



THE ADMINISTRATION OF PORT ARTHUR PENAL SETTLEMENT,

1830 - 1844

by

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CONTENTS

	<u>Page</u>
STATEMENT	i
SUMMARY	ii
INTRODUCTION	iii - viii
CHAPTER 1.	Foundation.
	1 - 29
CHAPTER 2.	The Convicts.
	30 - 59
CHAPTER 3.	The Rulers.
	60 - 78
CHAPTER 4.	Organisation and Policing.
	79 - 106
CHAPTER 5.	Crime and Punishment
	107 - 131
CHAPTER 6.	Convicts' Daily Life
	132 - 155
CHAPTER 7.	Welfare
	156 - 178
CHAPTER 8.	The Port Arthur Myth
	179 - 195
BIBLIOGRAPHY	196 - 200
Appendices	
I.	Corporal Punishments 1830-1837
	201 - 202
II.	Lieutenant Governors of V.D.L.
	1824-1856.
	203
III.	Commandants of Port Arthur.
	204
IV.	Sampling Method.
	205
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STATEMENT

To the best of my knowledge and belief this thesis contains no material which has been accepted for the award of any other degree or diploma in any University. Furthermore, it contains no material previously published or written by another person, except when due reference is made in the text of the thesis.

SUMMARY

The setting of Port Arthur in time and place is outlined in the general framework of transportation to Australia and in the particular context of secondary penal discipline. The records of a sample of Port Arthur convicts are examined and compared with a sample of all transportees. The two men most concerned with the establishment and control of Port Arthur during its first decade, Lieutenant Governor George Arthur and Captain Charles O.'H. Booth, are placed in this setting, with an assessment of their background, abilities and image. Discussion of the problems of organisation and policing, given the limits on government spending and the lack of experienced prison officers, leads to an examination of crime and how it was punished at secondary penal establishments. Day to day life of the prisoners and the use made of their time and labour is described, as is the provision made for their welfare in the form of health services, religion, schooling and leisure time. How far the Port Arthur myth conflicts with the facts of life at the settlement is examined, and the justification for the myth is questioned.

INTRODUCTION



INTRODUCTION

The convict origins of Australia's first settlers and the transportation system under which they were brought from England have, deservedly, been the subject of considerable attention by historians. Much has also been written about the deployment of the labour of the convicts during the period of assignment, and some valuable work has been done on the probation system which was introduced in Tasmania after transportation to New South Wales ceased in 1840. Australians are now far enough removed from the convict era to write about it dispassionately.

The same attention has not yet been given to that concomitant of transportation, secondary penal discipline. Recent research, particularly that of Dr. L.L. Robson, has shown that the average convict was an urban thief with a previous record of crime, not a 'village Hampden'. With a propensity for crime it was therefore likely that many of the transported convicts would come before the courts again, and indeed this was the case. During the sixty four years that convicts were transported to the eastern colonies of Australia, seven out-stations were established for men who had received a further sentence of transportation in the colonial courts. These were Norfolk Island, Newcastle, Port Macquarie and Moreton Bay which were all settled from Sydney, and Macquarie Harbour, Maria Island and Port Arthur which were settled from

Hobart. Of these, Norfolk Island and Port Arthur were the biggest, longest lived and most notorious. They have also been the subject of a great deal of writing, some of it factual and authenticated, much of it fictional, and most of it emotive. Rare exceptions are works such as the two biographies of commandants of Norfolk Island by Mr. Justice Barry, Alexander Maconochie of Norfolk Island and The Life and Death of John Price. In a general history of Port Macquarie, G.D. Hogg dealt with the years when it was a secondary penal settlement, and there is an all too brief study of Maria Island by John Morris, published in the Papers and Proceedings of the Tasmanian Historical Research Association. There are many scattered references to all the secondary penal establishments, but no one study that attempts to assess their role in Australian convict history. Even more surprising is the fact that there has been no major academic study of Port Arthur. It shares with Norfolk Island an infamous reputation that assures it of constant interest and attention; but academic interest has been sporadic.

This study attempts to fill one gap by examining the administration of Port Arthur during the 1830's. It has been convenient to take this starting point, for this was the decade when the Port Arthur myth was created, it was the period when the settlement existed as a separate entity and not as part of the Probation

System, and for most of the decade it was under the guiding hand of the most important of its commandants, Captain Charles O'Hara Booth. The primary aim has been to confine the study to the first ten years of the settlement's forty-seven-year life span, but the changes wrought by the introduction of the Probation System have necessarily taken the story, at certain points, into the 1840's. These changes are examined briefly but there is no assessment of the Probation System as such. Port Arthur remained a secondary penal settlement and although it was subject to the overall administrative changes in convict discipline, it retained its original character, as did the Coal Mines, compared with the new probation stations set up on the Peninsula at such places as Saltwater River, Cascades, Impression Bay and Wedge Bay. Convicts sent to these new stations were serving a period of probation. Convicts at Port Arthur or the Coal Mines could be struck off the probation register until they had completed their secondary punishment. The time span of 1830 to 1844 covers the first settlement and the whole of Booth's term as commandant. Obviously the last four years of his administration are linked to some extent with the Probation System, but attention remains focussed on Port Arthur and Booth rather than the new System. Although there has been no attempt to make a comparative study of Port Arthur and Norfolk Island, some

facts, figures and comments about the one assume greater significance when compared with the other and, at these points, no attempt has been made to confine the discussion to Port Arthur.

Some use is made of the accounts left by two convicts, Martin Cash and J.F. Mortlock, but this is an attempt to show how Port Arthur was founded, organised and run from the official standpoint. More than enough has been written about selected incidents and aspects of life at Port Arthur from what is assumed to be a viewpoint sympathetic to the prisoner. This has contributed to an impressionistic rather than a balanced view of the aims and achievements of those responsible for the establishment. It would be foolish to attempt to 'whitewash' Port Arthur, to try to justify all the cruelty that was perpetrated and the misery that was suffered there. One does not look for an image of kindness, sweetness and light in such a place. Life for the convict was hard and he was often brutally treated. But it is perhaps worthwhile, in order to gain a true perspective, to attempt to look at the administration of Port Arthur through eyes other than those conditioned by a close association with the prisoner under sentence.

The satellite establishment for boys at Point Puer is not part of this study as it has been dealt with by F.C. Hooper in his thesis, "The Point Puer Experiment".

With no major academic work as a guide I have had to be rather eclectic in the matter of sources. Wherever possible primary sources have been used, and where these have had a particular bias, as in the cases of Martin Cash and Henry Melville, it has been indicated or their information verified from another source. Despatches and Executive Council Minutes were the most important source of government policy, and the records of the Colonial Secretary's Office supplied information on how that policy was carried out. Some further details on the Probation System were gained from the records of the Controller General of Convicts. For the chapter on the convicts who went through Port Arthur, samples were taken from 25 volumes of the convicts' conduct records. Booth's diary provided a good day to day picture of administrative life at Port Arthur. T.J. Lempriere's writings, both published and unpublished, afford the proverbial mine of information on many aspects of life at secondary penal establishments from both official and personal standpoints. On the other hand, contemporary newspapers are a mine of mis-information on Port Arthur and have not been used, except in Chapter 8 where they are used to illustrate the role played by their editors in the fabrication of the myth.

Justice Barry's biography of Alexander Maconochie was of substantial value, while greater use would have been made of

Shadow over Tasmania by B.C. Smith had it been possible to check the author's sources. This booklet was published in 1941 when the author was a young Hobart journalist, and was an honest effort to write of Port Arthur with a factual, non-sensational approach. It was an early attempt to explode the myth. Unfortunately his sources cannot be verified.

* * *

CHAPTER ONE

FOUNDATION

Secondary penal settlements, that is, establishments for convicts guilty of a second felony while under sentence, were always necessary during Australia's history of transportation. Within two months of landing at Sydney, Governor Phillip sent Lieutenant King to Norfolk Island with the dual purpose of forestalling the French and to establish a penal colony. From then until the last prisoners were moved from Port Arthur to the Hobart gaol in September 1877 there is a constant thread of secondary discipline in the role of convicts in the colonies.

By their very nature, these out-stations were places of closer confinement, harsher discipline and more primitive living conditions than were the seats of governments from which they were settled. They were feared by convicts, although it is by no means certain that the threat of removal to such places acted as a deterrent to crime. Governors and Lieutenant Governors needed somewhere sufficiently remote from the settled areas to send convicts who needed to be segregated, whether for the very good reason that they were incorrigible or simply because they were Irish rebels who made the Governor nervous.¹

Extension of settlement up the coast of New South Wales, combined with the cost factor and then the cessation of transportation to that colony in 1840, caused the successive closing of the

1. A.G.L. Shaw, Convicts and the Colonies (London, 1966), p.185.

penal stations at Newcastle, Port Macquarie and Moreton Bay, but Norfolk Island remained in use until 1856. Of the Tasmanian settlements, Macquarie Harbour was in use for twelve years and Maria Island for seven years until both were abandoned in favour of Port Arthur in 1832/1833.

One of the most important studies of Australian history is that of convicts who were emancipated and became settlers of a continent. In an attempt to play down the origins of a large portion of the country's founders, many have been presented as 'poor innocent girls sent out for stealing a handkerchief', or 'poor hungry men with starving children sent out for stealing a loaf of bread'. In recent years there has been a more detached view; computers are enabling historians to make extensive statistical studies,² and a more accurate picture is emerging of the first Australians.

Due to the social and economic conditions in Great Britain and more particularly because of the harsh penal code, there is little doubt that many men and women received severe sentences for comparatively minor crimes. However, it is no less true that a large proportion of transportees were habitual criminals of bad character. In a heavily populated area many of their misdemeanours and even their crimes might escape detection. In the Australian

2. For example, that of L.L. Robson, The Convict Settlers of Australia (Melbourne, 1965).

colonies they would be lucky to lead a life of crime that remained undetected. It was these habitual criminals, the ones who were likely to prove incorrigible, who necessitated the establishment of secondary penal settlements.

Convicts who were returned to government time and again during assignment because they were unmanageable or because of strong criminal tendencies could be restrained in chain gangs. But there was a limit to such gangs. They had to be located at just the right distance from settled areas for supply and control purposes, there was not always the money available to begin public works in the areas where the gangs were to labour, and suitable staff to supervise the gangs was always a problem. Nevertheless, chain gangs did absorb thousands of refractory prisoners, sometimes under appalling conditions. A convenient alternative was a penal settlement. Initial expense was greater, but once established, such settlements could contain large numbers of convicts in remote areas from which, in theory, they could not escape and return to Sydney or Hobart.

From experience gained at Norfolk Island and Newcastle in the thirty years up to 1820, it might be expected that certain sound principles would have emerged for the control and management of secondary penal establishments. This does not appear to have

been the case. Port Macquarie was established in 1821 and abandoned as a penal settlement in 1830. It was a failure for various reasons, among them the extension of settlement, the demand this created for the convicts as assigned servants, and corruption in the settlement's management. The worst of the convicts were moved to Norfolk Island and the remainder sent further north to Moreton Bay. This was to be feared as a place of severe punishment and privation before it in turn ceased to be remote, as squatters moved into the Darling Downs providing refuge and employment for escapees.

In the same decade two penal establishments were settled from Hobart and like those in New South Wales, one was to be undermined by corruption and inefficient administration, and the other was to be notorious for its harshness. Port Macquarie had its parallel in Maria Island which was not the scene of any really harsh discipline; while there was a counterpart for Moreton Bay in Macquarie Harbour, which was feared as a place of punishment 'only a degree less than that of death.'³

Contiguity partly explains the failure of the two coastal settlements in New South Wales, but Lieutenant Governor Arthur could not use this excuse when he closed Macquarie Harbour as a penal settlement. He did not actually admit failure. His report on the matter to the Secretary of State for Colonial Affairs⁴ dealt briefly

3. Executive Council Minutes, E/C 4/1 , p. 421.

4. Arthur to Murray, G025/4, p. 277, 5 March 1831.

with his decision to close Macquarie Harbour because of the limit to the number of criminals who could be punished and employed there, and at greater length with the advantages of the new station at Port Arthur.

In fact, the remoteness of Macquarie Harbour gave rise to increasing problems of supply and control. There was no land link with Hobart, and a sand bar made the harbour entrance hazardous to shipping. The climate, with extremely cold winters and an annual rainfall of about 100 inches, added to the misery.

By 1829 the commandant, Captain James Butler wanted to ease his discipline problems by moving about 100 of the best behaved convicts to the settled areas of Van Diemen's Land. He also urged extensive remission of sentences 'as an inducement to good conduct in order to keep up proper subordination at the settlement, and to secure the aid of prisoners in preventing the escape of convicts and apprehending runaways.'⁵ In other words, he could only control the difficult prisoners and recapture escapees by bribing co-operative prisoners with remissions of sentences.

Butler was able enough. He was praised for his practical administration, and when he left the settlement it was well organised for the use of labour on buildings, reclamation of the water-front, boat-building, furniture making and cultivation.⁶ His administration

5. Butler to Arthur, reproduced in E.C. Minutes 8 June 1829.

6. Neil Batt, 'James Butler' in Australian Dictionary of Biography (Melbourne, 1966), Vol. 1, p. 191.

was not a contributing factor to the failure of Macquarie Harbour as a penal settlement. This was primarily due to the mistake of choosing such a site, and in the long run, to the cost and inconvenience of maintaining it.

Maria Island was not as remote as Macquarie Harbour, but neither was it easily accessible. The corruption of its administration under Major T.D. Lord contributed to the decision to close it in 1833; some of the prisoners were assigned to settlers and the rest were sent to Port Arthur.⁷ Maria Island is perhaps the only secondary penal settlement that never had an unsavoury reputation for excessive cruelty.

So in twelve years four stations had been created and then abandoned. The sites had not been well chosen; in two instances, Port Macquarie and Maria Island, the administration was under corrupt commandants; the cost had been high, and what had been achieved? Provision of facilities had aided the extension of settlement in New South Wales, even if this had not been the aim of the government, and the initial purpose of removing the worst offenders from the settled areas had been realised. For New South Wales, Norfolk Island remained to add to its increasingly evil reputation for another twenty-six years. In Tasmania there was the new station at Port Arthur, just beginning its life of forty-seven years

7. J. Morris, 'Early Convict History of Maria Island' in Tasmanian Historical Research Association Papers and Proceedings, Vol. Eleven, No. 4.

as a secondary penal settlement. The site could not be improved upon, the commandant for eleven of its first fourteen years was ideal for the post, and officers with experience at Macquarie Harbour and Maria Island added to the strength and efficiency of the establishment. The government was at last learning from its mistakes.

Tasman's Peninsula was such a perfect site for a large gaol that it is surprising its advantages were not recognised earlier and the mistake of Macquarie Harbour avoided. It was close enough to Hobart for Lieutenant Governors to make frequent visits and for supplies to be shipped there quickly and easily. At the same time, it was a secure prison, guarded by a few soldiers at the narrow neck of land that connected the Peninsula with the colony.

Lieutenant Governor Arthur ordered an investigation of Stewart's Harbour and Wedge Bay on Tasman's Peninsula as early as 1827, as possible alternatives to Birch's Bay for supplies of timber for the Engineer's Department. It was the two gentlemen who made this investigation, Captain J. Welsh and Mr. R.A. Roberts, who begged permission with 'profound respect' to re-name Stewart's Harbour 'Port Arthur'.⁸ They also suggested that the bay just south of Stewart's Harbour, 'being in the centre of the forest, having a good run of water and shelter from all winds', was well adapted for a

8. Their report to Colonial Secretary Burnett, 6 February 1828. CS01/217, p. 25

penal settlement. It is not clear whether this suggestion was on their own initiative. They had been sent to look at possible new sites for saw-milling stations, but perhaps there was talk in governmental circles of the need for a new penal settlement and Welsh and Roberts saw an opportunity to earn official favour by making a timely suggestion.

The first moves were made during 1828. In April Lieutenant Governor Arthur ordered the transfer of the saw-milling establishment from Birch's Bay to Stewart's Harbour, and in September he sent Assistant Surveyor Thomas Scott to examine the country around the new site, and report what facilities it offered for the formation of a secondary penal settlement, in point of security and of timber supplies. Scott reported favourably in December.

This shows that the Lieutenant Governor had Port Arthur in mind as a secondary penal settlement at least two years before in fact he decided so to use it. On the evidence of Scott's instructions he was still thinking in terms of Stewart's Harbour and had not yet conceived of the whole Peninsula as a restricted area for gaol purposes. When Lieutenant Governor Arthur came to see the advantage of the Peninsula as one big gaol, he had to make an extremely generous offer to his former Attorney General, Joseph Tice Gellibrand, whom he had dismissed in 1826, and with whom he continued

to disagree so long as they were both in the colony.⁹ Gellibrand held the only grant on the Peninsula, 300 acres of grazing land on which he ran cattle. In return for giving it back to the Crown, he was offered 4,000 acres of land in 1,000 acre lots in other parts of the colony, free of all restrictions except quit rent at the end of seven years. He accepted.

So the way was clear for Lieutenant Governor Arthur to cut his losses on Macquarie Harbour and Maria Island and concentrate the colony's penal settlements for the secondary punishment of criminals in one establishment. It was a sound move. Within a year he could report to the new Secretary of State, Lord Goderich, that Port Arthur was proving so beneficial in providing the means of employing prisoners at hard labour that he had ordered the abandonment of Maria Island.¹⁰

The imperial government repeatedly stressed the need for keeping the cost of running the colonies at a minimum. Arthur forestalled possible criticism on this point by mentioning that seventy-five pounds a year paid to a superintendent of the sawing-gang at Birch's Bay would be saved. He did not attempt to equate this with his proposal to pay the superintendent of Port Arthur ten shillings a day; he simply claimed that a most useful secondary penal settlement had been formed at a moderate cost. Goderich replied that as

9. C.S.O. 1/3/30.

10. Arthur to Goderich, G033/10, p. 649, 16 February 1832.

it appeared the additional expense would be £107.10.0 per annum he had no objection.¹¹

Either the Secretary of State had not given the matter his close attention, or he had decided to turn a blind eye until the Lieutenant Governor had had time to consolidate on Tasman's Peninsula. Neither man could have believed this would be the figure representing the additional expense. It was the difference between the salary of a sawing-gang superintendent and the starting salary of the commandant of Port Arthur, but the difference in type and extent of the two establishments left no real basis for comparison. Port Arthur was to cost the imperial and colonial governments a great deal of money. Once the other out-stations had been closed and the potential of the new settlement realised, it was to 'advance in usefulness and exceed expectations as a place of secondary punishment.'¹²

By the middle of 1834 final approval had come from London for Lieutenant Governor Arthur's action in abandoning Macquarie Harbour and substituting Port Arthur as the only penal settlement in Van Diemen's Land.¹³ Its subsequent success justified the action, but Arthur had taken plenty of time and shown considerable caution before making the move. He appointed a board to report on Macquarie Harbour and Maria Island and recommend which one should be closed, and the final decision was made by the Executive Council. The

11. Goderich to Arthur, G01/13, p. 397, 25 October 1831.

12. Arthur to Hay, G033/17, p. 390ff, 10 July 1834.

13. Ibid.

Council minutes show he had an initial unwillingness to abandon Macquarie Harbour and the inference is that the Council members persuaded him that it was economically desirable.

Arthur wanted the best of both worlds. He realised there was public concern at the cost of running three penal settlements and that the Colonial Office would question the outlay if all were retained. On the other hand, his pre-occupation with moral reform led him to tell the board that the question was not only one of money, and that 'the punishment of the convicts is a main point and consistent with this, may either settlement be abandoned? If so which? and in what way can it be appropriated so that the Government may not lose the benefits of the buildings.'¹⁴ He thought offenders 'whose crimes are not of so flagrant a nature'¹⁵ could go to Maria Island, but Macquarie Harbour with its 'worse than death' reputation, could still be the scene for the punishment and reform of the more hardened criminals. Arthur was to claim later that 'religious instruction, punishment, reformatory discipline, the removal of the prisoner will in conjunction accomplish most.'¹⁶ By moving slowly and by retaining Macquarie Harbour until there were strong indications that Port Arthur would be successful, he avoided a further mistake and possible recriminations.

