of government and law. He was going to look at convicts, judicial proceedings, the state of agriculture, trade, revenue, the military, the church and the medical institutions. He was also secretly ordered to investigate a number of individuals and a number of very delicious stories that were circulating. Basically, he had open slather to investigate what he wanted. He took this brief quite seriously, to the point where, for the next 17 months, at a cost of around £10,000, he basically became completely mired in all sorts of miscellaneous matters.

During that time he worked constantly and frenetically, travelling, questioning, conversing, writing, reading, observing and collecting. He crisscrossed the towns and stations of the Cumberland Plain. He inspected the jails, hospitals, stores, courts, houses, churches and schools. He looked at the farms, the herds, the roads, the granaries, the turnpike gates, the harbour, the ships, the military installations—you get the idea. He travelled to Bathurst, he witnessed the compilation of the 1819 muster at Windsor, and he attended the Aboriginal feast at Parramatta. He went to Newcastle, where he inspected the infamous gulag. He also travelled to Van Diemen's Land, where he spent four months travelling through all the settlements on that island. Throughout this whole time, he collected. He was an avid and assiduous collector. He hoarded documents, letters, statistics, maps, plans, questionnaires and transcripts. Here is an example of just one of his bundles; as I said, there are about 25 of these. This one contains 46 documents relating to the police establishment. Every single one of these is a gold nugget for the historian.

As I indicated, Bigge not only sought information; he actually had it thrust upon him. People came forward with requests and pleadings, mostly unhappy colonists seeking retribution or restitution. They came presenting petitions, memorials and grievances, often backed up with large bundles of documents going back decades. A couple of people also came forward with lengthy manifestos where they had written some formula for the future of the colony and presented it to him. He had to deal with all of this material. But one of his primary means of gathering information was the oral interview or examination. Here is an example. This is the first few pages of a very lengthy examination of William Hutchinson, who was the principal superintendent of convicts. He was an emancipist and one of Macquarie's favourites. You can see questions on the left and answers on the right. Bigge recorded around 300 oral interviews with 236 individuals. By our count so far—and we will have to check this—I think we are looking at something like 7,800 questions and answers that were compiled by this commission. It is fantastic. This is the voice of the colonists. You can actually hear them speaking in their own words.

We are undertaking a vast digital analysis of these questions and answers. I am not going to go into it today; we will go for something a little bit lighter. This is just an illustration of some of our findings. We know, for example, that most of the people he talked to were office holders. These were superintendents, inspectors, engineers, surgeons and magistrates. He also spoke to Crown law officers and judges who told him a lot about the judiciary. He spoke to the key policemen, and surveyors gave evidence on agriculture and trade. He also spoke to hospital assistants, gang overseers, storekeepers, clerks and harbour pilots. This is quite common, and we see it other commissions of inquiry. They really target a lot of the key players in the colony, the office holders.

But one of the remarkable characteristics of the Bigge commission is that about 45 per cent of informants are not civil servants. He takes a lot of evidence from private citizens. Of course, we know people like John Macarthur and the Blaxland brothers had a major influence on his findings. Other people like Samuel Marsden and Alexander Kemp barraged him with information. They kept coming back. Just as he was getting on the ship they were still handing him large documents. Bigge, as we know, was heavily criticised for his cosy relationships with these individuals. In fact, Kirsten, I think later commissions actually learnt from this. Instead of going around interviewing people, a lot of them would just hand out pre-prepared questionnaires. I think this was motivated in large part by the mess that Bigge got himself into by going out and speaking to people—but fortunately for us, he did.

He did not interview many convicts. He did interview some, particularly when he was investigating allegations of malfeasance. He would go onto a work site and interview, say, a dozen convicts. They usually did not get the honour of having their answers recorded as questions and answers; he takes them down as statements. These are some examples of investigations of Hutchinson, who was pilfering government stores. They went out and spoke to all the convicts. All the informants were men—there were only two women out of those 286 people who were interviewed—and there were no Indigenous informants. We know that he did speak to Aboriginal people. He met the great resistance leader Duall, who at that stage was in exile in Tasmania. We know he went to the Aboriginal feast but he did not record any interviews with them. Unfortunately, First Nations issues are just not on the agenda at this stage, or not in this inquiry.

What I wanted to note, I guess as a way of starting to wind up, is that what we have is an extraordinarily rich and immense archive, a monumental snapshot of New South Wales at the end of the Macquarie era and just before the creation of the First Legislative Council. Much of what we know about this period is derived from these materials. In fact, there is a lot in there that has not really been discovered and used yet, as you can imagine. What is so noteworthy is that at the time—that is, 1822—this material was not intended to see the light of day. Other commissions of inquiry, such as this one from Trinidad, actually printed all their evidence. As you can see, the appendix on the right lists all the evidence they collected. They printed it. On the left, you can see they actually had a sort of referencing system so you could read the report, see the reference and then go and read the appendix. Bigge did not do that. He and the Secretary of State basically decided that this information was too controversial and too inflammatory. They were particularly worried about inflaming political controversies, so they decided to tuck all this information away in the basement in Downing Street.

