“That Den of Infamy, the No. 2 Stockade Cox’s River”

An historical investigation into the construction, in the 1830s, of the Western Road from Mt Victoria to Bathurst by a convict workforce

Sue Rosen
PhD Thesis
University of Western Sydney
2006

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This thesis is jointly dedicated to the Rosen family friendship network - the Barit, Godden, Matousek, Perrini, Porter, Randall, Roughley, Ryan, Sachs and van der Hoff families and to my father

Arthur Edward (Toby) Mitselburg
Acknowledgements

The completion of this thesis marks 13 years of intermittent involvement with the convict sites on the Western Road, not a life sentence, but very close to the next most severe term handed down to convict transportees to New South Wales. Only an exceptionally bad, not to mention, unlucky, recidivist would have spent so long on the roads. My sentence was courtesy of the University of Western Sydney Bench who have conscientiously applied the deterrence and punishment modes of penal ideology. I feel privileged and grateful for this opportunity to atone through servitude and for the Australian Post Graduate Award which facilitated the process. In a reformatory spirit a travel scholarship to expedite my case was also awarded. As I await the verdict of a special three judge sitting of the Supreme Academic Court I do so knowing that I have had every opportunity to present my credentials for examination and subsequent acceptance into polite society.

Over the term of my sentence I have encountered many helpful custodians and gate keepers who have kept me on track, the most assiduous of these trustees, Fabian Lo Schiavo, Emily Hanna, Gail Davis and Chris Yeats at State Records New South Wales are all worthy of the privilege and status, not to mention the rations, of the head keeper. Kindness was also found in another branch of the system, the former domain of the Surveyor General, the Land’s Department Plan Room, currently operating under the auspices of DIPNR, where Col King is principal overseer, but is far too helpful, indeed principled to deserve that lowly title, but that’s the Surveyor General for you.

On the way, I also found consolation, advice and support from old hands, often referred to in the literature as ‘old lags’. Carol Liston, in the role of scourger, was one of these. Another was Michael Pearson who in my early days on the road wielded a pick and shovel along side. Although he was awarded an early release for good behaviour, he still shows recidivist tendencies. Less fortunate, were an unholy cabal from Heritage Assessment And History (HAAH) who persistently encouraged the pursuit of freedom, via expeditious completion of the sentence. Some of these periodically absconded, these included Jocelyn Rosen and Mary Sparke, both successful escapees. Like the majority of absconders, most were returned to a renewed ironed sentence, Rosemary Kerr is a particularly hopeless recidivist. Emma Dortins, who ovalled her irons and fled the colony, will also be back. She’s innately incorrigible.

Among the dreamers, schemers and mates on the road were Caroline Simpson who
didn’t survive, Sara Joynes who sent informations from London, and Perry McIntyre who shared her experiences of a different, but not incompatible sentence. John and Lorraine Stack, were identified as being tantamount to the 1st class of prisoners, and if they do not re-offend, are likely to stay on 1st class rations and might be lucky enough to be assigned. Julie Dinsmor, Brian Roughley, Judith Godden, Robin Porter and Deborah Barit, although not under sentence, undertook their roles in the stockade administration with compassion, a very rare thing on the road. They deserve the Richard Longfield Vowell award for courage under duress. Ollie Leckbandt, who has been under sentence for even longer than I have is unlikely to ever be released but fortunately has published his memoirs.¹

David and Zoë Rosen looked after the ‘interior comforts’ and risked the scourger at the triangles by re-arranging the guard beds. Thus my ‘Den of Infamy’ was not nearly as onerous as it might have been.

The work presented in this thesis is, to the best of my knowledge and belief, original except as acknowledged in the text. I hereby declare that I have not submitted this material, either in full or in part, for a degree at this or any other institution

.................................................................

Sue Rosen
“That Den of Infamy, the No. 2 Stockade Cox’s River”

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Glossary

Bowen’s Hollow Stockade/Lumber Yard: Initially a road and bridge party site which later became a stockade for ironed prisoners.

Boxes: Portable houses to accommodate convicts employed on the roads.

Burglary: The felony of breaking into and entering a house with intent to commit a felony therein.

Cat-o’-nine-tails: A whip usually having nine knotted lines or cords fastened to a handle, usually to flog offenders.

Conditional Pardon: A pardon granted to a convict on the condition that he did not leave the colony until his original sentence had expired.

Courts of Assize: For civil or criminal trials by a judge, usually of the high court, held periodically in specific locations on circuit through the English counties.

Diamond Swamp: A bridge party site.

Felony: An indictable offence of a graver character than a misdemeanour, such as murder or burglary.

Grand larceny: Theft of sum greater than the value of one shilling.

Honeysuckle Hill/Range/Flat: Located on the ridge as it rises from Solitary Creek (Rydal) toward Bathurst. A road party site.

Housebreaking: The unlawful breaking into another person’s residence with the intent of committing a crime. (Burglary)

Junction Stockade: An alternate vernacular name for No. 2 Stockade, Cox’s River.

Meadow Flat: A road party site.

Mt Walker Stockade: An alternative name for the No. 2 Stockade Cox’s River.

No. 1 Stockade Mt Victoria: An ironed gang site associated with the construction of Victoria Pass.

No. 2 Stockade Cox’s River: An ironed gang site and main administrative centre.

No. 3 Stockade Hassan’s Walls: An ironed gang site.

Panopticon: A prison in which all parts can be viewed from one point.

Penitentiary: A place for the imprisonment and reform of criminals.
**Petty Larceny:** The stealing of a sum of value up to one shilling.

**Petty Sessions:** Court of summary jurisdiction conducted by a Justice of the Peace.

**Pillory:** A wooden structure with holes for securing the head and hands which was used to expose a convict to public derision.

**Road Gang:** A group of convicts worked in irons on the roads under punishment for offences committed in the colony.

**Road Party:** A group of convicts worked out of irons on the roads under punishment for offences committed in the colony.

**Robbery:** The felonious taking of the property of another from his person or in his immediate presence, against his will by violence or intimidation.

**Stoney Range:** A road party site that is sometimes referred to as Stoney Ridge.

**Summary Trial:** A trial conducted without or exempt from some procedures of a full trial.

**Ticket-of-leave:** A document which entitled a convict to freedom of occupation and lodging within a given district until his sentence expired or he received a conditional pardon.
Abbreviations

AO: Archives Office

Aust & NZ Jour. of Criminology: Australian and New Zealand Journal of Criminology

assoc.: association

Col. Sec.: Colonial Secretary

CO: Colonial Office

DL: Dixson Library

ed.: Editor

Facs. Edn.: Facsimile Edition

HO: Home Office

HRA: Historical Records of Australia

JRAHS: Journal of the Royal Australian Historical Society

ML: Mitchell Library

MPG: Maps and Plans

MSS: Manuscript


SLNSW: State Library of New South Wales

SRNSW: State Records of New South Wales

Surv. Gen.: Surveyor General

T: Treasury
**Imperial-Metric Conversion Chart**

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<td>25.4 mm</td>
<td>ounce (oz)</td>
<td>28.3 g</td>
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<tr>
<td>foot (ft)</td>
<td>30.5 cm</td>
<td>pound (lb)</td>
<td>454 g</td>
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<tr>
<td>yard (yd)</td>
<td>.914 m</td>
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<td>1.02 tonne</td>
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<tr>
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Abstract

The overarching question under investigation in this thesis is the extent to which the ideals of penal management as espoused by both British and Colonial authorities were implemented in the day to day administration and management of a convict work force. The focus of the examination is the construction of Major Thomas Mitchell’s line of road between Mt Victoria and Bathurst in the 1830s. Specifically the thesis documents the various sites on the line of road with a particular emphasis on the administrative centre and principal facility, No. 2 Stockade Cox’s River, to explain the dynamic interaction of the network and its role in the penal repertoire of New South Wales.

There are two key avenues of investigation. The first is the tension between the imperatives for infrastructure development on the one hand and the necessity for the development of an effective penal system on the other. The second is the nature of the convict work force, including their origin, character, skills and penal experience. The examination of the interrelation and interdependence of these two elements enables conclusions to be drawn on the impact they had on the construction of the Western Road.

The evidence has been drawn from diverse sources, many of which have not been examined previously. It elucidates both the politics of infrastructure development and the experiences of the work force whose job it was to build the road.

Analysis of the evidence found that there was often a mismatch between the ideals of penal management held by the British Government and the money it was prepared to allocate to that management. The Colonial administration was also continually under pressure to keep costs to a minimum, resulting in constraints on infrastructure development. In relation to the Western Road, the inter-departmental politics of
power, particularly that played out between the Governors and Surveyor General Thomas Mitchell also served to hinder progress.

Further, the convict workforce was often an impediment to productive road-work. A large proportion of these young recidivists was, on transportation, from an urban background. If their previous occupations were anything to go by, although they were largely skilled and semi-skilled as workers, they were ill-equipped for the job of road building. The penal experience for many was far from reformatory or a deterrent. Many were provoked to commit further crimes and thus receive additional brutal punishment. Overall the experience was dehumanising and degrading, made so by harsh, unfair and unjust overseers. However, the job did get done. The road was, eventually, built. But, at what cost to the workers?

In bringing together such a large range of sources the thesis has enabled the first thorough reading of the convict sites associated with the Western Road. This has led to a multi-dimensional understanding of the place, its people and the process of its construction. It provides a basis for future scholarship on this neglected network, located almost at the doorstep of greater Sydney, on the western fringe of the Blue Mountains.
Chapter One

Introduction

The historical prelude to this thesis encompasses the British policy of transportation of convicted felons, in the eighteenth and nineteenth centuries, and the founding of the penal colony in New South Wales in 1788. The evolution in Britain of the science of penology, involving the development of philosophies and methodologies of criminal reform, punishment and deterrence, contributed to the establishment of new sites of secondary punishment for transportees who had re-offended after their arrival in the colony. In New South Wales, from the mid 1820s, servitude on the roads played a key role in a graduated penal repertoire that was intended to meet the objectives of punishment, deterrence and reform.

Governor Darling, at that time, instituted a policy whereby convicts who re-offended could be sentenced by a colonial court to hard labour on the roads. The judiciary could award a period in an unironed road party or, for more serious offenders, a term in an ironed gang. Road parties were accommodated in huts at work sites along lines of road. In the 1830s iron gangs came to be accommodated in stockaded huts under a military guard. On expiration of their sentence to an ironed gang, or if good behaviour mitigated a term in irons, a period could be spent working out of irons in a road party. Employment in a bridge party was reserved for better behaved and skilled re-offenders. A period of good behaviour in a road party could be rewarded by transfer to a bridge party or private assignment. At the other end of the spectrum, serious offences could result in trial before the New South Wales Supreme Court and a sentence of death or transfer to an isolated penal station, such as Norfolk Island.
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This thesis addresses issues fundamental to understanding the foundation of European society in Australia. Specifically, it investigates:

- the ways in which the concerns of the transportation and penal reform debates were reflected in conditions on the Western Road;
- the efficacy of the employment of enforced labour to meet the objectives of colonial infrastructure development while subject to the reform, punishment and deterrence imperatives of the contemporary penal reform debate;
- the process of management and construction of a major transport link, crucial to the development of the colonial economy, to examine the competence of the colonial administration;
- how the process of development of colonial infrastructure, as embodied in the Western Road in the 1830s, reflects on the humanity of the colonial administration through an exploration of official policy concerning convict welfare; and
- the contribution of a sample population of recidivist offenders to the convict origins and experience debate.

These issues are to do with the nature of the convict experience, the competency of the colonial administration and the sophistication of the colony and finally, the character and skills of the convicts. Concerns such as these have been a focus in Australian historiography and will be investigated through an examination of:

- the No. 2 Stockade Cox’s River and the associated network of stockades and work places along the Western Road in the 1830s;
- the road making process itself, including the management of a convict workforce labouring under additional punishment;
- the interaction between the civil and military personnel who oversaw the construction process and evolving convict housing, welfare and security provisions;
the origins, character and skills of the convicts, and
the nature of the convicts’ criminality and their penal experience on the Western Road.

An examination of the road gang system at work in this period allows the socio-economic origins and occupational status of the convicts to be considered in the context of their living and working conditions, as it were, in situ. Thus, this investigation of the microcosm of the Western Road convict experience enables conclusions to be drawn about the efficacy of policies drawn at the macro level by politicians and bureaucrats in distant England and Sydney.

The “National Interest”

The position and status of convicts in Australian history metamorphosed across the twentieth century from an early acceptance of the view of the convict as a degraded individual, to that of a victim, to that of a thief and ne’er do well and latterly, to the notion of the convict as a worker who was better off than his contemporaries in Britain. Accompanying this transition, feelings of embarrassment, shame and even pride have oscillated in the national consciousness as particular views periodically attain a fleeting ascendency. Part of this obsession and its legacy in the national psyche can be traced to the penal reform and transportation debates.

By the 1830s New South Wales, which had been under attack from its inception as a penal colony, was described by penal reformers, such as William Wilberforce, who were closely affiliated with the anti-slavery movement, as a slave society which had been corrupted by transportation.\(^2\) With the entire New South Wales and Van Diemen’s Land population tainted by the abhorred slavery association and portrayed as an immoral and brutal society, an umbrage at the injustice of such claims has lingered in the national sub-conscious.

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Evidence of the strong desire for an understanding of the nature of the convict experience and of the origins of the convicts is provided by the genealogical searches and family history publications of thousands of Australians who are no longer ashamed of their convict past. This interest is also evident in the education system and permeates the arts, particularly literature, film and drama. It is integral to many concepts associated with Australian cultural identity. Popular expressions of this interest are exemplified by folk songs such as *Moreton Bay*, *Botany Bay*, and *Maggie May*. Marcus Clarke’s novel, *For the Term of his Natural Life*, became one of the earliest Australian films in 1909. Other early films include *Assigned to his Wife* (1911), *Ticket of Leave Man* (1913) and *Transported* (1913). More recent additions to the literary genre include Peter Carey’s *Jack Maggs*, Bryce Courtenay’s *Potato Factory*, Andrew Motion’s *Wainwright the Poisoner*, Richard Flannagan’s *Gould’s Book of Fish* and Kristin Williamson’s *Women on the Rocks*. On the stage, Deborah Conway’s performance of *Dreaming Transportation* was recently received with acclaim. On television, *The Colony* currently airing (February 2005) on the Special Broadcasting Service (SBS) is another manifestation of this interest in the colonial past.

Many academic studies, undertaken across the twentieth century, have focussed on questions related to who the convicts were and how their experience influenced the character of Australian culture and society. While up to 50,000 convicts were transported to North America between 1718 and 1775, the significance of that story in American history is negligible and totally overshadowed by the iconic status

7 Co-produced by SBS Independent, Hilton Cordell Productions, Radio Telefis Éireann (RTÉ), The History Channel, Film Finance Corporation (FFC) Australia, New South Wales Film and Television Office (FTO) and the Australian Film Commission (AFC).
attributed to the Puritans and the *Mayflower*. Between 1788 and 1840, 67,000 male and 13,000 female convicts landed at Sydney and it was not until the 1830s that the number of free settlers migrating to Australia in any year exceeded the number of prisoner arrivals. As observed by L.L. Robson, in his landmark work *The Convict Settlers of Australia*, ‘convicts ... and their children numerically dominated the country from the first settlement in 1788 to the 1820s and they formed the great labour force which laid the foundations of Australia prior to the gold rushes of the 1850s’.

A.G.L. Shaw’s opening sentence in *Convicts and the Colonies* provided a powerful justification for his, and other, studies of the convict transportation system:

> For eighty years after the foundation of Australia, the transportation of British criminals was integrally bound up with her national development, both political and economic.

Mark Finnane introduces *Punishment in Australian Society*, with a reminder of the idiosyncratic role of convict transportation in Australian national origins. With a different, but not incompatible emphasis to Shaw, he refers to Australians’ consciousness of the nation-state’s origins as an ‘experiment in punishment’. This experiment, in the words of Finnane, is of international significance.

These justifications can equally be applied to this thesis.

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The Local Scene

The national historic concerns outlined above have a parallel at the local community level. Lithgow historians Ern McKenzie, Joe Summers and Frank Winchester spent many years researching both No. 2 Stockade Cox’s River and the history of the area as a whole.\(^\text{13}\) As stalwarts of the Lithgow Historical Society they conducted tours of the No. 2 Stockade site from at least the mid 1960s. Outside the historical community, local fossickers also showed an interest in the sites and in the process of attempting to identify and make sense of their finds became historians themselves. But, even among the locals, understandings of the site of No. 2 Stockade were confused.\(^\text{14}\)

The local community has been a particularly valuable source of evidence for this thesis and especially, the fossickers cum historian-archaeologists who responded to a call in the *Lithgow Mercury* in 1994 for information on the No. 2 Stockade Cox’s River site.\(^\text{15}\) This resulted in an association that has extended over 11 years and which has brought to light the location of other convict road gang sites that formed the network along the Western Road. These include large stockades, ephemeral road party sites, military posts, surveyors’ depots, and inns, all of which were connected by the old line of road from Mt Victoria to Bathurst. Along the route impressive buttressed walls, bridges, culverts and remnants of the macadamised road are evident. During the 1830s, when the road was under construction, this network represented an attempt to meld the requirements of punishment and reform of the penal system with the labour requirements of the colonial infrastructure program.

In the late 1970s, when Pacific Power, the State electricity generation authority, proposed construction of Lyell Dam to supply water to Wallerawang Power Station there were concerns locally about the impact on the historic site. Although quite a

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few strong opinions were held regarding the Pacific Power proposal, there was the feeling that this was development, indeed ‘progress’ and no real attempt was made to block the works. There were jobs to be had at the power stations and Lithgow needed jobs.

However, in the early 1990s the No. 2 Stockade was brought to the attention of the broader history-heritage community by Lithgow locals when the community became concerned by further interference in the site as Pacific Power prepared to augment Lyell Dam. As a consequence, an historical and archaeological investigation was commissioned. This investigation revealed that the area was the site of a major 1830s convict work and punishment complex which at its zenith had the size and complexity of a small town.16

The collaboration with locals allowed a dialogue that facilitated a much more thorough understanding of this previously undocumented system to be developed. The documentary research for this and the studies which formed the genesis of this thesis was particularly shared with local historian and fossicker, Mr Olaf Leckbandt, who has undertaken numerous surveys of the sites along the Western Road. One of the outcomes of this association was the identification of the site of No. 1 Stockade Mt Victoria. In a three-way collaboration with the Roads and Traffic Authority using aerial photographs of the site, we were able to confirm the location of the Mt Victoria Stockade and the place is now on the public record.17 Mr. Leckbandt and his friend, Lester Batcheldor, were engaged to work on the archaeological investigations undertaken in 1994 and 1995. Mr Leckbandt has since published and spoken widely in the community raising awareness of the area’s history. Mr Leckbandt’s work in

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raising community awareness is an important undertaking since many locals, who were aware of No. 2 Stockade and its associated sites, have died.

Road Gang Historiography

To date there has been no detailed examination of the recidivist penal experience within the context of the road gangs. These gangs constructed the main arterial roads channelling European settlers and their stock to the north, west and south of Sydney, as transportation and the New South Wales penal regime came to a climax in the 1830s. They form a sub group of the convict population that were deemed too ‘bad’ for assignment but not sufficiently wicked to warrant transportation to a secondary penal settlement such as Norfolk Island or Moreton Bay. While Grace Karskens has investigated the construction of the Great North Road, her focus was on the achievement of the physical undertaking itself rather than the convict experience.18 William Robbins has recently examined the management of convict gangs from 1788 to 1830, the period immediately prior to the focus of this thesis. Robbins was concerned with the organisation of all convict work gangs rather than the punishment gangs and was not concerned with the development of the physical infrastructure associated with the employment, security and management of such gangs.19 Hamish Maxwell-Stewart has examined a sample population of 350 Tasmanian bushrangers and Lloyd Robson and Stephen Nicholas have undertaken broad general convict population studies. A.G.L. Shaw has conducted a detailed study of the overall system which touches on the road gangs, but does not dwell on them.20

The focus of this thesis is the road gangs which were generally situated in isolated locations under conditions of hardship and strict security provisions. This situation

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was markedly different to the general convict experience and so the examination of
the gangs on the Western Road in the 1830s offered in this thesis is able to make a
unique contribution to convict historiography.

Other studies have utilised primary material related to the Western Road but were
unable to make a clear attribution to the document’s historical and geographical
context. For example, Grace Karskens used an 1832 plan of the No. 2 Stockade
Cox’s River [Figure 5.6] in a discussion of convict accommodation, where she
postulates that, because of new instructions from Governor Bourke in September
1834, the use of stockade fences was abandoned due to their ineffectiveness in
confining prisoners. 21 In Out of Sight Out of Mind Australia’s Places of Confinement
1788-1988 James Kerr links a painting, The Fort on the Cox’s River near Bathurst NSW, [Figure 5.10] which was at one time attributed to Major General James
Pattison Cockburn, 22 to the 1832 plan and described the location as being at the
Cox’s River crossing near Hartley. 23 Kerr’s Design for Convicts An account of the
design for convict establishments in the Australian Colonies during the
transportation era makes no mention of the substantial and significant interactive
network of road gang sites along the Western Road. 24

Because the stockades were also associated with the military guard, as well as the
convict road workers, the use of defence terms such as ‘fort’ has helped to obscure
the identity of the place. At the Mitchell Library, State Library of New South Wales,
The Fort on the Cox’s River near Bathurst NSW is catalogued under ‘New South
Wales Defences - Hartley Stockade’, rather than under a heading that would identify

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22 A review of Major James Pattison Cockburn’s records in the war office files of the PRO has established that he was stationed in Canada and the UK across the entire period when this painting could have been executed.
24 James Semple Kerr, Design for Convicts An account of the design for convict establishments in the Australian Colonies during the transportation era, Library of Australian History in assoc. with The National Trust of Australia (NSW) and the Australian Society for Historical Archaeology, Sydney 1984, pp.61-65.
the painting as a convict related work.25 Also in the Mitchell Library is a collection of convict associated artefacts and military buttons from regiments assigned to the stockade and collected from near Rydal, the village formerly known as Solitary Creek that was established several miles to the west of the stockade. Fragments of evidence litter the historiographic landscape in a disconnected fashion. This thesis remedies that situation by bringing together material that was previously thought to be disparate.

The only other major study of New South Wales road gang sites, Wendy Thorpe’s two volume ‘Non Institutional Convict Sites A Study On Work Gang Accommodation’ and its accompanying ‘Gazetteer of Non-Institutional Convict Sites’ draws on *The Fort on the Cox’s River near Bathurst NSW* without making the connection to the No. 2 Stockade. In the ‘Gazetteer’ only Hassan’s Walls, Mt Clarence and Mt Victoria are referred to with no substantive information describing them, their occupation, usage or interconnections. There is no information on Bowen’s Hollow Stockade/Lumber Yard, No. 2 Stockade Cox’s River or the road party sites at Meadow Flat, Honeysuckle Hill, Diamond Swamp or Stoney Range. The Junction Stockade, an alternate vernacular name for No. 2 was thought to be a different facility.26

The physical setting and the sites themselves, as components of a major network of secondary punishment, are unknown in the convict historiography of the academy. The interaction and functional relationships of the various work and accommodation sites charged with deterring, punishing and reforming recidivist convicts have not been previously documented or explained in that forum. Most references to No. 2 Stockade Cox’s River by the known authorities confuse or conflate references to the site within a number of other contexts. None have identified the stockade or road

party sites on the Western Road as an integrated penal network. A major convict work complex not previously identified in the academic literature is articulated within this thesis.

The Documentary and Physical Evidence

The relics surviving from the period, including the former line of road and its setting in the landscape and topography are important and evocative sources that bring additional meanings to the documentary evidence. Because of this important role, maps, plans and pictorial material form a crucial part of the thesis.

The sites themselves are a part of a landscape laden with cultural meaning relating to the convict experience of secondary punishment and hard labour. The experience of penal servitude for a road ganger was one of making a road in rugged and isolated terrain, breaking rocks, carrying rocks and making cuttings through hillsides with picks and shovels. The sites are connected literally by the road but also metaphorically by the histories associated with them, which are found in the court records and the accounts of those who lived, worked or travelled there.

The research that eventually led to this thesis uncovered a large body of primary source material embedded in general archival files, particularly those of the Surveyor General, the Colonial Secretary and the colonial courts. Convict Thomas Cook’s account, *The Exile’s Lamentations*,27 provides a rare first hand convict perspective of life on the road. The convict petitions for clemency held in the Public Records Office at Kew in England provide additional insights into the circumstances of the convicts. While the petitions have been extensively used by genealogists, they have not been previously analysed by Australian historians in the context of the convict origins.

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debate. Some 65 petitions of Western Road convicts were located in an extensive search of the series.

The road gangs are a particularly difficult aspect of the penal system to study because of the loss of specific records pertaining to the group in the Garden Palace fire of 1882. Except for a couple of months in 1830 no musters or statistics related to these convicts on the Western Road have survived and there are no specific files related to the sites. Court records have predominated in the evidence which allows the identification of specific individuals. However, this predominance, has produced a sample convict population on the Western Road composed largely of re-offenders who while under sentence on the road yet again offended. While some were witnesses to the court, superficially the majority could be described as recidivists, that is, to use the Macquarie Dictionary’s definition, habitual criminals with a ‘chronic tendency toward repetition of criminal or anti-social behavioural patterns’.  

The evidence, because of its diversity, makes possible an analysis that will allow a more realistic assessment of the convict experience of secondary punishment to be undertaken, than could have occurred otherwise. Were all, or even some, Western Road convicts chronically criminal and anti-social? What was the nature of their crimes in Britain and in the colony and what brought them before the courts on the road? The evidence also allows comment on the road building process, on the Surveyor General Thomas Mitchell’s management of that system and the reality of the legal and human rights of the convicts within it.

The Place
The No. 2 Stockade and its series of linked sites are located some 100 kilometres west of Sydney in the western foot hills of the Blue Mountains of eastern Australia.

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They are situated along a line of road constructed in the 1830s to facilitate the European occupation of the interior of New South Wales. [Figures 1.1 to 1.4]

The surviving records, the documentary together with the physical site, allow the sounds, smells and experience of the day that contribute to the identity of the place to be imagined with an element of confidence. They evoke the toll of the stockade bell which parenthesized the hours for toil and the scrunch and scrape of tools and shoes on gravel and rock which filled the working day. Common sounds included the rattle and clank of chains, the moan of bullocks and the urging of their drivers. There were cursing men, injured by a misdirected blow of a hammer, and ominous mutterings of resistance to the rough imperatives of overseers, and the alarmed ‘Stop, or I’ll shoot!’ as desperate men, who had had enough, took to the bush. For resistors, there was the bureaucratic echo of a gavel and the subsequent whir and crack-slap of the lash on their backs and breech as they expiated their transgressions after work on a Saturday afternoon, with Sunday to recover.

At night a completely different sound-scape infiltrated the minds and lives of all associated with the system. The night sounds were the chaffing of hands held over a fire, loud male choruses, occasional shouted abuse, mothers calling in children, the hourly call of ‘All’s well’ of the sentry and idle conversation both muted and at times drunkenly riotous. Amidst the wood smoke and smell of cattle dung, there was the sweat of men, the smell of baking bread and slaughtered cattle. This place was alive with people, an unusual community where the convicts, the military, many of whom were free in name only, and the civil administrators spent most of the 1830s; an obdurate period in the convict history of New South Wales.

**Thesis Structure**
This thesis firstly examines the transportation and penal reform debate in the United Kingdom and relates the central concerns of these debates to the penal situation on the Western Road in the 1830s. This examination provides essential background to
the core issues of the thesis. The politics and circumstances of the Western Road construction project are next examined followed by an investigation of the reality of the works as they were physically tackled. An account of the construction of convict facilities and an explanation of their development and place in the network is provided. The issues encountered in these analyses are interrelated and crucial to an understanding of the convict experience on the road and the assessment of the efficacy of the whole enterprise as both a penal exercise and an infrastructure development undertaking.

Latterly, a statistical profile of the convicts identified in the network is provided. The population is compared to those investigated by Robson and Nicholas and Shergold to revisit the convict origins debate. The convicts as workers and their experience of work on the road is next analysed and finally, building on the assessment of their working experience, their broader experience of secondary punishment is examined. Of particular interest is the difference between the intent of the system and the reality and the reasons for any disparities between the two.

Specifically the chapters are organised in the following manner:

Chapter One outlines the questions that are the focus of the thesis. It provides a justification for the study and the methodology employed.

Chapter Two provides a précis of the history of transportation and the development of penal philosophy as it related to the Western Road experience of the 1830s. It provides a crucial and overriding context essential for understanding the penal situation on the Western Road. Divergence into an analysis of the recent historiography concerning the transportation debate has been avoided due to the thesis’s focus on the Western Road experience as illuminated by previously unanalysed primary source material. In the later part of this chapter the ways in which the penal reform and transportation debates were experienced on the Western
Chapter One: Introduction

Road are outlined. The policies emanating from the debate affected the type of infrastructure that came to be considered necessary for the appropriate containment and control of convicts. The chapter demonstrates the direct impact on the ways the gangs were managed and classified and as a consequence the impact the debate had on the road building process.

Chapter Three examines the macro level management issues that have an impact on the construction manager’s capacity to manage the works. It is also provided as a context for the examination of construction of the road and penal infrastructure facilities which follow in Chapter Four and Chapter Five. There is a particular focus on the breakdown in relationship between the Surveyor General’s office and that of the Governor in the context of the imperatives associated with simultaneously developing the road system, implementing penal reforms and minimising the costs of transportation on the British Treasury.

Chapter Four considers the construction of the Western Road. It examines the road making process and the organisation and administration of the convict labour force. This chapter draws largely on correspondence between the Surveyor General and the Colonial Secretary and between them and the assistant surveyors responsible in situ for the management and supervision of the construction process. The development of the road gang system as part of the advancement of colonial infrastructure is examined. The context necessary to answer questions related to the administration and management of the convict work gang system is provided. These questions are related to the notion of colonial administrative and technical competence. They are also concerned with the intent of the penal experience in a secondary punishment situation compared to the reality.

Chapter Five is concerned with the physical infrastructure of the Western Road penal system. The stockades and road party sites are examined both as physical entities and within their administrative context. This is a necessary part of the thesis because of
their role in providing a very powerful setting and milieu for the experience of convicts and officials alike. The place has the power and influence of any key human player in the story. The stockades themselves were substantial structures and No. 2 Stockade Cox’s River was the size of a small town, with a hospital, court, bake house, butchery and housing not only for several hundred convicts but also for support staff, soldiers and their families. As Greg Dening argued so cogently in an analogous situation in Mr Bligh’s Bad Language, the physical entities were a crucial part of defining the experience and management issues, closely linked to maintaining facilities which were also a focus of convict protest. This discussion also enables the questions of competence, humanity, and infrastructure development to be addressed and inherently comments on actual priorities of the administration rather than the ‘motherhood’ statements of official reports.

Chapter Six examines the character and origins of the convicts sentenced to work on the Western Road. It provides a literature review of the major schools of thought concerning the convicts and examines the Western Road population in the light of these. It presents an analysis of the statistical data for the Western Road convicts and compares the results with the findings of other major studies.

Chapter Seven firstly considers the skills of the convicts and secondly, their role as workers on the road. It examines the convict response, in the work situation, to the administrative and management situation described in preceding chapters. This chapter relies on a statistical analysis of the convicts skills and in the latter half on the court reports where the specific behaviours of individual convicts are often described and where their voices are most likely to be heard.

In Chapter 8 there is an attempt to understand the reality of the convict experience and their reactions to it. The chapter dwells on the living and domestic arrangements,

including health and welfare concerns, to consider the nature of the convict experience on the road outside the context of their working experience discussed in Chapter Seven.

Finally, Chapter 9 the conclusion, draws together the preceding chapters to address the core concerns of the thesis, outlined above, pertaining to the impact of the transportation and penal reform debates on the Western Road penal and road making experience; the management of the situation, the development of infrastructure and the origins of the convicts and the nature of their experience.

So as not to disrupt the flow of argument, illustrations and tables have been placed at the end of each chapter. They are numbered consecutively within each chapter and have been placed in the chapters where they are most pertinent to the discussion, although they may also occasionally be referred to in other chapters. They have been included in the body of the work rather than in appendices to enable ready access to the reader. They are an integral part of the thesis which should not be divorced from the discussion. All measurements are in the units of the time.

Conclusion

This thesis is a unique contribution to convict historiography because no similar study of recidivists has been undertaken. It examines a specific and key work and punishment format in the New South Wales penal repertoire that was associated with important infrastructure development for the civil economy with a specific (recidivist) element of the convict population. It demonstrates the impact of the British transportation and penal reform debate ‘on the ground’ in the New South Wales penal system. The thesis explores the contradictions and inconsistencies that subvert a neat narrative to extract insights into the nature of the convict system and the people who were part of it.
Figure 1.1  Regional Location Map showing significant places and sites referred to in the text. [G. Elliott, 2004]
Figure 1.2  A view of the No. 2 Stockade peninsula on the eastern (Sydney) side of the Cox’s River. Much of the stockade site, in non-drought conditions, is underwater. Toward the top of the rise, before the trees is the area where the officer’s quarters was located. [M. Pearson, 1995.]
Figure 1.3  A general view of the ascent from Cox’s River, surveyed by Nicholson in September 1832. [M. Pearson, 1995]
Figure 1.4  Another view of the western portion of No. 2 Stockade study area in 1995. Taken from the Stockade area on the left is the peninsula on which the Commissariat was located. On the right can be seen the Bathurst Road rising toward Rydal. The area had been partly inundated by the creation of Lyell Dam. [M. Pearson, 1995]
Figure 1.5  Mitchell’s line of road as it approaches the site of No.2 Stockade, Cox’s River, from the Sydney side. The photo was taken in March 2003 during the drought. The road is normally beneath the waters of Lyell Dam.

[C. Liston, 2003]
Chapter Two

Historical Prelude: The Transportation and Penal Reform Debate and the Western Road

Aspects of the British transportation penal reform debate are embodied in the form and function of the road gang system as it evolved in the 1820s and 1830s. The system also reflected localised security concerns and was intended to constrain as well as to deter, reform and punish. Its emergence was associated with efforts to establish the effectiveness of transportation over the penitentiary as a penal methodology.¹

Complicating the issue, the road gang policy, as instituted by Governor Darling in 1826, saw more prisoners sentenced to the roads, where they could be more usefully employed than in isolated penal colonies. ‘Outrages’ by bushranging absconders from the gangs provided a well-spring of alarm that was fuelled by the colonial press as part of a campaign against impositions on the liberty of free citizens caused by the pervasive convict presence. Settlers, particularly those who did not personally benefit from convict labour, became aligned with British anti-transportationists. The penal status of the colony and the power of the Governor came under attack. The governors came under intense pressure to quell criticism, emanating from both the United Kingdom and the colony, of the cost of transportation and the effectiveness of colonial penal policies.

Chapter Two: The Transportation and Penal Reform Debate and the Western Road

The establishment and management of the stockade and convict work places, on the Western Road from Mt Victoria to Bathurst in the 1830s, was the product of tensions between the above concerns and the drive for the economic advancement of the colony via infrastructure development.

Crime and Transportation Before the American Revolution

The transportation of convicts from Britain originated in the sixteenth century when persons who had been capitally convicted were given, in a demonstration of mercy, the alternative of voluntary banishment. The prisoner made the choice of exile or death. In the seventeenth century transportation was increasingly prescribed and in 1679 the Habeas Corpus Act legalized the existing practice of pardoning criminals by royal prerogative, conditional to an agreed term of banishment. A 1717 Act of Parliament (4 George 1, c.2) prodded the formalisation of the system by providing for transportation to America where there was a shortage of servants.  

The nominal penalty for felonies such as highway robbery, house breaking, beast stealing, grand larceny, murder and arson, was death. The legislative changes developed in response to the criminalization of formerly non-criminal activities and increased penalties for lesser crimes. For example, the Black Act enabled the conviction of small farmers and tenants who were resisting encroachment on their customary rights ‘... over game, wood, dead-fall, peat and other bounty of nature, which the gentry had formerly accepted as part of the binding order of custom in the countryside’. It criminalized ‘stealing hedges, underwood, fruit from trees and timber, damaging orchards, hop-bines or woodland and taking fish from ponds or breaking ponds to let fish escape.’ Such acts were a legitimation of the assertion of property rights over customary and common rights. By the end of the Napoleonic Wars, in the nineteenth century, there were some 225 offences bearing the death
penalty and the law had attained the popular epithet, the “Bloody Code”. Over the
eighteenth century, transportation became a major ingredient of English criminal law
and the most common punishment for non-capital felonies in England.\(^5\)

While the Bloody Code appeared inflexible, there was in practice a great deal of
room for judicial discretion or executive clemency. The undeveloped prison system
and a reluctance of judges to prescribe the death penalty for newly criminalized
activities resulted in the criminal justice system’s reliance on transportation of
convicts beyond the seas. In the 1750s, one third of the prisoners sentenced to death
in the Home Circuit had their sentences commuted to transportation. From that time
there was growing doubt among judges as to the fairness of imposing the death
penalty for minor infractions. Juries were similarly reluctant. It became common to
convict people charged with grand larceny (which was a capital offence) with petty
larceny (which was punishable by transportation) by valuing the goods at less than a
shilling regardless of their true value.\(^6\) Surviving petitions in the Home Office
records, support this version of the system at work. Prisoners who were guilty of
traditional capital offences, such as murder, were unlikely to have their sentence
commuted and were generally left to the executioner. But many convicted of lesser
capital crimes were transported to the American colonies, in particular Maryland and
Virginia, where convicts were bought by settlers for the term of their sentence from
contractors who transported them there. Some colonists preferred them to slaves.\(^7\)
Later they were transported to New South Wales. Prisoners at the No. 2 Stockade
Cox’s River had initially been brought to justice in Great Britain and Ireland under
this extremely harsh regime.

p.19.
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\(^7\) A.G.L. Shaw, *op. cit.*, pp. 24-25; 31; Ignatieff, *op. cit.*, pp.15; 19; PRO: Home Office, Criminal Petitions
Series 1, 1819-1839, HO17.
Chapter Two: The Transportation and Penal Reform Debate and the Western Road

Transportation was intended to deter criminals while at the same time supplying labour to the colonies. For Britain, transportation had long been part of colonial policy as well as a method of punishment. Theoretically, it was a cheap deterrent. Recalcitrant offenders were removed and provided with an opportunity for a fresh start underpinned by honest employment. Furthermore, transportation promoted economic development in colonies that were unattractive or inaccessible to free labour.

In practice, transportation was not a sufficient criminal disincentive and crime continued to increase. The more developed and ordered a colony, the less dissuasive transportation as a punishment became. In the second half of the eighteenth century, coinciding with the inception of the New South Wales colony, calls for alternatives to transportation and the death penalty were on the increase.  

Transportation, Prison Reform and the Inception of the New South Wales Penal Colony

For much of the eighteenth century, short terms of imprisonment were used to punish minor offences. Such sentences were usually for a year or less and never longer than three, and rarely punished felonies. Major crimes were punished in the higher courts of assize or quarter sessions with banishment, whipping, hanging or the pillory. Increased crime, in 1750, after the demobbing of troops returned from the War of Austrian Succession, strained the prison system. The resultant overcrowding led to outbreaks of disease that posed a broader public health menace. In April 1750, two Newgate prisoners infected the Old Bailey courtroom with typhus. Fifty people died, including the judge, jury, lawyers and many spectators. This alarming disaster in the premier machine of the British criminal justice system, sparked a move for improvements in prison hygiene. In the aftermath, doubts were raised about the efficacy of capital penalties for petty crime which were a major cause of congestion.

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in the system. Magistrate Henry Fielding unsuccessfully suggested a new house of correction for Middlesex. The then novel objective of correction of the mind of the offender via religious instruction, labour, discipline and solitary contemplation was put forward.\textsuperscript{9}

Twenty years later, when the demobilization following the Seven Years’ War resulted in a 35\% increase in crime\textsuperscript{10}, the effectiveness of transportation was once again called into question. Under Secretary of State, Sir William Eden published a treatise, \textit{Principles of Penal Law}, in 1772 that questioned the deterrent value of transportation to a country:

\begin{quote}
... as fertile, as happy, as civilized, and in general as healthy, as that which he had offended.\textsuperscript{11}
\end{quote}

Eden was referring to the American colonies but this same theme ultimately played a significant role in later attacks on transportation to the Australian colonies.

Just prior to the American revolt in 1775, John Howard, a philanthropist and member of the Nonconformist religious sect, sought spiritual fulfilment through a belated life vocation in prison reform. He conducted a comprehensive study of the British prison system and published the results in \textit{The State of the Prisons} in 1777. His reform proposals included plans for a house of correction (penitentiary) and a model for its operation. Like Fielding’s proposal, it too was directed at reforming prisoners rather than physically punishing them. Under Howard’s scheme prisoners were to be adequately fed and housed while subject to strict discipline and hard labour. They were to be kept in separate cells, given improving literature and visited by a chaplain. In theory, the isolation and contemplation, guided by the chaplain, would

\textsuperscript{9} Ignatieff, \textit{op. cit.}, pp.24-25; 45-47.
\textsuperscript{10} Statistics from this period need to be viewed with caution due to unscientific collection methods.
\textsuperscript{11} Sir William Eden cited in Shaw, \textit{op. cit.}, p. 41.
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bring prisoners to an understanding of their aberrant behaviour and thus reform them. It was intended to be neither physically comfortable nor torturous.\textsuperscript{12}

There was a belief in the late 1770s that crime was on the increase. Criminals had not been deterred from their criminal ways, because, it was felt, of the unlikelihood of getting caught, the possibility of a pardon, or a reprieve via transportation. The loss of access to the American colonies sparked a crisis for the system. But no alternatives to transportation acceptable to the British Government were forthcoming. As the crisis was assumed to be temporary, in 1776 Parliament authorized hulks to be moored in the Thames to accommodate prisoners. They were to be put to hard labour and hopefully shipped off to America, once the revolt had been crushed.\textsuperscript{13}

By 1778 the hulks had become so overcrowded that a parliamentary inquiry into the system was instituted. The Commons Committee favoured the construction of penitentiaries based on Howard’s philosophy of punishment and reform.\textsuperscript{14} An influential circle of Quakers and intellectuals, centred around Whig politician Lord Shelburne and included Jeremy Bentham and Samuel Romilly, had embraced Howard’s ideas. In the words of Ignatieff:

\begin{quote}
The prison reformers believed that punishment had lost its moral authority among the poor because those who inflicted it had been allowed unlimited discretion.\textsuperscript{15}
\end{quote}

A bill was passed for the establishment of two penitentiaries. But the government was reluctant to fund their construction and was further deterred by the prospect of criminals being eventually released into the community.

\textsuperscript{13} Shaw, \textit{op. cit.}, pp.44-49; Hirst, \textit{op. cit.}, p.10; Ignatieff, \textit{op. cit.}, pp. 57-65.
\textsuperscript{14} Robson, \textit{op. cit.}, p.6; Shaw, \textit{op. cit.}, pp.41-42.
\textsuperscript{15} Ignatieff, \textit{op. cit.}, p.77.
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After the cessation of hostilities with the Americans, Britain attempted to resume transportation but was rebuffed. With no other sites being considered appropriate, in October 1785 Arthur Phillip received his commission as Governor of the New South Wales colony. In 1788 the Transportation Act was extended to include the intended New South Wales settlement.16 Offenders viewed as a threat to and a pollutant of the social order were to be transported to New South Wales (and later Van Diemen’s Land) at Government expense and assigned to the governor to be servants of the Crown. Initial objections to the proposal included its expense, distance, violation of the East India Company charter and the claim that transportation would encourage rather than deter criminals. There were also moral objections to the founding of a society of ‘thieves and ruffians’.17

Disillusionment with transportation had set in and its pre-eminence in the punishment arsenal was lost. In the 1790s it was ordered in less than 50% of convictions, whereas prior to 1775 the rate had been more than 70%. Nevertheless, despite the qualms of vocal reformers, transportation and hanging remained the major punishments for serious crimes of violence against the person and for crimes against property.18 Transportation, capital punishment and prison reform had a complicated and interdependent relationship into the nineteenth century. The prescription of hanging for serious crimes discouraged prosecutions and convictions and the reluctance of judge and jury to send prisoners to their deaths resulted in the banking up of the justice system and overcrowded prisons. Of 1,872 people detained in Newgate on charges of larceny between 1803 and 1810 only one was eventually executed.19 Between 1810 and 1819 the number of adult males committed to trial rose from 66 per 100,000 to more than 210 per 100,000. The population of Newgate which was built to house 500 prisoners, never fell below 800. Across the country, some 100 institutions meant to hold 8,545 prisoners were actually accommodating

16 Shaw, op. cit., pp.45; 48-49.
18 Ignatieff, op. cit., p.92.
13,057. This meant that the prison reform methods, espoused by Howard and his successors, such as solitary confinement and the classification of prisoners could not be implemented.\textsuperscript{20} In economic downturns and after the demobilisation of troops, when prisons became even more pressured, the hulks and transportation to Australia were an integral part of the solution.

Employment opportunities provided by the Napoleonic Wars kept the crime rate down across 1805-1814 and the hulks in England were sufficient to accommodate criminals who were utilized in the dockyards and encouraged to join the army. Transportation decreased and between 1802 and 1809 on average less than 350 were transported each year. After 1810 the crime rate again became a controversial issue and the hulks were once more a scandal. After demobilization and the post 1815 trade depression, the cost of poor relief doubled and the numbers committed to trial rose rapidly. As the New South Wales colony became firmly established and some convicts made fortunes and others wrote home urging their family and friends to join them, the question of its deterrence and punishment values began to be treated with greater credence.\textsuperscript{21}

\textbf{British Penal Reformers and the New South Wales Penal Colony}

The British government attempted to diffuse pressures for construction of a penitentiary system where punishment and reform could be closely supervised. Successive governments baulked at the huge initial expense of such a system. The pressure on New South Wales governors to achieve closely supervised punishment and reform was as much to do with providing less ammunition for the advocates of the penitentiary system as with the parsimonious attitude of the British administration both domestically and in the colony. The prison reform debate in Great Britain had a direct impact on the experience of convicts transported to New South Wales.

\textsuperscript{20} Ignatieff, \textit{op. cit.}, pp.154-155.
\textsuperscript{21} Shaw, \textit{op. cit.}, p.127; Hirst, \textit{op. cit.}, p.20.
One of the most prominent, early and persistent opponents of transportation was Jeremy Bentham. A penitentiary, in the form of the ‘panopticon’, a building which allowed for the minute control and observation of individual prisoners, had been designed by Bentham and he coveted the contract for its construction and ongoing management. He claimed that it would provide a low cost and effective solution to the penitentiary problem and embarked on a 21-year campaign for its adoption. Bentham’s argument in favour of this solution was shored up by attacking transportation.

Bentham contended that transportation was a poor punishment due to the uncertainty of its severity as a punishment. Its effectiveness was also undermined, he argued, because it was inflicted away from the sight and sound of those it was meant to deter. As a means of reform it also failed because the primary objective of those for whom the convict worked was to extract labour rather than to reform them. Furthermore, whereas the convicts transported to America had entered a moral society, those sent to New South Wales were received into a criminal society. There were insufficient respectable people in New South Wales, in Bentham’s opinion, to maintain order and discipline. As Hirst wrote, Bentham created a theme that ultimately did ‘fatal damage to the colony’s reputation’.  

Penal reformers were quick to use the costs of the New South Wales colony in their assault on an intransigent government that would not address the criminal problem. Bentham and his colleagues and successors argued that the cost of imprisonment and reform within a panopticon-style institution would be reduced to zero due to employment of the inmates. The British government was just as determined to minimise any opportunities for complaint. Consequently there were constant pressures on colonial governors to reduce costs in New South Wales. It is a recurring theme evident in the correspondence between the Colonial Office, the Treasury and

the various New South Wales governors from Governor Hunter’s administration onwards.

Bentham was supported by, among others, William Wilberforce, an evangelical Christian and anti-slave campaigner, who had a strong interest in the moral reform of society at all levels. It was Wilberforce who nominated the evangelical Reverend Richard Johnson as the New South Wales colony’s first chaplain. Not only did the convicts reject Johnson’s puritan ethic, but the civil and military officers were also unsympathetic. According to Hirst at that time in Great Britain, ‘worldly parents were horrified at their children taking up serious religion. They thought they would isolate themselves from all decent company and be unable to find marriage partners’. By the time of Wilberforce’s death in 1833 ‘family prayers, church going, at least outward respectability would become the norm’.  

Johnson reported to Wilberforce the depravities of the convicts and officers, many of whom had convict mistresses. In response, Wilberforce lobbied for more clergy and teachers, arguing that religion brought decency and order. The Reverend Samuel Marsden and bibles were sent, but to little effect. While Johnson returned in 1800, Marsden remained in the colony reporting to Wilberforce who became one of the most consistent critics of New South Wales society. The convicts in New South Wales could, claimed Wilberforce in 1819, ‘form a nucleus of contagion in that part of the world’. Hirst argues that the evangelicals raised the tone of the transportation debate by bringing to it ‘God’s purposes and national righteousness’.

