

Access to Justice in Borroloola

By Elizabeth Morris SM

RECENTLY THE BORROLOOLA COURT CELEBRATED 125 YEARS SINCE THE ARRIVAL OF THE FIRST RESIDENT MAGISTRATE, HERE IS AN EDITED VERSION OF MAGISTRATE ELIZABETH MORRIS' ADDRESS AT A FLAG RAISING CEREMONY.



the arrival of the Magistrate but the subsequent arrival of the first stationed mounted police a few days later. Law AND order had arrived in Borroloola.

Why did Borroloola need a full time Magistrate in 1886?

An extract from the NT Times of August 7 1886 reads

“Macarthur and Roper Rivers, Extraordinary Lawlessness”

“The European population of Borroloola numbers about 150, while a considerable number are scattered through the surrounding pastoral country on the various stations. There are four general stores, of which two also hold storekeepers license to sell spirituous liquors, a tinsmith, a baker, a butcher, three saddlers, a market gardener and a diary farmer, who has very good butter at 3s.6d per lb. Borroloola is a regular Alsatia where all the outlaws and rowdies of Queensland collect when they made their own neighbourhoods too hot for their safety, and as this township is entirely without police protection in any shape there they carry on their carnival of crime without let or hindrance. Drunkenness is epidemic, and drunken men practice rifle and revolver shooting in the open roadways of the township at all hours of the day wherever their will direct, to the constant danger of the rest of the inhabitants. A perfect reign of terror exists; lawlessness and crime prevail to an extent that is quite indescribable, and the peacefully disposed

The Northern Territory Magistrates Court currently sits at Borroloola for three days every second month. The Court has recently moved to premises owned by Mabunji to use as a court facility. They are spacious and have all the facilities needed to provide a justice service for the people of the region. However, whilst the court is a busy one, it has been busier in the past, with a full time Magistrate being appointed to the region in 1886.

Last year after a visit to the local Police Museum by some of the visiting practitioners and the Magistrate it was discovered that on 30 September 2011 it would be 125 years since the arrival of the first resident Magistrate in the town. A small group was formed to plan a commemoration of the event, and thus the quasiquincentennial committee began planning. This culminated in a flag raising ceremony at the old Police Station, marking not just

people are obliged to silence for fear of incurring the displeasure and vengeance of the roughs and perhaps having their property destroyed, or even endangering their lives.....Some of the less patient of the residents are seriously talking of lynch law, and the establishment of a vigilance committee for the punishment of offenders. The following is an extract from a letter from a resident in the district:-
 “This town and district are in a state of terror for want of police protection. All the outlaws from Queensland flock here. Horse stealing, forgery, robbery, violence and repudiation of debts are included in the catalogue of crimes. We shall be glad to see Mr McMinn and his troopers arrive. The place is daily growing worse and more notorious”.....Horses stolen here are taken over the Queensland border for sale and horses stolen there are bought here.”

“Before a magistrate and a few police were sent up to Borrooloola the district round that settlement had an unenviable reputation. It was the haunt, or rather sanctuary, for which criminals made from all parts of Australia. Queenslanders from over the border found it a useful hiding place. The owner of a store might reckon on a lively time if he managed to fall foul of one of these ruffians. One such, it is said, gave offence to a certain gang, so they coolly stood off a few yards and emptied their Winchesters into the building, quite regardless of the fact that the proprietor was inside. He only escaped death by crouching low behind a big



galvanized iron case.”

(“The trooper police of Australia: a record of mounted police work in the commonwealth from the earliest days of settlement to the present time” [1912] Hayden AL)

Protestations to South Australia led then to “G.R. McMinn Esq. SM, senior surveyor and supervisor of works, Port Darwin to be resident magistrate and Customs officer at Borrooloola, McArthur River, Northern Territory” (Government Gazette Thursday August 19

1886).

Arrival

Mr McMinn arrived on 30 September 1886 on the vessel “Ellerton” which promptly ran aground, apparently not an uncommon occurrence at the mouth of the river. Upon arrival he decided where to build the police station – a previously picked site being subject to flooding – and where to build a court house. All of his equipment and furniture was on the Ellerton, so initially he lived in a tent.

As is not uncommon even now, the original amount of money promised for construction was reduced, thus reducing the size of the plans Mr McMinn had for both premises. However, when finished, they were regarded as show places, with wide verandahs, glass windows and of good construct.

In court Mr McMinn was busy, with records showing many applications for licensing matters including on 27 December 1886 a special licence for a booth for the McArthur River Hotel at the races and on 17 March 1887 the Royal Hotel was permitted to stay open until 2am for a Ball.