Years later in 1860, when all these protagonists were gone—and many of them forgotten—these records were transferred to the Public Record Office in what is now the National Archives in Kew. They were further forgotten for another generation until around the turn of the twentieth century, when the New South Wales Government sent James Bonwick to London to transcribe whatever documents he could find about early New South Wales. Bonwick's handwritten transcripts were then transferred to the Mitchell Library down here in 1910, but even at that time there were still sensitivities around these materials—we are talking 90 years later.

There were access and copying restrictions placed on Bonwick. He was told there were things he was not allowed to transcribe. He himself admitted that he left out material which he considered to be too sensitive or compromising. It is also rumoured that at about this time the Colonial Office ordered the destruction of some of these materials, but we cannot actually confirm that. I suggest it is probably a matter of legend rather than fact. But it does suggest that there were still ongoing sensitivities around the Bigge materials almost 100 years after the commission of inquiry. In fact, these sensitivities persisted around about the time of World War I, when the Bonwick transcripts became the *Historical Records of Australia*. Many of you will have used that series; we still use them now, 100 years later. There was an undertaking that the Bigge appendices would not be included in that series. In fact, in the end, only a small part of the Bigge transcripts was published.

It was not until after World War II that the Bigge materials were properly discovered by historians the likes of John Ritchie, who Kirsten has mentioned. He included two volumes of transcripts, a very small fraction, but they have been used by historians ever since. Finally, in the 1960s the original big appendices were microfilmed as part of the Australian Joint Copying Project's Colonial Office series. For the first time, I think in 1969, we actually have microfilm access to these documents. Finally, in the last year, as these old microfilms have started to rot away with vinegar syndrome, this collection was digitised and put online by the National Library of

Australia. This constitutes a remarkable transformation. The amazing body of materials recorded by a commission of inquiry were initially hidden and for many years censored with a degree of suspicion and shame. They have now come full circle and are available free online for the whole world.

I mention this particularly in John's presence, given his interest and portfolio. This reflects an extraordinary commitment to making Australian historical records openly available. Australia is very much a world leader in the amount of historical information you can access online. The rest of the world is envious. Take note of that, John. Finally, the records of the Bigge inquiry are a testimony to the nineteenth-century British fascination for inquiry and data gathering, but they also tell the story of Australia's changing attitudes towards its national past.

**Dr MATTHEW ALLEN:** I also acknowledge that I'm on Gadigal country and that, like Dave, I wrote my paper on Anaiwan country up in Armidale. I am going to take this in quite a different direction and go even more parochial still. I want to start with a story, as I am wont to do. John Thomas Bigge, His Majesty's commissioner of inquiry, arrived in New South Wales on the *John Barry* on 26 September 1819, as John actually mentioned in his introduction, to a 13-gun salute from Dawes battery. Since Governor Macquarie was in Windsor on that day, he was greeted by the Governor's secretary, John Campbell, and Captain John Piper, a magistrate and a naval officer.

That evening he attended the first of what would be a series of public dinners in his honour at the mess of the 48th Regiment, who were the regiment in New South Wales at that time. We only know for certain of this dinner through a letter written by William Redfern—a letter of vociferous complaint. Here is a picture of Bigge and Redfern, and I will move on to the letter. I have a bad habit with slides of filling them with text. You certainly do not need to read it all, but I like to give you a feeling of the sources because I enjoy them so much. I will talk you through some of this as we go.

Redfern was a very successful emancipist. A naval surgeon, he was transported for his role in the mutiny at the Nore in 1797. He arrived in New South Wales in 1801 and rapidly found employment for his skills—they did not have enough medically trained people in the colony—rising to become the assistant surgeon of the colony. He was pardoned shortly after and rose to become the assistant surgeon of the colony in 1808. Governor Macquarie admired and championed his talents and promised that he would succeed William Wentworth as the principal surgeon—Wentworth was the principal surgeon at this time—and also that he would appoint him as a magistrate. This is a very controversial promise because Macquarie's policy of appointing successful emancipists, successful former convicts, to the magistracy had divided the colony.

In any case, Bigge's arrival put paid to these ambitions. Accompanying Bigge on the *John Barry* was James Bowman, a naval surgeon who Lord Bathurst had appointed in Redfern's place, largely as a result of his opposition to employing former convicts. Bathurst was opposed to this policy, as Bigge was as well. Redfern was briefly appointed to the magistracy in 1819 by Macquarie, against Bigge's strong advice. But when Lord Bathurst learned of his appointment, he ordered it to be withdrawn. By the time Bigge left the colony, Redfern was no longer on the bench—so a very short time in this honourable position that mattered a lot in terms of status in New South Wales.

Redfern mentioned this dinner in a letter of grievance that he wrote to the commissioner shortly before his departure from the colony in February 1821. It is the letter you see here, or these are excerpts from it. It's a very long letter, and this is a brief tribute to it. He wrote to complain about his mistreatment. Indeed, as you will see there, he compared being interviewed by the commissioners to torture by the Spanish Inquisition. But he also told Bigge:

... your obsequious, intimate and humble friend, Mr Bowman, did, on the first day of your & his arrival in the Country, at the Public Dinner of the Mess of the 48th Regiment, as report says, utter, as an axiom, 'that there would be no more convict magistrates in the colony – the Commissioner would take care of that.

So he had heard this rumour that he was going to lose this position as a magistrate before he had even got it. He continued:

This sentiment thus publicly declared, by a person who had arrived on the same ship, who had sat at the same table with yourself and your secretary, - and who had boasted that he enjoyed your confidence, - made no very favourable impression on one part of the inhabitants of this colony ...