Port Arthur began modestly enough with the first intake of

14. CS01/553/12090, 9 November 1831.

15. H.R.A. Series 111, Volume iv, p. 288.

16. G. Arthur, Defence of Transportation (London, 1835), pp. 95/96.

sixty-eight convicts and a party of soldiers under the command of Assistant Surgeon J.J. Russell of the 63rd Regiment. The initial aim was to clear the site for a settlement and establish a saw-milling station. Except for Norfolk Island, it was to grow into the biggest and most long-lived of secondary penal out-stations, and without any exception it was to prove by far the most successful.

Within three years Port Arthur's convict population had reached 450, more than had ever been located at Macquarie Harbour at any one time. The West Coast settlement never exceeded 370 convicts, and Maria Island was even smaller. Numbers were constantly fluctuating as some convicts served their sentences and were returned to the settled areas, and were in turn replaced by new arrivals. One authority says the prisoners at Maria Island 'did not exceed one hundred and seventy ... of rather a better class than those at Macquarie Harbour,'¹⁷ while another gives the figure of 150 to 200,¹⁸ inadequately guarded by a military force of sixteen or seventeen other ranks. This was small indeed compared with Norfolk Island and Port Arthur, and perhaps partly explains the inefficiency and proportionately high cost of the Maria Island settlement, which operated at a loss of £1,252 in 1830.¹⁹

Considering the number of convicts transported to New South Wales it is consistent that given a similar ratio of crime and

17. T.J. Lempriere, The Penal Settlements of Van Diemen's Land, (Launceston, 1954), p. 57.

18. J. Morris, 'Early Convict History of Maria Island', p. 171.

19. Ibid., p. 175.

convictions to that in Van Diemen's land, there should have been more prisoners under secondary sentence at Norfolk Island than at any other settlement at any given time. In fact, this would be an over-simplification. Norfolk Island reached its peak of 'nearly 2,000'²⁰ in the early 1840's, and maintained it until 1847,²¹ but during this period it was receiving prisoners direct from England under the Probation System as well as those convicted in the colonies. For instance, in May 1846 there were 1,948 convicts on the island of whom 1,425 were from England and 523 were 'old hands'.²² To this extent the settlement was not strictly a 'secondary' penal establishment during this period. As we shall see, the introduction of the Probation System around 1840 also complicates the interpretation of numbers in Van Diemen's Land.*

In all, about 12,700 sentences of transportation to Port Arthur were carried out. Many convicts served more than one sentence there so the number of men who served those sentences would be fewer than this figure.

In its first fourteen years Port Arthur received 6,002 convicts. Figures for the next eight years, that is, up to the end of transportation to Van Diemen's Land in 1853, are not all available,

20. J.V. Barry, The Life and Death of John Price, (Melbourne, 1964), p. 54; also, Shaw, Convicts and the Colonies, p. 340.

21. J.V. Barry, Alexander Maconochie of Norfolk Island, (Melbourne, 1958), p. 157.

22. Ibid.

* See Chapter 2, below.

but it is estimated that there were a further 6,000.²³ During the last twenty-four years of its existence as a penal settlement, 1853-1877, Port Arthur received about 700 more convicts. This would be a ratio of one in six of all convicts transported to Van Diemen's Land in almost half a century, 73,500.²⁴ However, the proportion would be fewer for various reasons. Port Arthur was established about half way through the transportation era, many of the convicts served more than one sentence there, convicts were sent to Port Arthur from other colonies, and there was movement of convicts between Norfolk Island and Port Arthur, particularly between 1844 when Norfolk Island came under Van Diemen's Land jurisdiction and 1856 when it was closed.

Convicts were transported to Van Diemen's Land not only from Britain and mainland Australia, but also from other British colonies throughout the world. In this category there were 1,477,²⁵ some of whom served sentences at Port Arthur. These convicts from non-Australian colonies came from India and Mauritius in the main, although two of the biggest groups, 240 from Gibraltar and 202 from Bermuda, both arrived in 1848, and after 1845 there was a small but steady stream from New Zealand. It is further evidence of the use made of Van Diemen's Land as a repository for criminals after New South Wales ceased to receive them that of these, only 117 convicts

23. Figures supplied by Tasmanian State Archives.

24. P.R. Eldershaw, Guide to the Public Records of Tasmania, Section 3, p. 63.

25. Ibid., pp. 59/61.

from non-Australian colonies arrived before 1840, and the other 1,300 in the next thirteen years.²⁶

The success of a secondary penal establishment is not determined simply by its capacity to receive and handle large numbers of convicts. After all, this can be said of Norfolk Island. It lies rather in the way the convicts are disposed and treated while at the settlement, the degree of good order that is maintained, and the efficiency with which it is run while keeping the cost within reasonable limits. If the claim is allowed that criminals should be reformed as well as punished in these institutions, reformation must be added to the yardstick of success, even though it would be by far the most difficult to prove by reliable evidence.

In England, increasing concern that reform as well as punishment was the object of transportation was one aspect of changing attitudes to the handling of criminals that influenced policy from about 1820. After Mr. Commissioner Bigge presented to the government the first of his three reports on conditions in the colonies in 1821, Governor Brisbane was instructed to remove convicts from the comforts of Sydney, and make transportation more effective as a deterrent by assigning them to unsettled districts where the work was hard and the life lonely.

The 'deterrent' theme was still dominant in 1832 when mistaken ideas on the efficacy of transportation led to a parliamentary

26. Ibid.

enquiry. 'The laughing portion of the British public' had come to regard New South Wales as 'a perpetual beggar's opera', either ignoring or unaware of the 'extreme misery and degradation endured' by many convicts.²⁷ After receiving the report of the Select Committee of the House of Commons of 1832 the government decided to increase the rigours of transportation, so Stanley devised his 'certain and severe' instructions that were to become effective as the 'worse than death' system. No doubt the popular view of the convict's lot in Australia contributed to the decision to increase the harshness of the treatment; but the unsettled nature of the country districts in Britain added to endemic crime in London would be just as persuasive.

However, at another level of society, the humanitarian reformers were shifting their attention to transportation from other fields that interested them at this time, such as the abolition of slavery, achieved in 1833, the reform of the poor law, and conditions in factories for women and children. Some commendable ideas on the humane treatment of convicts emerged, but theorising in England was not always compatible with practice in the colonies. Society may desire the reform of criminals, but the prime objective, then as now, in the eyes of the judiciary at least, was punishment. Lieutenant Governor Arthur, a firm believer in just punishment, also preached reform to his administrators in their handling of convicts, failing

27. J. West, The History of Tasmania, (Launceston, 1852), Vol. 11, p. 235.

to see the incompatibility of the two aims within his system.

Alexander Maconochie, a humanitarian of the first rank, who was given a chance to practise his marks system of penal discipline for four years on Norfolk Island, suggested that 'the two processes of punishment and reform should be separated and each distinctly contemplated and pursued.'²⁸ But even he could not show how this could be done successfully.

The desire to reform is understandable in these humanitarians, many of whom were evangelical non-conformists. Unfortunately their ardour was not equalled by understanding of the criminal mind and the effect on it of certain conditions of punishment. Treated with justice and humanity a criminal may decide of himself that he will reform. To achieve suitable conditions for such a decision at a secondary penal establishment, the personality and abilities of the commandant was paramount.

Policies governing the role of convicts in Australian colonial society were made in London, with, and sometimes without, the aid of advice from colonial authorities. Apart from the initial decision to establish a convict settlement in Australia, probably the most important decision affecting the convicts and the society of which they were a part was that made as a result of the Molesworth

28. Barry, Alexander Maconochie, p. 74.

Committee, which met in London in 1837 to enquire into the whole question of transportation. This select committee of the House of Commons recommended that transportation to New South Wales and to the settled districts of Van Diemen's Land should end, and that there should be an end also to the system of assignment that had operated since the early years of settlement. Sir William Molesworth was a leader among the humanitarian reformers and his chairmanship of the Committee no doubt was influential.

Assignment had been condemned as a 'lottery' and as a 'system of slavery in disguise'. Convicts on arrival at Sydney or Hobart either went into prisoners' barracks where they lived while working for the government, or they were assigned as a free labour force to settlers. There was a fixed scale of rations and clothing that the settlers had to supply to their assigned convicts, but money payments or other indulgences were illegal. So a convict might spend the whole period of his sentence of transportation assigned as a very cheap servant to a man intent only on carving a niche for himself in a new land. There was growing opposition in England to this system even before the Molesworth Committee began taking evidence, but there were few clear ideas on what should replace it. In the event, assignment gradually ended in Van Diemen's Land from 1839 and was replaced by the probation system. The aim of this new system

was to ensure absolute uniformity of treatment for all convicts. Instead of being assigned, all transportees on arrival were to go into gangs for a fixed period of hard labour at one of the Probation Stations established in the unsettled districts of the colony. On emerging from gang labour they became probation pass holders and could find their own employment at wages fixed by the government. With good behaviour they would then progress through three stages of probation to absolute freedom.

While the Molesworth Committee was investigating transportation in London in 1837, a full five years before Stanley sent his detailed instructions for the implementation of the Probation System, the Chief Police Magistrate in Hobart, Mathew Forster, was planning his own version of a probation system. With only some modifications by Franklin in Executive Council, it anticipated the basic principles of Stanley's system: hard labour on the roads or public works in gangs, leading to a period of probation when the convict worked for wages, and finally a ticket of leave, which depended on the proportion of sentence served and on good behaviour. Forster and the Principal Superintendent of Convicts were to introduce the new system after mid-1839, with full approval from the Home Government. ²⁹

The new broom was intended to sweep very clean and Franklin echoed instructions from London when he stressed the need to keep

separate the convicts arriving under the new system and those already in the colony under the old. This paralleled Maconochie's attempts to segregate the corrupt old-hands on Norfolk Island from the new arrivals who were to be the untainted guinea pigs of his experiment in enlightened penal discipline.

In planning the Probation System Secretary of State Russell had Tasman's Peninsula in mind as an 'unsettled area' for the placing of probation gangs 'overlooking', according to one writer, 'the existence of the penal station there for colonially convicted men.'³⁰ Russell could hardly have 'overlooked' Port Arthur, but he had to be told that it was not desirable to have a secondary penal settlement and probation stations on the one peninsula.

Franklin wrote to him in January 1841 reporting that the convicts who arrived on the British Sovereign had been sent to a spot prepared for them on Tasman's Peninsula, but he had decided to form an establishment for probationary convicts on Forestier's Peninsula. This would be a new settlement starting with a clean slate, yet near enough to Tasman's Peninsula for Booth to wield effective control. Apart from the practical advantage of retaining the secondary penal settlement at Port Arthur as such, the colonial authorities were too aware of the psychological advantage of Port Arthur's reputation to want it altered or modified. Franklin pointed out to Russell that 'there is something so lowering amongst the respectable and well

30. B. Richmond, 'Some Aspects of the History of Transportation and Immigration in V.D.L. 1824-1855', p. 174.

conducted in this colony attached to the name of a Port Arthur man ... moreover the moral effect of sending convicts who have offended in the colony to the settlements on Tasman's Peninsula is necessarily lessened when they find they are only placed in the same situation as are convicts on their first arrival from England.' ³¹

By the same token, newly arrived convicts should 'not find themselves immediately placed in a similar position with those who, for their colonial crimes have been re-transported to the penal settlement at Port Arthur and the Coal Mines'. ³²

Port Arthur was to retain its identity as a secondary penal establishment, but for supply and general administration purposes it was to become integrated in the probation system, subject to the same instructions as other probation stations. Colonial authorities continued to regard Port Arthur as a secondary penal establishment through these early years of the probation system, regardless of changing attitudes in London. In the early stages of probation, which coincided with the beginning of Maconochie's commandantship of Norfolk Island, it was intended that Norfolk Island should not receive any of the worst descriptions of criminals, but that they should be sent to Port Arthur. ³³

By 1843 Franklin was showing some concern that Van Diemen's Land was receiving the worst convicts from both New South Wales and Norfolk

31. GO 200/131, No. 68.

32. Ibid.

33. CO 280/128, Forster to Booth.

Island, indeed 'the most desperate ruffians ... are from time to time added to their number.'³⁴ Port Arthur was serving its purpose too well. Gipps wanted to send only the best of the New South Wales convicted men to Norfolk Island, but Franklin's successor, Sir John Eardley-Wilmot, was alarmed at the proposal and countered by suggesting that the worst offenders go to Norfolk Island, both from New South Wales and Van Diemen's Land, and Port Arthur be kept for the long sentence men from England.³⁵ Since the Maconochie experiment was over, Stanley decided that Norfolk Island should be the centre for the worst convicts of all classes.³⁶ Thereafter Norfolk Island did in fact receive the worst offenders, even convicts from Port Arthur. With such a concentration of criminals it is not surprising that order was barely maintained in the island prison and that conditions declined to the nadir reached under John Price.

Although Forster's talents were to prove inadequate for his ultimate post as Controller General of Convicts under the Probation System,³⁷ he made some show of efficiency in establishing the system and at least aimed at uniformity within it. As early as March 1840 he was referring to the recent changes in treatment of convicts arriving in the colony and the improved discipline of the working gangs.³⁸

Considering Port Arthur's reputation, it is ironical that Forster

34. GO 33.44.27, 15 February 1843

35. B. Richmond, p. 217/8.

36. GO 1/56/133, Stanley to Gipps, 4 September 1844.

37. Shaw, Convicts and the Colonies, p. 297.

38. CSO 5/236/6021, 7 March 1840.

wanted a corresponding change there so that the whole system of discipline at the road gangs would not be undermined.³⁹ He told Franklin he had 'too much reason to believe that convicts sent down to Port Arthur for the most dreadful crimes and who for the most part will be found to be men of the most useful description, are selected to fill places of trust and ease without proper regard to their infamous character and long career of crime.' At the same time he had to admit that these men were frequently the best conducted while at the settlements, and therefore, by implication, the most deserving of responsible posts. In theory at least, a clever convict in the road gangs who did not want to serve two thirds of his time with good conduct before passing to an easier stage of probation, could, by bad conduct, be sent to Port Arthur 'and there at once on account of his talent be placed in a situation of ease, with extra rations, and escape thereby all punishment as sentenced.'⁴⁰ In principle this was so. Convicts in the gangs who committed a felony or who were guilty of several misdemeanours, or who persisted in attempting to abscond, were likely to be sent to Port Arthur. That is what the settlement was for. But it would require luck as well as talent for such men to obtain 'a position of trust and ease'. Forster outlined his ideas on the matter to Franklin and within a

39. Ibid.

40. Ibid.

month Booth received new instructions for all settlements on Tasman's Peninsula, based on Forster's suggestions.⁴¹

Basically the instructions were that:

- 1: Two thirds of a sentence or order of probation was to be served before a convict was to be given a position of trust or ease.
- 2: All convicts without exception were to undergo labor in gangs for periods ranging from four to twelve months before being employed in their trades.
- 3: Those given positions of ease and trust were to be selected in reference to their former conduct, the crimes they had been guilty of and the degree of reformation, and not only from their aptness and capabilities.
- 4: With some exceptions, extra rations were to cease.

Forster told Booth that it was most desirable that all overseers of parties and all situations connected with the control or supervision of convicts on Tasman's Peninsula should be held by free men or ticket of leave men serving for further indulgence. He was well aware that free men to fill such posts were hard to get, but he instructed the Principal Superintendent to give every assistance in procuring suitable ticket of leave men and asked Booth what rate of salary he would recommend for them.

41. Ibid, Col. Sec. to Booth 3 April 1840.

Booth, the practical man on the spot, had been consulted on staffing matters connected with the implementation of the probation system. It was a problem that was never adequately solved, particularly in the field of religious instruction, but for minor posts a few men of varying ability replaced convicts during the first few years of the decade.

Booth recommended a salary of £200 per annum for the superintendent of Saltwater River probation station,⁴² and a salary scale of £150 per annum rising by annual increments of £25 to £200 was fixed for superintendents of probation gangs.⁴³

With the existing and anticipated increase in convict numbers on the Peninsula, Booth also recommended that three additional constables be appointed for the Coal Mines; one non-commissioned officer and nine men should augment the military strength of Saltwater River; three men should be placed near East Bay Neck and a signal station be built on Collins Sugar Loaf nearby; and he wanted two or three more dogs for Eagle Hawk Neck, fierce ones.⁴⁴

During the next year or so there were several appointments of free men to positions as overseer at Port Arthur, most of them at 2/6 or 3/- per day plus rations.⁴⁵ Two factors contributed to this availability of free men for posts previously held by convicts. One

42. CSO 5/274/7120, Booth to Forster, 20 February 1841.

43. Ibid., Nairn to Col. Sec. 5 April 1841.

44. CSO 5/274/7120, Booth to Forster, 20 February 1841.

45. CSO 22/19/795, April 1842-May 1843.

was the increasingly difficult economic situation and its attendant flooded labour market, and the other was the realisation that ex-soldiers who chose to stay in the colony rather than return to Britain after leaving the Army were proving satisfactory in such posts as gatekeepers and storekeepers.⁴⁶ At the Coal Mines, an ex-soldier replaced casual convict labour in the stores when the establishment of probation stations along Norfolk Bay greatly increased the duties of the commissariat officer at the Mines, from where the probation stations were supplied. A few months later, in June 1842, Lempriere asked for and got two soldiers for similar duties at Port Arthur. But not all the new appointments were successful. The Lieutenant Governor accepted the resignation of the overseer of masons and dismissed the overseer of gardens because of riotous parties in their quarters with liquor obtained from the nco's canteen.⁴⁷ As these two men left the settlement in January, 1842, their convivial behaviour may have been purely seasonal.

Franklin had been instructed to dispense with the services of convict writers (clerks) whenever practicable⁴⁸ so he now complied with a will. He replaced two convict clerks with free clerks in the registrar's branch of the Probation Department, gave Booth two free overseers for Port Arthur in lieu of men under sentence, and appointed a clerk to the superintendent at Port Arthur at 1/6 per day increasing

46. CS022/26/926, 4 June 1842.

47. CS022/14/621, January 1842.

48. G033/44/3, Franklin to Stanley, 3 January 1843, p. 53.

to 2/- per day after six months. This last appointment was a neat piece of nepotism as the superintendent was Mr. Carte and the clerk appointed was Mr. Carte's son.

Although the appointment of free persons was piecemeal and the civil staff never reached the desired size and standards, society on the Peninsula did become more complex under the probation system than could have been anticipated during the 1830's. Booth's hegemony of the thirties was, by 1843, so superseded that a deputy registrar was appointed to record births, deaths and marriages. Tasman's Peninsula and Forestier's Peninsula were declared a district for public registrar purposes.⁴⁹ Port Arthur was still a secondary penal settlement and the Coal Mines was still the place of extreme punishment and hard labour. But the placing of probation gangs around both peninsulas and the ever-increasing numbers to be placed in the gangs meant that the old order had changed and the days of absolute rule by one man were over. The absolute ruler, Booth, remained commandant for about four years of the probation system but did not stay to see its decline. He handed over to Champ in March 1844.⁵⁰

Champ was to have problems enough as the numbers increased until the end of the decade, and not the least of these was providing adequate accommodation for both convicts and troops. The need for

49. CS08/62/1419.

50. CS022/100/2110

a new penitentiary was apparent very soon after the introduction of the probation system. At the end of 1841 Booth sent to Colonial Secretary Montagu plans for a penitentiary to hold 1256 prisoners, made up of eight yards with wards to contain 20 men each with two solitary cell buildings to accommodate 336 men. With the necessary out-buildings, overseers' lodges and so on it was to cost £1697. Franklin approved the plan in February 1842 and Royal Engineer Kelsall was urged to produce detailed plans quickly.⁵¹ This was part of an extensive building programme to provide convict barracks at the new probation stations in the years 1841, 1842 and 1843, a burst of new work that declined sharply the next year and tapered off to only a few pounds spent on repairs to probation stations buildings in 1846.⁵²

Plans to provide better accommodation for the soldiers guarding the convicts were not quite so quick getting off the ground. New military barracks were planned for Port Arthur, the Coal Mines and the Cascades from late 1844. The new Commanding Royal Engineer Major J. C. Victor, conferred with Eardley-Wilmot on new barracks for 150 men at Port Arthur. Seven months later Major Victor complained to the Colonial Secretary that he had not been allotted funds for superintending work on the new barracks at Cascades, and even if he had the finance, convict regulations did not allow prisoners

51. CS022/57/501, Booth to Montagu, 5 November 1841, and CS05/204/5011.

52. Blue Books for these years.

to be employed under the direction of anyone but their own officers. Qualified superintendents of works were not among the probation station's staff.

