

Peter PROSSER

23/10/2012

Peter PROSSER

AKA ?

Late of ?

New South Wales Police Force

Regd. # Not listed on NSW State Govt.
Archives – Registers of Police

Rank: Patrolman – appointed 6 August 1834

Conductor – appointed 1 January 1835

Conductor – Dismissed

Patrolman – appointed 1 April 1835

Conductor – appointed 12 July 1835

Inspector – appointed ? ? ?

Final Rank = Inspector

Stations: ?, Sydney Police

Service: From ? ? ? to 23 January 1839 =

? years Service

Awards: No find on It's An Honour

Born: ? ? 1812 – 1813?

Died on: Wednesday 23 January 1839

Age: 26

Cause: Murdered – Clubbed to death with a Nulla Nulla (Waddy) * see below

Event location: Phillip St, Sydney

Event date: Monday 21 January 1839

Funeral date: Friday 25 January 1839

Funeral location: ?

Wake location: ?

Funeral Parlour: ?

Buried at: Devonshire St Cemetery,
Sydney – January 1839.

In 1901 his remains were exhumed to make space for **Central Railway Station** and re-interred, with thousands of others and 2285 tombstones of the first settlers in Australia, at the new cemetery at **La Perouse**, named **Bunnerong Cemetery**.

In 1976, the Botany Cemetery Trust destroyed most of these historic monuments by creating a new, low maintenance lawn

area. The remaining 746 headstones were reinstalled in concrete strips, unrelated to the graves below them. The new lawn was named **Pioneer Memorial Park**.

The words recorded as being on his original tombstone are “Peter, the son of Edward and Mary Ann PROSSER, who was struck by John PENDER; in the execution of his duty 25th January 1839 which caused his death in 48 hours. He was an Inspector in the Sydney police and an Active officer. also sisters Adeliza and Jane, passengers in the ship ‘Fairlie’.

Adeliza buried at the Cape in October ???? Jane aged 16 years. Adeliza aged 29 years. Peter aged 26 years”.

Memorial located at: ?

[alert_green] **PETER IS mentioned** on the Police Wall of Remembrance[/alert_green]

[divider_dotted]

FURTHER INFORMATION IS NEEDED ABOUT THIS PERSON, THEIR LIFE, THEIR CAREER AND THEIR DEATH.

PLEASE SEND PHOTOS AND INFORMATION TO Cal

[divider_dotted]

May they forever Rest In Peace

[divider_dotted]

On the afternoon of **21 January, 1839** a man named **John Pender** (known to Sydney police as “**Jack the Waterman**”) was behaving in an indecent manner in **Raynor’s Public House, Sydney**. As a

result of his behaviour he was arrested by **Inspector Prosser** who began to march him to the **Sydney Police Watch-house**.

En route they passed **Pender's** home in **Phillip Street** where a mob attacked the inspector and dragged his prisoner into the house. **Prosser** clung to his prisoner desperately however, until he received a blow from a club to the back of his neck, which resulted in **his death a few days later** in hospital. **Pender** was quickly apprehended and charged with **murder**, while five others were also charged in relation to the riot.

The Sydney Gazette and New South Wales Advertiser of **24 January, 1839** reported the incident in some detail.

BRUTAL MURDER.

On **Monday afternoon** a man named **John Pender**, well known about the town as the driver of a water-cart, and a bad character, went into the public-house of **Mr. Rayner** at the corner of **Hunter and Phillip-streets** and in the absence of the landlord was guilty of much indecent behaviour.

He was remonstrated with by the **landlady**, but this seemed to have the effect of urging him on to still farther excesses. He approached **Mrs. R.**, who was behind the bar, when **she took up a New Zealand waddy** to defend herself; this the brute wrested from her, and after having struck her he left the house, flourishing the weapon over his head and making a great noise.

He was perceived at the time by **Inspector Prosser**, who was approaching **alone**. **Prosser** came up behind him unperceived and **took the waddy from him**, and desired him to accompany him to the **watch-house**.

Pender accompanied the **Inspector** a **short distance**, when, stopping suddenly, he turned round and struck **Prosser** a violent blow **on the face with his fist**, which knocked him

down. While he was on the ground, the man stooped down and snatched the **waddy from the hands** of the **Inspector**, and as the latter was **rising to his feet** he struck him a tremendous blow with it on the **back of his neck**, and then ran into his **own house** which was close at hand.

“A mob of **blackguards**, as usual on such occasions, soon assembled on the spot, and although they witnessed this unprovoked outrage none among them were inclined to render the poor fellow any assistance, but rather endeavoured to screen the villain and hasten his escape. After a few moments **Prosser** was seen to get on his feet with difficulty and move on towards the **watch-house**, holding his hands to his head. He shortly afterwards met **Sergeant Kilpatrick**, and desired him to go and apprehend **Pender** who, he said, had **murdered him**.

Kilpatrick hastened to the **station-house** for assistance, and procured that of the **two keepers**, the only persons present, and **the three** then returned to **Phillip-street**.

In the meantime, the **wounded Inspector** got to the **watch-house**, and was shortly afterwards found by **Sergeant Partington** lying across one of the benches, **nearly dead**; he called for assistance, and **Mr. Driver**, the **publican**, attended and with **vinegar** attempted to revive him.