There is a lot to unpack here. This letter alludes to a lot about the politics of Macquarie's emancipist policy and the divide within colonial politics at this time. But it also talks to public discussion and gossip and its role in colonial politics, and that is really what I want to focus on today. Clearly Redfern was not in attendance at the dinner; he heard it by report. But nonetheless, he knew what happened and he regarded it as a public matter. He thought it was so important that he had to tell the commissioner about it. Indeed, Redfern was peculiarly sensitive



to the politics of dining. These are some extracts from Bigge's report. It is about 110 pages in total and, as you can see, four whole pages of it concern Redfern and who he was allowed to dine with.

As Bigge would later report, the 46th Regiment, who were stationed in New South Wales initially—I think it was 1812 to 1817 or something like that—refused to dine with convicts and were consequently excluded from most dinners with the Governor, because he often invited emancipists along and they refused to go. There was an intense controversy around this. When the 48th Regiment arrived in 1817, they were divided over this issue. The senior officers sided with the Governor as the commander-in-chief, so they respected the fact that he was their commander and agreed to attend Government House regardless of who was dining there.

But the junior officers repeatedly snubbed Redfern and excluded him from their company, including on one occasion walking out of a dinner to which he had been invited at the mess. Bigge's inaugural public dinner was not simply a celebration of his arrival, a gesture of fraternal hospitality or an occasion to eat and drink with other men. They were all men, of course. It was, like all public dinners—and that is a key word here; this was a public dinner—a political occasion. In a colony without a Parliament, the politics of who dined with whom and what they were reported to have said while there was intensely contested.

I begin with this seemingly trivial incident of the inaugural dinner because I want to argue that to understand the politics of the Bigge inquiry, we need to understand the shifting and contested nature of colonial politics, and that we can do so by looking at public events like dinners. How the gentlemen—and they were exclusively men, and indeed white men and men of a certain status, although that status was highly contested—behaved on these occasions, who attended, who was invited, what they said and, just as importantly, what they were reported to have said really mattered in New South Wales. Dinners like these were political performances, rituals that delineated who constituted the public of New South Wales and who was accordingly entitled to a public voice.

Perhaps more controversially, I want to suggest that this convict colony—run by an autocratic and authoritarian governor and subject to the inquiry and direction of a distant monarch, Parliament and bureaucracy, as we've already heard—was in some senses becoming a democracy already. The colonial public had what I am going to call a democratic imaginary: They thought they were entitled to a view on public affairs, and they expressed it widely. Though they lacked democratic institutions like jury trial, a free press and, of course, a Legislative Assembly, the emerging public of New South Wales thought and acted as if they were entitled to have a say on public affairs—as Bigge would rapidly discover.

Kirsten has already spoken about the broader imperial politics at stake in such commissions of inquiry, but I want to take a more parochial perspective today and focus on the colony itself. There were about 30,000 people in New South Wales when Bigge arrived, about two-thirds of them men and about half of them convicts. At least 10,000 of them lived in Sydney, where the gender ratio was more even, so it was a very small town and a parochial place. It's funny, I was thinking as I was writing this that Dave and I both live in Armidale, which is also a smallish town. There are about 20,000 people there, and there is a different feel to politics in a place where you do not know everyone but you know a lot of people and you bump into them in the supermarket. I think Sydney was more like that in this period than it is today. There is a different kind of politics to small towns. But even in this relatively small place, there was an intense local politics. Indeed, it contributed to the initial call for a commission of inquiry.

There are intense domestic politics throughout the Macquarie era; I do not really have time to go into them in great detail. I have got this slide of Marsden here because Marsden is at the centre of a lot of them. He kind of becomes the de facto Leader of the Opposition, in a sense, in New South Wales. In particular, in 1810 Marsden was the first person to make a public stand against the promotion of emancipists when he refused to serve on the board of the new turnpike road because he would be required to publicly associate with two emancipists, Simeon Lord and Andrew Thompson—in his view, neither of whom had reformed. What is interesting about that comment, which is in a private letter, is that Andrew Sharp has argued that, in fact, what Marsden was most concerned about was not the fact that they were convicts but the fact that they were immoral—that they both had convict mistresses, so they were not moral people up to Marsden's evangelical high standards.

In any case, this devolved into a full-on feud over the next few years. Marsden was one of the many opponents of Macquarie who used their connections in England to draw attention to what they saw as the Governor's misconduct, as, for example, in this public letter. So not only was this letter public in the colony; it was also sent back to England where it was read by Henry Bennett in Parliament in part of his attack on Macquarie, and that attack fed into the commission of inquiry. So domestic politics in New South Wales is feeding into the kind of political debates that Kirsten talked about earlier in Britain as well. They are feeding into each other. There is a feedback loop between them. So there is a growing opposition to Macquarie, centred on Marsden among others, and focused on the treatment of convicts in general and emancipists in particular.

