

# Activity sheet 3: Source study

## Bushrangers and the Bushranging Act: A hot topic of conversation at the White Hart Inn

### Context

No doubt, bushranging was a constant topic of conversation among patrons congregating at the White Hart Inn. One Sydney newspaper estimated that around 150 bushrangers worked the Cumberland Plain in the 1830s. Most of these were 'runaways from convict gangs and road gangs...many driven by starvation and ill usage, to take to the bush.' (The Australian, Friday, 16 April, 1830). Officials became so concerned about lawlessness in the colony that the Legislative Council introduced the 'Bushranging Act: Act to Suppress Robbery and Housebreaking and the Harbours of Robbers and Housebreakers.' The Act, drafted by Chief Justice Forbes, was passed on 21 April, 1830.

Public opinion was deeply divided over the Act. Governor Burke questioned its legality and considered it an assault on civil liberties. Others recommended a raft of alternatives to restore law and order. These alternatives included new approaches to policing, granting clemency to escapees who had experienced harsh treatment and increasing convict rations. While John Macarthur, pastoralist and entrepreneur, had reservations about the Act, he viewed it as the only course of action open to authorities to stem the mounting crime wave.

Members of the community reacted differently. Certainly, many convicts and poor emancipists were sympathetic to the outlaw cause and willing to conceal bushrangers. Evidence suggests that settlers living around Pennant Hills and Castle Hill in the North West harboured bushrangers at various times. However, fear of reprisals from local gangs may explain their actions.

Within a short period of time, the consequences of the Bushranger Act became apparent. Innocent people, some new emigrants without documentation were arrested and detained. The first executions under the Act occurred in June 1830 with the hanging deaths of Smith and McCormick at the Sydney gaol. Despite its severity, the Act was not an immediate success.

### Source 1: Extracts from the Bushranging Act and its consequences

1. 'Be it therefore enacted that it shall be lawful for any person whatsoever, having reasonable cause to suspect ...any other person to be a transported felon, unlawfully at large...without a warrant...to apprehend every such suspected person...
2. Every suspected person taken before the Justice of the Peace shall be obliged to prove... that he is not a felon under sentence of transportation...
3. Every person whatsoever shall be found on the road...with firearms or other instruments of a violent nature in his possession...shall be liable to be apprehended and taken before the Justice of the Peace...
4. And be it further enacted that it shall be lawful for any Justice of the Peace having credible information that any robbers...are harboured in the country or district to grant a general search warrant...to constables to research any dwelling
5. All persons who shall be committed for the crime of robbing or of entering and plundering any dwelling house, with arms and violence, shall be brought to trial as speedily as possible. And being lawfully convicted and sentenced to suffer death [and] executed...on the day next but two after sentence has been passed...'

Charles White (1900) *History of Australian Bushranging, Vol.1 The Early Days to 1862*.  
Sydney Angus and Robertson <http://gutenberg.net.au/ebooks12/1201961h.html>



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### Source 2: Views expressed in *The Australian* newspaper, concerning the Bushrangers Act

“Bushrangers – Many of those wretches who now prefer a precarious and miserable life of outlawry to labour in the service of the government, or in the services of certain private persons, would never have taken to the bush, had they not conceived they were exchanging one state of...misery for another not quite extreme...with the prospect of enjoying that wild freedom which the beast indulges as it roams the forest, or lurks in its lair.

...if treated fairly and impartially, fed sufficiently, yet worked hard, the miscreant who would cut and run from his gang, to plunder of the highway, could meet but little compassion from any honest part of the community.”

Source: *The Australian*, Sydney, Friday 16 April, 1830.

<http://nla.gov.au/nla.news-article36867904>

### Source 3: Letter written by John Macarthur, pastoralist and entrepreneur, to his son John about the Bushranging Act following the executions of Smith and McCormick, first deaths under the new Act.

“Opposed as we are known to be to the system of capital punishment in every case except those of murder and a few other crimes of violence, we cannot but lament the existence of a state of things in this Colony which compels us to admit that the law...was not only called for, but that, with any regard to the safety of the lives and properties of the people, the Council could not refrain from passing it. Crimes...of violence had arrived at a fearful extent; property, nay life itself, was not safe even in the streets of Sydney, and to strike terror—the extreme terror—was the only chance left by which security could be anticipated.”