At Port Arthur there was no such difficulty as some prisoners were not under probation and could be put to work under one of Major Victor's foremen of works, 'if the Commandant only received the proper authority to furnish men for the purpose.'⁵³ Almost a year later the soldiers' quarters at Port Arthur were described as 'not capable of containing more than half the number at present stationed there and allow each man the space authorised by H.M. regulations... At the Coal Mines the troops are worse housed than at Port Arthur ... the troops (with the exception of Impression Bay) are infinitely worse quartered and more crowded than the convicts.'⁵⁴

It can be shown that Port Arthur was a success as a secondary penal establishment, not only through its part in the probation system but also during the 1830's when the Port Arthur myth was created. It was successful on the grounds of treatment and handling of prisoners and in maintenance of order. On the question of cost, it probably justified the high expenditure by exceptional efficiency. But the first step in judging its success must be an examination of the convicts who passed through it, to see what sort of convict population had to be handled and disciplined by the men who administered Port Arthur.

53. C.G. 2565.

54. Ibid., Capt. W. Hadden to Victor, 11 April 1846.

CHAPTER 2

THE CONVICTS

The convicts who served sentences at Port Arthur were just as diverse as the general run of transportees and it would be pointless to try to find a typical Port Arthur man. However, by selecting and analysing a sample of these men, using similar methods to those devised by Dr. Robson, some useful impressions can be gained of their background, type, record at the settlement, and subsequent behaviour.

Because of the change from assignment to probation, the sample is divided into two parts.* Two thirds of the sample, 171 convicts, were transported to Van Diemen's Land before 1840, and the other third, 79 convicts, arrived during the probation period. As well as comparing the pre- and post-1840 men, perspective is added by comparing them in toto with Dr. Robson's sample of all convicts transported to eastern Australia between 1787 and 1852.

First, the original sentence of transportation.+ Here the outstanding factor is the number of men originally transported for life who were sent to Port Arthur before 1840. 'Lifers' formed 27 percent of all transportees, but the proportion of 'lifers' among those at Port Arthur during the 1830's was about one third, 58 out of the sample 171 for the period. By contrast, there were only five 'lifers' among the 79 post-1840 men at the settlement, or 16 percent. On the other hand there is remarkable consistency in the proportion of seven-year men among all three samples, all being near enough to

* First see Appendix 4.

+ See Table I.

TABLE ITERM OF SENTENCE TO TRANSPORTATIONAssignment Period Sample

7 Years	87	51%
10 Years	1	
14 Years	24	14%
25 Years	1	
Life	58	34%

Probation Period Sample

7 Years	41	53%
10 Years	21	27%
14 Years	5	6%
15 Years	6	8%
Life	5	6%
No response	1	

half of the total. Where the probation period sample leads is in the ten-year sentence men. They formed seven percent of all transportees, and there was only one ten-year man in the pre-1840 sample, but they were second only to seven-year men at Port Arthur in the post-1840 sample, numbering 21 out of the 79, or 27 percent.

As there were no 15-year men at Port Arthur in the 1830's, and because there is so little difference between a 14-year and a 15-year sentence, these two categories have been combined for the purpose of this comparison. Here again, as with the seven-year men, there is remarkable consistency. Of all transportees, 14- and 15-year men formed 14 percent, while they were a little over 14 percent of the post-1840 men at Port Arthur, and 14-year men were almost 15 percent of the pre-1840 men. Thus it can be seen that in trying to distinguish the Port Arthur man from the general run of transportees, he was more likely to be a 'lifer' in the 1830's and a ten-year man in the 1840's, after the fifty percent of seven-year men had been accounted for.

Robson warns¹ that information supplied by convicts as to their marital status sometimes conflicts with the official record, but he also intimates that the Van Diemen's Land record is more likely to be accurate than that for transportees as a whole. Although his

1. Convict Settlers of Australia, p. 183.

statistics show that 50 percent of his sample were single, he estimates that in fact about 75 percent were unmarried. The higher figure would be more consistent with the two Port Arthur samples,* in which there is a comparatively low no response figure of 16 percent in the pre-1840 sample and a total response for the post-1840 men. The latter group break down very neatly, almost too neatly, into 80.5 percent single and 19.5 percent married. This compares with 68 percent single and 13 percent married, plus 3 percent widowers in the assignment period sample. Robson has 17 percent married and 2 percent widowed, which, when combined, equal the figure for married men in the probation period sample, which probably included undeclared widowers. If the no response figure for the pre-1840 sample is estimated as Robson estimates his 31 percent no response and distributed among the known figures, there is very little variation between the proportions within each of the three samples. But it is more certain that at least three quarters of the Port Arthur convicts were single, while only likely that the same proportion of all transportees were also single.

As Robson says, 'it is impossible to read much into the data on religion',² and his no response figure of 40 percent decreases what little value there is in these statistics. The religion of the men in the assignment period sample is stated in so few cases that

* See Table 2.

2. Ibid, p. 183.

TABLE 2MARITAL STATUSAssignment Period Sample

Single	117	68%
Married	22	13%
Widower	5	3%
No response	27	16%
	<u>171</u>	<u>100%</u>

Probation Period Sample

Single	63	80.5%
Married	16	19.5%
	<u>79</u>	<u>100%</u>

the information is of no value. On the other hand, the record of religious affiliation in the probation period sample is so complete that it is worth defining. There is a negligible no response figure of two men, or 2.5 percent, while the known categories were 71.5 percent Protestant and 26 percent Roman Catholic. This compares with Robson's estimate of two-thirds Protestant and one-third Roman Catholic among all transportees, which may be putting the proportion of Roman Catholics too high.

As the convicts' conduct records for the assignment period are not as complete as those for the probation period, the native place of the pre-1840 men is not known in enough cases to make any useful comparison. However, the county of trial is recorded in most cases and this is useful enough to give an idea of where the men came from, despite the occasional Irishman tried in Liverpool or London, and despite the fact that it is unlikely that all the Englishmen and Scotsmen were tried in the county of their birth.

Of the 171 men who arrived before 1840, 135 were tried in England, nine in Scotland and only four in Ireland. The no response figure is 21 and there was one each tried in Sydney and Hobart, presumably free men. This is consistent with the known pattern of the origins of men under sentence in Van Diemen's Land in the 1830's, when there were few Irishmen in the island, compared with the high proportion of Irishmen among those transported to New South Wales.

Within England the biggest single group, 31, was tried in London, and this is almost the same proportion, about 18 percent, as the proportion of all transportees who were tried in London, 17 percent. The lower proportion of London men in the post-1840 figure, about 14 percent, is accounted for by the relatively high proportion of Irishmen in that sample, as will be shown.

Outside of London, the number of men tried in the different English counties is comparatively small with Lancashire heading the list with ten, followed by Staffordshire eight, Yorkshire seven, and Kent seven. In Robson's sample, Lancashire is again second only to London of the English counties of trial, and with much the same proportion of the total; while Yorkshire is third and Kent seventh in the scale for all transportees. In fact, there is a high correlation of counties of trial in England, between the two samples of all transportees and the pre-1840 sample.

Of the 79 men who arrived after 1840 and later served sentences at Port Arthur, 52 were tried in England, 21 in Ireland, 5 in Scotland, and 2 were court-martialled in Canada. As the convicts' conduct records for the probation period are bound in volumes according to the ship on which the men arrived, and two ships direct from Ireland were among the eight providing the sample, the number of Irishmen is proportionately higher than both the pre-1840 sample and Robson's sample of all transportees. There is no common factor linking these

21 Irishmen into groups on specific charges, as might be expected from Ireland in the 1840's. Indeed, they were tried in thirteen different places and the biggest single group was five from Dublin, followed by three from Waterford.

The 52 men who were tried in England fall into the predictable pattern of being predominantly Londoners or Lancashire men, with the balance scattered in ones and twos from several other counties. Those tried in London formed 14 percent of the sample and those from Lancashire six percent.

At the time of sentence to transportation the average age of the Port Arthur men was somewhat lower than for all transportees. Robson gives an average age of 26 for all convicts who came to eastern Australia, while the men in the Port Arthur sample were nearer 23. The age was not recorded for all men in the assignment period, but the 157 for whom the information is available averaged $22\frac{1}{2}$ years. Ages are recorded for all the 79 convicts in the probation period sample and their ages averaged $23\frac{1}{2}$.

The charges that resulted in these men spending part of their period of transportation at Port Arthur ranged beyond those on the statute books in Great Britain. But the crimes of which they were convicted and initially sentenced to transportation will be examined first and compared with those for all transportees. Robson divided the offences into three broad categories of offences against property,

offences of a public nature, and offences against the person, so for comparative purposes the same categories will be used for the Port Arthur sample.

The most important common factor in all the statistics on offences is the high incidence of theft of one form or another. Of all transportees, eight out of ten were transported for larceny. The figures for the Port Arthur men show that theft was also the biggest single element in their downfall. Convicts in the pre-1840 sample were transported for one of 17 crimes.* Ignoring the no response figure of 18, most of the remaining 153 men were clearly either thieves, or had fallen among them. No less than 91 were guilty of larceny, and a total of 117 had been convicted of theft of various kinds. This is 78 percent.

Apart from theft, other offences against property were committed by a further 32 convicts in this sample, leaving only four convicts to be accounted for in other categories. These comprised one only for an offence against the person, one only for an offence of a public nature, and two for military offences. The percentage of the total for these categories is lower than the percentage in Robson's sample, but the size of the sample being dealt with here possibly makes a comparison less useful than if the samples consisted of the same proportions of their totals. Nevertheless, much the same picture

* See Table 3.

TABLE 3

<u>Assignment Period Sample.</u>			
<u>Offences against property</u>			
Larceny	91		
Housebreaking	20		
Highway robbery	12		
Burglary	9		
Horse stealing	4		
Forgery	3		
Receiving	3		
False pretences	2		
Arson	1		
Shoplifting	1		
Embezzlement	1		
Robbery (so designated)	1		
Machine breaking	1	149	
<u>Offence of a public nature</u>			
Uttering	1	1	
<u>Offence against the person</u>			
Assault	1	1	
<u>Military offences</u>			
Mutiny	1		
Desertion	1	2	
No response	18	18	171

emerges with Robson's sample showing 81 percent guilty of offences against property and small minorities of 4 percent and less for other classes of offence; while the assignment period men who went to Port Arthur were originally transported because 87 percent of them had committed offences against property, and 1.3 percent or less were guilty of other classes of offence.

The number of convicts dealt with in the probation period sample, 79, is even smaller than its pre-1840 counterpart and in a detailed break-down is therefore likely to be less reliable as evidence for general conclusions.* Still, the no response figure of one is negligible, making the percentages more representative of the whole sample, and two points emerge worthy of note. Once again, those guilty of offences against property predominate at 82 percent, compared with 81 percent for all transportees, and within this category 57 of the 65 offenders were transported for theft. The other point of interest is that eight convicts, or ten percent of the sample, were transported for desertion, compared with 2.5 percent for military offences of all kinds in the Robson sample and a little more than one percent in the assignment period sample. These eight men were not guilty of some mass rebellion against military authority. Indeed, three of them were transported from Dublin, three from Chatham,

* See Table 4.

Probation period SampleOffences against property

Larceny	46	
Housebreaking	6	
Highway robbery	4	
Burglary	5	
Picking pockets	1	
Receiving	1	
Shoplifting	1	
Forging	1	65

Offences of a public nature

Uttering	1	
Administering an unlawful oath	1	
Returning from transportation	1	3

Offences against the person

Rape	1	
Sodomy	1	2

Military offences

Desertion	8	8
No response	1	1

one was court-martialled in Toronto and the other in Montreal. Two were convicted in 1840, three in 1842, two in 1843 and one in 1844. Three were Irish, three English, the one from Toronto was a Scot and the native place of the eighth is not recorded. While under sentence of transportation in Van Diemen's Land, only three of the eight were guilty of absconding, and as this was second only to larceny as the most common offence, it would appear that military discipline was more conducive to desertion than confinement under the Probation System.

The average age of these deserters, 25 years, was a little higher than that of the whole Port Arthur sample of about 23 years. Five of the eight could read and write and the other three could read only. So it can be seen there is nothing apparent about the men themselves to indicate why they should form such a relatively high proportion of the post-1840 sample of Port Arthur convicts, and without examining a larger sample it would be unwise to conclude that in fact ten percent of probation period convicts who served sentences at Port Arthur were army deserters.

Records of convicts' occupations are not wholly reliable, despite the total response for the post-1840 sample. The experience of Surgeon Peter Cunningham on board a convict ship illustrates this. A man he instructed to list the convicts' trades reported, 'When I ask what their trades are, all the answer I can get from

three-fourths of them is 'a thief, a thief'; shall I put them down as labourers, sir?'³ Although a high proportion of convicts were labourers or agricultural labourers, many were indeed professional thieves without any other occupation. They were probably also listed as labourers in records other than those compiled by Surgeon Cunningham's helper. This is supported by the statistics for the post-1840 sample, which, with a complete record for all 79 men, shows 23 percent as labourers, compared with 19 percent for all transportees and only 11 percent for the pre-1840 sample. In the area of agricultural workers, who were almost all simply farm labourers, the two Port Arthur samples drop well behind the figure of 20 percent for all transportees, the highest on Robson's scale. Before 1840 they formed only 11 percent of the sample of Port Arthur convicts, and after 1840 they were 13 percent of the total, which may indicate that farm lads were less likely to get into further trouble after transportation than they were in their home environment.

Another factor which throws doubt on the reliability of the records and their value for comparative purposes is the dis-proportionately high number of tanners and shoemakers among the Port Arthur men. Men in this category form only three percent of all transportees, but they were nine percent of the assignment period sample and ten percent of the probation period sample. In view of the large

3. P. Cunningham, Two Years in New South Wales, ed. Macmillan, pp. 301-302.

workshops and extensive training scheme for shoemakers at Port Arthur, this occupation must have been recorded in the conduct records after many of these men had served at least one sentence at the settlement and had come to classify themselves as tanners or shoemakers.

On the other hand, although the numbers are too small to reduce to percentages for comparative purposes, there appear to have been more skilled and semi-skilled workers among the pre-1840 men than their post-1840 counterparts.

Admittedly the sample is bigger and more likely to show greater variety, but even in proportion to numbers the assignment period appears richer in skills with such occupations as jeweller and engraver, cutler, hairdresser, marble polisher and locksmith compared with harness-maker, silverplater and cloth dresser among the probation period men, apart from the usual trades common to both, such as butcher, blacksmith, weaver and carpenter.

Up to this point the convicts who served sentences at Port Arthur can be compared with the control group of Robson's sample taken from all transportees, of whom they formed a part, and it can be seen that the general background before transportation is not remarkably different between the samples. The Port Arthur man was younger, more likely to be single, was probably serving a longer sentence of transportation, for some offence against property, but before 1840

at least he was not so likely to be a labourer. But from this point the Port Arthur man must be examined in the context of his colonial experience and behaviour to see how far he differed from his fellow convict, and how he reacted to confinement at a secondary penal settlement.

First the assignment period sample of 171 men. These convicts between them served 241 sentences at Port Arthur, 43 of them were there twice, 12 three times and one man four times. The shortest period of detention at the settlement was three months and the longest about three years, although both these extremes were unusual. Remissions were sometimes granted, and as the date of return to the settled districts was not always recorded an average cannot be struck. However, about a year would appear to be the most usual period actually spent at Port Arthur. The final decision to send them there rested with the Lieutenant Governor. Magistrates who heard charges against convicts might pass sentence of say 12 months hard labour and 'recommend' that it be served at Port Arthur. The record would be sent to the Lieutenant Governor who either approved, varied the sentence if he thought it too harsh, or ordered that the sentence be served in a chain gang with a particular road party. It is likely that the last alternative was chosen when labour was needed for a particular bridge or stretch of road that was high on the public works programme.

In this earlier period, convicts were sent to Port Arthur for all sorts of reasons, some of them seemingly hard to justify considering the nature and purpose of the settlement as a place of secondary punishment. For others it appeared to be the only place where they could be properly handled away from society. As with the original sentence to transportation, larceny again tops the list of crimes at 67, or 28 percent. It is followed by that peculiarly colonial crime absconding, at 54 or 23 percent. The only other group of note was 12 convicts, 5 percent, whose behaviour was such that their masters tired of taking them before the magistrates, so they were classed as incorrigible and sent to Port Arthur for closer supervision and stricter discipline than could be applied under the assignment system. There were also the odd few who were guilty of the usual crimes in any society such as assault, burglary, embezzlement, receiving, forgery and perjury.

But it is the odd individual sent to Port Arthur without apparent justification who demonstrates the distinctive nature of the convict colony and the seemingly arbitrary justice of its society. There was Samuel Alsop who was transported for life for highway robbery in Somerset in 1831 and in 1835 was sentenced to three years hard labour in chains at Port Arthur for 'gross misconduct towards a lady'. His behaviour during secondary punishment was exemplary, and apart from a tendency to get drunk he subsequently behaved well, and earned

a ticket of leave in 1841.

Thomas Arthur was sent to Port Arthur in 1835 for violently beating his wife, who was a free woman. Had she been other than free the magistrates might not have been so severe. As Arthur arrived as early as 1821 his record is probably not complete, but as it stands he appears to have been an aggressive argumentative criminal who could not keep out of trouble. It was eighteen years before he received a conditional pardon, when, as a seven-year man, his emancipation should have begun after four years. So the magistrates' decision may have been influenced by his poor reputation.

Thomas Pearce was another convict who was before the courts many times over a period of several years before being sent to Port Arthur for a crime not on the statute books. He was transported from Berkshire for life in 1822 for house-breaking and his recorded career in Van Diemen's Land ends in 1840 with deprivation of ticket of leave and six months in a road gang. In the intervening eighteen years he was lashed five times, served varying periods in chain gangs and on the treadmill for such crimes as absconding, theft and assault. Yet the crime that sent him to Port Arthur for three years was allowing a passenger to travel with him when he was in charge of the mail cart on a night when a mail bag was either lost or stolen. His record of twenty charges includes only one minor offence at Port Arthur. Pearce was finally emancipated in 1847, 25 years after being transported.

The conflict between British justice and the need to maintain order in a predominantly convict society is apparent in the number of men who spent part of their period of transportation at Port Arthur not for any proven crime or misdemeanour, but because they were suspected of it. Three examples from the mid-1830's are Mark Smith, May 1833, two years for suspicion of felony; John Dowling, April 1834, suspected of sheepstealing; and James Royston, August 1835, one year for suspected theft. Royston and Smith were 'lifers' and Dowling was a 14-year man, and all three had been before the courts several times prior to these charges.

Absconding, as already shown, was second only to larceny as a cause for a sentence at Port Arthur. It is understandable that it should be dealt with harshly in a community that was virtually one big prison without walls. The petty thief from London understood only the conventional enclosed prison or the hulk as the environment of his constraint. To be able to walk at large although a prisoner was a contradiction not grasped by so many convicts that absconding was endemic. Given the high ratio of convicts to guards, the authorities had to take a hard line to maintain any sort of order. Nevertheless, some convicts never learned this lesson. One such was Hugh Glacken, a farm labourer who was sentenced in Edinburgh in 1829 to seven years transportation for stealing. In 1836 he absconded while en route to Port Arthur after a further conviction for larceny.