Similarly, but from a different direction, the growing community of emancipists were at the centre of a public campaign to call for democratic rights in the colony. I am using that word a little bit anachronistically—they didn't talk about democracy at that time—but they were rights that we would now recognise as important to a democracy. Unsurprisingly, given the politics I have described, Macquarie was at least partially sympathetic to these campaigns. He permitted a public meeting in early 1819, which resulted in a petition to the Prince Regent signed by 1,260 persons including, according to Macquarie, all the men of wealth, rank or intelligence throughout the colony. That is a very political judgement because, of course, a lot of his enemies did not sign it. This petition among other things called for jury trial; for relief from duties on colonial products, which is arguably an argument about taxation without representation, although they didn't make that explicit; and for permission to create a domestic distilling industry, something else I am interested in, but I will not go into that today.

Also that year, William Wentworth—this is also 1819—published in London the first edition of his statistical, historical and political account of the colony, which made even more radical demands. Again, I will not read them but he is the first person, in a sense—and quite famous for doing this—effectively calling for all the rights that British people have in England to be given to people in New South Wales as well. While the public in New South Wales were not as forthright, Wentworth's book spoke for a growing constituency who saw the future of the colony as democratic—a self-governing colony of free Britons including emancipists. But equally this view was opposed by colonial conservatives and people like Marsden, who were known as exclusives because they refused to associate with convicts. So Bigge arrives in a colony with a fraught and contested politics on a broad range of public opinion—a nascent public sphere, if you like. As David has discussed, the commissioner heard from a wide range of people in New South Wales, many of whom were highly critical of the direction of the colony. He received suggestions and advice that were radically incompatible. His conduct was held up to intense scrutiny, as we saw with Redfern's letter, and his reports were subject to vituperative criticism.

Notwithstanding my colleague's point about the imperial politics of reform, I want to argue that in some ways, though, the inquiry should not be understood in isolation as a conservative shift in colonial affairs. His reports, which often descend into the minutiae of colonial politics of who dined with whom—indeed he devoted several pages of a report to the subject of who was willing to dine with Redfern, as I have said—illustrate in detail the kind of democratic imaginary I am talking about. Even in this discussion here—again Redfern is talking about who is prepared to dine with Bigge—part of the way he frames this discussion is in relation to public opinion. His criticism of Macquarie here is that Macquarie is enforcing his power over the opinion of the colonists. The colonists do not want to dine with Redfern, but Macquarie is insisting that they do. So he is framing his arguments in terms of public opinion. Public opinion matters in the colony and everyone recognises that, to some degree. This is what I see as a nascent early democratic imaginary. So thus I would argue that Bigge's inquiries demonstrate an emerging democratic imaginary—a shared understanding that the colonial public had a right to voice their views on affairs and influence decision-making. Indeed, I would suggest that the views of Bigge's critics and opponents were just as influential as his reports in determining the future direction of the colony.

I want to wrap up quickly with another dinner. I will not go into detail here. The reason I have this slide is just to show that there is a long tradition of these dinners, which is part of what I am interested in in my book, and they are very political occasions. You will see here, it summarises the way that the toasts are supposed to take place. They always start with the King and then work hierarchically down through a list of people who are important in the colony, and there are often quite politicised speeches accompanying these toasts. They are very political occasions. They are very interesting political rituals.

But I want to talk about another one that took place in 1820, and I will skip over some of this detail because I am running out of time. There had been a tradition in the colony of an emerging tradition starting to celebrate 26 January as an anniversary, and of course we still, somewhat controversially, celebrate that anniversary today. In 1820 Bigge was present in the colony when more than 60 gentlemen, including a great many respectable persons, met in commemoration of the institution of the colony. Michael Massey Robinson, the colonial poet, composed a celebratory ode, which explicitly celebrated the connection between toasting and the politics of commemoration. Each verse of this ode ended with a toast: Old England forever; the Prince Regent forever; Australia forever; Macquarie forever. And Robinson linked the rivers of wine that were flowing at the dinner to the wit, worth and harmony of the occasion, the drinkers' birthrights—that is a political argument—their loyalty and the prosperity of the colony.

For Robinson and the emancipist party he spoke for, loyal toasts were a crucial means of simultaneously demonstrating a loyalty and asserting rights. Public dining was a ritual that delineated the public, and toasting was a form of political speech. Bigge himself did not attend and was probably not invited. He was in fact aboard the *Princess Charlotte*, recently anchored after a failed attempt to visit Macquarie had turned back because of the storm. But in his absence Redfern saluted him with what in context can only be a deeply ironic toast: "Mr Commissioner Bigge: May we have cause to transmit his name with veneration to posterity." The battle lines of his reputation were already being drawn by a colonial public who imagined themselves as entitled to a political

opinion and were beginning to demand the rights they thought guaranteed it—a free press, jury trial and, of course, political representation and self-government. Thank you.

**Professor LISA FORD:** Thank you so much to Kirsten for organising this panel and inviting me to participate, and I am so sorry I cannot be there in person. I would also like to acknowledge the millennia of care the Gadigal people have taken of the beautiful country on which you are meeting and on which I live. Today my job is to talk to about the role of Bigge's commission and the creation of a Legislative Council of New South Wales. I will also put this constitutional reform into its imperial context, returning to the big picture that Kirsten sketched for you earlier. She has already spoken to you about the moment of vast imperial reform to which the Bigge inquiry belongs. And she has also flagged that we think the constitutional changes that followed in its wake shaped the remaking of other colonial constitutions in the period.