Other law reformers influenced by Bentham included Sir Samuel Romilly, who was also influenced by the continental Enlightenment and the philosophers of the French Revolution. Also prominent were James Macintosh, a Whig, who argued in the House of Commons in 1823, for the introduction of trial by jury and other rights for

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24 Hirst, op. cit., p.16.
25 Hirst, pp.16-17.
26 Ied in Hirst, op. cit., p.19.
emancipists in New South Wales and Henry Brougham (a later Lord Chancellor), who was a slavery abolitionist as well as a penal reformer. All from 1810 used Bentham’s arguments to attack transportation, but it was not until the 1830s when the Whigs replaced the Tories that their arguments received a more sympathetic hearing.  

In the meantime, during the upsurge of crime of the 1820s, prison reformers who were arguing for adequate food and hygienic living conditions in prisons, were thought to be suggesting that prisoners should be offered conditions superior to free labourers. At this time, wage regulation and the Statute of Artificers were falling into disuse and the state’s obligation to relieve poverty was under question. The right of the state to intervene in the free market to regulate for workers’ safeguards was denied by proponents of laissez faire economic policy. In line with demands for an increase in the just terrors of the law, the government also attempted to ensure that no transported convict had an easy time of it. However, transportation was never as cheap as desired and tensions were produced with the colonies as the British government attempted to place the cost of the system on colonial treasuries.

The End of Transportation

In the 1830s, after the election of a Whig government, a great deal of reform legislation was enacted in Britain, including reform of the criminal law. Central control was established over existing prisons and the construction of penitentiaries was commenced. At this time, the anti-slavery argument was carried over to the transportation issue. The society of New South Wales was seen to be as tainted as a slave society, and was viewed as corrupt due to the impact of transportation. This argument was particularly damning for both the colony and for transportation. The majority of the government, however, continued to see transportation as a cheap and convenient solution to the criminal problem. It was largely Lord John Russell, Home

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28 Ignatieff, op. cit., p.166; Hirst, op. cit., p.20.
Secretary and Lord Howick, Under Secretary of State for the Colonies, who were opposed to transportation and who saw it as an evil. But even Russell and Howick did not want to see transportation stopped entirely, but rather for assignment to be discontinued.\textsuperscript{29}

In the colony, implementation of increased discipline in response to the debate meant increased cost and was incompatible with private assignment. But colonists objected to the concept of paying for the services of convicts either as individuals or collectively by the state and they resisted shouldering the financial burden of increased security. As financial demands by the British increased, concerns about the corruption of society by the criminal element were raised more vociferously in the colony. Free workers added their voices to the cacophony of complaints. They complained of the competition of convict labour and that political and social freedom in New South Wales was restricted by the presence of the convict and ex-convict population.\textsuperscript{30} If there was not a financial benefit to the colonists, then transportation was not to be endured. In Shaw’s view transportation was abandoned:

\begin{quote}
Not because it was too severe, but because it was not severe enough, and neither reformatory enough nor cheap enough to justify overriding colonial wishes, once these wishes had been clearly expressed.\textsuperscript{31}
\end{quote}

In 1837, William Molesworth, a Radical M.P., who was totally opposed to transportation in all forms, successfully moved for the creation of a select committee inquiry into transportation. Russell, who had decided to end assignment, co-operated with him. Howick was also appointed to the committee which ultimately brought about the cessation of transportation to New South Wales, but Russell and Howick were able to prevent Molesworth from recommending in the final report its total

\textsuperscript{29} Hirst, \textit{op. cit.}, pp.21-25.
\textsuperscript{30} Shaw, \textit{op. cit.}, pp.18-19.
\textsuperscript{31} Shaw, \textit{op. cit.}, p.20.
demise. They were happy to see the system condemned and to use the evidence to support the changes they had already decided upon.32

Although three-fifths of all convicts transported to Australia were sent after 1830, between 1832 and 1837 the British criminal law underwent reform and the prison acts of 1835 and 1839 finally began to create a national prison system. Imprisonment was introduced as an alternative to transportation and transportation was reserved for increasingly more serious crimes. From 1840 transportees were directed to the less developed Van Diemen’s Land.33

Reforms in the New South Wales Penal Colony in the 1820s

Under Governor Macquarie (1810-1821), it was claimed, convict labour in New South Wales had been insufficiently regulated. Worse, the place had the ambience of a prosperous colony rather than an austere milieu thought to be more appropriate for a penal settlement. The ‘Commission of Inquiry into the State of the New South Wales Colony’ by J. T. Bigge,34 which had as its main objective the investigation of ‘the administration of the settlements, as fit receptacles for convicts’,35 resulted in changes to the convict system. These changes were implemented across the 1820s in response to the Bigge Report and the transportation debate. They included the abolition of convict service as a method of payment to settlers and officials, closer supervision of assignment, establishment of central records, indulgences granted only for good behaviour and the stiffening of punishment at penal settlements. Despite tightening of the system by Governor Brisbane in the early 1820s, the British government remained dissatisfied.

The next governor, Ralph Darling (1825-1831), extended the recommendations of the Bigge Enquiry. He was instructed not to give ex-convicts land and to make the

33 Shaw, op. cit., p.148.
34 Report published by the House of Commons in July in 1823.

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sentence of transportation itself more severe. The cost to the British Treasury of support of the convict population was simultaneously to be reduced. Darling found that many men had been internally transported to the colonial penal settlements for trivial offences and some had been sentenced illegally. The settlements, of which Norfolk Island was the most persistent, included Port Macquarie and Moreton Bay. These sites had been established, post Bigge Enquiry, as punishment and isolation sites for convicts who had re-offended in the colony. From 1825 Norfolk Island was the ultimate place of punishment and convict degradation.36 A new Act introduced by Darling, which used road gangs as punishment gangs increased the labour supply by keeping the numbers sent to penal settlements at a minimum. This freed non-recidivist road workers for assignment.37

The Act reduced costs while enabling the development of another layer in a system designed to both punish and reward, via transfers to and from situations of varying isolation and adversity. It was an attempt to make the sentence of transportation more onerous than it had been under Governor Macquarie and his predecessors. From that time in New South Wales, male convict re-offenders could be banished to a road gang to work, in irons, at distant locations. Labourers were made available for the creation of important public facilities in unattractive locations where non-convict labour was difficult to obtain. Secondly, felons were kept out of the sight and the minds of the civilian population and thirdly, it provided a deterrent and punishment for recidivists. While the Act did not provide for the degree of classification and control of punishment demanded by advocates of the penitentiary, the reform was a refinement and a tightening of the system. Darling also favoured an initial assignment of work in irons on the roads by all transportees prior to their assignment to settlers, but was unable to implement this because of the private demand for

36 Shaw, op. cit., p.189.
37 Governor Darling to Earl Bathurst, 31 August 1826, HRA, Ser. 1, Vol. XII, pp.513-514.
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labour. There was also a view that additional punishment without additional offence, if not legally questionable, was unjustly harsh.\(^{38}\)

The Act was an attempt to dovetail the requirements of the penal system to the demands of an increasingly free society in need of public infrastructure development. However, while the work was hard, the irons did not prevent escape and one result was more runaways and bushrangers; disorder rather than order.

In a further tightening of discipline, new regulations for penal settlements were instituted in 1827 and 1829. At Moreton Bay in 1827 more than a third of the men were punished in six months.\(^{39}\) On Norfolk Island and Macquarie Harbour in Van Diemen’s Land, prisoners were worked in irons from that time. Floggings on Norfolk Island under Commandant Morrisett, between 1829 and 1834, were at the rate of one per annum per man, four times the colonial average.\(^{40}\)

**The Road Gang System**

As part of the implementation of the new system, the Office of Inspector of Roads and Bridges was created by Darling to oversee the development of the colony’s roads.\(^{41}\) Each major road was allocated an assistant surveyor to supervise works along a particular line of road. Construction was to be by convict labourers under the immediate supervision of soldiers from veteran companies and staff corps. But Darling reported in March 1828:

... their [the Corps] Misconduct has since obliged me to withdraw them, and Convicts now do the duty of Overseers, who receive a small...
gratuity according to their Merit and responsibility of 6d., 10d. or 1s 3d a day ...  

Major Edmund Lockyer, who headed the Department of Roads and Bridges, re-organized the gangs into a hierarchical structure. This was another tightening of regulations and an attempt to classify and standardise management. Iron gangs were to consist of up to 60 men under the supervision of a principal overseer with three assistants. A ‘Road Party’, which worked un-ironed, was to be made up of 50 better behaved men under the supervision of a principal overseer and two assistants. Well behaved and skilled men were to work un-ironed in a ‘Bridge Party’ of up to 25 men under the supervision of a single overseer. The gradation allowed for the classification of prisoners and institutionalised a means by which good behaviour and work could be rewarded, while advancing the development of roads in the colony. Nevertheless, Darling needed to justify the increased expenditure occasioned by these reforms. In doing so he revealed the characterisation of these convicts at the time, viz.:

When the character of the Individuals comprising the Road parties is considered, being the very refuse of the whole Convict Population, combined with the important work in which these Parties are engaged making the great leading Roads throughout the Colony, the very moderate Expense of their Superintendence cannot fail to surprise every one ... when it is considered that the very worst characters are sent out to this Country, and that the Individuals now alluded to form a part of the worst of these, being to use a popular phrase “Double distilled Villains”.

Darling further argued that the 1,260 men then employed on the roads had averted the necessity of establishing yet another costly penal settlement, where they would be ‘eating the Bread of Idleness’.  

**Development of the Western Road Network In Line with Penal Reform**

**Methodologies in the 1830s**

When Surveyor-General Thomas Mitchell, surveyed the new line of road to Bathurst, via the Mt Victoria descent from the Blue Mountains in June 1830, he selected a site for a barracks at the foot of Mt Victoria, which became known as No.1 Stockade. No. 2 Stockade Cox’s River was constructed in 1832 under Mt Walker and No.3 Stockade was constructed in 1835 at the base of Hassan’s Walls. Another stockade was also established at Bowen’s Hollow about this time and it was sometimes referred to as the Lumber Yard. At various times unironed road and bridge parties were also located at Meadow Flat, Honeysuckle Hill/Flat, Stoney Range, Diamond Swamp and the River Lett. [Figure 1.3]

An important aspect in the transportation and prison reform debate in Great Britain was the classification of prisoners which enabled the better targeting of punishment, opportunities for grading of punishment and ameliorating the chances of corruption. An ad hoc system encouraged criminality because the criminal would not believe in the certitude of detection, conviction and punishment. The crime rate in both Britain and New South Wales could be remedied if the uncertainty of the criminal justice system could be removed.

Attempts were made to refine classification on the road aside from the obvious distinctions between the ironed and unironed. It was even considered important that the ironed men and the un-ironed men were kept entirely separate, even if working in

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proximity. In late 1830, Mitchell, investigated the feasibility of separating offenders who had been sentenced to work on the roads by the Supreme Court and quarter sessions, from those who had been convicted under the summary jurisdiction of the magistrates. Applying this strategy he was able, at least temporarily, to send the more serious offenders to work at the station under Gibraltar, on the Great South Road, keeping the lesser offenders on the Western and Northern roads. But there were conflicts between the requirements of the penal system and those of road building. Work was often required in populous places that did not suit the classification of available prisoners.

Darling’s successor, Governor Richard Bourke (1831-1837) continued the process of regularising the system and enhancing security. This included a more intensely regulated assignment system as well as enhanced scrutiny of the situation of convicts in government service. Increasing security concerns were embodied in the construction of stockades. These resembled small villages in which the penal accommodation was surrounded by a high fence and required more time and labour than previously expended on the accommodation of convict road workers. The assignment system went from an almost informal institution to a system of procedures formulated by Bourke that occupied eight pages in the Government Gazette of 2 May 1832. Inevitably, complaints arose from opposing movements on the transportation issue. The concerns included the cruelty of the system, the number of convicts employed on public works that could be privately assigned, bushranging by absconders from gangs, the conflict between the security demands of the military and the practicalities of road building, and the slow pace of works. The outcome was that the administration of the system was difficult and controversial.

51 Cited in Hirst, op. cit.,p.90.
In 1832, a British Select Committee on Secondary Punishment concluded that transportation alone was an inadequate punishment unless prisoners were also sent to road gangs. But there were also concerns that such punishment led to depravity and extra expense. The committee ultimately recommended improving the punishment system in the British dockyards. As this required greatly expanded accommodation, transportation still needed to be relied on in the interim and therefore needed to be made more severe. As a consequence, the Governor’s power to grant tickets-of-leave was restricted and ticket holders were deprived of the right to own property.\textsuperscript{52} In 1834 an attempt to classify prisoners prior to their departure from Great Britain according to the ‘magnitude of their offences’ saw some newly arrived prisoners temporarily accommodated in the stockades. However, the policy was eventually found to be illegal and had to be withdrawn.\textsuperscript{53} Alternatives to transportation and the punishment of convicts once transported had been canvassed in Britain, where it continued to be felt that:

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\textit{... the life which a few of the Convicts are compelled to lead at Norfolk Island and at other of the minor penal Settlements ... [produces] but little effect upon those of their Companions in Crime in this Country upon whom it is intended chiefly to operate, when they contemplate the lot of by far the greater number of Prisoners who are assigned to Settlers, and the comparative ease and freedom from restraint which they then enjoy.} \textsuperscript{54}

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In early 1834, when Governor Bourke was informed that the British Government intended to continue transportation and to impose punishments additional to it, he warned against:

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\textit{...sacrificing the probability of reforming the transported offender in the Australian Colonies to the hope of deterring the unprincipled
inhabitants of Great Britain from the commission of crime. Undoubtedly, if punishment, appalling from its duration as well as its intensity, be heaped on the transport here, however beneficially the history of his sufferings may operate on the fears of the British criminal, it will induce a state of despair in the mind of the convict, which is to be found utterly at variance with reformation.\footnote{Major-General Bourke to Mr Secretary Stanley, 15 January 1834 in \textit{British Parliamentary Papers, Crime and Punishment Transportation}, Irish University Press, Shannon, 1971, Vol.6, p.381.}

Bourke’s letter is indicative of the increasing desperation of the British authorities to quell criticism and the pressure governors were under from the British authorities. The British government was concerned to dispel the notion that a convict assigned to a settler was better off than the labouring classes in England. The new sentencing policy which specified either servitude in a penal settlement, hard labour in chains or private assignment aimed at reinforcing the deterrence of a sentence of transportation and sought to bring some certitude of punishment to a conviction. It was intended to counter the increasingly positive reputation, in Great Britain, of the New South Wales penal experience and also served to forestall the complete abolition of transportation as advocated by critics of the system.\footnote{Ibid., pp.373-385.} Governor Bourke reminded Under-Secretary Stanley of the Colonial Office that deterrence should not be such an over-riding motive that the severity of the punishment extinguished any possibility of reform. He stated:

... 5 years of slavery before the very best conduct will obtain him any permanent indulgence ... will appear to be a sentence of perpetual severity, and be more likely to impede than promote reformation.\footnote{Ibid., p.374.}

In support of his argument Bourke outlined the measures implemented across 1829 and 1832 to regularise, control and classify punishment in order to bring some uniformity to the system, stop abuses and to bring certainty to the outcomes of poor behaviour on the one hand or of good behaviour on the other. The greater
surveillance and record keeping introduced by Bourke in 1832 has benefited this thesis as some, albeit disjointed, records of trials and punishments at No. 2 Stockade Cox’s River have survived. These have assisted in the identification of prisoners and the development of limited convict curriculum vitae.

**Appeasing the Reformers**

In terms of supervising the moral reform and inhibiting the spread of “moral contagion” averred by Wilberforce⁵⁸ and other abolitionists, Bourke included in the Regulations for the Superintendents of Ironed Gang Stockades drafted in 1832 the following instruction:

16. No gambling or trafficking in provisions or clothing is to be permitted on any account; and the superintendent will check and discountenance by every means in his power, all indecencies of manner and language among the convicts under his charge. He will also take care that no spirits or other liquors, or any other provisions than those provided by the Government, are allowed ...

...

28. The superintendent will muster every convict under his charge each Sunday, soon after breakfast; and after carefully examining their persons, will read prayers as directed by the regulations for ironed gangs ... He will take care that due decorum is observed by the prisoners ... He will also take care that such of the convicts as chooses to employ their time in reading on Sundays be not interrupted or annoyed in any way by their fellow prisoners.⁵⁹

Bourke made changes to the Summary Offences Act in 1832 which placed restraints on the power of magistrates so as to ensure a more consistent system of punishment. Under 3 William IV No. 3, the number of lashes a single magistrate could order was

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restricted to a maximum of 50 lashes for an offence. Modifications were also made to the maximum time to be spent in solitary confinement and hard labour for prisoners summarily convicted and the amount of time allowed on the treadmill was increased. New limitations were also placed on the types of cases magistrates could hear. Many more cases were subsequently required to be sent to the quarter sessions. In all courts flogging was limited to 50 lashes maximum for a first offence and 100 for a second. Bourke also favoured more regimented punishment in road gangs. To this end, the surveyors who directed convict work on the roads were made magistrates and thus had the power to order up to 50 lashes. Convict overseers were to be replaced by paid superintendents and constables. By 1834, visiting magistrates were to try more serious offences. As a result of these measures, escapes from road gangs were reduced from 265 in 1830 to 30 per year in 1833-1834.60

Prisoners also employed the rhetoric of the debate to further their situation. In May 1833, Nicholson, the surveyor in charge of the Western Road, was informed by men out of irons that in some districts such a “class” of men received an extra pair of shoes and a shirt each year, as did the men in irons. Nicholson sought to implement this on the Bathurst Road because, as he put to the Surveyor General, it was a source of discontent amongst the unironed men ‘... that those considered under penal restraint should possess advantages above those who are not’. A similar situation arose with regard to the issue of blankets and mattresses.61

To deal with the issue of the uncertainty of punishment and its lack of uniformity, in 1833 an investigation was undertaken into the possibility of standardising the effects of scourging. Magistrates were ordered to observe all floggings for the month of September and report on their effects in terms of ‘... the amount of bodily suffering which the infliction shall appear to have produced; whether evinced by the effusion

60 Hirst, op. cit., p.112; Shaw, op. cit., 214; Michael Sturma, Vice in a Vicious Society, University of Queensland Press, St. Lucia, 1983, pp. 14; 20; 24.
61 SRNSW: Surv. Gen., Letters Received from Surveyors, Nicholson, 14 Feb 1832 - 22 Dec 1834, 2/1562, pp. 224; 230; 258. R.3080
of blood, or by laceration, or other symptoms of bodily injury...’. Each lash was to be counted and care taken that it was administered ‘with due force’ and that the standard instrument was used. Three prisoners, who also did time on the Western Road, were part of this experiment. All three received 50 lashes at Hyde Park Barracks, viz.:

- Twenty-six year old John Dowlan who had absconded: ‘This boy was flogged six months ago; he cried out at the first lash; the skin was lacerated at the 13th lash; the blood came at the 19th lash, and ran down at the 24th lash. Twelve lashes would have been sufficient punishment.’62 (Within the month Dowlan had again run away, this time from No. 6 Iron Gang on the Western Road)

- Twenty-three year old William Parr, who earlier in the year had been recaptured after running from the No. 9 Road Party at Mount Victoria and who refused to work. The report recorded: ‘This man was flogged once before; the skin was lacerated at the 20th lash; the blood came at the 31st lash; he did not cry out.’63

- Twenty-three year old John Jones, who turned up on the Western Road in 1837 and 1838 was sentenced for ‘Refusing to work, and mutinous and insolent language to overseers and constables’. The report of his flogging noted that: ‘This man was flogged about six weeks ago; the skin was lacerated on the 12th lash, and blood came at the 30th lash. The man did not call out; his skin appeared hard, I should say from former punishments.’64

In April 1835, Deputy Surveyor General Perry described three classes of convict workers on the roads: firstly, there were the useful mechanics; secondly, the intelligent and well conducted labourer, including bullock drivers; and thirdly, the

63 Ibid., p.394.
64 Ibid.
insolent, ignorant and incorrigible character that was on the road because he was useless and dangerous elsewhere. Perry put forward that in order to encourage better behaviour a classification system entailing a system of rewards needed to be implemented, viz.,

... if the men were all to remain on the same footing it would perhaps be considered unjust to exact more exertion from one than another. If all had the same treatment in every respect, the same prospect of release from constraint the probability is that their exertions would be the same but by placing the intelligent, well conducted and useful men in a good situation with respect to indulgences as if they were assigned to private service, they become attached to the work and as these indulgences by usage become necessaries and suppression of them as a punishment for trifling irregularities has the effect of diminishing the number of cases referred to the magistrates.  

Perry’s proposal, or some derivative of it, was implemented on the Western Road. Forty men of the ‘second class of convicts’ were despatched to the Western Road in August 1835. As an incentive, these men were to be given the same allowances of tea, sugar and tobacco as surveying parties but had to forgo claims to be returned to assignment.

The reforms reflect the debate in England concerning the corruption of New South Wales society that came about through the exercise of summary power, an accusation that had successfully been levelled at the slave trade. It also reflected the criminal reformists’ concern to instil work habits and a shift in focus to reform of the mind rather than the body. On the roads it meant greater bureaucratization. Both Darling and Bourke were subjected to a sustained campaign of opposition in part because of

their administration of the convict system. Darling was accused of being cruel and tyrannical and Bourke, because of his sentencing reforms, of being too lenient. 67

The above accounts demonstrate the efforts made by the administration to meet criticisms concerning the efficacy of the penal system. They also illustrate its shortcomings on the reform issue. Bushranging absconders from the convict gangs lent credence to claims by prison reformers that transportation failed to reform. The activities of the absconders prompted numerous practical and administrative changes by Governors Darling and Bourke, who were under intense pressure from the British administration to ‘hose down’ the debate.

Over the ten years from 1826 some 5,000 men or 18% of males transported to the Colony spent some time in irons.68 By 1836 there were a thousand men in gangs in New South Wales. From 1837 they were entirely under the command of the Royal Engineers and all were ironed. The British interest in the situation on the ground in New South Wales was by no means merely theoretical or a case of out of sight, out of mind. The tour of convict facilities by Quakers Backhouse and Walker is indicative of the localised pressure exerted by the debate in the United Kingdom. Backhouse and Walker toured facilities, conducted interviews and reported on the convict system for the Society of Friends in Britain. Backhouse concluded that death would be preferable to a sentence to an ironed gang.69

This chapter has explained the over-riding parameters that influenced and complicated decisions in the colony. They had a direct impact on the convict experience in New South Wales, but not always the impact that was intended. In subsequent chapters the reality of the Western Road experience is examined in detail. The contexts of road building and security and convict workers add other dimensions to an understanding of how the system worked and how it was intended to work.

67 Hirst, op. cit., pp.176-177.
68 Shaw, op. cit., p.216.
69 Ibid., p.13.
Figure 2.1  This map of that portion of NSW within a 150 mile radius of Sydney shows counties and military stations in 1828. The tables indicate the distribution of crown prisoners in 1828 and 1833. The overall number of prisoners increased by 50% over these years, but the numbers at penal stations declined. [PRO: MPG 1/785]
Chapter Three

The Local Context: Colonial Road Construction - Policy, Politics and Practice

The establishment of a permanent road system extending from Sydney to the north, west and south was the major infrastructural development of the period from 1825 to 1840. It was an important economic initiative, made necessary by the movement of colonists to the Hunter, Bathurst and Goulburn areas and beyond. On the opening of Victoria Pass in November 1832 the Sydney-based newspaper, *Currency Lad* enthused:

... the settlers of that place [Bathurst] now derive the most essential advantage, especially the great wheat-growers, who are at this season busily engaged, pouring their weighty and valuable loads to Sydney for shipment, and whose teams are now enabled to ascend this stupendous mountain with comparative ease to what they had to encounter on the old and dangerous route by Mount York.¹

The opening was the product of years of searching for an alternative route to the Mt York descent. The original road across the Blue Mountains to Bathurst which had opened in 1815 had been considered dangerous and inconvenient for wheeled transport for many years. With an inclination of one in four, the descent from Mt York was particularly hazardous. It had been constructed by William Cox in six months with 30 convict labourers, all of whom were promised emancipation should they meet the contractual obligations satisfactorily.² After the ascent from Emu Ford

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the road followed the direction of the range to the highest point, the Kings Tableland, turn
ed northward to Mt York and descended into the Vale of Clwydd, near Collit’s Inn. The road then proceeded from Collit’s across the plain to a military station on the Cox’s River (near latter-day Hartley).² [Figures. 3.1 and 3.2]

Built prior to advances in road making theory that were to inform the construction of later lines of road, Cox’s Road had become an important highway as European settlement spread westward. Although Archibald Bell had discovered a new line of road from Richmond via Mt Tomah to Cox’s River in 1823, Bell’s Line remained secondary to Cox’s Road. William Lawson, of Blaxland, Wentworth and Lawson fame, constructed a new line down Mt York, c.1823-1824, which was known as Lawson’s Long Alley, but an alternative and less precipitous descent remained a constant on the agenda throughout the 1820s.³

The construction of Mitchell’s line of road to Bathurst involving the construction of a pass down Mt Victoria took place in an environment fraught with political and practical conflicts. This chapter examines macro-management issues associated with the construction of the Western Road. There is a particular focus on the impact of the breakdown of the relationship between the Governor’s office and that of the Surveyor General on the management of the road-works and on the control and penal supervision of the convict labour force. This conflict was impelled by pressures from Britain emanating from the transportation and penal reform debates. One particularly onerous development was the involvement of the military in an ill-defined supervisory capacity in a deployment they considered to be degrading. Overarching these circumstances was the constant prevailing pressure from Britain to keep the costs of the colony as low as possible and as was discussed in the previous chapter,

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²(...continued)
from the perspective of those on colonial soil, a desire to provide infrastructure for the advancement of the colony.

Scientific Road Making and its Implementation in the Colony

Road making as an engineering discipline was given a development fillip in the early years of the nineteenth century when a number of House of Commons select committees investigated means of improving road design and construction in Great Britain. In 1819 Thomas Telford gave evidence which emphasized the need for drainage, minimum convexity and the use of cuttings to avoid steep gradients. John MacAdam advocated the use of drains and culverts and in agreement with Telford, graduated layers of broken, angular stones rising to the surface. With no institute for the training of road engineers in England, civil engineers in this field were trained on the job. They included a number of surveyors who oversaw road construction in the colony.⁵

Percy Simpson adopted MacAdam’s principles on the Great North Road in 1828. Assistant Surveyor Lambie, who supervised work on the Western Road in 1831, had worked with MacAdam in Great Britain. Assistant Surveyor Elliot, who also worked on the Western Road, had been recommended by Telford. David Lennox, who was engaged to design the bridge over Cox’s River at the site of the No. 2 Stockade, had been trained by Telford. The appearance of MacAdam’s Remarks on the Present System of Road Making in 1824 also added to a broader understanding of the process. Charles Darwin, who travelled along the Western Road in January 1836, noted the MacAdam principles employed in the colony.⁶ Scatters of large angular stones, still to be seen along the line of road above Rydal (Solitary Creek), are evidence of this practice as are the series of cuttings, drains and culverts as the road rises westward

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However ‘scientific’ the road making, the constraints of the reform and punishment ideology of the penal system ensured that, while lasting infrastructure was eventually created, it was a slow and tedious process. Construction efficiencies were hampered by penal concerns associated not only with security and discipline, but also convict welfare issues, for which the assistant surveyors were often held accountable, yet had only limited powers to control. Despite attracting the wrath of Surveyor General Thomas Mitchell and compromising his career prospects, it is no wonder that Assistant Surveyor Percy Simpson, who had a large family and successfully oversaw the construction of the difficult Wiseman’s Ferry section of the Great North Road, did all in his power to avoid a posting to the Western Road. Mitchell wrote of Simpson:

He has finished very respectably my new Northern road - but in attempting lately to employ him in the same manner on the Western road - he carried on so many schemes to avoid that duty - and to be stationed in an inhabited district - that I do not value his future services much in the only capacity in which he is available at all.7

In January 1830, after the Department of Roads and Bridges was abolished, its responsibilities were transferred to the energetic, but querulous, Mitchell, who had succeeded John Oxley as Surveyor General in 1828.8 This was a cost saving measure, on the instruction of Mitchell’s patron, Secretary of State for the Colonies, Sir George Murray. The decision, imposed from Britain, also had the effect of undermining the administrative reforms, outlined in Chapter Two that had previously been implemented by Darling. On accepting responsibility, Mitchell immediately set

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about reorganising road construction and the supervision of the convict gangs. The services of the military, except for escort duties, were dispensed with. The general supervision of road work remained the responsibility of an assistant surveyor who was placed in charge of a particular line of road. Immediate supervision of ironed gangs and road parties was the responsibility of overseers, many of whom were ticket-of-leave men. Establishing a hold on the bureaucratic territory, Mitchell informed Darling ‘... any other officers who may be required for this service may be found in this [i.e., the Surveyor General’s] Department.’

**Governor Darling, Surveyor General Mitchell and the Mt Victoria Descent**

Conflict between Darling and Mitchell, the two most powerful authorities in the colony, that developed over the construction of Victoria Pass had a resonance well beyond the geographical confines of the pass. Chronologically its influence extended well beyond the 12-month period from mid 1830 when the dispute was at its height. Elements of these tensions over authority and control were still evident after Governor Bourke succeeded Darling at the end of 1831, and continued until responsibility for roads was transferred to the Royal Engineers at the end of 1836.

The surviving documentation from this dispute provides an insight into road making theory and indicates the awareness of both Darling and Mitchell of current methodologies in Great Britain. The dispute provides insights into the New South Wales colonial government’s inter-departmental politics and the repercussions and influence of British policy locally. It also provides an insight into the politics which affected life on the ground for those associated with the road’s construction and convict supervision. The following account demonstrates the impact of the clash of personalities and authority on the road building process. It illuminates the ‘high wire’

10 Mitchell to Col. Sec., 2 January 1830, NSW Governor’s Despatches to the Secretary of State to the Colonies, Vo. 44, Jan - Apr 1844, pp.219-222. ML SLNSW: A1268.
act required to manage the dual objectives of penal policy and infrastructure development.

In the late 1820s, alternative descents to Mt York were sought and several were briefly endorsed. In November 1827 Mitchell reported on possible lines of communication between Sydney and Bathurst. He recommended a new line of descent from Mt York which would join a line of road proposed by Hamilton Hume. Work on the new descent was commenced under Major Edmund Lockyer in 1828. However, after an inspection of the line of road in early 1830, Darling complained that there was ‘considerable deviation from the direction intended’ and that it would be difficult for heavy drays. He instructed Mitchell to correct it. Mitchell re-examined the route and decided on yet another line of road ‘along the tongue southward of Mt York by which a gently inclined road could be made by lowering a narrow crest of loose rock which joins two parts of the ridge.’ Despite being under instruction from the Governor to mark out the entire line and to seek approval prior to commencing work, Mitchell ordered Assistant Surveyor Elliot to move No. 2 and No. 6 Iron Gangs from Mt York to commence immediately at the new locality which he had named Mt Victoria.

The route from Mt Victoria proceeded to the River Lett, which it reached about one and a half miles above its junction with Cox’s River. This spot was selected as a bridge site and Elliot was instructed to remove the bridge over the Cox’s priority on the former line of road and to re-use the materials there. From the River Lett, the line ran along a ridge until it crossed the recently cleared road from Mt York (near where Hassan’s Walls stockade was later constructed). After crossing ‘the hollow’ (later named Bowen’s Hollow) the road gained a ridge after crossing Farmer’s Creek and proceeded to Cox’s River at the foot of Mt Walker. The line then followed another

14 Mitchell, Diary entry , 4 June 1830 cited in Foster, op. cit., p.140.
ridge to cross Solitary Creek (where the village of Rydal was later established). After traversing Honeysuckle Hill and Stoney Range it then descended and continued west to Bathurst. Collit’s Inn would now be off the main line of road. In a detailed report dated 23 June 1830 Mitchell informed Governor Darling of the new line of road and of the alternative to the Mt York descent, which he had named Mt Victoria.\textsuperscript{15} He requested that Clement Doughty, a convict who had assisted him in marking the entire line and had been briefed on the design and proposed work sites, be appointed as an overseer at Mt Victoria where work had commenced.\textsuperscript{16} [Figures 3.7 and 3.8]

The change in plan came as a surprise to Darling and a bitter dispute arose. Darling insisted that the new descent of Mt York to Collit’s Inn be completed and the work at Mt Victoria be discontinued. The Colonial Secretary conveyed Darling’s curt response in a letter of 21 July 1830 viz.:

His Excellency feels it quite impossible to sanction the alteration which you propose in the Neighbourhood of Mount York.

He laid down the general principle that:

... unless the disadvantages of any existing line of road are of a very serious nature, it is better, under present circumstances, to put up with them than commence a New Line, which cannot be completed but at considerable expense, and the abandonment of which has been accomplished at the Cost of years of Labour.\textsuperscript{17}

Darling instructed Mitchell to complete the line of descent from Mt York to Collit’s and reminded him that he should have waited ‘for the necessary authority’ before moving the iron gangs from Mt York.

\textsuperscript{16} Mitchell to Col. Sec, 23 June 1830 in Report upon The Progress Made In Roads ..., p .8.
Chapter Three: Colonial Road Construction: Policy, Politics and Practice

Contemporary road design theory called for roads to be straight, level, smooth and hard. The best roads were those that crossed the shortest distance between two points, subject to obstacles, existing towns and traffic requirements. The gradient of a road was at times considered to be a higher concern than straightness. The expense of cutting through hill sides was also a factor in the best road design. Roads that contoured along the slope were superior to those with a direct descent. Ideally, the construction process was to avoid large geological formations wherever possible, but ultimately the line was a matter of compromise between practicality and cost. While Mitchell was adept at using any argument that would suit his purpose and justify his decisions, as can be seen in figures 3.1 and 3.9 he had a strong preference for straightness. This was the principle that dominated in laying out the line of road.

Darling and Mitchell had enormous scope for disagreement. The new descent from Mt Victoria, while promising to be of an improved gradient, also entailed expensive cutting and the formation of enormous walls. Replying to Darling from Collit’s Inn, Mitchell quickly challenged the Governor’s authority over areas that Mitchell considered to be part of his jurisdiction. Citing his expertise, he defied the Governor to find a line superior to his.

Determinedly noting that he had been placed in charge of the roads department by the Secretary of State, Sir George Murray, Mitchell stated that if the Governor insisted on the abandonment of the new works, then the matter was to be referred to the British government for adjudication. He argued that the new line of descent at Mt Victoria was superior to that down Mt York and would not be superseded. Mitchell pointed out that prior to his taking responsibility for the colony’s roads (and bringing his considerable skills to the task), years of labour had been spent on two lines of road to Bathurst, including 40 miles cleared by mistake, with the result being an ill-laid out road, and a descent from Mt York which had yet again collapsed. He argued

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that the Mt Victoria descent had to be adopted because it was shorter, straighter, ran over drier ground and was of better gradient than any other lines that had been proposed. He also claimed it would be less expensive than to continue with the Mt York descent.\footnote{Surveyor General Mitchell to Colonial Secretary Macleay, 27 July, 1830, \textit{HRA}, Series I, Vol. XVI, pp.138-139.} \[\textbf{Figure 3.9}\]

Darling, on the other hand, as outlined in Chapter Two, was under pressure from the British administration to keep to a minimum the costs of the convict system then under sustained attack in Great Britain.\footnote{As outlined in Chapter 2.} He was concerned about the waste of effort and funds that had been expended on modifying the line from Mt York. As Brian Fletcher has pointed out, Darling, in implementing administrative reforms had also faced resistance to his authority from Mitchell’s predecessor, Surveyor General Oxley, and other senior officials who were reluctant to co-operate with the Governor. In the words of Darling there was:

\begin{quote}
An indisposition on the part of the Departments in general to conform to the Regulations laid down. They have been so long accustomed to act for themselves, that any attempt to establish system appears to be considered an unnecessary and burdensome restraint.\footnote{Mitchell however, was the most obstructive.}
\end{quote}

Mitchell however, was the most obstructive.

On 23 August 1830, the Colonial Secretary responded to Mitchell’s letter of 27 July and pointed out that Mitchell had been instructed by the Governor to lay down a line of road ‘from Collit’s to Bathurst’. That descent was based on Mitchell’s report of 1827 and no alternative was under consideration. While the letter was less strident than that of 21 July, it nevertheless concluded that the works at Mt Victoria were to be abandoned and the Mt York descent repaired.\footnote{SRNSW: Col. Sec., Copies of Letters Sent to Surv. Gen., 20 May 1830 - 7 Oct 1830, 4/3908, p.343. R.3015.} But in a memorandum to the Governor of 30 August Mitchell persisted, and again reiterated his arguments for the
new line and optimistically (and falsely) claimed the descent of Mt Victoria could be practicable in six more weeks. He further claimed that the current swampy route via Mt Blaxland was nearly impassable and ten miles longer. Mitchell again sought permission to continue with the Mt Victoria descent as the iron gangs ‘are already hutted there’ and that only three other points on the new line would require extensive work. In defiance of the Governor, Mitchell continued the work at Mt Victoria and finally in September 1830, Darling capitulated and gave permission for the Mt Victoria descent.

At that time, Darling was attempting to cut costs by reducing the number of convicts in government employment, using only the worst offenders in the gangs, convicts whom settlers were unwilling to take on assignment. Darling’s attitude to Mitchell’s unilateral decision to discard years of investment without clearance from the Governor, who was ultimately accountable to the authorities in Britain, has to be understood within the context of the agenda of the British administration. That agenda was cost minimisation and the implementation of the penal reform philosophies of punishment, deterrence and reform. Goals which, at times, were contradictory in their implementation.

Evidence of this pressure can be found in Darling’s attention to the minutiae of the works, an interest that Mitchell viewed as intrusive. For example, in January 1830, Darling expressed the wish to be informed of the distribution of ‘the parties on the several Principal Roads under the respective Surveyors’ and put forward the view that a few men should be placed permanently at Lapstone Hill to repair damage after heavy rain. He directed Mitchell’s attention to the state of the drains, complaining that ‘invariably the Barrel Drains were choked by the rubbish and loose stones ... His Excellency thinks that Surface Drains, if judiciously constructed, may be substituted with much advantage’.

23 Mitchell to Darling, HRA, Series I, Vol. XVI, pp.141-142.
This involvement in the day-to-day management issues also characterised Bourke’s administration. For example, when William Field, John Breilsford and James Shea escaped from a messenger escorting them to the hospital, Bourke ordered that the messenger be deprived ‘of whatever indulgence he may receive in that situation’.  

Another security measure almost obsessively followed up by Bourke was the use of French basil irons, which had been made compulsory in October 1831. These feature prominently in the correspondence across 1832 as the Governor insisted on their use, despite the fact that by mid February 1832, only 378 of the required 500 pairs had been delivered by the Commissariat. Bourke was still chasing up irons with the Commissary mid-year. Such attention to detail is a testament to the intense pressure emanating from Great Britain with regard to the deterrent qualities of transportation and the security of the system. The governors needed to keep Mitchell’s decision making within the overall fiscal and policy constraints imposed on them from Great Britain. As Governor Bourke later tersely informed Assistant Surveyor Nicholson:

> The intention of the Government in authorizing the employment of convicts upon the roads especially in the ironed Gangs is to provide a place where they may be subject to Penal Discipline, but where their labour may be rendered more immediately useful than at a distant settlement.

The control of expenditure in the colony generally was a long-standing bone of contention between the colonists and the British administrators. As early as June 1826 the issue of tolls on roads, raised in the *Sydney Gazette*, reveals some of the tensions emerging in the colony concerning the funding and development of colonial infrastructure. The article irritably observed:

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28 SRNSW: Col. Sec., Copies of Letters to Surveyor of Roads and Bridges, 3 Jan 1831 - 31 Mar, 1832, 4/3935, pp.56-57. R.3002
Chapter Three: Colonial Road Construction: Policy, Politics and Practice

The people of Parramatta, we understand, are completely hemmed in with toll-gates. If these barriers to free and untaxed exercise and recreation are thought necessary to exist, it would be a pleasing prospect to open the Government Domain as a public promenade ...  

In the mid 1830s the British Solicitor General, Horace Twiss, rejected an argument from the New South Wales Chief Justice that the objects of the Transportation Acts were the punishment of criminals rather than to save government expense, stating that ‘...the Acts of Parliament, relative to transported Convicts had in view the saving of Expense to the Government, and not the dispensation of mere boons to the Settlers ...’.  

While the Mt Victoria descent saga was being played out, Darling, in an attempt to curb Mitchell, resurrected the Department of Roads and Bridges and appointed Surveyor Nicholson to head it. Instructions were issued that surveyors were to take instruction from Nicholson, rather than Mitchell. Mitchell, having only obtained control of Roads and Bridges six months previously, was incensed and by December was complaining to Murray of unfair treatment at Darling’s hands. From Darling’s point of view, Mitchell was a megalomaniac who wished to control roads, land grants and exploration. Darling felt Mitchell was jealous of any of his staff receiving recognition for their achievements. He justified Nicholson’s appointment on the basis that Nicholson, who was employed to work in the Road Department of the Surveyor General, could not get out of the office to view and report on work, and that no information on the progress of road works was available in Mitchell’s frequent absences. According to Darling, it was the convict overseer, Clement Doughty who was instructed by Mitchell as to the construction of the new line, despite the presence of an assistant surveyor on the spot. Darling felt this was because Doughty, as a convict, was unlikely to take any glory from Mitchell. On 25 October 1830, Darling ordered the dismissal of Doughty, but Mitchell appealed and Doughty’s employment

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29 5 June 1826, p.2.
at Mt Victoria was extended until the end of the year when the work there was expected to be more advanced.\(^{31}\) Mitchell was yet again victorious and Doughty was employed on the road until mid 1833 when he was (falsely) charged and convicted of a violent rape at Bowen’s Hollow.\(^{32}\)

The administrative, economic and political climate reflected in the above episodes provides some insight into Darling’s reaction to the abandonment of a year’s work on a line of road, originally endorsed by Mitchell, on the discovery of an alternative. In justification, Mitchell later claimed to Murray that he was correcting the deficiencies of the line of road constructed in 1829 by his predecessor in the Roads and Bridges Department, Major Lockyer. He claimed that when he took up his position, the road works were so flawed as to be useless.\(^{33}\)

By mid 1831, some 18 months after the removal of gangs to Mt Victoria, the old road was practically impassable and Governor Darling instructed Nicholson to open the new line of road between Mt Victoria and Bathurst as soon as practicable and to perfect it later. A permanent military station was to be erected at Meadow Flat and police stables at Cox’s River (near Hartley).\(^{34}\) Shortly after these events, control of the Road Branch reverted to Mitchell when Viscount Goderich, who had succeeded Murray, backed Mitchell in the dispute with Darling.\(^{35}\)

**Convict Management and Road Making - Incompatible Bed Fellows**

In September 1830 in the midst of the acrimonious tussle over ultimate authority in the road department, Governor Darling issued detailed regulations for the management of convict road workers. While these pertain specifically to the gangs at

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\(^{32}\) SRNSW: Supreme Court, Criminal Jurisdiction, Informations and other papers 1824-1947, CGS 13477, T 35, No. 24; Supreme Court, Criminal Jurisdiction, Clerk of the Peace, Papers and depositions, 1824-1836, CGS 880, T.157; Cook, *op. cit.*, p.29-31. The ‘setting up’ of Doughty is discussed in Chapter 7.


\(^{34}\) SRNSW: Col. Sec., Copies of Letters to Surveyor of Roads and Bridges, 3 Jan 1831 - 31 Mar. 1832, 4/3935, p.73, R.3002; Surv. Gen., Letters Received from Surveyors, Nicholson, 2 Jan 1830 - 25 July 1831, 2/1561.2, R.3080.

Portland Head under the supervision of Assistant Surveyor Percy Simpson, there is evidence of their later implementation on the Western Road. For example, the stockade at Cox’s River, which was constructed in 1832, generally conformed to Darling’s prescribed design. From that time, all runaways from ironed gangs were to be worked in heavy irons on their recapture and those from road parties were to be sentenced to an iron gang.

Both the assistant surveyors and the military officer in charge of the guard were jointly responsible for the prisoners wearing appropriate irons. Irons were to be flat, two inches in breadth and with the chain about nine pounds in weight. There were heavier versions for ironed men under an additional sentence. The prisoners were to be mustered in the presence of the military three times daily and, while the military’s responsibility was to act as a guard, they were required to point out to the overseer idleness and irregularities. Parties of soldiers were to pursue absconders. The most serious offenders were to be considered as a ‘distinct class’. An assistant surgeon linked with each military detachment was to have responsibility for the convicts’ health.\(^36\) The regulations reflect a tightening of controls on the gangs, while the use of terms such as ‘distinct class’ reflects the language of the British debate concerning crime, punishment and reform. The operation of penal discipline and particularly security as well as regulations for convict welfare were overriding concerns in the management of the road gangs on the Western Road. The meeting of these concerns and the technologies and exigencies of road making produced various conflicts that were not conducive to smooth or speedy road making. The ambiguities of responsibility embedded in the joint management of the road gangs by the surveyors and the military are further discussed below.

The convict administration and the penal regulations associated with convict welfare and reform had the potential to hamper road construction and defeat genuine efforts

to manage the effective deployment of labour and ever-scarce resources. For example, ironed gangs were only allowed to work at a distance of less than three miles from their accommodation. When Assistant Surveyor Nicholson moved the iron gangs from No.1 Stockade Mt Victoria to No. 2 Stockade Cox’s River the prisoners celebrated with a riot. The accommodation at the No. 2 Stockade was badly damaged and Nicholson repaired it with materials removed from Mt Victoria. Nicholson’s decision to dismantle the Mt Victoria stockade was to cause a great deal of angst and ultimately contributed to his dismissal.\textsuperscript{37} He had acted in good faith, attempting to resolve the problems of repairs to No. 2 when materials were scarce and with the understanding that the Mt Victoria Stockade was redundant. But the collapse of a wall at Mt Victoria raised the possibility of reoccupation of the stockade in early 1833. Nicholson had to admit to the demolition of the Mt Victoria Stockade and the necessity to rebuild it. He anticipated it would take at least ‘...three months, if any definite period could be calculated upon, in the present inefficient state as to the supply of Tools and Implements that exists in this District’.\textsuperscript{38}

The No. 2 Cox’s River Stockade was intended to improve efficiency and economy by retaining the heavier security arrangement in this one location. The problem was the restrictions on the distance gangs could be marched and the type of work required in the vicinity. A move back to Mt Victoria would resolve the distance issue, but prisoners from Cox’s River were unlikely to be happy in the less spacious housing available at Mt Victoria, so that more destructive, riotous behaviour could be anticipated. For Nicholson it was a ‘no win’ situation.

The assistant surveyors were largely dependent on ticket-of-leave overseers for the implementation of the work. The overseers were sometimes difficult men who indulged in petty politics of their own. Their precarious status as convicts made them

\textsuperscript{37} SRNSW: Surv. Gen., Letters Received from Surveyors, Nicholson, 14 Feb 1832 - 22 Dec 1824, 2/1562, pp.268-269. R. 3080.
vulnerable to the vagaries of penal justice and had the potential to complicate their employment on the Western Road. The effect was reduced consistency and continuity in the management of the road gangs. For example, No.6 Iron Gang and No. 2 Iron Gang, which were stationed at Mt York in 1830 were under the alternating immediate supervision of overseers Christopher MacDonald and William Bruton. In early 1830 Bruton assaulted MacDonald in a disagreement over the exchange of gangs. As a consequence, Bruton was deprived of his ticket-of-leave by the Bathurst Bench of Magistrates and became ineligible to retain the position of principal overseer of a gang.\(^39\) Despite the protestations of Lieutenant Kirkley who was in charge of the works, that MacDonald was the original aggressor and the assertion that Bruton was ‘one of the best overseers I have on the mountains’,\(^40\) Bruton was sacked. Confirming Kirkley’s low opinion, it was not very long before MacDonald was dismissed. In that instance, he was charged by Mitchell for falsely obtaining a pass from Assistant Surveyor Dulhunty and for gross insolence towards Assistant Surveyor Elliot. Although the charges were less serious than Bruton’s conviction for assault, McDonald’s ticket-of-leave was also rescinded by the Bathurst bench. Fortunately for Macdonald, Governor Darling intervened and ordered that while he could be sacked he could not be deprived of his ticket-of-leave.\(^41\)

These circumstances were only a temporary inconvenience to Bruton and MacDonald, who were both lifers from Ireland. It did not take them long to recover from the professional set back. By 1832 Bruton was back in charge of an ironed gang at Mt Victoria and in 1835 MacDonald was lock-up keeper at No. 2 Stockade.\(^42\) The records reveal numerous opportunities for a variety of officials to intervene in the

\(^{39}\) SRNSW: Surv. Gen., Letters Received from Surveyors, Nicholson, 2 Jan 1830 - 25 Jul 1831, 2/1561.2, p.63. R. 3080; Courts of Petty Sessions; CGS 2772, Bathurst, Bench Books, 28 Dec 1832 - 19 Mar 1833, 2/8324, pp.147-150. R. 663; Clerk of the Peace, Quarter Sessions, Depositions and Other Papers, CGS 845, Bathurst, 4/8369, pp.47-59. R.2395. A few years later, convict status did not inhibit occupation of this position.

