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FREDERICK GARLING AND WILLIAM HENRY MOORE
THE FIRST CROWN SOLICITORS IN NEW SOUTH WALES

FREDERICK GARLING (1775 - 1848)

We could be forgiven for thinking that being a member both of the Bible Society and the Australian Racing Club seems a contradiction, but our Masonic Personality Bro Frederick Garling was apparently comfortable serving on both committees.

Born in 1775 in England, Frederick Garling was an attorney in the Court of King's Bench and a solicitor in the Court of Chancery.

In 1814 while still appearing in these courts he and William Henry Moore were chosen to go to Sydney to conduct cases in the Court of Criminal Jurisdiction, and the new Supreme Court and Governor's Court. A salary of 300 pounds was offered as an inducement to undertake the hazardous voyage to the far away land. And as we shall see it turned out to be horrendous.

In accepting his appointment Garling wrote to Under Secretary Goulburn and made certain suggestions regarding the emoluments of his office, expressing fears that Governor Macquarie might be uncertain as to the extent of the privileges to be attached to his office unless the Governor received instructions from the Home Government.. He also applied to be provided with certain legal books so he could refer to precedents and statutes.

Lord Bathurst also received a letter from Garling in which he said " I am not only abandoning all my professional prospects here, and with my whole family, quitting possibly forever, all those connections and associations which must naturally have been most dear to me, and finally, in the arrangements necessarily incurring considerable expense, while all pecuniary emoluments, with the exception of the Government salary is contingent and uncertain." He also requested "a residence, an allowance of convict servants, rations from the Government stores, a grant of land with a moderate quantity of stock from Government flocks and herds, and a suitable number of convict servants as cultivators under the usual restrictions". His letter finished up with an expression of nervous fear for the welfare of his wife and family in the event of his dying at an early period when he would not have sufficiently provided for their future.

Under Secretary Goulburn replied saying that Lord Bathurst would advise Governor Macquarie to provide advantages which were conferred upon the most respectable settlers on their first arrival but could not accede to requests not given to other

official servants. He said it was impossible to hold out to the family any expectation of a provision in case of death at an early period.

Let us spare a thought for Garling's wife, Elizabeth. Already bowed down with the responsibility of four little Garlings, and a fifth soon to be on the way, she must have been most apprehensive going to an unknown land.

The Garlings travelled on the ship "The Francis and Eliza and as they were off the Madeira Islands the ship was captured and plundered by an American privateer. Although they left England on 20 October 1814 they did not arrive in Sydney until ten months later, on the 8 August 1815.

Garling and Moore had both been invited to go to New South Wales, because there was objection to convict lawyers appearing in the courts - there was a great need for respectable solicitors. Garling was actually designated the first of the two solicitors, but due to his delay in arriving, Moore became the first solicitor to be formally admitted to practice in any court in New South Wales.

In January 1816 after the death of Ellis Bent, Garling was appointed Deputy Judge Advocate at a salary of £800 a year, and he held this until the arrival of Judge Advocate Wylde in October 1816.

Mr Justice Jeffrey Hart Bent had many complaints about Garling, and refers to him siding with Governor Macquarie over the admission of emancipist attorneys, and describes him "yielding to the lucrative proposals and still more splendid promises of Governor Macquarie". Bent said Garling now received a salary of £800 a year and in addition £300 that went with his appointment as Crown Solicitor - £1,100 in all. But it must be remembered Bent had a bitter pen and tongue for any who displeased him.

In 1824 Garling was appointed Clerk of the Peace for the County of Cumberland and in 1830 he gave up private practice to be Crown Prosecutor for the Courts of Quarter Sessions, while also staying on as Clerk of the Peace until retirement in 1839 due to infirmity.

During his term as Crown Solicitor, Garling was not considered professionally retained in the service of the government. Although he never acted against the Crown he enjoyed a large private practice. In September 1824 when William Charles Wentworth and Robert Wardell raised the question of the right of local solicitors to appear before the Supreme Court, Garling spoke in defence of the right, and this was subsequently upheld by Chief Justice Forbes.

Garling was barrister in two important trials. He represented J.T. Campbell in a libel suit against Samuel Marsden and also magistrate Howe in BURN V HOWE & FLECTCHER which concerned powers of New South Wales magistrates.

Elizabeth, the first wife died at fifty two in 1828 leaving five children, Frederick, Nicholas, Sophia, Elizabeth and Jane. In 1835 Garling married Sarah Olivia Wilkinson who also predeceased him.