To explain the role of the Legislative Council and that pan-imperial reform process, I need to take a step back and ask you all to rethink a little of what you know about the colony of New South Wales. We all know that when Bigge arrived in 1819 Governor Lachlan Macquarie wielded extraordinary powers in the convict colony. From 1788 to 1823 he was the quintessential proconsular despot. Macquarie was authorised by commission "to do and execute all things in due manner that shall belong to your said command". These included the right to appoint magistrates and other officers as required, to locally pardon and/or arm the populace and to declare martial law.

Sadly, none of the founding documents mentioned a right to legislate, an oversight that Jeremy Bentham and a few querulous settlers had used persistently to question the constitutionality of government in New South Wales. However the Governor legislated anyway, raising taxes, banishing refractory convicts and regulating every aspect of colonial life. Most people have argued that these extraordinary powers stemmed from the fact that New South Wales was an enormous open-air prison, but that is only part of the story. In fact, New South Wales' 1788 Constitution was also the product of counter-revolution. It was set up just five years after the American Revolution ended.

Indeed, the colony was established because convicts could no longer be transported to America. It also followed a very new pattern of constitution making that, ironically, had been led by the British Parliament. Parliament first established proconsular rule—that is, rule by a governor without a legislature—in the East India Company holdings in 1773, and then very controversially imposed it on the conquered colony of Quebec in 1774. Quebec was the first colony on mainland North America not to have an elected legislature. It is also important to note that very few legislatures are established anywhere in the British Empire after 1774. Quebec got a partial one in 1791 but only after an enormous influx of American loyalists who had been exiled from the United States.

The shift away from elected legislatures was partly because Britain was almost always at war and did not gain formal title to newly conquered colonies until 1815. One could argue that things were too unsettled to be making permanent constitutions but there was also an element of strategy here. By holding off giving conquered colonies constitutions, the Crown, which had absolute power after conquest, preserved its rights to govern colonies and alter their institutions without consulting Parliament. James Mollett showed many years ago how that strategy played out in the island of Trinidad, conquered in 1791, but not given a permanent constitution for decades. The point is that our open-air prison was not so exceptional after all. It was the third great constitutional experiment in a period of rising Crown power across the British Empire. In 1819 the Crown had no intention of giving that power away.

But let us return to Bigge. The most important thing to note for our purposes is that the Legislative Council was not his idea. Though he was an appalling snob, he actually had a much more inclusive model in mind. He agreed that the New South Wales Governor needed a council but he thought, first, that every law the Governor made should be vetted by an Attorney General. This was obviously good policy as most governors in New South Wales and elsewhere were military men and none were lawyers. Second, he said that the council should be made up of every magistrate in the colony and laws should be passed by majority vote. That, in the space of half a page, was pretty much all he had to say on the matter.

This meant, in effect, that Bigge wanted to create a large, albeit unelected, legislature of colonial elites. The New South Wales magistracy included many established settlers of wealth and influence, many of whom, as Matt pointed out, had very strong and self-interested notions of how the colony should be governed. And, as Matt also noted, if he had his way this body would exclude emancipists. That vision ended up being far too inclusive for the Colonial Office. They prevaricated but in the end James Stephen Jnr, whom Kirsten mentioned, and Sir Francis Forbes, already earmarked to be the colony's first Chief Justice, settled on a much more conservative model.

The New South Wales Act of 1823 gave governors power to initiate legislation for the peace, welfare and good government of the colony so long as those laws were first laid before a Legislative Council. This

Legislative Council was to be comprised not of magistrates but almost entirely of a handful of senior officeholders appointed directly from London. I note that it was expanded a little a few years later to include some carefully chosen settlers. Even so, the Governor had power to legislate without council in times of actual or threatened rebellion and to overrule council where necessary. All legislation had to be vetted in advance by the Chief Justice and promptly submitted for Colonial Office review. So decades of complaints about illegal and unconstitutional rule would be brought to an end without devolving power to govern far beyond a coterie of servants appointed directly by imperial officials in London.

So zooming out to put this move into imperial perspective, the Legislative Council of New South Wales was no great step towards democracy. It was a deliberate effort to preserve Crown power in the colony against local settler elites. This constitutional model, as Colonial Under Secretary Wilmot Horton pointed out in a confidential letter to the Governor of Trinidad in 1825, was drawn directly from the Constitution of India established in 1773. The Legislative Council of New South Wales then looked back, first, to the first reassertions of Crown power to rule Empire directly in the lead-up to the American Revolution, not forward to the establishment of the incredibly inclusive legislature established in New South Wales by the middle of the nineteenth century.

In this respect it became a model for preserving Crown power across the Empire. Bathurst formed plans to introduce a council of advice soon after at the Cape. He did so explicitly to protect Crown power from fallout from Governor Somerset's highly publicised tyrannies. Bathurst wrote to Somerset in 1824 noting that the council was crafted not only to stop him from making stupid decisions, of which he made many; it would appease Parliament which "will more willingly trust authority to a governor" where they have this security against its abuse.

Reforms to Crown colonial government then took on a life of their own. An unsigned and undated memo, likely from the mid-1820s, suggested that the limits of the legislative power of the Governor in council in the formerly French colony of St Lucia was to be defined as in New South Wales and the Cape, et cetera. Soon after, as I just noted, Wilmot Horton promised a similar council for Trinidad and asked for the names of seven or eight persons in consecutive order whom he would wish to be appointed. The Colonial Office eventually established a council in Mauritius and in the late 1820s the then Under Secretary Horace Twiss thought a like model should be imposed on every Crown colony in the Empire. This did not happen because of a combination of political turmoil in the metropole and pushback from some of the most militant slave colonies.