\(^{40}\) SRNSW: Surv. Gen., Letters Received from Surveyors, Nicholson, 2 Jan 1830 - 25 Jul 1831, 2/1561.2, p.64. R. 3080.


management process and just as many opportunities to subvert that intervention. The assistant surveyors juggled the repercussions on all fronts.

Another example of the inconsistencies and frustrations involved in the management of a convict workforce is presented by Assistant Overseer John Skeen. About the time of the Bruton-MacDonald altercation, Skeen was found using a government cart to transport settler George Cox’s wool. Yet, after Bruton’s dismissal Skeen was promoted to overseer of No. 2 Iron Gang and later took charge of No. 9 Road Party. This party, while under his supervision, was responsible for numerous robberies and cattle slaughter at Mt Victoria. They were renowned for their poor behaviour and the subject of a lengthy, but ineffective, diatribe by Mitchell in October 1833. Skeen married the daughter of Collit, who was opposed to the abandoning of the Mt York descent and to whom Mitchell had a particular antipathy. To Mitchell’s annoyance Skeen, with the assistance of Collit, later established an inn at the foot of Mt Victoria within range of the gangs working there. Mitchell, with the power and status of Surveyor General, was unable to prevent it. [Figure 3.11]

On other occasions effective overseers were ‘set up’ to lose their jobs and more seriously, their liberty. On 15 November 1834 Ephraim Whiting, the overseer of the Bridge Party, was in Nicholson’s opinion, falsely charged with highway robbery. The charge may have been a means of sabotaging the progress of work or a personal vendetta against Whiting. He had arrived in 1829 on a 14 year sentence for theft but had quickly bettered his position. Whiting was a carpenter by trade and had accompanied Mitchell on one of his expeditions into the interior and was rewarded with a ticket of leave in March 1832. In July 1832 he was appointed an assistant overseer and in December of that year was made principal overseer of the Bridge

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44 SRNSW: Surv. Gen., Letters Received from Surveyors, Nicholson, 14 Feb 1832 - 22 Dec 1824, 2/1562, pp.482-483. R. 3080: The possible reasons for Whiting’s ‘set up’ are discussed in Chapter 8.
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Party. The charge was referred to the court at Bathurst as, while Nicholson believed the accuser to be of very poor character, he did not believe he could deal with the matter himself. Whiting was convicted and a new overseer had to be found.46

Despite the opening of Victoria Pass in November 1832, construction on the pass continued over the next six years.47 The regulations concerning the management of convict labour prevented the assistant surveyors and the Surveyor General from managing the work force as effectively as possible. Good workers such as Bruton, could be lost (albeit temporarily) because of relatively minor infringements and altercations; influential private settlers could illegally use government resources; effective overseers could be undermined, indeed ruined; and punishment of schemers, such as MacDonald and Skeen who were not trustworthy, could not always be achieved.

Governor Bourke’s Reforms and the Military Presence on the Western Road

Governor Bourke, who came to power at the close of 1831, was in favour of further increasing the military’s control of the convicts and during his administration gradually enhanced their power until, as noted earlier, full responsibility for road construction was transferred to them. In the interim, continued wrangling over control of the road construction process and the supervision and management of the convict workers characterised the construction process. The conflict was a constantly debilitating factor that undermined the efficiency of both infrastructure development and penal policy.

By mid 1832, relations with the military and security provisions were seriously hampering the progress of work on the road. For example, when Captain Church,
commandant of the military detachment at Mt Victoria, reported the escape of John Lomas and Buchanan Wilson he attributed their escape to the negligence and disobedience of orders of Overseers George Morley and Thomas O’Neill. As a consequence, Governor Bourke ordered that both were to be sacked. 48 Assistant Surveyor Nicholson was sympathetic to the position of the overseers who were responsible for the daily implementation of works which, in his view, were hindered by the military. The ironed gangs were required by the military to be worked so closely together that they could not be efficiently deployed. Worse, despite the military’s sole responsibility being only to watch the men, the overseer, whose role was to direct and guide the works, suffered greater penalties than the soldiers should an escape occur. The soldier, said Nicholson, lost his ration of grog, but the overseer lost his job. In Nicholson’s opinion, the best overseers were the most vulnerable on this count due to their greater practical involvement and interest in the work. The loss of good overseers and the difficulty of finding competent replacements further delayed progress. In his words, ‘...the fact is that the military who have only to watch the men throw the blame of every escape on the overseers’. 49

[Figure 3.12]

Mitchell took up Nicholson’s concerns and wrote to the Governor requesting that Morley be reinstated because ‘his services are highly useful’. However, the Governor concluded that both Morley’s and O’Neil’s conduct had been ‘very improper’ and that he would not consider their re-employment. Bourke also disputed the account of the disparate treatment of the soldiers and overseers in such circumstances. He did, however, recognize the inconvenience caused by the loss of skilled overseers and suggested that Mitchell propose a means by which the superintendence of work and the custody of the gangs could be separated. He stated that he would be ‘glad to accede’ to an arrangement that did not involve ‘too great an expense’. 50 Nevertheless, the gangs continued to be kept in one body and sometimes when there was only

enough work for a few men, the remainder were idle. At times they were so crowded that they could not even freely move their arms.

Nicholson was still attempting to resolve this predicament in 1834 when he discussed the inefficient work situation with officers at the stockade. To no avail, he recommended that idle gang members should be worked elsewhere within sight and hearing. Mitchell was equally ineffective when he again took up the issue with the Colonial Secretary, drawing on the efficiencies ‘at Emu [Plains] where no similar inconvenience has been imposed by the Military Officer much more work has been accomplished with less than half the men in half the time’, to bolster his case.

Relations between the surveying department and the military were often strained. The military viewed their involvement with the convicts as degrading and they were adamant about the limitations to their involvement and the degree of responsibility they would accept. The assistant surveyors were often by-passed by the military when problems arose in situ. This situation was not appreciated by the governor’s office, which expected those ‘on the ground’ to work out the logistics of the work process. From an assistant surveyor’s point of view, the attitude of the other departments made this difficult. Even when there were no complaints concerning security, there were issues concerning the state of the accommodation and the slow progress of the road. The issues were exacerbated by the acrimonious relationship between the Governor and the Surveyor General. With the Governor’s office alienated from that of the Surveyor General, the military could generally rely on the Governor’s backing. Meanwhile, road parties which were unironed, not stockaded and not under a military guard were the instigators of crime in their localities. At times they operated in association with, or at the behest of, their overseers.

51 SRNSW: Surv. Gen., Letters Received from Surveyors, Nicholson, 14 Feb 1832 - 22 Dec 1834, 2/1562, R.3080.
Continued Marginalisation of the Surveyor General’s Department

In September 1832, Bourke further segmented control by placing the overall supervision of the gangs under the control of the Principal Superintendent of Convicts. The surveying department was to be responsible only for supervising road construction and facilities maintenance. Each morning the convicts were to be handed over to the military guard who escorted them to where the overseer directed. Bourke complained that it:

... was a general and well founded complaint that little labour was performed by convicts and that frequent escapes from the gangs filled the roads with robberies.

From Mitchell’s point of view as Surveyor General, tensions between the demands of the surveying department concerned with road construction; the military concerned with security; and the superintendent of convicts concerned with welfare and reform, lengthened and complicated the road building task. Lieutenant Colonel Breton, a regimental commander in New South Wales in the early 1830s, gave evidence to the Select Committee on Transportation in 1837. His evidence provides an insight into the attitude of the military, their arrogance, their ambiguous view of their role and their resistance to the perceived demeaning of their status from soldier to gaoler. The difficulties such attitudes posed when expressed on the ground in the course of work were considerable. While acknowledging that the gangs were under civil overseers, Breton’s contradictory evidence overstated the military’s responsibilities, claiming they were head managers with overall superintendence. However, when it came to responsibility for escapes, or the convicts going into public houses, or refusing to work, he was cautious, stating that the instructions were:

55 Bourke to Goderich, 3rd November 1832, HRA, Vol. XVI, p.788.
... unclear on that point .... I said I would have nothing to do with the
convicts beyond the mere circumstance of guarding them .... 56

Under Breton, the duty of a soldier was fulfilled if a full complement of prisoners
was returned at the end of the day. His soldiers guarded but did not speak to them.
Nor would he allow them to be involved in the retaking of absconders as this was the
responsibility of the mounted police. He further claimed that the nature of the duty
imposed upon the military in guarding the gangs had the worst effects upon the
character and discipline of the soldiers who became demoralized and reckless. This
was partly from drunkenness, which was rife, but also because of their association
with prisoners. Although many of the military were accompanied by their wives and
children, the isolated conditions must have been irksome. According to Breton many
soldiers found their fathers, brothers and other relations amongst the convicts.
Finding relatives in the degraded situation of the gangs was a reminder of the fine
line that separated the military from their charges. Another unpleasant reminder was
the disproportionate representation of military prisoners in the gangs, soldiers who
had deserted, been insubordinate or convicted of some other military offence. 57 The
soldiers, in a practical sense, had little more freedom than the prisoners.

The fractured nature of authority and responsibility in this area continued to be
unresolved. It appeared from the Governor’s point of view:

... that the officers of your Department consider the Act of the
Governor and Council 3 William IV No.3 relieves them of all
responsibility as to the safe custody of the Convicts under their order,
I have further the honour to request that you will inform them, and
through them the Overseers, and assistant Overseers, that although the
legal custody of the Convicts on Ironed Gangs is in the
Superintendent, yet the former are bound to use their best endeavours

56 ‘Minutes of Evidence taken before the Select Committee on Transportation’, British Parliamentary
57 ‘Report from the Select Committee on Transportation’, p.xiv in British Parliamentary Papers Crime
and Punishment Transportation 3, Irish University Press, Shannon, Ireland.; See Chapter 6 for a
discussion of who were the convicts on the Western Road.
to prevent the escape of a convicted Felon; and that if it shall be made known to His Excellency that the escape of such a man has been precipitated by the carelessness, or neglect or failure of any obvious and necessary precaution on the part of any Overseer, or Assistant Overseer, such person will be immediately dismissed from his employment.\(^{58}\)

Despite what appears to be an inequitable division of responsibilities, in February 1832 Governor Bourke instructed that the principal overseer of a gang would lose three day’s pay for every escape. In a more positive vein, a bonus of a month’s salary was to be awarded to the assistant overseer who lost the least men. At the same time to increase surveillance and security, the number of overseers was increased with an assistant appointed for every twelve men.\(^{59}\)

The problem posed by continuing escapes on the Western Road had convinced Bourke that a military guard was essential, not only while work was being performed on the roads but at the stockades where the gangs were accommodated. By December 1834 because of the conflict between the civil superintendent and the military, Bourke wanted to attain unity of operation ‘by placing under one head the stockade or appelage of wooded Huts in which a Gang of these men is confined’.\(^{60}\) He also intended making the military officers commissioners of the peace so that they could apply immediate punishment.

Deployment of men between gangs and road parties and along the road was also an issue. Although it had been requested in December 1834 and again in June 1835 that 40 men be transferred to the quarry at Bowen’s Hollow under military supervision, by September 1835 no men had yet been stationed there to cut the stone for the

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\(^{59}\) SRNSW: Col. Sec., Copies Letters to Surveyor of Roads and Bridges, 3 Jan 1831 - 31 Mar, 1832, 4/3935, pp.231-232, R.3002

\(^{60}\) PRO: Bourke to Spring Rice, 34 December 1834, T 1/4347.
bridges which were well behind schedule.\textsuperscript{61} Assistant Surveyor Dulhunty, who had replaced Nicholson, was struggling with insufficient numbers in the road parties. He complained of:

... having no authority whatsoever with respect to disposal of the ironed Gangs ... the principal part of the labor employed upon the line of Road is centred in the Iron Gang at Cox’s River over the movement of which I have no control.

Dulhunty explained this was because:

I had not the power of locating part of the Ironed Gang now at Cox’s River this duty entirely resting with Captain Faunce who is placed solely in charge of the Ironed Gangs.\textsuperscript{62}

Problems with the arrogant attitudes of the military plagued the system until the transfer of responsibility for road works to the Royal Engineers in 1837. In one of the last confrontations in late 1836, Overseer Taylor of the No.11 Road Party, a free immigrant and according to Deputy Surveyor General Perry, one of the best overseers in the country, was dismissed because he had failed to salute Major Messiter. That the major was not in uniform, but dressed in leathered overalls and a straw hat, was unknown to Taylor and had addressed him abusively, was beside the point. Taylor was accused of having ‘put his hands in his pocket’ and ‘assumed an insolent air’. In a creative argument Perry pleaded for Taylor’s reinstatement on the basis that Taylor was naturally uncouth and therefore had not been deliberately insulting.\textsuperscript{63}
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Conclusion

During the construction of the Western Road there were numerous tensions which hindered its completion. Such tensions include:

- The Surveyor General’s desire to build lasting roads and the pressure for roads to be expeditiously completed.
- The conflict between the labour requirements of the road making process and the requirement to implement current penal methodologies.
- The challenge of motivating and controlling a workforce suffering a sentence of penal servitude
- The management conundrums created by split jurisdictions within which there was no culture of co-operation or sense of a common achievable goal, that is, the construction of the road. This was most pronounced, between the convict, military and surveying departments, but could also include the commissariat, public works and hospital departments.
- The logistical problems of providing adequate and secure housing and supplies for the convicts, military guard and civil administration drawing on the same workforce that was allocated for roadworks. And
- Pressures from Britain to keep the costs of the penal system to a minimum.

These tensions will be explored more fully in Chapter Four, which looks at the practicalities of managing the road works, and Chapter Five, which examines the convict infrastructure associated with the road work. In detailing road construction and infrastructure development, these chapters will demonstrate the ways in which these tensions were manifest ‘on the ground’.

Significantly, however, it was the conflict between the two key government officers, the Governor and the Surveyor General that underpinned the damaging impact of these tensions to the success of works. This was a situation fuelled by Mitchell’s quest for recognition and power. Mitchell had won the initial battle with Darling. But
his recourse to intervention by the administration in Britain meant that Governors Darling and Bourke were wary of him and a relationship of distrust developed between the two most important departments of government. Over the history of the road’s construction, Mitchell’s control was incrementally eroded by administrative changes. His power was curtailed under the guise of refining the system to better meet the penal reforms and security provisions demanded locally and in Britain. Other issues noted above, such as the attitude of the military and the superintendent of convicts who showed little sympathy for the road building enterprise also played their role. To a large extent this was because the surveying department lacked the support and confidence of the Governors and as a consequence other departments were disinclined to work pro-actively with the road makers. The prerequisites of road building were never a dictating factor in reforms to the road gang system which were imposed from outside the Surveyor General’s department, but rather it was the management and control of the convict work force that had priority. This situation compromised the efficiency of the road building process.
Figures

Figure 3.1

Sketch of the Roads to Bathurst shewing the relative situation of the principal heights shows the first station on the Cox’s River on the road in use in 1827, it also shows both Hume’s (highlighted in blue) and Mitchell’s (in red) suggestions for alternative routes and the principal landmarks of the region, including the Stoney Range, Honeysuckle Hill and Mt Walker. At this time a decent from Mt Victoria is clearly not under consideration - it is not even on the map. [T.L. Mitchell, ‘Report on the New Line of Road Toward Bathurst, 29 November 1827’, in Report upon The Progress Made In Roads and in the Construction of Public Works in New South Wales From the Year 1827 to June 1855 By Colonel Sir T.L. Mitchell, Surveyor General, Government Printer, Sydney, 1856.]
August Earle’s View from the summit of Mount York, looking towards Bathurst Plains, convicts breaking stones, c. 1826. The military man (in the red jacket) gesticulating toward the men indicates that this depicts the time when the veteran companies and staff corps oversaw the works. The view shows the perilous drop of the road as it descended the mountains and explains the search for an alternative route. [Source: National Library]
Figure 3.3 Pictured are angular rocks along the line of road on the Honeysuckle Range in 2003. These are remnants from the macadamising process (the term derived from MacAdam’s name) which involved successive layers of graduated broken stone that became increasingly fine toward the surface. [S. Rosen, 2003]
Figure 3.4  A remnant cutting on Mitchell’s line of road as it rises from the Cox toward Solitary Creek. Cuttings such as this took an enormous amount of work and greatly lengthened the construction process.[S. Rosen, 2003]
Figure 3.5  Remnant drainage works on the former line of road across the Honeysuckle Range in March 2003. [S. Rosen, 2003]
Figure 3.6 Remnants of a culvert located on the road as it rises from the Cox toward Rydal (Solitary Creek) constructed by the convict iron gangs and road parties in the 1830s. [S. Rosen, 2003]
Figure 3.7  Plan of Major Mitchell’s New Line of Road from Mount Victoria to Bathurst, 1830. Drawn by Surveyor Dixon this plan indicates Mt Walker, the Cox’s River and the military station on the River Lett near Cox’s River and Solitary Creek the site of latter day Rydal. [SRNSW: AO Map No. 5057]
Figure 3.8

*Sketch shewing the different Lines of Road descending from the Blue Mountains towards Bathurst*, 1830 indicates Mt Victoria, Major Mitchell’s marked line as far as the River Lett, the old road down Mt York and the current descent from the mountains near Darling’s Causeway. This plan which was clearly generated within the context of the Darling-Mitchell dispute shows the alternative gradients of the descent between points A-C (behind Collit’s as insisted on by Darling) and A - B (by Mt Victoria as demanded by Mitchell). [T.L. Mitchell, *Report upon The Progress Made In Roads and in the Construction of Public Works in New South Wales From the Year 1827 to June 1855 By Colonel Sir T.L. Mitchell, Surveyor General*, Government Printer, Sydney, 1856.]
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SKETCH shewing the different LINES of ROAD descending from the Blue mountains towards BATHURST

[Map of the area with labeled locations such as Mount York, Bathurst, and other geological features.]
Figure 3.9

This map of the Western Road, dated 1830 is based on the 1827 plan [Figure 3.1] and was added to for an unknown number of years across at least the 1830s. The sections marked in red are portions of the road that needed to be made passable for carriages and are areas of substantial work. It is near the section on the Honeysuckle Range that large areas of remnant stone from the macadamising process can be found [Figure 3.3]. The plan indicates Hassan’s Walls and Bowen’s Hollow. After crossing Solitary Creek where a village reserve is marked [this became the site of Rydal], the Honeysuckle Range, and Meadow Flat Creek are indicated. Mt Clarence, off the line of road, became the base for the assistant surveyors. Mt Kirkley has been recently identified as a potential archaeological site associated with the works on the road. The road cleared by mistake is also marked.[SRNSW: AO Map No. 5027]
Figure 3.10

This Sketch of the Lines of Road to Bathurst prepared by Surveyor Larmer in 1832 is yet another plan generated due to the dispute over the line/lines of road to Bathurst. The main geographical features referred to in official correspondence concerning the stockade and its associated gangs are indicated. Also indicated is the line cleared by mistake by Major Lockyer, Mr Hume’s line, Major Mitchell’s new line, a line proposed by former Governor Brisbane and lines then currently in use. Pencilled faintly is the site of the Frying Pan Creek bridge.[SRNSW: AO Map No. 5029]
Figure 3.11  A view of a flourishing *Victoria Inn* at Little Hartley by Conrad Martens, established by former overseer “Brummy” John Skeen and his wife (nee Collit) in the 1830s. [Dixson Galleries, State Library of NSW]
Figure 3.12  In this view of convicts on the Western Road working on Mitchell’s Pass to the Pilgrim Inn, the eastern ascent of the mountains near Emu, the soldiers can be seen on sentry, guarding, but not interacting with the convicts. The overseer on the left is giving instructions. [View taken on Mitchell’s Pass to the Pilgrim Inn Dec5, 1832, Anon. Mitchell Library, State Library of NSW]
Chapter Four

Construction of the Western Road

This chapter documents and explains the distribution and the organisation of work on the road. It demonstrates the ‘on ground’ manifestations of the tensions and conflicts, discussed in Chapters Two and Three, which were confronted by the assistant surveyors in the course of fulfilling their responsibilities. It facilitates the identification of factors which caused construction of the Western Road to extend far longer than expected and throws light on questions surrounding the competency of the road builders.

Distribution and Organisation of the Workforce

In April 1830, the focus of work on a western descent from the mountains was still Mt York. No.6 Iron Gang was at the top of the mount while at the bottom, No. 2 Iron Gang had left off forming the road to repair that near Collit’s Inn. Further west, a bridge party was rebuilding the washed away River Lett bridge. Repairs, such as these to relatively recent work, constantly retarded the general progress of the road during the entire construction period.¹ [Figure 4.1]

After the discovery of the Mt Victoria descent, Mitchell planned new convict stations for sites where cutting was required or bridges needed construction. These were to be given initial priority in the road building program. Seventy men were to be stationed at Cox’s River, near Mt Walker, where the No. 2 Stockade was later established. Twenty were to construct the road around Honeysuckle Hill under an assistant overseer with the principal overseer visiting every couple of days. The remainder

were to work on constructing the road on either side of the Cox’s River crossing. The 30 strong Bridge Party on the River Lett was to be strengthened to 50 and part employed in making the road while the remainder constructed the bridge. Another gang of 50 was to be placed under Stoney Range about 12 miles from Bathurst. In total, 190 additional men were required. While the River Lett bridge was to be of timber, at Farmer’s Creek and Cox’s River Mitchell initially proposed that stone piers be erected over which wooden beams could be placed until it was possible to construct stone arches.  

This distribution of works was aimed at efficiently deploying and managing the workforce. However, variations of numbers in gangs throughout the 1830s ensured that it was rarely at full strength or deployed with optimal efficiency. Prisoners moved in and out of the gangs according to sentencing provisions or through transfers to reward behaviour as part of penal policy. Simultaneously, task and labour requirements arising from the road building task were constantly variable. Adding further to the difficulties, penal classification provisions, in the separation of classes of prisoners, frequently ran counter to their most effective deployment. In many instances the most efficient utilisation of these gangs was in a complementary capacity in close proximity. For example, the less mobile ironed gangs could have been more productive if supported by the freer moving road parties, but the requirement to maintain the separation of these two classes of prisoners prohibited the arrangement. Unhelpfully, the security provisions of an inflexible military guard were another invariable and, as will be discussed below, further impeded efficiency.  

In the course of Mitchell’s realignment of the route from Mt York, No.1 Iron Gang was moved from O’Connell’s Plains to Mt York and then to Mt Victoria. With an average strength of 50 men, No.1 Iron Gang was often well below the maximum

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strength of 60 men specified under Lockyer’s regulations of 1828, referred to in Chapter Three. It was eventually merged with No. 2 Iron Gang under Overseer George Plumley and joined No.6 Gang at Mt Victoria when work finally settled there. Throughout 1830 the No. 20 Road Party, under Overseer George Williamson and from September, Michael Hartney, was stationed at Pulpit Hill, on the plateau, prior to the descent from the mountains. Its average strength over the year was 75 men, but between February and May had a complement of 107. This was significantly higher than the 50 men recommended by Lockyer, further complicating the supervisory and construction process. Variations occurred as men’s sentences expired or were extended, or illness or promotion resulted in transfers. When operating as intended the system allowed convicts to improve their position.

Assistant Surveyor Elliot had taken over the supervision of road works, from Lieutenant Kirkley in January 1830, when responsibility was removed from the military. However, after a mere eight months without military supervision, he was instructed by the Governor in late September to assemble Nos.1, 2 and 6 Gangs at the foot of Mt Victoria:

...as a Military Guard is on the march to take charge of them - this may probably interfere with their working, but this cannot be remedied under present circumstances.

This instruction coincided with a general increase in regulations concerned with securing prisoners working on the roads and occurred within the context of Governor Darling’s capitulation to Mitchell on the Mt Victoria descent discussed in Chapter Three. The decision was part of the Governor’s strategy to curb Mitchell’s power. Yet, despite the urgency of this instruction, in what came to typify decisions on the

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road, the detachment did not arrive to take up guard duties at Mt Victoria until March 1831, some six months later.\textsuperscript{6}

In March 1832, while the first huts were under construction at Cox’s River, a bridge party of 83 men under Overseer Charles Hewitt was at Hassan’s Walls. West of the stockade site, toward Bathurst, No.45 Road Party, consisting of 55 men under Patrick Casey was situated at Stoney Range and No.44 Road Party, made up of 47 men under George Emmerton was at Honeysuckle Hill. The iron gangs, under John Barker, George Morley and William Bruton, were still at Mt Victoria. \textbf{[Figure 4.5]} These ranged in size from 65 to 97 men with un-ironed support of seven per gang. With completing Victoria Pass being Mitchell’s first priority, work did not begin on the line of road above Cox’s River until September 1832, more than two years after first directed. Work on the road was interrupted continuously by the need to construct and maintain facilities associated with the policing and welfare of the convict gangs. The men had to be apportioned according to the demands of the road work, the requirements of the accommodation sites and security provisions.

\textbf{Competing Objectives - Penal Welfare Concerns vs Road Making}

The construction of the Western Road was a balancing act, mediated by cost, which compromised construction, welfare and penal outcomes. A cycle of numerous re-workings of sections of road previously thought complete and constant maintenance of penal housing and security typified the works. The expenditure of labour on penal infrastructure was necessary due to their location in an area that was sparsely and only recently settled by Europeans. By comparison, in Great Britain, roads were often constructed over those built by the Romans, through populated landscapes dotted with villages and towns that had seen the use of wheeled transport for at least 2,000 years. Compounding the conflict between the road making and penal ideologies on the Western Road there were problems of isolation and, in European

\textsuperscript{6} SRNSW: Col. Sec., Copies of Letters to Surveyor of Roads and Bridges, 3 Jan 1831 - 31 Mar, 1832, , pp. 40; 43. R.3002.
terms, a raw, rugged terrain. The substantial investment in penal welfare infrastructure is evident at Site A2 of the archaeological investigation at No. 2 Stockade Cox’s River. This site consists of extensive artificial terraces behind a stone retaining wall, created to support the construction of the hospital, discussed more fully in Chapter Five. The construction of these substantial structures was undertaken by convict labour, intended to be employed on road works.[Figures 4.6, 4.7 and 5.8]

It is not surprising that such large investments of labour prompted complaints by Mitchell, who was anxious to see the road constructed. Further adding to his irritation, he found that No. 2 Stockade had ‘...been placed precisely on the line of road as it would approach the bridge to be made over Cox’s River, so that it must be removed before the work there can be completed’. Invariably the assistant surveyor, the authority ‘on the ground’, was held responsible for any shortcomings either in the road building process or penal infrastructure development.

In an April 1832 submission to reform work practices, Surveyor General Mitchell drew on issues that were part of the broader transportation debate in Britain. If a sentence to work on the roads was, in effect, a sentence condemning a prisoner to hard labour, then it was hardly just, argued Mitchell, that some should be allowed to do nothing while others were worked hard. In his opinion, the superintendence of the system was extremely defective in certainty and equity in punishment. At the time, gangs were placed under an overseer who had an assistant overseer and three unpaid second assistants under him. As the principal overseer was frequently absent from the gang because he had to attend court, take a prisoner to hospital, collect tools or gunpowder from headquarters, or arrange the slaughtering and salting of meat, the place of the assistant overseer was frequently filled by a second or unpaid assistant who was a prisoner enjoying an exemption from work. The second assistants were

prisoners who, in Mitchell’s view, used the position to avoid work and acted as sentries to warn the parties and gangs of the arrival of an officer. Inequities were also evident in the number of prisoners exempted from hard labour who worked as delegates, watchmen, stockkeepers, bullock drivers, hut keepers, cooks and messengers. There was the counter penal argument, however, that such positions offered the opportunity to reward good behaviour and provided an incentive to prisoners to reform. 8

At the time there were 1200 men out of irons and 400 in irons working on the roads of New South Wales. These were intended to be distributed among 26 road parties with an average of 43 men, five bridge parties with 15 members and seven ironed gangs of 57 men each. [Table 4.1] Mitchell recommended increasing the size of road parties to 66, but reducing their overall number to 15, and establishing six bridge parties of 33 and five iron gangs of 80. Mitchell made a case for the permanent allocation of a core of good workers to the gangs through payment or the offer of early release arguing that ‘... the general efficiency of the whole would be much increased’. He also mooted the implementation of exactly measured task work related to time on the road. As each task was completed it could be credited against the sentence. He lamented, however, that while more was likely to be achieved at less cost it would ‘... require an efficiency in the superintendence which I am sorry to say cannot be counted on at present.’ 9

Mitchell wished to increase productivity by increasing the pay of the overseers and by reducing the necessity of their being away from the gangs to get rations and escort prisoners to attend court or hospital. He proposed the establishment of hospital huts at camps and more frequent supervisory visits by surveyors. The provision of supplies and tools to all out-gangs was to be the sole responsibility of an overseer and bullock driver, who would distribute them from a central location. At this time,

9 Ibid.
two cooks were part of each gang and delegates from the gang inspected meat supplied by a contractor and accepted or refused it depending on its quality. Another delegate watched the cooks prepare food to ensure that rations were not pilfered. Mitchell recommended that contractors supplying meat should be required to deliver it to the camps, rather than the existing situation where there was a constant movement of prisoners on the roads. He recommended incentives for good behaviour, with time off and the issuance of tickets of leave to motivate work.¹⁰

Mitchell was attempting to organise supervision in the road gang system more effectively and it was within this political and administrative context that No. 2 Stockade Cox’s River was established. The implementation of some of these recommendations is evident in the stockades and informed the administration of the facility. For example, Overseers James Thorpe, John Powell, Edward Hawkins and George Doyle took up the option to stay on, after the receipt of their ticket-of-leave, when Mitchell’s incentive program for skilled workers was implemented. At No. 2 Stockade, an extensive commissariat area, equipped with a blacksmith shop for the repair and supply of equipment, was established in addition to a hospital, butchery and bakery. There was still considerable movement between the work stations and No. 2 Stockade.¹¹

In 1832 the Bathurst area was the largest road branch department. It comprised seven overseers, 15 assistant overseers, seven messengers and stockmen, 14 cooks and delegates, a clerk, seven water carriers, seven toolmen, two watchmen, two attending on the military, and three attached to the commissariat stores. With ten in the hospital, there were 420 actually working on the road out of a total of 495 convicts. At Lower Portland Head there was a total of 226, at Newcastle 223, Argyle 250 and

¹⁰ Ibid.
Parramatta 447. The Western Road between the mountains and Bathurst was clearly the priority.12

The Role and Duties of the Surveyors

The construction of a viable road from Sydney to the western plains occupied some of the best engineering and surveying minds in the colony in the 1830s. However, the work marred the careers of the intrepid and multi-skilled surveyors, who, in tackling the task, were expected to serve as engineers, magistrates, architects, managers and accountants. The exigencies of the administration, of security and military requirements and of convict resistance together with conflict between the surveying department and Governors Darling and Bourke, all conspired to thwart endeavours to expedite construction. The work of the assistant surveyors was all-consuming, exhausting and likely to have provided little satisfaction as they suffered the criticism of all and sundry from the Governor down.

John Nicholson held the position of Surveyor of Roads and Bridges for almost two years from July 1830 when Darling removed this responsibility from Mitchell. He was based at Parramatta and had overall responsibility for the welfare of the assistant surveyors as well as particulars at convict work sites throughout the entire New South Wales road network. In this capacity Nicholson undertook lengthy tours of inspection on horseback, working and sleeping en route under canvas. His reports written from the road provide a first hand account of the realities of his own responsibilities, and an impression of life on the road. For example, in September 1831, he was called to explain to the Governor why lamps had not been erected at the corners and in the centre of the square of huts at Mt Victoria. This neglect had led, according to the senior military officer there, to the escape of two prisoners. On another tour in April 1832, he prepared drawings for the repair of the wall at Mt Victoria, which had partly collapsed because of neglect of the upper drainage, and

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instructed Assistant Surveyor Lambie and the overseer on how to reconstruct it. Nicholson also accompanied Lambie, who was in poor health, to Bathurst to see a doctor and en route examined the progress of works and provisions of the Bridge Party at the River Lett, of the No.45 and No. 20 Road Parties at No. 2 Stockade and of the No.44 Road Party at Honeysuckle Hill.\textsuperscript{13} With the return of administrative responsibility for roads to Surveyor General Mitchell and the abolition of the position of Surveyor of Roads, Nicholson became an Assistant Surveyor. He replaced Lambie and took up his post at the surveyor’s depot at Mt Clarence in mid 1832.\textsuperscript{14} [\textbf{Figure 3.8}]

In July 1832, Assistant Surveyor Nicholson took levels and decided to alter the cutting at Mt Victoria. A jack of all trades, he also spent time fixing and adjusting the theodolite and in his capacity as magistrate held court on five separate days across the month. Lambie was still in the region and Nicholson again accompanied him to the doctor at Bathurst, inspecting the Nos.44 and 45 Road Parties and the Bridge Party over three days while en route. On his return to Mt Clarence his attention was re-focussed on Mt Victoria, directing the construction of timber work to secure the bank where the wall had given way. He later visited the No. 20 Road Party and the Bridge Party.\textsuperscript{15} It is a routine of almost constant movement up and down the line of road, camping where necessary for as long as necessary.

In mid August, Nicholson reported that bad weather had delayed the completion of the Mt Victoria descent, but that it was soon expected to be passable. A portion of a cutting on the Sydney side was reported to have been 14 feet wide but in reality, parts were less than 12 feet wide and had to be reworked. Nicholson expected that a move to the new focus of work at Cox’s River was imminent, but shortages of tools and equipment made accurate estimates for a completion date difficult. With the

\begin{flushleft}
\textsuperscript{13} SRNSW: Surv. Gen., Letters Received from Surveyors, Nicholson, 14 Feb 1832 - 22 Dec 1824, 2/1562, p.48, R. 3080.
\textsuperscript{15} SRNSW: Surv. Gen., Letters Received from Surveyors, Nicholson, 14 Feb 1832 - 22 Dec 1834, 2/1562, p.164. R.3080.
\end{flushleft}
Chapter Four: Construction of the Western Road

military requiring the ironed gangs to be worked in groups of 25, construction of a culvert which required only six men, left 19 unemployed, and kept progress to a snail-like pace. He intended to adapt to this requirement by using un-ironed men to work in association with the ironed gangs. However, this mixing of ironed and un-ironed men, was entirely undesirable from a penal reform perspective; the separation of various classes of prisoners had to be strictly maintained. This tension between the ideal and the “on ground” necessity was a constant of the Western Road system and was a practical impediment to the works.

From September 1832, Nicholson’s focus shifted to Cox’s River, where he commenced work on the line of road beyond the river. Following an inspection of the marked line of trees, he spent the next five days levelling and calculating descents and cuttings. This very practical, ‘hands on’ road design work was interspersed with inspections of the Bridge Party and the No. 20 and No.44 Road Parties along the line of road and at Mt Victoria where he also held court. He returned every few days to Cox’s River to examine the descents by level, set out the side cuttings and issue directions on the preparation of the stockade. Other duties included preparing the accounts, paying the overseers and overseeing the commissariat rations.

Nicholson’s daily journal for the months of October and November 1832 indicates a similar routine, with the focus of his attention varying from Cox’s River to Mt Victoria. He directed and inspected the work and associated convict camps as he travelled the line of road. He also accompanied Governor Bourke on a tour of inspection along the new line, along Major Lockyer’s line, of the new No. 2 Stockade, and potential sites for a bridge over the Macquarie River at Bathurst. Mt Victoria pass was officially opened. However, despite the planned imminent transfer

18 By this time the road parties had been renamed to No.9, No.10 and No.11 from No. 20, No.43 and No.44.
of the ironed gangs to Cox’s River, from Nicholson’s point of view, Mt Victoria was still a demanding work site. A recent robbery in the area required an investigation and necessitated a review of security at the stockade and at the temporary hospital there. After extensive preparations, Nicholson finally moved the iron gangs to Cox’s River on Saturday the 17th November 1832. The following week tools and stores were transferred across and from then on court hearings were conducted on average twice a week at Cox’s River.19 [Figure 4.8 and 4.9]

Further Impediments to Progress on the Western Road

A major impediment to progress on the road was the continued work on No. 2 Stockade after its occupation by the ironed gangs. Nicholson complained that the ‘accommodation and discipline of convicts ... has engaged so much of his attention since the removal of the stockade to Cox’s River’ that his other duties were being neglected.20 Further delays were annually experienced when, for six weeks in December and January, men from the road parties assisted with the harvest.21 Nicholson also had to contend with more mundane intervention such as the Commissariat Clerk at Cox’s River commandeering the bullock teams whether it was convenient or disruptive to the road works or not.22

Early in January 1833 Nicholson was planning the bridge for Bathurst, reporting on the proposed site and locating materials and a quarry with suitable stone. Two special enquiries, one into the escape of a prisoner and another into the behaviour of No.10 Road Party and the Bridge Party, were held. In response to official complaints regarding convict welfare and the accommodation situation, Nicholson also spent time at the stockade ‘enacting regulations’. As prisoners returned from assisting with the harvest later in the month, he was responsible for their deployment and the re-

ordering of work to accommodate them. Nicholson reported that temporary, but strong, bridges were required over Cox’s River, Farmer’s Creek and elsewhere along the line westward during the construction process. He complained that he was so hampered by the lack of tools, carts and bullocks that he could not see any possibility of releasing men for the construction of the new bridge at Bathurst.\(^{23}\) Despite the extended work at Mt Victoria, part of the wall again gave way and in mid January 1833 Mitchell proposed that an ironed gang from the stockade be moved back to Mt Victoria to ‘perfect’ the work. As discussed in Chapter Three, Nicholson was indeed dismayed, as he had partly dismantled the Mt Victoria Stockade to repair the one at Cox’s River.

It was not until the end of March 1833, that Nicholson could report that No.11 Road Party, after extensive work on No. 2 Stockade, was again engaged on the road, building an ascent to the bridge across Farmer’s Creek. As the weather cooled, he supervised the change-over from summer to winter clothing and blanket allocations for the gangs. In March 1833 there was an iron gang beyond the stockade where extensive cutting was required. [Figure 3.4] Early in the month Nicholson was engaged taking levels in that area so that the line could be extended. Work was also continuing near the River Lett Bridge, as were repairs to the stockade. Later in the month he undertook the levelling of the descent to the bridge at Bowen’s Hollow.\(^{24}\) In April 1833 Perry, the Deputy Surveyor General, on instructions from a frustrated Governor Bourke was on a tour of inspection to set matters right at the No. 2 Stockade, where facilities were sub-standard. This will be discussed more fully in Chapter Five. Nicholson attended him inspecting and ordering work along the line. It was at this time that the new hospital was constructed under Perry’s orders and probably under Nicholson’s direct supervision.\(^{25}\)

\(^{23}\) SRNSW: Surv. Gen., Letters Received from Surveyors, Nicholson, 14 Feb 1832 - 22 Dec 1834, 2/1562, pp.207-208. R. 3080.

\(^{24}\) SRNSW: Surv. Gen., Letters Received from Surveyors, Nicholson, 14 Feb 1832 - 22 Dec 1834, 2/1562, pp.213; 241. R. 3080.

\(^{25}\) SRNSW: Report of the Daily Occupation of Assistant Surveyor John Nicholson in Charge of Road Parties in the Central District from 1\(^{st}\) to 30\(^{th}\) of April 1833, Surv. Gen., Letters Received from Surveyors, Nicholson, 14 Feb 1832 - 22 Dec 1834, 2/1562. R. 3080.
In response to pressures regarding the rate of progress of the road works Nicholson devised complex accounting procedures to be administered by the overseers in June 1833. These included counting barrow loads of materials and generally required them to measure the amount of work performed. The changes had no discernible impact on productivity and no records have survived of the system’s implementation.²⁶

By October little progress had been made on the descent to Bowen’s Hollow. The line had not been marked out by Mitchell and no work had been done between there and the Cox’s River, where the iron gangs continued to work west of the river. Nicholson anticipated that on the imminent completion of that work, they would commence on the extensive wall formations required on the eastern side of the river. [Figure 4.10] No preparation had been made for the construction of the stone bridges for the Cox or Farmer’s Creek, but Nicholson had been directed to proceed immediately with the bridge at Bathurst.²⁷

The End in Sight?

With the road far from completed, Nicholson continued to defend his performance into 1834. In mid January, the imminent construction of the bridges at “The Junction”, i.e., Cox’s River and Farmer’s Creek, was under consideration, but sawyers and bullocks were needed and suitable timber was only obtainable ‘at a greater distance from the Stockade than it would be advantageous to send Men in irons’ and the road parties were still at the harvest.²⁸ However, by 20 January 1834, while the new line of road was still not officially open for the mail cart, wool carts had passed through the cut at the Cox and the supply contractor was travelling between the Stockade and Bathurst weekly. The work between Cox’s River and Solitary Creek was reputedly almost complete. Nicholson was expecting to place an

iron gang on each of the bridges at the end of February and another iron gang to work eastward from Farmer’s Creek to the old line. The remaining gang, after finishing between Farmer’s Creek and the Cox’s River, could pass up the entire line putting in cross drains and perfecting the banks. Typifying the false hopes and expectations of the works, on 29 April 1834 the *Sydney Gazette* reported that:

No. 2 Stockade, at Cox’s River is expected to be broken up in about six weeks. The chain-gangs will be escorted by the detachment of the 17th, now in charge of them, down to Parramatta where the latter will be relieved of such charge by the 4th, who will accompany the men to their projected quarters in the new country.

The reason for this grossly premature optimism is impossible to fathom. Iron gangs were still working from the stockade in late 1836 when responsibility for works was handed over to the Royal Engineers. The stockade also continued to provide hospital and commissariat facilities during this period and beyond.

In June 1834 Nicholson claimed that cutting through the necks at Cox’s River, under orders from Mitchell, had delayed progress by four months but the road between Farmer’s Creek and the stockade would be completed by the end of the month. In August 1834, while little had been done on the descent to Farmer’s Creek, the road between there and the stockade had indeed been completed. This line involved extensive buttressing similar to that at Mt Victoria. As usual there was a ‘hitch’. In this instance a small watercourse had given way and repairs were required. [Figure 4.11 and 4.12] Stone for the two bridges was located some 2½ miles from the stockade and a pile engine needed to be sent from Parramatta for construction of the timber bridge over the Macquarie River at Bathurst. A small party detached from the River Lett had been taking up tree roots and filling ruts but nothing had been done on a new portion commencing about two miles beyond the River Lett. The gang based

there was forming the ascent from the river and repairing other portions damaged
during wet weather. While the ascent was very good, a portion of very hard rock half
way up still required ‘a good deal of labour’. Another unfinished section was a
platform located a mile further on. The descent to Bowen’s Hollow had been
satisfactorily formed, making the route easier to negotiate than ‘the long heavy pull’
which had been the alternative. Although the road from the Cox to Solitary Creek
had been passable since January 1834, work on the ‘neck’ beyond the Cox was
ongoing, despite earlier predictions of imminent completion. The banks were
lowered on each side to prevent loose material falling on the road and this was used
to metal and level the road at the turn. Further along, the road was ‘excellent’ except
for occasional portions left unfinished. From the flat west of Honeysuckle Hill,
toward Bathurst, little had been done in the formation of the road, although two
substantial platforms made by the Bridge Party at Diamond Swamp were due to be
completed. Mitchell planned to use three road parties to form this section. Drains had
to be cut, gravel spread and Brown’s Hill had to be tackled, with the road parties
starting in different locations and converging on Badger Brush as the work was
completed. 31

About this time, the Austrian traveller and scholar, Baron Charles von Hugel gave a
caucistic description of the line of road from Mt Victoria. He found the descent to be
good, but the road rapidly deteriorated to a wretched unsigned road with old and new
tracks intersecting in all directions. He travelled ‘expecting the carriage to be
smashed to bits’ as it negotiated the rocks, swamps and steep slippery slopes. 32

Mitchell’s findings of April 1835 lend support to von Hugel’s assessment. To
Mitchell’s chagrin, the road formed by the iron gangs had been rounded or barreled
in so unusual a manner and was so narrow that carriages were in danger of

31 SRNSW: Col. Sec., Special Bundles, Great Western Road, 1834-1845, 9/2686. Surv. Gen to Col. Sec,
12 August 1834.
32 Baron Charles von Hugel, New Holland Journal, November 1833- October 1834, Dymphna Clark
(trans. and ed.) Melbourne University Press at the Miegunyah Press in Assoc. With the State Library of
New South Wales, 1994, p.341.
overturning when passing. Stone had still not been quarried in preparation for the construction of bridges over Cox’s River or Farmer’s Creek as the quarries were found to be further from the stockade than the four iron gangs stationed there were allowed to walk. Mitchell had previously estimated that the distance was 2½ miles, well within the 3 mile limit.  

A party of masons had been at Mt Victoria for nine months, during which time only the foundation of a buttress had been laid as ‘the party there have been employed in erecting depot huts and cutting and preparing timber for wooden houses’. Mitchell proposed that works proceed in the following manner:

- An ironed gang at a new station near the River Lett to make the road west under Hassan’s Walls and also toward the stream.
- A separate quarry gang was to quarry stone for the two bridges with an ironed gang at the stockade to set and quarry the stone. Each gang was to consist of 75 men.
- The road party stationed just beyond Honeysuckle Hill (Thorp’s) to form the road each way from that station.

As there was still a shortage of bullocks and the parties were diminished, he recommended their replenishment to at least 60 men each. At last, on 29 May 1835, Assistant Surveyor Lawrence Dulhunty, who was taking up Nicholson’s position, reported that:

... the Ironed Gangs have performed all the work upon which they can be employed in the neighbourhood of the old stockade at Cox’s River that is within the distance they are allowed to work from their station ... I know of no work that the Party retained at the old Stockade could

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34 Ibid.
35 Ibid.
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with any advantage be employed upon unless the erection of the Bridges over Farmer’s Creek and Cox’s River.\textsuperscript{36}

David Lennox had inspected the sites at Cox’s River and Farmer’s Creek and reported that the plan for the bridge then under construction at Berrima would be suitable for both. Plans for the machinery required for the erection of these bridges were submitted by Lennox in July. Dulhunty suggested that the men in irons be moved to the recently completed stockade at Hassan’s Walls.\textsuperscript{37} This was a move that had been originally proposed in September 1834. In another example of an extraordinary inability to estimate the duration of the works, Hassan’s Walls Stockade was not occupied until early 1836.\textsuperscript{38}

On 8 December 1835 Alexander Binning, the newly appointed Sub-Inspector of Bridges, Western Division, requested materials and men to build the two stone bridges over Farmer’s Creek and Cox’s River and reported (again) that the road at Cox’s River was almost completed. He suggested moving 70 men from Cox’s River stockade to Hassan’s Walls as soon as possible, although some men were still required at Cox’s River to work on the approaches to the bridges.\textsuperscript{39} Bastard free stone, suitable for piers and side walls and parts where neatly squared stone was not required, was found within half a mile of Farmer’s Creek. Stone for the arch and parapet walls was obtainable from the freestone quarry, some 2½ miles from the bridges. Typically, Mitchell promoted the use of stone over timber, but the Governor was less enthusiastic, presumably because of cost.\textsuperscript{40} In 1859 the bridge over the River Cox was described as a ‘Queen truss bridge on piers with stone bases and

\textsuperscript{36} SRNSW: Surv. Gen., Register of Letters Received from Roads Branch, 1833-1836, 1846-1850, 2/1417. R.2804.
\textsuperscript{37} SRNSW: Dulhunty to Deputy Surveyor General, Surv. Gen., Letters from Surveyors, Dulhunty, 1832-1837, 2/1532, R. 3063.
\textsuperscript{38} SRNSW: Surv. Gen., Letters Received from Surveyors 10 September 1834. R. 3080; Surv. Gen., Register of Letters Received from Roads Branch, 1833-1836, 1846-1850, 2/1417, R.2804.
\textsuperscript{39} SRNSW: Surv. Gen. Letters Received from Assistant Engineer and Sub-Inspector of Roads, 2/1720; Col. Sec. Special Bundles ,Roads and Bridges 1835-1851, 2/1855.
\textsuperscript{40} SRNSW: Col. Sec. Special Bundle, Roads and Bridges, 1835-185, 2/1855.
wooden superstructure of two spans of 63 feet and two of 20 feet each the road is 12 feet wide and six feet above flood level. Total length 170 feet’.\textsuperscript{41}

At the end of 1835 the ‘boxes’\textsuperscript{42} to accommodate the gangs at Bowen’s Hollow were also in place. The Surveyor General recommended that the men be employed on constructing a bridge there and forming the road on the higher level under the supervision of Alexander Binning, who was stationed there. Remnants of this bridge are still evident beside the old line of road at it ascends the hill above Bowen’s Hollow. The centring was ready for the bridge at Farmer’s Creek. Further along, beyond Solitary Creek, Mitchell thought the road around Honeysuckle Hill required widening. Beyond the hill, side cutting was required for some miles. A road party at Badger Brush was proceeding toward the hill, but a coat of broken stone was needed, to prevent it deteriorating in wet weather. Another road party was at Livingstone’s engaged in forming the ascent and descent of two long hills. One Bridge Party was at Bathurst Bridge and another was just beyond Diamond Swamp. The road was far from complete and a number of other works were also necessary. Work continued at Mt Victoria.\textsuperscript{43}

**The Royal Engineers Takeover Road and Bridge Construction**

Works were on-going over the following year and in August 1836, Dulhunty requested that the depleted iron gangs at Bowen’s Hollow and Hassan’s Wall be brought up to strength from the iron gang at Cox’s River, where the road was ‘tolerably good’.\textsuperscript{44} No details are provided of the works the ironed gangs at Cox’s River were involved in. Yet, in January 1834, 2½ years earlier, it had been pronounced that work there was ‘almost’ completed. It clearly was not. In late 1836 Bourke transferred responsibility for construction of roads and bridges from the Surveyor General to the Royal Engineer and announced that the only road gangs to

\textsuperscript{41} Captain Martindale, Report ... Western Road ... 1859. ML SLNSW: Q 339.5/N
\textsuperscript{42} Specifics of housing will be explained in Chapter Five.
be used in the future would be those in irons. He reported to Lord Glenelg, Secretary at the Colonial Office, that:

... there are now about one thousand convicts in irons divided into sixteen gangs working under the control of military officers under sentences to labour varying from one to three years. Their labour is as efficient as any forced labour can ever be and without tyranny or cruelty their discipline, submission and safe custody are fully secured.