He became free by servitude but was soon returned to the convict records with a 14 year sentence. He was a chronic bolter and served three further sentences at Port Arthur in 1841, 1843 and 1845, all for absconding.

Thomas Danson, a weaver from Lincoln, who was transported for seven years in 1829 for stealing, gained his free certificate in 1840 and thereafter was known no more to the controller general of convicts. But his whole conduct record covers barely four years between 1833 and 1836 and in that time he was before the magistrates twelve times, seven of them for absconding, once for being a.w.l., once for stealing tools to aid his escape, once for burglary, and twice for disobedience. He was not a hardened criminal, just a thief with an innate inability to accept restraint on his freedom.

Another chronic absconder was James Dean, a joiner by trade from Hull, who was convicted of stealing at Lancaster in 1838 and transported for seven years. He was not amenable to discipline and was before the courts three weeks after arriving in Van Diemen's Land. While employed by the Royal Engineer's Department, Dean was guilty of fourteen misdemeanours during the next four years and when he absconded for the fifth time he was sent to Port Arthur for a year. Three months after returning to the Royal Engineer's Department he again absconded and was sent back to Port Arthur for two years.

This practice was regarded so severely that Thomas Dickinson, a brass founder from Lancaster serving a life sentence for stealing, was sent to Port Arthur in 1834 for stowing away with intent to abscond; and John McIntyre, who was sentenced to seven years transportation in Perth in 1837 for assault, earned a year at Port Arthur in 1841 for inducing other convicts to abscond.

An example of the incorrigible convicts who were not guilty of any heinous offence but could not keep out of trouble and eventually were sent to Port Arthur was James Durance. He was a 22 year old stonemason convicted of highway robbery at Lincoln in 1830 and transported for life. Durance was in court 39 times over a period of eleven years before being sent to Port Arthur for a year in 1842 for unspecified misconduct. No charges were preferred against him at the settlement and early in 1844 he gained a ticket of leave without offending further. A term of secondary punishment may have been a salutary experience that achieved a reform. He was guilty of only two more misdemeanours while holding a conditional pardon after 1845.

George Jewitt was another kind of incorrigible convict. He was guilty of more offences while at Port Arthur than away from it. Jewitt was transported for life in 1835 as a 19 year old ploughman from York who was guilty of housebreaking. He went to Port Arthur for the first time in 1838 for absconding, and again in 1840 for larceny.

While there he refused to conform and was punished fifteen times, mostly for such misdemeanours as idleness, refusing to work and going a.w.l. Jewitt graduated to a second class probationary pass holder in 1845 but that year absconded twice and was sent to Port Arthur a third time. He must have been more hardened than the type of crime on his record indicates as he was flogged four times after 1840.

At the other end of the scale were such men as Thomas Birch, an educated convict from Dublin who was sent to Port Arthur in 1835, three years after he arrived on a seven year sentence for shoplifting, for illegally writing letters and intending to abscond. Birch behaved well and held a ticket of leave in 1839.

The last example from the assignment period, Thomas Powell, deserves to be mentioned for sheer effrontery. He was a labourer from Warwick on a seven year sentence and arrived in 1820. When free by servitude in 1831 he stole 24 sheep the property of George Arthur, presumably the Lieutenant Governor. Powell was sentenced to be hanged, but this was commuted to life imprisonment. His second emancipation began in 1840 and he was free again by 1845. However, Powell must have become indigent as he was on Colonial Funds in 1858 and on Imperial Funds at Port Arthur after 1861 and he died there in 1873, among the last of the old Port Arthur identities.

The sample of 79 convicts in the Probation period sample served a total of 113 sentences at Port Arthur, 21 of them were there twice, five were there three times each and one man four times. On the whole there were more short sentences served at Port Arthur by these men compared with the assignment period men. Apart from changes in policy and handling of convicts under the new system after 1840, the shorter periods spent at Port Arthur were largely due to the fact that after 1844 many of the worse type of criminal might spend a few weeks or months there and then be transferred to Norfolk Island. Many of the men in this sample served part of their sentence in each of these places. Again, with the development of substantial settlements on other parts of Tasman's Peninsula, the Lieutenant Governor would often order that a man recommended to Port Arthur be sent instead to the Coal Mines, Saltwater River or Cascades, probably depending on the availability of accommodation. In some instances however, Port Arthur was specifically stated and if the crime had been serious, the Lieutenant Governor would order that the man be struck off the probation records. In this way, Port Arthur retained its original purpose and the convicts so classified had to serve their sentence of secondary punishment before resuming their gradual emancipation through the probation stages. Two examples of this were Thomas Gardener, who was transported for fifteen years from Hertford in 1842 for uttering forged notes. He was sent to Port Arthur for a total of five years

for stealing an ox and for insubordination within three months of arriving in Hobart. The other man, William Calderwood, was court martialled in Toronto, Canada for desertion in 1843 and transported for fourteen years. He served his period of gang labour at a probation station on Maria Island, where he twice tried to abscond. Then in 1845 Calderwood was sent to Port Arthur for 12 months for larceny. He was sent back there for three years at the end of 1846 for an unspecified crime, for which he was also struck off the probation records. He absconded again at the end of 1848. As there is a total of only seven offences on Calderwood's record, including one misdemeanour at Port Arthur, we must assume he was a criminal type and that the un-named offence in 1846 was a serious one.

Except for absconding and being incorrigible, the crimes that resulted in convicts being sent to Port Arthur after 1840 were closer to the original causes of transportation, in other words they were more likely to be statutory offences than a consequence of Van Diemen's Land conditions. The biggest single factor again was larceny with thirty two instances, or 28 percent, the same percentage as for the pre-1840 sample. Absconders formed the second biggest group with nineteen cases, or 17 percent, and incorrigibles were the only other group of note with six cases, or a little more than 5 percent. Three convicts from this sample were sent direct to Port Arthur, one for returning to England while under sentence of transportation, one for

sodomy on a lad and the other was an absconder from New South Wales.

An example of the chronic absconders in this sample was William Davis, a 22 year old confectioner from Kingston on Thames who was sentenced to ten years transportation in the Central Criminal Court, London in 1841 for larceny. His first offence while on probation was absconding, for which he received the unusually long period of 30⁴ days solitary confinement. Immediately thereafter he was convicted of stealing and assault, and sentenced to 14 years transportation, seven of them to be served at Port Arthur. In fact he was moved to Ross in the north of the island three years later and from there he absconded. A further 12 months at Port Arthur followed. He absconded from Cascades on Tasman's Peninsula in 1851, to Victoria in 1852 (after gold, no doubt), and again from Hobart in 1855. He was finally gazetted an absconder from Franklin, south of Hobart in 1857. Three of his four sentences served at Port Arthur were for absconding.

Typical of the incorrigibles was John Clarke, a native of Lanarkshire who was sentenced in London in 1849 to seven years transportation for highway robbery. He spent two years on Norfolk Island where 17 misdemeanours were recorded against him and he became a probationary pass holder in September 1853. Then in February 1854 he was sentenced to death for murderous assault. This was commuted

4. This may be a clerical error.

to life imprisonment, ten years to be spent at Port Arthur. There he was frequently guilty of misconduct and insolence, until finally given a conditional pardon for the colonies in 1863, fourteen years after being transported. Despite a long list of misdemeanours, the only serious offence was the murderous assault that took him to Port Arthur.

Another incorrigible was George Geary, a native of Glasgow who was convicted in Warwick in 1844 and transported for seven years for shoplifting. He emerged from gang labour without falling from grace, but soon after was sent to Cascades for nine months for attempted burglary. There he was guilty of twelve misdemeanours, and finally an act of insubordination led to his being transferred to Port Arthur.

Apart from this sort of convict, common to both samples, the individual examples from the assignment period such as wife beating, killing a sheep and being suspected of felony, are replaced in the probation period sample with such things as sodomy, rape, shooting with intent to disable, armed robbery and assault.

A comparison of all punishments for all offences recorded against the men in these samples is outside the scope of this study, and in any case the number of imponderables would make it of doubtful value as a statistical study. However, some general impressions can be gained from examining the conduct records, and at least one punishment is reducible to statistics in the probation period sample. This

is the use of the lash.* During the 1820's and well into the 1830's the lash was used freely as the quickest and easiest punishment. After 1840 it is supposed to have been virtually replaced by solitary confinement. In so far as the records of the assignment period sample extend beyond 1840, the lash was used 28 times on these 171 men. There were ten occasions when it was used in 1840 and ten in 1841. It is not surprising that the majority were early in the decade as some of the men in the sample had arrived before 1820 and it is likely that most of them had become free by the 1840's.

However, the incidence of flogging on the probation period sample is surprisingly high at 50 times on the 79 men between 1841 and 1849. If the sample is representative of the whole in this respect, then the practice was much more common in the 1840's than has been thought. A qualifying factor is the strong evidence that it was used only on the worst of convicts, as almost half the floggings after 1840 were inflicted on four men, Robert Dane seven times, William Dunn and John Holland six times each and John Glanville five times. The usual punishment was either 20 lashes or 36 lashes, but in 1846 John Glanville was given 100 lashes for absconding. It was the fifth and last time he received corporal punishment in Van Diemen's Land, but he was transferred to Norfolk Island in 1849 and a further thirty one misdemeanours were recorded against him there before he returned to Hobart and gained a free certificate at the end of 1852.

* See Table 5.

TABLE 5USE OF LASH AFTER 1840Assignment Period Sample

1840	10	
1841	10	
1842	2	
1843	4	
1844	-	
1845	1	
1846	1	<u>28</u>

Probation Period Sample

1840	-	
1841	3	
1842	8	
1843	7	
1844	15	
1845	9	
1846	2	
1847	2	
1848	3	
1849	1	<u>50</u>

The lash was by no means confined to Port Arthur during this decade. William Dunn's six floggings were all on Tasman's Peninsula, but none at Port Arthur; two of Robert Dane's seven floggings were at the senior settlement and the other five on Peninsula probation stations; while John Holland was flogged five times at Port Arthur and once at Fingal. The last flogging for the decade in this sample was on Lot Faulkner, who received 36 lashes at Port Arthur in 1849 for refusing to work. Several of the other floggings were at Southport, where discipline at the probation station must have been lax, or the convicts a particularly poor lot.

At the other end of the scale, the records of exceptionally well behaved convicts can be cited. Richard Barnfield, a 22 year old labourer from Gloucester, was transported for seven years in 1844 for stealing. He emerged from gang labour in 1845, gained a ticket of leave in 1848 with a clean sheet, then a few months later was again sentenced to seven years for stealing. He spent two years at Port Arthur without misdemeanour and became a pass holder in 1850, and progressed to ticket of leave in 1853 and free certificate in 1857 with only two misdemeanours against his name. There are several conduct records as good as this in the sample, but without studying much more detailed and complete records of the convicts concerned it is impossible to judge if they were exceptionally well behaved, or adept at evading detection.

The final comparison made between the two samples relates to deaths at Port Arthur. Of the assignment period men, no less than 16 died at the settlement, 11 of them in the 1830's, four of them in the 1840's and the last one in 1873. Only one of the 79 men in the probation period sample died at Port Arthur. He was William Johnson, who died there in 1852. As with the figures on flogging, this does not tell us a great deal. The probation period men all arrived in Van Diemen's Land after 1840 and their average age was about 23. Their Port Arthur careers occurred usually in that decade; while some of the assignment period men had arrived from England anything up to twenty years before they were sent to Port Arthur. Again, the men who died on the Peninsula before 1840 are likely to have died in the hospital at Port Arthur, while the probation period men may have served a sentence at Port Arthur but died in the hospital at Saltwater River or at another probation station.

Thus we have some idea of the sort of convict who went through the system at Port Arthur, both before and after 1840. This was the raw material of the settlement. Now, what sort of men conceived and planned the establishment, and what sort of men were appointed to handle that material?

CHAPTER 3

THE RULERS

The two Lieutenant Governors in office in Van Diemen's Land during the period 1830 to 1844 were Colonel George Arthur and Sir John Franklin. Arthur's was the guiding hand in establishing and maintaining Port Arthur as a successful and efficient secondary penal establishment until he left the colony in 1836. Franklin had the less enviable task of instituting the ill-fated Probation System, while attempting to deal with the enormous influx of convicts after the cessation of transportation to New South Wales in 1840. With the introduction of Probation, changes in the system on Tasman's Peninsula were far-reaching and Franklin's problems of administration differed from Arthur's. Both Governors had Captain Booth as Commandant to implement their instructions. He resigned the commandantship in 1844, the year after Franklin was replaced by Sir John Eardley Wilmot.

Colonel George Arthur, 1784-1854, Lieutenant Governor of Van Diemen's Land 1824-1836, is styled 'soldier and colonial administrator' by his most recent biographer.¹ For almost a century Arthur has suffered an unsavoury reputation which, like that given to the penal settlement named after him, may have been unearned and unjustifiably applied. In 1935 W. D. Forsyth published Governor Arthur's Convict System and a reaction almost a generation ahead of its time was begun. Forsyth's praise of Arthur was guarded and conditional, but at least it was not biassed by viewing him through the eyes of the anti-Arthurite

1. A.G.L. Shaw, 'George Arthur', in Australian Dictionary of Biography, Vol. 1 (Melbourne, 1966), p. 32.

press of the early 1830's. Then in 1953 M.C.I. Levy produced a study of Arthur rather than his system. This was something of an apologia of Arthur, and, while based on sound research, did not come to grips with the man. But at least a re-appraisal was begun. A definitive biography of Arthur is yet to come.

Arthur went to Van Diemen's Land in 1824 after eight years' experience of colonial administration as superintendent and commandant of British Honduras. The qualities he showed in both colonies were:

...administrative vigour, high ideals, a passion for reform and genuine interest in the welfare of the settlement, but also an intense dislike of the slightest criticism and a readiness to write voluminous dispatches to justify his activities.²

Colonists thought him energetic and efficient, but an autocrat. Commissioner Bigge, sent out by the British Government to report on the state of the Australian colonies, thought the colonists in need of more efficient administration. Arthur agreed with the government and Commissioner Bigge. The colonists were to learn they ran a poor second. Since the death of Collins in 1810 Van Diemen's Land had languished under the ineffectual administration of Davey with his weakness for alcohol, and Sorell with his weakness for an extra-marital alliance which had so shocked Bigge. When Arthur arrived a small coterie of settlers held considerable wealth and power, the

2. Ibid., p. 33.

moral tone of the colony left much to be desired, and the bushranger problem was serious enough to retard occupation of the country.³

The colonists welcomed Arthur with cold respect and his reply was 'not less formal and cold'.⁴ An inauspicious beginning, and a sure indication of the tenor of things to come.

Arthur was no more loved when he left twelve years later, but he had created order out of chaos and 'set the pattern for much of the later colonial administration in Tasmania and elsewhere.'⁵

On taking over the administration in 1824, Arthur 'paid particular attention to the administration of convict discipline in his thorough overhaul of the departments of government'.⁶ He was very conscious that largely as a result of Commissioner Bigge's recommendations, Van Diemen's Land was now singled out by the British Government for the purpose of a large gaol. The order and discipline of his military training prompted an attempt at emulation in the convict department, where he sought to have every convict 'regularly and strictly accounted for as Soldiers are in their respective Regiments.'⁷ The Assignment system of convict labour was well established. Arthur approved of this in principle but he wanted closer control in the interests of the convict and the government. Both master and servant were watched and good behaviour expected from both. Withdrawal of

3. J. West, The History of Tasmania (2 Vols., Launceston, 1852), Vol. 1, p. 100

4. Ibid., p. 96.

5. Shaw, 'George Arthur', p. 37.

6. P.R. Eldershaw, Guide to the Public Records of Tasmania, Section III, (Hobart, 1965), p. 3.

7. G033/1, Arthur to Bathurst, 3 July 1825.

convict servants 'if their masters ill-treated them, gave them grog, failed to keep the Sabbath, or broke any of the many other regulations',⁸ put a new constraint on the behaviour of settlers, and at the same time indicated to the convicts that there was to be greater consistency and regulation in the treatment they received.

Comment by John West, congregational minister turned newspaper editor, is applicable:

Thus the improvement of discipline; the efficiency of convict labour; the several efforts to restrain its attendant vices; have usually occurred when some old officer has been superseded; and others have devoted to their novel duties the first vigour of their zeal.⁹

The new system may have been 'as emotionless as the cold, just and hard eye of George Arthur himself',¹⁰ but during one of 'those paroxysms of reform which occur generally once in ten years',¹¹ Arthur resisted attempts by Colonial Secretary Stanley to inflict harsher punishment. He told the British Government that more severe punishment of convicts was not needed; it was only required that existing regulations should be adhered to. 'The very complex character of this distinguished public servant',¹² allowed for a deep concern for the moral reformation of convicts to go hand in hand with the intention

8. Shaw, 'George Arthur', p. 34.
 9. West, *History*, Vol. 2, pp. 324/325.
 10. L.L. Robson, The Convict Settlers of Australia, (Melbourne, 1965), p. 111
 11. West, History, Vol. 2, p. 324.
 12. Shaw, 'George Arthur', p. 38.

that the full punishment of transportation should be inflicted on those transported.¹³ Arthur could uphold the letter of the law in efficient administration of a huge gaol and at the same time express himself 'far more deeply interested in the reformation than in the punishment of the whole mass of convicts, and say "no-one can enter so fully into their moral and religious ignorance, as I have done, without being drawn rather to compassionate, than to resent their criminal habits."¹⁴

This was no hypocrisy. Arthur was a most devout Calvinist Evangelical, and perhaps sought to exhibit his zeal to those of like persuasion in power in London. His efforts on behalf of the slaves in British Honduras had found favour with Wilberforce, James Stephen, Bathurst and others, and near the end of his rule in Van Diemen's Land he was praised for his strong hold on the favourable opinion of his official superiors.

In disposing of the convict population, Arthur retained as many of the hand-picked men as were needed for government service and assigned the bulk of the remainder. Chain-gangs, originally established to prevent their members from escaping, were used by Arthur for punishment of refractory convicts whose labour could be usefully applied to public works, usually road and bridge building. The

13. G033/16, p. 160, 30 January 1834.

14. G033/17, p. 421, 10 July 1834.

worst of the refractory convicts, men under secondary conviction, were detained at secondary penal settlements. From 1821 to 1832 Macquarie Harbour on the west coast was the main secondary penal settlement, and after 1825 Maria Island off the East Coast near Orford was also used. Both were to be replaced by Port Arthur where 'all the most abandoned irreclaimable characters were kept'.¹⁵ Maria Island was to be used again as a Probation Station in the 1840's and to have a checkered existence in colonial history until well into the twentieth century.¹⁶

At Macquarie Harbour two commandants of very different character and abilities shared the major part of its life span. James Butler 'won high commendation from his officers for his practical administration',¹⁷ while his successor Pery Baylee by 'his more lenient treatment gained greater respect and confidence from the prisoners than his predecessors'.¹⁸ Baylee was disappointed at receiving orders to abandon Macquarie Harbour penal station when he considered his methods were proving successful, and transferred his prisoners to Port Arthur with reluctance.