But the point for our purposes is that the New South Wales Act set off a chain reaction across the Empire; a chain reaction that had profoundly counter-revolutionary ramifications. Of course, it did not quite work out that way. Councils, no matter how stacked, still cause trouble. Francis Forbes, remembered probably incorrectly as a notorious Liberal, fought bitterly with Governor Darling about legislation curtailing convict liberties and the freedom of the press. Local populations almost everywhere lobbied successfully to have Legislative Councils expanded. They created a crack that white settlers, in particular, widened to have a say, even if it was a small say, in governance. But this was an unplanned and contingent outcome, like so much of history. And with that I will close. Thank you.

**The Hon. JOHN GRAHAM:** I thank all speakers. We will now open up for questions. If people want to ask a question, feel free to raise your hands. We have a short time for this session. I ask you to wait for the microphone and to introduce yourself.

**QUESTION:** David, you mentioned that only two women were interviewed. Would you be able to tell us any more about those women?

**Associate Professor DAVID ROBERTS:** Certainly. One was the wife of the manager of the female factory at Parramatta and she was interviewed in relation to some politics that were going on in that institution. The other one was a Tasmanian settler by the name of Elizabeth Jillett, who was a free woman. I think she came over on the Second Fleet and married a convict. They went to Norfolk Island and were transferred to Van Diemen's Land where they suffered really horrendous poverty up near Norfolk district. Somehow she came to be interviewed, I think, as an old veteran of that area. Very short and very brief interviews; probably three or four questions each against the 7,800 questions asked of men. It does say something about who got to have a say in this commission of inquiry.

**Professor KIRSTEN McKENZIE:** Can I add to that? Women were interviewed in other commissions in other parts of the world, for example, at the Cape, at the West Indies. We do have interviews from women but they are fewer, but they certainly appear and some of their testimony is very illuminating.

**Associate Professor DAVID ROBERTS:** Like slavery.

**Professor KIRSTEN McKENZIE:** In fact, I cannot think of an example of a woman being interviewed who was not a slave or an Indigenous person or a person of colour.

**QUESTION:** That was a fantastic presentation, folks. I just wanted to know whether Bigge kept all of his findings purely in written form to powers to be in England, or whether he liked to offer criticisms to various parties as he was doing his research and perhaps ferment a little bit of trouble and gossip along the way.

**Associate Professor DAVID ROBERTS:** We only know what was written. But, almost certainly, yes. He spent a lot of time in dining rooms and parlours, and in conversation while walking. He went back to London for about 18 months while he wrote his reports, and he was in constant communication with colonists and with people in the Colonial Office. So, undoubtedly, there was a subterranean level of gossip and machinations.

**Dr MATTHEW ALLEN:** That Redfern letter that I reference is about that, in part. It is not just that dinner but other occasions that Redfern has heard of things that Bigge has said to other people or he has seen letters that Bigge has written. Bigge is communicating with all sorts of people while he is in the colony. People are intensely aware of that because they are obsessed with what this guy is going to do because they think he might change the whole direction of the colony. So he is the centre of a kind of wheel of gossip and rumour, which he participates in.

**Professor LISA FORD:** If I can jump in, there is also a very typical letter from John Macarthur, where he is boasting about the fact that he and Bigge are finishing one another's sentences at the many social occasions on which they meet.

**QUESTION:** Was it the case that Bigge led to the disempowering, I suppose, of Captain John Piper in his role in terms of reviewing the situation and determining that perhaps Piper was earning a bit too much money in his role?

**Associate Professor DAVID ROBERTS:** I am not sure.

**Dr MATTHEW ALLEN:** He was certainly found to be corrupt around about that time.

**Associate Professor DAVID ROBERTS:** Yes, and then, of course, committed suicide shortly after. There are no specific recommendations in the reports about Piper, so that might also be an example of where some private conversations happened. But Piper was also one of the good guys. He was one of the colonial elites. I am not sure of any specific information that is written in relation to that—cover-up, perhaps.

**QUESTION:** Nancy Cushing from the University of Newcastle. Thank you, everyone, for your wonderful talks. I had always wondered, Bigge, coming from Trinidad—is that right? I didn't realise that he had been at one of the Inns of Court in London for some time. Does he bring that experience from a slave colony to his presuppositions and judgements about New South Wales? Do you think that informs his analysis of what is right and what is wrong with this colony?

**Professor KIRSTEN McKENZIE:** I don't know if you want to add to that, Lisa. He ended up in Trinidad because he was a good mate of the governor of Trinidad. The two of them were essentially holidaying together with their invalid sisters—make of that what you will—and then he went off to Trinidad. I cannot answer your question specifically in relation to New South Wales. I will say the importance of bringing knowledge from a previous place and the connections that happened between imperial sites, we do tend to look with tunnel vision at the view that this is an Australian story, this is a South African story or this is a West Indian story. I am trying to think back to what it was, particularly. The difficulty with Trinidad is that it was a Spanish colony with an English overlay, and he dealt with that so well. But that was one of the motivations for sending him out to New South Wales, to make an inquiry. I am not sure if anyone else wants to add to the specific question of slavery and how he might view convict labour.