... I have determined to reduce the road parties from the I proximo leaving no gangs on the roads but those under military superintendence ... I thought it expedient at once to reduce along with the road parties the overseers and inspectors and to transfer the charge of constructing and repairing roads and bridges from the Surveyor General to the Royal Engineer.45

With the loss of the records of the Royal Engineers in the Garden Palace fire of 1882 there is little surviving evidence of management policies on the road from that date. It is known, however, that the Cox’s River Stockade was being wound down. Although the Commissariat Department was still located there and the lock up was still in use, the court moved, after the construction of Hartley Courthouse in 1837, to the Vale of Clwydd.46 At the beginning of 1837, only 32 gang members remained at Cox’s River; of these 12 were out of irons working as servants. The remainder had been transferred to Hassan’s Walls, Bathurst and Bowen’s Hollow, which had become the largest establishment, with 81 men in irons.47

Conclusion
Surveyor General Mitchell to whom the Assistant Surveyors were answerable had a vision for the Western Road and the engineering skills to see it implemented. But he was unable to grasp the significance of pressures emanating from Great Britain. As

noted in Chapter Two and Chapter Three these arose from the penal reform and transportation debates and were augmented by the burden of heavy cost constraints. This failure led to his professional estrangement from the Governors and within the broader bureaucracy of New South Wales and precluded the more co-operative addressing of road construction issues.

Although the Royal Engineers did not suffer the disadvantages arising from Mitchell’s alienation within the New South Wales government, no road making plan for the Western Road was able to be ‘efficiently’ implemented, in terms of speed and construction costs, in purely road making terms. This was because the ‘on ground’ reality of cost constraints arising from the penal reform and transportation debates and the necessity to appease the penal agenda of secure reform, punishment and deterrence were at odds. Leaving aside crucial workforce issues, which will be examined in Chapters Six and Seven, the contradictions in requirements for both efficient road making and penal practice, were insurmountable in the political circumstances pervading at the time.

Nevertheless, the road makers laboured under an expectation of efficiency on all fronts. These expectations loomed over the assistant surveyors managing the works for the duration of the enterprise. They coloured all aspects of the work and experience on the road, not only for the assistant surveyors, but for the convicts and the civil administration as well. The efficiency and costs of the enterprise were under constant critical scrutiny.

Ultimately the road took far, far longer to construct than was remotely contemplated in 1830. Yet, a case can be made that, if reasonable fiscal allowance was made for both the penal function and the infrastructure development function of the enterprise, then it was a good deal more efficient than was credited by its critics.
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Tables

Table 4.1 Strength of Road Gangs - the Average, the Reality and the Ideal, April 1832\(^\text{48}\)

<table>
<thead>
<tr>
<th>Gang Type</th>
<th>Average Size NSW</th>
<th>Reality on Western Road</th>
<th>Recommended by Lockyer 1828</th>
<th>Recommended by Mitchell</th>
</tr>
</thead>
<tbody>
<tr>
<td>Road Parties</td>
<td>43</td>
<td>37, 53, 57</td>
<td>50</td>
<td>66</td>
</tr>
<tr>
<td>Bridge Parties</td>
<td>15</td>
<td>67</td>
<td>25</td>
<td>33</td>
</tr>
<tr>
<td>Ironed Gangs</td>
<td>57</td>
<td>83, 88, 90, 97</td>
<td>60</td>
<td>80</td>
</tr>
</tbody>
</table>

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Figure 4.1  This portion of the Old Bathurst Road ascending the Honeysuckle Range from Rydal, in March 2003, displays the effects of years of neglect, but also of a torrential downpour of the previous evening. The roads were particularly vulnerable in the earlier phases of construction, when adequate drainage had not been created and before the macadamising process had not been completed. [S. Rosen, 2003]
Figure 4.2  The bridge over the Cox’s River, c. 1960s showing stone piers probably those prescribed by Mitchell in 1830 which never acquired the arches he hoped for.
[Courtesy of Mrs Tulley, Lithgow]
Figure 4.3  Remnants of the stone buttresses to the bridge over the Cox’s River exposed on the subsidence of Lake Lyell during the 2002 - 2003 drought. [S. Rosen, 2003]
Figure 4.4  The bridge over Farmers Creek in the 1960s, a less substantial structure than that over the Cox, the stone buttressing does not appear to have extended to the middle pier. [Courtesy of Mrs Tully, Lithgow]
Figure 4.5  This illustration of 31st July 1830 shows the new line of road at Mount Victoria after being cleared of trees. This view should be compared with that in figures 4.8 and 4.9 to gain an idea of the extent of cutting and road work required to build the pass. [T.L. Mitchell, Report on the New Line of Road Toward Bathurst, 29 November 1827, in Report upon The Progress Made In Roads and in the Construction of Public Works in New South Wales From the Year 1827 to June 1855 By Colonel Sir T.L. Mitchell, Surveyor General, Government Printer, Sydney, 1856.]
Figure 4.6  A general view over the building platform and foundations of the hospital building prior to its excavation. [M. Pearson, 1995]
Figure 4.7  A detailed view of the NW corner of the building platform with retaining wall running to the north, showing the depth of foundations. This view together with the sketch by Perry of the hospital he constructed there on a substantial platform in 1833 [Figure 5.8 and 5.9] is indicative of the level of infrastructure development associated with the stockade. [M. Pearson, 1995]
Figure 4.8  An idealised view of Mt Victoria Pass on completion drawn by Mitchell, c. mid 1830s. Despite the official opening this remained a work site as almost continuous repairs were made to the walls and approaches over the next few years.[T. L. Mitchell, *Report upon The Progress Made in Roads and in the Construction of Public Works in New South Wales From the Year 1827 to June 1855 By Colonel Sir T.L. Mitchell, Surveyor General*, Government Printer, Sydney, 1856]
Figure 4.9  A view of Mt Victoria by Surveyor William Govett. The pass is open, but adjustments continue. In the foreground is a surveyor with a theodolite. In the background cattle are falling over a breach in the wall.

[ML SLNSW]
Figure 4.10  A view of the stone walls constructed on Mitchell’s new line as it approached the Cox’s River in the mid 1830s. Taken from the west looking away from the No.2 Stockade site toward Farmer’s Creek. [C. Liston 2003]
Figure 4.11  A closer view of the remnant walls between Cox’s River and Farmer’s Creek [C. Liston, 2003]
Figure 4.12  This substantial stone wall uncovered during the
drought of 2002 and 2003 was constructed near a water
course on the road between Farmer’s Creek and the
Cox. It indicates the massive amount of work required
to meet what are described in the correspondence as
relatively minor problems, in this instance Mitchell’s
statement the ‘... a small water course has given way’.
[C. Liston, 2003]
Chapter Five
The Western Road Convict Sites

The convict stockade and road party sites on the Western Road from Mt Victoria to Bathurst in the 1830s were a manifestation of the growing concern with convict security in an increasingly free, mobile and dispersed society. The colony of New South Wales had emerged from its infancy and free immigration was on the increase.

This chapter documents for the first time the Western Road convict sites as physical entities. The structures, their longevity relative to the original intent, and their varying interactive functions reflected changes in the convict system. As explained in preceding chapters, these changes derived from transportation and penal reform debates in Great Britain and the colony, but were also influenced by the complexities and conflict inherent in the road making process. The data on which the chapter is based has been sifted from numerous sources, many of which were imperfect and incomplete. Nevertheless, a general, though patchy, picture has developed. The most comprehensive view is that of No. 2 Stockade, which as the administrative centre and focal point for the period of interest, was better documented.

A process of ‘triangulation’,¹ whereby disparate evidence is assembled into a narrative of verifiable facts, was employed to piece together a sense of the scale, role and physical nature of each place. In this instance, however, to take the surveying allusion further, it has been a case of multi- or quin-tabulation since the evidence relies at times on references embedded within multiple sources. These sources could include a reference in a letter of instruction from the Surveyor General to an assistant.

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surveyor, a place/work reference in the movement register of the assistant surveyor, the name of an overseer witness in a document emanating from the local bench of magistrates, details within evidence to the Supreme Court, and reference to an event by Thomas Cook in *The Exile’s Lamentations.*

Finally, there was the effect of the accumulation of data over time which has facilitated the careful drawing of inferences. For example, there are a few specific, albeit sporadic, references to No.10 Road Party working on the line of road on the Honeysuckle Range, to the west of the No. 2 Stockade from March 1833 until July 1835. From mid 1833 James Pumphrey was their overseer. There are no references to No.10’s employment elsewhere and other gangs have the other work sites accounted for. Although they may have occasionally assisted with emergency repairs to the stockade or elsewhere along the line it has been concluded, despite a lack of consistent evidence, that the No.10 Road Party under overseer James Pumphrey (from mid 1833) was located on the Honeysuckle Range and Honeysuckle Flat for this entire period.

The physical conditions and the isolation were important factors in the road construction process. The stockades and work sites were, like the line of road itself, the stage on which the various issues of concern in this thesis, outlined in Chapter One, were experienced by all those associated with the site and often their families. The cast included prisoners sentenced to the road, ticket-of-leave overseers, assigned servants, free assistant surveyors, the military, free civil staff associated with the road works and also the office of the Superintendent of Convicts, police, representatives of the supply contractor and assorted wives and children. The relationship of the places to each other, the standards of accommodation and the type of facilities each offered are particularly relevant to the analyses offered in Chapters Seven and Eight.

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Convict Housing - Concerns and Solutions

In 1829, Major Edmund Lockyer, the outgoing Surveyor of Roads and Bridges, suggested that:

... the Road Parties should be placed under Canvas ... by which their removal to the place where any work is carrying on could easily be effected; and the necessity of frequently Building new Huts on the present plan which occasions delay, or of travelling a long distance to their Work, would be avoided ...³

He thus voiced some of the practical concerns associated with accommodating convicts working on the roads. The experience of accommodating and controlling convicts across the 1820s and early 1830s on the Great North Road, the Western Road and the Great South Road resulted in the gradual adaptation of the slab hut. Increasingly secure complexes, that more effectively contained prisoners and provided for their welfare, were created. Despite the recommendation of tents and their endorsement by the Governor, over the next decade a series of substantial stockades in association with road party sites, consisting of unenclosed rude slab huts, were constructed along the Western Road.

Stockades grew in size and complexity as regulations for the security and health of the convicts were introduced by Governors Darling and Bourke. They were established where major works such as bridges, cuttings, walls and buttresses were required. The sites were centrally located, in terms of the anticipated work, near potable water where it was expected that gangs would be employed for a considerable period. By 1834 the word ‘stockade’ was used to refer to the assemblage of buildings itself rather than just the fence that enclosed them. Un-ironed road parties generally lived in un-stockaded huts at more distant sites. To curb the more rambunctious road parties and to secure smaller ironed gangs, portable

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wooden houses were investigated and a prototype commissioned in March 1833.\textsuperscript{4} Mitchell’s experience of finding the No. 2 Stockade inconveniently constructed on the line of road was a motivating factor. With prisoners in the habit of disassembling and rearranging stockade huts to suit their own purposes, the ‘boxes’ as they became known, meant less work needed to be invested in ongoing maintenance. In October 1833 the notorious No.9 Road Party was to be shut up in these structures in a trial to see if they were effective in containing them. By the end of 1833 the boxes had been approved by the Governor.\textsuperscript{5}

Each box could accommodate from 18 to 24 convicts. They were usually 14 feet long and varied in width from 7½ feet to 10 feet. Gang members slept on the floor and on two shelves with each having about a 17 inch width of space to himself.\textsuperscript{6} Boxes for the accommodation of an ironed gang were placed at Bowen’s Hollow in 1835 and Hassan’s Walls in 1835.\textsuperscript{7} By 1838 wheels had been added and they were considered to be indispensable, whereas previously when enclosed in stockades they had been fixed for months or even years.\textsuperscript{8} There is no mention, however, of boxes being moved in an itinerant fashion even though they may have been designed with that intent. The Western Road references imply semi-permanent camps rather than a nomadic convict workforce inching snail-like along the route to Bathurst.[Figure 5.1]

The following discussion firstly examines the stockades in order of their establishment. It explains the physical organisation and infrastructure that underpinned work on the road and the penal experience there. The more ephemeral

\textsuperscript{7} 6 James Semple Kerr, \textit{Out Of Sight, Out Of Mind}, S. H. Ervin Gallery in assoc. With The Australian Bicentennial Authority, 1988, p.29; See also Kerrs discussion in Design For Convicts, Library of Australian History in assoc. with The National Trust of Australia (NSW) and Australian Society for Historical Archaeology, Sydney, 1984, pp.62-64.
\textsuperscript{8} PRO: George Gipps to Lord Glenelg, 14 July 1838, T 1/4347.
road party sites are subsequently detailed. Although less well documented, they too were a crucial element, serving both road making goals and penal policy. They provided the flexibility to adapt to sudden changes in priority and allowed greater freedom and less scrutiny for better behaved convicts.

**No.1 Stockade, Mt Victoria**

When Mitchell decided on Mt Victoria for the new descent from the mountains, a site for barracks to accommodate iron gangs was selected at the base. Ironed prisoners were transferred there from Mt York in June 1830. Later that year, Governor Darling issued instructions that iron gangs at Lower Portland Head on the Great North Road were to be accommodated in huts arranged in a square with a single entrance. The sides exposed to the wind were to be screened or fenced. This form was adopted at Mt Victoria. A fire was to be maintained in the centre of the square and a lamp similar to a Sydney street lamp was to be burnt at each corner.

When, in early March 1831, the numbers of ironed men increased to around 200, huts were constructed for a military guard following a tightening of regulations, after an epidemic of escapes from the gangs on the Great North Road. In May, however, the Mt Victoria stockade square had expanded to the extent that its size was considered a security risk. On advice from the Major of Brigade, the Governor ordered that the number of huts be reduced to accommodate only 200 men, the maximum (inaccurately as it eventuated) envisaged for the facility. The physical area was to be correspondingly diminished. Nevertheless, the overall facility continued to grow incrementally with a commissary and commissariat residence ordered in November 1831. Despite almost constant work, the commissariat was still under construction in February 1832 and there were complaints about the poor condition of

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9 See also Ollie Leckbandt, *Convict Stockades from Mount Walker to Mount Victoria*, Ollie Leckbandt, Lithgow, 1999, pp.81-114 for an account of the relics found at this site and for Leckbandt’s interpretation of the area.


the officers’ quarters and huts. The assistant surveyor was ordered to rectify the situation. A new guard house was constructed in April 1832. It is difficult to say whether the continual repair of buildings was necessary because of poor workmanship, sabotage by the prisoners or ordinary wear and tear, or some combination of the above, but it was a perennial issue. Facilities construction was the responsibility of the assistant surveyor and was undertaken by the road gangs, inevitably drawing out the road construction process.

In June 1832 the commanding military officer at Mt Victoria complained that the prisoners’ camp was constructed on a slope that enabled them to climb onto the roof, drop down outside the square and escape. Palisading, similar to that recently constructed for the new stockade at Cox’s River, was called for. Approval came through in the following month. Contrary to the original estimate of only six weeks work being necessary there, the focus of road works remained at Mt Victoria and construction of the fence ensued. Of the 730 men working on the Western Road in mid 1832, there were 343 in irons and 35 un-ironed men under five overseers at Mt Victoria. These included between 120 and 140 men transferred from Wiseman’s Ferry, originally destined for Cox’s River. The facility, which was intended to accommodate 200, was crowded, with frequently more than twice that number and ad hoc adaptations were made as necessary. The Mt Victoria Stockade was 150 feet square with accommodation for ironed gangs on $2\frac{1}{4}$ sides in some 330 feet of hut space. The remainder was occupied by overseers, stores, cook and tool houses and smith and carpentry shops.

Near the stockaded prisoners’ area were soldiers’ barracks, constables’ huts and a cottage for the officers. On the opposite side of a swamp that took up much of the

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12 SRNSW: Col. Sec., Copies of Letters to Surveyor of Roads and Bridges, 3 Jan 1831 - 31 Mar, 1832, 4/3935, pp. 9; 40; 80; 203; 241. R.3002; Surv. Gen., Letters Received from Surveyors, Nicholson, 14 Feb 1832 - 22 Dec 1834, 2/1562 pp.1; 112. R.3080.


valley floor there were a log store house and a neat thatched cottage, the residence of
the commissariat officer. The commissariat area was accessed by a bridge
constructed by the military.\[Figure 5.2\]

The swamp, as described by Govett, was destitute of timber, and a beautiful green in
colour. But in the dry season with water draining into the swamp, wells had to be dug
to guarantee an adequate supply of drinking water. At the top of the mountain, where
the new line branched from the old, a bridle path descended into the valley.

Travellers admired the romantic beauties of the descent:

> Its narrow windings and grotesque passages, sometimes overhung by
> huge masses of rock, and again overshadowed by luxuriant shrubs, the
> water in places trickling down from the sides of a rocky indentation
> forming a small pool at the base, icy cold, tend at any rate to remove
> the tediousness of the way.\[6\]

In November 1832 the ironed gangs were moved to No. 2 Stockade. The Mt Victoria
Stockade was partially demolished and materials removed to undertake repairs at
Cox’s River. A few huts remained in which No.9 Road Party was accommodated.

The facility was left as a shell composed of the roofless military barracks, the square
and possibly the commissariat. With additional work on the pass anticipated, in May
1833, it was decided that the military buildings at Mt Victoria should be repaired for
occupation by an escort party. The stockade was to be left to be repaired as and when
required and the commissariat house and other ‘excellent’ buildings were to be
maintained. However, in September another catastrophe hit the stockade when the
huts occupied by No.9 Road Party were accidentally burnt down.\[17\] These were
rebuilt to accommodate the gangs and road parties that were regularly, but intermittently, stationed there until late 1838. Depot huts were added in April 1835. In January 1836 the Governor requested that the old buildings at Mt Victoria be repaired to be temporarily occupied by a magistrate to be appointed to the Vale of Clwydd. Public buildings, including the Court House, were erected at the River Lett (Hartley).  

**No. 2 Stockade Cox’s River**

In terms of size, complexity and administrative importance, the No. 2 Stockade site is representative of the pinnacle of all sites concerned with the secondary punishment of convicts outside the penal settlements in New South Wales. With many auxiliary buildings, it was a focus of activity for over six years of occupation by convicts, the military and their families, surveyors and other officials. For at least another two years it retained a lesser role, with the hospital and commissariat facilities continuing to serve the network. Thus, in total, the stockade functioned longer than many other such sites, as by their nature they were largely ephemeral. It became the administrative and judicial centre for other Western Road work sites from Mt Victoria to Bathurst. Four iron gangs and occasionally unironed road and bridge parties were accommodated there. Estimates of the numbers housed, including military and civilian functionaries, vary between 500 and 800, with another 200 to 300 at associated sites administered from the facility.

Located about 12 miles westward from Mt Victoria, the No. 2 Stockade Cox’s River was described by Surveyor Govett as:

... situated on a long narrow tongue of land, immediately under the above named mountain [Mount Walker], around which, in a sharp angle, flowed a never failing rivulet, one of the tributaries of the Cox’s River. The width of the ridge on which the Stockade was built

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could not much exceed a hundred yards ... High, steep forest ridges, stony, and but thinly clad with verdure, encircled the spot, and frowned like the gigantic walls of a prison all around.19

Confusion can arise over the words used to describe the various components of the No. 2 Stockade Cox’s River site. Historically, the whole complex has been referred to as the ‘Stockade’, though in fact the only stockaded (fenced) areas were those occupied by the convict huts, situated on the tip of the eastern peninsula area, marked ‘Military/Stockade Area’ on the site plan and the convict hospital building also located in that vicinity. [Figures 5.3 and 5.4] This area also contained the military barracks, officers quarters and associated support buildings immediately to the east of the stockade. Eventually, the commissariat stores complex of buildings developed on the opposite, western, side of the river. This contained the main storehouses and associated accommodation. The area is indicated on the site plan as the ‘Commissariat Area’. Adjacent to the commissariat area on the western peninsula was an area granted to Commandant George Deedes in 1834, where he built a house which was used subsequently by successive commanding officers. This is the area referred to on the site plan as the ‘Deedes Grant Area’. [Figure 5.5]

Construction of the Stockade

Work began on the construction of the No. 2 Stockade Cox’s River in early 1832 under the direction of Assistant Surveyor Lambie. It was completed later that year by Assistant Surveyor Nicholson. The layout was generally based on directions issued by Governor Darling in 1830 and a plan prepared by Assistant Surveyor Nicholson in August 1832, suggesting work was initiated without a specific plan in place. The system was in a state of flux and almost continuous adaptation to demands for security and convict welfare issues. From Perry’s sketch, drawn a few months later, it is evident that no single, specific plan was ever fully implemented. [Figure 5.4 and 5.5]

In March 1832, notice was received that 120 ironed prisoners were to be escorted from Wiseman’s, where they were no longer required on the Great North Road, to the Cox’s River crossing on the new Bathurst Road. They were expected to arrive in late May. The 60 strong No. 20 Road Party under overseer William Bell began preparatory work for a stockade to accommodate them. During April, nine huts, two cook houses and two blacksmiths’ shops were built using slabs and bark sheets provided by No.44 Road Party stationed at Honeysuckle Range. Altogether, almost 100 men were engaged in the undertaking.20

As seen in Chapter Four, the official reports of work on the road or associated with it are characterised by a gross underestimation of work required, and completion of the No. 2 Stockade is a typical example. The work was not completed by the end of May and, despite an assurance it would be ready by 25 June, it was not. The stockade was finally fit to be occupied by iron gangs in late November. But road work continued at Mt Victoria for several more years. It took a lot longer to achieve ‘perfection’ than was ever anticipated.21

In looking for reasons for the long delays, it is difficult to go past the pressures derived from the penal reform debates in the United Kingdom as reflected in inter- and intra- departmental politics of colonial New South Wales discussed in Chapters Two and Three. Add to this the exigencies of a coerced workforce reluctantly labouring under a colonial sentence and there is a recipe for a very tedious complex process. The reasons for the continual underestimation of works by persons who ought to have known better included the politics of the situation on the ground, occasional unreasoned optimism and poor planning, inadequate tools and equipment, and at other times the elements and plain bad luck.

According to Nicholson’s plan, by August 1832 the military and officers’ quarters had been established and a 12 feet high stockade approximately 155 feet square had been erected. Some 25 feet inside the perimeter fence, housing for the ironed gangs, also in the shape of a square, with a lock up in the inner courtyard had been constructed. There was a single entrance to each square. The bark prisoners’ huts were joined together except at the entrance and faced toward the centre of a square. Huts for the overseer and assistant overseers were on either side of the stockade, outside the fence. The guardhouse, a military barracks and store were also outside the fence immediately opposite the stockade entrance. (Figure 5.5) The officers’ quarters were some distance from these buildings, on a hill overlooking the facilities. The plan indicates that a hospital, 30 feet by 15 feet with a stockade around it, a store and quarters for the commissariat officer and kitchens were still to be built.

Even when first due to be occupied, the structure did not survive an inspection by Governor Bourke unscathed. On his tour, undertaken on the opening of Victoria Pass, he described the stockade as being ‘... in an incomplete and wretched state’. Shortly after the Governor’s visit, there was a flurry of activity as Nicholson attempted to address the Governor’s numerous complaints.

Surveyor Romaine Govett, who visited the stockade on a number of occasions, described it as similar to that at Mt Victoria. The square was divided by rail-fencing into several compartments for the different companies of prisoners, which facilitated prisoner classification, and on which they hung their washing. On the outside, about four yards back and surrounding the huts, there was a fence of split logs with two great gates at the entrance. Outside, facing the gate on either side, were two rows of soldiers’ barracks constructed with bark and split timber, with mud chimneys; some were internally plastered and white-washed. At the head of the barracks were the...
officers’ quarters, ‘forming a kind of parallelogram with the stockade’. The quarters consisted of a shingle cottage with two tolerably-sized rooms, back kitchens and a verandah in front. On one side was a hospital and storehouse and tents for the commissary, on the other side there were a cooking shed, a butchery and bakery and huts for their personnel and for the overseers and constables. Although temporary, to Govett they presented as a small town and usually contained some 700-800 inhabitants.25

Court records indicate that the inhabitants ranged over the area with a considerable degree of freedom. There was more housing than is indicated by Govett, Perry or Nicholson as there were military families and civilian staff living there with attendant domestic arrangements. Children, chickens, house cows, and vegetable and flower gardens were all part of the scene.26

Deputy Surveyor General Perry’s 1833 sketch [Figure 5.8 and 5.9] clarifies Govett’s description. It indicates that the second military barracks building was constructed at the eastern end of the first barrack building rather than opposite as originally planned. The superintendent of iron gangs’ hut and store were outside the stockade, opposite the main entrance. The sergeant major’s quarters were parallel to the eastern barracks. The lock up was not inside the stockade as indicated in Nicholson’s plan, but was located in a central position between the houses of the superintendent, the sergeant major and the barracks.27 The painting, *Fort on the Cox’s River near Bathurst, NSW* c.1832-1833, also confirms this general layout. [Figure 5.10]

The painting depicts a square subdivided by rail fencing into four areas, as described by Govett, with a triangle in the south west ward and poles with lanterns located near

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26 SRNSW: Clerk of the Peace, Quarter Sessions, Depositions and Other Papers, CGS 845, Bathurst, 4/8371, pp.21-33, R.2395.
27 ML SLNSW: Bourke Family Papers, CY 2798.
each corner. This square was where prisoners were mustered and their irons checked
prior to marching out to work through the gates, and it was here that Overseer John
Hamilton was attacked as he identified men who had been refusing to work.\textsuperscript{28} The
slab-walled skillion-roofed huts for the convicts are in a continuous range with the
windows and doors facing into the courtyard formed within the square. The painting
closely conforms to the description provided by Govett, Nicholson and Perry. Perry’s
plan, discovered since the excavation, enables the verification of the tentative
identification of the relic sites excavated in 1995 and 1996 and of the buildings
depicted in the painting. The arrangements, particularly the use of the double
squares, were intended to maximize security, with the additional
compartmentalisation designed to facilitate classification of prisoners. In 1995 and
1996 the author and Dr. Michael Pearson conducted an historical and archaeological
investigation of the No. 2 Stockade site at Cox’s River prior to its further inundation
following the augmentation of Lyell Dam.\textsuperscript{29} Dr. Pearson correlated the structures
shown in \textit{Fort on the Cox’s River near Bathurst, NSW} and Nicholson’s plan with
surface and excavated features remaining at the site. [\textbf{Figures 5.7, 5.10 and 5.11}]

The military huts, located to the east of the stockade, correlate with site A11, the
barracks building shown in the Nicholson plan as completed in 1832. Site A12 is
possibly the site of the assistant overseers’ huts as indicated by Nicholson. Site A5
was part of the second barrack building. Sites A7 and A9 can be confirmed as the
Officers’ Quarters. Structures I and K as indicated in Nicholson’s Plan were not built
where stipulated. Site A6 is part of the Sergeant Major’s accommodation indicated in
Perry’s plan. Site A10 is part of the new hospital constructed by Perry in 1833. Site
A2 is either the cook house rebuilt by Perry or the accommodation of the
superintendent of iron gangs and store. This was found to have a comparatively small
hearth and chimney base, with a flagged area in front of the hearth and a clay floor

\textsuperscript{28} SRNSW: Courts of Petty Sessions; CGS 2772, Bathurst, Bench Books, 28 Dec 1832 - 19 Mar 1833,
2/8324, pp.38-40; 97-100, R. 663.
\textsuperscript{29} Sue Rosen and Dr Michael Pearson, ‘The No. 2 Stockade Cox’s River- Its Life and Times: An
constructed on a substantial rubble filled building platform. A retaining wall
supported a large platform abutting and extending north from the building. [Figure
5.4 and 5.7]

In the general vicinity of the upper Area A, a range of fine earthenware tableware
pieces and a large number of clay tobacco pipe pieces were recorded. Local
fossickers, who have named the ridge as it rises from the river ‘Officers’ Hill’, have
found military buttons, musket balls, coins and eating utensils there,\(^{30}\) which
provides further corroboration for the above interpretation.

\textit{Occupation}

On 17 November 1832, Nicholson supervised the move of the ironed gangs from Mt
Victoria to the new stockade. A temporary hospital had been established and over the
rest of the month gangs moved stores and tools. It was hoped that by keeping the
men in irons together at the new stockade there would be the advantage of needing
only one military facility and one blacksmiths’ workshop.\(^{31}\)

The ironed gangs from Mt Victoria were now in more spacious accommodation with
approximately 400 feet of hut room which rarely accommodated more than 360 men.
At Mt Victoria there had been only 330 feet with frequently more than 400 men.\(^{32}\)
Nevertheless, on arrival the ironed gangs rioted and did so much damage that
Nicholson ordered anything that could be salvaged from Mt Victoria Stockade to be
removed to undertake repairs at Cox’s River. The Bridge Party and Nos.10 and 11
Road Parties were engaged in this work for some months, hampered by convicts

\footnotesize{30} Olaf Leckbandt and Lester Batcheldor. See Ollie Leckbandt, \textit{The Mount Walker Stockade, Cox’ s River},
Ollie Leckbandt, Lithgow, 1998 for an account of the relics found at this site and for Leckbandt’s
interpretation of the area based on his finds.
\footnotesize{31} SRNSW: Surv. Gen., Letters Received from Surveyors, Nicholson, 14 Feb 1832 - 22 Dec 1834,
2/1562, pp.118; 152-154. R. 3080.
\footnotesize{32} SRNSW: Surv. Gen., Letters Received from Surveyors, Nicholson, 14 Feb 1832 - 22 Dec 1834,
2/1562, p.42. R. 3080.
dismantling work as quickly as it was done, removing the roofing bark to make private spaces and inevitably leaving some men in the cold.\footnote{33 SRNSW: Surv. Gen, Letters Received from Surveyors, Nicholson, 14 Feb 1832 - 22 Dec 1834, 2/1562, p.219. R. 3080; Surv. Gen., Letters Received from Surveyors, Nicholson, 2 Jan 1830 - 25 July 1831, 2/1561.2, pp.214-216. R.3080.}

In March 1833, in replying to concerns about the level of scrofula\footnote{34 According to \textit{The Macquarie Dictionary} scrofula is a tubercular complaint characterised by swelling and degeneration of the lymphatic glands, especially of the neck and by inflammation of the joints. SRNSW: Surv. Gen., Letters Received from Surveyors, Nicholson, 14 Feb 1832 - 22 Dec 1834, 2/1562, p.221. R. 3080.} and rheumatism at the stockade, Nicholson responded that the situation had arisen because the neglect of the late superintendent of iron gangs had caused so much ‘insubordination and discontent’ among the men, they had destroyed the work almost as fast as it was completed. The new appointment to the position had seen the situation improve and repairs by the Bridge Party and No.11 Road Party were ‘rapidly progressing’, but were retarded by the difficulty of obtaining bark locally.\footnote{35 SRNSW: Surv. Gen., Letters Received from Surveyors, Nicholson, 2 Jan 1830 - 25 July 1831, 2/1561.2, pp.214-216. R.3080.}

Continued problems with disease amongst the convicts prompted the Governor, in May 1833, to order Deputy Surveyor General Perry personally to inspect Cox’s River Stockade. Perry found the hospital, which was only some seven months old, in such a poor state of repair that he decided to build a new one. At the time there were 40 patients, many of whom were outside because of insufficient accommodation. He immediately put up more ‘guard beds’ in ‘the miserable hovel’ and began work on a more capacious site for a building that could accommodate about 5\% from the ironed gangs and also casualties from road parties extending 30 miles each side of the stockade. The building, site A10 referred to above, was 36 feet by 18 feet and 14 feet at the pitch of the roof. It was constructed of slabs with a stone chimney on a platform foundation of stone and earth. The windows were set high in the gables, some 8½ feet above the floor, allowing a good light and air flow. He also constructed the cook house and undertook other general work to improve the facilities.\footnote{36 ML SLNSW: Bourke Family Papers, CY 2798.}

\textbf{[Figures 5.8, 4.6 and 4.7]}
The stockade guard beds were a particular concern and figured prominently in the correspondence. They were again an issue in July 1833 when the Principal Superintendent of Convicts reported on the Stockade and ironed gangs at Cox’s River and ‘... pointed out the present imperfect state of the Guard beds and the roofs of the Huts ...’ He advised that the frames of the guard beds were to be made of strong posts and loosely covered with flooring boards cut to six feet lengths, which could be removed for cleaning. The Surveyor General responded to this instruction by informing the Colonial Secretary that difficulties arose because the men, who were under the charge of the superintendent of convicts while in the stockade, used the loose boards from the guard beds to make ‘private berths’ and they used the bark from the roof also for this purpose. The roof had been repeatedly replaced, but because the men had not been prevented from rearranging the facilities some men were left to sleep exposed on the ground. Unless there was to be closer supervision of the prisoners at night, maintaining the stockade to the specifications required was nigh impossible. As was pointed out in Chapter Three, conflict between the departments responsible for the convicts and the road works plagued the effective administration of both areas of their governance. Thomas Cook, a convict who recorded his experiences there, also refers to the practice of using bark to make a private sleeping ‘berth’. From Cook’s account it appears to be an illusory attempt by individuals to gain mental and physical space and an aid to the pursuit of private relationships between the men. Cook also refers to large draught inducing gaps between slabs, a result of using green timber in construction.

In July 1833 a building for the accommodation of the Commissariat Clerk was under construction and an additional room was added for the accommodation of an assistant surgeon. The room was finally ready for occupation in early September.
The excavations in 1995 revealed three buildings with chimneys (C2, C3 and C40) suggestive of either residential or office use on the western side of the Cox in the commissariat area. [Figure 5.4] Site C2 was the site of a building measuring 7 metres by 3.5 metres, with stone chimneys at each end, having timber end and side walls supported on a timber plate let into the ground. The floor was made up of clay, with fragments of brick tamped into it, paved with flat slate stones in front of each fireplace. The two fire places suggest that the building was divided into at least two rooms by an internal wall. A small stone room was built onto the western side of the northern chimney, accessed by a door opening to the north. Building C5, with stone foundations, a level floor and no chimney, is likely to have been a store. There is no mention in the official correspondence of any detail concerning the smiths’ establishment or the Commissariat area, but a Department of Land and Water Conservation portion plan indicates an area on a peninsula of land opposite the stockade site as a Commissariat and outlines five buildings there. [Figure 5.5]

Surveyor Nicholson’s management of the facility continued to be under attack. In June 1834 he tersely responded to criticism from Governor Bourke, that the No. 2 Stockade reflected ‘no credit’ on him, by stating that the original layout of the buildings and their construction were largely the responsibility of his predecessors in the position. More recent work had been instigated by the Surveyor General and on the hospital, by Deputy Surveyor General Perry. The state of the palings of the stockade, the condition of the commissariat store at Cox’s River and the guard beds at Mt Victoria were matters that were referred to head office at this time rather than dealt with in situ, a situation which reflected the breakdown in relations between Assistant Surveyor Nicholson and the Superintendent of Convicts at the stockade. In August Nicholson reported that:

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Chapter Five: The Western Road Convict Sites

... I have caused a small lockup to be built sufficient for the purpose of that station, out of materials of the old store - and have given up the old lockup which is shingled and both secure and weather proof to the commissariat officer for a store; such arrangement requiring far less work than repairing and shingling the old store would have caused.\textsuperscript{43}

About this time, Baron Charles von Hugel observed that the site of the No. 2. Stockade ‘... must have originally been a charming spot, [but] is now one of the ugliest places in the world, as all the trees and shrubs have been burnt down.’\textsuperscript{44} Von Hugel stated that:

... the stockade is situated on a small isolated hill, the last foothill of a high mountain, Mount Walker, round which Cox’s River winds. Another small valley, without water, (sic) runs between high mountains on the other side of the stockade, a few hundred paces away. Here stands the house of the officer commanding the guard, which consists of a full company ... The house is a cottage built by the last Commandant, is quite prettily situated, and a big vegetable garden and a small flower garden make it attractive in this wilderness.\textsuperscript{45}

Captain George Deedes of the 17th Regiment was the commanding officer for the 12 months to June 1834. At that time he purchased a grant adjoining the Commissariat Reserve at Cox’s River. Deedes, according to von Hugel, built a cottage that was later occupied by his successor as commandant, McCumming.\textsuperscript{46} Newly married, he was accompanied by his wife. So too was the subsequent Commandant, Samuel Moore, who probably also had his children with him. This cottage was relatively removed from the Commissariat and Stockade areas so as to protect the families from the convicts and military riff raff. Such a site has recently been tentatively identified by Olaf Leckbandt, at a location that on close examination has clearly been

\textsuperscript{43} SRNSW: Surv. Gen., Letters Received from Surveyors, Nicholson, 14 Feb 1832 - 22 Dec 1834, 2/1562, p.429. R.3080.
\textsuperscript{45} \textit{Ibid.}
\textsuperscript{46} Society of Australian Genealogists, File. 4/9271/4.
levelled, fits Von Hugel’s description and at which artefacts suggestive of an officer’s domestic arrangement have been found. The site overlooks the creek running into the Cox. It roughly corresponds to the location of a number of buildings in the portion plan referred to earlier.  

Nicholson was replaced by Assistant Surveyor Dulhunty in mid 1835. By that time, prior to the transfer of gangs to Hassan’s Walls there was a total of 300 prisoners plus military and civilian staff. In September 1835 James Backhouse reported that there were more than 150 prisoners employed under Captain Faunce of the 4th Regiment at No. 2 Stockade which he referred to as “The Junction Stockade”.  

Backhouse noted:

... These men are lodged in rude huts of rough timber, covered in with bark, within a stockade, near to which are the dwellings of the commanding officer & surgeon, & the barracks of the military....

He continued,

Near the barracks, we saluted a native Black and his wife, and they returned our tokens of notice ... We took some refreshment at a decent public-house, at Solitary Creek, and afterwards visited a small road party, on the way to an inn, at Honeysuckle Hill.

In a massive amount of official and unofficial documentation, Backhouse’s report of ‘a native Black and his wife ’ is one of only two references to Aboriginal people in

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47 SRNSW: Clerk of the Peace, Quarter Sessions, Depositions and Other papers, CGS 845, Bathurst, 4/8371, pp.21-33. R.2395.
48 Cox’s River was commonly referred to as “The Junction Stockade”. Further, the route as described took Von Hugel directly passed the stockade site so it would be unusual for him not to mention it. Von Hugel’s description referring to the junction of Farmer’s Creek and the Cox, considered with the likely extent of the No. 2 facility, suggests that the nomenclature of “The Junction Stockade” was an appropriate, if generalized, term. Besides, Hassan’s Walls Stockade was not yet operational and Bowen’s Hollow Stockade had not been constructed; the No. 2 Stockade Cox’s River was the only stockade in existence in the area at that time. Later evidence also confirms that “The Junction Stockade” and “No. 2 Stockade, Cox’s River” were one and the same place. For example, Christopher Scally, of the 28th Regiment of Foot located at Cox’s River described himself in August 1836 as being ‘stockade sergeant at the Junction’. See also Figure 5.12.
the vicinity during the Stockade’s occupation. It is possible that they generally kept away.

A year later, when the iron gangs at Bowen’s Hollow and Hassan’ Walls were strengthened by transfers from Cox’s River, only 40 men remained.\(^{51}\) However, the ‘Return of Iron Gangs’ for October 1836 indicates that, although the road there was in relatively good order, 132 men in irons were still stationed there. Other than the ironed gang at Hassan’s Walls, no other ironed gangs on the Western Road are indicated. Cox’s River remained the principal establishment on the road, until almost the year’s end.\(^{52}\)

A sketch plan from December 1836 suggests that the stockade fence may have been dismantled with the removal of the iron gangs to Hassan’s Walls and Bowen’s Hollow. The area had largely been taken over by the contractor supplying provisions to the gangs [Figure 5.12].\(^{53}\) At the beginning of 1837 most prisoners had been transferred to Hassan’s Walls, Bowen’s Hollow and Bathurst.\(^{54}\) Some administrative and support functions were retained. The military commandant, the assistant surgeon to the regiment, and hospital staff still worked and resided there. The contractor’s agent, Enderby and his family were in residence as were their assigned servants and stockmen associated with the supply operation until at least November of that year.\(^{55}\) No specific documentation signalling the official closure of the facility has been located.

\(^{52}\) SRNSW: Supreme Court, Letters, Petitions and Returns Received by Mr Justice Burton, 1834 -1843, Return of Ironed Gangs, 5/4765.
\(^{53}\) SRNSW: Supreme Court, Criminal Jurisdiction, Clerk of the Peace, Papers and Depositions, 1824 - 1946, CGS 880, 9/6311, No.71.
\(^{54}\) SRNSW: Col. Engineer, Copies of Letters Sent, Jan 1837-Nov 1842, 4/457, p.81.
Four years later, in September 1839, recent immigrant and writer, Louisa Anne Meredith described a stockade in ruins:

The next point of our route having any claim to the picturesque was the rocky ravine at Cox’s River; the sight of clear running water is always pleasant, but nowhere more delightful than in so dry and thirsty a clime as this. The ruins of numerous huts, formerly occupied by a convict-gang at this spot, gave it rather a desolate look, but the clear little brook (for such in England would we call this river) gurgling merrily over its pebbly bed, had a sweet music in its voice that made me forget all disagreeables. We tasted, and then crossed it, and immediately began the steep ascent of Mount Lambey, which rises abruptly from the river’s bank.56

No.3 Stockade Hassan’s Walls

The first reference to convicts located at Hassan’s Walls was in the period from March to June 1832, when a bridge party was reported as working on the road there. They were accommodated in huts that had been erected on a damp piece of ground, near a creek a quarter of a mile from the new line.58 These were loosely arranged slab and bark huts that were typically unfenced.59 From October 1833 until at least September 1834 No.11 Road Party, under overseers George Morley and James Dew, worked on the road under the walls.60 Little is known of the use of the site but its status from an unsecured site to a secure stockaded site, in theory at least, changed in mid 1834 when a stockade superintendent was appointed. Unfortunately, the

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57 See also Ollie Leckbandt, *Convict Stockades from Mount Walker to Mount Victoria*, pp.41-69 for an account of the relics found at this site and for Leckbandt’s interpretation of the area based on his finds.
60 SRNSW: Surv. Gen., Letters Received from Surveyors, Nicholson, 14 Feb 1832 - 22 Dec 1834, 2/1562, p.330. R.3080
appointee, William Smith, died in August 1834. It was about that time that Mitchell suggested that a detached iron gang could be stationed at Hassan’s Walls and approval was received for this to go ahead as soon as the ‘wooden houses’ were ready. These were the caravans or boxes designed by Percy Simpson described above. [Figure 5.1]

In April 1835, there was yet another directive from Mitchell to construct a new station for the accommodation of an iron gang at Hassan’s Walls, at the crossing of the new line and Major Lockyer’s line just beyond the River Lett. This may imply a short move to better ground, from the former poorly situated road party site. Officers’ quarters, barracks, guard room and a shed were erected shortly after and the remainder of the buildings for cooking and use of overseers were in progress. One of the boxes had been moved onto the stockade and a second one was ready, with others expected to be finished by the first week in May. Other buildings were of slab and bark as at Cox’s River and Mt Victoria. By mid 1835, there was a post office and a public house in the vicinity. Despite the facility being declared ready to receive the first iron gang in June 1835, by late September the facility was described as ‘falling to decay’. It was again declared ready for the reception of a gang in December 1835.

By February 1836, Hassan’s Walls was certainly functioning as an iron gang stockade with a military superintendent and constable stationed there. A lieutenant and a detachment of the 4th Regiment were in charge of security and occupied

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61 SRNSW: Col. Sec. Letters Received from the Surv. Gen., 33/5367. Transcribed by Jean Francis and sent to author, file no. unknown.
barracks there which continued to be used throughout the year.\textsuperscript{65} In August 1836 there were reputedly 69 men in the ironed gang and it was planned to bring them up to their full complement of 80 by drawing men from Cox’s River.\textsuperscript{66} In November, the ironed gang was under assistant overseer James Greer and the 28\textsuperscript{th} Regiment had relieved the 4\textsuperscript{th} Regiment.\textsuperscript{67} By May 1837, the works were under the supervision of the 80\textsuperscript{th} Regiment and the ironed gang was engaged at a nearby quarry. Little else is known of the stockade as a physical structure. The last mention of the Hassan’s Walls stockade uncovered in this study was in December 1839 in the accounts of the Auditor General, where it appears the stockade had been maintained until at least the end of 1839.\textsuperscript{68} The last figures for its occupancy that have been located were: 43 men in irons and 12 servants, artificers etc out of irons in August 1838.\textsuperscript{69} \textbf{[Figures 5.13 and 5.14]} 

**Bowen’s Hollow Stockade and Lumber Yard**\textsuperscript{70}

In May 1832 a hut and stable were to be constructed for the sub-inspector who at that time was Clement Doughty. They were to be located a small distance beyond Hassan’s Walls and two miles beyond the River Lett. Bowen’s Hollow was selected for the site. The house over-looked the stockade and lumber yard which were established some years later. The construction of a bridge commenced in October 1832 continued until at least January 1833. The Bridge Party was accommodated in huts probably on the flat near the creek at the bottom of the hollow around which the stockade was formed. After completion of the bridge, work in this area focussed on the descent to the bridge and was undertaken by No.11 Road Party. Both the Bridge

\textsuperscript{65} SRNSW: Clerk of the Peace, Quarter Sessions, Depositions and Other Papers, CGS 845, Bathurst, 4/8382, pp.147-164. R.2398; Supreme Court, Letters, Petitions and Returns Received by Mr Justice Burton, 1834-1843. Return of Ironed Gangs, 5/4765.
\textsuperscript{68} PRO: T1/4347; SRNSW: Auditor General’s Returns, 1839, 2/836; SRNSW: Superintendent of Convicts, Convict Indents, 1827-1828, 4/4013, p. 171. R.398.
\textsuperscript{69} SRNSW: Col. Engineer, Copies of Letters Sent, Jan 1837 - Nov 1842, 4/457, p.81.
\textsuperscript{70} See also Ollie Leckbandt, \textit{Convict Stockades from Mount Walker to Mount Victoria}, pp.15-40 for an account of the relics found at this site and for Leckbandt’s interpretation of the area based on his finds.
Party and No.11 were mostly resident in the first quarter of 1833, although they also spent a considerable amount of time assisting with the repairs to No. 2 Stockade.\textsuperscript{71}

William Smith, a free immigrant and stone mason, succeeded Clement Doughty in the position of sub inspector. He later became a superintendent of Hassan’s Wall’s stockade but, as was noted above, he died of a heart attack in 1834. Alexander Binning was the next incumbent and his family took up residence at the turn of the 1834/35 year. The next reference to Bowen’s Hollow with regard to works was Nicholson’s request in December 1834 to detach 40 men from an ironed gang to work at a quarry there.\textsuperscript{72}

In response to the security problems and those of maintaining infrastructure, Mitchell’s recommendation to use portable wooden houses to accommodate gangs at Bowen’s Hollow was approved in January 1835. But it was not until the end of the year that an iron gang under military guard was established there. Aside from the boxes for sleeping, the facilities included a mess shed where the men ate, a lock up and a stockyard. It appears that there were at least two areas, ‘the stockade’, although it is not known if it was actually fenced, where ironed men were located, and the Lumber Yard which may have been a work area, but may also have accommodated unironed men. It had the usual complement of support staff, including a scourger. They used the nearby waterhole for bathing.\textsuperscript{73}

In September 1836, the iron gang at Bowen’s Hollow was 15 below its full strength of 80 men so replacements were sought from Cox’s River, where the road was in

\begin{thebibliography}{99}
\bibitem{72} SRNSW: Surv. Gen., Letters Received from Surveyors, Nicholson, 14 Feb 1832 - 22 Dec 1834, 2/1562, pp.501; 507. R. 3080.
\end{thebibliography}
fairly good order.\textsuperscript{74} In January 1837 there were: 81 men in irons, six servants and artificers out of irons and 34 un-ironed road or bridge party men at Bowen’s Hollow. It continued to be occupied across 1837 by an ironed gang. By late 1838 a road party was stationed there and it was finally broken up in 1839.\textsuperscript{75} [Figure 5.15]

The Road Party Sites

\textit{Honeysuckle Hill/Flat}

Honeysuckle Hill is today known as Mt Lambie. It is the culmination of a long gradually rising ridge as one leaves Solitary Creek (Rydal) on the old line of road heading toward Bathurst. Honeysuckle Flat, 24 miles from Bathurst, was likely to have been at any one of a number of flat areas on this ridge. It was ‘encircled by precipitous Ridges, and perfectly secluded from view’. The accommodation was dilapidated and ‘exposed the inmates to the inclemency of the Weather ...’.\textsuperscript{76} The No.44 Road Party (later No.10), stationed at Honeysuckle Hill in early 1832, prepared slabs for the construction of the No. 2 Stockade. They were still employed on the Honeysuckle Range in February 1833. In mid 1835, No.10 Road party was located there when it was involved in one of the more infamous crimes - an attack on Lydia Barnes at her inn, discussed further in Chapter Eight. In November 1835 the huts on the Honeysuckle Range had been readied to receive 40 men, who were to undertake widening work and side cutting. By March 1836 huts and barracks for the 2\textsuperscript{nd} class gang\textsuperscript{77} beyond Honeysuckle Hill had been ready, but vacant, for eight months.\textsuperscript{78} [Figure 5.16]
Meadow Flat

Accommodation for eight soldiers at a military station was established at Meadow Flat in March 1831. It consisted of a room 18 feet by 30 feet with a fireplace and windows and was fitted up with two rows of hammock poles and pegs. Road parties were stationed there intermittently, at times for considerable periods, until at least late 1838. The accommodation consisted of un-stockaded slab and bark huts.