Dr. Whittle, who was near the spot, was then sent for; he immediately attended and by **copious bleeding** restored animation, but **Prosser** continued in such a dangerous state that his **immediate removal** to the **Hospital** was recommended and performed.

The Police had in the interim secured **Pender** and **five or six other persons** who appeared to take a prominent part in the **mob assembled in Phillip Street**.”

The *Sydney Morning Herald* dated **25 January, 1839** printed the following brief account of the inquest into **Inspector Prosser's** death.

*An inquest was held at the same place the same day, on the body of **Peter Prosser**, lately an **Inspector of the Sydney Police**. The evidence was very lengthy but the substance was very simple, viz, that **Prosser** had a man named **Pender** in custody, and that **Pender** in order to make his escape struck the deceased a blow on the head with a **New Zealander's waddy**, which was so violent as to cause an extra vasation of blood on the brain, from the effects of which **Prosser** died. The Jury returned a verdict of **willful murder** against **Pender**, who was committed on the Coroner's warrant.*

At the time of his death the inspector was aged **26** and was attached to the **Sydney Police**.

Judging by newspaper accounts of the time, he was a courageous and energetic policeman who seemed to have worked tirelessly against violent offenders in the inner city of Sydney. He is not listed in the official New South Wales Police Honour Roll.

https://www.facebook.com/groups/514697128544865/permalink/2504303562917535/?comment_tracking=%7B%22tn%22%3A%220%22%7D



A 'waddy', it is believed, is similar to an Aboriginal nulla nulla. A waddy is a heavy club constructed of carved timber and could also be a walking stick. No doubt, the 'green stone' referred to, was attached to the end of the Nulla Nulla and held in place with tree resin.



It would appear that the Rank structure of this period (1835) was:

Patrolman –

Constable –

Conductor –

Inspector –

Sydney Gazette and New South Wales Advertiser (NSW : 1803 – 1842), **Saturday 9 August 1834**, page 4

Government Gazette

WEDNESDAY, AUGUST 6.

HIS Excellency the GOVERNOR has been pleased to approve of the following Alterations in the Police of the Colony, namely

SYDNEY.

APPOINTMENTS

John Price, free, to be **Conductor**, from the 18th June.

To be **Patrolman** – James Woodward, free, from the 25th June; John Murray, free, from the 5th July ; **Peter Prosser, free, from the 8th ultimo**; John Gorman, free, from the 14th ultimo ; Edward Tierney, free, and John McCarthy, free, from the 15th ultimo ; Bryant Naughton, free, from the 16th ultimo ; Michael Armstrong, free, from the 17th ultimo, and James Cook, free, from the 18th ultimo.

Thomas McConnell, free, to be Constable at the North Shore, from the 16th June, and James Woodward, free, to be Constable of the Water Police, from the 5th July.

RESIGNATION

John William Smith, **Constable**, North Shore, on the 15th June.

DISMISSALS

Patrolmen – John Sullivan, on 24th June ; Patrick Muleady, on the 7th ultimo; James Drew and Patrick Dougharty, on the 13th ultimo ; David Leighton, on the 14th ultimo , George Stewart, on the 15th ultimo; and Patrick Curran, and John Sheehy, on the 17th July.

Water Police Constable – Alexander Lee, on the 4th July,

STRATHALLAN.

William Berry, free, to be **Constable** in the room of William Carroll, resigned.

MAITLAND.

Edward Gaynor, holding a Ticket-of-Leave, to be **Constable**, from the 14th ultimo, in the room of Daniel McFarlane, resigned.

PORT STEPHENS.

Michael Cotton, holding a ticket-of-Leave, to be **Constable**, in the room of John Jagers, resigned.

By His Excellency's Command,

ALEXANDER McLEAY.

Colonial Secretary's Office,

<https://trove.nla.gov.au/newspaper/article/2216810>

New South Wales Government Gazette (Sydney, NSW : 1832 – 1900), **Wednesday 21 January 1835** (No.151), page 45

Colonial Secretary's Office,

Sydney, 20th January, 1835.

HIS Excellency the GOVERNOR has been pleased to approve of the following alterations in the Police of the Colony ; namely,–

SYDNEY.

To be **Conductors**.– Edward Rollins and **Peter Prosser**, raised from **Patrolmen**, from the 1st instant.

To be **Patrolmen**.– William Elkins, and to be Market Constable, from the 1st instant ; Mark Gilmore, Michael O'Neal, William Howarth, Thomas Barrett, James Carwell, and William Barnett, from the 1st instant ; James Matthews, Robert Lodge, John Hundley, and James Kennedy, from the 9th instant ; and John McCarthy, from the 13th instant.

Conductors Dismissed.– William Barnett, reduced to Patrolman.

Patrolmen Dismissed.– George Brereton, Market Constable ; Herbert Green, James Matthews, John Cummings, James Carwell,

John Smith, Peter Butler, Peter Christie, and Peter Colgan.

By His Excellency's Command,

ALEXANDER McLEAY.

<https://trove.nla.gov.au/newspaper/article/230654664>

New South Wales Government Gazette (Sydney, NSW : 1832 – 1900), **Wednesday 29 April 1835** (No.165), page 257

Colonial Secretary's Office,

Sydney, 28th April, 1835.