Garling had many interests including horticulture and agriculture. He was a founding proprietor of the Bank of New South Wales, and served on several committees including the Female and Male Orphan Institutions, the Sydney Dispensary and the Benevolent Society. He died on 2 May 1848 aged 73 and was buried in the Devonshire Street cemetery. He was public spirited as well as serving the law well, and seemed to be concerned for his family. Nevertheless he was subjected to criticism, mainly from Bent.

Our other Masonic personality William Henry Moore appears to have been the more impulsive of the two, yet quick to apologise.

Both these two learned friends and brothers, no doubt had to contend with the personalities of the Governors and politicians of the day. Although they would have enjoyed a high station, their lives were not without difficulties and hardships.

*****MASONIC CAREER OF FREDERICK GARLING*****

Frederick Garling was Foundation Junior Warden of The Lodge of Australia No.820 English Constitution which office he occupied for the first year after the inauguration of the Lodge on 6 April 1829. The Lodge warrant is dated 21 June 1828 and it became No.548 English Constitution in 1832 and subsequently No.390 English Constitution in 1863.

At the inauguration of the United Grand Lodge of New South Wales, the Lodge of Australia became, and still exists as No.3.

A donation of £3 was made by Bro. Frederick Garling towards the Lodge paraphernalia (the word used in the Lodge cashbook). The Lodge went into recess after the first five meetings - in August 1829. He drew up and presented a statement of the affairs of the Lodge at the August 1829 meeting. Initiation details are unknown.

The cash book of the Lodge "was closed by order of The Committee" in 1841. Bro. Frederick Garling had been excluded for non-payment of dues.

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WILLIAM HENRY MOORE (1788 - 1854)

William Henry Moore was born in 1788 the elder son of a London solicitor John Moore and wife Martha. He served his articles with his father and in 1810 was admitted an attorney of the three superior courts of Westminster.

In 1814 Moore was recommended for appointment as one of the two unconvicted "Solicitors of the Crown" to travel to New South Wales to smooth out earlier difficulties with ex-convict attorneys. With two sisters and a brother Moore arrived in Sydney on the "Marques of Wellington" on 27 January 1815. In May he became the first free solicitor in the colony.

It was not long before Moore was to feel the wrath of Governor Macquarie. An American schooner "The Traveller" had arrived at Port Jackson with a cargo of merchandise and the Governor gave permission for the vessel to enter port and off-load the cargo. Soon after, Macquarie went off on an inspection tour, and in his absence the schooner was seized as a lawful prize under the Navigation Act. Rev. Benjamin Vale seized "The Traveller" because he had recently resigned from his appointment as assistant chaplain of the military forces, and tried to recoup the financial loss that resulted. He believed he was within his legal rights. Vale's action was supported by Moore who in a legal capacity acted as his agent.

Governor Macquarie was furious when he heard of the seizure, and immediately removed the arrest and restraint of the schooner and ordered Vale into military arrest. He also stopped Moore's salary as Government Solicitor, ordered him off the Government store list and withheld every single indulgence from him!

Following this Rev. Vale drew up a petition to the House of Commons naming grievances of certain colonists against Macquarie. Justice Bent said the petition was not severe enough and drew up another himself. This was put in Moore's office and residents of the colony invited to sign it.

Macquarie, referring to this petition in a dispatch to Lord Bathurst in April 1817, said that Moore had confessed he had put his own brother's name to the petition when his brother was out of town, and did not know about the petition.

The words used by Macquarie about Moore were that he was a "worthless and unprincipled reptile who has shown himself a ready agent to undermine me and blast, if possible, my honour and public character". Copy of letter Moore to Bent below.

"Your honour,

I take the liberty of writing to you, in consequence of an official letter which I yesterday received from Mr Secretary Campbell, informing me that the governor had given orders to the treasurer of the police fund, to discontinue the payment of my salary from the 23rd ultimo, (that being the day on which my agency for the Rev. Benjamin Vale, in the seizure of the American schooner Traveller, commenced) and that he would not fail to recommend to his majesty's ministers to discontinue the same. I am greatly at a loss to know, upon what principle of justice the governor could have assumed such an extraordinary stretch of power, without giving me the least previous intimation. I am acting for Vale as a mere agent, and in a business in which the interests of the crown are greatly concerned; the legality of the

proceeding I have not the least doubt of, and yet I am accused in Mr Secretary Campbell's letter to me, of insolent, offensive, and insulting conduct, in the late false, unwarrantable, and vain attempt (as he is pleased to call it) to seize the vessel in opposition to the governor's public measures, and in contempt of his authority. I knew nothing, at the time of the seizure, of the governor's having given permission to the vessel to be entered at this port. There was no public order to that effect issued, which is the method usually taken by the governor, to make known his measures. I could not, therefore, have done it with any such view as he attributes it to; and was actuated solely by a sense of duty and justice, that I owed to my client, Mr Vale, and the British government, on whose behalf I considered myself as acting. I therefore hope you will do me the favour, the first time you have occasion to write to Earl Bathurst, to certify to him, that I have been guilty of no crime in conducting this business as an agent; and I trust his lordship will be convinced, that I have been no way deserving of such a punishment as the governor though proper to inflict, by stopping my salary; and that he will consequently send an order for the continuance of my salary as heretofore, and be allowed to receive all arrears that I may be entitled to.