[Figures 5.17 and 5.18]

Stoney Range/Ridge

The Stoney Range or Ridge was located about 12 miles from Bathurst. Very little else is known of it except that No.45 Road Party was situated there in early 1832 and that it was also in use in April 1836. Many sites were re-used as works required repairing or improving. On 12 September 1835, the Quaker missionary, Backhouse recorded:

We visited a small road party between Honeysuckle Flat (the place where we lodged) & a neat small inn kept by a person named Levistone near the foot of the Stony Ridge, & another between that place & Bathurst ... held a meeting in a rude blacksmith’s shop (for we were glad to be in a sheltered place, on account of the cold).

Diamond Swamp

Virtually nothing is known of this site, except that a bridge party and then a road party was stationed there in at least the latter halves of both 1833 and 1834. A road party was either still or again employed there in April 1835. The location of the site has been identified by Olaf Leckbandt.

Mt Clarence Surveying Depot

Mt Clarence, which was off the line of road, was the base for the assistant surveyor in charge of the line. Given that the military and the sub-inspector, Alexander Binning, lived with their families, and the appointments were lengthy, it is reasonable to assume that Mt Clarence was both a domestic and working situation. While little is known of the surveyor’s domestic arrangements, it is known that in mid 1835 a “Miss Dulhunty” was resident there. A number of convicts are also known to have lived and worked at the Mt Clarence depot. In 1832, William Beswick, a Cheshire highway robber and wheelwright, made barrows and carts there. A convict clerk helped manage the stores and office, and in late 1832 a medical attendant was stationed there. Some of these functionaries may have moved to No. 2 Stockade once the commissariat, hospital and smith shop were constructed. The siting of the surveyor’s headquarters at Mt Clarence was due to its proximity to earlier lines of road from the Mt York descent. The location of the site has been identified by Olaf Leckbandt.

Conclusion

As has been shown, the Western Road construction process generated a series of vibrant, dynamic work sites that were inter-related and inter-dependent. No. 2 Stockade Cox’s River was the largest and most important of all the sites. At its peak it accommodated in excess of 600 convicts, support personnel and their families, thus resembling a small village. The other sites, though smaller and less significant, nevertheless played key roles.

The physical form of the sites reflected the numerous dilemmas faced by the authorities, alluded to in earlier chapters, and forming an underlying theme throughout this thesis. These dilemmas included the transportability of these

facilities versus security; longevity over transience; investment in the colony’s infrastructure or satisfying the conflicting demands arising from the penal reform debate in Britain; and the over overriding concern of cost. Such cross purposes were never effectively resolved. Depending on the demands of the road building task, some accommodation was ephemeral and transitory, while others became relatively long lasting establishments, remnants of which remain today. By the late 1830s the major roads were near completion and, as it was no longer necessary to employ such large numbers of men in any single undertaking, the facilities became redundant as a tool of convict management.

This chapter has explained in detail the design, construction, location and occupation of the Western Road work sites in general and No. 2 Stockade in particular. The following chapter will examine the available evidence to build up a picture of the convicts who worked on the road’s construction from these sites.
Figure 5.1  *Sketch of a Portable Wooden House to contain Twenty Iron’d Gang Convicts* from the Colonial Architect’s Office shows the type of accommodation being experimented with in the 1830s. These were used at Bowen’s Hollow and Hassan’s Walls stockade. They were colloquially known as ‘boxes’. Boxes Creek near Hassan’s Walls takes its name from the location of these structures there. [Source: Mitchell Library, State Library of NSW]
Figure 5.2 A view of the valley at the foot of Mt Victoria where the stockade was located. The creek which ran through the valley now runs into a dam. Clumps of angular rocks dot the area and are remnant from the stockade era. [S. Rosen, 1997]
Figure 5.3

The site of the No. 2 Stockade, Cox’s River as surveyed by Pacific Power in 1994 with significant surface features indicated.
Key to Figure 5.4

**A1** A low stone mound and rubble scatter showing above-ground, shown by excavation to have been a chimney at the southern end of a building approximately 5 x 6 metres with scattered rubble from the building. This building is adjacent to A11, a barracks building, and is interpreted as the guard room indicated on Perry’s plan as building 6.

**A2** A low stone mound shown by excavation to have been a chimney at the eastern side of a 5 x 3.5 metre building site. A stone retaining wall extends 12 metres to the north, only a few of the top stones of which were evident at ground level. This is interpreted as the Superintendent of Iron Gangs barrack and store indicated on Perry’s plan as building 7.

**A3** The most clearly defined building site in terms of above ground evidence, with a shallow bench cut into the ridge slope and a stone foundation wall line across the open face of the cutting, defining a building site of approximately 11 x 4 metres. The site also has a thin scatter of artefact material associated with it (blue and white transfer printed ware, cream-ware, and glass). It may be associated with the mounted police building located in this vicinity by Perry and identified as building 4 on his plan.

**A4** A stone scatter of approximately 2.5 metres diameter, including flaked quartzite cores, presumed to be of Aboriginal origin, but possibly re-located during the convict period. The Nicholson plan of 1832 indicates that Military Quarters had been constructed in close proximity to this location, and A4 or A5 could be the site of this building.

**A5** A mound of stone approximately 2.5 metres in diameter and 40 cm high, at the western edge of a level area approximately 3.4 x 4.8 metres in extent, with an area of stone approximately 1.6 metres square at its eastern end. This is interpreted as a building site with a chimney at the western end and either a second fireplace or a stone entry step/threshold at its eastern end. This may be the eastern end of the second soldier’s barracks identified on Perry’s plan as building 3.

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A6 A mound of stone and clay approximately 2 x 2.5 metres and 50 cm high. A level area extends approximately 20 metres eastward from the mound. This is interpreted as the site of the new hospital constructed by Perry in 1833 and identified as building 12 on his plan.

A7 & A9 A mound of stone and clay approximately 4 metres in diameter and 60 cm high (A7) appears to be a chimney site at the western end of a flat area, now largely disturbed by a vehicle track. An area of embedded stones and a rubble mound, approximately 2 metres in diameter (A9) is located 8 metres to the east of mound A7, and the embedded stones could be interpreted as being a chimney base of 2.5 x 1.7 metres. These two mounds could be chimneys at each end of an 8 metre long building, slightly longer than that excavated at C2 in the Commissariat Area. The Nicholson plan indicates the intention to build a Military Officers’ Quarters in this vicinity.

A8 A low (10 cm) high mound of clay with a small amount of stone rubble protruding. A shallow depression ran down slope from the mound. While the mound was not as distinct as most of the others identified in the area, the depression might have been associated with the stockade around the convict huts, which is now interpreted as lying at about this location. The site was disturbed by bulldozing that took place after the first survey, and is now covered by a thick layer of clay.

A10 A stone mound approximately 5 metres in diameter. This might be an eroded building platform for associated with the new hospital or the dispensary indicated as building 13 on Perry’s plan.

A11 A 20 x 4.97 metre building platform/levelled area, oriented on a NW-SE axis, with low stone foundation walls to support the edges of the mound on each side of the platform. A clay and stone rubble mound approximately 3 metres in diameter is centrally located at the western end of the platform. A 1.5 x 1.66 metre square of embedded stones is located centrally at the eastern end of the platform. Both of these features are taken to be chimney bases. A stone structure midway along the southern side of the platform is interpreted as the site of another chimney. It appears that the collapsed chimney was misinterpreted by interested locals as a convict grave, and when it was bulldozed in 1981 during preparation for the damming of the valley, it was reconstructed by the NSW Electricity Commission. The 1.12 x 1.84 metre reconstructed masonry structure is similar in size to other chimney bases at the stockade site. A11 is interpreted as the site of the military barracks shown as completed in the Nicholson plan and in Perry’s plan as building as building 3.
A12  A mound of stone approximately 2 metres in diameter, and a levelled area. This has the appearance of a building site, and might be the Assistant Overseers’ hut shown on the Nicholson plan of 1832 and that of Perry in 1833, which is shown as being in this location.

**Mitchell’s Road**, which runs along the current southern shore of the eastern peninsula, is almost entirely under water-level already. A short section is a few centimetres above water-level at its extreme western end.

**Area B** is to the west of the Cox’s River and the crossing point of Mitchell’s Road, and to the north of the Commissariat area and the tributary creek. The area is now largely under water, and no cultural remains were located.

C1  An area with stones on the surface, and artefacts mixed in the top-soil. Test trenching failed to locate a definite building site, though one may have existed in the vicinity.

C2  A series of mounds and a line of disturbed stone indicated a site that was shown by excavation to be a building approximately 3.5 x 7 metres, with a chimney at each end.

C3  A mound was shown by excavation to be a 2 x 1.4 metre chimney base, indicating a building existed to its south.

C4  An alignment of stone on the surface was excavated to show a building aligned with the others in Area C. The building had a chimney base at the southern end, and had maximum dimensions of 5 x 5 metres.

C5  A stone mound was excavated to show a building 3.5 x 4.5 metres, with stone foundations but no chimney. The building was interpreted as a store house.

D1  A scatter of stones and a levelled area 7 x 5 metres is interpreted as a hut site.

D2  A large mound of stone and clay 6 x 6 metres is interpreted as a building site.

D3  A large mound of stone and clay 5.5 x 6 metres is interpreted as a building site.

D4  A shallow depression 5.5 x 3 metres and an alignment of brick fragments is interpreted as a possible building site.
E1-E4 Four mounds of rubble, stone blocks and depressions. While not able to be clearly interpreted as buildings, site E2 corresponds roughly with a building shown in the 1834 Deedes Plan.
Figure 5.4  General plan of the No.2 Stockade with archaeological sites designated. [M. Pearson, 1995]
The above 1834 survey of land applied for by Captain George Deedes of the 17th Regiment indicates five buildings in the commissariat area and also four on the Deedes Grant. It was probably here that von Hugel stayed in 1834. Across the Cox in the general area of the stockade the word “Stockade” is partly obscured by a tear. Also marked is the road and the track from the stockade to the commissariat. [Lands Department: Portion Plan 101.691]
Figure 5.6  Nicholson’s Plan of the Stockade at Cox’s River, 1832. Indicates major buildings including barracks and military officers quarters. This layout generally conforms with the findings of the archaeological investigation, and with the view held by locals who refer to the area rising toward Mount Walker as “Officer’s Hill”, because of the nature of the artefacts found in that area by local collectors. [Source: SR/Surveyor General Sketch Book/Vol.2, Fol.17]
Figure 5.7 An overlay of Nicholson’s Plan on the 1996 surface and excavated features. This interpretation of the position of the stockade has been made by keying the Nicholson Plan to the identification of site A11 as the southern most barracks (“I” on the Nicholson Plan). Perry’s Plan now enables verification of some of the tentatively identified features. [M. Pearson, 1996.]
Figure 5.8  Perry’s 1833 sketch of the stockade site. It indicates the old and new hospital buildings and generally confirms Govett’s description of the place. Not included is housing occupied by the military families, which may have been located across the river in the Commissariat area. [Source: ML SLNSW: Bourke Family Papers, CY 2798.]
Figure 5.9

Detail of the stockade area, six months after Nicholson’s plan was prepared. It shows a number of changes to the structure in the intervening period. [Source: ML SLNSW: Bourke Family Papers, CY 2798.]

Key

1. Officers’ Quarter
2. Sergeant Major & etc
3. Soldiers’ Barracks
4. Mounted Police
5. Commissariat’s Store
6. Guard Room
7. Sup’t of Iron Gangs and Stores
8. Court House
9. Cooking House (rebuilt)
10. Lock up
11. Old Hospital
12. New Hospital
13. Dispensary & etc
14. Overseers’ Huts
Figure 5.10  ‘The Fort on the Cox’s River near Bathurst, NSW’, artist unknown. [Source: Mitchell Library, State Library of New South Wales]
Figure 5.11  The Military Stockade Area. Based on 'The Fort on the Cox's River near Bathurst, NSW', relating the physical features to the various plans and the interpretation of the site during the archaeological investigation. [M. Pearson, 1996]
Figure 5.12 A sketch of ‘The Junction’ in December 1836. By this time the No.2 stockade site was used by the stores contractor as a base for distribution to the gangs located at Hassan’s walls and Bowen’s Hollow. Charles Enderby, the agent, and his family were in residence. [SRNSW: Supreme Court, Criminal Jurisdiction, Clerk of the Peace, Papers and Depositions, Sydney and on Circuit, 1824-1946, CGS 880, 9/6311, No.71]
Figure 5.13  Hassan’s Walls Stockade site. The dam encroaches on part of the former stockade area. Earth mounds containing sandstone blocks (Figure 5.14) remnants from the period, are located in the area to the front and right of the dam. [S. Rosen, 1997]
Figure 5.14  An earth mound containing relics from the Hassan’s Walls Stockade. [S. Rosen, 1997]
**Figure 5.15** This 1841 plan of Bowen’s Hollow shows the site of the former stockade, the quarry, the sub-inspector’s house and paddock, two bridge sites, and a line of road cut by mistake. [SRNSW: AO Map No. 1461B]
Figure 5.16  A possible “flat” on the Honeysuckle Range. The No. 10 Road Party spent a good deal of time in the 1830s in this area. Barnes’ Inn was also located along the line of road on this range. [S. Rosen, 2003]
Figures 5.17 and 5.18

Two views of Meadow Flat where a military station was established in 1831. Later a road party was stationed here and a bridge was constructed over Lawson’s Creek there. Archaeological relics from this period of occupation survive in the area. Also surviving is a former inn, one of the oldest buildings west of the mountains. [S. Rosen, 2003]
Chapter Six

The Western Road Convicts

There are three major schools of thought concerning the origins and character of the convicts transported to New South Wales which retain some currency in the literature. The first emerged in the early 1920s when George Wood argued that the convicts transported to Australia were the victims of a harsh economic and political regime and a brutal and self interested criminal justice system. ‘Is it not the case’, asked Wood, ‘that the true villains remained behind in England while their victims, innocent and manly, created the Australian democracy?’¹ In 1937 Eris O’Brien also concluded that, while many sentences had been commuted from the death penalty, and therefore were likely to be more serious than Wood had credited, the convicts had generally been guilty of trifling offences.² Generations of school children were raised with what became a cliched notion that convicts were poor, desperate people sentenced for stealing a loaf of bread by a heartless government. With culpability for the injustices of the system directed to the British, it was a nationalistic viewpoint that spared Australians and their convict forebears, embarrassment or responsibility for what had been previously viewed as ignominious national beginnings.

Manning Clark, writing in 1956, was the first major historian to revive the largely nineteenth century view of convicts as criminals. After a limited examination of convict indents, Clark concluded that the convicts were largely members of a professional urban criminal class.³ This view developed as the second major school of thought across the following decades. In the 1960s Lloyd Robson used the

transportation indents to analyse a random sample population comprised of every 20\textsuperscript{th} convict sent to eastern Australia. He produced a demographic profile confirming Clark's suspicions.\textsuperscript{4} A.G.L. Shaw came to similar conclusions, subscribing to the view that the convicts belonged to a criminal class of ne'er-do-wells, an underworld of rogues, pick pockets and drunkards who stole for a living. All three were of the opinion, however, that English convicts were not, in the words of Shaw, 'atrocious villains' and that the Irish were even less so, being more likely to be first offenders from rural, rather than urban environments.\textsuperscript{5}

Brian Fletcher, in 	extit{Colonial Australia before 1850} (1976), Robert Hughes in 	extit{The Fatal Shore} (1978), M.B. and C.B. Schedvin in 'The Nomadic Tribes of Urban Britain: A Prelude to Botany Bay' (1978), and Humphrey McQueen in 	extit{A New Britannia} (1970) essentially took up the conclusions of Clark, Robson and Shaw. The convicts were portrayed as work-shy members of the working class and as selfish thieves interested only in their own survival, feckless professional criminals that were as likely to betray their peers as the local lord or bourgeois shopkeeper.\textsuperscript{6}

John Hirst in 	extit{Convict Society and its Enemies} (1983) accepted the view that convicts came from a criminal class, but portrayed them as individuals likely to pursue their own advantage, budding entrepreneurs keen to use the system for their financial advancement. Thus, he argued, they formed part of the origins of a capitalist, market oriented society.\textsuperscript{7} George Rudé in 	extit{Protest and Punishment: The Story of the Social and Political Protesters Transported to Australia, 1788-1868} (1978) allowed that a small minority were social or political protestors. Rudé reminded scholars that the

\textsuperscript{5} A.G.L., Shaw 	extit{Convicts and Colonies: A Study of Penal Transportation from Great Britain and Ireland to Australia and other parts of the British Empire} Melbourne University Press, 1966, pp.164; 182-183.
question of the degree to which the ‘complexion’ of the convicts changed in response to circumstances in Britain had not been addressed. Michael Sturma in *Vice in a Vicious Society* tempered the primacy of the criminal class theory when he argued in 1983 that the inadequacy of crime statistics, both in the colony and in Britain, undermined the validity of claims for criminality. He concluded that the concept of a ‘criminal class’ either in Britain or Australia was the creation of nineteenth century prosecutors and twentieth century historians.

More recently, a third school of thought challenged many of the orthodoxies that had emerged from the preceding paradigms. Stephen Nicholas, Peter Shergold and others presented a major reinterpretation of the convicts in 1988. They examined almost 20,000 indents to conclude that the convicts were neither hapless victims nor work-shy, conniving ne’er-do-wells. The notion of a ‘criminal class’ was rejected and they argued that the convicts sent to Australia ‘were ordinary British and Irish working class men and women’. The *Convict Workers* team paid particular attention to the occupations and literacy levels indicated on the transportation indents, an aspect that had been largely neglected in previous studies or been dismissed as unreliable. They claimed that the convicts’ occupation profile was broadly similar to a profile drawn from the 1841 census of England and Ireland and that the indent data was more reliable than had previously been credited. These claims and their methodology were challenged, for example, by Shlomowitz as early as 1990, but the methodology and data stands nevertheless as a benchmark from which other population studies can be developed and refined.

This chapter draws on the indent data for the Western Road convicts to comment on the evidence for, and validity of, the victim/rogue dichotomy that dominated convict

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10 The *Convict Workers* team also included Barrie Dyster, David Meredith, Deborah Oxley, John Perkins and Kris Corcoran. Their findings were compiled in Stephen Nicholas (ed.) *Convict Workers: Reinterpreting Australia’s Past*, Cambridge University Press, Sydney, 1988
11 Stephen Nicholas and Peter R. Shergold, ‘Unshackling the Past’ in Nicholas *op. cit.*, pp.3; 6-7.
historiography in the twentieth century. The data for the Western Road population is compared with the findings the two major convict population studies undertaken to date, ie., those of Robson and Nicholas and Shergold, referred to above. In the discussion following the reader is directed to the tables at the end of the chapter to assess the data sample on which the discussion is based.

**The Western Road Sample Population**

In contrast to Robson’s random sample of some 6,000 convicts and the *Convict Workers* sample of 20,000, the Western Road convict recidivist population, which is the subject of this thesis, is a very specific sample of 1108 convicts. The details of these individuals were found in court records and correspondence related to the convict stockades on the Western Road, from Mt Victoria to Bathurst, in the 1830s. Many are part of the 18 % of all transported men estimated by Shaw to have been confined at some time to an iron gang in the period 1826 to 1836.\(^{13}\) Gaps in the data have meant that most analysis has been undertaken within data sets defined by the information available for the particular query rather than a standardised set for every query. As a rule, categories with a total of less than 15 subjects were not interrogated because of the statistical distortion small changes in such samples can instigate. This has meant for example, that the contribution of Scottish prisoners has been largely excluded. The data tables at the end of the chapter, however, include this material and can be referred to by the reader.

The population has a number of commonalities with Robson’s sample. About half had arrived with the minimal sentence of seven years, religious affiliations were almost identical, with the ratio of Protestants to Catholics at about 2:1. The English offenders were in the majority with the Irish a very sizeable minority. On the whole they were largely convicted of property crimes.\(^{14}\) An area of distinction was military crime. This was a category in which the Western Road recidivists exceeded the

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\(^{13}\) Shaw, *op. cit.*, p.216.
\(^{14}\) Robson, *op. cit.*, p.9.
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proportion in Robson’s overall sample, particularly that for New South Wales. In all other crime categories the sample population is too small to make meaningful comment and so the property offenders are by default the focus of much of the analysis which follows. [Tables 6.1, 6.2 and 6.3]

The single greatest difference with Robson’s findings is the much larger proportion who had no previous criminal record prior to their conviction and transportation to New South Wales, 60% compared to Robson’s estimate of from 33% to 50%.15 [Table 6.4] Other differences are the slightly greater proportion on the Western Road with life sentences, their overall youthfulness and accompanying that, their single marital status. [Table 6.5 and 6.6] This is a similar demographic to that of the Tasmanian bushrangers who were the subject of Hamish Maxwell-Stewart’s 1990 thesis.16 The average age on arrival was 23, compared to Robson’s 26, with the majority clustered in the lower age ranges.17 [Table 6.7] They had spent about five years in the colony before coming to attention on the Western Road. In all, the profile adds up to a more youthful and inexperienced convict population than the terms ‘recidivist’ or ‘lifer’ usually conjures. These were not ‘old lags’.

Robson’s statistical analysis was undertaken when computers were relatively primitive. It was largely a quantitative exercise, and at the time, long overdue as no large scale detailed analysis had been undertaken to inform the convict origins debate. As Robson explained, he aimed to ‘... discover the truth of the origins of the convicts ...’ arguing that ‘... intuitive reasoning cannot be defended when objective methods are at hand’.18 Despite this quest for ‘truth’, as Nicholas and Shergold pointed out, Robson’s claims are ‘an elaboration of the nineteenth century notion of a criminal class’, a notion that also determined the statistical analyses of Clark and Shaw, rather than evolved from them.19 This was the dominant view in the 1950s and

15 Ibid.
17 Robson, op. cit., p.9.
18 Ibid., p.161.
19 Stephen Nicholas and Peter Shergold, ‘Unshackling the Past’ in op. cit., p.5.
1960s among historians of crime in nineteenth century Britain. More recent research in the United Kingdom has found little evidence to support it.\textsuperscript{20}

Clark, Robson and Shaw placed a great deal of emphasis on the crimes of the convicts, while neglecting occupational and educational data. The argument was made more attractive and persuasive by discussions that embellished the statistical findings with colourful examples that reinforced the criminal class theory.\textsuperscript{21} As Nicholas and Shergold found, a quantitative examination of the convict indents does not support the claims for the existence of a criminal class. The research for this thesis also revealed that evidence in the statistical detail supports a view of the convicts as workers who stole occasionally and opportunistically for a variety of reasons including want, the assertion of customary rights and the redress of employment related grievances.

\textbf{Statistical Constraints and Methods}

The key attributes used to define the character of the convicts have been their urbanity\textsuperscript{22}, their youth, their mobility, nationality, marital and occupational status and level of literacy. This base information was supplied on their arrival in New South Wales in what is generally referred to as the convict indents. The most comprehensive data set exists for the period after 1826, from the administration of Governor Darling, when most Western Road recidivists arrived in New South Wales.

\textbf{Identification of Individual Convicts}

Two major difficulties faced by all researchers who have attempted to address the question of convict identity have been gaps and inconsistencies in the data. In undertaking the analysis for this thesis, significant problems were encountered in determining the status of individuals and in some cases the identity of individuals. A

\begin{itemize}
  \item \textsuperscript{20} Hamish Maxwell-Stewart, \textit{op. cit.}, p
  \item \textsuperscript{21} Ibid.
\end{itemize}
number had aliases, and many had names that were very common; there are, for example, 11 John Smiths. Spellings of less common names were variable and the orthography and calligraphy of some of the clerks was highly idiosyncratic.

Most convicts were identified because they appeared before the bench of magistrates at Cox’s River or the Bathurst bench or quarter sessions or, more seriously, before the NSW Supreme Court. Another source which enabled the identification of individuals was the Employment Index for 1832 and the Convict & Employers (NSW) Index: 1828, 1832-1833, Jan 1838-Jan 1844 extracted from the Government Gazette by genealogical researchers, Pastkeys. It was valuable data but problems quickly emerged. These included false identities and transcription errors either by the clerks on the Western Road, at the Gazette office or on the original indent. For example, an individual could be listed over a number of weeks as a runaway from a particular gang and finally his recapture is recorded, but over the period he is identified as being from a number of different ships and/or gangs. Cross referencing with all the available data often enabled the correct person to be identified but sometimes there would be two people with the same name from different ships in the same gang or even two people with the same name from the same ship in the same gang. In situations such as these specific identification became impossible.

It also became clear from the Cox’s River court records that there were sometimes delays in information reaching the Gazette. If Gazette entries are taken literally, some convicts were achieving impossible feats in running, suffering recapture and processing by the courts, sentencing and running again. Overseers were frequent witnesses in court proceedings and it was often possible to use their identities to link convicts, gangs and crimes and thus differentiate events and their protagonists. Again this process had its flaws, for example, if an overseer was in charge of a gang in July and September 1833 can we assume, if no other overseer has been identified for the period, that he was also in charge of it in August? In this study that assumption has been made.
The attempts to sort out identity were not always successful and in some instances an incorrect conclusion may have been drawn. However, general statements can be made. Previous analyses suffered from the same problems and those conducted prior to digitization had fewer resources to resolve issues than are currently available.

[Tables 6.8 to and 6.11]

**The Assessment of Urban/Rural Status**

The origin of the criminal and his distance from place of origin have been used by Robson to comment on his character, not only as an urbanite or otherwise, but on the extent to which he may have been a professional criminal, an opportunist or a victim of the times. Yet, identification of the rural/urban status of offenders, that is, whether they were town or village dwellers or from isolated areas in the countryside, is problematic. Sometimes a county is nominated as a ‘native place’ and at other times a more specific locality, such as a town, is given. But, as observed by Robson, even non-industrialized counties had some urban development. Thus outside the great urban centres, the identification of the county is inadequate to make a determination. While Robson acknowledged the difficulties posed by the urban/rural classification, he nevertheless described convicts according to an overall assessment of the extent of industrialization of the particular counties of trial. In this thesis, Samuel Lewis’ *A Topographical Dictionary of England* (1831), *A Topographical Dictionary of Ireland* (1837) and *A Topographical Dictionary of Scotland* (1851) were used to assess the urban/rural character of both the place of origin and place of trial.

In coming to a decision on the rural or urban character of an individual a number of rules were adopted. Firstly, if the place of origin was given as a county, rather than a town, this was interpreted as being a strong, but not conclusive, indicator that the

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23 Robson, op. cit., p.25.
person had rural origins. Secondly, a threshold population of 5000 was set to
distinguish an urban from a rural place. Thirdly, where there were a number of places
with the same name, the one closest to the place of trial was identified as the place of
origin. To refine Robson’s analysis a process of ‘triangulation’ was employed to
ameliorate some of the limitations imposed by the gross data. The occupation and
age of the offender, the crime and whether the trial was in the person’s county of
origin or adjoining county were considered in association with Lewis’s description of
the place.

While some crimes, such as picking pockets or street robbery, which needed a crowd
to be successfully implemented,\textsuperscript{25} may lend themselves to a largely urban
classification, country fairs were also places that picking pockets or shoplifting
might occur. Robson also noted that urban offenders were known to make marauding
raids in the country so that a crime that may appear to have all the hall marks of an
offence of a rural habitue’ may in fact be that of an urbanite or urban fringe dweller
who occasionally worked as a rural labourer and occasionally and/or
opportunistically committed crimes in the country.

On occasion a person’s occupation, the nature of the crime and place of trial have
lead to a rural classification, when if assessed only against the population of the
place of origin an urban assessment would have resulted. When only either the
county of origin or trial was identified, rather than both, the nature of the crime and
the general character of the identified county, such as Lancashire for example, led to
a classification like Robson’s, of urban. Where a reasonably confident estimation
could not be made, for example, when the occupation and/or the crime cast doubt on
a classification the category, ‘undecided’ was chosen. Where there was insufficient
information to decide the category, ‘unknown’ was chosen.

\textsuperscript{25} It could equally be argued that New South Wales transportees, by definition, were not successful
criminals, and therefore that they may have attempted their crimes in non-urban settings.
Chapter Six: The Western Road Convict Population

**Mobility**

An assessment of the proximity of the places of trial to the place of origin has been undertaken to assist in forming a view of the degree of mobility of the convicts prior to their transportation. [Table 6.12] The analysis needs to be viewed with a degree of caution due to the uncertainty of the exact distances involved when only a county name is provided, rather than a specific town or locality. Robson’s data simply juxtaposes counties of trial with counties of origin with conclusions in gross terms drawn on the numbers tried in their home county or otherwise. This interpretation, which can imply degrees of mobility, makes no provision for persons living on or near county boundaries and has the potential to falsely contribute to a perception of a marauding, mobile criminal class. For example a person from Greenwich in Kent tried in Southwark in Surrey, or a Southwark person tried in the counties of London or Middlesex or Surrey, under this methodology would contribute to a perception of mobility, yet the localities in reality are separated by a short walk. In this thesis, where these circumstances have been recognized, they have been treated as if the counties of origin and of trial are one and the same. Robson’s analysis implies that people not tried in their county of origin were either criminal itinerants or had migrated with criminal intent. Yet, on conviction, a place may have been the home of a person for many years or it may not. In the absence of statistical surveys other than those done on the indents by Robson and Nicholas and Shergold, we simply do not have the evidence to make such assumptions.

All the research in this area by the known authorities has a speculative element. These speculations need to be more strongly acknowledged than the usual unobtrusive caution embedded in the text when a particular claim is asserted and then largely disregarded in the subsequent discussion. Nicholas and Shergold, for example, acknowledge that their measure of mobility is crude because of its potential to underestimate mobility. They have assumed that convicts were tried in their county of residence and are unable to take into account intra-county mobility. 26 They

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26 Stephen Nicholas and Peter Shergold, ‘Convicts as Migrants’ in Nicholas op. cit., p.54.
have nevertheless produced a (superficially) authoritative chart of the distances people moved. The indent data does not allow the precise measures implied by their Table 4.4 because of the difficulty of ascertaining to where in a county a person may have migrated.

Nevertheless, even data which has a wide range of interpretations can enable the historian to make claims based on the possible scenario at the extremes of the range. While there may be a wide variance in the specifics, in general such assessments can still fulfil a useful function, while recognizing the limitations of scope. Accordingly, in this thesis a general measure has been used which merely identifies trends.

**Occupational Crime**

The data has also been analysed to determine if there exists a relationship between the crime and a person’s occupation. Six categories were employed in the analysis: ‘Not Related’, ‘Unlikely’, ‘Possibly’, ‘Highly Likely’, ‘Related’, and ‘Undecided’. This enables a wide range of alternatives to be considered, from the highly conservative to the all embracing. At the extremes, the decisions are relatively straightforward but consistency in the mid range classifications, particularly the ‘Possibles’ and the ‘Unlikely’, is difficult to achieve. Nicholas and Shergold acknowledged the difficulties presented by the indent data in relating the crime to the employment. They defined work-related theft to be stealing tools, stealing goods and stealing from the worker’s master/employer. Tools included job specific equipment and thefts described as ‘tools’ on the indent. In this thesis such thefts have been similarly defined. It was classed as being ‘possibly’ related in cases where an occupation made an opportunity for theft available, such as a glazier or tradesman who committed burglary where the victim may have been a client or employer. In such an instance the crime may have arisen not only because of an opportunity presenting itself but because it may also relate to the employer-employee relationship.
relationship. The category ‘unlikely’ is for that class of crimes which could only remotely and with a stretch of imagination be linked to an offender’s occupation or employment. ‘Highly Likely’ categorizes crimes such as the theft of a sheep by a ploughman where it is not indicated that the theft was from an employer and not from a specific trade, ie a shepherd, but is from the same industry or an allied occupation. The ‘Not Related’ categorization covers those crimes for which a connection cannot be found. The results of this analysis should only be considered in the most general vailidity because of the shortcomings of the indent data and thus the necessary guesswork in the classification. [Table 6.13]

**Degree of Criminality**

The use of raw data referring to the gross number of prior convictions is another reasonably blunt instrument in assessing the degree of criminality of a population. The indent data only occasionally gives the nature of the prior sentence but indicates the number of known prior sentences. The few known former sentences range from a few days to 14 years. Using the gross data, some convicts with two or three minor convictions with trifling sentences could appear more criminal than someone who had a single prior sentence of several years.

**Nationality**

The nationality of the convict was usually inferred from the place of origin and place of trial data in the indent. When it was not clear an assessment was made based on the name and at other times on the origin of the majority of other convicts on the ship on which he arrived.

**The Analysis**

**The Innocents (in a relative sense)**

The most promising group of convicts from the Western Road against which the ‘convict as victim’ thesis can be tested are the 57% of property offenders who received the minimum seven year sentence. [Table 6.4] Fifty-nine per cent of this
least offensive group had no prior convictions on transportation to New South Wales. This is a much greater proportion than the 24% of all offenders against property (including more serious offenders with lengthier sentences) found by Robson.\(^{29}\) Robson’s sample had a high non-response rate (39% compared to 3% in this sample) and his inclusion of serious offenders contributed to the relatively low proportion of first offenders in his analysis, whereas this Western Road group excludes those with life and 14 year terms. Such a large difference, however, in the context of the recidivist Western Road population whom Governor Darling referred to as ‘... the very refuse of the whole Convict Population ... [being] “Double distilled Villains”...’,\(^{30}\) lends support to the assertion that the general convict population of New South Wales was likely to be composed of a greater percentage of lesser criminals, who might be definable as victims in the terms of Wood and O’Brien than was credited by Clark, Robson or Shaw.

Robson’s model of analysis has been employed, for comparative purposes, in the discussion following. The most frequent categories of crime against property are individually analysed, to ascertain if there were pockets or classes of criminals at variance with the general convict population identified by Robson. Secondly, characteristics that might lend weight to either the victim or the rogue convict portrait are sought.

Drawing on Robson’s crime categorization model\(^{31}\) the top five property offences for those sentenced to 7 year terms were:

- Larceny (other) 193
- Theft of wearing apparel 69
- Robbery 49
- Burglary/housebreaking 41
- Animal theft 35

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29 Robson, *op. cit.*, Table 6(b) p.193.
31 Robson, *op. cit.*, Chapter Three and p.179.
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**Larceny**

The crime of larceny involves, fraudulently and without the consent of the owner, taking and carrying away property with the intent to permanently deprive the owner of it. In this group there were several convictions for stealing food including bread, cheese, herrings, fruit, pork, bacon and potatoes. But the quantities are not described, so it is impossible to discern if the ‘heists’ were commercial undertakings, trifling offences of necessity or the assertion of customary rights. Many thefts related to cloth, jewellery, plate, money and lead, all of which were very saleable items. Unlike Robson’s sample, of which the majority were tried in England, there were almost equal numbers of English and Irish offenders.\(^32\) The proportion of larcenists with seven year sentences in the Western Road recidivist population closely approximated the proportion in Robson’s general population sample.\(^33\) This is an unexpected result, as this less criminal offender category, compared to those with lengthier sentences, was not expected to be so strongly represented in a population of recidivists.[Table 6.1, 6.4 and 6.14]

Like Robson’s sample they can be described, on the whole, as young single urbanites with an average age of 22 over half of whom had prior convictions. Robson concluded that 72%\(^34\) of larcenists were likely to have been in trouble previously and led him to find that ‘... there is evidence that transportation was not a sentence passed lightly or for the first offence unless it was a serious one’.\(^35\) The English urban larcenists on the Western Road had, at 93%, a much higher rate of prior conviction than Robson’s overall sample or his English sample. This figure goes some way to explaining their standing as recidivists in New South Wales. They bear a strong resemblance to the young urban thief profile. The Irish urbanite’s rate of prior conviction at 7% is much lower than Robson’s findings for the Irish and is extraordinarily low for a population that is defined as habitually criminal. Unlike

\(\text{\footnotesize 32 Robson did not analyse his data for crime, sentence and nationality. See Ibid. Table 6(c) and Table 6(d) pp. 189-194-195; 205.} \\
\text{\footnotesize 33 Ibid., Table 6(c), p.194.} \\
\text{\footnotesize 34 Ibid., p.36.} \\
\text{\footnotesize 35 Ibid., p.37.}\)
Robson’s Irish profile of older, married and rural in character, they resemble young urban victims of a harsh justice system.\[36\] [Tables 6.2, 6.3, 6.4, and 6.14]

Robson found a third of convicts tried in rural counties had been born outside their county of trial and concluded that some of these ‘... made a profession of preying on the countryside, for a large proportion of rural crime was committed by migrant depredators...’\[37\] In the Western Road sample a greater proportion of English urban larcenists (74%) were tried in their county of origin than in Robson’s overall sample (64%).\[38\] In the urban and industrialized counties, property offenders in general that were tried in their county of origin formed a very large majority, for example, 82% from London and 81% from Lancashire. Of the English urban larcenists who were not tried in their county of origin, a substantial proportion were tried in adjoining counties with similar economic features, possibly brought there by prospects of employment, for example, a weaver who went from Yorkshire to Manchester. About half were from regional areas but were convicted in London. Only one appeared to be a migrant from London to the regions (a baker/tailor who was arrested in Warwick) and only three had moved a great distance across the country. Most seven year larcenists did not move far from their county of origin; aside from the capital, an adjoining county was the location of choice. The data suggests that in England, aside from movement from the regions to the capital, migration across the country or from the capital to the regions was rare and there is no evidence of the professional urban depredators referred to by Robson. The analysis of the seven year English larcenists reveals a more sedentary young urban population than found in the general convict population by Robson. [Tables 6.8, 6.12 and 6.14]

The Irish larcenists are distinguished from their English counterparts by their greater mobility with a larger proportion than the English tried away from their county of origin. Five were tried in Britain and almost a quarter were inter-regional migrants,
being tried a considerable distance from their home county. Thirty per cent were
tried in an adjacent county and 39 eight per cent were migrants from the capital to the
regions, providing some evidence of urban individuals raiding the countryside that
was not apparent in the English data. The Belfast groom who stole potatoes in
County Down and the Dublin gunsmith who stole seals in County Tyrone may be
examples of this type of criminal. The 22 year old pedlar from Drogheda in Louth
County who was convicted of stealing linen in Longford, even without a prior
conviction, might qualify as shiftless. With most Dubliners tried in Dublin there is
only very limited support in this data for the existence of urban thieves preying on
the countryside. Whereas 50% of the English not tried in their county of origin were
tried in London, among the Irish the figure for those who migrated from the regions
to Dublin is only 24% and of these a number fit the ubiquitous urban thief profile. As
Robson found, the overwhelming majority of offences were opportunistic and, with
pick pockets alone counting for almost half, perpetrators on the lookout for
opportunities are a substantial proportion. There are various individuals who could
be classed as either ‘victim’ or ‘feckless thief’. The degree of Irish mobility and the
nature of many of the crimes in the context of the extreme poverty in Ireland during
the period, lend support to the view that many of these crimes were driven by want.
On conviction, the Irish were treated harshly. [Tables 6.10, 6.12 and 6.14]

_Theft of Wearing Apparel_

Clothing thieves under seven year sentences are over represented on the Western
Road in comparison to Robson’s sample. 40 Individual items stolen included a coat
and shoes, a shawl, a cape, scarf, trousers and a waistcoat. It is possible that these
items may have been associated with want or personal need. However, there is
evidence suggesting that many items were stolen for sale rather than personal use, for
example, the 17 year old London errand boy, the 41 year old labourer and an 18 year
old blacksmith’s apprentice (all single), who were convicted on separate occasions of

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39 This figure excludes those who were adjacent to the capital and were tried there. They have been
included in the regional to capital figures.
40 Robson, _op. cit._, p.194.
stealing a gown, an unlikely but not inconceivable personal item. The majority of the
offence descriptions in the indents were expressed in generalised terms of quantity
such as ‘stealing clothes’, ‘feloniously stealing clothes’ and ‘stealing clothes and
money’. In this category the description of the items more often than not appears in
the plural leading to the suspicion that the thefts were for on-selling and therefore
likely to be a more regular activity because of the knowledge and skill required to
pass on, ‘fence’, the items and thus involve criminal association. The majority were
young single urbanites more than half of whom were English. The small total sample
does not hold much meaning except that there is a continuation of the same trend of
greater mobility among the Irish as was evident among the larcenists. Some 83% of
the urban English were tried in their county of origin and, although sedentary, were
more likely to have been previously convicted than the Irish. There is no evidence of
a roving criminal class of thieves of clothing. [Tables 6.2, 6.3, 6.4, 6.12 and 6.14]

**Burglary and Robbery**

The crime of burglary is distinguished from robbery in that it involves unlawfully
entering a house or building to steal property usually at night, whereas robbery is
stealing property either from the victim’s person or from the immediate control and
presence of the victim. Burglars and robbers with seven year sentences are
proportionally higher in the Western Road population than in Robson’s sample.41
[Table 6.4] The lack of details for the crimes of burglary and robbery precludes
comment based on the type of item stolen for either of these categories and inhibits
the analysis. The group consists of 37 English and 46 Irish offenders with the
English showing a marked preference for burglary over robbery (3:2) and the Irish,
the reverse, committing robberies rather than burglaries at a rate of almost 3:1. The
majority (88%) were urbanites with no prior convictions and the Irish with fewer
prior convictions than the English.[Tables 6.5, 6.14, 6.15 and 6.16] Of the English
with a pre-existing criminal record, ten had two prior convictions, one had three and
three had one. Where the terms are indicated the sentences are short, ranging from

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41 Robson, *op. cit.*, p.194
two to six months. Overall, seven year terms were awarded in only 28% of English convictions for burglary and robbery. [Tables 6.2 and 6.5] While the seven year sentence for a thrice convicted English 14 year old may have been an act of leniency due to his youth, the explanation for the relatively light seven year sentences for these re-offenders may lie in the fact that their former offences were relatively minor, or it may not. The data does not tell us.

As with the preceding groups there is scant evidence among the burglars and robbers for a mobile professional class of thieves. Of the English who were tried outside their home county, three were tried in adjacent counties and two had moved from the regions to the capital. Overall the sample is too small to make meaningful comment but this Irish group with a higher rate of trial in the county of origin shows less mobility than their countrymen in other major property crime categories. [Table 6.12]

**Animal Theft**

Animal thieves are represented on the Western Road in a proportion which approximates Robson’s findings. [Table 6.1] The sample is small, consisting of 12 English and 22 Irish offenders. The quantities of animals stolen are not supplied but small animals such as sheep, geese, pigs and fowls were the main (culinary?) choice. A majority had no prior convictions, indeed the lowest proportion of any category. [Table 6.15 and 6.16] There is no distinction in the rate of conviction between the English and the Irish. The offenders were largely single rural people with once again the English more likely to be tried in their county of origin, but in this sample, the Irish who were not tried at home were all tried in an adjacent county, a situation quite different to that of the other Irish crime groups. Another distinction between the English and the Irish is an age disparity with the Irish on average 5 years older and more likely to be married than the more youthful 20 year old English country boys.
Chapter Six: The Western Road Convict Population

The Relationship Between Crime and Occupation of the Seven Year Property Offenders

The aim of this analysis is not so much to confirm the convicts’ occupational and skill claims, as did Nicholas and Shergold, but rather to form an opinion on Ignatieff’s statements concerning the assertion of rights discussed in Chapter Two. A filtering of all seven year property offences against the occupations of the offenders indicates that the majority (59%) bear no relationship or an unlikely relationship to their employment or occupation. In these instances it was difficult to see any connection between the person’s employment and the crime. Very few crimes (5%) can definitely be said to be employment related. Only when the ‘highly likelies’ and the ‘possibles’ are included does the figure reach 38%. This result is partly due to the limited information provided by the indents. Taking a very broad and inclusive view more than a third could be attributed to employment with the figure slightly higher for the Irish than the English. [Table 6.13]

The crimes identified as employment related have the potential for customary rights or industrial and employment issues between the convict and his employer to have been an influencing factor. Examples include an attorney’s clerk convicted of stealing books, butchers’ convicted of stealing meat or animals, domestic servants convicted of stealing clothes or household items, farm workers of stealing animals or cheese, textile workers of stealing cloth or clothes or a stableman or soldier of stealing boots. Some offenders were in occupations that provided the access and means to undertake crimes, suggesting an opportunistic character to the crimes and the criminals, for example, a porter, who stole a carpet or tailors who stole clothing.

The majority of offences have no relation to a person’s occupation in terms of employees seeking retribution or the employment providing the opportunity. Of those that were employment related, while undoubtedly some instances were simply thefts, others could be related to the taking of cast off, redundant or worn items, or off cuts from the manufacturing process, or as some sort of penalty or pay back
extracted by workers who were otherwise powerless to seek redress for grievances. But the majority of offences appear to be opportunistic rather than the assertion of rights. However, this is very difficult to assert with any certainty on the basis of the indent data. Although the majority came from an urban background, the data does not suggest the majority came from a criminal underworld.

**The Character of the Seven Year Property Offenders**

In the 1820s, when the majority of these offences were committed, crime was considered to be largely a rural problem due to a breakdown in traditional rural economic relationships. There was also recognition of a breakdown in master-servant relationships in the manufacturing district. Evidence before the 1826 Committee on Criminal Committals indicated that the increasingly casual mode of employment for rural labourers was a cause of crime arising from enclosing common land, consolidating tenancies and evicting cottagers. As a result many young men who were no longer accommodated by their employer were forced to become itinerant, following seasonal work. Of this sample population only 16% of crimes have been identified as being the acts of a rural person. [Table 6.14]

Overall, the analysis of property crimes for which 7 year sentences were awarded reveals that, contrary to expectations, there is little evidence of the existence of a mobile class of urban thieves either in England or Ireland, with the English being particularly sedentary. Many of the offences are opportunistic rather than professional. While the Irish were slightly more rural or regional in character than the English, they, like the English, were predominantly urban, with a much lower rate of prior conviction than the English. [Table 6.14] The Irish were much less likely to steal wearing apparel or commit burglaries. Irish offenders dominate in one category only - animal theft. As to their status as victims, the Irish from this sample are more likely to qualify than the English. There is also evidence that a number of

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convictions were for trifling crimes particularly in the larceny category. Some in the animal theft category could be argued to have been acting from want.

It could reasonably be expected that the Western Road recidivist population would have a greater history of criminality than the general convict population. Yet, among the English animal and clothing thieves and burglars and robbers, even after allowing for a doubling of the prior conviction rate, some 40% of this group, could be viewed as having been harshly treated as first offenders. This treatment may have lead them to become recidivists. The data raises the possibility that these trifling offenders became hardened criminals due to their New South Wales’ penal experience. The disproportionate number of Irish larcenists with seven year terms, 60% of whom had no prior convictions, [Table 6.16] among the recidivists on the Western Road raises a number of questions. Does it imply, for example, that English larcenists were better at keeping out of trouble once they arrived in New South Wales? Could it imply that the Irish were more embittered by the experience of servitude and became more criminal after their arrival in New South Wales? Or does this disproportionate number of Irish larcenists suggest firstly that the Irish were treated more harshly in the justice system in the United Kingdom where Irish first offenders were more likely to be transported? Secondly, in New South Wales, where their masters were largely British, were they more likely to be subject to secondary punishment than their British counterparts?