Borrooloola itself was becoming a busy place with the opening up and expansion of stock routes and stations across the whole of northern Australia. The coast road was the only way then of moving from Queensland to the Kimberly and Pine Creek goldfields. It was estimated in the three months prior to McMinn's arrival that 15,000 men, women and children had passed through the town on foot, in wagons and drays and with pack horses. McMinn himself wrote

"I am afraid a great deal of distress and loss of life will result from this migration, many of them being very badly provided with even the common necessities of life, some have a wagon, some dray, many with indifferent teams, some have pack horses, others again are leading a single pack horse, while there are a few who have the constitution to walk the whole distance carrying their blankets, tin dish and provisions on their backs, one man considerably over sixty years of age judging by his appearance passed here a few days since, whistling away as jolly possible as though he was first off to a fair"

Magistrate McMinn continued his

GILBERT ROTHERDALE MCMINN

Mr McMinn was born in 1841 at Newry, County Down, Ireland. He sailed with his mother and seven siblings to Port Adelaide, arriving in September 1850

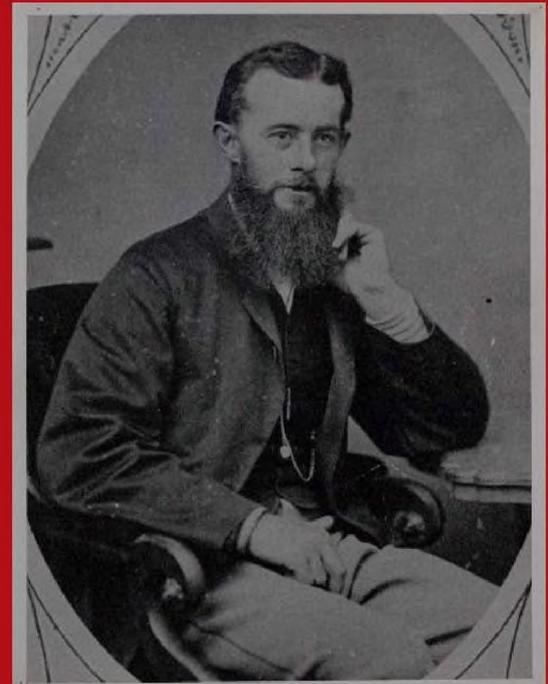
He became a surveyor and sailed to the NT in October 1864. Working on the overland telegraph line, he surveyed Simpson's Gap as well as helped build the telegraph station at Alice Springs, before turning to Adelaide.

McMinn returned to the NT and was appointed senior surveyor in 1873. In 1884, McMinn acted as government resident and upon return from leave in 1886 was appointed resident Magistrate and customs officer in Borrooloola.

McMinn arrived in Borrooloola on the vessel "Ellerton", which promptly ran aground. Whilst the Court House and the Police Station were being built, supplies for which also being carried on the "Ellerton", he lived in a tent.

Becoming ill, he resigned on 26 May 1888 and returned to Adelaide. After moving between Sydney, Adelaide and Perth, McMinn retired to Melbourne.

Gilbert Rotherdale McMinn died in Melbourne at the age of 83 on 18 October 1924.



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work, but succumbed to one of the many tropical fevers, becoming ill, and leaving the position in 1888. A full time Magistrate has not been appointed since.

The remains of the original footings of the court house can be seen at the top of the bank of Rocky Creek, the building having been blown down in the 1940 cyclone.

For the Indigenous owners of the region, law, of course had always been in Borrooloola. But with the arrival of non-Indigenous law and

order it cannot be ignored that for some the arrival of a magistrate and police did not assist them. It did not bring justice for all and many hardships and tragedies, including massacres of Indigenous men, women and children were committed on these lands. Many of the older people here will have stories passed down to them by those now gone about these atrocities.

The massacres started around 1872 when overlanders began

passing through the district. Punitive expeditions were mounted in relation to spearing of cattle and horses. One historian estimates the death of at least 600 local people from this area.

There are horrors in our history as Australians, and as Northern Territorians. The justice system has played a part in those horrors. Justice did not serve or protect the people at these times. I as a member of that system now, can only express my sorrow for what has happened in the past. I am sorry for its failure to protect the men, women and children of this area.

McMinn after his Magistracy

Mr McMinn resigned on 26 May 1888, and left the Territory, moving to Adelaide. He continued moving from South Australia, to Sydney and back again, including time in Western Australia, before finally settling in 1907 in Melbourne.

At the age of 76, still working, as a postmaster of the Hawthorn West Post Office, Burwood, he is reported as defending the property of the crown against a night time robbery by "springing out of bed Mr McMinn assailed the intruder with his fists, but the latter felled him with a wooden roller and made his escape with about 4/-."

He had married twice during his life and had seven children, two of whom predeceased him. When he died of heart failure on 18 October 1924 at the age of 83, he was survived by one son of his first marriage and two sons and two daughters of his second.

Thank you

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MOUNTED CONSTABLES MICHAEL DONEGAN AND WILLIAM CURTIS



Mounted Constables Donegan and Curtis arrived in Borroloola on 4 October 1886, having ridden from Roper River with Indigenous trackers and horses. Constable Donegan commenced the police journal on 7 October 1886.

Until the police station was built, the Constables lived at the McArthur River Hotel. Often ill with malaria, their duties included police patrols, dispersing cattle duffers and horse thieves, transporting prisoners to Roper River, rowing 40 miles to the Palmerston Landing to meet the Government boat, unloading supplies and then rowing back again, as well as keeping the police station buildings and outbuildings in good repair.

Constable Curtis left Borroloola in October 1887 and Constable Donegan left in December 1888.



Borroloola library staff, Trish and the team from Savannah Way for assisting with the preparation of the ceremony.

Much information about these times is found in the publication "Borroloola – Isolated and

Interesting 1885-2005" by Ms J A Cotton (2006).

The Australian Dictionary of Biography also provides background information about Gilbert McMinn. ●