HIS Excellency the GOVERNOR has been

pleased to approve of the following alterations

in the Police of the Colony, namely :—

SYDNEY.— To be **Wardsman** : George Mitchell, from the 6th instant.

To be **Conductors** : Philip Boyce, from the 1st, John Moore, from the 7th, William Hanson, from Joe 14th, and John Matthews, from the 20th of April.

To be **Patrolmen** : **Peter Prosser**, James Shaw, Archibald Kelley, and Dennis Connelly, from the 1st instant ; Thomas Kinchela, from the 14th instant, ; John Thorn, John Pendar, James

Jackson and William Troop, from the 16th instant ; John Price, and William Vernon, from the 17th, and Patrick Galvin, from the 20th of April.

Wardsman resigned : John Skinner.

Conductors Dismissed : **Peter Prosser**, Patrick Ogan, and John Price.

Patrolmen resigned : William Howarth, John Gorman, James Tobin.

Patrolmen dismissed : Robert Grindle, James Cone, John Carey, John Connor, James Wells, Patrick Fitzpatrick, and L. Walsh.

LIVERPOOL.— George Harvey, holding a Ticket-of-leave, to be Constable, from the 20th Instant, in the room of Denis McCarthy, resigned.

PENRITH.— John Baxter, free, to be Constable, from the 26th Ultimo, in the room of John Brown, dismissed.

BONG BONG.— John Coffee and Lawrence Larken, free, to be Constables— the former in the room of, James Harper, resigned, and the latter from the 20th Instant, in the room of William Austin, dismissed.

YASS.— James Donald, free, to be Constable, from the 20th of February last.

MERTON.— Jeremiah Burns, holding a Ticket-of-leave, to be Constable, from the 6th Ultimo, in the room of Thomas Boline, resigned.

PORT STEPHENS.— John McCarthy, free, to be Constable, in the room of Edward Frost, resigned.

By His Excellency's Command,

ALEXANDER McLEAY.

<https://trove.nla.gov.au/newspaper/article/230655286>

New South Wales Government Gazette (Sydney, NSW : 1832 – 1900), **Wednesday 29 July 1835** (No.178), page 518

Colonial Secretary's Office, Sydney, **28th July, 1835.**

HIS EXCELLENCY the Governor has been pleased to approve of the following alterations in the Police of the Colony, viz. :—

SYDNEY.

To be **Wardsman**.— William Abbott, from the 1st instant.

To be **Conductors**.— Matthew Thomkins and John Price, from the 1st instant ; James Shaw, from the 4th instant ; **Peter Prosser**, from the 12th instant.

To be **Patrolmen**.— Patrick Conner, William Moore, William Cox, John Kelly and Stephen Bunen, from the 1st instant ; Thomas Lynskey, from the 4th instant ; Timothy Foley and Andrew White, from the 8th instant ; James Pearson, Samuel Deacon, and Samuel Freebury, from the 12th instant.

Wardsman resigned.— William Small.

Conductor resigned.— Constantine Molloy.

Conductor Patrick Reid, reduced to Patrolman on 30th ultimo.

Wardsman dismissed.— William Abbott.

Patrolmen dismissed.— William Brown, William McCready, James McGruggan, William Noop, Patrick Petty, Thomas Phillips, John Hauley, Michael Armstrong.

LIVERPOOL.

Daniel McCarthy, holding a Ticket-of-leave, to be Constable, from the 18th instant, in the room of James Silvester, resigned.

PENRITH.

William Rossborough, holding a Ticket-of-leave, and Thomas Shuttleworth, also holding a Ticket-of leave, to be Constables, in the room of Ralph Hodgson and Henry Workman, dismissed— the former from the 10th and the latter from the 30th ultimo.

PATRICK'S PLAINS.

Constable John Brest, dismissed on the 20th instant.

By His Excellency's Command, ALEXANDER McLEAY.

<https://trove.nla.gov.au/newspaper/article/230655922>

Sydney Monitor and Commercial Advertiser (NSW : 1838 – 1841),
Wednesday 13 February 1839, page 2

Before Mr. Justice Willis and a Civil Jury.

John Pendar, alias “**Jack the Waterman**” was tried yesterday for the **murder of Inspector Prosser**.

The case occupied **Mr Justice Willis** and a **civil Jury** up to half-past nine o'clock, when the **Jury** returned a **verdict of manslaughter**.

Mr Windeyer was counsel for the **defence**, and raised **three objections** – which were,

that there was **no proof of drunkenness** to warrant the **deceased** in **taking the prisoner into custody**,

that the **prisoner** would have **been justified in using force** to any degree **to expel the constable**, who was in fact **transgressing on his premises**, and

lastly the **learned gentleman** relied upon a **statute** ; which he believed was in force, as far back as Henry the Eighth (which had never been repealed ; **rendering fatal any indictment** not drawn up in **intelligible English**, and

contended that “ **Waddy**” was **not an English word**, and **therefore fatal** to the indictment.

These **objections** were reserved and the **prisoner remanded for sentence**.

The court was crowded during the whole time.