Maria Island also had two commandants, neither of outstanding ability, during the first period of its use as a convict settlement, 1825-1832. Lieutenant Peter Murdoch inaugurated the settlement

15. G033/20, p. 342, 17 September 1835.

16. J. Morris in notes prepared for the Tasmanian Historical Research Association. Duplicated but unpublished.

17. Neil Batt, 'James Butler', in A.D.B., Vol. 1 (Melbourne, 1966), p. 191.

18. E.R. Pretymann, 'Pery Baylee', in A.D.B., Vol. 1 (Melbourne, 1966), p. 75

on the Island, where, as Arthur informed Bathurst, 'offenders are transported whose crimes are not of so flagrant a nature as to induce the Magistrates to sentence them to Macquarie Harbour'.¹⁹ It was intended originally to be only a temporary arrangement in partial compliance with a recommendation by Commissioner Bigge that there should be classification of convicts and that the worst elements should be removed from the towns.²⁰ About a year later Murdoch left the island to become a Land Commissioner. He handed over the nascent settlement to Thomas Daunt Lord, late Major of the 2nd West India Regiment who had been involved in the dispute between Arthur and Colonel Bradley when Arthur was Administrator of Honduras. Lord had grandiose ideas for stone and brick buildings and an elaborate house for himself to replace the existing log and bark buildings. His reign at the settlement until it was abandoned in September 1832 was marked by a series of disputes, accusations and counter-accusations, charges of larceny and nepotism against Lord himself, and a general air of incompetence, made possible by the lack of surveillance from Hobart. Despite this, a surprising quantity of goods was produced on the island. As well as timber and quarried stone, brickmaking and tanning, manufacturing processes included shoemaking,

19. Historical Records of Australia, Series III, Vol. iv, p. 238.

20. J.T. Bigge, "Report of the Commissioner of Enquiry into the State of the Colony of New South Wales", pp. 163/164, Facsimile Edition.

weaving and tailoring.²¹

Of the commandants of Macquarie Harbour and Maria Island, only Baylee showed any real talent for the post, and he was lost to the colony when he sailed for Madras with the 63rd Regiment six weeks after returning to Hobart from Macquarie Harbour. However, some early experience of secondary penal establishment conditions was provided at these two stations for men in other fields of administration who were later to be appointed to Port Arthur. Thomas James Lempriere of the Commissariat Department served at both Macquarie Harbour and Maria Island; Dr. Thomas Coke Brownell was Assistant Surgeon at Maria Island from July 1830 until it was abandoned, and then transferred to Port Arthur; the Reverend John Manton pioneered missionary work at Macquarie Harbour and later provided a unique service to Port Arthur; and in the field of artisan training, master shipwright David Hoy also moved from Macquarie Harbour to Port Arthur. To this extent at least Port Arthur gained from the experience of the earlier settlements, and Arthur knew how to make best use of competent men.

Sir John Franklin, 1786-1847, Lieutenant Governor of Van Diemen's Land, 1836-1843, was 'a conscientious and adequate if not brilliant administrator'.²² He inherited the administration of an orderly and

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21. J. Morris, 'Early Convict History of Maria Island', Tasmanian Historical Research Association Papers and Proceedings, Volume eleven, No. 4, p. 172.
22. Kathleen Fitzpatrick, 'Sir John Franklin' in A.D.B. Vol. 1 (Melbourne, 1966), p. 414.

well-run colony, but was unfortunate enough to govern during difficult times, when a man of greater talents and more forceful personality would have been hard pressed to achieve success. Soon after Franklin took over, the British Government appointed a Select Committee to enquire into convict transportation. As a result of its report the momentous change from Assignment to Probation in the system of convict discipline was ordered by 1840. Transportation to New South Wales was to cease the same year. To finally blight any hope of a bright new decade, a severe economic depression began at the end of 1840 and continued for about five years.

Franklin administered the Assignment system while being its 'moderate apologist',²³ and he battled manfully with the Probation System against overwhelming odds. His personal reaction to the convict element was very different from that of Arthur, and must have added a new dimension to his administration of what was still virtually a gaol, despite increasing pressure from free colonists for self-government. Arthur could strive to introduce and maintain a very strict discipline over convicts and at the same time feel that they were 'deluded - mentally diseased - creatures [who] were far greater objects of compassion than of vengeance and that their reform should be a prominent consideration'.²⁴ Franklin on the

23. Ibid., p. 413

24. Arthur Papers. Mitchell Library No. A 1962, p. 139

other hand had a 'temperament which must suffer with the suffering',²⁵ and his wife said he was sensitive beyond conception. He was certainly happy to leave control of Port Arthur in Booth's hands. Early in 1837 Franklin visited Tasman's Peninsula and promptly wrote to Glenelg that he could not 'too strenuously impress the extreme importance of retaining the services of Captain Booth'.²⁶

The key to the successful administration of Port Arthur in the decade up to the introduction of the Probation System lies largely in the abilities and personality of its commandant, Captain Charles O'Hara Booth, 1800-1851, Commandant of Port Arthur 1833-1844. He achieved the seemingly impossible task of satisfying the exacting Arthur, getting on well with most of his subordinates with the exception of one of the medical officers, and retaining the respect and even the grudging admiration of the convicts. The justice and humanity with which he ruled the settlement for eleven years deserves greater recognition.

Booth joined the Army in Madras in 1816, returned to England three years later and gained a commission in the 21st Fusiliers. He served in the West Indies for seven years, then spent five more years in England before sailing with his regiment, the 63rd, for Van Diemen's Land in 1832, arriving in February 1833.²⁷ He does not appear to have

25. Fitzpatrick, 'Sir John Franklin', p. 415.

26. G033/26, p. 586, 8 April 1837.

27. F.C. Hooper, 'Charles O'Hara Booth', in A.B.D., Vol. 1, p. 125.

known Arthur before coming to Hobart, although they were both in the West Indies with their respective regiments during the years 1820-22. Booth is likely to have heard of Arthur because of the notoriety of the Bradley Affair,²⁸ but apparently met him in 1833 with an unprejudiced mind. When Arthur left three years later Booth commented in his diary, 'intelligence of our worthy Governor being relieved ... the colony will feel the loss of a worthy individual.'²⁹

Apart from thirteen years as an Army officer, which presumably gave him some experience of handling men, Booth had no other qualifications for the post of commandant of a secondary penal settlement. Army officers held many posts in the Australian colonies, naturally enough after the end of the Napoleonic Wars when there was a surfeit of service personnel in England and a shortage of competent men for both civil and military posts in the colonies. All lieutenant governors of Van Diemen's Land were army or navy men until the appointment of an engineer, Sir William Denison in 1847.

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28. While Superintendent and Commandant of British Honduras, Arthur quarrelled with his second in command, Lt. Colonel Bradley, who questioned Arthur's seniority and refused to recognise his military authority. Arthur imprisoned Bradley, and, while acting strictly within the letter of the law, kept him there longer than was necessary. Bradley sued Arthur for illegal imprisonment and was awarded £100 damages which the government eventually paid, thus recognising the correctness of Arthur's action.
29. Manuscript diary of Charles O'Hara Booth, uncatalogued, Tasmanian State Archives. Entry for 29 May 1836.

Booth sold out of the Army in 1839³⁰ and his designation changed to civil commandant the next year. When this change became effective in mid-1840, Captain Rice of the 51st Regiment was senior military officer on Tasman's Peninsula and he assumed command of the troops.³¹

Booth, taking up a post he regarded as 'a very snug though responsible berth',³² travelled from Hobart to Port Arthur on board the brig Tamar, which was on its way to Macquarie Harbour with the aborigines conciliator George Augustus Robinson. Seven months later on his return voyage, Robinson again called at Port Arthur. He found the settlement greatly improved since his last visit.³³ Booth continued to make improvements during the whole of his command. He laid out the township, established a farm at Safety Cove and the boys' institution at Point Puer, brought the semaphore telegraph system to a high degree of efficiency, built a tramway between Long Bay and Norfolk Bay so that supplies could be brought in with greater speed and safety, carried out extensive reclamation to improve the centre of Port Arthur itself and supervised the out-stations. He cannot be given credit for any of the permanent buildings which

30. The London Gazette of January 1840 announced Booth's retirement by sale of his commission.

31. CS05/199/4787, June 1840.

32. Booth Diary, 17 March 1833.

33. N.J.B. Plomley (ed.), Friendly Mission, The Tasmanian Journals and Papers of George Augustus Robinson 1829-1834, (Hobart, 1966), p. 799.

were designed and built for more efficient running of the settlement in the 1840's and early 1850's. All the big brick buildings, the ruins of which are still extant, such as the penitentiary, hospital, asylum and model prison were built after Booth's time, but he was responsible for the two remaining stone buildings, the church and the guardhouse-magazine.

There are many contemporary comments on Booth as a man and on his abilities, virtually all eulogistic, but very little from the man himself to indicate his ideas on penal discipline. His diary reveals him as a practical, sensible man with a sense of humour and a great love of hunting. He often comments on individual convicts and shows sensibility without sentiment, which perhaps was the secret of his success. A recent biographer says Booth was efficient, 'his rule was impartial, never capriciously tyrannical, and, though by present standards justice then seemed merciless, he was as prompt to reward as to punish; he had patient attention for the most trivial cases and used the lash as a last resort with great reluctance.'³⁴ There is plenty of evidence in Booth's diary to throw doubt on the last phrase. When absconders were caught he

34. F. C. Hooper, 'Charles O'Hara Booth', p. 125.

tried them and punished them with the lash very promptly.³⁵

About six months after Booth took command he was visited by Chief Justice J. L. Pedder, Chief Police Magistrate M. Forster, Colonial Secretary J. Montagu and Moriarty. He 'shewed them the lions' and they generally approved of what Booth was doing 'but seemed rather astonished at the summary system'.³⁶ Senior officers on the Peninsula, both civil and military, usually held a Commission of the Peace so a bench could be constituted and charges heard on the spot. These magisterial trials, followed by prompt punishment, helped enforce the discipline necessary for control of large numbers of convicts by a few soldiers and constables, but after some criticism Booth dropped them for minor offences.

35. For instance, there are the following entries -

12 July 1833 The five gentlemen who started on the 7th inst. brought in. Tried them and gave them 100 each.

12 August 1833 Aided by Justice Macbraire we arraigned the aforesaid absconders before the Bench - and visited them with appropriate rewards for their conduct.

7 November 1833 ... the miscreants all apprehended - served them out without delay after the usual manner.

5 December 1833 Made an example of the miscreants.

11 January 1834 Hauled the bacchanalians over the coals at the 'Bar' gave the leader half a hundred and the remainder three dozen each.

14 February 1834 At 6 am tried the miscreants and punished them before the gangs.

11 November 1834 Met the delinquent at Lucks Point - went in with him to the settlement tried and punished by 9½ am.

36. Booth Diary, 23 October 1833

An incident in the early winter of 1834 showed the attitude of the convicts to their commandant, and his appreciation of their concern for him. Booth was lost in the bush without provisions. Everything went well in his absence and on his return it afforded him 'very infinite pleasure' to see the interest his situation had excited 'even to the most depraved of the prisoners'. Next day a number of absconders were brought in but because of the general good feeling shown by the prisoners he gave them all a benefit 'not after the usual manner'.³⁷ Booth was lost again on Forestier's Peninsula in 1838. On that occasion he was missing for four days, suffered frost bite and exposure that was to undermine his health and eventually cause him to take the less demanding post of superintendent of the Queen's Orphan Schools at New Town in 1844.

The informed opinion of John West, who was one of the leaders of the anti-transportation movement, was that compared with every other settlement of its class, Port Arthur, during Booth's management, was 'more humane because more equal and impartial'.³⁸ West never heard a prisoner speak of Booth with reproach and claims 'he was detested only as the personification of unimpassioned severity'.³⁹

Published comments by convicts on their treatment are rare, but in 1870 the Tasmanian bushranger Martin Cash published 'a personal

37. Booth Diary, 2 and 3 May 1834.

38. West, History, Vol. 2, p. 244.

39. Ibid., p. 245.

narrative of his exploits in the bush and his experiences at Port Arthur and Norfolk Island.⁴⁰ Although written nearly thirty years after some of the events it describes, Cash's memory on the whole was good. There is much humour and not a little irony to soften his description of many brutalities. He describes arriving at Port Arthur and being introduced to Booth 'to receive the usual amount of sympathy and condolence from that high official of blessed memory, when we would be legally entitled to a share of the floggings so unsparingly and indiscriminately administered at that time at Port Arthur.'⁴¹

Cash continues:

On being brought before this great man he represented the very mild form of government which under his rule was carried out on the peninsula; he also described the superiority of the rations and enlarged upon the humane qualities of his overseers, sub-overseers, constables and watchmen, observing that nothing short of the most rascally ingratitude could induce any of us to abscond ... He remarked that prisoners who were guilty of this base act of ingratitude subjected themselves to the utmost rigour of the law, having no mercy to expect, swearing by his heavens he would show none.⁴²

40. Martin Cash - The Bushranger of Van Diemen's Land. Although presented as a 'personal narrative', it is now generally conceded that this work was 'ghosted' by James Lester Burke. The question is discussed by W. and J.E. Hiener in 'Australian Literary Studies', Vol. 2 No. 1, pp. 63/66. There have been several reprints since the work first appeared in 1870.

41. Martin Cash, p. 48

42. Ibid.

Cash touches here on fundamental Port Arthur law according to the rule of Booth. To abscond was the most serious offence and drew harsh penalties. An habitual absconder would gradually lose all freedom, graduating from the lash through confinement on bread and water, the chain gang in irons, to the final degradation of the 'buck stalls', separate compartments where in public view they were chained to the wall and employed at breaking stones.⁴³ The 'buck stalls' were later replaced by a treadmill on which corn for the Commissariat store was ground.

Booth, like Arthur, was always careful to act strictly within the letter of the law and so give no cause for indictment. To his 'utter surprise and vexation'⁴⁴ the chief constable Byron reported one evening that a prisoner had died in his cell. A jury impanelled by noon the next day found the man had died from apoplexy and that Dr. Casey was not guilty of any neglect or culpability. If prisoners were not in good health they were put into hospital and if they died it was not for want of care and attention. Booth on this occasion was concerned for the fine opening the unattended death of a convict gave to the 'friends to the establishment'.⁴⁵

43. Ibid., p. 54.

44. Booth Diary, 21 May 1836.

45. Ibid.

The decade of Booth's administration was a watershed in British penal discipline. There was argument throughout the period on the efficacy of transportation both as a deterrent to crime and as a method of handling criminals. The momentous change from Assignment to Probation came as a result of the second parliamentary enquiry of the decade, and theories on penal discipline were created and criticised with equal fervour. Through all this Booth wrote not one word on any theories of prison discipline. The nearest he came to it was the comment that 'nothing but the severest measures can operate on the minds of these men with good effect'.⁴⁶ Apparently he was not a creative or imaginative person and had nothing to contribute to arguments on transportation. Lady Franklin thought he was not a man of talent, although 'of high moral worth good judgment and indefatigable zeal'.⁴⁷ His strength lay in interpreting regulations laid down by other people; he was a doer rather than a thinker.

Arthur and Booth, then, the two men most immediately responsible for any blame or glory that attaches to Port Arthur as a secondary penal establishment were solid, honest and reliable, but lacking the flair, the touch of genius, or the personality that lifts a leader from the competent and respected class into the realms of those

46. Ibid., 28 March 1835.

47. Manuscript diary of Jane Franklin, microfilm copy held in Tasmanian State Archives. Entry for 24 March 1837.

remembered with affection and admiration for their exceptional qualities. But they both had the organisational abilities and application to create an efficient system.

CHAPTER 4

ORGANISATION AND POLICING

By the 1830's Australian colonial administrators had had about forty years experience in the establishment, organisation and running of secondary penal establishments.

In choosing the sites for these settlements successive governors rarely struck the happy medium. The sites were either too far away for administrative control to be exercised effectively, as in the case of Norfolk Island and Macquarie Harbour, or so close that extension of settlement too soon brought settlers within reach, as at Port Macquarie and Newcastle. Moreton Bay (Brisbane) was a fair compromise.

The question of distance from governmental control was important in the administration of secondary penal establishments. Where the only communication was by ship through open water as at Norfolk Island, Macquarie Harbour and Maria Island, and at the New South Wales settlements in their initial stages, contact was too tenuous for efficient control. The expense of transport to remote settlements also militated against their success in the eyes of parsimonious Secretaries of State for the Colonies. Arthur told Colonial Secretary Hay that he could not imagine the relief it was to abandon Macquarie Harbour which was 'so difficult of access, so entirely out of my immediate control as to be always a source of anxiety.' Tasman's Peninsula was quite at hand.¹

1. G033/16, p. 277, 8 February 1834.

Communication between Hobart and Port Arthur was by a frequent shipping service and as early as 1834, there were three vessels, the Tamar, Isabella and Shamrock, plying between the two ports with convicts and supplies to feed and clothe them.² The route lay around Cape Raoul, and although it was only a short voyage from Hobart, the seas near the Cape could be rough. The establishment of a station at Eagle Hawk Neck and the cutting of a path through the Peninsula to Stewart's Bay provided a shorter and safer route. As other out-stations were established around the Peninsula there were improved communications by sea, semaphore, road and tramway, so that contact between stations on the Peninsula and with Hobart was quicker and more efficient than had been possible at any other settlement of this kind.

In March 1833 a new road linking Port Arthur with Wedge Bay to the west was completed and a regular weekly mail introduced.³ This road also facilitated transport of supplies and made it possible for military and civil officers and their families to avoid Cape Raoul on trips to Hobart. Later the same year Lieutenant J. Steele from the Carlton River rode to Port Arthur via Forestier's Peninsula on the first horse ever to go in and 'pronounced the road to be quite practicable'.⁴

2. Booth Diary, 19 December 1834.

3. Hobart Town Chronicle, 26 March 1833, p. 2 c.3.

4. Booth Diary, 4 November 1833.

One of Booth's ideas for improving transport on the Peninsula was a tramway linking Taranna on Norfolk Bay with Oakwood on Long Bay. The line was completed in a few months during 1836 by a gang of convicts with sawyers and splitters. They felled trees, bridged creeks and deep hollows, then laid split logs six feet long close together across the cleared road. These were the sleepers on which rails made of two pieces of quartering nailed together were laid and levelled. The track between the rails was filled with clay, sand and other filling to make a solid path for runners. At each end the rail extended into deep water on trestles. The whole was four and a half miles long. The waggons, which looked rather like hoppers, carried a maximum of half a ton of freight or two or three passengers. The waggons were propelled by three or four convicts who pushed up the hills and jumped on going down hill. Runners were changed half way, where a gang was stationed for maintenance and running purposes. Two sawyers were employed for one month a year to keep the railroad in good order. Covered waggons were used for perishable goods. Others, shaped like cradles, carried whaleboats and launches built at Port Arthur across to Norfolk Bay. Lady Franklin, wife of Lieutenant Governor Sir John Franklin travelled on the tramway on her first visit to the Peninsula in March 1837. She found 'three men could draw half a

ton, one harnessed in front and two pushing.'

Settler and playwright David Burn recorded on a visit there in 1842 that in an emergency a gang had made three journeys and back in a day thus conveying half a ton per man either way, a quick, cheap and efficient transport system.

Later critics of Port Arthur have sometimes deplored the use of manpower for such a purpose 'but man haulage of timber carriages was also common then even for free workers, over short distances.'⁵ Certainly the convicts themselves did not object. Work on the tramway gangs was a step towards emancipation and much sought after. If a man could resist the opportunities it provided for pilfering and absconding, Booth regarded him as a step nearer to being fit to be trusted in free society.⁶

Semaphore contact between Port Arthur and Hobart was possible during daylight in fine weather, an administrative facility impossible for any other secondary penal establishment. Short messages which could not wait on the shipping service were sent by semaphore between Port Arthur and Hobart and between the various stations on the Peninsula.

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5. K. Dallas, 'Slavery in Australia - Convicts, Emigrants and Aborigines', p. 8. This is an unpublished paper read to the Tasmanian Historical Research Association.
 6. T.J. Lempriere, The Penal Settlements of Van Diemen's Land, (Launceston, 1954); D. Burn, 'A Visit to Port Arthur 1842', in J.W. Beattie, Port Arthur (Hobart n.d.); Booth's Diary, and Lady Franklin's Diary.

Each signal station had a call or attention number, and to call a station its number was signalled on the semaphore and an attention flag hoisted yard high. The semaphore had three lines of arms, the upper one denoting units, the centre one tens and the lower one hundreds. A pennant flown from the top denoted thousands. The code consisted of 1,029 words and phrases listed alphabetically. Then there were further listings under such objects connected with the settlements as mechanics, nautical, absconding, provisions, time, sentences, and bedding. The code also listed the names of 133 prison ships, sixty-seven constables and thirty-nine civil officers plus thirty-three females. A telescope fixed on each semaphore made its working easier, but high winds, fog, smoke and darkness were factors operating against efficiency at all times. A message from Port Arthur to Hobart passed through five stations and on a clear day a short message and reply could be transmitted in about twenty minutes. A description of an absconder could be immediately transmitted to all stations and to Hobart. On one occasion Booth sent out a boat and intercepted some convicts escaping from Hobart when told by semaphore that they were sailing down the Derwent estuary.⁷ All in all, communications on Tasman's Peninsula were good and they contributed to the efficiency of its administration.