**Serious Offenders**

On the assumption that longer sentences were passed for the more serious or recidivist offenders it is a reasonable assumption that these criminals would fit the profile described by Clark, Robson and Shaw. In a test of this assumption, the 298 convicts who arrived in New South Wales under 14 year or life sentences for crimes against property were analysed in a similar fashion to those under the minimal sentence. The group make up 41% of property offenders identified on the Western Road, a larger proportion than found in Robson’s general population. [Table 6.1]
Chapter Six: The Western Road Convict Population

This outcome conforms to expectations of recidivist criminals continuing to indulge their criminal propensities in New South Wales. However, anomalously, a substantially larger proportion than Robson’s population had not been previously convicted prior to their transportation to New South Wales. Although this was to a lesser degree than those with seven year sentences this finding lends further support to the view that, if the worst of the Western Road recidivists, who have a particularly bad reputation in the literature, had so low an incidence of prior conviction, then the general convict population could be expected to have consisted of an even greater proportion of first convictions. Transportation for life for such a group appears to be a harsh sentence.[Tables 6.15 and 6.16]

The larcenists with 14 year and life sentences are also on average six years younger than Robson’s sample. A major difference between this group and those under a 7 year sentence is that the Irish are a very small component, in fact the sample is so small that it cannot be meaningfully analysed. The group under discussion here is English, urban and single with a prior conviction rate of 91%, closely matching the seven year English urban larcenists in this respect and like them, well above the average of any other sample populations. Another notable difference is that rather than the almost entirely sedentary population that the English lesser offenders presented, almost half were tried outside their county of origin. There is a great deal more movement in this group, inter-regionally and from the capital to the regions. Very few clothing thieves received life sentences, the sample here being too small for analysis. The burglars and robbers are another youthful group who are over represented on the road compared to Robson’s general population. Their characteristics mirror those of the larcenists except in two important respects. Firstly their prior conviction rate is less than one third and there is a sizeable minority of Irish offenders, but the English outnumber the Irish at a rate of 2:1. Secondly, the English of this group are more mobile than other groups, but the Irish are not. Both are demonstrating in this respect the opposite characteristics of their countrymen.

43 Robson op. cit., Table 6(b), p.193.
with 7 year sentences. [Table 6.12 and 6.17] Crimes committed by this group are more likely to be employment related, the range being 12% that could definitely be attributed, rising to 18% including the ‘Highly Likely’ and 44% including the ‘Possibles’. The English had a greater tendency to commit work related crime than the Irish. [Table 6.13]

The variations in sentencing severity, for example, the pick pockets with no former convictions who received either life or seven years, with a few sentenced to 14 years, supports the views put forward by Ignatieff of the reluctance in some instances to prosecute to the extent indicated by the legal code, a trend evident in the late seventeenth and the first third of the eighteenth century.\(^4\) The decisions seem difficult to explain using the data available for this study. Age does not appear to be a factor and all the convictions (whatever the severity) date from the mid 1820s. It should also be kept in mind that the demographic of this study is one of recidivists who continued to offend and re-offend in the Colony. One could mount a case that they were ‘bad eggs’ to start with, or alternatively, the system converted them to hardened, embittered criminals incapable of integration into a civil and free society.

Hamish Maxwell-Stewart in 1990 followed up on the *Convict Workers* research in his examination of another convict subset with a particularly negative reputation. Based on the criteria adopted by Nicholas and Shergold, 335 Tasmanian bushrangers were found to compare ‘favourably with general assessments of the convict population’. Members of this group had arrived in Australia in their most productive years, unencumbered by dependents and in good health. Maxwell-Stewart rejected that they were a population drawn ‘from a residuum of nineteenth century undeserving poor’.\(^5\) He concluded that they were neither innocent victims nor professional criminals, but workers who casually engaged in crime, if the opportunity and/or the need arose, to supplement wages rather than replace them.

\(^4\) Ignatieff, *op. cit.*, pp.15-19; 154-166.
Partly on the basis of what he termed a ‘high’ level of work related crime (12%), Maxwell-Stewart found, like Nicholas and Shergold, that they were, ‘In short ... “convict workers”’. The findings of this thesis largely concur with those of Maxwell-Stewart.

However, it is difficult to accept Maxwell-Stewart’s denouement that, with few having dependents, there was ‘a strong indication that their integration into colonial society was a comparatively efficient and painless process’. Clearly it was not. These bushrangers, like many on the Western Road, came to attention because they lived outside the law, attacking the society they had been brought into. Nearly 40% were publicly executed, another seven were shot at large and the remainder in Maxwell-Stewart’s words, ‘spent long unproductive years labouring in the penal settlements at Newcastle, Macquarie Harbour, Port Arthur and Norfolk Island’. This last statement is also particularly difficult to accept given that the value of convict labour to the colony is central to the convicts as workers thesis. While work at the harsher penal settlements or on the Western Road may or may not have been as productive as elsewhere, it provided a considerable economic benefit to the colony, by opening up areas such as the Hunter, Port Macquarie, Moreton Bay districts and the western plains of New South Wales.

This chapter has demonstrated that there is a great deal of broad concurrence with Robson’s overall findings on the demographics between the two sample populations. However, there is difference in the detail which leads to important differences in interpretation of the statistics and ultimately the conclusions. For example, there is very little evidence for the existence of a criminal class, with only a few individuals located who might be used to illustrate the criminal class profile as portrayed by Clark, Robson and Shaw. While this thesis does not find a majority of crimes that lead to transportation were employment related, other indices did not support the
professional criminal thesis of Clark, Robson and Shaw. It has been concluded that the criminal activity was opportunistic, rather than professional, although some were likely to have stolen habitually. With some exceptions, the Western Road recidivists were young, urban and single and on arrival in New South Wales were relatively less experienced as criminals than Robson’s population. The English presented as a particularly sedentary population, a different finding to that of Nicholas and Shergold. Persons 18 years and under make up 30% of the Western Road property offenders and most were from an urban environment. Overall the data suggests that the convicts were workers, opportunists and some were the victims of a harsh penal code. The following chapter will examine their skills and experience as workers on the Western Road.
## Table 6.1: Offences of Western Road Recidivists Compared to Robson’s Population

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* Calculated on percentage of known offences rather than total number of convicts; ** It is possible that some of the Western Road recidivists were part of Robson’s random sample. It is impossible to know how many, but it is likely to be a very small figure.
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(a) Based on Robson's categorization; (b) Discrepancies in totals for sentences and total number of crimes committed is due to sentences in a few cases being unknown.
## Table 6.5: Marital Status of Property Offenders with 7 Year Sentences

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<td>157</td>
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<td><strong>Theft of wearing apparel</strong></td>
<td>63</td>
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<tr>
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<td><strong>All crimes against property</strong></td>
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</table>

The above table includes all crimes against property including smaller crime categories outside the top 5.
<table>
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<tr>
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<th>Total no. of single or married offenders</th>
<th>No. Single</th>
<th>% of col B</th>
<th>Av. age</th>
<th>No. singles with prior cons</th>
<th>% of col C</th>
<th>No. rural singles</th>
<th>% of col C</th>
<th>No. single tried in county of origin</th>
<th>% of col C</th>
<th>No. married</th>
<th>% of col N</th>
<th>No. married with prior cons</th>
<th>% of col N</th>
<th>No. urban married</th>
<th>% of col N</th>
<th>No. rural married</th>
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| Note: a) includes all crimes against property including smaller crime categories outside the top 5.

Table 6.6: Marital Status of Offenders with 14 year and life Sentences
### Table 6.7 Average Age of Western Road Recidivists on Transportation to NSW

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### Table 6.8: English Born: Places of Origin Related to Places of Trial: Property Offenders with 7 Year Sentence

<table>
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<th>English county of origin</th>
<th>Total convicts per county</th>
<th>% of 7 year property offenders</th>
<th>% of col B</th>
<th>No. tried in county of origin</th>
<th>% of col C</th>
<th>No. 7 year property offenders</th>
<th>% of col B</th>
<th>% of col C</th>
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* Because of their proximity London and Middlesex have had some data merged.

** For English places of trial totals includes those from the county plus those from outside.
### Table 6.9: English Born: Places of Origin Related to Places of Trial: Property Offenders with 14 Year and Life Sentence

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*Because of their proximity London and Middlesex have had some data merged.

**For English places of trial totals include those from the county plus those from outside.
### Table 6.10: Irish Born: Places of Origin Related to Places of Trial: Property Offenders with 7 Year Sentences

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</table>

| Totals*               | 350                      | 185                     | 53          | 105                           | 118        |                 |

* For Irish places of trial total includes those from the county plus those from outside.
### Table 6.11: Irish Born: Places of Origin Related to Places of Trial: Property Offenders with 14 Year and Life Sentence

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<tr>
<th>Irish county of origin</th>
<th>Total convictions</th>
<th>% of col B property offenders</th>
<th>% of col C</th>
<th>County of origin % of col B</th>
<th>County of origin % of col C</th>
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* For Irish places of trial total includes those from the county plus those from outside.
### Table 6.12: Proximity of Place of Origin to Place of Trial for Offenders Not tried in their County of Origin

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<th>Distance Assessment</th>
<th>7 year and life sentences</th>
<th>14 year and life sentences</th>
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<td></td>
<td>No.</td>
<td>% of total col. B</td>
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<tr>
<td>6 Regional -&gt; Capital</td>
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</tr>
<tr>
<td>7 Inter-regional</td>
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</tr>
<tr>
<td>8 Cross country</td>
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<td>1</td>
</tr>
<tr>
<td>9 Capital -&gt; Regional Urban</td>
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</tr>
<tr>
<td>10 Capital -&gt; Region</td>
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</tr>
<tr>
<td>11 Not country of birth</td>
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<tr>
<td>12 Sample size</td>
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Note: Sample size = 210
## Table 6.13 Occupation/Employment Related Crime for Property Offenders

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<th>Relationship of Occupation or Employment to Crime</th>
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<th>Irish</th>
<th>All</th>
<th>English</th>
<th>Irish</th>
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<td>86</td>
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<td>29</td>
<td>16</td>
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</table>

| 12                                                |     |         |       |     |         |       |
| 13                                                |     |         |       |     |         |       |
## Chapter Six: The Western Road Convict Population

### Table 6.14 Urban-rural status of property offenders with 7 year sentences

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<th>Crime/Nationality</th>
<th>Total no. of urban offenders</th>
<th>No. urban</th>
<th>% of col B</th>
<th>Avg age</th>
<th>No. with prior cons</th>
<th>% of col C</th>
<th>No. single urbans</th>
<th>% of col C</th>
<th>No. of urbans tried in county of origin</th>
<th>% of col C</th>
<th>No. rural</th>
<th>% of col B</th>
<th>No. with prior cons</th>
<th>% of col N</th>
<th>No. of rurals tried in county of origin</th>
<th>% of col N</th>
<th>No. married rurals</th>
<th>% of col N</th>
<th>No. rurals tried in home county</th>
<th>% of col N</th>
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*Note: a) includes all crimes against property including smaller crime categories*
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(a) Based on Robson’s categorization; (b) Discrepancies in totals for sentences and total number of crimes committed is due to sentences in a few cases being unknown; (c) includes small number of Welsh.
Table 6.16 Irish Sentences for Crimes Against Property and Incidence of No Prior Conviction

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(a) Based on Robson’s categorization; (b) Discrepancies in totals for sentences and total number of crimes committed is due to sentences in a few cases being unknown.
### Table 6.17 Urban-Rural Status of Property Offenders with 14 year and Life Sentences

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<th><strong>Av. age</strong></th>
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<th><strong>Av. age</strong></th>
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Table 6.19 Irish Top 5 Property Crimes and Sentences by County of Trial
**Chapter Six: The Western Road Convict Population**

### Table 6.20 Scottish Crimes Against Property and Incidence of No Prior Conviction

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<th>Crime Category No.</th>
<th>Types of Offences (a)</th>
<th>7 Years</th>
<th>14 Years</th>
<th>Life</th>
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<td>% col O</td>
<td>No priors</td>
<td>% col C</td>
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<td>53</td>
<td>4 40</td>
<td>6 32</td>
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<td>8</td>
<td>2 Burglary; Housebreaking,</td>
<td>5 31</td>
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<td>5 Theft of Wearing Apparel</td>
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<td>12</td>
<td>6 Receiving/Possession</td>
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<td>18 37 43 45</td>
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(a) Based on Robson's categorization; (b) Discrepancies in totals for sentences and total number of crimes committed is due to sentences in a few cases being unknown;
## Table 6.21: The Recidivist Convicts of the Western Road Data Base - Gross Figures

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<th>Description</th>
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Chapter Seven: The Convict Workers of the Western Road

The previous chapter considered the Western Road property offenders within the victim-rogue dichotomy in the historiography of transportation. This chapter builds on the last and is divided into two distinct sections. The first half, continuing the investigation of the character of the convicts, focuses on the entire convict sample population and the literacy and occupational skills they brought to the Western Road. The latter half investigates their employment and experiences as workers on the road. Some of these men may have contributed to Robson’s statistics and they make up 2% of the Convict Workers sample of 19,711, but are here examined in a particular context. Their numbers are not likely to have been a strong force in either Robson’s or the Convict Workers studies. A discussion of the methodological issues, raised by this and preceding studies, surrounding the analysis of skill levels using limited occupational and literacy data is initially presented. The Western Road convicts’ skill levels are then subject to detailed analysis within specific industry groups. The latter part of the chapter examines the experience of these convicts as workers on the road.

Methodology

The particular focus of the Convict Workers project, as the name implies, was on the convicts as workers and the calibre of the work force they comprised. In the course of that study Nicholas and Shergold developed a new model of skill classification based on a methodology developed by W.A. Armstrong in the 1970s. The Armstrong Classification employs the following five skill categories:

Chapter Seven: The Convict Workers of the Western Road

1 Professional: includes such occupations as accountant, physician, surveyor, officer, landed proprietor and lawyer.
2 Middling: includes such occupations as artist, iron monger, veterinary surgeon, shopkeeper, teacher and farmer.
3 Skilled: includes such occupations as baker, wheelwright, sailor, waiter, draper, clerk, weaver, cotton spinner and sweep, and musician
4 Semi-skilled: includes bargeman, brickmaker, marine, carrier, farm labourer, butler and dyer.
5 Unskilled: includes such occupations as factory labourer, messenger, porter and labourer.

Nicholas and Shergold argued that a new model was necessary because Armstrong’s classification underestimated the skill level of the convict population. In support, they cite Armstrong’s decision to place factory labourers in ‘Category 5 - Unskilled’, while farm labourers were classed as semi-skilled. Such a classification could skew a statistical analysis of convicts to indicate a higher level of unskilled urban workers compared with rural. With a dominance of urban workers in the convict population, this would skew the overall findings to a lower skill level.

Nicholas and Shergold sought to distinguish between rural and urban skills, to separate construction workers from manufacturing and transport workers, and to identify professionals, dealers and military and domestic servants. The Nicholas-Shergold Skill classification as defined in the appendix Table A18 of Convict Workers lists the following categories:

1 Urban unskilled: includes occupations such as factory labourer, sweep and labourer.
2 Rural unskilled: includes occupations such as farm labourer and dairy-hand.

3 Nicholas, op. cit., pp. 222-223.
4 Stephen Nicholas and Peter R. Shergold, ‘Convicts as Workers’ in Nicholas, op. cit., p.71

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3  Construction skilled or semi-skilled: includes occupations such as bricklayer, brickmaker, carpenter, mason and glazier.

4  Manufacturing or transport, skilled or semi-skilled: includes occupations such as messenger, jeweller, map maker, bargeman, butcher, wool carder and nautical instrument maker.\(^5\)

The remainder are untitled, but appear from their constituency to be:

5  Rural skilled: includes occupations such as landed proprietor, fisherman, ploughman, gardener and drover

6  Dealers and shop keepers: includes occupations such as book seller, clothier, pawn broker, poulterer, tallow chandler, publican and shopkeeper

7  Military: including sailors and seaman from the merchant navy as well as the R.N.

8  Professionals: includes occupations such as accountant, law clerk, medical student, musician and teacher.

9  Domestic servants: includes occupations such as kitchen hand, butler, groom and waiter.\(^6\)

Nicholas and Shergold’s classification, with the exception of rural skilled and rural unskilled and professionals, do not distinguish the level of skill involved. The classification of occupations into industry categories in which skill levels are merged does not solve the problem they set out to address. They fail to refine Armstrong’s model to reflect more accurately skill levels across rural and urban environments. For example, in category four ‘manufacturing or transport, skilled or semi-skilled’ a map maker is placed in the same category as a carrier. Such a categorization blurs the distinction between skill levels within the industry sector. The categories imposed by both the Armstrong and Nicholas-Shergold classification methods often appear to lead to an over statement of skill levels.

\(^5\) Ibid., pp.223-224.
\(^6\) Ibid.
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In another anomalous decision, the occupations of farm servant and farm labourer have been classed as ‘rural unskilled’, while specific skills such as reaper and drover are in the category ‘rural skilled’. In the indents the term ‘farm labourer’ is often supplemented with specifics such as: ‘reaps and sows’, ‘milks’, ‘shears’ etc. But this is not always the case, yet if a farm labourer does not do these things, what does he do? The distinctions in the indents between whether someone is a farm labourer or undertaking a specific farm activity could well be due to the idiosyncrasies of the recorder of the information and how it was delivered by the convict, some summarising it under a general term and others being more specific. There may not be a real difference in the level of skills of individuals described in either fashion.

Employing the Nicholas-Shergold model to assess skill levels proved to be unsatisfactory due to the mixing of skill levels within industry categories. In their own application of the model this tendency for the meaning of the categorization to slide is apparent in their comparison of the English and convict workforces. For example, Table 5.5 in Convict Workers refers the reader to the details in the appendices which have been outlined above. But Table 5.5 lists the occupational categories using different terminology to that detailed in the appendices. Those employed in Table 5.5 are: 1. Unskilled urban; 2. Unskilled rural; 3. Skilled building; 4. Skilled urban; 5. Skilled rural; 6. Dealers; 7. Public service; 8. Professional; 9. Domestic service; and 10. Those occupations not elsewhere classified. In category three titled ‘construction: skilled or semi skilled’, the term ‘semi-skilled’ has been subsumed within ‘Skilled building’. Category four, ‘Manufacturing or transport, skilled or semi-skilled’ has become ‘Skilled urban’. The inclusion of semi-skilled workers with the skilled in the manufacturing and the construction categories has the effect of skewing a result toward the impression of a higher skill level than would be achieved under Armstrong’s model. This effect is compounded by the dropping of the word ‘semi-skilled’ from the table and subsequent discussion. Further, the inclusion of the numerous messengers and errand boys within ‘manufacturing or

7 Nicholas and Shergold, op. cit., p.72.
transport, skilled or semi-skilled’, rather than as ‘unskilled urban’, as Armstrong classes them, also skews the result to a higher skill level. Rather than solve the skill classification problem, the Nicholas-Shergold model compounds it.

Other inconsistencies include some classifications at variance with their thesis, for example, porters who were found to have a higher rate of education than messengers are classed as ‘Unskilled urban’, rather than as ‘Skilled’ as were messengers, despite their argument that the educational level of both porters and messengers warranted a ‘Skilled’ classification.  

Neither the Armstrong nor the Nicholas-Shergold categorizations address the problem of the lesser skill levels of apprentices or of those workers described as boys or who are assistants to a master. These levels include occupations such as bricklayer’s man or carpenter’s boy. Under both models such workers are given the same classification as the master. Apprentices, depending on their experience, may have developed some level of skill, and boys and labourers linked to a particular occupation would clearly bring some specific knowledge of that occupation with them to the Western Road, but their skill level would not be that of a master. It cannot be assumed that those described as ‘boys’ and ‘*’s man’ and ‘*’s labourer’ were apprentices. Their career path always may have been to work as an assistant, rather than to become a master.

The Classification Method
To address some of the shortcomings of the Armstrong and the Nicholas-Shergold models in dealing with convict indent data for the purpose of skill analysis, the Armstrong model has been adapted to produce the Armstrong Adjusted (Rosen) model to undertake the analysis required for this thesis. However, essential skill classifications on an occupation by occupation basis could not be altered without destroying the opportunity to compare ‘like with like’ data sets. In this adaptation

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the status of apprentices, the “*’s man or labourer”, has been assessed at one level below that occupation described in an unqualified fashion in the indent. For example, a plasterer’s labourer is classed as semi-skilled, rather than as skilled, as a plasterer is classified. Very occasionally, the extreme youth of an individual has also resulted in a lesser qualification than a master, on the basis that the indent’s description was likely to have been in error.

Secondly, to enable the data to be considered on an industry basis, occupations have been grouped into industries with the masters and assistants enumerated. Where a person had a number of occupations/skills they have been categorized under all their skills but in any overall assessment have been classed at the highest skill level. The one exception is that if a farm labourer has specific skills ascribed to him he was recorded under those skills and not under the general term ‘farm labourer’. Only those solely identified as a ‘labourer’ with no qualification to that term have been listed as such.9 [Tables 7.1 and 7.2]

Apart from occupation, literacy levels are the only other data set potentially indicative of education or training provided in the convict indents. Nicholas and Shergold have used literacy and occupation to comment on the human capital of the convicts; however, it must be kept in mind that, while these factors were employed to allocate convicts to situations on their arrival in New South Wales, they were not the sole determinate of placement. For those under sentence on the Western Road they were irrelevant. It is also recognized that the use of literacy skills as a specific occupational skill barometer is flawed in that a person could be literate and unskilled in a particular area or illiterate and skilled in the area. In this discussion, literacy levels are taken as an indicator of the overall development of the convicts in terms of their human capital, rather than being considered as specifically relevant to their ability to wield a pick and shovel while encumbered with nine pound leg irons. The

levels of literacy provide an additional factor from which to test the validity of the models employed.

There were approximately 180 different occupations or skills listed for the Western Road recidivists, with many offenders having multiple skills, a similar finding to that of Nicholas and Shergold. In the following discussion the focus is on the quality of the human capital and is based on the assessment of each individual within the particular industry grouping. In some instances multi-skilled individuals have a skill classed at a higher level outside the industry sector under discussion. For example, a person who was a tailor (level 3, “skilled”, under Armstrong) but also had experience as a carter (Armstrong level 4, “semi skilled”) would be counted as a skilled worker. This decision has been made on the basis that a person’s overall skill level, work experience and degree of responsibility associated with higher level work encompasses skills that are transferable to different situations that are not particularly task specific. Further, on the Western Road specialist ancillary roles such as a cook, bullock driver, medical attendant or clerk were privileged positions and were allocated as a reward for good behaviour. They were not strictly allocated on the basis of skill. The overall requirement on the Western Road was strength and stamina but these were not a consideration in the recruitment process. The men had been sentenced to work on the road because they committed offences in the colony, not because they were suited for the work. [Table 7.1]

The Skills of the Western Road Worker

_Agricultural Workers (subset size = 205 representing 21% of the skill sample)^10_ 

About a fifth of the Western Road convicts were agricultural workers and they make up the largest industry grouping on the road. Proportionally they are roughly equivalent to the agricultural proportion of Robson’s sample for the general male

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10 The percentage totals exceeds 100 because of the effect of some workers being members of more than one industry sector. See Tables 7.1 and 7.2.
convict population,\(^{11}\) but form a greater proportion than that found in the *Convict Workers* project.\(^{12}\) The group, with an average age of 25, is also older than the general Western Road population, but closer to the average of 26 found by Robson.\(^{13}\) There was not a great deal of difference in the numbers of Irish and English, with the English making up 51% of the sample. While 65% were classed as rural, 29% were assessed as being urban in character due either to residing in towns, or through migration and the accumulation of additional and urban skills. [Tables 7.1 and 7.2]

The agricultural sector is the only industry sector for which the Nicholas-Shergold model can be used to comment on skill levels because the model distinguishes between the rural skilled and rural unskilled. With no semi skilled classification available, the Nicholas-Shergold model produced a majority (62%) with a ‘rural skilled’ classification with a sizeable minority classed as ‘rural unskilled’. In contrast to the Nicholas-Shergold model, under the Armstrong Classification, aside from the ‘farmer’ category which receives a ‘middling’ classification, all occupations in the agricultural sector are classed as ‘semi-skilled’. In an industry sector where many tasks did not require literacy or even experience the proportion classed as skilled workers using the Nicholas-Shergold model is surprisingly high. On the other hand, in the context of an industry sector where literacy is not necessarily a prerequisite for competence or skill, Armstrong’s model, with 99% classed only as ‘semi skilled’, produced an extraordinarily homogenous and low skill classification. Neither model is able to represent the situation likely to be found in reality. Armstrong also fails to distinguish degrees of the experience, competence and skill of rural workers by not providing a means to recognize multi-skilling within the sector.\(^{14}\) [Table 7.1]

The agricultural workers’ literacy levels are well below the 50% who could read and write for the overall male population found in the *Convict Workers* study and lower

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12 Nicholas, *op. cit.*, Table A16, p.220-221.
14 Calculation excludes those with a higher classification outside the industry.
than that found in the Tasmanian bush ranger study by Hamish Maxwell-Stewart.\textsuperscript{15} The rate of literacy does not support the findings produced using the Nicholas-Shergold model that the majority of the agricultural workforce was skilled. The result is similar when literacy is examined from the point of view of their rural or urban backgrounds or their nationality.

Table 7.2 classifies the skill level according to the highest skill regardless of the industry sector to which the higher skill was related. Those classed as skilled from the agricultural sector in fact were multi-skilled with the higher skill in a different industry. Using the Armstrong model 86\% were semi-skilled with 12\% classed as skilled and no workers were classed as unskilled. This result is not supported by the low level of literacy of the group. Applying the Armstrong Adjusted (Rosen) model to take into account ‘boys’, the number of semi skilled falls to 75\% with 12\% skilled and 12\% unskilled. Thus, a greater spread of skill levels is obtained, an outcome that is likely to be more reflective of reality and which is supported by the levels of literacy.

The assessment, however, remains unsatisfactory as there is no tool in the models or the indent data to allow a satisfactory identification of skilled agricultural workers because:

\begin{flushleft}
\textsuperscript{15} Nicholas, \textit{op. cit.}, Table A8, p.211; Hamish Maxwell-Stewart, \textit{op. cit.}, p.40.
\end{flushleft}
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Textile Workers and Apparel Manufacturers (subset size = 145 representing 15% of the skill sample)

The next most populous group were, at 15% of the Western Road workforce, the textile workers and apparel manufacturers, with about double the representation found by Robson and at an average age of 23, were some 3 years younger than Robson’s sample. They were urban in character and only a quarter was Irish. Under the Armstrong Skill Classification model a large majority (89%) were classed as skilled. Applying the Armstrong Adjusted (Rosen) model the proportion of semi and unskilled rises to 23%. The effect of the adjusted model is to break down the homogeneity that arises using the Armstrong Model to reflect the level of experience of the workforce. The literacy level of the overall group at 42% lends support to this adjusted figure but the minority Irish, with 51% who could both read and write, was more literate than the English at only 37%. [Tables 7.1 and 7.2]

Transport and Communications (subset size = 143 representing 15% of the skill sample)

A similar group in size and with a strong urban representation and similar literacy levels to the above group are the transport and communication workers who are distinguishable from the former groups by their youth. With an average age of 19, they are the youngest group in the workforce and only 16% are classed as skilled. The largest group is unskilled, with 30% classed as semi skilled. This is the least skilled group except for those classed as miscellaneous and labourers. Under the Armstrong Adjusted (Rosen) model the unskilled rises from 52% to 68% with the proportion of semi skilled falling substantially. The large numbers of errand boys in this group contributes to the high number of unskilled and semi skilled. The literacy levels at 42%, although below the average found by Nicholas and Shergold, are high enough not to be considered supportive of the Armstrong or the Adjusted Armstrong (Rosen) classification as largely semi and unskilled. However, with the high number of young, albeit literate, errand boys in the sample it would be difficult to justify an

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16 Robson, op. cit., Table 5(e), p.190.
amendment of the generally low assessment in terms of overall work skills. [Tables 7.1 and 7.2]

*Domestic Service (subset size = 109 representing 11% of the skill sample)*

Domestic servants are another largely urban group of which half can read and write. They have been classed under the Armstrong model as largely semi-skilled with nearly a quarter as skilled because they had a skill outside the sector. Many were also soldiers and employed as officer’s servants and as such achieved a skilled classification. Application of the Armstrong Adjusted (Rosen) model produces a similar result. [Tables 7.1 and 7.2]

*Construction (subset size = 108 representing 11% of the skill sample)*

The construction workers are a skilled group under both the Armstrong and Armstrong Adjusted (Rosen) models, with the adjusted model providing around a quarter at a semi skilled level compared to only 13% under the Armstrong model. Eighty-six per cent are classed as skilled workers under the Armstrong model compared to 67% under the Armstrong Adjusted (Rosen) classification. There is little distinction between the two nationalities in terms of proportional levels of skills, but the English outnumber the Irish 2:1. It is also an urban workforce. The construction workers approach the literacy levels of the general convict population with the Irish more literate than the English, 56% compared to 43% that could both read and write. The relatively high literacy levels provide some corroboration for the strong skilled and semi-skilled assessment. [Tables 7.1 and 7.2]

*Defence (subset size = 91 representing 9% of the skill sample)*

With Armstrong classifying all soldiers as skilled there was little opportunity for fine tuning in the defence category using the adjusted model. The group is not as literate as other workers with a skilled rating and a more appropriate classification might be semi skilled. The group as a whole is older than the Western Road average, at 26 matching the overall average found by Robson. Forty-two per cent of the Irish
military were able to read and write compared to only 33% of the English, suggesting that the Irish recruits who made up 36% of the sample were of a marginally higher calibre than their English colleagues. [Tables 7.1 and 7.2]

_Primary Processing, Retail, Wholesale, Dealer (subset size = 87 representing 9% of the skill sample)_

This is another largely urban group with an average age of 23. The Irish members of this group have an average age of 25 and the rural members an average age of 27. The literacy levels are low. Only 40% could read and write and for those from a rural background the figure drops to 29%. Despite this, aside from the artisans and professionals, this is the most highly skilled group on the Western Road. Aside from the butchers and horse dealers their skills had little application in the circumstances. Using the Armstrong Classification 9% were classed as middling, 62% as skilled, 18% semi-skilled and 10% as unskilled. The Armstrong Adjusted (Rosen) classification produced 7% middling, 51% skilled, 30% semi-skilled and 13% unskilled. [Tables 7.1 and 7.2]

_Miscellaneous and Labouring (subset size = 70 representing 7% of the skill sample)_

The miscellaneous and labouring group, although occupationally largely unskilled, had a literacy rate of about one third, with the urban component achieving a rate of 41%. None of the models present a means of factoring in literacy in this sample. The group is predominantly English and urban with an average age of 21. Their youth, stamina and experience of labouring made them potentially useful recruits to the Western Road. [Tables 7.1 and 7.2]

_Meta Trads, Extractive Industry and Other Manufacturing (subset size = 64 representing 6% of the skill sample)_

This is a group with skills likely to be of use on the Western Road. The majority are skilled with about a fifth semi or unskilled. About 45% of the group could read and write, but more than a quarter were illiterate. Eighty-six per cent were of urban
backgrounds and two thirds were English. Under the Armstrong Adjusted (Rosen) classification there was only a marginal downgrading of skill levels. [Tables 7.1 and 7.2]

Artisans and Professionals (subset size = 87 representing 6% of the skill sample)
This is the smallest but most highly skilled group on the road and it had an overall literacy rate of 66%. They were overwhelmingly urban (93%) and 70% were English. Despite the high skill classification they, like the entire population sample, were still youthful, with an average age of 23. Ninety-eight per cent are classified as skilled or above. Members of this group including the vet, surgeons, druggist, attorney’s clerks and the road surveyor had skills employable on the Western Road in administrative and support roles.[Tables 7.1 and 7.2]

Summary
To reiterate, occupation and skill levels had nothing to do with the recruitment of convicts to the Western Road. Many of the workers, particularly the large urban textile sector (15%) and domestic servants (11%) were, except for their youth, ill equipped for the experience. Transport and communication skills (15%) also had a limited application on the road. Artisans and professionals (6%) had the potential to be useful on the Western Road as clerks, overseers and medical attendants. Construction workers (11%) and metal trades and extractive industry workers (7%) brought particularly useful skills to the road for quarrying, building and the maintenance of equipment. Agricultural workers who made up 21% of the sample and labourers (7%) brought strength and stamina to the enterprise and were accustomed to outdoor work. On the whole it is the overall youthfulness of the sample which was the most useful attribute brought to the road as to a large extent it was muscle and stamina that were the essential requirements. Under the Armstrong Adjusted (Rosen) model 40% were skilled; 35% were semi skilled and 23% were unskilled. They were young (23 years old), English (55%), urban (72%) and less literate than the general convict population (41%). About 50% had work experience
that had some application for the tasks required. On the road, positions that employed higher level skills were privileged. These positions were earned through good behaviour rather than the possession of appropriate skills. As Thomas Cook found out, an attorney’s clerk could be worked in irons with a pick and shovel if his behaviour was thought to warrant it.  

**Working Life**

**Conditions of Employment**

Ignatieff’s observation that ‘... the historian’s role is to recover the history of eighteenth century punishment from the version of it given us by the men and women who led the attack upon it...’ has strong parallels in the study of the system of convict transportation to Australia. There are too few direct first hand accounts by convicts for historians to draw on and it is often difficult to place the accounts within the context of an author’s particular experience. To find the convicts’ voices, a great variety of sources need to be interrogated and interpreted.

To avoid the problem referred to by Ignatieff many of the sources utilized in this study are those created with a purpose other than to provide a commentary on the penal system, i.e., those created in the course of administering the system on the roads and in the courts. In these the voices and actions of managers, administrators and convicts can be discerned, in word and in deed, within the context of the functioning system. One source is the official correspondence between the assistant surveyors and the Surveyor General. Another is the voice of convicts themselves which can be extracted from court records. But, as Ian Duffield observed of these official documents, sometimes ‘...convicts’ actions, and still more their thoughts, remained veiled...’ with official comprehension of their meaning correspondingly impaired.

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19 Ian Duffield, ‘‘Stated This Offence’: high-density convict micro-narratives’, *Chain letters narrating convict lives*, Lucy Frost and Hamish Maxwell-Stewart (eds.), Melbourne University Press, 2001, p.119.
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When, in 1833, the 21 year old former law clerk, Thomas Cook, failed to take his hat off to Mr Slade, the superintendent of Hyde Park Barracks, he was charged with insubordinate conduct and sentenced for a term in a road party. Cook had received a 14 year sentence of transportation in 1831 for writing a threatening letter and, despite an appeal for clemency and a previously good reputation, he arrived in NSW in November 1831. Cook, who had been assigned as a clerk in the office of the Principal Superintendent of Convicts, was literate. Although the sentence marked the beginning of a long period of misery, it resulted in an account of life on the road from a convict’s perspective. Further, *The Exile’s Lamentations* was written without Cook receiving any material advantage from its creation. It was composed on Norfolk Island and given to Commandant Alexander Maconochie, who was known for his humane reforms on the island, prior to Cook’s release. Although he has a tendency to leave out encounters with the system that show him or his friends in a less than saintly light, for example, his convictions for drunkenness, Cook’s narrative is remarkably precise in his naming of people and the identification of events. It has not been possible to ascribe a motivation for the narrative, which is written in a tone of high moral condemnation, other than a desire for his own expiation, or his own stated explicit desire to expose the evils of the system and, implicitly, to expose particular individuals in it. It was created when plans for his escape from the colony and his successful disappearance from the system were well in hand. It was not published until 1978. As part of this thesis, Cook’s accounts of events on the road have been correlated with other sources from the period and have been verified. A great deal of confidence is able to be placed in the evidence, thus ameliorating some of the concerns referred to by Duffield.  

Road gangers’ experiences have received some attention in the broader convict historiography. Robert Hughes, for example, in *The Fatal Shore* focussed on the punishment aspect of the road gangs, calling them ‘miserably unproductive’. On
the other hand, Nicholas and Shergold contend that convict labour was relatively efficient, that convicts were fit and productive and better educated than the formally free British working class. They claim that the lash was used ‘judiciously’ in Australia and that convicts generally worked fewer hours than most ‘free’ British workers. Nicholas has put forward the view that ‘historians have failed to integrate incentives in the government sector with the way public work was organized’ and have emphasised punishment. He cites Clark, Hughes and Connell and Irving as having depicted the convict experience ‘in terms of terror and brute force’. In rejecting this notion, Nicholas wrote:

When the lash was used to extract work from gangs it was because pain was a cheap and efficient instrument for stimulating effort. The stereotype of road gangs as inefficient and non-productive, driven by cruel and inhumane treatment, is at odds with the dramatic physical record - the roads, bridges and buildings - of the skill and perseverance of the convict workers.

Nicholas cites Grace Karskens as providing evidence ‘of the skill and perseverance of the convict workers’. Karskens in her study of the road gangs on the Great North Road argued that the roads and associated structure are evidence that with good overseers monumental engineering achievements were possible. Karskens, however, was not referring to the majority of convict workers, but rather to skilled overseers and specialist gangs. Karskens also put forward that not all overseers were as lax and brutal as those described by Hirst who relied on damning evidence supplied to the Molesworth Committee to claim:

In the road gangs and at the penal settlements convicts were managed by men who had no personal interest in their work ... The road gangs

23 Stephen Nicholas and Peter R. Shergold, ‘Unshackling the Past’ in Nicholas op. cit., pp.7-21.
25 Ibid., p.154.
26 Ibid.
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were notorious for their laxity; little work was done and men were often free to wander and rob.\(^{28}\)

However, Karskens’ study also found evidence of convict overseers and officials complaining of the slowness of the work and the necessity of the lash as a punishment for refusal to work. Cook’s evidence on the Western Road overseers lends further support to Hirst’s claims. While there were individuals who were an exception to the rule, Cook paints the overseers as brutal and corrupt.\(^{29}\) Assistant Surveyor Govett writing in the early 1830s also lends support to Hirst. Govett described the prisoners on the Western Road as ‘an idle, lazy set’ only working earnestly when the overseer was present, although there were a few ‘who at times work well, as if they took an interest in the undertaking, or in expectation of receiving an advantage’. Some, however, would refuse to work at all, choosing ‘to stand a flogging every other day, until both magistrate and flogger are tired of them’.\(^{30}\)

Nicholas concludes that the ‘organisation of public labour was an efficient way of structuring work’. He argues that the increasing bureaucratisation of the colony in the 1820s and 1830s ‘created a sophisticated, flexible and efficient structure for arranging production’. This process was aided by the development of regulations to enable more efficient division of labour, including ‘detailed record-keeping which allowed the capabilities and work performance of each convict to be assessed’ with concomitant incentives or supervision.\(^{31}\) However, such an interpretation does not allow for the inter-departmental conflict that marred construction of the Western Road. Although references to task work were found, no evidence of this detailed record keeping on the work performance of individual convicts was encountered in the plethora of records examined in this study. While there were numerous

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organizational changes aimed at achieving control and productivity, it was a system plagued by internal contradictions.

Referring to claims made by contemporary opponents of transportation who condemned it as akin to slavery, Hirst has argued that labour conditions in the United Kingdom were almost as tough as slavery for the underpaid and overworked servants and labourers who made up the bulk of the population. In Australia flogging, for example, could only be ordered by a court and was institutionalised and controlled. Standardised instruments of flogging, known as ‘cats’, were issued from 1830 and there was, for example, the 1833 experiment with the scientific application of cats which was referred to in Chapter Two. There were not the opportunities, according to Hirst, to engage in sadism as there was in the American slave colonies, the exception being penal settlements and, one could extrapolate from this, isolated road gangs. On the Western Road isolation and corrupt overseers tempered the system so that it never met the ideal intended by the administration.

Convict reactions to “incentives”, such as flogging and promotion and demotion, also offer only a wavering and equivocal support for the notion that the works on the Western Road were the product of a sophisticated and efficient system of construction and labour management. Although road building “know how” was in operation, and rational organisation of men and resources was understood, it was constantly undermined by an often reluctant and occasionally insane, criminal workforce and by the punishment milieu and the security provisions associated with it. Power and responsibility conflicts between government departments responsible for aspects of the gang system also played a significant role in determining the effectiveness of the road gang system as a provider of public infrastructure. As William Robbins has shown and as was demonstrated by the author in Government

32 Short for cat-o’-nine-tails, defined as: a whip usually having nine knotted lines or cords fastened to a handle, usually to flog offenders in the *The Macquarie Dictionary*, Macquarie University, 1981.
33 Hirst, *op. cit.*, p.61.
Hamish Maxwell-Stewart has questioned the ‘popular notion notion that the high levels of bushranging associated with the transportation era are correlated with the poor quality of Australia’s convict immigrants’ on the basis that their skills compared favourably with other immigrants.\textsuperscript{36} As the benefits of convict labour could only be realised if they were firstly effectively employed and secondly, the transportees co-operated with the system, Maxwell-Stewart argued that the bushrangers’ colonial careers suggested that one or both of those conditions had not been met. This view ignores the effect of the penal status of the convict on their attitudes to enforced and degraded labour. It implies that convicts would co-operate with their debasement in servitude, if only they were managed effectively. A set of penal market forces, unique to the situation, would come into play and facilitate the smooth running of the system.

In addition to the two conditions referred to by Maxwell-Stewart, important other conditions need consideration. These include the degraded civil status of the convict, their attitude to their sentence and their experience of transportation and forced labour in which there was little, if any, personal satisfaction. It is not a matter of contention that the convicts were forced immigrants and largely members of Britain’s working class whose labour was important to the colonial economy. Eastern

\textsuperscript{36} Maxwell-Stuart, op. cit., p.54.
Australia, however, was a penal colony and convicts were subject to penal laws and regulations that free people were not. They were also at times subject to individuals capable of abusing their power over them. The nature of their civil status, their status as convicts, was in itself a degradation. As David Neal has argued, convict transportation and slavery shared the following crucial feature:

... both supplied legally degraded, coerced labour to systems heavily dependant on their output. The dynamics of extracting that labour from bonded work forces which were already supplied with the basic necessities of life (food, clothes, shelter) sharply differentiates convicts and slaves from the free workers of England.  

Eastern Australia was not a neutral, value free, dispassionate operation of labour market forces with a unique set of motivators that can be assessed in only economic terms. Maxwell-Stewart’s thesis in this regard loses sight of the humanity of the subjects of the study, as does that of Nicholas and Shergold. Flogging was not merely an effective motivator for a reluctant workforce. It also caused resentment and hardened the subject. From many accounts the degradation of the experience forever changed the victim. For example, in one of a number of such cases encountered in this thesis, Thomas Ribbands, who was severely flogged by the military at Cox’s River and otherwise ill-treated, was so embittered by his experience that he absconded and was ultimately hung for his continued criminal activities. Flogging was not efficient, as claimed by Nicholas, unless it was efficiently brutalising.

As part of the policy of deterrence, punishments were implemented in the public arena, staged in a way to remind convicts of the degradations that awaited them should they transgress. Just as the crimes of the convicts were often opportunistic, so their experiences were subject to opportunistic elements including their allocation to

38 Cook, op. cit., pp.32-34.
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particular gangs, the character of their overseers and fellow convicts, as well as their own individual reactions to events and circumstances. While flogging was not the experience of all convicts or even of all convicts on the Western Road, all convicts were aware of their vulnerability to the lash and other means of punishment and degradation.

Work on the Road

In the 1830s official attitudes towards convicts became increasingly rigid and punitive. The harsh nature of the work, the convicts’ isolation and vulnerability to the whim of convict overseers meant that the road gang system was often counter productive. From early in 1830 the problem of motivating the gang workers had been a concern, with various means proposed to measure and reward work put forward by the Road Department only to be rejected by the Governor because of the cost of additional superintendence. Work proceeded slowly and elements of the stockade system, the convict accommodation and work sites on the western side of the mountains remained in use probably until at least 1839, far longer than anticipated in 1830 by Mitchell. Convict resistance included sabotaging the stockade, absconding and the application of the ‘government stroke’, i.e., the least amount of work necessary to avoid punishment such as lifting a pick and merely letting it fall.

For the convicts, road work entailed clearing trees and rocks, quarrying and blasting, constructing culverts and general pick and shovel work in closely packed gangs.

Under Act 3 William IV No.3 of 1832 work hours in summer were from 6.00 am to 11.00 am and from 1.00 pm to 6.00 pm. From 1 April to 1 September the hours were from 7.00 am to 12 noon and from 1.00 pm to sunset, including travel time.

According to Assistant Surveyor Romaine Govett the prisoners marched out from No. 2 Stockade each morning guarded by two sentries and a constable. They

30 Govett, op. cit., p.49.
41 SRNSW: Col. Sec., Special Bundles, Convicts, SZ 79. COD 182
240
received at the gate the shovels, pickaxes, iron bars and hatchets needed for their work which were handed in on their return in the evening. Men could be marched up to three miles to work each day and they would frequently sing on the way. However, magistrate and assistant surveyor Nicholson had forbidden the practice. These songs, one suspects, were loaded with political and subversive meaning directed at their immediate superiors. On one occasion, as the gangs passed out from the stockade on their way to work, after passing Nicholson’s tent, a loud defiant song rang out. Nicholson immediately halted the gang, found the man who instigated the chorus and, forgoing the formality of a trial, had him flogged on the spot.42

From mid 1835 when command of the stockade was given over entirely to the military an even harsher regime was ushered in. The Officer in Command, Captain Faunce:

... enforced a system of Running us to our Work at the point of the Bayonet, at the rate of Five miles in the hour. This continued for some 14 or 15 days when the men (finding themselves so far advanced in debility, and their legs so much injured by the friction of the Irons that they could no longer bear against it) offered a determined resistance to its continuance, which led to a deal of traffic in human flesh and blood, by the Soldiers with their Bayonets, and the Scourgers with their Cats.43

The gangs and road parties were spaced along the road in such a way that road parties could be isolated from the workforce as a whole. For example, in June 1833 No.9 Road Party was at the eastern extremity of works at Mt Victoria, No.10 Road Party was between No. 2 Stockade, where four ironed gangs were located, the Bridge Party was at the western extremity at Diamond Swamp and No.11 Road Party was at Hassan’s Walls to the east of the stockade.44
For two years from mid 1833 Thomas Cook had the experience of working in most of these gangs as well as in the administration. He worked in the No.10 Road Party at Honeysuckle Flat, the No.9 Road Party at Mt Victoria, the Bridge Party at Diamond Swamp, an ironed gang based at No. 2 Stockade, in Surveyor Nicholson’s office at Mt Clarence, and as a clerk to George Morley, Principal Overseer of Convicts at No. 2 Stockade. According to Cook, his experience in the No.10 Road Party at Honeysuckle Flat, which at the time was not on an open line of road, was more onerous because of its isolation than that in the No.9 Road Party at Mt Victoria.

[Figure 5.16] Referring to the isolation, Cook recalled that the only access that convicts had to authorities to make a complaint about their treatment was to the Sub-Inspector of Roads who ‘far from checking, encouraged and supported’ the overseers in ‘all their acts of cruelty and oppression’ and that the inevitable result of lodging a complaint was a trumped up charge of ‘neglect of work, insolence, threatening language or the like’ which resulted in the complainant being brought before the court and a flogging awarded. This usually would have been from 25 to 50 lashes.45

Support for Cook’s claims can be found in court records related to abscondings. As recapture was highly likely with flogging a certainty, accounts of abscondings often have the hall marks of desperation about them.46 In July 1836, for example, Mathew Masefield, a prisoner from the Mt Victoria building party under Assistant Overseer Barnes asked Sub-Inspector Binning to remove him to another gang, stating that he would ‘take to the bush’ if he was not moved. Binning countered that he mustered prisoners once a week so that they could make any complaints and implied Masefield’s fears were unfounded. In a mockery of the process, the complaint was construed as the use of threatening language and Masefield was sentenced to seven days solitary confinement. The tone of the proceedings suggested that Masefield was desperate.47 In another incident involving Binning and Barnes at Mt Victoria,

45 Cook, op. cit., p.18.
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Thomas Gates was charged with disorderly conduct and abusive language because William Jones, who was about to be transferred to Binning’s service, absconded after being warned by Gates that Binning could not be satisfied and would work him to death. Binning’s was “too bad a place for any man to go to”. As a result Jones was sentenced to 12 months in irons, it being his second offence for absconding, while Gates received a show of mercy and was merely admonished.\(^{48}\) The trial of offences on work sites was, according to Cook, a judicial charade, with the magistrate/surveyor not even dismounting to investigate the charges. Flogging of groups of men or the entire gang, with 50 or 100 lashes ordered, occurred without hearing evidence under oath. The men plotted to escape and to murder their tormentors. Some maimed themselves to gain respite in the hospital.\(^{49}\)

The No.10 Road Party, where Cook was stationed in mid 1833, was under Principal Overseer James Pumphrey with assistants William Barnes and Joseph Calvert. A surveyor by profession, Pumphrey was originally convicted of machine breaking and was, therefore, a protester. Protesters have generally been viewed as less criminal than the thieves comprising the bulk of the convict population. Pumphrey had been a supporter of the ‘Radical and Musical Society’ which was involved in the disturbances of the villages of central Hampshire. The society attracted craftsmen, small farmers and labourers dedicated to the radical reform of parliament. They organised one of the largest protests in southern England.\(^{50}\) According to Kent and Townsend, Pumphrey was convicted on the basis that he was observed to be part of a crowd, exercised leadership, demanded or received money and was active as a negotiator. He was convicted on 4 December 1830 and the death sentence was passed.\(^{51}\) His father petitioned for clemency and his letter of petition was forwarded to the Home Office by Sir Thomas Baring, a Justice of the Peace at Winchester, who had been asked to support it with a favourable recommendation. But Baring found

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\(^{48}\) Ibid., pp.102-103, 112-113.  
\(^{49}\) Cook, op. cit., p.32.  
\(^{50}\) Rude, op. cit., p.247.  
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this impossible to do as he was ‘... well acquainted with his former bad life and conduct and my belief is that unless he is sent out of the Country he will commit some great offence.’