Commercial Journal and Advertiser (Sydney, NSW : 1835 – 1840),
Wednesday 20 February 1839, page 2

James Pendar alias **Jack the Waterman**, for the **manslaughter** of **Inspector Prosser**, was brought up for **sentence yesterday**, and ordered to be **transported for the term of his natural life to Norfolk Island**.

<https://trove.nla.gov.au/newspaper/article/226457240>

Sydney Gazette and New South Wales Advertiser (NSW : 1803 – 1842), **Thursday 21 February 1839**, page 2

Supreme Court.

MONDAY, FEBRUARY 19, 1839.

(Before their Honors the Chief Justice and Mr. Justice Willis.)

On this day there being no cases ready for trial, the prisoners remanded during the Sessions were brought up for sentence.

John Pender was next placed at the bar. The prisoner had been **tried** for the **wilful murder** of **Peter Prosser**, a policeman, and had been found guilty of **manslaughter**.

Mr. Justice Willis, before whom the case was tried, said to the prisoner that the **mercy of the Jury** had **saved his life** in finding him guilty of manslaughter – the **manslaughter** was of a **more aggravated nature** than he had ever known or heard of.

The police must be protected in their duty, and should be protected.

His sentence was that he should be **transported for life**.

<https://trove.nla.gov.au/newspaper/article/2548134>

Sydney Gazette and New South Wales Advertiser (NSW : 1803 – 1842), **Saturday 26 January 1839**, page 2

DOMESTIC INTELLIGENCE.

Coroner's INQUEST. –

On **Thursday morning** at nine o'clock an **Inquest** was held upon the body of **Prosser**, the late **Inspector of Police**, who **died** in the **General Hospital** on the **preceding day**. The Jury assembled at the sign of the **Bunch of Grapes (King St)**, whence they proceeded to the **Hospital** to view the body, and then returned to the **Jury room**, where the following evidence was taken :

John Pender, the man charged with the murder, being in custody.

Jane Rayner, of **Phillip-street**, being sworn stated, I knew the deceased **Peter Prosser**, and the **prisoner** before the Court (**John Pender**); I keep a **public-house**.

On **Monday afternoon** the **prisoner** came into my house **very tipsey**; he made use of very bad language to me, and I refused to serve him, telling him if he could not use better language to me he should leave the place; he then turned round and exposed his naked person to me twice ; I took up a jug of water and threw it over him, and desired him to be off about his business for an impudent blackguard ; that appeared to enrage him the more ; he turned towards me as if he would strike me; I took up a **New Zealand waddy** to defend myself as he was making to me ; he snatched it from me, and struck me a blow across the shoulder, and afterwards made several blows at me with the **waddy**, which I avoided ; I thought he would kill me, and I sent my little girl to the **watch-house** for a **constable** ; the prisoner then went into the street making a noise, and flourishing the **waddy** ; in the mean time **Prosser** came up, and seeing how badly the prisoner behaved, who was storming violently, and flourishing the **waddy**, he approached him, and I cautioned him of the weapon the prisoner held in his hand ;

Prosser came up behind the **prisoner**, and took the **waddy** out of his hand ; and collared him ; the **prisoner** forced himself into my house in the custody of the **deceased**, and said he would not go to the **watch-house**; I told the **deceased** of his bad behaviour, and said I would appear the next day against the **prisoner**;

the **deceased** then told him he must go to the **watch-house** ; the **prisoner** tried to get away by the back door, but the **deceased** stopped him ; at this time a mob of persons had come into the house ; with some difficulty the **deceased** induced the **prisoner** to go quietly with him ; they left the house together; I cannot say which of them had the **waddy** as I was so confused ; I did not leave the place to look outside to see which way they went, but I saw that they turned towards the **watch-house** ; they had to pass the **prisoner's house** on their way there; the **deceased** had much difficulty with the **prisoner** in the

house ; I cannot say whether the **prisoner** was struck ; the **deceased** had to scuffle with him to make him submit and go with him ; I am dull of hearing, and cannot say whether the **prisoner** made use of any threatening language to the **deceased**, but they struggled a good deal with each other ; I saw nothing after they left the house.

By the Prisoner. – I cannot say that I saw any blows struck ; there was much struggling; several people were in the house; **Mr. Roberts' servant** was there.

George Clark, free, was then sworn. I recollect seeing the **deceased** and **prisoner** in **Mrs. Rayner's** house on Monday last; I saw **Mrs. Rayner** point out and give charge of the **prisoner** to **deceased** ; **Prosser** came behind him, snatched the **waddy** out of his hand, and dragged the **prisoner** towards the **watch-house**; the **prisoner** struggled, and seized hold of a **fence**, on which the **deceased** pushed at him with the **staff or waddy** ; they both got back to **Rayner's** ; I looked in and saw a struggle ; the **prisoner** attempted to get out by the back door and the **deceased** either struck or knocked him down ; he was down ; they had some high words in the house, and the **prisoner** took the **staff from Prosser**, on which the latter attempted to get it again ; the **prisoner** refused to let him have it, and said he should not have it, but he would go to the **watch-house** ; they then went quietly that way, the **prisoner** holding the **staff**;