7. 'Instructions for working the semaphore', MS. No. B1308, Mitchell Library; also Booth's Diary.

Policing. 'Maconochie had learned by bitter experience as well as by mature reflection that the effectiveness for good of a prison depended most of all upon its staff'.⁸ Men who were competent as well as reputable were the exception rather than the rule in the colonial service. Indeed, Professor Shaw has shown that on many occasions key posts were even held by men who were drunkards, embezzlers, wife-beaters, dis-credited in their professions, or just plain lazy and incompetent.⁹ So it was fortunate that many posts at Port Arthur were filled by decent respectable men of some talent. As commandant the place was blessed with such men as Booth and Champ; surgeons Brownell and Casey stand out as men of some repute while T.J. Lempriere as Commissary officer commanded respect, even if he had been a bankrupt.

A regiment of the British Army supplied officers and men to maintain law and order and to enforce security measures on Tasman's Peninsula. For all other duties there was a civil establishment complementary to the military staff. In this branch of the service were such officers as the commissary general who was responsible for all the day to day requirements such as food and clothing, religious instructors, surgeons, superintendents of the many workshops where

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8. J.V. Barry, Alexander Maconochie of Norfolk Island, (Melbourne, 1958), p. 219.
9. A.G.L. Shaw, 'Some Officials in Early Van Diemen's Land', in Tasmanian Historical Research Association Papers and Proceedings, Volume Fourteen, No. 4, pp. 129/140.

trades and crafts were taught, master shipbuilders and so on. The Governor recommended men for appointments and these were confirmed or disallowed by the Colonial Office in London.

The lower echelons of staff consisted of overseers and constables. Here without doubt was the weakest spot in convict administration, no less at Port Arthur than elsewhere in the convict system. Too often the constables were convicts with a ticket of leave, or simply 'trusties'. Many were emancipated convicts of a poor type, unfitted to be put over men whose condition should have attracted their informed sympathy rather than the brutal injustice all too often meted out when there was no supervising officer to see. Arthur complained to Bourke that 'almost all our constables are convicts, and these require superiors who can look through them.'¹⁰

The authorities were constantly aware of this problem, but there were just not enough suitable men in the colonies willing to do the job. The settlement was chronically understaffed. Except for certain periods of depression, labour was in demand in Van Diemen's Land until about 1840. Better money could be earned in comparatively congenial conditions elsewhere in the colony so there was little to attract a man to an appointment on Tasman's Peninsula. Good constables could not be found in the colony and there was no

10. Arthur Papers, Mitchell Library No. A1962, p. 178, 12 November 1835.

tradition of police service, in the modern sense, on which to draw in England. Peel's Metropolitan Police Force was set up in London just a year before Port Arthur was established.

Martin Cash told of working in a gang at Port Arthur under a sub-overseer 'whose reputation for cruelty and oppression had no parallel'.¹¹ Cash said he had known men to be flogged and otherwise persecuted simply because they would not give their braces to the sub-overseers, explaining that such refusal incurred the sub-overseer's displeasure and that 'was a safe passport to the triangles'.¹² Although Cash's view of his treatment as an incorrigible convict is partial, his comment gives some idea of the quality of the staff at that level. One small comfort was that Booth used his very good judgment and personal knowledge of the character of both accuser and accused when hearing complaints and charges laid by constables and overseers against the prisoners. Individual cases and conduct were considered and in some instances the charges dismissed.¹³

A Quaker missionary, the Reverend F. Mackie, observed at Port Arthur that there were great difficulties to contend with. He thought care and watchfulness were needed to avoid callous and

11. Martin Cash, p. 50.

12. Ibid., p. 49.

13. Tasmanian Papers 129, Vol. 1 in Mitchell Library No. A1158.

unfeeling hearts where there was much untoward conduct and ungrateful returns. His caution would have fallen on deaf ears among the constables and overseers. Mackie was more realistic in his further comment that many of the men were irreclaimable and it was pointless to look for greater results than the machinery was capable of producing.¹⁴

Soldiers stationed at Port Arthur apparently were more humane towards the convicts. Or perhaps the fact that they were guarding the place rather than supervising convict activities meant they were more detached and not so likely to be directly involved with convicts. Also, the military tradition would count for something in their behaviour; they themselves were under discipline, and their officers were a constraining influence. The commandants of Port Arthur had been military officers until 1853 when James Boyd became the commandant, so that the army influence stemmed from the top for the first twenty-three years.

Several regiments served in Van Diemen's Land during the life span of Port Arthur as a penal settlement, and detachments from some of them were detailed to duty at this out-station. According to both Lieutenant Governor Arthur and Lieutenant Governor Franklin there were never enough. In three successive months during the

14. Manuscript diary of the Reverend F. Mackie, Volume 1, unpaginated. A photocopy of the diary is held in the archives of the University of Tasmania Library.

summer of 1833/1834. Arthur badgered Governor Bourke in New South Wales to send him more troops.¹⁵ He agreed with Bourke that duties for the military in the colony were 'of a most arduous and of a most anxious nature' and that they both must guard against discontent among the soldiers being excited by 'certain classes of the community'.¹⁶ Arthur had greater control of all classes of the community in the colony he governed than Bourke was to achieve, despite Bourke's popularity with some sections of society in New South Wales and his competent administration. Arthur did not doubt his ability to handle a bigger military force, if he could only get it. Because of the 'extreme want of troops' in Van Diemen's Land the interior was left in a most unprotected state and there had been many escapes from the chain gangs. When this did not convince Bourke that he could spare any detachments of the 50th Regiment, Arthur tried a little subtle bribery.

Considerable expense had been incurred in New South Wales with the need to close Newcastle and open another secondary penal settlement at Port Macquarie. Arthur pointed out to Bourke the capacity of Tasman's Peninsula to receive all his culprits destined for any penal station except Norfolk Island - 'provided the strength of my Garrison is increased, which, indeed, is otherwise absolutely

15. Arthur Papers, M.L. No. A1962, Arthur to Bourke 18 December 1833, 18 January 1834 and 4 February 1834.

16. Ibid., 18 December 1833.

and urgently required.¹⁷ Establishing Port Arthur was a big job and if Bourke had any mechanics, especially carpenters and masons from the New South Wales road gangs or elsewhere, Arthur would be glad to have them, too. Bourke was not forthcoming, and six months later Arthur put his problem in a different light when he reported to Hay at the Colonial Office in London that penal discipline was being maintained despite his diminished military force.¹⁸ Six months later again, at the end of 1834, Arthur tried a new tack with Stanley, who was now in office in London. He asked for reinforcements, claiming that the military force was no greater than when the convicts were half the present number. The rest of this despatch is a curious blend of plea for more soldiers and reassurance that the system in Van Diemen's Land is so good that they are only needed for a show of strength.

Six years later, Arthur's successor Franklin was telling the Colonial Office that there was not sufficient military force at Port Arthur to furnish the requisite guards. He urgently requested more troops.¹⁹

During 1863, troops were withdrawn from Port Arthur to reinforce the British military strength in New Zealand during the Maori Wars, and they were replaced by constabulary. By then the numbers at

17. Ibid., 4 February 1834.

18. G033/17, p. 390, 10 July 1834.

19. G033/36, p. 555, 18 November 1840.

Port Arthur were so diminished and the system so changed that the loss of the soldiers did not bother the Governor. The Tasmanian Government was then fledging its new wings of self government and the imperial government was bowing out.

In 1848, when convict numbers were reaching their peak in Van Diemen's Land, there were 1,963 convicts on Tasman's Peninsula, 554 on Maria Island, and 661 on Norfolk Island, which was then under Tasmanian jurisdiction. The payroll for the military guard and staff officers, including rations, for that year was £91,777. The pay of civil officers, plus the cost of food and clothing for the convicts for the same period was £152,800, making quite a formidable total of £250,000.²⁰ The introduction of responsible government in 1856 created an uneasy position for such a large imperial department. It was proposed that control should be transferred, the cost to be borne jointly by the imperial and colonial governments in proportion to the number of convicts each was responsible for, according to whether they had been convicted in the colony or in Britain.²¹ There was considerable bickering over the terms of the transfer and not until 1869 were terms of settlement agreed on. The transfer took place on 31 May 1871, and the settlement then became known as the Colonial Penal Establishment, Port Arthur. That

20. J. Barnard, Statistics of Van Diemen's Land, 1849, M.L. No. A1669, p. 53.

21. GSD1/128/3648.

year there were 216 convicts on colonial funds and fifty-five on imperial funds at the settlement.

Security. Military detachments stationed at secondary penal establishments had the dual task of maintaining law and order and enforcing security. The geography of the different establishments caused considerable variation in the effectiveness of security measures. Free settlers near the coal works at Newcastle defeated the purpose of that settlement by often being sympathetic to absconders and sometimes even encouraging the men to 'run' so that they could be employed on farms.²² Port Macquarie became so easy to escape from that it was 'almost useless as a penal settlement'.²³ Despite the fact that 'the severity of the punishment was never much complained of' at Maria Island, several convicts decided to swim or sail to Van Diemen's Land 'as it was by no means difficult to effect an escape from the island.'²⁴ Life at Macquarie Harbour was so harsh that it is not surprising that so many prisoners attempted to escape, 'although many pains were taken to convince them that escape was next to impossible'.²⁵ Of the absconders who attempted to escape inland from Macquarie Harbour some were recaptured, some died of starvation, a few were killed by aborigines, many were never seen

22. A.G.L. Shaw, Convicts and the Colonies, (London, 1966), p. 188.

23. Ibid., p. 190.

24. H. Melville, The Present State of Australasia, (London, 1851), p. 156.

25. Lempriere, The Penal Settlements, p. 50

again. The most notorious escape was that of the convict Pierce who resorted to cannibalism to survive. Others tried to escape by sea on rafts made of firewood, a catamaran, a lighter, an open boat, a sloop, and finally there was the successful piracy of the brig Frederick by the last of the convicts being evacuated from Macquarie Harbour in January 1834. They sailed to South America instead of Hobart.

Escape from Norfolk Island could only be by seaworthy vessel, either by one of the convicts' own construction, or, less likely, by stowing away or being taken illegally on a visiting ship. There were six successful escapes from Norfolk Island by boat and Maconochie was surprised there were not more. Four were during his command. One of these was a combined effort by six convicts and three soldiers in a whaleboat the soldiers were allegedly guarding.²⁶ There was often more consorting between soldiers and convicts than the authorities would tolerate. The soldiers' lot was not always a happy one. Some of them had been known to commit crimes in the colony so that they would receive sentences of transportation and be dismissed from the regiment,²⁷ but this was defeated by returning the soldiers to their regiments at the expiration of their sentences.²⁸ At a time when the soldier's daily ration was one pound of meat, one pound of bread, one gill of rum and sixpence in pay, twice convicted

26. Barry, Alexander Maconochie, p. 128.

27. The most frequently quoted example of this was the notorious Sudds and Thompson affair in Sydney.

28. Melville, The Present State, p. 172 f.n.

men were given three-quarters of a pound of meat, one and three-quarters pounds of flour and half a pound of vegetables daily. As the amount of flour given to the convicts was more than they could fairly consume, Lieutenant Governor Denison allowed them to exchange part of it for tobacco. Denison knew that craving for this luxury had 'led to instances of trafficking between the officers and the convicts ... and was constantly going on between the soldiers and the convicts, producing effect detrimental to both.'²⁹ Rank and file soldiers at a station such as Fort Arthur had few pleasures. Their officers had more comforts and associated in their off-duty time with the civil establishment. There was no-one but the convicts for the soldier to associate with. One visitor to Port Arthur frowned on communication between soldier and prisoner and thought spirits should not be allowed to the military at penal settlements.³⁰ Deprivation of the traditional issue of rum every day may have served some moral purpose, but it was likely to have also driven the soldiers to rebellion.

The military on Tasman's Peninsula were not always very efficient, but there was never any mass outbreak or general uprising as there was on Norfolk Island. There was incidental consorting between soldier and convict but in spite of, or because of, this the soldiers

29. Denison's Despatch is quoted in Melville, The Present State, p. 173.

30. Plomley (ed.), Friendly Mission, p. 708.

collectively were still the guards and the convicts never attempted to usurp their authority. The Reverend R. Crooke in The Convict³¹ describes a planned outbreak by hundreds of prisoners which was thwarted by Booth but the story does not carry much credence. Crooke was a most unreliable writer, the story was hearsay to him, and there are too many irreconcilable facts to make it credible.

Although Port Arthur was free of uprisings and mass escapes, absconding by prisoners, either individually or in small groups of two or three, was frequent. Booth's diary is peppered with such entries as, 'four of the lads took a trot into the bush',³² 'a prisoner being at large no shooting allowed',³³ 'at daylight this morning found that four of celebrity had cut their way out of the gaol',³⁴ 'Baker Mathews and three other fellows started for the bush'.³⁵ Rarely did such absconders get far. There was nowhere for them to go on the Peninsula and remain at liberty. To get off the Peninsula they either had to have a seaworthy boat, or get past the guards and dogs at Eagle Hawk Neck. On the first anniversary of taking command Booth prided himself on 'not having let a mis-creant escape from the Peninsula ... thanks to personal vigilance and a good Detachment.'³⁶

31. R. Crooke, The Convict, (Hobart, 1958), pp. 109/111.

32. Booth Diary, 11 March 1834.

33. Ibid., 23 March 1834.

34. Ibid., 27 March 1835.

35. Ibid., 7 July 1833.

36. Ibid., 16 March 1834.

This good record was not maintained throughout the 1830's as in five years 104 prisoners attempted escape and twenty of them succeeded.³⁷ Security improved again with better facilities at Eagle Hawk Neck and the establishment of several stations around the Peninsula, with constables and a few private soldiers. In a further three years eighty-seven convicts absconded. Nine got off the Peninsula but with one or two exceptions they were recaptured in the colony.³⁸

Prisoners frequently built canoes or rafts and attempted to escape by sea, which was even more hazardous than running the gauntlet at Eagle Hawk Neck. At one time Booth had five captured home-made craft on his verandah,³⁹ taken either before or after launching. One of them was used by two prisoners, Jones and Birch, who were drowned while trying to escape.

Experience in handling boats was given to many prisoners by the authorities. To reduce expenses convicts of good character were employed in the boats attached to Port Arthur without any free person in charge as coxswain. The hope of escape proved too strong and several got away in 1839, causing Franklin to request four free men to have charge of the boats at Port Arthur and at the Coal Mines on Norfolk Bay.⁴⁰

37. J. Backhouse and G. Walker, 'Report on a Visit to the Australian Colonies', M.L. No. 706, pp. 240/241.

38. Ibid.

39. Jane Franklin Diary, March 1837.

40. G033/32, p. 674, 27 May 1839.

The cost of the chief coxswain's salary of £50 per annum and ordinary seamen's wages to the other three was thought to be too much and only one man was appointed. Such economy was ill-advised. During the next two years escapees became such a problem that more severe measures were needed to frustrate them and Franklin was compelled to appoint the three extra men to the coxswain's staff.⁴¹

Nature provided the land formation of Tasman's Peninsula with only a narrow neck of land connecting it with Forestier's Peninsula and it in turn is connected with Van Diemen's Land by another narrow neck. But it was an army officer, Captain J. Peyton Jones, who made assurance doubly sure by suggesting a system of lights and dogs across Eagle Hawk Neck to deter absconders from taking that way out. Captain Jones was stationed there in 1831. He found the noise of the surf on the eastern side of the Neck plus the peculiar land formation, which is mostly sand dunes, made it difficult for sentries to effectively guard this strategic post. He devised a pattern of cockle shells to show good light at night and asked for lamps, dogs and rations. A daily allowance of a quarter-pound suet and a pound and a half broken biscuit was made for each dog. Jones placed the dogs so that they could not fight but no-one could pass between them. During his sixteen months

41. G033/37, p. 900, 13 February, 1841.

there only two men attempted escape that way through the water, and both were taken. Jones thought the success of his idea and the 'mere trifling expense' involved entitled him to 640 acres for services rendered when he later settled at Westbury in Northern Tasmania.⁴² Dogs were still being used across the Neck in 1869 when about twenty of them were costing £8.10.0 each a year to keep.⁴³ Prisoners were led to believe there were man-eating sharks in the waters around the Peninsula. No doubt this was a deterrent to absconders but in fact sharks are virtually unknown in the cold waters so far south.

Martin Cash was one of a small elite of convicts who escaped from Tasman's Peninsula twice, and each time he swam through the surf at Eagle Hawk Neck. The first time he was recaptured only a mile from East Bay Neck. The second time, accompanied by Kavanagh and Jones, he remained at large on bushranging exploits throughout Van Diemen's Land until recaptured in Hobart and sent to Norfolk Island.

When well established, the military force at Eagle Hawk Neck consisted of one officer and twenty-four non-commissioned officers and rank and file.⁴⁴ There were also nine convict mechanics or artificers besides the constables.⁴⁵ This was a seemingly high

42. G033/76/827, 21 July 1852.

43. Launceston Examiner, 9 October 1869.

44. Lempriere, The Penal Settlements, p. 72

45. Jane Franklin Diary, March 1837.

proportion of the total Peninsula staff for one outpost, but the unique character of Eagle Hawk Neck required that it be adequately manned. It was the keystone of security for Tasman's Peninsula, and although by no means foolproof, the choice of this location for a secure penal settlement was justified. Order was better maintained with a smaller ratio of soldiers to convicts than could be claimed for Norfolk Island. While seventy-seven soldiers guarded 412 prisoners at Port Arthur,⁴⁶ 150 soldiers were stationed on the island at a time when it held 460 prisoners.⁴⁷

Civil Staff. The military force at a secondary penal establishment was posted there in the course of duty and served under orders from the War Office. A man who took a post on the civil staff of such an establishment did so of his own free-will. Menial positions such as clerks and hospital orderlies were filled by convicts, but more responsible positions had to be filled by free men. How did the authorities find such men in a raw young colony, and why would they choose to accept appointment to these least desirable of working environments? Unfortunately they were not in the habit of confiding motivations to diaries or correspondents, but a clue to their reasons is apparent in a factor common to many of them.

46. Booth Diary, 1 November 1833.

47. Melville, The Present State, pp. 161/162.

It is that they were devout christians, usually non-conformist, who probably felt it their duty to go and work among criminals and perhaps achieve more satisfying rewards in the evangelistic field than was possible in free society. By their example and through the necessarily immediate and constant contact with the prisoners there was plenty of opportunity for men of such a bent to do good. Arthur's own religious convictions would make him more than happy to appoint them.

The first two commandants of Port Arthur, Russell and Thomas, were doctors, then for about eighteen months there was no medical officer at the settlement until Assistant Colonial Surgeon Thomas Coke Brownell was appointed in October 1832. During the interregnum a 'lifer' Henry Turner Harrington, was dispenser of medicines and officiated as surgeon, without losing a patient. His work was commended by Brownell and Commandant Gibbons when he petitioned Governor Arthur for an indulgence for his services.⁴⁸

Dr. Brownell, a deeply religious man, was catechist as well as Assistant-Surgeon at the convict settlement on Maria Island before going to Port Arthur.⁴⁹ He impressed one convict as 'the first person I had seen at Port Arthur who evinced the slightest feeling of humanity'.⁵⁰ Surgeons at penal settlements were peculiarly

48. CS01/493/69.

49. Morris, 'Early Convict History of Maria Island', p. 170.

50. Martin Cash, p. 50

placed to make life easier for the convicts in many little ways. Dr. Brownell was not altogether happy in the service. He complained of the treatment he received from the commandant, Lieutenant J. Gibbons (1832-1833) and resigned, although he was later to return to the colonial medical service.⁵¹ At the same time, the Wesleyan missionary the Reverend John Manton was complaining of the treatment he received from the superintendent.⁵² Such conflicts were bound to occur in small isolated communities, particularly under conditions prevailing at such settlements. Military commandants did not always have the tact or ability to strike the right attitude towards civil officers who perforce served under them, yet were not subject to army rule. For all intents and purposes the civil staff were in the service but not of it. One observer 'found that the civil officers complain of the harsh treatment attendant upon their situation' and thought it 'a mistaken notion to endeavour to make them uncomfortable'.⁵³

From 1834 to 1838 Dr. Cornelius Gavin Casey was the assistant colonial surgeon at Port Arthur. He had an innate inability to get on with his superiors and twice resigned from the colonial service. Initially Booth's relations with Casey were good and they shared many exploratory excursions around Tasman's Peninsula. But in 1838

51. Plomley (ed.), Friendly Mission, p. 708.

52. Ibid.

53. Ibid.

an 'unpleasantry' occurred between them, 'Booth admitted that nobody could have been more zealous and attentive to his duties, but requested that Casey be transferred to another district'.⁵⁴ Casey was Booth's junior by ten years, and a bachelor.