I should not have troubled you with this letter, but from the threat held out to me by the governor, which I fear (if the case is not fairly represented) may be the means of depriving me of my situation.

I am, &c. &c.

WILLIAM HENRY MOORE."

Moore apologised to Macquarie at Government House in the presence of the Lieutenant Governor, Judge Advocate Wylde and Mr Justice Field. The apology was accepted and the pair shook hands. In 1820 Macquarie offered Moore a grant of one thousand acres and in March 1827 Moore was temporarily appointed Attorney General.

In 1832 Governor Bourke writing the Colonial Office, said that soon after he arrived in the colony he made enquiries about Mr Moore, and had every reason to believe Moore had been culpably neglectful on several occasions. In January 1834 Moore was suspended from the office of Crown Solicitor for neglect of duties.

An earlier grant had been made to Moore of land comprising two roods twelve perches with a frontage of 144 feet to George Street and 163 feet to King Street. An early occupant of the property was Captain Anthony Fenn Kemp of the New South Wales Corps, who ran a store on a 100 per cent profit basis. His customers were mainly soldiers of his regiment, and if they queried the price they were howled down by Kemp who said "Begone you damned mutinous scoundrel or I'll send you to the guard-house and have you flogged for impertinence to your officer".

Perhaps in an attempt to keep an affinity with "the old country", Moore built a two storey house on part of the land and surrounded it with an old English garden. On 29 May 1934 "The Sydney Gazette" listed the sale of "Moore's Corner", and as Lot 1 with a frontage of 25 feet 6 inches to George Street and 86 feet to King Street. It brought £55.10s a foot which so astounded Sydneysiders that it was christened "The Golden Corner" and a Golden Corner it has been ever since. Moore also owned a large farm at the seven mile post on the Liverpool Road and from there and other properties in the County of Camden he sent sheep overland to Adelaide and went there himself to sell them.

In 1842 Moore unsuccessfully offered himself for appointment as Town Clerk of the new Sydney Municipal Council. The following year he was declared insolvent. Much of the country land had to be sold and his library of 800 volumes went up for auction. His certificate of discharge of the bankruptcy is not officially recorded, but it appears from recitals in a conveyance in 1853 that it was allowed by the Supreme Court on 8 July 1845.

Moore had lots of interests and from 1836 to 1842 he was a director of the Commercial Banking Co. of Sydney. In 1837 he became a shareholder in the Marine Insurance Company, a committee member of the Royal Exchange and in 1842 chairman of the Union Assurance Company.

At his death on 13 October 1854 in College Street Sydney, Moore left his remaining city land to his sister Ann and £2,300 worth of goods and shares to his wife Mary whom he had married on 13 August 1844 in St James', King Street. Mary died on 5 November 1871 at the age of 65 years.

*****MASONIC CAREER OF WILLIAM HENRY MOORE*****

William Henry Moore was a civilian initiate in the Lodge of Social and Military Virtues No.227 Irish Constitution, attached to the 46th Regiment of Foot. This Lodge which meets at Montreal Canada, is now Lodge Antiquity No.1 on the Register of the Grand Lodge of Quebec.

The date of Moore's initiation is unknown, but he was registered as a member by the Grand Lodge of Ireland on 6 April 1818. His initiation must have been prior to this as he took part, as a member of the Lodge, in the procession at the laying of the foundation stone of Captain John Piper's residence at Eliza Point Sydney on 22 November 1816. A fellow lawyer, Bro. Justice Jeffrey Hart Bent marched alongside him.

Bro. W H Moore was a foundation member of, and was present at the inauguration of the Lodge of Australia No.820 English Constitution at Sydney on the 6 April 1829 (see paper on Frederick Garling for lodge details). Although he did not occupy an office at the inauguration he served as Senior Warden for the next four meetings until the Lodge went into recess. However, he was present at the revival meeting on 13 December 1833 but did not take office. He was Senior Deacon in January 1834 and he was appointed Deacon for the remainder of the year. W H Moore donated the sum of £3 towards the paraphernalia of the Lodge. Still a member of the Lodge in 1841 there is no mention of Moore's death in the minutes after October 1834.