I stood at the corner to watch them ; as they passed the **prisoner's house** the **prisoner** forced himself in ; they had a scuffle ; I went down to them, and saw that **Prosser** had got the staff from him, and was shaking the **prisoner** to get him to the **watch-house**; the **prisoner** refused, on which the **deceased** struck him a blow on the head ; the **prisoner** refused to go to the **watch-house**, and wanted to get into his own house; I cannot say what occurred immediately in the house ; in about a minute I saw **Prosser** staggering out holding his hands to his head ; I could not tell whether he said any thing, as there

was such a noise at the time; a young man had the **waddy** in his hand, and said, "*that shall not be used again.*"

No one else came out of the house but the **deceased** ; **Prosser** went towards the **watch-house**; he continued reeling as he walked along the street as far as four or five houses; I was not exactly opposite the **prisoner's** house, and could not see into it ; the young man before mentioned was in the yard of the **prisoner** about a minute after the deceased came but ; the deceased was then going out of the yard, and the **prisoner** was in his own house; I saw some blood coming down the head of the **deceased**, but I saw no mark upon his face ; I did not notice the young man who had the **waddy** until after **Prosser** came out of the house ; if he had come out of the house I must have seen him ; I walked out of the yard after the deceased into **Phillip-street**, as I thought he would fall, and I did not return ; **Prosser** was coming out of the **prisoner's** house when I arrived ; he had no hat on ; I heard no noise of blows when I came to the door ; I should know the person of the young man who had the **waddy** if I were to see him again; the **prisoner** and the **deceased** struggled very much for about **seven or eight minutes** before they went into the house ; they remained in **about three or five minutes**; I did not see **Prosser** fall, nor did I observe any marks of a fall upon his clothes; in about **three minutes** after I lost sight of **Prosser** while I was conversing with **Mr. West** opposite **Pender's** house ; I saw the **prisoner** standing opposite his fence going down the street, and **two constables** running round him to get in front of him ; the prisoner got over his fence, and was defending himself with the **waddy**, and the **constables** striking with their staves.

By the Prisoner.- I saw the **deceased** hit you several times; there were several marks upon you.

William Badcock examined- I recollect on Monday last, seeing the **prisoner** and the **deceased** in **Phillip-street** ; I saw the **prisoner** before he was in custody and afterwards ; I saw the struggle, and saw **Prosser** lay hold of the prisoner's hair, and

endeavour to knock his head against the door of **Mr. Rayner's** house; I also saw him endeavour to kick him, which the **prisoner** prevented by holding up his leg ; the **prisoner** got up and said he wished to speak to **Prosser**; they went quietly along **Phillip-street**, till another came up to the assistance of the **deceased** ; when opposite the **prisoner's** house a scuffle ensued ; I can't say whether it was occasioned by the violence of the **other constable** or a desire of the **prisoner** to get into his house ; the **other constable** was **evidently drunk**, and struck the **prisoner** with his staff on the head ; the **prisoner** got to his own door, and **Prosser** sent the **other constable** away for assistance; the **deceased** had the **waddy** in his hand when he entered the house; I did not see the **deceased** strike **prisoner** any blows in the struggle that took place as they entered the house ; there was blood on the **prisoner's** face and shirt, which was produced by the blow of the **drunken constable** ; they entered the house and I followed them ; they were struggling on the bed, the **deceased** being uppermost ; **Prosser** was holding the **prisoner's** shirt collar with one hand, and thrusting his knuckles into his throat ; in my opinion with the intention of strangling him, and with the other arm trying to hold the **waddy** from the prisoner; in the struggle the **prisoner** succeeded in getting the **waddy** out of **Prosser's** hand, and the deceased held his hand upon the arm of the **prisoner** that had the **waddy** in it ; it was then the **prisoner** struck the **deceased** with the flat part of the **waddy** upon the top of his head ; he did not fall from the blow, but he put his hand to his head and cried "oh," and walked out of the house and down **Phillip-street** as far as I then could see him ; he went away without his hat; I did not see the **deceased** strike the **prisoner** with the **waddy** ; I do not believe he struck him at all ; the **prisoner** was very drunk ; after the **drunken constable** had been despatched for assistance, the **prisoner** continued his resistance and violence to **Mr. Prosser**; I did not consider he intended to injure **Mr. Prosser** ; he was very lenient to him, and it was only on the **deceased** taking him by the throat, as I thought to strangle him, that he struck him ; I did not hear

the sound of the blow, but it evidently stunned him ; I was so interested in the proceeding that I noticed only the actions of the parties; there was no other person in the house ; after the **deceased** left the house the **prisoner** pulled off his shoes and stockings, brandished the **waddy**, and was more violent than ever ; he only struck one blow ; he appeared stupidly as well as furiously drunk ; when in liquor he appeared almost mad ; I did not hear **Prosser** say anything to the **prisoner** in the house, he attempted to conquer him by force.

(**Constable Bradley** being produced, was identified by him as having struck the prisoner on the head.)

Sergeant (William) Kilpatrick of the Police was next examined.- He stated, on Monday last I was in the **station-house** when **Bradley** came in, between **one and two o'clock**, and said that a number of persons had assembled in **Phillip street**, and that **Mr. Prosser** was beaten and wanted assistance; I went there immediately with **Bradley** ; I met the **deceased** about **fifteen or twenty yards** from the **prisoner's** house ;

he held both his hands to his head and had his handkerchief to the left side of his face, where a scar appeared ; he turned round and pointed to the **prisoner**, who was in view with blood upon his shirt, and said, "**there's the man, Kilpatrick, that struck me, take him into custody** ;" he then walked on towards the **watch-house** ; I went in pursuit of the **prisoner**, who had a **waddy** in his hand and put himself in a posture to attack me; I secured him in his own house ; **Bradley** was with me, he struck the **prisoner** in my presence; he was **perfectly sober**.