Thomas James Lempriere, the commissariat storekeeper from 1833 to 1838 was four years older than Booth, a married man with a family that was to increase to twelve, and a personality much less volatile than Casey's. The Lemprieres were friendly and hospitable people and their relations with Booth were always amicable. Lempriere had joined the Commissariat Department as a storekeeper in 1826 because his merchant business in Hobart was about to fail. He was still in financial difficulties at the end of 1835.⁵⁵ Experience at the penal settlements at Macquarie Harbour and Maria Island fitted him for the post at Port Arthur, and his religious inclinations were an added commendation in Arthur's eyes. Lempriere sometimes performed divine service, although a sermon at Point Puer on the due observance of the sabbath was not attended with very good effect. Two of the youngsters 'immediately after had a row - one punched another in the mouth for being what they called a Trunker i.e. tell tale.'⁵⁶ Lempriere took an interest in life at Port Arthur beyond the limits of his own particular duties. He visited the evening school for adult convicts, produced the Port Arthur Gazette,* used his considerable artistic

54. F. C. Green, 'Cornelius Gavin Casey', in A.D.B. Volume 1, p. 213.

55. Lempriere's unpublished diary, entry for 9 December 1835.

56. Ibid., 1 April 1834.

* I have not been able to find a copy of this.

talent to draw elevations of the church during construction, and prepared for publication his observations on the three penal settlements at which he served.

As well as being Commissariat Officer, Lempriere undertook ordnance duties for an extra 2/6d. per day until the end of 1836. He was responsible for stores of considerable value, and their issue in detail involved accounting for their receipt and accurate appropriation.⁵⁷ Enormous quantities of meat and flour were needed to supply up to 2,000 convicts at Port Arthur with their daily regulation ration. The Commissariat Office in Hobart would call tenders for the supply of from 50,000 to 100,000 lbs. of salt beef or pork at a time, to be delivered as required.⁵⁸ Twice yearly issues of clothing and boots, plus bedding and eating utensils, placed a considerable load on the issuing officer. The multifarious articles required to build and maintain a settlement as comprehensive as Port Arthur extended the range of his duties. From the beginning of 1837 reorganisation of the system relieved the ordnance storekeeper of accounting for the issue 'in detail' of convict stores. Lempriere then became accountable to the Commandant upon whose requisitions only the supplies for the settlement could be obtained.⁵⁹ He was appointed Deputy Assistant Commissary General and Lieutenant Governor Franklin authorized payment of 3/6d.

57. G033/32 p. 797, 27 July 1839.

58. Hobart Town Courier, 10 June 1836, p. 4 c.5.

59. G033/32, p. 797, 25 July 1839.

per day from convict funds, a payment which was questioned by the ever-vigilant Secretary of State for the Colonies in London.

A superintendent of convicts performed the duties of the earlier muster masters, keeping complete and detailed records of every convict and superintending the daily disposition of labour. This post was held during much of Booth's command by William Carte. Although the job was largely of a clerical nature, it was not without danger at Port Arthur. Carte had 'several brickbats thrown at his head and [was] knocked down by the prisoners immediately after evening muster' on one occasion. Booth ordered muster by daylight for the future. The next evening the prisoners refused to obey Carte's orders so Booth put on his 'annihilating countenance - went down there 375 in number raised my stentorian voice and made them quake - anticipated a row - such a set of villains here and find it not quite so easy a penal settlement as hitherto.'⁶⁰

Schoolteachers and religious instructors received more kindly treatment at the hands of the convicts. In the early days, educated convicts taught their fellows, but in 1841 Lieutenant Governor Franklin authorised the appointment of a free man at £100 per annum to take charge of the school at Port Arthur. At the time about sixty boys and ten adults were attending evening school.⁶¹ For many years Methodism was the only religious denomination that

60. Booth Diary, 16, 17 and 18 May 1833.

61. G033/37, p. 999, 27 February 1841, and CS022/10/370, 16 March 1842.

could find suitable qualified men to go to the secondary penal establishments. Ministers of other denominations were reluctant to serve on Tasman's Peninsula, even in the 1840's when conditions for them had improved and when there was greater official awareness of the extent and need for their services.

As well as men skilled in catering for the spiritual needs of convicts, Port Arthur needed the services of engineers to supervise buildings for their physical comfort. These were supplied by the Army. When the church was being built in 1836 the engineer in charge was Major R. Kelsall, R.E., who was also responsible for a chapel and a school at Point Puer in 1837, the barracks in 1840 and a cornmill.

In the lower echelons of free men employed on Tasman's Peninsula were the superintendents of the various workshops such as smith, brickmaker, shipwright, tailor and shoemaker. Salaries for these posts in the 1830's were low. They rose in the 1840's, but in some instances they were never as high as those paid to men on Norfolk Island. Booth began at ten shillings per day and after three years service the Executive Council recommended that his salary be increased to one pound per day. This was still less than half the salary of £800 per year paid to Maconochie when he went to Norfolk Island in 1839. Booth bought and maintained a horse at his own expense although it was necessary for his duties. Arthur, never

one to be profligate with his own or the public money, suggested that Booth be given a forage allowance.⁶²

An 'industrious and deserving' master shipwright John Watson was receiving £150 per year in 1834, while David Hoy had received £182.10.0 per year for the same job at Macquarie Harbour.⁶³

At Port Macquarie officers had supplemented their salaries by trading with the Commissariat Store, trafficking with the convicts and by using convict labour for personal gain. They bought from the store and sold to convicts at exorbitant rates; and sold to the store produce from the land allotted to them for the production of vegetables, pigs and poultry. One commandant employed a cabinet maker and sent cases of furniture to Sydney for sale. Another officer had a twenty-five foot boat built by Sunday labour.⁶⁴ Such abuses were used as a quietener for the officers and by the officers to make the convicts work more conscientiously. Stricter discipline and the personal integrity of the commandant, combined with much closer surveillance from Hobart than Port Macquarie received from Sydney, reduced the scope for such exploitation at Port Arthur.

An answer to the problem of staffing gaols came later in the nineteenth century with a growing tradition of professionalism. Maconochie anticipated this while at Norfolk Island. He mooted 'a regular practical and scientific education for the purpose'.⁶⁵

62. Minutes of Executive Council, E.C. 2/3, p. 698, 28 July 1836.

63. *Ibid.*, p. 638, 23 December 1835.

64. G.D. Hogg, 'A History of Port Macquarie', unpublished M.A. thesis, pp. 55/56.

65. Quoted, Barry, Alexander Maconochie, p. 218.

But while the Australian colonies were still receiving convicts, the main qualification for appointment to a secondary penal settlement appears to have been a willingness to accept such an appointment.

Despite the low rates of pay, Port Arthur was staffed, on the whole, by a decent respectable class of officer. They worked within an organisational framework that was efficiently controlled at all times to maintain order among large numbers of twice-convicted felons.

CHAPTER 5

CRIME AND PUNISHMENT

In the 1830's most of the men at Port Arthur were serving a further sentence of transportation, or had had their original sentence extended. The majority had received the secondary conviction in Van Diemen's Land but there were a few from other Australian colonies and from British possessions, particularly India and Bermuda. After 1844 some convicts were transferred to the Peninsula from Norfolk Island, so the settlement was largely, but not solely, the repository of felons with more than one conviction for major crime. Some were occasional offenders, but many were classed as incorrigible. Today they would be designated habitual criminals and perhaps given indeterminate sentences, because modern society can tolerate them no more than colonial society could. To maintain order among 'such a set of villains'¹ there had to be comprehensive regulations governing every aspect of life on the Peninsula and those regulations had to be enforced. Conformity was constantly demanded of men many of whom had never been conformist. Naturally there were breaches of regulations followed by disciplinary action. While at Port Arthur the convicts were guilty of everything from the misdemeanour of possessing a bit of tobacco to the major crimes of murder and sodomy. The full process of law applied here as elsewhere.

1. Booth Diary, 18 May 1833.

Commandants of Port Arthur held a commission of justice of the peace so they could convene courts to hear charges, just as honorary magistrates had done in other remote parts of the colony until stipendiary magistrates were appointed. Men on capital charges were sent to Hobart for trial, but before 1835 there was only one such case, that of wounding with intent to kill an overseer.² The quickest, cheapest and easiest punishment was of course flogging. In the first full year of operations at Port Arthur, 1831, just one third of the convicts there were punished by flagellation.³

Although this may seem rather a free use of the lash, it is a less horrifying record than that of New South Wales and Norfolk Island where the lash was used much more indiscriminately. It is also true that there is another facet to the conduct pattern of certain of the convicts at Port Arthur. These were the ones who behaved themselves and were never flogged, the malleable ones who responded to the powerful inducement to good behaviour of a little tea and sugar. This indulgence was earned by about half the men in 1831 and not one forfeited by misconduct. Perhaps it would be more realistic to call these indulgences 'bribes', but under either name they served the purpose in aiding the maintenance of discipline.

2. Backhouse and Walker, 'Report', p. 245.

3. Ibid. They received an average of 30 strokes; 1,553 lashes were inflicted on 53 men on 160 sentences.

And general discipline was still good at the end of 1834 when Quakers Backhouse and Walker paid their second visit to the settlement. They explained the good order by the anxiety of most prisoners to return to assignment in the settled districts, as the restraint and constant labour at Port Arthur were exceedingly irksome.⁴ No doubt all prisoners were anxious to end their term on the Peninsula, and the restraint and constant labour were as irksome as anything being suffered in the colony; but this is not an adequate explanation of the good discipline. It is more likely to have been achieved by Booth's efficient administration. Chief Judge J.L. Pedder and Chief Police Magistrate M. Forster approved generally of what Booth was doing at the settlement but were 'rather astonished at the summary system'.⁵ Summary it may have been, but it was also just and impartial. The notorious John Price restored order on Norfolk Island 'by the merciless application of terror'.⁶ Booth maintained order at Port Arthur by constant supervision and by never losing the respect of the men.

When a sentence of flogging was imposed it was carried out immediately, sometimes before the assembled prisoners if the commandant wished to make an example. This had been a common practice for centuries in the British Navy where sailors were tied to the mast and flogged before the crew. Those realists, Backhouse

4. Ibid., p. 229.

5. Booth Diary, 23 October 1833.

6. Barry, Alexander Maconochie, p. 166

and Walker, ahead of their time in this as in many other matters of reform, questioned the value of public punishment. It appeared to them calculated to harden the minds of convicts and lessen their dread of punishment, quite apart from the fact that it was attended with some risk as 'the prisoners present at those times being between six and seven hundred, and the guard but forty in number.'⁷ That other reformer, Maconochie, thought 'it was only very rarely that corporal punishment operated beneficially.'⁸ Yet even he, while commandant on Norfolk Island, ordered floggings of up to 300 lashes, although they were administered privately with only officials present.

When reaction to the use of the lash became so widespread as to lead to its virtual abolition, reasons for supporting the move were varied. Humane sentiment was the most general force motivating people in England, and this played a large part in the attitude of members of the Molesworth Committee. A more particular view, based on personal experience in the colonies, came from the Reverend John West, writing in 1852. He found corporal punishment 'was held indispensable, and no severe reproach can be due to the government which authorised, or the magistrate who ordered, its infliction.'⁹ West could see the practical need for the lash in certain

7. Backhouse and Walker, 'Report', p. 229.

8. Quoted in Barry, Alexander Maconochie, p. 186.

9. West, The History of Tasmania, Vol. 2, p. 257.

circumstances, but he was no believer in it as a deterrent. Public flagellation 'degraded society more than it debased the sufferer',¹⁰ and he could find no extenuation for it. Certainly there is enough evidence to show that familiarity with the triangles did breed a certain contempt. Maconochie told a House of Commons Committee in 1847 that he had witnessed floggings for forty-four years and 'so far from having felt too much on such occasions, I am conscious of having felt too little.'¹¹

Because it suited the view they wished to present, members of the Molesworth Committee reported to the British Government that 'most convicts have a greater dread of flagellation than of hard work in the road-parties or in the chain-gangs.'¹² But the convicts themselves left other attitudes on record. Martin Cash dreaded the 'Log'* more than flogging.¹³ There was a certain esprit de corps requiring convicts to show stoicism while under corporal punishment. One boasted 'I took my flogging like a stone ... That first flogging made me ripe. I said to myself "I can take it like a bullock"'.¹⁴ Although he was never flogged, J.F. Mortlock observed that his fellow prisoners 'dreaded [solitary confinement] as infinitely worse than any brief corporeal suffering.'¹⁵

* A block of wood secured to a convict's irons by means of a chain about three feet long which he had to carry whenever he moved.

10. Ibid.

11. Quoted in Barry, Alexander Maconochie, p. 186.

12. Quoted in M. Clark, Sources in Australian History, (London 1963) p. 201.

13. Martin Cash, p. 61

14. Quoted in Robson, The Convict Settlers of Australia, pp. 107/108.

15. Mortlock, Experiences of a Convict, p. 76

This supports Dr. L.L. Robson's view that 'the cat-o-nine-tails was feared until its first use,¹⁶ but his conclusion '... after which a marked deterioration of the convict's character set in' must be questioned. It is impossible to determine if a marked deterioration of character set in with every convict who was flogged. Certainly the evidence is overwhelming that flogging hardened and brutalised many convicts. On the other hand, thousands of convicts became absorbed into colonial society after serving secondary sentences and left no record of their experiences. It is improbable that there were not some who learnt the wisdom of bowing to the inevitable while under sentence and were better men for it after release.

Instructions to commandants of secondary penal establishments as early as 1821 specified solitary confinement or extra hard labour as preferable to the use of the lash.¹⁷ At Port Macquarie corporal punishment was ordered to be used as seldom as possible and in no case were more than fifty lashes to be inflicted, whatever the crime. In practice this instruction was to be almost void as 'flogging was the most common punishment, and the [most common] offence, [was] continued attempts at a dash for liberty.'¹⁸ The pattern was repeated in Van Diemen's Land in the 1820's. Lieutenant Governor Arthur

16. Robson, The Convict Settlers of Australia, p. 111

17. H.R.A., Series 1, Vol. 10, p. 484.

18. Hogg, 'A History of Port Macquarie', p. 34.

preferred moral suasion to corporal punishment and directed Major Lord at Maria Island to substitute solitary cells and the chain gang for the lash. In fact, Lempriere says that 'infractions of the regulations were severely visited. Almost in every case corporal punishment was resorted to.'¹⁹ At Macquarie Harbour, too, in the early 1820's 'corporal punishment was ... almost the only method adopted, and was in some cases carried to a great extent.'²⁰ Later in the decade under Baylee, when no more than one hundred lashes could be awarded by a single magistrate, the maximum was rarely ordered, 'except to runaways, who seldom escaped feeling the full force of the law.'²¹

Flogging as a summary punishment was largely abandoned by 1840, and this is attributed in part to the good work of the Molesworth Committee in exposing the horrors of the convict system. Yet as early as 1834 Arthur reported to Stanley that 'flagellation is much less frequent than formerly.'²² In the same year, Backhouse and Walker, as independent observers, noted that 'as regards punishment on an extended scale, everything seems to be effected on Tasman's Peninsula that restraint and compulsory labour can effect, short of the silence imposed in the Auburn System.'²³ Offences committed at

19. Lempriere, The Penal Settlements, p. 58.

20. Ibid., p. 49.

21. Ibid.

22. G033/18, p. 782, 19 December 1834.

23. This system was named after the Auburn Prison in New York where prisoners were confined in small dark cells in an interior cell block contrasting with light outside cells in the hub and wheel spoke architecture of the Philadelphia System.

the settlement are punished summarily by flagellation, solitary confinement on bread and water, or an order to sleep in jail; but these are to be regarded as occasional, accessory punishments of short duration.²⁴ This was at a time when 'all the most abandoned irreclaimable characters are kept either at the penal settlement on Tasman's Peninsula, or on the roads.'²⁵

If governors' reports to secretaries of state are any guide, flogging fell into further disuse under Arthur's successor Franklin, who told Glenelg in 1838 that 'use of the lash as a mode of punishment had been reduced as much as possible and generally speaking hard labour either on the roads or the treadwheel with occasional solitary confinement have been substituted.'²⁶ The modus operandi could have been the same as at secondary penal establishments in the 1820's, the governors ordered limited use of the lash, and in fact the commandants found it convenient to make extensive use of it. In theory, flogging was to have virtually no place in the Probation System and it is generally thought that by the mid-1840's the use of the lash was exceptional. Dr. Robson cites an instance from this period and regards it as rare.²⁷ Certainly flogging by this time was not resorted to with the facility of earlier years, but neither was it rare.*

24. Backhouse and Walker, 'Report', p. 241.

25. G033/20, p. 342, 17 September 1835.

26. G033/29, p. 393, 30 July 1838.

27. Robson, The Convict Settlers of Australia, p. 97

* See Chapter 2, Table 5.

Even so, this should not obscure the fact that from 1831 there was a steady decline in the number of convicts receiving corporal punishment pro rata to the number at Port Arthur. (See Appendix I.) Unfortunately the figures for Norfolk Island are included in those for New South Wales, so comparisons between the figures for the two major secondary penal establishments cannot be made. In both the colonies, as well as the penal settlements, flogging was decreasing from 1836; so the general picture is that the trend away from corporal punishment was begun before the Molesworth Committee had met.

The overall picture during the 1830's is that flogging was more common in New South Wales than at Port Arthur and the average number of lashes inflicted was also higher. No doubt the inclusion of Norfolk Island raised the general averages for New South Wales, but considering the nature of the Port Arthur settlement the figures show a remarkably good record. (See Appendix I.) Mr. Justice Barry contributes to the misleading public impression of the settlement by selecting 1837 from which to quote the figures of one in four flogged and the average number of lashes as twenty-six.²⁸ He could as easily have chosen the years preceding and following, 1836 and 1838, when the figure for both years was one in nine flogged, and the average number of lashes was forty-two in 1836 and thirty-two in 1838.

No-one will question that flogging was brutal, inhuman and often sadistic. It was anachronistic in a period following the so-called

28. Barry, Alexander Maconochie, p. 43.

age of enlightenment. But like much else concerning the convict era of Australian history, it has had little dispassionate study to correct the influence of fictional writings of such novelists as Marcus Clarke and Price Warung.

Floggings and mass public hangings were the punishments that are described and re-described in convict period writing. They were immediate and brutal, and they are shocking to the twentieth century mind. There were other punishments just as brutal as flogging but without flogging's dramatic immediacy. Hard labour on the roads in chains under the supervision of a vindictive overseer was just as soul destroying and more prolonged. For 'certain hopelessly incorrigible ruffians' there were the buck stalls, 'a long passage divided into compartments by a brick wall about four feet high with benches in front, on which stones were placed, each man having to work in a standing position while chained to a ring set in the wall.'²⁹ On the large treadmill which replaced them, a visitor saw '60 men at once working in chains, grinding corn for the Commissariat.'³⁰ To chain a man to a treadmill for a working day of dawn to dusk, with two meal breaks, is to treat him as a brute. It was one way of temporarily subduing such convicts as came 'before the magistrates thirty times in twelve years', or were 'punished no

29. Sweatman Journal, Vol. 2, pp. 323/324, M.L. A1725; and Martin Cash, p. 54

30. Sweatman Journal, p. 324.

less than seventy times ... and when forty seven years old, had spent thirty-three years under supervision.³¹ At least the tortures of the 'stretcher' and 'gag' as used on Norfolk Island were never a part of physical punishments at Port Arthur.