Baring had tried ‘every expedient of severity and kindness to reclaim him’ but to no effect, including obtaining a position as a road surveyor with McAdam. A situation he held for ‘not more than a month ... before he not only misconducted himself in the most gross manner but corrupted the men working under him’ and was sacked. Unfortunately for Pumphrey, Baring’s Estate was one of the targets of protest demanding increased wages and the destruction of machines. From all accounts it was a well behaved crowd. The charges levelled were harsh and exaggerated. Amongst his crimes was the organisation of a mob to rescue a prisoner under sentence of execution.52 As a result of the petition, in January 1831, the sentence was commuted to transportation for life. On arrival in New South Wales, the 29 year old Pumphrey was reserved for government service on the roads because he was a surveyor.53

George Rudé’s Protest and Punishment: The Story of the Social and Political Protesters Transported to Australia, 1788-1868 (1978), the statistical analysis of which has been discredited due to methodological failures, can still be credited with raising awareness of the possibility that some convicts were social or political protestors.54 If crimes of protest, potentially including wilful destruction, combination, unlawful oaths and threatening letters, are collated they amount to a possible maximum of 1.3% of those with identified crimes found in this study. Their appearance as recidivists on the Western Road in the 1830s are too small to be meaningfully compared with Rudé’s data.

52 PRO: HO 17/54 Part 1, Ip41.
Chapter Seven: The Convict Workers of the Western Road

The No.10 Road Party under Pumphrey, the former political activist, was a restive party, refusing to work, breaking out of the lock-up, committing thefts and absconding. Some 56 of its members came before the Court in 1833. In the six months from July 1833, some 39 charges were made for absconding from No.10 Road Party, five for absence and five for robbery. Approximately 11 charges were for either refusing to work, neglect of work, insolence, or insulting Pumphrey and one was for making a false complaint against the overseer. Thomas Cook had also been charged as part of the protest movement, signing the threatening letter for which he was transported as ‘Captain Swing’. Cook’s claim of cruel behaviour is lent some credence by the court records for this particular group and tarnishes the reputation of both protesters and skilled convicts as persons of humanity equipped with a finely tuned social conscience. By all accounts, Pumphrey had been an activist in England but from Cook’s account and the court records, Pumphrey was a changed man. Presumably due to his conformity with the system and his contribution to the Western Road, in 1837 he received a conditional pardon after a relatively short period under penal restraint for a person originally under a life term.

James Thorp had worked as an overseer since at least mid 1833 and succeeded Pumphrey as overseer of No.10 Road Party. An indication of Thorp’s character is provided by a notation on his indent record which records that he had received 6 lashes for ill treatment of his fellow prisoners on the voyage out in 1825. In further corroboration of the corruption of the overseers, he was dismissed in August 1835 for making a false report to the Assistant Police Magistrate and for conniving at the malpractices of his gang, a large number of whom had recently been indicted on charges of robbery with violence and rape at the inn of Lydia Barnes where they had spent an afternoon drinking. Because of the shortage of skilled men, Thorp’s

55 SRNSW: Principal Superintendent of Convicts, Return of Convict Trials before Benches of Magistrates, 1832 - 1836, Bathurst to Goulburn, 4/7022.1.
58 SRNSW: Surv. Gen., Copies of Letters Sent to Col. Sec., 21 Feb 1835 - 31 Dec 1835, 4/5401, p. 268. R.2840; Supreme Court, Criminal Jurisdiction, Clerk of the Peace, Papers and Depositions, 1824 - 1836, CGS 880, T162; Supreme Court, Criminal Jurisdiction, Informations and Other Papers 1824 - 1947, CGS 245
dismissal was, like that of Christopher McDonald referred to in Chapter Three, only a very temporary career set back. The records show that he was re-employed as an overseer by February 1836 and he remained an overseer until at least March 1839.

**Assertion of Prisoners’ Rights**

It is evident from the correspondence that prisoners on the roads were aware of their rights and had the ability to assert them. For example, in April 1830 Benjamin Solomon of the Botany Road Party had refused to go on watch. When brought before the Sydney magistrates, Solomon, said in his defence that as he had been working all day he could not do a six hour watch. The magistrates ‘considered the man’s reason was feasible and accordingly dismissed the charge’ to the chagrin of the Botany Road overseer and Nicholson, who at that time was in charge of the Department of Roads and Bridges.  

The situation on the Western Road was different to the extent that isolation inhibited such an exercise of rights. But the convicts, from their experience elsewhere in the system, were aware of the existence of rights that they were often powerless to exercise. This understanding was the source of a sense of injustice for many prisoners.

After a display of courage and leadership potential, eleven year old John Flinn, the youngest prisoner encountered on the road, was awarded 50 lashes for not only refusing to work but for attempting to raise a “spirit of resistance” by calling on other workers to throw down their tools and cease work before the day’s end. In another instance, John Moody was sentenced to 25 lashes for refusing a direction of his overseer, laughing at him and informing him that, as a carpenter, he was not supposed to work at any other trade than his own.

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13477, T 30, No.18; T 42, No. 20.  

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On occasion, in full public view where the judicial outcome was certain, prisoners strongly resisted coercion. For example, in December 1832 when Assistant Overseer John Hamilton of No.6 Iron Gang identified William Coffee, Robert Tudor, William Smith, Nicholas Collins, Humphrey Marks and Henry Lee as idlers who had refused to work, he was struck down by Lee in the presence of some 200 to 300 men including members of the military. Later in the day Hamilton was attacked a second time by Lee, Coffee and Collins, who kicked, abused and threatened to kill him. If the witnesses are to be believed, in a show of persistence they again refused to work the following day, keeping up the attack on Hamilton and throwing stones at him.\(^6^1\)

Within a month, in another example involving Robert Tudor, iron gang overseer William Bruton, backed up by sentry William Grant, complained that the refractory Tudor wouldn’t work. He had shown a determination from the commencement of the day to idle away his time, standing upright, defiantly resting his foot on the spade and ignoring directions. When Bruton remonstrated with him on his obstinacy and neglect, the 18 year old Tudor exploded with frustration, saying (according to Bruton) “Oh you bloody dog ...!!!” he aimed a blow at Bruton’s head with the spade. In evidence it was (dubiously) reported that Tudor had stated his intention to kill Bruton and that he was sorry he was unsuccessful. To compound matters, while under escort he had attempted to ‘draw off’ a bayonet from one of the soldiers. Not surprisingly, despite the manufactured tone of some of the evidence, with the number of witnesses arraigned against him, Tudor was found guilty of assault with intent to murder or do grievous bodily harm and sentenced to be transported for two years to Moreton Bay.\(^6^2\)

As a postscript to Tudor’s attack on Brunton, when Constable Cosgrove was escorting Tudor back to the stockade, Cosgrove was struck on the head by Walter

\(^{62}\) SRNSW: Courts of Petty Sessions; CGS 2772, Bathurst, Bench Books, 28 Dec 1832 - 19 Mar 1833, 2/8324, pp.147-150. R. 663; Clerk of the Peace, Quarter Sessions, Depositions and Other Papers, CGS 845, Bathurst, 4/8369, pp.47-59. R.2395
Burke as they passed him on the road. Burke was a 28 year old former soldier who had only arrived in the colony three months previously on a life sentence for mutiny. According to Cosgrove, after the assault, Burke said words to the effect:

> You are not the man I took you for, I thought it had been Mr Shaipley, the Superintendent and I would have murdered him, but as it is I am sorry I did not do so to you as I am determined to kill someone or other.\(^63\)

The phrasing and tone of this attribution is so artificial and stilted one’s credulity is again stretched to accept it, particularly since a threat against the head of the local convict administration was certain to attract a harsh penalty. Patrick McDonald, the sentry who witnessed this attack testified that when another prisoner reproved Burke stating that Cosgrove was not disliked, Burke replied that “.. he did not care who it was he struck or killed”. To fix his reputation as “a desperate and depraved character” when McDonald cocked and levelled his piece at him, Burke pulled another man before him and begged for mercy. Like Tudor, he was sentenced to two years in a penal colony and a week later they both were sentenced to 50 lashes after they broke out of their cells in Bathurst gaol.\(^64\)

The much younger Tudor had arrived in the colony in February 1828 at the age of 14 with a seven year sentence for housebreaking. When convicted he had three former convictions and went on to have an extensive colonial criminal career and he was still in an iron gang in 1842. Other charges included theft, repeated absconding and assaulting a constable at Parramatta.\(^65\)

Sometimes, the nagging of overseers was too much to bear. Peter McGee struck assistant overseer John Malone on the head saying, “Take that you bugger”, as


\(^64\) Ibid.

Malone instructed prisoners in the work. McGee immediately owned as the perpetrator of the crime, confessing that it was Malone’s haggling and reporting of him for neglect of work that induced him to do it. Neglect of duty could include sleeping on watch, being late back from messages, losing documents and money, getting drunk, going slow and straight refusal. For example, Christopher Cooke reputedly told his overseer that he would neither run for him nor for the captain. In another example, Cornelius Dwyer and John Downie were supposed to be gathering thatch and mixing mortar at Mt Victoria and achieved very little in the time allocated and were charged with neglect by Overseer Thorp. Downie compounded the charge by insisting on a pass to the hospital, in what was considered a blatant avoidance of work. In May 1833 Dennis Shea of the Bridge Party was sentenced to seven days solitary confinement for refusing to work and insolence to his overseer. Shea who had arrived as a 17 year old in 1827 with a seven year sentence for stealing cloth eventually received a 14 year sentence to Norfolk Island.

Other Forms of Resistance

Direct confrontation with the system led, with a degree of predictability that the prison reformers in Great Britain would have found pleasing, to a sentence entailing greater adversity. Resistance could take many forms including avoiding appointments considered unattractive. Assistant Surveyor Nicholson, for example, complained that some prisoners were ‘useless’ and ‘... in the habit of stating themselves incapable, when sent to places, or disconnected from their associates, contrary to their wishes ...’. Convict mechanics were known to conceal their trade so as to avoid unfavourable employment. Feigning sickness was another ruse. Cook reported that:

66 SRNSW: Clerk of the Peace, Quarter Sessions, Depositions and Other Papers, CGS 845, Bathurst, 4/8382, pp. 271-282, R.2398
68 SR: Principal Superintendent of Convicts, Returns of Convict Trials Before Bench of Magistrates, 1832-1836, Bathurst to Goulburn, 4/1561.2p.4
69 SRNSW: Principal Superintendent of Convicts, Convict Indents, 1827, 4/4012, p.90, R.397.
Various were the schemes resorted to by some of the men to gain shelter within the Walls of the Hospital from this dreadful state of endurance; inter alia, by purposely maiming themselves with their Tools at labour, such as driving a pick into the foot.\textsuperscript{72}

Other means of subverting the work was the loss or breaking of tools, punishment for which could include flogging, as in the case of James Siddons and Richard Galloway. Both received 35 lashes in March 1833 for refusing to work and losing a pick axe.\textsuperscript{73}

John McGregor and George Walker of the Bathurst Bridge party in 1836 were charged with neglect of duty and disobeying orders when they refused to assist the overseer restrain a drunken prisoner who was escaping. McGregor, who was sentenced to 75 lashes, said he ‘was not going to run after the man to get his back scratched’.\textsuperscript{74}

Hamlet Winkle, a miner, who on arrival in NSW in November 1828 had been assigned to the Mineral Surveyor, found himself ten years later under sentence on the Western Road. Initially placed at the Bowen’s Hollow Lumber Yard, he was moved to the house of Alexander Binning, the Sub-Inspector of Roads, where he had the privilege of sleeping in the kitchen. Unfortunately it was in Binning’s kitchen that Hamlet became aware of locals butchering the odd beast belonging to Binning for their own consumption. On 10 May 1838 Hamlet was in court giving evidence to this effect. Several days later, on May 14, he had a change of heart, and probably under duress, ceased to co-operate. As a consequence, he was sentenced to 50 lashes for ‘gross prevarication and refusing to answer the questions put to him by the bench’.\textsuperscript{75}

\textsuperscript{72} Cook, \textit{op. cit.}, pp.31-32.
\textsuperscript{73} SRNSW: Principal Superintendent of Convicts, Returns of Convict Trials Before Bench of Magistrates, 1832-1836, Bathurst to Goulburn, 4/7022.1 p.2.

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Private Enterprise

Until at least mid 1833, members of road parties were allowed passes to work for themselves. To attain the privilege they had to bring a written request from a respectable settler. A pass was issued for travel to the settler’s property and confirmation was required from the employer that the work had been performed.76

Some also worked, or were forced to work, on behalf of their overseers who were making a profit from the proceeds. In one such instance, George Waddington and Edward Peters were charged by Overseer William Barnes with making a false complaint against him, i.e., of receiving payment for a box they had made and for claiming that he had ordered them to manufacture it. Waddington was a joiner by trade and Peters, a white-smith. Barnes denied the charges and produced the supposed clients who were Moore of the Mounted Police and Rowell, a former overseer, to verify his assertions. Both Waddington and Peters received 50 lashes for making false statements. At the same hearing William Lee was charged by Barnes with sawing and selling timber on his own behalf on Saturdays and Sundays. Lee acknowledged this at that trial but the issue of concern was Lee’s use of a government saw to do the work. Lee testified that the timber was sawn and delivered to the client under Barnes’ instructions. In another testament to the power of the overseers, Lee was also convicted and received 50 lashes.77 James Thompson, a sawyer from the Bowen’s Hollow Lumber Yard was caught making a stable door at the home of John and Jadie Cox one Saturday afternoon. The Coxes were fined £5 and Thompson received 25 lashes.78 In the evidence cited above, the voice of the accuser and witnesses are heard clearly in that they are directly transcribed, but the voice of the accused is usually not given a hearing or is spoken by someone else on their behalf. The fact that some incidences came to the attention of the courts.

suggests that there could well have been other undetected episodes of private work or work for the benefit of the overseer.

**Occupational Health and Safety**

Injuries in the course of the works or inflicted by fellow prisoners were a part of life on the road and, although no log book recording injuries or hospitalisations has survived, a number of references in the records provide some insight into the issue. Stephen Maypole, for example, seemed to have a particularly short and chequered career coupled with a fraught working life. He had arrived in the colony in August 1832 with a 14 year sentence for theft.\(^{79}\) The first reference to Maypole is in May 1834 when he was stabbed several times by Thomas Myers, a fellow prisoner, in two attacks on the one day.\(^{80}\) By August 1835 he was a constable and was stabbed by John Nowland as he prepared to scourge him.\(^{81}\) The following year he was convicted of larceny and in consequence lost his position as constable and received a sentence of 12 months in irons on the road. While at work on the road, a fellow prisoner hit him over the head with a shovel knocking him senseless and with the intent of doing more serious damage but he was fortuitously rescued by the military.\(^{82}\) In August 1837 he was charged with bushranging and robbery. After an appearance in the New South Wales Supreme Court he received another sentence to the roads\(^{83}\) and he died at the Hassan’s Walls stockade hospital in August 1839 at the age of 28.\(^{84}\)

The real impact of flogging is indicated by the particularly hazardous life of the stockade scourgers who were in a much more perilous position than those that were simply constables or police. William Robinson, the scourger at No. 2 Stockade

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80 SRNSW: Supreme Court, Criminal Jurisdiction, Information and Other Papers 1824-1947, CGS 13477, T38 No.18.  
81 SRNSW: Supreme Court, Criminal Jurisdiction, Clerk of the Peace, Papers and Depositions, 1824 -1836, CGS 880, T163; Supreme Court, Criminal Jurisdiction, Informations and Other Papers 1824-1947, CGS 13477, T. 42, No.18.  
83 SRNSW: Supreme Court, Criminal Jurisdiction, Clerk of the Peace, Papers and Depositions, Sydney and on Circuit, 1824 -1946, CGS 880, 9/6307, No. 27.  
suffered at least two serious attempts on his life by fellow prisoners. In the first attack, in March 1833, John Wright a member of the No.D Iron Gang at Cox’s River was mustered by Robinson with other prisoners on a Saturday morning to be brought before the magistrate for refusing to work. While Robinson was checking the leg irons, Wright stabbed him in the neck and shoulder twice (penetrating to the hilt of the knife handle) with Robinson managing to parry a third lunge. Wright was reputed to have said that he had not intended to stab Robinson but that it was meant for “the bloody hangman of a superintendent.”. The matter was referred to the Supreme Court.85 In the second attack, in September 1835, in full view of soldiers, Jacob Gibbons, in irons at No. 2 Stockade, almost killed Robinson, who was again inspecting the irons of the men before they were turned out to work. Gibbons struck him on the head with a bludgeon made from the leg of a stool. He was well prepared and was also armed with a pair of scissors hidden in his shoe, the handle wrapped with cloth, and a pointed piece of sheet iron. Gibbons was sentenced to death in the Supreme Court.86 In the attack on Stephen Maypole mentioned earlier, Maypole was preparing to scourge John Nowland when he saw Nowland searching his pockets and thought he was getting some tobacco to chew during the flogging. Instead, Nowland drew out a knife made from an old hoop and ran at Maypole trying to stab him in the chest. Maypole was saved when Robinson and one of the military intervened. Undeterred Nowland made another attempt later in the day. He too received a death sentence in the Supreme Court.87

Timothy Mahoney was 38 years old and had been in the colony only 16 months when he was murdered by Daniel Maloney while at work in an ironed quarry gang at Hassan’s Walls in 1838. From the accounts of witnesses he was killed by a blow to the head with a pick in an act of unprovoked aggression. It was reported by a fellow

85 SRNSW: Supreme Court, Criminal Jurisdiction, Clerk of the Peace, Papers and Depositions, 1824-1836, CGS 880, T. 157.
86 SRNSW: Supreme Court, Criminal Jurisdiction, Clerk of the Peace, Papers and Depositions, 1824-1836, CGS 880, T162; Supreme Court, Criminal Jurisdiction, Informations and Other Papers 1824-1947, CGS 13477, T. 42, No. 28.
87 SRNSW: Supreme Court, Criminal Jurisdiction, Clerk of the Peace, Papers and Depositions, 1824-1836, CGS 880, T162; Supreme Court, Criminal Jurisdiction, Informations and Other Papers 1824-1947, CGS 13477, T. 42, No.18.
prisoner that Mahoney had said that it was not one he wished to have killed but half a dozen. Mahoney was originally an indoor servant convicted of receiving stolen goods and was serving a 14 year sentence; nothing more is known of Maloney. Unlike Maypole or Robinson, Mahoney was not in a position of authority over Maloney which could have given cause for particular resentment. The situation may have arisen simply because of the exigencies of life in an iron gang and that in committing the murder he was assured of his own release from the system, via execution. In a similar way, in August 1838 Thomas Phillips used a pick to attack John Murphy while they worked side by side in a Hassan’s Walls iron gang. Murphy survived the attack for which he had no explanation and other witnesses to the event reported no words between them immediately prior to the event. Murphy was saved by the intervention of his fellow prisoners. Again, evidence was given by James Ryan who belonged to the same box [accommodation] as Phillips, that he had confided the evening before the attack, that he would murder somebody, and after the event, that Murphy had not been the intended victim. Phillips was a 29 year old highway robber, who had arrived in the colony on a 14 year sentence in 1834. Murphy was a 23 year old, also on a 14 year sentence for house breaking, who had been in the colony since 1832. Murphy’s stint in the iron gang appears to be the result of a conviction for the sexual assault of an 11 year old boy, the son of a fellow assigned servant.

Given the relative ‘innocence’ and youth of the Western Road convict population, the number of publicly attempted and successful murders raises the question of the impact of the situation on men’s sanity. Some crimes, committed in full view of numerous witnesses, had the almost inevitable outcome of execution for the perpetrator. For example, George Thompson of No.C Iron Gang struck fellow gang member George Harding on the head with a pick. While it appeared unprovoked at the time, Harding was known to have informed authorities of a planned escape. At the time Thompson declared that Harding had got what he deserved.88

88 SRNSW: Supreme Court, Criminal Jurisdiction, Clerk of the Peace, Papers and depositions, 1824 -1836, CGS 880, T160.
Chapter Seven: The Convict Workers of the Western Road

Conclusion

As indicated in the earlier portion of this chapter and in the tables following the convict workers on the Western Road were possessed of a range of skills indicative of working class origins. About 46% brought skills or experience to the road from the construction, extractive, and agricultural sectors, together with labourers, these occupations may have equipped them for the experience of labouring on the road. But the most important factor for pick and shovel work on the roads was stamina associated with their youthfulness. Such qualities were tempered by the likelihood that the extremely young would not have reached physical maturity and may have been less compliant, than more mature workers.

The heavy reliance on court records used in this chapter may not do justice to the majority of convict workers on the Western Road. It is clear that a certain number belonged to Perry’s better behaved 1st class and 2nd class description of men referred to in Chapter Two, but, except for those who were promoted to overseers’ position, they remain invisible. On the balance of probabilities it could be argued that the majority ‘got on with the work’; or they didn’t get caught; or they fell through the gaps in the records.

But notwithstanding the bias of the evidence, it nevertheless is evidence that workers on the road were subject to a degree of uncertainty due to their vulnerability to the extremes of the system. Factors such as the isolation, the corruption of the overseers, the pressures on the managers of the road works and of security, as explained in earlier chapters, combined to ensure that the experience was brutal and dehumanising.

This was not the intent of authorities locally, or those in Sydney or the United Kingdom, who were removed from the ‘on ground’ reality. But it must be conceded that local authorities on the road had some awareness of the situation, and perhaps
chose to ignore it, because solving the problems generated by the contradictions in the situation was impossible given the funding situation.
## Table 7.1 Armstrong Adjusted (Rosen) Skill Classification

<table>
<thead>
<tr>
<th>Skill/Occupation x Industry</th>
<th>No. with skill</th>
<th>Armstrong Adjusted (Rosen) Classification</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Agriculture and Fishing</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ploughman/ploughs</td>
<td>74</td>
<td>Semi Skilled</td>
</tr>
<tr>
<td>Farmer</td>
<td>7</td>
<td>Middling/ semi-skilled</td>
</tr>
<tr>
<td>Reaper/reaps</td>
<td>59</td>
<td>Semi Skilled</td>
</tr>
<tr>
<td>Mills</td>
<td>32</td>
<td>Semi Skilled</td>
</tr>
<tr>
<td>Sows</td>
<td>17</td>
<td>Semi Skilled</td>
</tr>
<tr>
<td>Shepherd</td>
<td>16</td>
<td>Semi Skilled</td>
</tr>
<tr>
<td>Farm Servant</td>
<td>13</td>
<td>Semi Skilled</td>
</tr>
<tr>
<td>Driver/Hindsman</td>
<td>8</td>
<td>Semi Skilled</td>
</tr>
<tr>
<td>Fisherman</td>
<td>5</td>
<td>Semi Skilled</td>
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<tr>
<td>Shears</td>
<td>4</td>
<td>Semi Skilled</td>
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<tr>
<td>Spadesman</td>
<td>4</td>
<td>Semi Skilled</td>
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<tr>
<td>Dairyman</td>
<td>2</td>
<td>Semi Skilled</td>
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<td>2</td>
<td>Semi Skilled</td>
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<td>Fisherman</td>
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### Table 7.1 Armstrong Adjusted (Rosen) Classification

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## Table 7.2: Armstrong Skill Classification and Armstrong Adjusted (Rosen) Skill Classification

| Industry | No. of men | Av. Age | % of industry | R & W | % of col B | R | % of col B | None | % of col B | Urban | % of col B | Rural | % of col B | Professional | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | Professional | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | 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Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | Unskilled (5) | % of col B | Skilled (3) | Semi skilled (4) | 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### Table 7.2: Armstrong Skill Classification and Armstrong Adjusted (Rosen) Skill Classification

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Figure 7.1

Convicts Building the Road to Bathurst, 1833. Charles Rodius. While this painting depicts convicts on the eastern ascent of the Blue Mountains it nevertheless captures conditions similar to those experienced on the western descent. [National Library of Australia]
Chapter Eight

The Convict Experience on the Western Road

What was life like for the convict workers of the Western Road? These men, as was shown in Chapter Six, were predominantly sedentary young urban residents. Many, at the time of their sentence to transportation, were first offenders. As indicated in Chapter Seven, beyond labouring experience, the majority possessed few, if any, skills that equipped them for the tasks of road building in the rugged terrain and conditions of colonial New South Wales.

The social relations and conditions of confinement on the Western Road are an important component of the penal experience and are the focus of this chapter. As discussed in Chapter Two management of prisoners working on the roads of New South Wales reflected the changes in penal philosophies that had emerged both in Great Britain and Europe since the 1700s. The days of the public spectacle were on the wane, as penal reformers shifted the focus from the punishment of the body to the reform of the mind through spiritual enlightenment, hard work and the inculcation of industrious habits.¹ The experience of convict life on the Western Road articulates the ‘... many different social influences, historical and cultural, as well as political and ideological’² that impacted on the New South Wales system as it evolved in the 1830s. Like all aspects of work on the road, convict living conditions and experiences must be understood in the light of British and colonial administrative policies.

The standard of living of workers on the Western Road was partly the product of

official interest in the physical welfare, moral reform and just punishment of the convicts in a way that protected free society from the spectacle and degradation associated with dealing with British and colonial societies’ miscreants. Significant other factors which influenced living standards, as outlined previously, were the situation’s isolation, the corrupt and influential cabal of overseers and the administrative and managerial conflicts of the penal and road making objectives. The conditions at the No. 2 Stockade Cox’s River and other Western Road convict sites present one of those ‘peculiar local histories’ necessary, in the words of Mark Finnane, ‘to understand the forces which are at play in the process and impact of imprisonment.’ The system operated under fiscal constraints imposed by the British who were intent on passing the cost of convicts engaged in the construction of public infrastructure onto the colonial treasury. This was strongly resisted locally. During the later 1820s and in the 1830s the free population of New South Wales was chaffing at the constraints on their liberty arising from the penal status of the colony. Ideally, from the administration’s point of view, the convicts were to be kept from the sight and minds of free settlers while contributing to the economic development of the colony. But the convicts’ rambunctious behaviour sabotaged these ambitions. The implementation of these objectives was also tempered by the ebb and flow of the penal reform debate and cost imperatives imposed from Britain.

In the late 1820s and 1830s living conditions for convicts on the roads evolved and in the process became harsher. At the least onerous extreme, in the later 1820s, wives were occasionally given permission to live with their husbands in the gangs. Then in the early 1830s, ironed gangs were enclosed in stockades. By the mid 1830s ‘boxes’ were introduced as a more secure means of accommodation. In the later 1830s the use of un-ironed road parties was greatly reduced, if not abolished, and control of works was placed in the hands of the military. Ironed prisoners under full military

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3 Ibid., p.107.
5 The use of unironed road parties was supposedly abolished, but there are references to the No.10 Road Party under James Thorpe as late as 1839: PRO: T 1/4347; SRNSW: Courts of Petty Sessions, Vale of Clwydd Bench Books, 16 Feb - 2 Jun 1839, CGS 3064, 4/5673, p.380. R. 669.
superintendence were (supposedly) the only convicts employed on the roads. Situations varied across the period and between those experienced by ironed gangs and road parties. As detailed in the context of the convicts at work in Chapter Seven, the isolated system facilitated abuse by corrupt overseers who were able to withhold rations, lay false charges, organise robberies and set men to work for the overseer’s fiscal benefit. As the 1830s progressed, this abuse of power was facilitated by the lack of opportunity for convicts, in the road parties particularly, to lay complaints with impunity.

As was the case in Chapter Seven, the experiences of Thomas Cook provide a view of the power relations on the road. A sense of the personal tyranny and hopeless subjugation experienced by these young and, as was found in Chapter Six, relatively inexperienced (prior to transportation) criminals is obtained. This situation existed not because it was officially prescribed but because the isolation of the situation restricted access to outside authority. The sexual intimidation and degradation to which gang members were subjected, the corrupt abuse of power by the overseers and the sub-inspector, and lapses in procedure by the assistant surveyor-magistrates who were under intense pressure to see the road constructed, all contributed to a brutal and degrading situation that ultimately derived from pressures produced by the penal reform and anti-transportation lobby. Yet, spiritual reform, also a key platform of the ideology, was left to the occasional distribution of bibles and to compulsory attendance at prayers led by the stockade superintendent at 10.00 am and 3.00 pm Sunday. It was not high on the agenda. The lack of a dedicated person to attend to convict welfare, who might serve as a credible witness independent of the military and convict administration, further contributed to the social isolation of the place and the dehumanising conditions that developed there.

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**Getting There and About**

Prior to mid 1831 the transfer of prisoners to gangs was ad hoc and lacked a formalised procedure. In April of that year Governor Darling initiated the establishment a system of warrants, vouchers and inventories of prisoners. The aim was to prevent escapes and safely transfer men to and from gangs. In an innovation, the term of sentence and means of identification was provided to the authority with which each convict was placed. Records were to be kept by the overseers and surveyor as to who was in their charge and locality. It was part of Darling’s attempt to systemise the system and, as indicated in Chapter Three, typified the organisational activity then underway.⁷

Despite tightened controls and certain corporal punishment, the more enterprising convicts still attempted to thwart the system. Authorities on the road had to contend with false identities and false claims of freedom. John Murray, for example, was particularly intent on illegitimately obtaining his freedom. In January 1833, he absconded from an escort and was found at Blackheath, in possession of a forged pass purportedly signed by Assistant Surveyor Nicholson stating that he was delivering a letter to the Surveyor General in Sydney. For that offence he was sentenced to an ironed gang until 1 April. While awaiting transfer to undertake this sentence, he was found digging his way out of Bathurst Gaol. On being discovered, lying on the floor covered in mortar, he informed the guard that ‘it was his business to escape if possible and their business to stop him’.⁸ He was rewarded with a four month extension to his iron gang sentence. By January 1834 he was a member of the Bridge Party and absconded again. This time he was equipped with the certificate of freedom of a gang mate, Boyd Crighton. He had copied Crighton’s identifying marks, duplicating scars on his wrists and hands and numerous tattoos on his upper arm. The outcome of that escapade is unknown, but it may have been successful.⁹

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⁷ SRNSW: Col. Sec., Copies of Letters to Surveyor of Roads and Bridges, 3 Jan 1831 - 31 Mar, 1832, 4/3935, pp.56-57. R.3002
Chapter Eight: The Convict Experience on the Western Road

From April 1832 security was further tightened, with all prisoners forwarded from population centres to the gangs under a military escort handcuffed and attached to a marching chain.\(^{10}\) The march of men manacled to a chain was an acknowledged source of humiliation and a parading of their debased status which was sorely felt. When Sub-Inspector Clement Dougherty was accused of rape by his assigned servant, the local authorities, in deference to his status as a valued and senior road builder, spared him the ordeal of the chain and arranged for a constable to escort him to Sydney to face the charges.\(^{11}\)

While the chain prevented escapes, the military escort did not necessarily prevent irregularities in the conduct of the march or ensure the professional behaviour of those overseeing it. Alcohol and drunkenness feature prominently in the court records and the impression that the security provisions and regulations were often more theoretical than practical is given. On long marches there were stops at inns where the soldiers could refresh themselves while the prisoners were left outside or in an outbuilding. On one occasion, 19 year old Michael Driscoll from No. 2 Stockade was murdered by Private John Hagin of the Kings Own 4th Regiment of Foot while under escort to Bathurst. Driscoll was a Cork errand boy who had arrived in the colony in November 1833 with a 14 year sentence for house breaking.\(^{12}\) At the time of this incident in September 1835, he was the veteran of at least two abscondings, but was described as well behaved by Constable John Hobson who had recently delivered him to the network from Penrith.\(^{13}\)

There were 14 prisoners on the chain and a dray (with its owner/s) carrying seized spirits was also under charge. The escort consisted of two privates, Hagin and Richard Flinn, both of whom were drunk and had left the stockade in that condition, Sergeant John Hedian, Constable Hobson and Assistant Overseer James Greer.

\(^{10}\) SRNSW: Col. Sec., Copies of Letters Sent to Surv. Gen., 13 Mar 1832 - 7 Sep 1832, 4/3912, pp. 70-71. R.3016


\(^{12}\) SRNSW: Superintendent of Convicts, Indents, 1833 - 1835, 4/4018, p.198; R.906; X635, p.175. R. 907.

\(^{13}\) SRNSW: Supreme Court, Criminal Jurisdiction, Clerk of the Peace Papers and Depositions, T162.

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Chapter Eight: The Convict Experience on the Western Road

According to witness statements submitted to the inquest, at around 11.30 am the party had stopped at White’s Inn, Solitary Creek (Rydal) supposedly to refresh the horses. The prisoners, who were quiet and orderly, were lined up in front of the inn but were moved to a shed in the yard when it began to rain heavily. While Greer and Hedian were in the inn the privates were left in charge of the prisoners and they were given ‘breakfast’. ¹⁴

Greer testified that the shooting was an accident caused by Hagin’s drunken state as he staggered around, with his firelock in his hand, counting the prisoners prior to their departure. John Luff/Huff, who was not associated with the stockade and as a free emigrant untainted with any penal associations, also witnessed the shooting. Luff gave a very different account to that of Greer, deposing that Driscoll had been sitting quietly with his head on his chest, when suddenly without provocation Hagin raised his musket to his shoulder, pointed it at Driscoll and said “You see my piece is cocked[,] damn your eyes[,] I’ll shoot you” and fired. Immediately prior to the shooting, another witness, James Patterson, an assigned servant of George Rankin, a supply contractor to the gangs, arrived at the inn. Patterson’s deposition supports that of Luff. On arrival Patterson was accosted by Hagin who may have recognized him as a convict. Hagin aimed his musket directly at Patterson and demanded ‘... in the King’s name to assist me in taking care of the prisoners or I’ll shoot you’. Hagin then cocked the musket and said “do you see that” and “look at that” and fired at Driscoll. Driscoll who was handcuffed to William McGovern fell gently on his side and died within a few minutes. McGovern also concurred with Patterson’s account but excused Hagin’s behaviour on the basis of intoxication.

The accounts of when the shooting occurred are varied in terms of the language and behaviour of Hagin prior to the shooting, excepting with respect to his drunkenness. The reported timing of events range from the shooting occurring sometime between 2.00 pm and 4.00 or 5.00 pm, giving anywhere between 1½ to 5½ hours after the

¹⁴ The word may imply a meal or food. It is unlikely that the men were marched from the stockade without first eating.
arrival of the party for Hagin and Flinn to pilfer spirits from the dray.\textsuperscript{15} Hagin’s belligerent attitude toward the convicts and his imposition on Patterson, Rankin’s assigned servant, hints at the arrogance of the newly empowered military and the treatment that convicts and those in the road gangs experienced at their hands. The variations in the stories of the sworn witnesses may be explained by Cook, who gave quite a different account of this incident. He said that the two free men charged with illegally selling spirits and accompanying the cart proposed stopping at Solitary Creek to entertain the military and the prisoners. Cook claimed that all shared in the drinking in the course of which Hagin shot Driscoll. Hagin was sentenced to 14 years transportation to a penal settlement but, according to Cook, under an Act of Council, he was released before the expiration of his sentence.\textsuperscript{16}

In the overall history of the stockade there are numerous accounts of prisoners straying into inns or absconding and being found at a nearby public house. Misadventures and criminal charges were common outcomes. In another incident featuring the military, James Leary died at Cox’s River hospital on 1 December 1837 from injuries while in the charge of Privates Peter Mothershead and William Harrison of the 80th Regiment. Leary, with two other prisoners, John Howard and George Iverson, were drawing a handcart from Hassan’s Walls to Bowen’s Hollow when after about two miles Leary and Iverson asked permission to talk to a man in a dray and disappeared with him behind the vehicle. Twenty minutes later they re-emerged and recommenced the journey but had only gone a short distance when Leary and Iverson showed signs of drunkenness. Leary was so intoxicated he refused to push the cart, lay down on the road and declined to move. In frustration, Mothershead bayoneted him. On arrival at Bowen’s Hollow, Leary was put into a box and left untreated. According to Surgeon Reed at Cox’s River, Leary died from exhaustion and blood loss from three wounds. Mothershead was found guilty of manslaughter.\textsuperscript{17}

\textsuperscript{15} SRNSW: Supreme Court, Criminal Jurisdiction, Clerk of the Peace Papers and Depositions, T162.
\textsuperscript{16} Cook, \textit{op. cit.}, p.33.
\textsuperscript{17} SRNSW: Supreme Court, Criminal Jurisdiction, Clerk of the Peace, Papers and Depositions, 1824 - 1946, CGS 880, 9/6311, No.30.
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Throughout the construction of the road there was a constant movement of prisoners to take up sentences and between gangs and road parties. Messengers moved between the stockades, work and administrative sites. Wood cutters, water carriers and bullock drivers carting stores all moved relatively unencumbered in the course of fulfilling their duties. There was also the daily trek to work by gangs and of individuals between work sites and the hospital. The transfer of prisoners from gangs to the hospital at No. 2 Stockade was usually supervised by a convict messenger, rather than an armed sentry and there are several accounts of prisoners escaping in such circumstances.\textsuperscript{18} At other times passes were issued and prisoners were entrusted to turn up of their own accord. There is no record of those that conformed to the conditions of their pass but there is ample evidence, over the entire period, of convicts taking advantage of such freedom, unable to resist the lure of the public houses that dotted the route. In April 1836, for example, George Squires, a 30 year old bricklayer and former soldier, who had a pass to attend the hospital, returned to the Bridge Party drunk and was sentenced to 50 lashes. A few days later he ran away to join up with Samuel Elvin who had absconded earlier in the year. In September, Squires, Elvin and two others faced the Supreme Court on charges of bushranging and robbery. In another instance, Henry Parnicott of No.9 Road Party and messenger William Katon took the opportunity to rob an overseer’s hut at No. 2 Stockade while on leave to attend the hospital there. At other times men failed to show at the hospital entirely, they would drunkenly eventually find their way back to their gangs and ultimately before a magistrate.\textsuperscript{19}

Such incidents continued to occur throughout 1836 even though security had again been increased. In April, George Mallen of the Bridge Party was found on the road in a drunken and riotous state. Although this was not an escape bid, but rather a case of

\textsuperscript{18} SRNSW: Surv. Gen., Letters from Surveyors, Nicholson, 14 Feb 1832 - 22 Dec 1834, 2/1562, pp.32-33; Col. Sec., Copies of Letters Sent to Surv. Gen., 13 Mar 1832 - 7 Sept 1832, 4/3912, p.123. R.3016; Principal Superintendent of Convicts, Returns of Convict Trials Before Bench of Magistrates, 1832 - 1836, Bathurst to Goulburn, 4/7022.1, pp.3-4; Supreme Court, Criminal Jurisdiction, Clerk of the Peace, Papers and Depositions, 1824 - 1836, CGS 880, T.159; Clerk of the Peace, Quarter Sessions, Depositions and Other Papers, CGS 845, Bathurst, 4/8375, pp.183-196. R.2396.
\textsuperscript{19} SRNSW: Courts of Petty Sessions, Bathurst Bench Books 1825 - 1936, CGS 2772, 2/8325, pp.129-130; 221. R. 1259; Clerk of the Peace, Quarter Sessions, Depositions and Other Papers, CGS 845, Bathurst, 4/8375, pp.183-196. R.2396.
In the same year, James Connor, the 30 year old messenger at Bowen’s Hollow was to escort 15 year old Thomas Mead to the lock up at the Vale of Clwydd. They both arrived drunk after having visited Rawsthorn’s Public House. Connor freely confessed and accepted responsibility to a gross neglect of duty. He was sentenced to 50 lashes, lost his privileged position as a messenger and was returned to his gang. In June 1837 Alexander Harrison, a miner by trade and an assistant overseer, turned up at the Bowen’s Hollow Lumber Yard drunk and disorderly. Harrison, drawing on his skilled status, told overseer James Greer, who had ordered him to go to his hut, that he would go when he thought proper and abused Greer. He, too, was subsequently sentenced to 50 lashes.  

Publicans could be charged with harbouring prisoners and were not allowed to sell alcohol to them but this was widely flaunted even though constables were on the look out and the convict customers were likely to give evidence against them. Richard Briggs, a prisoner attached to Hassan’s Walls Stockade, for example, testified that he had visited Keenan’s Public House where he ordered and was served half a pint of rum and departed drunk. Keenan was charged under the Licensing Act and was fined. In mid 1838, Constable Swords and prisoner Daniel Daniels were drinking at Keenan’s when Daniels was ordered home by Private Soon of the military. Swords interfered, saying the prisoner was in his company and that Swords had authority over that of the soldier. Soon brought charges and Keenan was again fined. Daniels was charged with disorderly conduct and refusing to answer the
Chapter Eight: The Convict Experience on the Western Road

questions of a constable. He was sentenced to 50 lashes and returned to a gang. Swords was fined for neglect of duty in his treatment of Daniels. 23

The presence of convicts moving about the area, some on official errands and others apparently absent without leave, seems pervasive. The evidence calls into question the application of the regulations and the rhetoric associated with security that dominates official correspondence throughout the entire 1830s, whether management was in the hands of the assistant surveyors or the military. The lapses indicate that road construction was dependent on a convict workforce that by necessity moved between work and support sites on the road. It also suggests that conditions were such that even the most trusted convicts had lapses when it came to the temptations of roadside inns; indeed such places must have seemed to be havens of normality and domesticity.

Convict Domestic Life

Life for convicts in the stockades was governed by routines, with the most dominant routine being that of the work day referred to in Chapter Seven. In the evenings men gathered around fires in the stockade square or at road party sites. Govett refers to their singing around the fire, the chorus making ‘a most tremendous uproar’. 24 In the early 1830s, before boxes were introduced, throughout the night men in road parties would visit the fire to warm themselves. 25 Some prisoners used their spare time reading or writing. Others told long stories to an appreciative audience. There was also the domesticity implied in their rearrangement of the interior of their huts, referred to previously, which so annoyed the authorities. Also incidentally mentioned, as part of correspondence concerning the condition of the stockade is their occasionally riotous behaviour referred to in earlier chapters. Materials around the stockades were employed in creative ways, for example, pieces of metal were

25 Cook, op. cit., p.18
made into saws while some prisoners manufactured spirit flasks from bullock horns that were polished and decorated with scrimshaw, which they sold, traded or gifted.

At the road party sites dinners were prepared either individually or in groups.\(^\text{26}\)

On Saturday afternoons from 2.00 pm the prisoners had time for domestic tasks, such as washing and mending their clothes and tidying their huts.\(^\text{27}\) Saturday afternoon, however, was also a time for flogging so that domestic tasks were undertaken with the background noises of the triangle, providing a constant reminder to the convicts of their situation and creating a deep source of resentment, fear and reprisals.

Reprisals and vendettas between convicts over domestic arrangements were a hazard. In one outburst, Henry Honey was stabbed by fellow prisoner, John Dillon, at No.3 Stockade Hassan’s Walls. Dillon was taking belated revenge against Honey as the principal witness against him when he was convicted of making a disturbance in the box when Dillon had tried to take Honey’s blankets. It was a serious attack and Dillon was committed to stand trial for attempted murder.\(^\text{28}\)

Stealing a blanket was by no means a trivial act. Blankets were much coveted by convicts, they were often in short supply or threadbare and in winter they were a barely adequate covering and never snug. In mid winter 1832, by which time it was very cold in the mountains, the winter issue of blankets had not been received because the existing supply had been inadequately accounted for. Sixty-four unserviceable blankets due to be returned to Parramatta had been retained until replacements ordered in February had been delivered. Assistant Surveyor Nicholson had lent these ‘... among the Prisoners, to some two, and others three, to reduce the number as much as possible of Men exposed in this inclement season at night without covering’. The norm was that each man was to have a single blanket but at

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26 Cook, op. cit., p.21
R.3017; Col. Sec., Special Bundles, Convicts, SZ 79. COD 182
the time there were 74 men without a serviceable blanket and 30 without any covering at all.\textsuperscript{29}

Under the regulations of September 1832, each prisoner was to have one blanket but from 15 May to 15 August they were to have two, a very short period for a winter allocation in the cold of the mountains. Clothing for the year was to consist of two Parramatta frocks, two Parramatta trousers, three striped shirts, three pairs of shoes and one straw hat and cap.\textsuperscript{30}

The following year a similar blanket saga played out in mid winter when there was a shortfall of almost 100 blankets going back to October 1832. According to Nicholson, men were exposed to severe hardship. Some unironed men were without covering entirely while men in irons had two.\textsuperscript{31} Despite the good intentions, the management and provisioning of convicts was complicated by entrenched bureaucratic inadequacies within the colonial administration throughout the entire period under study. For example, when requisitions for shoes for the bullock drivers and messengers associated with road parties (who were entitled to three pairs a year) were not submitted on the correct forms, the shoes were not issued. When this particular matter was raised in April 1830 Governor Darling did not approve of an extra issue as the regular half yearly issue was about to occur. He had concluded that the convicts would probably sell them.\textsuperscript{32}

This official correspondence supports the bleak picture painted by Cook of the situation of the mountains road gangs. The bookish Cook had been marched from temperate Sydney and the warmth of weather proof Hyde Park Barracks to the dilapidated slab and bark huts at Honeysuckle Flat in June 1833. With gaps between

\textsuperscript{29} SRNSW: Surv. Gen., Letters Received from Surveyors, Nicholson, 14 Feb 1832 - 22 Dec 1834, 2/1562, pp. 143-144. R. 3080.
\textsuperscript{30} SRNSW: Col. Sec., Special Bundles, Convicts, SZ79. COD 182.
\textsuperscript{31} SRNSW: Surv. Gen., Letters Received from Surveyors, Nicholson, 14 Feb 1832 - 22 Dec 1834, 2/1562, pp.256; 258.
the slabs, the huts offered scant protection from the winds that whipped down from
the surrounding ridges. It was an isolated place, off the line of road and hidden from
the curious by the topography.33

... the wretched and haggard countenances of the men, the Severity of
the cold, the want of a second or even one good blanket to save the
half frozen man from perishing ... With a sheet of Bark for my Bed,
the half of a thread bare Blanket for my covering, and Log for my
Pillow, the action of the frost was so severe on my limbs that it was
with difficulty I could find the use of them, and then only by
frequenting the fire at intervals during each night.34

The issuing of blankets was only one aspect of the provisioning of convicts. Overall,
the supply and issue of their basic necessities were fraught with problems of
inadequacy and abuse. The situation needs to be viewed in the light of penal policies
and regulations discussed in earlier chapters. While the justice of the convicts’
punishments was not doubted, it was nevertheless expected to be undertaken with an
adequate nutritional allowance and basic clothing and accommodation provisions. It
was important to Governors and their superiors at the Colonial and Home Offices in
Britain that the gang system was free of corruption. Part of this concern was to do
with preventing fraud on the treasury and partly with concern for the prisoners’
welfare. In an example of this concern, toward the end of 1830, Assistant Surveyor
Lambie’s policy of issuing sugar and soap allocations in arrears to gangs on the
Great South Road was investigated because of its potential for ‘irregularities’. How
were the men in the gangs to use supplies if they were discharged?35 As a result of
the enquiry, instructions were issued to district magistrates to inspect iron gangs and
road parties and the provisions issued to them. Overseers were to attend whenever
the local magistrate thought it necessary to examine the men and provisions under
the overseer’s charge and the assistant surveyors were to be:

33 Cook op. cit., p.18.
34 Ibid.
R.3015.
... held strictly responsible for any irregularity in the messing of the parties or otherwise, as it is expected that by constantly visiting (without which they cannot effectually perform their duty) they will be able at once to check any imposition or irregularity. It is also considered necessary that the Assistant Surveyor should make a point of occasionally seeing the parties at their Meals, and that they should state in their periodical Reports their having done so, noticing at the same time any circumstances which may require attention.36

When inferior quality provisions provided by the contractor to No.35 and No.40 Road Gangs on the Western Road were reported, Surveyor General Mitchell was instructed by Governor Darling to:

... immediately call on Mr Assistant Surveyor Nicholson to report when he visited these Gangs... and also what Rule is observed in visiting the parties, whether they make a point of inspecting the provisions, as the Reports which are received of the quality are generally unfavourable.37

Governor Darling also acted in November 1830 to prevent overseers serving as agents for the contractors due to:

Great Complaints having been made as to the bad quality of the provisions furnished to the Road Parties, and it appearing that the Overseers of the Gangs act as agents to the Contractor.