(The witness here observed that **almost immediately** afterwards **Bradley** came to him in the **watch-house** and said that he **heard that a charge of drunkenness** had been preferred against him, and he wished him to **smell his breath** to see if he could distinguish any smell of liquor, he did so but could discover none.)

Bradley struck the **prisoner** so did **I** ; I made several blows at his hand with my staff to make him drop the **waddy** ; **Bradley** was not violent but **cool and deliberate** ; the **prisoner** did not say anything respecting **Prosser**; he was intoxicated and very violent; he made one determined blow at me with the **waddy** which I caught on my staff, the dent occasioned by it still remains ; I afterwards saw **Prosser** in the **station-house**, he seemed feeble and **almost dead**. (The prisoner put a few unimportant questions that did not affect the evidence.)

One of the **Jurymen**, **Mr. Driver**, here stepped forward and observed to the **Coroner** that he saw **Constable Bradley** about ten minutes after the transaction, and he was then **perfectly sober**.

Dr. Robertson certified that the **deceased** was received into the **Hospital** about **ten o'clock** on **Monday evening** in a state of insensibility. There was a small scar of recent formation on his left cheek. On a post mortem examination of the body, he found on opening the skull a large quantity of extravasated blood on the back part of the brain, and the whole of the back part of the brain appeared to have been in a violent state of inflammation, sufficient to produce death. The effects, he was of opinion, were such as would have been produced by the blow of a flat, heavy instrument applied violently, such as a waddy. The **extravasation** and inflammation consequent thereon **produced death**.

Dr. Whittel corroborated the evidence of the other **Doctor**, as to the appearances on the post mortem examination. He in addition, stated that he had been called to attend the **deceased** shortly after he received the blow ; he bled him and recommended his removal to the Hospital.

The **Coroner** had commenced summing up the evidence, when it was intimated that a young man was present who was there at the time the blow was given.

He was called in and examined. He stated that his name was **Manuel Josephson**, and that he arrived at **Pender's** house when the deceased held the **prisoner** against the wall of the house. On their entering the house he could not tell which carried the **waddy**, but when they were inside (the witness having followed them) he saw the **waddy** lying on a chest beside the bed. As soon as **Prosser** observed it there he took it up to secure it, on which the **prisoner** snatched at it ; they struggled and the **deceased** got **Pender** down on the bed, but the **prisoner** succeeded in getting possession of the instrument with which he struck the **deceased** on his naked head.

Prosser arose from the bed after receiving the blow, and, uttering a cry, he staggered out of the house ; and shortly afterwards **Pender** was apprehended. He added, that in his opinion the **deceased** used no unnecessary violence in securing the **prisoner**.

The **Coroner** having summed up the evidence and explained the distinctions between **manslaughter** and **murder**, pointed out the fact of the **prisoner** being in the commission of an **unlawful act**, was given into the custody of a **peace-officer**, whose attempts to take him to the **watch-house** he resisted with a **deadly instrument**.

The **jury**, after a short consultation, returned a **verdict** of **wilful murder** against **John Pender**, who was forthwith **committed** on the **Coroner's warrant**.

The **prisoner** is a man of low stature but of great apparent strength of body and very muscular, whereas the **deceased** was a man of very delicate habits of body.

The enquiry lasted seven hours.

Sydney Gazette and New South Wales Advertiser (NSW : 1803 – 1842), **Saturday 1 August 1835**, page 4

By His Excellency's Command,

ALEXANDER McLEAY.

Colonial Secretary's Office, Sydney,

28th July 1835.

HIS Excellency the Governor has been pleased to approve of the following alterations in the **Police of the Colony**, vis –

SYDNEY.

To be **Wardsman** – **William Abbott**, from the 1st instant.

To be **Conductors** – **Matthew Thompkins** and **John Price**, from the 1st instant ; **James Shaw**, from the 4th instant ; **Peter Prosser**, from the 12th instant.

To be **Patrolmen** – **Patrick Connor**, **William Moore**, **William Cox**, **John Kelly**, and **Stephen Bunen** from the 1st instant ; **Thomas Lynskey**, from the 4th instant ; **Timothy Foley** and **Andrew White**,

from the 8th instant ; **James Pearson**, **Samuel Deacon**, and **Samuel Freebury**, from the 12th instant.

Wardsman resigned – **William Small**.

Conductor resigned – **Constantine Molloy**

Conductor Patrick Reid, reduced to **Patrolman** on the 30th ultimo.

Wardsman dismissed – **William Abbott**.

Conductor dismissed – **Henry Ball**.

Patrolmen dismissed – **William Brown**. **William McCready**, **James McGruggIn**, **William Noop**, **Patrick Petty**, **Thomas Phillips**, **John Hanley**, **Michael Armstrong**.

LIVERPOOL.

Daniel McCarthy, holding a Ticket-of-Leave, to be **Constable**, from the 18th instant, in the room of **James Silvester**, resigned.

