

Tom Roberts *Bailed Up*, 1895, 1927, Art Gallery of New South Wales



Bailed Up:

Life on the goldfields

Education Program

JUSTICE & POLICE MUSEUM
PRE-VISIT RESOURCES

Presented by



BAILED UP: Life on the Goldfields

The re-enactment of the trial of bushranger, John Vane, forms an integral part of this excursion. A transcript of the trial is attached. In order to maximise the effectiveness of your excursion please:

- Assign students to play the characters. You may like to consider assigning roles with a lot of dialogue to more capable readers.
- Select students who have a 'big' voice - the courtroom is a large space and there are no microphones. If the students can't be heard the benefits of this activity are lost.
- Rehearse the script prior to the excursion.

Copies of the script will be provided to the students on the day.

The Trial of John Vane the Bushranger 15 April 1864

Cast

Chief Justice Sir Alfred Stephen
Crown Prosecutor
Mr W. B. Dalley for Defence
John McGeorge, bullock driver - witness
Edward Grainger (*Grain – jer*), Senior Sergeant (*sar - gent*) of police - witness
Frederick Sutton, Sergeant - witness
Court Officer
Foreman of the Jury
John Vane – bushranger

* * * * *

Court Officer: All rise. The Supreme Court of NSW is now in session. Chief Justice Sir Alfred Stephen presiding. God Save the Queen!

Chief Justice Stephen: I call to trial John Vane. Sir, you are charged that on the 26th day of September 1863, at Grubbenborg, (*Grub–ben–borg*) being armed with guns and pistols, you did assault one John Loudon (*Loud – on*), and steal from him one watch, one pair of studs, six nuggets of gold, and one bridle, his property.

Court Officer: John Vane, how do you plead?

Vane: (*stands to face the judge*) Guilty, your Honour.

Chief Justice Stephen: You are further charged that on the 16th day of August 1863, at Five Mile Waterholes, in company with certain other persons unknown, you wounded one Frederick Sutton with intent to kill and murder him.

Court Officer: How do you plead?

Vane: (*stands to face the judge*) Not guilty, your Honour!

Chief Justice Stephen: Mr Crown Prosecutor, thank you for giving your time to the court. Please begin your address.

Crown Prosecutor (*Stands to face the jury*)
Gentlemen of the jury, you will have to decide upon the evidence as to the guilt or innocence of the prisoner on trial.

I call to the witness box, John McGeorge (*Mac–George*), bullock driver.

Court Officer: John McGeorge! Please take the witness stand.

(John McGeorge walks to the witness box)

Court Officer: Mr McGeorge, do you swear to tell the truth, the whole truth and nothing but the truth? If so, say “So help me God.”

McGeorge: *(raises right hand)* So help me God.
I remember the 16th of August when the coach was attacked. I was on the road when I saw three armed men on horseback. One of them came up to me on a grey horse belonging to Mr Icely (*Ice-lee*) and asked me if the coach had come past. I said: ‘It had not’. About five minutes later, the coach passed. The prisoner and the other man rode after it, both riding grey horses. They were armed with double-barrelled guns and revolvers. The third man was riding a brown horse. They shouted at the coachman to stop. I then heard some firing and saw the police get off the coach. Two of the bushrangers stopped near the coach, the other man galloped into the bush. Some shots were fired between the police and the other two men. The prisoner returned after the coach was gone.

Mr. Dalley: How long have you known the prisoner?

McGeorge: I’ve known him about six or seven years.

Crown Prosecutor: Thank you Mr McGeorge (*Mac - George*). I now call Senior Sergeant (*Sar – gent*) Edward Grainger (*Grain - jer*)

Court Officer: Edward Grainger! Please take the witness stand.

(Grainger walks to the witness box)

Court Officer: Mr Grainger, do you swear to tell the truth, the whole truth and nothing but the truth? If so, say “So help me God.”

Mr Grainger: *(raises right hand)* So help me God.

I was in the coach on the 16th August when it was attacked by bushrangers. As we were getting out of the coach two or three shots were fired. I saw a man coming down towards the coach on a grey horse belonging to Mr Icely (*Ice – lee*). I saw a man on a brown horse riding away from the coach as fast as he could. A few minutes afterwards I saw Sergeant Sutton returning towards the coach. Several shots had been fired then. I saw a man on a grey horse chasing Sutton. I did not see the man on the brown horse again till after the firing was over. I believe the man on Mr Icely’s horse was O’Meally (*Oh – mee – lee*).

Crown Prosecutor: Thank you Mr Grainger. I now call Sergeant (*Sar – gent*) Frederick Sutton.

Court Officer: Sergeant Frederick Sutton! Please take the witness stand.

(Sutton walks to witness box)

Court Officer: Mr Sutton, do you swear to tell the truth, the whole truth and nothing but the truth? If so, say “So help me God.”

Sutton: *(raises right hand)* So help me God.

I was with the coach on the 16th August when two men came out of the bush armed with guns, and shouted to the coachman to pull up. They fired into the coach at the same time. I followed the man on the brown horse into the bush and he fired six shots at me. I fired once at him. I was then followed by the man on Mr Icely’s horse, who fired at and wounded me. The bullet entered my chest. Afterwards I saw the three bushrangers together on the hill. Vane was on the other grey horse, not that of Mr Icely.

Crown Prosecutor: Thank you Mr Sutton, you can step down now.

Chief Justice: Mr Dalley, do you wish to address the Court?

Mr Dalley:

(Stands to face the jury)

Thank you, your Honour. Gentlemen of the jury, our case relies heavily on the testimony of John McGeorge, Edward Grainger and Frederick Sutton, the victim of the shooting. All these men have stated the prisoner John Vane was riding a grey horse but **NOT** Mr Icely’s horse. It was the man riding Mr Icely’s horse, Mr O’Meally, who shot Mr Sutton.

Chief Justice: Mr Crown Prosecutor, do you wish to address the Court?

Crown Prosecutor:

(Stands to face the jury)

Thank you, your Honour. Gentlemen of the jury, I say that Vane was clearly there that day and it cannot be ruled out that he did indeed fire at the coach intending to wound or kill.

Chief Justice:

Firstly, the prisoner is charged with attempting to wound and kill Mr Sutton. There is no doubting the wounding of Mr Sutton, and there is no doubt someone committed this crime. The question is, is the accused guilty of this crime?

Secondly, the jury should not convict a person unless the evidence is beyond doubt. I ask the jury to give the prisoner the benefit of any doubt. If you find doubt in this matter, you must

return a verdict of not guilty. If however, you are satisfied with the evidence, it will be your duty to return a verdict of guilty.

Gentlemen of the jury, you may now retire to consider your verdict.

(The jury retired for 20 minutes to consider their verdict.)

Court Officer: Foreman, please stand. Gentlemen of the jury, have you agreed upon your verdict.
(Prisoner stands up in the dock)

Foreman: We have. We find John Vane not guilty.

General shouting and cries of relief from the rest of group/class who are in the public stand

Court Officer: Silence!

Chief Justice Stephen: It now becomes my duty to pass sentence upon the prisoner for the assault and robbery of John Loudon (*Loud – on*), a charge to which the prisoner has pleaded guilty. Mr Loudon was simply trying to go about his business when he was attacked and robbed of his possessions and the gold nuggets he had worked hard to find.

John Vane, the sentence of this court upon you is that you spend fifteen years in hard labour on the roads, or other public works of the colony.

Court Officer: Remove the prisoner. All stand. The Supreme Court of NSW is now closed. God save the Queen!