[http://www.law.mq.edu.au/research/colonial\\_case\\_law/nsw/cases/case\\_index/1830/r\\_v\\_smith\\_and\\_mccormick/](http://www.law.mq.edu.au/research/colonial_case_law/nsw/cases/case_index/1830/r_v_smith_and_mccormick/)

### Source 4: Obituary for Bold Jack Donohoe

“This daring marauder has at length been met by that untimely fate which he so long contrived to avoid. On Wednesday evening, at dusk, as a party of the Mounted Police were riding through the bush at Reiby, near Campbell Town, they came up with three bushrangers, one of whom was Donohoe; on being called upon to stand, they threw away their hats and shoes, and ran off, when the Police fired, and killed Donohoe on the spot, one ball entering his neck and another his forehead. Favoured by the dusk, the others made their escape, and in defiance of the dreadful fate of their comrade, that very night broke into a hut and carried off what they wanted. The body of Donohoe was removed to Liverpool, and will be brought to Sydney this morning. Thus is the Colony rid of one of the most dangerous spirits that ever infested it, and happy would it be were those of a like disposition to take warning by his awful fate.”

Source: *The Sydney Gazette*, 4 September 1830, p.2.

Obituaries Australia, Australian Centre of Biography, Australian National University.

<http://oa.anu.edu.au/obituary/donhoe-john-jack-1985/text24877>

<http://trove.nla.gov.au/ndp/del/article/2195957>



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### Source 5: Findings of the inquest into the death of Jack Donohoe

“On Monday the Inquest was convened by Major Smeathman Coroner, at the Fox and Hounds kept by Henry Ball, Castlereagh Street, on the body of John Donohoe.

The Jury returned a verdict of Justifiable Homicide, with reference to the identity. But from a wound in the cheek, and another under the cheek arising from scrophula, there is little doubt but that the deceased is the notorious outlaw Donohoe.

Donohoe’s life has no doubt been harassing. But at the same time, it must be allowed that in comparison of the lives of the wretches at Moreton Bay, it was a happy life, and his death much less painful than those of scores who have deceased in that horrible settlement... It is fit and proper, that cruelty should be visited on the nation which practices it with retribution. God is just.”

Source: *Sydney Monitor*, 11 September 1830, p.4 Full findings and text: Australian Dictionary of Biography at: <http://oa.anu.edu.au/obituary/donohoe-john-jack-1985/text24879>

### Source 6

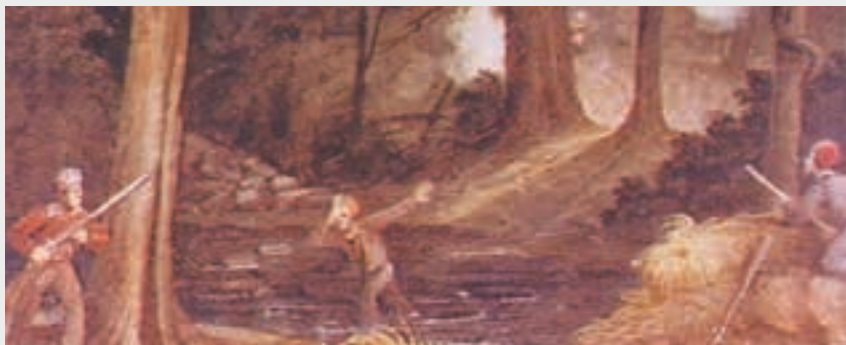


Figure 17: Skirmish between bushrangers and constables, Illawarra. It was reported that Jack Donohoe operated in the area. Created by Augustus Earle, 1827. National Library of Australia <http://nla.gov.au/nla.obj-13450081>

### Source 7



Figure 18: Portrait of Bold Jack Donohoe following his death at Bringelly as the result of a ball shoot wound, September 1830. Sir Thomas Mitchell, colonial explorer and surveyor. National library of Australia <http://trove.nla.gov.au/version/17739832>