**Associate Professor DAVID ROBERTS:** He was certainly very interested in the concept of applying convict labour to agriculture, to working in fields and on sugar plantations. Lisa, did I interrupt? Did you have something to say?

**Professor LISA FORD:** I was going to say that I think something to remember is that Bigge, if anything, has slightly reformist tendencies. But the thing you need to understand about reformers in the 1820s is that they are a pretty miserable bunch when it comes to convicts. They have many more aspirations for the uplift of slaves than they do of convicts.

**Professor KIRSTEN McKENZIE:** Correct.

**Professor LISA FORD:** Many of them actually feel that convicts have fallen; they have not been unjustly enslaved and tortured to death for their work. He is not bringing notions of slavery; he is bringing all the other chauvinism that all these people—slaveholders and reformers—shared at this time about people who were

lesser in status than them but also of different colour from them. All of that swirls around in these reports. Really, he is a mouthpiece for people who would consider themselves to be reformers, who want to see a proper punishment and a proper reform of convicts in the colony. That is part of the reason you moved them away from cities, which are dens of iniquity, and on to farms, where they will be forced to labour. Some of the interviews say they won't have time to be wicked; they'll be too tired.

**Associate Professor DAVID ROBERTS:** Too busy. Yes, too tired.

**The Hon. JOHN GRAHAM:** David, did you want to finish?

**Associate Professor DAVID ROBERTS:** No, that is a good question.

**QUESTION:** I am Tricia Blombery from Graduate Women – NSW. I have a fairly specific question. Do you see the influence of Bigge on the development of education and education policies in New South Wales?

**Professor KIRSTEN MCKENZIE:** That's not a question I can answer. I am not sure if the other members of the panel can.

**Associate Professor DAVID ROBERTS:** I am not really sure. It's not something that jumps out.

**Dr MATTHEW ALLEN:** It is not a big part of the report.

**QUESTION:** It is certainly a big part of the report. If you look at New South Wales education compared with Victoria in the early days, certainly there is the repression in New South Wales that you don't see in Victoria.

**Dr MATTHEW ALLEN:** It is not a part of the report that has jumped out to me.

**QUESTION:** Okay. Thank you. Sorry it is too specific.

**Associate Professor DAVID ROBERTS:** Sorry, but that is worth thinking about. We will have another look.

**Professor LISA FORD:** There are whole sections in his appendices about ecclesiastical and other institutions. They have not been our primary focus, to be honest. We are more interested in the constitutional developments and the things that travel. A huge part of the project of inquiry was focused on law and legal institutions; that is the thread that pulls our project together. I am sorry we cannot give you a more specific answer.

**Dr MATTHEW ALLEN:** As Lisa says, one thing I think of is his secretary became the first—not bishop—

**Associate Professor DAVID ROBERTS:** Archdeacon.

**Dr MATTHEW ALLEN:** —archdeacon of New South Wales. He had a very particular view that he wanted New South Wales to be an establishment with an established church. I think Scott is a very important part of that story. In terms of shaping education, the role of the Church in education was a crucial issue. But it changed direction very radically in the thirties with the church Act.

**Associate Professor DAVID ROBERTS:** Yes, that's right.

**Mr DAVID BLUNT:** I am cheating by asking this question. It is a question for Lisa Ford. I wonder if I can take you to your conclusion around the unintended consequences of the establishment of the Legislative Council in New South Wales and the expansion of the model throughout the colonies. Can you tease out for us some of the factors of causation that perhaps led the model to morph quite quickly into a quasi-parliamentary system. It was very quick that we saw the introduction of standing orders in the New South Wales Legislative Council and not 20 years later we have cases on parliamentary privilege developing across the other colonial legislatures.

**Professor LISA FORD:** We are very focused on this early time period. Actually, I wish Naomi were here. She has written a fantastic dissertation about the post-proper representative moment and the hilarious inclusivity. They get themselves in knots about how inclusive they want to be in the legislature. In our period, you can see immediately that councils are really important and efficacious in that tempering of gubernatorial despotisms. Everything is fine when Brisbane is there; he is an amiable chap. But Governor Darling comes along with a much more militaristic view of how things should be done. Although, when Darling arrived they actually instituted an Executive Council as well. The distinction is really different because those institutions are conflated elsewhere. Even the really controlled number of people on there are speaking back to power.

This might be a conservative moment but that does not mean that this is not a really important moment for ironing out legal institutions and for making sure that things are done properly within very constrained parameters, more justly and in ways that are not so antagonistic to English practices, where that's possible. This

does not always end well. In 1830 they pass the Bushrangers Act, which means you can arrest any white bloke walking around, on the assumption that he is a convict. But in many other respects it leads to very real conversations about the province of peace, order and good government; what it means to pass good legislation and what that legislation should entail, and when and to what degree it can violate what would be seen as fundamental principles of lawmaking in England—that is quite often.

But, nevertheless, those conversations happen immediately. Particularly in the Darling years, they become incredibly acrimonious. Chief Justice Forbes and Darling had very, very well-documented spats about many things, and they themselves are surrounded by factions of people who talk to them, who encourage them and who have very real opinions, which are published in the press that they are fighting about the freedom of, for everybody to read. So it is not just the Legislative Council; it is also what is happening in the society around it, which I think Matt was alluding to at the end of his talk.