... you [the Surveyor General] will immediately communicate with the several Assistant Surveyors employed on the Roads, and order them to visit their Parties, and inform the Overseers that they are on no account to act as Agents, it being on the contrary their duty to act as a Check on the Contractor.38

When prisoners at Mt Victoria complained of the proportion of bran in the flour

36 Ibid. pp. 516-517.
38 Ibid. p.143.
ration it was decided henceforth to provide sieves to the assistant surveyors to better assess the quality of provisions supplied by the contractors.39

Governor Bourke was under instructions to keep the rations simple, avoiding alterations that might complicate the commissariat accounts to enhance control and scrutiny and enable their transmission to the United Kingdom as soon as possible.40 Under Act 3 William IV No.3 rations were to consist of 8¾ lbs of bread or 7 lbs of flour, 3½ lbs of maize meal, 7 lbs of beef, 3½ oz of salt and 7 oz of sugar per week. The ration of meat and bread was supplemented with soup every second day and breakfast consisted of hominy or boiled maize meal.41 Such a diet provided about 2100 calories per day. According to figures supplied by Stephen Nicholas in *Convict Workers* this was almost half that supplied to American slaves; two-thirds of that supplied to soldiery in the British Army between 1813-1857; roughly equivalent to that received by civilians in Nazi Germany and about 200 calories more than that received by Eastern POWs in Nazi Germany.42 The ration of convicts sentenced to solitary confinement was 1½ lbs of bread or 1¼ lbs of flour.43 For iron gang workers who were engaged in heavy labour encumbered with irons the ration was barely adequate. It readily became inadequate if quality or quantity was compromised. To protect against compromise, the new regulations stipulated that two delegates from each gang were to ensure the quality of the rations, one to inspect the meat at the contractors and the other to watch the cooks at the huts. The superintendent was to inspect the rations on delivery from the contractor and was required to report any irregularities. He was to check the rations equipped with scales, weights and measures and a sieve. Once rations were in the hands of the cooks the superintendent

was to ‘use every exertion’ to prevent theft or fraud.  

Govett described the mess arrangements in the early 1830s:

> At noon, the prisoners are marched in to dinner, for which they are allowed an hour. They often grumble at their mess, and refuse to touch it. In these cases, the commissariat officer, whom they call their ‘head cook’, is sent for, who decides whether the ration and meat be sufficiently good or not. If his decision be in favour of the ration, the prisoners will commence eating, and laugh at the trouble they have occasioned, for they frequently object, merely to annoy the overseers and others over them.

These events suggest that the policies stipulated by the authorities in Sydney were intended to be implemented and that to a certain extent they were. Govett’s account also suggests that, with the overseers’ support, convict rights could be asserted. Hirst has used the issue of convicts’ preference for wheat bread as evidence of the convicts capacity to control their conditions. On the Western Road however, that control was in the hands of the overseers, not the rank and file of the gangs.

In mid 1835 command of the stockade was given over entirely to the military which ushered in a much harsher regime. The Officer in Command, Captain Faunce, did away with the ‘Interior Comforts’, and conditions deteriorated.

**Prisoner Health**

The new regulations issued under Act, 3 William IV No.3 in 1832 stipulated not only diet and clothing but also accommodation standards for ironed gangs. The superintendent was to ensure levels of cleanliness in the huts, barracks and field hospitals which were to be inspected daily. In an inadvertent comment on existing

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44 SRNSW: Col. Sec., Special Bundles, Convicts, SZ 79. COD 182; Col. Sec., Copies of Letters Sent to Surv. Gen., 6 Sep 1832 - 15 Feb 1833, 4/3913, p.113. R.3017
45 Govett, op. cit., p.49.
47 Cook, op. cit., pp.31-32.
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conditions the new regulations stipulated that housing was to be weatherproof.

When No. 2 Stockade was first occupied by ironed gangs, medical attention was in the hands of a convict attendant. Although there were a hospital and dispensary on site, more serious cases were sent to Bathurst. However by November 1832, the attendant had been committed on a charge of highway robbery and Nicholson requested the appointment of a regular surgeon. In April 1833 the Colonial Secretary wrote to the Surveyor General expressing the Governor’s concern about the spread of disease at the No. 2 Stockade because of the poor condition of the huts and his opinion that the assistant surveyor in charge of the line could not be relied on to ‘render it a safe abode for the prisoners’. As a consequence the Inspector of Hospitals and Deputy Surveyor General Perry were sent to the area to inspect and rectify the situation. The outcomes of the inspection, detailed in Chapter Five, included the construction of a new hospital. The matter was so sensitive that Perry corresponded privately with the Governor, by-passing the Surveyor General and the Colonial Secretary. A doctor was stationed to attend to all personnel. Mitchell’s suggestion that:

... the price of labour now lost by the pretended sickness and consequent absence of men in the Road Parties would pay the Salary of a respectable Surgeon qualified to act also as a Magistrate by whose appointment the present abuses would be prevented.

was to be given consideration. Even in the summer months illness abounded. In December 1833, there were 62 sick prisoners at Cox’s River and the Superintendent continued to blame the poor state of the accommodation at the stockade. He claimed that many huts were roofless. Further Nicholson had recently ordered a mass

50 Ibid., p. 234.
flogging.\textsuperscript{51} That complaint brought a recommendation from Governor Bourke for Nicholson’s dismissal because of his ‘inattention and remissness’.\textsuperscript{52} Mitchell defended Nicholson:

... no representations had been made to him by the Superintendent - as was his duty - and secondly that the part unroofed consisted only of about 1/24 th part of the whole and not a greater portion as stated by the Principal Superintendent of Convicts.

With regard to the number of sick I trust I may be permitted to request His Excellency’s attention to the circumstances under which the prisoners are received into the hospital as sick, and the circumstances stated by Mr Nicholson - that he lately ordered nearly the whole of them to be flogged for gambling and disorderly conduct.

I beg also to observe that the attention of the Asst. Surveyor is required to other business besides accommodation & discipline of convicts - but that nevertheless this object had engaged so much of his attention since the removal of the Stockade to Cox’s River, that the business of enquiring, for which Mr Nicholson is eminently qualified has been retarded and interrupted beyond all my calculation as to the completion of the Road to Bathurst.\textsuperscript{53}

Conflict between the superintendent of the stockade responsible for convict welfare and the surveying department also reflected concerns (or lack of) for convict health. In May 1833, the gangs were detained at the stockade by the superintendent who thought it was going to rain. Nicholson, who was having great difficulty progressing the road works, with some chagrin, complained that he and the road parties were at work and queried the superintendent’s authority to withhold the men. On another occasion, a bullock team allocated to road works was pressed into service at the stockade, over the objections of the surveyor, to convey sick prisoners to Bathurst.

Hospital.  

The condition of the stockade and the cold winters all played a part in adding to the miseries of the gangs and parties. The floggings, the frequent shortfalls in blankets and clothing, the hard work, the cold, wet and a deficient diet which, even at its best, was barely adequate, due to corrupt overseers and poor supply by contractors, clearly contributed to debility and illness. The nocturnal activities of the prisoners, including the creation of private compartments using the stockade roof, as discussed in Chapter Five, undoubtedly had a part to play. In addition, the conflict between the authorities responsible for various aspects of the enterprise, discussed in earlier chapters, contributed to poor health outcomes.

From mid 1833 convict medical attendants of variable skill and experience assisted the surgeons who were usually linked with the military. They treated prisoners, military and members of the public who required assistance. William Mitchell, a Yorkshire groom, who had arrived in the colony in 1828, who at 43 was one of the more mature prisoners at Cox’s River served as a dispenser there in 1833.  

Another attendant was Henry Kirkwood who arrived at Cox’s River in July 1835 to serve as a hospital assistant and assistant to Dr Parry and also to Dr Alexander of the 28th Regiment. He worked from both Hassan’s Walls and Cox’s River. Thirty-three year old Kirkwood had arrived in the colony in January 1835 and was described as a mariner and surgeon. He had been brought up and educated in the navy and with no criminal connections he was considered to be quite respectable. His crime had been to steal and pledge a bible belonging to his landlady. As well as attending those at the stockades Kirkwood also assisted people in the neighbourhood and performed

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55 SRNSW: Supreme Court, Criminal Jurisdiction, Clerk of the Peace, Papers and Depositions, 1824-1836, CGS 880, T157.
emergency and minor surgery. In May 1837, he was charged with manslaughter and 
dishonest conduct after he horrifically bungled a birth in which the baby’s head 
was torn from the body. He had told the settler family that he was a doctor with 16 
years experience in the “London Lying-in Hospital” but in reality he was the son of 
a doctor who had sat in on lectures at St Bartholomew’s Hospital but was not 
qualified. Although he had attended the confinement of a soldier’s wife and the 
Solitary Creek publican’s wife, he had little experience. Nevertheless, on trial in the 
Supreme Court, he was found not guilty.57

Perhaps, more appropriately qualified was chemist and druggist John Arthur, under a 
life sentence for arson, who served as doctor’s mate at Cox’s River in 1837. He too 
travelled in the area giving assistance to injured locals and diligently made the best 
of a privileged position at the stockade, giving evidence against fellow convicts who 
were absent without leave or encountered illegally drinking in the neighbourhood.58 
Alexander McDonnell had quite a different attitude. McDonnell’s qualifications are 
unknown but he had a ticket-of-leave and had been sent by the Inspector General of 
Hospitals to serve as a dispenser. He was constantly drunk and unfit for the situation. 
Ultimately, he was charged with “habitual drunkenness, disorderly conduct and 
neglect of duty in his hired service”. He was sentenced to 14 days solitary 
confinement and a recommendation was made that his ticket-of-leave be revoked. 
The ultimate outcome is unknown.59

The following list is a rare surviving example of convicts that the medical officer at 
Cox’s River considered unfit for continued work in the gangs. It indicates that 
whatever its inadequacies, there was a system in place to attend to the welfare of the 
infirm.

57 SRNSW: Supreme Court, Criminal Jurisdiction, Clerk of the Peace, Papers and Depositions, 1824 
58 SRNSW: Courts of Petty Sessions, Vale of Clwyd Bench Book, Feb 16 1836 - 2 Jun 1839, CGS 3064, 
CGS 3064, 4/5673, Committals, p.98. R.669.
59 SRNSW: Courts of Petty Sessions, Vale of Clwyd Bench Book, Feb 16 1836 - 2 Jun 1839, CGS 3064, 
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It is not clear exactly how long Thomas Cook spent with the No.10 Road Party on the Honeysuckle Range, referred to in Chapter Seven, but correlating his account with events recorded elsewhere, it could not have been more than three or four weeks before sleepless, cold nights and heavy labour brought him to seek assistance from the medical officer at the No. 2 Stockade. As a consequence Cook was transferred to Mt Victoria where he joined the No.9 Road Party under Overseer John Skeen. Cook found the conditions at Mt Victoria less severe than at Honeysuckle Flat because the party was less isolated and occasionally would be given tobacco or treats by passing travellers. In all other respects he found the gang similar to that at Honeysuckle Flat. Referring to the sexual abuse that pervaded both locations Cook wrote that:

... an appeal to their better feelings was the certain result of insult and derision which they would copiously inflict upon their less depraved fellow prisoners; and if he nevertheless persisted in publicly depreciating their horrid propensities, he would be struck, kicked and otherwise abused.  

The overseers set the tone for the standard of behaviour, and:

Woe unto that man who had the courage to pass a remark at all disrespectful of the despicable objects of their horrible ambition! He would be selected as a lamb for the Slaughter!!

False charges would be laid which would result in a flogging. It was the custom for two or three men to sleep together, but Cook objected to the homosexual relations around him, complaining that:

So far advanced were these wretched men in depravity, that they appeared to have entirely lost the feelings of men, and to have imbibed those that would render them execrable to all mankind.

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64 Ibid., p.20.
65 Ibid., p.19.
However, not all the overseers were corrupt. Cook recalls George Morley, principal overseer of ironed gangs, dissuading Skeen from pursuing such a charge against Cook. Morley had found him manacled at Cox’s River awaiting a magistrate. Cook finally learnt to remain a ‘silent observer’ while maintaining his resistance to unwanted sexual advances. Morley then arranged for Cook to be appointed for a six week stint as his relief clerk. The other overseer who was not a part of the corrupt power network was Ephraim Whiting who was a veteran of one of Mitchell’s expeditions into the interior. In 1834, when overseer of the Bridge Party, Whiting was charged and later convicted of assault, despite the belief of the authorities that he had been “set up” under a false charge.66

**Crime and Punishment**

As noted in Chapter Seven, the No.9 Road Party was notorious for its poor behaviour. When in early September 1833 Cook arrived back at the Mt Victoria camp site after the above episode, he was arrested for slaughtering cattle belonging to local settlers. A crime he could not have been party to due to his absence, he nevertheless was marched back to Cox’s River with three co-accused. They spent 14 days manacled to a chain, with no blankets, in a draughty slab building waiting for the surveyor-magistrate, John Nicholson, to hear the charges. One of his companions lost two toes from frostbite. In frustration, Cook presumably using his legal experience, obtained their release without trial by writing to Nicholson and indicating his intention to appeal to the Governor on the basis of the conditions under which they were held and the delay in receiving a hearing.67

On their return to Mt Victoria they found that the huts had been completely destroyed in a fire and they were again without blankets, although the road party had been moved to accommodation formerly occupied by the military. Cook and his companions arrived back at about 10.00 pm to find their colleagues in the gang

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67 Cook, op. cit., pp.21-22.
busily frying beef. The new comers were assured that the two bullocks had been given to the gang by their owner after they had fallen from the top of Mt Victoria. Their fall, in fact, had been facilitated by gang members who were quarrying at the top and rolled a large rock amongst them. By way of mitigation of the party’s behaviour, the hunger of the men was partly due to the overseers commandeering their rations to entertain visitors.68

The overseers shared the plunder of the party and had organised a select group to be specifically employed in robbing drays by night and day. Cook refers to the Mt Victoria area becoming so notorious for robberies that the matter was raised in the press with the result that police visits were frequent. About this time, early October 1833, the ‘Select party’ had slaughtered another two bullocks near the camp and four ‘less guilty’ gang mates had gone to the spot to help themselves to some meat. According to Cook, the men were followed by the overseers and charged with the slaughter. They were subsequently convicted and sentenced to transportation to Norfolk Island for life. In corroborations of Cook’s account, court records indicate that Robert Hastings, Joseph Wright, William Carr and William Rogers were charged with this offence on 5 October 1833. There was an initial inquiry at Cox’s River and the matter was referred to the Bathurst Quarter Sessions where on the evidence of Assistant Overseer Armfield and Overseer Skeen they were convicted and sentenced to a penal colony for the remainder of their natural lives. Cook attributed the ‘framing’ of these four to the need of the overseers to divert attention from themselves and to produce culprits who could be blamed for the spate of robberies they had orchestrated.69

Meanwhile, keen resigned as overseer and was to be soon replaced by John Hamilton, with assistant overseers Nathaniel Davis and George Armfield. Hamilton had been an assistant overseer of an ironed gang at Cox’s River since at least

68 Cook op cit., p.22.
69 SRNSW: Principal Superintendent of Convicts, Returns of Convict Trials Before Bench of Magistrates, 1832-1836, Bathurst to Goulburn, 4/7022.1, p.1; Clerk of the Peace, Quarter Sessions, Depositions and Other papers, CGS 845, Bathurst, 4/8371, pp.51-57, R.2395; Cook, op. cit., p.23.
December 1832, and had arrived in the colony in 1819 on a life sentence. Davis was a clerk who had arrived in 1828 and was a veteran of the Great North Road construction project where he was a senior assistant overseer of an ironed gang in 1830. He had worked with a number of the road parties on the Western Road including No.9 under Skeen. Both were older men in their late 30s and were veterans of survival and promotion in the system. Armfield supported Skeen in making false charges against members of their gang, in order to protect those responsible for crimes undertaken if not on the orders of the overseers then with their complicity.70

On Skeene’s resignation, Surveyor General Mitchell, who had a very low opinion of him, wrote to the Colonial Secretary:

The conduct of the Road party No.9 stationed near Mt Victoria and, until lately under Overseer Skeene has been much complained of; drays have been robbed, and cattle slaughtered in the neighbourhood of this gang ... there is every reason to believe that prisoners in that gang have been concerned in these depredations.

[The behaviour] ...of the gang is mainly attributable to this overseer who holds a ticket of leave, but which I consider it would be justice to deprive him of, although he has left the department, considering all circumstances connected with the conduct of the gang lately under his charge, for he has built a house on the road side, and, so situated, it can scarcely be doubted that he will encourage drinking and disorder amongst the men employed in that neighbourhood.71

Mitchell planned to use the No.9 Road Party to test the new wooden boxes as a means of accommodation and containment for road parties rather than the slab huts then in use. The Quaker missionary Backhouse described the boxes as being so cramped when fully occupied that not all men could either stand upright or sit down at the same time with their bodies fully stretched. Only 18 inches breadth per person

70 Cook, op. cit., p.21.
COD 207.
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was allocated and 28 men could be locked in one of these from sunset to sunrise. Backhouse also supports Cook’s view of the overseers, saying that the convicts were likely to be flogged for trifling offences and were subject to capricious conduct by the overseers. In Backhouse’s opinion, death was preferable.72

Cook stayed with the No.9 Road Party until they were dispersed among settlers to assist with the harvest. When recalled from the harvest he was selected by the principal clerk at the police office located at No. 2 Stockade to work as a clerical assistant associated with the court. But after seven weeks he applied to be transferred back to the Mt Victoria gang as he feared trouble arising from the incompetence of a fellow clerk. On presenting his certificate of conduct and transfer to Assistant Surveyor Nicholson, he accepted an offer of a clerical position in his office at Mt Clarence. This situation he held for three months when he was charged with issuing false warrants for witnesses from the No.9 Road Party to attend the Supreme Court in Sydney. He vigorously denied the charge and, although he was never tried, he nevertheless lost his position and was sent as a book keeper to the Bridge Party at Diamond Swamp.73

Diamond Swamp was less comfortable than the assistant surveyor’s headquarters but Cook was still in a comparatively privileged position and had his own hut. He lost the situation when he beat a fellow prisoner from Mt Victoria who, presumably making reference to the sexual activity at Mt Victoria to which Cook had objected, had applied ‘...Epithets to me altogether unmerited by my principles and demeanour’.74 While an officer could command severe penalties for abuse, Cook was subsequently sentenced to 12 months in an iron gang.

According to Hughes, the language of Cook when referring to the homosexual acts and his reaction to it was typical of Englishmen of the time.75 When Cook was

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73 Cook, op. cit., p.27.
74 Ibid.
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removed to No. 2 Stockade around September 1834 there were about 500 convicts located there under the superintendence of W. Foster and conditions were superior to those of the road parties.\textsuperscript{76}

The charging of James Maltman with ‘Disobedience of Orders and disgusting Language’ by Captain Kane in May 1838 and other charges later in the year illustrates the sensitivity and seriousness with which verbal abuse was taken. Kane testified that Maltman had made ‘use of the most beastly language using the terms bugger, and imprecations also of the most frightful import such as bloody heavens’ and had concluded the barrage by singing a bawdy song. Maltman received 50 lashes, a sentence that could have been administered for simple insolence or refusing to work. The reference to the language was unnecessary for the outcome, leading to the conclusion that the terminology was found to be particularly offensive.\textsuperscript{77} In June Maltman was again drunk, had been absent from the stockade and was gagged to stop his tirade of abuse after Kane had ordered him to be placed on a chain. He had been delivered to the stockade by the landlord of a local public house where he had been behaving outrageously. For this he was awarded 50 lashes on the back and 25 on the breach. In September he was again drunk and abusive, making an uproar late into the night after he was confined. He received another 50 lashes. Nor was Maltman an exception, Thomas Smith, a scourger at Hassan’s Walls, under punishment for drunkenness, also abused Captain Kane and faced charges of insolence and the use of threatening and disgusting language. He suffered the humiliation of a sentence of 25 lashes on the breech and 25 on the back.\textsuperscript{78}

Cook referred to the No. 2 Stockade as ‘that Den of Infamy’ citing the ‘horrid crimes’ of homosexual acts between the convicts and the overseers which gave some

\textsuperscript{76}Cook, \textit{op. cit.}, pp.27-28.
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convicts the opportunity of escaping punishment. Cook accused the sub-inspector, who was based at Bowen’s Hollow, but was next in the hierarchy to the assistant surveyor responsible for road construction, of corruption. According to Cook the overseers were chosen by the sub-inspector and he had the power to dismiss them. In Cook’s opinion, they were:

... the most overbearing and depraved Villains it were possible to find... The only regard they had to classification, was evidently that which to all natural Beings, bespoke their own abominations or, in other words, the most execrable portion of their men found no difficulty in ingratiating themselves into favour, by the coarseness of their language, and the open demonstrations of pleasure with which they gave effect to their horrible propensities, in their Overseers hearing. In fact this was the only sure way (unless a man possessed of money to bribe them) of escaping, at the Triangles, the lacerations and torture which their perjuries rendered notorious among the less depraved among them.79

As Hughes points out, many of the sexual acts were not lovemaking but rapes, ‘sadistic humiliation’ to assert power over less experienced and younger men.80 It was an unofficial system that saw convicts promoted to positions of power on the basis of the recommendations of the overseers who held them in their power. Certainly on the Western Road, Cook and both overseers, Morley and Whiting, who were not party to this combine, all lost their positions of responsibility in circumstances that suggest they were the victims of false evidence and “set ups”. Armfield, one of Skeen’s men, was recommended to replace Morley. Cook claimed that, despite his confinement in England and in Sydney, ‘with men who had been Guilty of every offence under the Laws of their country’, he was unaware of practices such as occurred on the Western Road. He could not understand ‘how such monsters could have been nominated to act as Overseers’.81 He blamed the overseers, backed by the sub-inspector for the premature deaths of numerous prisoners due to

79 Cook, op. cit., p.28.
80 Hughes, op. cit., p.269.
81 Cook, op. cit., pp.28-29.
starvation, flogging and ‘insupportable Labour’.\textsuperscript{82} The sub-inspector to whom Cook was referring was Clement Dougherty on whom prisoners extracted revenge by pursuing a false accusation of rape. He was convicted, sentenced to death and reprieved but, to the delight of the men on the roads, received a life sentence to Norfolk Island.\textsuperscript{83}

Just as the overseers were involved in robberies, the military rank and file were similarly vulnerable to the opportunities the situation afforded. Anyone travelling on the Western Road was fair game, since, when passing the stockade, they were in full view of the prisoners who could peer through the gaps in the fence. Security was such that, despite the sentries, travellers were assaulted and robbed.\textsuperscript{84} In 1838 George Mills, Samuel Pike, George Malpus and Alan Isaac, who were soldiers of the 80th Regiment at Bowen’s Hollow, were detected in colluding to undertake or oversee highway robberies using coerced prisoners from the ironed gang stationed there. On the occasion of their detection the prisoners George King and John Jones were awoken in the boxes at round 2.00 am and ordered to rob travellers camped at Magpie Hollow. King testified that the soldiers ‘ovalled’ one of his irons and removed his foot from it and pushed the other up his leg. They insisted he follow them, on threat of a flogging or a prick with a bayonet, and gave him a musket. When he became frightened as they neared the place, they threatened to shoot him as an escapee. King swore that he had been asked on a number of occasions to commit robberies and that he was afraid for his life. When he had previously complained he had received 100 lashes and an additional 36 lbs of irons. As well as travellers, prisoners suspected of having money were set upon by fellow prisoners on instruction by the military, with the prisoners silently bearing the penalties if caught. The investigation of the Magpie Hollow incident was particularly difficult as ‘all the military were more or less implicated, and the convicts were afraid to give evidence...’ and two prisoners were turned out by the soldiers to prevent them giving

\textsuperscript{82} Ibid., p.29.
\textsuperscript{83} Ibid., pp.30-31.
\textsuperscript{84} SRNSW: Supreme Court, Criminal Jurisdiction, Clerk of the Peace Papers and Depositions, T162.
evidence. Those soldiers not directly involved in or supervising the robbery were paid a proportion of the take to keep quiet.85

There are numerous other accounts of robberies being undertaken by convicts from the stockade, usually by those in privileged positions. In April 1835, for example, William Akhurst was badly bashed and robbed on the road after the stockade by Peter Doyle and Martin Byrne of the No. 2 Stockade. Byrne was employed out of irons by the military surgeon at the hospital and Doyle was in a similarly privileged position. Both were charged with ‘highway robbery with violence’, found guilty and sentenced to death. Their sentences may have been commuted as Byrne died at Norfolk Island in 1841. The fate of Doyle is unknown except that toward the end of the year he was charged with the murder, so he may have been executed. James Presnall and Joseph Saint, both wardsmen at Bowen’s Hollow, were charged with highway robbery in July 1836.86

Travellers were attacked with bare hands, sticks or whatever was available and everything moveable was stripped from them with little mercy shown. In August 1835, charges of burgling with violence and rape were laid against eleven members of the No.10 Road Party then stationed at Honeysuckle Flat. James Thorp was the overseer in charge of the party and testified that William Harvey and Lewis Wingfield had left the party at dinner time and returned drunk and riotous about 6 o’clock. Several of the prisoners had been drinking at William and Lydia Barnes’ inn, situated about a mile away, during the day and went back at night to rob it. The evidence indicates a brutal and violent attack in the presence of children.87 Clearly the gangs were not closely supervised or, as Cook claimed, the overseer was in collusion with the gang members.

85 SRNSW: Supreme Court, Criminal Jurisdiction, Clerk of the Peace, Papers and Depositions, 1824-1946, CGS 880, 9/6316, No.80; Courts Of Petty Sessions, Vale of Clwydd Deposition Book, 7 Dec 1837 - 17 November 1842, 4/5674, pp.64-78; R.69
86 SRNSW: Supreme Court, Criminal Jurisdiction, Clerk of the Peace, Papers and Depositions, 1824-1836, CGS 880, T 162; 169; T170. 87 SRNSW: Supreme Court, Criminal Jurisdiction, Clerk of the Peace, Papers and Depositions, 1824-1836, CGS 880, T162; SR NSW: Supreme Court, Criminal Jurisdiction, Informations and Other Papers 1824-1947, CGS 13477, T30, No.18; T42 No 20.
In August 1835 James Smith, a sergeant with the 4\textsuperscript{th} Regiment, was accompanying Edward Hall in the search for a plant of sovereigns near Cox’s River. When crossing the river on a log Hall knocked him down and held him under the water until Smith was rescued by his dog. Hall was tried for murder, but the outcome is not known.\textsuperscript{88}

It was not only crimes against property and adults that were committed. Children at the stockade, usually the dependents of the military, were also vulnerable. In 1833, 11 year old Elizabeth Streeton, daughter of William Streeton of the 17\textsuperscript{th} Regiment, was raped by Private David Thompson of the same regiment. Thompson lured her along the creek by telling her that a hen and chickens belonging to Captain Deedes were lost and that there would be a reward if she found them. Thompson was sentenced to 12 months in Newcastle Gaol. In 1836 Jane McCarter, the six year old daughter of John McCarter of the 4\textsuperscript{th} Regiment, was raped by convict John Madden. On conviction Madden was transported for two years to a penal settlement.\textsuperscript{89}

In an extraordinary episode in the history of the No. 2 Stockade the free stockade clerk Richard Vowell, four convicts and four military men went on the run together in mid 1835. According to Cook, Vowell had been bribed by two ironed men to alter the record of their sentences from 12 to nine months and to organise a pass for their transfer to headquarters. But the men were seen by the clerk of the court as they departed the stockade and their early release was discovered.\textsuperscript{90} After the forgery was revealed Vowell absented himself from the stockade and in his absence was charged with the forgery and on 15 May a reward of £20 or a conditional pardon was posted for his capture. Shortly after Vowell returned to the stockade and was again placed in charge of the books. But on this information being received by the Governor on May 23, Vowell was ordered to be discharged and Foster, the superintendent, was recalled to Sydney.\textsuperscript{91}

\textsuperscript{88} SRNSW: Clerk of the Peace, Quarter Sessions, Depositions and Other Papers, CGS 845, Bathurst, 4/8380, pp.315-319; 4/8379, pp.51-54; R.2397.
\textsuperscript{89} SRNSW: Clerk of the Peace, Quarter Sessions, Depositions and Other Papers, CGS 845, Bathurst, 4/8371, pp.21-23; 4/8379, pp.55-68; R.2397.
\textsuperscript{90} Cook, \textit{op. cit.}, pp.34-35.
\textsuperscript{91} SRNSW: Col. Sec., Copies of Letters Sent, 2 Apr 1835-21 Jan 1836, 4/3681, pp.99-100; R.1049.
Chapter Eight: The Convict Experience on the Western Road

On 25 May, presumably after this instruction reached the stockade, four convicts including James Monds, clerk to the medical officer, John McCann, John Fisher and William Bryant and four privates of the 4th Kings Own Regiment - Marsden, Shann, Shaw and Powell - went absent without leave. Vowell too, disappeared. They were pursued by the military through the night but escaped without trace. Handbills were struck and their descriptions were circulated, the circumstances of the composition of the group being considered to be quite extraordinary. It was feared that as some of the escapees had seafaring experience that the party was headed to Twofold Bay from where they planned to take a whale boat and thus escape the colony. The reality was both more and less fantastic. 92

Vowell and his fellow absconders took up bushranging and robbery. By August they had been captured and were on trial in the Supreme Court. They had travelled down to the Murrumbidgee, rather than to the coast and conducted a series of robberies. The outcome of the trial was that one was executed, five were transported to Norfolk Island for life and one was sentenced to 14 years on Norfolk Island. 93 The bribery and robbery charges against Vowell were dismissed by the Supreme Court but he was convicted of the theft of Foster’s watch. He was originally sentenced to death, but this was commuted to life at Norfolk Island and later reduced to 7 years. 94

Richard Longfield Vowell had arrived in New South Wales in early 1833 and in March was recommended to the position of clerk and constable at No. 2 Stockade. Vowell came with recommendations that testified that he was the son of Major Richard Vowell of the 66th Regiment. He had served in c.1818-1830 in the British Legion, was a former Captain of Marines in the Chili State Service and a former major of brigade for the South American Liberator, Simón Bolívar. 95 But Vowell’s history is much more interesting. He was a gentleman, Oxford educated and an

92 SRNSW: Col. Sec., Letters Received, Military and Naval, 1835, File No. 35/4094 at 4/2287.2.
93 Cook, op. cit., pp.34-35.
95 SRNSW: Col. Sec., Letters Received from the Principal Superintendent of Convicts, 1833, Letter No. 33/2310 at 4/2184.
historian and fiction writer as well as a soldier. He was in the thick of the action and wrote three books based on his experiences. The first was published in 1831 in London. These works, both fiction and non fiction, are highly regarded by Latin American historians and were reissued in the twentieth century by the Academia Nacional de la Historia in Caracas in the 1970s. It is not known what became of Vowell after the trial except that he died in Victoria in 1870 at the age of 76. His life, however, is the subject of a biography by Canadian scholar Dr Maria Victor, who is currently attempting to solve the mysterious later life of this revered hero of the South American liberation from the Spanish. Vowell wrote under a pseudonym and Dr Victor believes that he was highly likely to have recorded his experiences, perhaps in some fictionalised form. The prospect of finding such a work is an exciting one which has the potential to add another dimension to the Cox’s River story. Dr. Victor is convinced, from her long study of Vowell, that his actions were likely to have been provoked by the injustices and brutality he witnessed while employed at No. 2 Stockade.96

Civil Rights
As was shown earlier, Thomas Cook was able to use his legal experience to get him and his co-accused released from the lock-up at No. 2 Stockade in 1833. However, few convicts on the road had the capacity to assert their rights in that manner. Other demonstrations of appeals to higher authorities are rare and the outcome dubious. It was a risky business, a complaint could result in a charge of making a false accusation and the penalty on conviction was usually 50 lashes and the enmity of the overseer. Convicts could resist by refusing to work, feigning sickness or sabotage by losing tools.

A character reference could also ameliorate the outcome in the courts. When Joseph Anderson was charged with absconding, his sentence of 50 lashes was remitted because of a reference provided by Lieutenant Ronald McDonald. Shortly after,

however, Anderson, then described as “scourger to the gang at Hassan’s Walls”, absconded a second time and was sentenced to 12 months in irons. \textsuperscript{97} However, as was shown in the case of Ephraim Whiting, authorities were powerless to defend Whiting against the co-ordinated calumnies of his accusers, a situation which demonstrates the power of the counter system in operation on the road.

In an example of a relatively successful complaint by convicts (probably because it was brought to the attention of the authorities in Sydney) in mid 1832, the military commandant at Mt Victoria was asked to investigate complaints by prisoners in the Bathurst Bridge Party of the ‘tyrannical conduct’ of the overseer, Charles Hewitt and his deputy Phillip McIntyre. It was found that on several occasions the prisoners had been treated with ‘great severity’ and the Colonial Secretary requested that the two be informed that they ‘should be more discrete in the management of the prisoners under their charge, who appear in some instances to have had just ground of complaint against them’. \textsuperscript{98} Analysis of the court records for the Western Road gangs indicates that the proceedings in the early 1830s were often more than a mere formality and that there was an attempt to administer justice. But the right to question witnesses was used rarely by defendants. Cook’s account indicates that in practice the system was flawed. Perjury abounded, aided and abetted by the isolation and power of the overseers referred to earlier.

Part of the motivation for Act, 3 William IV No.3 was Governor Bourke’s concern that convicts were not always treated impartially before the courts. The Act reduced magistrates’ powers to inflict punishments. Punishment for misbehaviour was only to occur after a hearing before a justice of the peace. Yet there are at least two separate accounts which refer to the assistant surveyors failing to follow procedure. There is Assistant Surveyor Govett’s account of the flogging of a gang member for instigating a song and that of Cook referring to the surveyor not even bothering to dismount to

investigate the charges laid by an overseer and summarily ordering mass floggings, referred to previously.

Despite severe penalties and virtually no hope of escaping detection, crimes of violence at the stockade and against gang members were a feature of life. The court records conjure the image of a brutal existence where chance as much as compliance influenced survival.

**Conclusion**

The *Convict Workers* study contends that convict accommodation was ‘healthy and spacious’ compared to urban housing for the poor in Britain; that convicts had a high standard of medical care and were generally healthy. Moreover, convict transportation was part of an international system of forced labour migration ‘rather than something unique to the Australian experience’.  

As shown above, the Western Road convict experience was not the happy existence, indeed blessing, suggested in *Convict Workers*. An alternate corrupt system was in operation that was run covertly by the majority of the overseers which made life a misery, far beyond the intention of the penal authorities. As Governor Bourke reported for the convicts in irons who were kept in stockades, their lot was ‘... felt by themselves as one of great privation and unhappiness’.

Concern regarding the physical condition of the stockade itself, outlined in Chapter Five and elsewhere in this thesis, is another example of the ambitions of the system. It serves to demonstrate the hopes that underpinned the policies that were formulated by those in authority, such as the Governor. But, as this chapter has revealed, the ideals of the policy makers were somewhat removed from the practicalities of both convict welfare and road making. The realities of the experience of many, if not all convicts in the gangs, in the stockades and on the road were all too often brutal.

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99 Nicholas and Shergold, *op. cit.*, pp.7-12.
degrading and dehumanising.
Chapter Nine

Conclusion

This thesis has examined the construction of the line of road from Mt Victoria to Bathurst in the 1830s. The impact of the penal reform and transportation debates in the United Kingdom and inter-departmental politics at a local level which surrounded the inception and construction of the line of road have been analysed. Their impact on the management and organisation of the convict labour force has been investigated in parallel with their later effects on the efficacy of the construction process. The road works itself, and the places as physical entities connected by the line of road have been described and explained. They form the context and setting for the interplay of interdepartmental politics and, from the convicts’ point of view, the experience of penal servitude under the influence of the penal reform and transportation debates. This has enabled comment on the convict system and the sophistication and efficacy of the colonial administration in terms of infrastructure development, governance and penal management. The convict recidivist workforce and the convict experience on the road have been examined because of the opportunities this sample population have presented to compare their character and experience relative to the broader population as analysed by Robson and Nicholas and Shergold.¹

The thesis also presents to the academic community a new major convict site that is comprised of the series of sites connected by Mitchell’s line of road from Mt

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Victoria to Bathurst. Unlike other major sites of secondary punishment such as Port Arthur and Norfolk Island, this network as a physical entity and as a penal site has been hidden in a multitude of archival records that have obscured its scale, functioning and importance in colonial New South Wales. The network, as a recognized entity, has been literally buried in the records for almost 170 years. Its retrieval had many parallels with an archaeological investigation, as document by document, evidence was dug up, intellectually ‘dusted off’, assessed, identified as connected (or not) and its place found in the jigsaw.

This concluding chapter overviews the key arguments of the thesis as they were introduced and interwoven through successive chapters. The specific concerns under investigation and addressed by the thesis are reviewed with reference to the chapters in which they are more thoroughly explored. To reiterate, as expressed in Chapter One, these concerns, listed in order of their introduction to the thesis, but not necessarily in their order of importance, are:

1st the ways in which the concerns of the transportation and penal reform debates were reflected in conditions on the Western Road;

2nd the efficacy of enforced labour to simultaneously meet the dual objectives of colonial infrastructure development and the reform, punishment and deterrence of criminal behaviour;

3rd the process of management and construction of a major transport link, crucial to the development of the colonial economy, to examine the competence of the colonial administration;

4th how the process of development of colonial infrastructure, as embodied in the Western Road in the 1830s, reflects on the humanity of the colonial administration through an exploration of official policy concerning convict welfare; and

5th the contribution of a sample population of recidivist offenders to the convict origins and experience debate.
Chapter Nine: Conclusion

The relatively, and in its day, unexpectedly long history of the No. 2 Stockade Cox’s River points to the complexity, not only of the road building process, but of the influences bearing on it. As was demonstrated in Chapter Two and throughout the thesis, the 1st issue of concern, the transportation and penal reform debates in the remote United Kingdom, had a practical impact on the management of prisoners’ experience of servitude on the Western Road. As in England, where the government determinedly avoided the necessary financial investment in penal reform, a similar fiscal attitude prevailed toward the New South Wales colony. With the Governor held accountable, insistent pressure to allay the concerns of the anti-transportationists and penal reformers could be asserted. A convenient blindness to local conditions and the implications of these imperatives - fiscal, human and political - could be indulged by the British.

The 2nd major issue addressed by the thesis, the efficacy of the system to meet penal and development objectives was discussed in detail, particularly in Chapters Two, Three, Seven and Eight. British policy, as manifested on the Western Road, meant that the reform, punishment and deterrence of prisoners through hard physical labour, discipline, just and certain punishment, and classification and graduated movement through a penal hierarchy was undertaken in circumstances of extreme financial restraint. This circumstance predisposed the undertaking to failure from both a penal and efficient infrastructure development exercise. However, in the latter instance, if measures of efficiency factor the penal role into the efficiency calculator, then the road building enterprise was more efficient than might be otherwise granted. In terms of the effective application of penal reform methodologies, however, the findings of this thesis, tend toward a conclusion of unmitigated failure, rather than the successful and effective punishment and reform of the Western Road convict population. The recidivist demographic, that populates this thesis, the 5th issue of concern, were degraded, brutalised and often ruined. While this may not have been the experience of all convict workers on the Western Road, those who escaped the investigative net cast in the research for the thesis, would certainly have been aware
of the precariousness and vulnerability of their situation.

As documented in Chapters Seven and Eight, Thomas Cook’s account of his experiences on the road has been largely corroborated. This account indicates that the ideal in terms of penal reform was subverted in its practical application on the road. Indeed it was “A Den of Infamy” in the power of a corrupt cabal of overseers which arose partly due to the fiscal constraints, the poor working relationships of authorities who shared jurisdiction over them, and the physical isolation of the place. Many convicts suffered similarly to those, referred to in Chapter Eight, who were sent to Norfolk Island, after conviction on false charges created by their overseers, or who endured the sexual intimidation referred to by Cook, but did not have the wherewithal to protect themselves. The situation was all the more damaging because of the extreme youth of the Western Road convict population and it is a certainty that numerous premature deaths resulted, many at the hands of the executioner, after their removal from the road.

As was shown in Chapter Two, the establishment of the road gang system as another layer in the penal repertoire of New South Wales for the punishment of secondary offenders was an attempt to dovetail penal reform concerns with development of the colony. Within the colony, but not disassociated with the British administration, interdepartmental politics, as outlined in Chapter Three, complicated the difficulties of implementing the penal reform charter, and thus the subversion of the anti-transportationist’s goals. The appointment of the able, but difficult Major Thomas Mitchell as Surveyor General brought its own tensions. Mitchell enjoyed considerable patronage from the Secretary of State, Sir George Murray. This facilitated the allocation of additional responsibilities to Mitchell by British authorities, who, in doing so, went against the advice of the Governor. The continued support of Mitchell over the Governor created a situation that undermined effective governance and had particular implications for the process of management of works on the Western Road, the 3rd major issue of concern of this thesis. This was not
merely a clash of personalities, although Mitchell’s ambitions were personally all-consuming; it was a clash of jurisdictions. The implications of this were particularly poisonous chalices for the Governors. They were responsible for the implementation of imperial policy and were, ultimately, held accountable should they fall short of expectations, yet they had to tolerate a powerful subordinate who could undermine governance with support from the United Kingdom.

The distrust that developed between these two key offices, as explained in Chapter Three, had an impact on relations between the Surveyor General’s Office and other key departments of the New South Wales administration. This situation to a large extent hamstrung efficient construction of the road, not because the engineering or management or organisational expertise was lacking, but because the state of relations between the surveying department and that of the Governor meant that other departments were more likely to receive the support of the Governor in any dispute. The commissary, the convict department and the military, as shown in Chapter Four showed little empathy for the requirements of the road making enterprise. As a result the melding of penal ideologies and methodologies was thwarted at the metaphorical coal face (rock face) of road construction en route from Mt Victoria to Bathurst.

As demonstrated in Chapters Three, Four and Five, day to day matters, that ought to have been managed on the ground, were constantly referred to Sydney for resolution at the highest level. An advantage to the thesis, derived from this situation, is that the surviving documentation between the Governor and the Surveyor General mediated by the Colonial Secretary, and that between the Surveyor General and his assistant surveyors, has enabled these realities to be brought to light. Thus, their contribution to an understanding of the construction of the Western Road within the context of a punishment forum for recidivists, was able to be examined.

The documentation, as is demonstrated in Chapters Five, Seven and Eight, also
reveals the extent to which convict welfare was a concern of the administration, and thus enables the 4th issue of investigation, the humanity of the administration and their concern for convict welfare, to be addressed. As is argued throughout the thesis, there was a genuine attempt on the Western Road, as elsewhere in New South Wales, to implement the penal methodologies advocated by the penal reformers. Adequate food, shelter and medical care were fundamental to this and the numerous letters concerning the quality of the rations, the standard of accommodation at the stockade, not to forget the guard beds all testify to this. The classification of prisoners and their reform, offered through the opportunities of advancement, were also integral to this process; as argued by Governor Bourke in Chapter Two, the experience was not meant to be ‘appalling’ in either its intensity or its duration.

The reality on the Western Road fell far short of the ideal, which brings this discussion to the 5th area of concern. As was demonstrated in Chapter Six, these prisoners, although by the time they reached the Western Road were by definition, recidivists, were young and for the most part less criminally experienced than the norm found in the general convict population sample studied by Robson. Most were originally convicted in the 1820s as the justice system hardened in the United Kingdom. They came before the New South Wales courts when calls for deterrence were strengthening. The demographic profile suggests that the Western Road convicts may have been comprised of a substantial proportion who were victims of a harsh British justice system and were victims again in New South Wales. The disproportionate numbers of Irish on the Western Road support this view. The demographic profile also lends support to the view that for many in this group the experience of transportation was a dehumanising and brutalising one. Rather than reform or deter, their experience further corrupted. This is not to say that there were no experienced criminals in the population. As the tables in Chapter Six show, they were undoubtedly there, but the evidence suggests that a good number became renegades and were truly criminalized by the experience.
A biographical study of individuals from the Western Road sample population would throw more light on this issue and while, in some instances, substantial curriculum vitae have been compiled in the process of undertaking this research, a full and comprehensive study for the sample of 1108 individuals was beyond the scope of the thesis. It is a project worthy of later pursuit. As part of the research for the thesis it has become evident that there is a great deal of information in archives but that it also takes a great deal of time and funding to access, copy, compile, and analyse the material.

The analysis of the nature of the workforce provided in Chapter Seven has also enabled the testing of methodologies employed by Nicholas and Shergold in their major analysis of the convict indent data, which raises concerns about their classification and denotation of skill levels. These are qualities which are important components of the debate concerning the character of the convicts. The assessment of the skills of the Western Road workers using the Armstrong Adjusted (Rosen) model, developed for this thesis, has enabled a more realistic assessment of skills to be achieved with a greater spread in the skill levels identified. As discussed in Chapter Seven this model produces fewer identified skilled workers than either the Nicholas-Shergold model or the Armstrong model, due to the recognition of the lesser skill level of apprentices and assistants compared to masters. But as noted in Chapter Seven deployment on the Western Road for the ‘rank and file’ convicts in the gangs was not achieved through qualification by skill, but due to an appearance in the courts and it was a punishment.

In terms of the efficiency of the road construction process, the convict workers on the road, as demonstrated in Chapter Seven, had a variety of skills, but the chief skill of use on the road was their youth and implied within that, their stamina. For those with relevant industry skills such as mining or quarrying there was the opportunity to be promoted to a position of responsibility and even clerks, such as Thomas Cook, could be found appropriate employment. But regardless of the skills, pick and shovel
work was a penal reality until good behaviour or patronage secured a promotion. With regard to the competency of the administration in relation to infrastructure development, as explained in Chapters Three, Four and Five the engineering competence and project management skills were there, but hampered by other factors. Even when the Colonial Engineer, who was not encumbered by poor interdepartmental relations, was charged with responsibility for finishing the road, it was still undertaken under the constraints of a penal situation and with a workforce that had little reason to facilitate the project.

The analysis presented in Chapters Six and Seven of the character of the convicts compared to those found in the studies conducted by Robson and Nicholas and Shergold was possible due to an unexpected by-product of the research into the construction of the road that emerged as research for the thesis progressed, that is the gradual accumulation of a roll call of individual prisoners from the road. The statistical analysis presented here is necessarily minimalist in that it was undertaken only to the extent necessary to comment in a general way on the situation on the Western Road and on the key issues of concern to the thesis, including the origin and character of the convicts and the nature of their penal experience. In seeking to address these issues it became evident, as a list of names was compiled, as convict names appeared haphazardly in a wide variety of sources, that it would be possible to compare the population to the larger studies which have set the stage for convict work since the 1960s. Yet the sample here is dominated by repeat offenders, as most identities that were extracted from the records were identified because they were associated with new offences. There were many more convicts on the Western Road, moving in and out of the gangs and road parties of whom we know nothing. The numbers involved cannot even be estimated. There are also many more sources of information that would lead to the revelation of more individuals on the road, but which were not accessed because they were not specifically relevant to the original core questions of the thesis.
The statistical analysis is another area that could be developed, preferably in association with a demographer or statistician with an interest in the subject and the period, who could bring a higher level of statistical skills to the task than has been possible within the context of this thesis.

With the identification of a small number of Western Road convicts, entree to others in the court and convict system was achieved and this in turn facilitated the development of a view of the experience of convicts as workers on the road as presented in Chapter Seven, and of their experience of living on the road in the penal environment of the stockade and road party sites, presented in Chapter Eight. This further facilitated the consideration of the infiltration of penal reform policies as they were effected and an assessment of the effectiveness of their delivery. The details of court evidence particularly provided insights into living conditions, day to day circumstances and the politics on the ground. The attitude of authorities to the convicts and the reality of their circumstances could be gauged and imagined through these records which enabled the convicts’ views to be heard, sometimes in word, but more often in deed.

The diverse components of this thesis, the impact of the penal reform and transportation debates; the exigencies of colonial politics; the place itself as a physical entity, a line strung across a landscape like a notched piece of string denoting convict work sites; and the character and origins of the convicts together with their experience on the road, in the bushes and roaming about the neighbourhood all interact, as demonstrated in the thesis, in a dynamic circular and reiterative fashion to create a particular milieu that existed on the Western Road in the 1830s.

In conclusion, the thesis has demonstrated that it can be argued that the road gang system was an inefficient means of infrastructure development, because penal concerns overrode the construction requirements of the project. It has also been
demonstrated that the penal reform methodologies were also ineffectually engaged due to the isolation and quality of the supervision that led to a corruption of the ideals that were intended to be in operation. At the end of the road, however, an impressive road was constructed, parts of which have served New South Wales for 170 years but albeit, unintentionally, many convict lives were ruined or destroyed in the process.
Chapter Ten

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