PENRITH.

William Rossborough, holding a Ticket-of-Leave, and **Thomas Shuttleworth**, also holding a Ticket of Leave, to be **Constables**, in the room of **Ralph Hodgson** and **Henry Workman**, dismissed-the former from the 10th and the latter from the 30th ultimo.

PATRICK'S PLAINS.

Constable John Brest, dismissed on the 30th instant.

By His Excellency's Command,

ALEXANDER McLEAY.

Sydney Monitor and Commercial Advertiser (NSW : 1838 – 1841),
Friday 26 April 1839, page 2

Perjury

Joseph Cutts , a free man, in the service of **Mr. Thompson** of **Phillip-street**, was charged by **Constable Callaghan** with assaulting him in the execution of his duty.

Callaghan deposed, that as he was passing a dray standing in Phillip-street, about half past seven on Monday evening, a dog under the dray (chained) flew at him.

He struck it in return. The prisoner said, he might as well strike him as strike his dog, and he would serve him as **Prosser** had been served by **Jack the Waterman**, and immediately struck him, the witness.

The drayman had a child in his arms, which he gave to a woman to hold, while he struck witness. He then made into his master's house, and witness followed him, and struck him with his **staff**. He also **sprang his rattle**.

The **prisoner** denied having struck the **constable**, and called witnesses. –

Mary Mahany, a soldier's widow, residing opposite the master of the **prisoner**, in **Phillip street**, deposed, that a person left a loaded team standing opposite her door, with a dog on the chain to guard it, while he went over the way to get tea, and she promised to mind it.

The **constable** came up **drunk**, the dog barked, and the **constable** began to irritate it with his staff, and said, if he had it off the chain, he would knock its brains out.

Witness told him, he had better let the dog alone, and go about his business. He called her **a dirty w—**.

The **prisoner**, who was by with his child in his arms, said, he ought to be ashamed to make use of such language to the mother of children. He immediately ran over and knocked **prisoner** down twice with his child in his arms, and began **springing his rattle** and making a disturbance.

John Thomas, a dealer, deposed, that the **constable** was **drunk**, and corroborated the evidence of the last witness, as far as it went.

The **constable** also **spit in witness's face**, and would have taken witness to the **watch house**, had he, witness, not got out of the way. (When the last witness went into the box, he asked the **constable** if he had any recollection of him? He denied ever having seen his face before. *I thought so*, said the witness, *you were too drunk.*)

Case dismissed.

The constable was ordered **to be reported**.

Such is the case, as handed to us by our reporter.

We are surprised that men of such tact as **Messrs. Windeyer and Innes**, did not either order the **witness** into the box for **gross perjury**, or the **constable**; for **grosser and more malicious impudent lies**, were never told in a court of justice, than what must have been told by one or more of these opposing witnesses.

If **Magistrates** and **Judges** will not take the trouble to **prosecute for perjury** so glaring and open, as that which has evidently been committed by one or other of the witnesses in

this case, the land will never be purged of this abominable and daily committed crime.

<https://trove.nla.gov.au/newspaper/article/32163822>

Smith's Weekly (Sydney, NSW : 1919 – 1950), **Saturday 17 November 1928**, page 16

The WAR CLUB of DOOM

A Sailor's Crime in Old Sydney Town

by The Man in the Mask

CALLOUSLY ATE PEARS IN THE DOCK



JOHN PENDER was an ardent collector of curios. In his rough, ignorant fashion, he expressed his love of the beautiful by picking up, from all the seaports of the world, things that were odd and rare, and fetching them to his bachelor home on the **Strawberry Hills** in

Sydney.

Of the hardy sea-faring men of the '**thirties** he was one of the most adventurous. Wanderlust had taken him back and forth over the seven seas, to strange ports and strange lands. His little

cottage was a veritable museum of curiosities, a centre of attraction for half the population of Sydney when the owner was ashore after one of his exciting voyages.

Pender, as is not uncommon with men of his calibre and peculiar mental composition, was loquacious concerning his exploits, and insistently eager to confirm the impression that he was more than an ordinary being.

Towards the **end of 1838**, **Pender** landed in **Sydney** after an adventurous trip to **New Zealand**, bringing back with him a large collection of **Maori weapons**, including a **huge club** with a **greenstone head**, taken by him in single-handed fight with a tattooed chief of the savages.

This curiously carved weapon was regarded by the sailor as the gem of his collection. He never tired relating the story of the fight that made it his, and day by day, he grew more boastful about its alleged intrinsic value.

Throughout the **Christmas festivities**, he paraded the street with the club over his shoulder, chanting war songs in outlandish tongue, and generally making a nuisance of himself to the more peaceably inclined citizens.

Inspector Peter Prosser, of the **Sydney Police Force**, did not look with any favor on **Pender** and his boisterous ways. On several occasions he reprimanded the sailor sternly for his obstreperous behaviour, once or twice driving him off the streets when his boasting and warlike antics with the greenstone club terrified passers by.

Pender was more disturbed than he showed by this unceremonious treatment at the hands of a high officer of the law. Having come to believe that his prowess gave him the right to swagger and riot through the streets of any sea-port town, he bitterly resented that his inclinations should be frustrated. In the place where he had made his home, and on Monday, January 21, he was very much in evidence, parading the streets with the

club in his hand and a Maori rug tied about his shoulders, loudly proclaiming that he was afraid of no man.

