

# LORD SYDNEY'S CONVICT REHABILITATION PLAN

Although the Sydney Cove colony was originally established in 1788 as a dumping ground for convicts, it nonetheless operated under civil law, not military law. On completing their sentences, convicts were therefore able to rehabilitate into a free society. In that sense, it is therefore wrong to think of Sydney Cove as having been a penal colony, even though half the 1,400 people who arrived were convicts.

When the American War of Independence ended in 1783, not only did the British have nowhere to dump convicts, but those who had fought on the British side, were now being persecuted. An entirely new Canadian province of New Brunswick was established to receive the fleeing Loyalists, but there were more than could be coped with.

During the Independence War, a member of the British Parliament, Tommy Townshend, had been one of only twenty who argued in support of American independence. When the war ended in 1783, it was Townshend's job as Home Secretary, to negotiate the terms of peace, define the boundaries between the United States and Canada, and protect the rights of Loyalists. Townshend subsequently did such an outstanding job, that he was rewarded with a peerage and chose his title as 'Lord Sydney'.

Interestingly, this name was in honour of his distant relative, Algernon Sidney, who had the previous century challenged the idea of the Divine Right of Kings. In his writings on democracy, Sidney had posited revolutionary ideas such as: *'Government is not instituted for the good of the governor, but the good of the governed'* and that people therefore had the right to disobey unjust laws.

For Sidney's cheek, Charles II had him beheaded in 1683, 100 years before his ideas were reflected in the American Constitution. Its famed proposition that *'...all men are created equal'* is seen as having been directly influenced by the writings of Algernon Sidney. So, it was no wonder that Tommy Townshend had argued in favour of American independence, and then honoured his ancestor by choosing his title as 'Lord Sydney'.

As Home Secretary Lord Sydney was in 1784 tasked by Parliament to submit a report on where a penal colony should be set up, and he already had an idea strongly in mind. Immediately after the Independence War, Sydney had been approached by James Matra and Joseph Banks, both of whom had been with Captain Cook in 1770, when Australia had been claimed as British land.

Matra and Banks saw Botany Bay as a perfect choice to set up a colony for fleeing Loyalists, but Sydney also saw it as an opportunity to implement his idea of convict rehabilitation within a free society. So, it is interesting to unpick the strategy that Sydney followed, to achieve his radical plan.

His first step was to introduce the 'Transportation Act' to Parliament, which transferred authority to him as Home Secretary, to decide where to locate the colony. After a cursory process, Sydney rejected all other options, and decided on Botany Bay. Parliament then formally approved the funding for the First Fleet.

Sydney's next step was to appoint Captain Arthur Phillip as Commodore of the First Fleet and therefore to be the first Governor of New South Wales. The point was that Lord Sydney and Arthur Phillip had previously served together in the British Navy and knew each other well. Both were men of the Enlightenment and both were of a single accord in their vision of the future of the colony, as a free society under the rule of law.

The Lords of the Admiralty were however appalled by the choice of Phillip as Governor, and of the whole idea of the colony being under civil instead of military law. The interests of Empire clearly needed to be protected, so the Admiralty Lords instituted a backup plan.

Major Robert Ross, who had served in America, both in the Indian Wars and Independence War, was duly installed as Lieutenant Governor of the new colony. A harsh and dour man of empire, Ross' Letters Patent vested him clear authority above Phillip in matters of defence and war. In other words, if things went pear-shaped, either with the convicts or the natives, Ross had the authority to arrest Phillip, throw him in jail, and declare Martial Law.

And by April 1789, fifteen months after the colony had started, that scenario was just about to unfold. The colonists were starving, the Marines were just about out of ammunition, native attacks were increasing, and Phillip had refused Ross' demand to build a stockade.

Ross then directed his Marines Officers to withdraw from sitting as magistrates in the civil courts, but only one, his second in command Captain James Campbell, complied with the order. The crisis was therefore narrowly averted by the disobedience of Ross' own officers.

Phillip then banished Ross to Norfolk Island where he immediately instituted Martial Law, doubled the maximum number of lashes able to be given from 100 to 200, and turned Norfolk Island into a hell hole. It was a taste of what could have been our history at Sydney Cove.