**Dr MATTHEW ALLEN:** Yes. I would just reinforce what Lisa is saying. I would say that the important thing is the growth of the public sphere. The Council is operating in conditions where there is effectively a free press, by the late 1820s. In that situation, I guess, what is happening in the Council is being debated in the press before it even happens, so that in a sense, under Darling, the Governor is being as much constrained by the press as he is by the Council.

**Professor KIRSTEN McKENZIE:** Can I just add to that?

**The Hon. JOHN GRAHAM:** I might just ask for a final comment on that question, as we are close to time.

**Professor KIRSTEN McKENZIE:** It is a final comment, just to say that tomorrow we are going to pick up this exact story about Darling, the press and the general sense that people have that they have rights, even if they do not have actual franchise rights. Jamie, I and Penny are talking about that in the first session tomorrow, so that is a good segue.

**The Hon. JOHN GRAHAM:** Perhaps a final thought, David?

**Associate Professor DAVID ROBERTS:** No, that is fine. I am happy. Fantastic questions. Thank you.

**The Hon. JOHN GRAHAM:** Very good. Thank you for those questions, and thanks to the panel for really bringing this period alive. I would like to ask you to join me in thanking Kirsten McKenzie, David Roberts, Lisa Ford and Matthew Allen. Thank you very much.

**Mr DAVID BLUNT:** Thanks, everyone. That has been an absolutely fascinating session.

**The conference adjourned.**

*Second Day*

*Friday 9 September 2022*

### ANNOUNCEMENT

**The PRESIDENT [The Hon. Matthew Mason-Cox]:** Welcome to the conference this morning. It is my sad duty to inform you that, in light of the very sad passing of Her Majesty Queen Elizabeth II, according to protocols that come into play as a result of the passing of the sovereign, the conference will be cancelled for today. It will be rescheduled for another time. I would like you all to now please stand as a sign of respect.

*[Members of the audience stood in their places as a mark of respect.]*

**The PRESIDENT:** Thank you. Please resume your seats. There will be a condolence book available here in Parliament House shortly. At the same time, there is an electronic condolence book available online at [nsw.gov.au](http://nsw.gov.au). A condolence book will also be available at New South Wales Government House. If I can reflect for a moment, Her Late Majesty visited New South Wales on 12 separate occasions and, indeed, opened this Parliament on two occasions. In 1954 Her Late Majesty was, for the first time, a sovereign visiting Australia. She opened this Parliament and referred to it as the "Mother Parliament of Australia", which is something that we hold very dear in this place, as the first Parliament that was constituted within Australia.

Her Late Majesty also visited Australia in 1992 and opened this Parliament. You will see a magnificent oil painting of Her Late Majesty on level 7, just near where the access to the lifts are. I would encourage you to have a look at that painting on your way out. It certainly captures her in her most regal mode, sitting on the chair which has pride of place in the Legislative Council. With those few words, there are some housekeeping matters that I will ask the Clerk to address. We thought we would also have an opportunity for you to listen to what is happening on the overseas BBC News as well. I thank you again for coming this morning. I am very sorry that we have had to cancel things, but I am sure that you are very understanding of that. Thank you.

**Mr DAVID BLUNT [Clerk of the Parliaments]:** It is with great regret that we advise you of the suspension and postponement of today's proceedings. As Australia is a constitutional monarchy, and New South Wales is a constitutional monarchy, the sovereign has a key place in the system of government in this State. On a day like today, you are seeing the New South Wales Parliament adapt, pivot and acknowledge our profound loss on behalf of the entire community. You are also observing across the world the transition this morning to a new sovereign. It really is history in the making that you are seeing here in History Week this week. Proceedings for this conference are postponed, not cancelled. We will reschedule today's proceedings on a date to be advised in the weeks or months to come. Fortunately, we have started the commemorative events for the bicentenary of the Legislative Council quite early, so we do have some time to make up this day.

To those presenters who are already here—Kirsten and your colleagues, and Professor Harris and Caleb—my apologies. We know you have gone to considerable lengths to prepare for today. We look forward to hearing what you have got to say on a later occasion, when we can reschedule. What we are going to do now is, for the next 90 minutes, we are going to broadcast for you the *BBC World News* so that you can follow events that are happening in other parts of the world. At 10.30, as programmed, morning tea will be served in the Fountain Court. You are welcome to stay around and observe the *BBC World News* and join us for morning tea. If you would rather leave at this point in time, that is entirely up to you. We would be delighted to have you with us for the morning.

On a day like this, which brings up all sorts of emotions, I think people often want to be together and reflect with other people. You are more than welcome to be our guests until after morning tea. Go and have a look at the wonderful portrait, as the President suggested. Please, keep your tickets. We will honour those tickets both for this day of the conference, when it is rescheduled, and also for those of you who had booked for the lunch today. We will honour that on a future occasion when the conference is reconvened. Jenelle, is there anything else you would like me to add?

**Ms JENELLE MOORE [Usher of the Black Rod]:** Morning tea will be available from 9.15 a.m.

**Mr DAVID BLUNT:** Excellent. I hope everyone heard that. You can proceed upstairs for morning tea almost immediately, if you would like to do so. It will be served then. Or you can wait here and observe the BBC. Thank you, everyone, for your understanding. We look forward to seeing you again on a date to be advised.

**The conference adjourned.**