His **eccentric behaviour** did not seriously impede Sydney's general affairs during the forenoon, and **Inspector Prosser** not being about, he progressed from inn to inn accumulating large quantities of spirits. During early afternoon he wandered into the bar of **Mrs. Jane Rayner's Inn** in **King Street**, and, thumping the counter with his club, called for drinks for those assembled. The loungers about the place were only too willing to partake of his hospitality, but as the audience was too insignificant for the sailor, he visited the various parlors and tap-rooms and extended his invitation to the occupants. In this way he gathered another eight men into the bar, but at one parlor his peremptory invitation to drink was as peremptorily refused.

Three squatters from the interior, discussing a matter of important business, so resented his intrusion on their privacy that they threatened stern measures if he did not take himself off.

Pender was not far enough gone in drink to be thoroughly quarrelsome, but nevertheless he expressed his opinion of the squatters with such disgusting profanity that they rose to their feet. One of them rushed the sailor, and, taking him by the shoulders, thrust him down a passage into the street. Then he returned and, calling on his friends, left the house; Before going, however, he informed the **landlady** that neither he nor any of his associates would patronise the tavern again.

Loss of Profits

Mrs. Rayner was considerably put out at losing such profitable customers, and upbraided **Pender** in vigorous terms when he re-entered the bar a minute later. The **seafarer**, now furious and irresponsible, threatened to smash up the bar if anything more were said. The **landlady** was **just as brave** and determined as

the sailor.

Seizing the war-club, which was lying on the counter, she brought it down with a heavy thwack on **Pender's** shoulders and threatened to crack his skull if he did not leave the premises. From her fortress behind the bar, the landlady whirled the **stoneheaded weapon**, striking at **Pender** whenever he attempted to seize it.

The half-crazed man was shouting loudly, and using dreadful language as he rushed about the room, creating such an uproar that a crowd quickly gathered in the street. When the disturbance was at its height, **Inspector Prosser** entered the bar. Taking in the situation **at a glance**, he **rushed at the sailor**, grasped him about the middle, and hurled him through the door. While **Pender** was attempting to rise, the **inspector** rushed him again and tried to **handcuff** him. Both men were of like build, and both in perfect physical condition. The **sailor**, despite the quantity of drink he had absorbed during the morning, was not greatly affected by his libations, and began to fight for his liberty. For **half an hour** the pair **struggled and fought** in the Street, none of the crowd offering to interfere.



Prosser, a skilful boxer, plied his **fists vigorously**, battering his antagonist's face until it was a mask of blood, **Pender**, employing tactics of the sea-front, used his feet and hands impartially, but with scant

success.

At length **Prosser**, planting a blow on **Pender's** jaw, felled him insensible to the ground.

When the sailor recovered he was manacled and helpless.

Signifying his intention to proceed quietly to the **watch-house**, he was permitted to rise, and, held by **Prosser**, moved down the street. Over his shoulder the **inspector** carried the **war-club**. As they were walking along, the sailor informed his captor that he would like to visit his home before going to prison, there being **two cats and several birds** in the house he desired to liberate.

Prosser, yielding to persuasion, diverted his progress towards **Strawberry Hills**, and a **quarter of an hour later** entered the **sailor's cottage** with his prisoner. At the door the **inspector**

was seen to **unlock the handcuffs** on the sailor's wrists, a proceeding that many of those among the crowd that followed considered a dangerous proceeding.

No warning of this was shouted to the **police officer**, but when a few moments later he came reeling out through the door to **collapse on the ground**, those present realised that something tragic had occurred. In the **Inspector's** head was a ghastly wound, clearly caused by a **blow from the war-club**.

Two men, **George Clark** and **Richard Roberts** -rushed into the house. On the floor of the front room they found the **blood-stained club**. **Pender** they beheld escaping through the gate at the rear.

Sergt. W. Kilpatrick and **Constable Boadley** were soon in pursuit of the murderer. Through the streets they chased him, **Pender** running at a **tangent**, and screaming insanely of **men he had killed** in other parts of the world. People dashed from his path and took shelter in the houses. Doors were slammed in his face, but none attempted to lay hold of him. The police took him at last near the **Hyde Park Barracks**. He had turned at bay, **producing a long sailor's knife**, with which he menaced his pursuers. The **constables**, however, furious at the death of their superior, **braved the maddened seafarer**, and overwhelmed him with their **truncheons**.

They battered him into unconsciousness and then, securing a **wheelbarrow**, trundled him to the **Watch-house** where he regained his senses.

At his **trial** some months later, **Pender** was the **most unconcerned** man in the court. He sat in the dock **eating pears from a bag and spitting out the skin at the constables**.

He **refused to plead**, or give any explanation of the tragic happening in the cottage, **a course which decided his fate**.

The **Judge** had nothing else to do but to **order his execution**.

The **green-stone war-club** was given to **Mrs. Jane Rayner** by a **formal order of the court**, for **what reason** was **not apparent**, and her descendants may have it to this day. .



"The Man in the Mask"

<https://trove.nla.gov.au/newspaper/article/234383166>