An attempt had been made in 1832 to devise a standard punishment for each offence, and to aid justice by limiting the time in which a complaint could be heard against a convict to forty-eight hours after the offence was committed.³² Chief Police Magistrate Forster listed eight categories of punishment in ascending order of severity, to guide magistrates - reprimand, treadwheel, hard labour by day and solitary by night, solitary confinement on bread and water, hard labour on the roads, corporal punishment, work in a chain gang, and confinement at a penal settlement. This pattern, if followed by the courts, would indicate that only the worst offenders were sentenced to secondary penal settlements. Once there, the cycle could begin again for habitual criminals. Booth had the threat of chains, or work at the coal mines on the north western tip of Tasman's Peninsula to hold over the incorrigibles. Work conditions at the mines were such that a sentence there 'was classified as the most severe punishment in the colony and as such was looked upon with dread.'³³ Booth went to the mines frequently to keep an eye on

31. Robson, The Convict Settlers of Australia, pp. 96/98.

32. CS016/1/8.

33. A. McMahon, 'The Convict Stations of Norfolk Bay', in T.H.R.A. Papers and Proceedings, Volume Thirteen, No. 3, p. 55.

things in general and to hear complaints against the convicts. Records of these hearings show his sentences to be reasonable and never excessive. When the offence was a minor one and the convict's character was generally good, the sentence was a reprimand. For secreting food or clothing it was usually solitary confinement on bread and water for two or three days, or to a chain gang for up to a month. Some cases were dismissed, and one lifer was acquitted for want of sufficient evidence. This was William Holmes, who had been charged with entering the bakehouse at midnight under very suspicious circumstances, while employed as a watchman. Pilfering, refusing to work, insolence and removing irons were all offences that were punished with twenty-five stripes. Absconding, always dealt with harshly, drew twenty-five stripes and six months in a chain gang for another lifer, William Smith, who went absent without leave one Saturday night and was not brought back until the following Monday morning. ³⁴

Power to exercise this summary jurisdiction was regulated by two acts 10 Geo. IV No. 2 and 11 Geo. IV No. 8. Arthur kept all his actions within the letter of the law and had not hesitated to question the legality of an instruction from Stanley to work sixteen convicts on the convict ship Southwark in chains.³⁵ Chief Justice Pedder

34. All these examples are from M.L. No. A1158, Volume 1, T.P. 129.

35. G02/8, p. 349.

questioned whether convicts could be legally ironed, except on special occasions as a means of precaution rather than of punishment. Arthur sought the opinion of Attorney General A. Stephen, who made it clear that men could be sentenced in the colony to be worked in chains; and indeed chain gangs working on the roads were a common sight in Van Diemen's Land, but this was not the same as putting a man into chains for the mere fact of having been sentenced to transportation. Stephen had also pointed out that if the British Government passed a law to make working in irons a punishment, it would remove this form of further penalty from the prerogative of the colonial magistrate, where it was a useful deterrent for secondary discipline.³⁶ The sixteen convicts on the Southwark, and another group of thirty-one on the Moffatt,³⁷ must have been kept in chains for some months and also kept ignorant of the illegality of Stanley's instruction. Arthur reported to Hay in the middle of the following year that 'I simply informed them that a representation I had made in their favour was acceded to, and that their chains should therefore be taken off. They appear to be very grateful for the relaxation extended to them.'³⁸

Stanley's illegal action in ordering these men to be put in chains pales into insignificance beside the illegal sentences imposed on certain convicts by magistrates in New South Wales before

36. G033/17, 27 May 1834, Arthur in reply to Stanley G01/15, p. 381.

37. G02/9, p. 6.

38. G033/20, p. 98, 30 July 1835.

their powers were restricted by a new act, 3 Will. IV, No. 3, which came into force on 1 October 1832.³⁹ The magistrates - can there be any significance in the fact that the names Campbell, MacLeod and Douglas predominate? - were ordering the lash to extort confessions. One defendant, Thomas Lahey, was to receive twenty-five lashes every second morning until he produced the remainder of property he was alleged to have stolen, and then to serve five years at Port Macquarie. Lahey received 200 lashes, did not produce the property, and was then discharged.⁴⁰ The 1832 Act stopped such illegal and inhuman practices, and reduced the number of lashes that a single magistrate might impose from 150 to fifty. Bourke explained to Spring Rice that the guiding principle of the Act was to send men to road gangs rather than to penal settlements. He thought convicts could be more usefully employed on the roads.

Mr. Justice Barry thinks that Section 7 of the Act, which defined the powers of a Commandant or Superintendent of a penal settlement in maintaining discipline, 'in practice depended not on rules or regulations but on individual caprice and cruelty.'⁴¹ He shows that this could well be so in so far as the Act was applied to Norfolk Island. Mr. Justice Barry believes that at the penal

39. H.R.A. Series 1, Vol. 17, p. 602, Bourke to Rice, 14 December 1834.

40. H.R.A. Series 1, Vol. 11, p. 805, 24 February 1824. This is one of several such cases recorded here.

41. Barry, Alexander Maconochie, p. 94.

settlements

... the legal limits of authority meant nothing, and a Commandant or Superintendent was constrained in the exercise of despotic powers only by such personal qualities of fairness and mercy as survived the corrupting influence of the system.⁴²

The examples of Justice meted out by Booth indicate that his personal qualities stood up well to the corrupting influences of the system.

Not all commandants and superintendents showed Booth's respect for the law, nor his qualities of justice and mercy in its application. Nevertheless, their powers were defined in law, even if the various applications and interpretations of it varied considerably between different penal settlements. In 1835 a new Act, 6 Will. IV No. 2, gave courts of General or Quarter Sessions 'cognizance in a summary way of all crimes and misdemeanours not punishable by death and any other offences ... by any transported offenders ...' and required that 'not less than three Justices shall be present and remain as the sitting justices during the whole time of the trial.'⁴³ This meant that any three officers, civil or military, who were justices of the peace, could hear such charges on the spot. Capital charges were beyond their jurisdiction and had to be tried by the Supreme Court in Hobart. Such cases were heard by a judge and jury, a 'privilege' that Henry Melville wanted

42. Ibid., p. 95.

43. V.D.L. Acts of the Legislative Council, Vol. 1, p. 453.

to see replaced by courts martial.⁴⁴ On Norfolk Island, because there were virtually no free men to serve as jurors, capital charges were heard by a judge and a jury of five officers.⁴⁵ This could only have put the Island defendants at a disadvantage compared with their counterparts at Port Arthur, and demonstrates yet again the advantage of siting penal settlements within easy reach of the seat of government.

In 1838 the Act dealing with courts of General or Quarter Sessions was revised again and a new one, 2 Vic. No. 14 became operative. The legal form of justice for offenders was being watched, even if its application was still somewhat uneven. Law reform was part of the age of reform in England and was filtering down to the colonies. It was one aspect of the increasing interest in prison life which was manifesting itself. Consequent pressure for the use of solitary confinement, not only as a punishment but as a means of reforming the criminal, was one such area of concern. Early penitentiaries such as that at Millbank were expensive to build and maintain, and it was doubtful if they achieved the reforms hoped for. But by 1838 the British Parliament had been convinced, partly by reports from the Prisons Inspectors, that a uniform policy based on separate confinement should be adopted.⁴⁶ Reformers, perhaps influenced by evangelical

44. H. Melville, The Present State of Australasia (London 1851), p.179.

45. Barry, Alexander Maconochie, p. 160.

46. Prisons Inspectors 3rd Report, P.P. 1838, quoted Shaw, Convicts and the Colonies, p. 268.

non-conformist sentiment, promoted the idea that silence and solitude would enable hardened criminals to reflect on their sins, see the error of their ways and return to the paths of righteousness. They were to be sadly disillusioned. Quakers Backhouse and Walker were much more realistic when they told Lieutenant Governor Arthur in 1833 that provision for solitary confinement was needed at Port Arthur, as the only alternative was corporal punishment.⁴⁷ When they made a return visit to Port Arthur in November of the following year, solitary confinement on bread and water was one of the punishments being imposed. Booth had in the meantime succeeded Gibbons as commandant.

Attempts were made to promote solitary confinement as a punishment from about 1820 in New South Wales, (see above p. 112) but the lash was quicker and easier, the convict's labour was not lost, and in any case there was rarely sufficient provision for separate cells. At Macquarie Harbour the problem was partly solved by putting the worst sixty of the 370 convicts at the settlement on a small island, where they had to sleep in cells.⁴⁸ A sentence to close confinement on bread and water was considered by some of the most reprobate as 'no punishment at all, for many openly declared that they would rather be confined on bread and water for a whole week than work a

47. Backhouse and Walker, 'Report', p. 26.

48. Lempriere, The Penal Settlements, p. 47

single day on full ration.⁴⁹ Provision for solitary confinement throughout Van Diemen's Land must have increased during the 1830's. In 1834 magistrates sentenced six percent of men coming before them to solitary confinement; this had risen in 1839 to twenty-five percent.⁵⁰ Provision of adequate accommodation became a problem again in the 1840's during the Probation System period. There were forty probation stations in operation in Van Diemen's Land in 1847, six of them on Tasman's Peninsula. The Prison Inspectors reported on the need for 'ample' means of solitary confinement at every station.⁵¹

Maconochie was opposed to both the silent (Auburn) and separate (Philadelphia) systems, arguing that man was a social being.⁵² Modern psychologists have proved him right and shown that undue isolation results in deterioration of personality. Nevertheless, official policy had swung away from corporal punishment and towards separation of the offending convict from his fellows, with the incompatible aims of punishment and reform. A punishment return for 1838 shows that 230 men were sentenced to corporal punishment, 487 to the chain gang, and 1065 to solitary confinement.⁵³ In addition, fifteen

49. Ibid.

50. Shaw, Convicts and the Colonies, p. 201.

51. Ibid., p. 298.

52. Barry, Alexander Maconochie, pp. 180/181.

53. M.L. No. A1065, Volume 4, T.P. 36.

were ordered to silent apartments. At Fort Arthur, at least until 1837, solitary confinement never exceeded twenty-one days as it 'was not thought advisable to pursue it further.'⁵⁴ Lieutenant Governor Franklin, who prevaricated a little over carrying out instructions to introduce the Probation System, asked Colonial Secretary Russell in 1840 for more precise instructions on the erection of suitable buildings for the introduction of the separate system.⁵⁵

Franklin was worried about the cost and a month later followed his request with a warning that with regard to the separate system 'some time must elapse before it can be wholly established with the present means of the colony ... to carry out fully the separate and penitent systems at once, even were the means at my command, would involve an outlay which I cannot contemplate H.M. Government sanctioning.'⁵⁶ In fact the Model Prison for the total segregation of incorrigible and unmanageable convicts was not built until later in the decade and this combined both separate and silent theories of management. Booth had been told in 1841 that it was not advisable to attempt to enforce perpetual silence by coercive means, as this could never be entirely successful and it provoked and irritated the criminal.⁵⁷

54. Jane Franklin Diary, March 1837.

55. G033.36, p. 555, 18 November 1840.

56. C0280/128 Microfilm Reel 499. Franklin to Russell, 19.1.1841.

57. CS05/274/7120, Forster to Booth, 12.1.1841.

But some attempt was made to introduce the separate system at the probation stations. The intentions may have been good but in the event it was not entirely practicable and one superintendent of a probation station was not even sure that he exactly understood what was to be done with convicts under the separate system. He requested information on the subject and was told by Forster that they were to attend morning prayers, but to breakfast and dine in their separate apartments, where they should be visited by the religious instructor.⁵⁸ As the convicts worked together and were not kept separated entirely one from the other, this was not strictly the Philadelphia system, which would have been impossible in the circumstances.

With the proper buildings and only small numbers to handle, it could work successfully.

When in operation, the separate prison at Port Arthur was governed under minute instructions to the Keeper in Charge for the daily care and cleanliness of the prison and prisoners; and the Commandant of the settlement also had strict orders on his responsibility towards convicts detained there. He was instructed to visit each of them twice a week and hear any complaints, which were to be promptly and fully investigated. He was to attend immediately to any

58. C.G. 1969, G.H. Courtenay, Jerusalem to Forster, 18.8.1844.

recommendation of the medical officers touching on the treatment of the inmates, and to release forthwith any prisoner on the recommendation of the Senior Surgeon on either mental or physical grounds.

The Keeper in Charge was also strictly enjoined to be specially watchful in observing whether the discipline appeared to produce any injurious effects upon the health of any prisoner either mentally or physically.⁵⁹ Many convicts may have had a tendency to instability when sentenced to the separate prison and this would tip the balance to insanity for men of their intelligence level. There were enough lunatics at Port Arthur in the late 1840's to justify the erection of a substantial brick asylum. It is the best preserved building of the convict era on the Peninsula, although it has been altered from its original cruciform shape. Lunatics were also confined at Saltwater River from 1852.⁶⁰ However, their condition cannot necessarily be blamed on the convict system. Medical examination for lunacy in Britain at that time was lax and many convicts were of unsound mind on arrival. They were always segregated, but there is little reliable evidence on how they were handled. The provision made for them, and the regulations enjoining watchfulness for the mental health of men in the separate prison, contrasts with the much quoted case of Charles Anderson, the man who was chained to a rock in

59. Dixson Library Item No. 36.

60. A. McMahon, 'The Convict Stations of Norfolk Bay', p. 63.

Sydney Harbour, among other barbaric punishments; and with the use John Price made of solitary confinement while commandant of Norfolk Island to break a man's spirit.⁶¹

Physical conditions during confinement at the two settlements also invite comparison. At Port Arthur the Regulations made the Keeper in Charge responsible for the daily cleanliness of both the prison and the prisoners; the Medical Officer was required to make a weekly inspection of the buildings where the convicts slept and worked, and of their bedding, and report to the Commandant whether they were clean and healthy or otherwise; and the convict himself was 'always to appear as clean in his person and dress as circumstances will admit.'⁶²

The Reverend Dr. Ullathorne visited some condemned men on Norfolk Island in 1834. When the guard opened the first door he said 'Stand aside, Sir'. 'Then came forth a yellow exhalation, the produce of the bodies of the men confined therein.'⁶³ Bishop Willson was also horrified at conditions when he visited the Island in 1846, and his report of what he saw on another visit in 1852 hastened the abandonment of the island penal settlement.

Conditions and treatment of convicts on Norfolk Island varied considerably under Anderson, 1834-39, Maconochie, 1840-44, Childs, 1844-46, and Price 1846-53. Booth's eleven year tenure as commandant at Port Arthur meant a greater consistency of command. Even had Booth,

61. Martin Cash, pp. 166/167.

62. Regulations for the Penal Settlement at Port Arthur. Original edition n.d., reprinted 1858 and 1966, p. 19.

63. Quoted, Barry, Alexander Maconochie, p. 91.

and the most important of his successors, W.T.N. Champ, wished to use the excessively brutal punishments imposed on Norfolk Island, and there is no evidence that they did, supervision from Hobart would have constrained them. The remoteness of Norfolk Island allowed its commandants greater freedom of action, whether for good as under Maconochie, or for ill as under Price.

Norfolk Island was the scene of the greatest physical cruelty to convicts under secondary penal detention, but greater mental cruelty was inflicted in the Model Prison at Port Arthur. Quantitative and qualitative comparisons cannot be made. The important difference is that on Norfolk Island the cruelty was knowingly perpetrated, while convicts were placed in the Model Prison in the genuine belief that this was a more humane punishment than the flogging which it replaced. Moreover, it was believed to be a constructive punishment in that reform was possible. It is pointless to make judgements such as that of Mr. Justice Barry, who says 'the Separate System was carried to the horrible perfection of authoritarian logic at Port Arthur.'⁶⁴ With post-Freudian hindsight the mental torture of the Model Prison is obviously 'horrible perfection'. But surely the motives, methods and beliefs of those using 'authoritarian logic' to create it cannot be condemned. It was built and used with the best of intentions and prompted by the most up-to-date humanitarian motives of the day.

64. Ibid., p. 180.

Current penal theory in the 1840's dictated the separate system for reasons of morality, sanitation and discipline. Its extension to the Model Prison, and within that Prison, the dumb cells, was in its day the most modern method of handling the few utter incorrigibles. Until then they had been punished by buck stalls, lash, treadwheel or chain gang. In fact, the chain gang was still by far the most commonly used punishment. The Model Prison was used for comparatively few of the worst convicts at Port Arthur, and was operated thoroughly and efficiently. It segregated the worst of the convicts and so aided discipline. Because of its design, only a nominal staff was needed to supervise it so, apart from the original building costs, it was also economical. It was clean and orderly. Disorderly conduct resulting in removal to a dumb cell may all too often have been hysteria, intensified to insanity by treatment which was meant to quieten. Deplorable as this might be in retrospect, it was no more condemnable than many medical treatments of the time which were no less than torture, but practised in the genuine belief that the end result would be the patient's good. The limits of knowledge at any given time must govern criticism of men operating within those limits.

From the earliest days of Port Arthur, convicts had an advantage undreamed of at other secondary penal settlements. Twice a year they had the opportunity to petition the Lieutenant Governor personally if they were dis-satisfied with their treatment. The proximity of the

settlement to Hobart made frequent visits by the Governor of the day a simple matter. At a general muster of prisoners on one visit, Arthur 'gave an audience to any and every man who wished to plead his case in the most patient manner.'⁶⁵ There were nearly a hundred of them seeking some dispensation, and the next morning after divine service he heard another sixty. Franklin continued the practice. On his first visit to Port Arthur in March 1837 he was 'long employed amongst convicts listening to their petitions and giving orders to have some removed.'⁶⁶

Thus, there was hope as well as despair, justice as well as severity, and at least some mercy to temper the justice. The convict receiving fifty lashes would find cold comfort in the knowledge that his sentence was strictly within the law. But it is important in an evaluation of Port Arthur to know that that sentence was not an arbitrary act of brutality. Most of the charges heard against convicts at the settlement were for breaches of regulations, misdemeanours that were summarily dealt with. The overall picture is not one of undue violence, but of an orderly system maintained by impersonal severity allowing little opportunity for major crime. Indeed, the convict's life was so highly organised and supervised that with more staff and a better type of constable the record might have been even better.

65. Booth Diary, 17 January 1835.

66. Jane Franklin Diary, 24 March 1837.

CHAPTER 6

CONVICTS' DAILY LIFE

A sentence of transportation to Port Arthur did not mean a term of incarceration in a useless void that simply segregated the guilty from the free. It was a sentence to hard labour and for the able bodied convict the term had very real meaning. Convict labour was directed to positive and creative ends. Henry Melville was giving vent to his anti-Arthur feelings rather than telling the truth when he said it was 'not expected that the men can be employed for useful purposes, and what little is accomplished, is either for the benefit of the overseers, or else entirely useless.'¹ Melville knew the range and extent of productivity at Port Arthur,² so it requires a willing suspension of disbelief to accept his statement that there were 'gangs of from thirty to fifty men, and their ordinary task is, that of rolling a heavy log of wood a certain distance one day, and rolling it back the next.'³ This must be a wilful distortion of the work done by the carrying gang, which carried large beams on their shoulders from the saw pits to the settlement for ship-building and other purposes.⁴ A small party from the carrying gang also carried twenty-five pound bundles of roofing shingles from Tongataboo four miles to Port Arthur, to provide highly inflammable roofs which were a cause for concern during bushfires.⁵ There was

1. Melville, The Present State, p. 160.

2. Ibid., Chapters 5 and 6.

3. Ibid., p. 160.

4. Martin Cash, p. 52.

5. Booth Diary, 19 January 1834.

no suitable slate in the area and metal roofing would have been expensive, but there was plenty of labour to cut shingles.

Hard work was resisted and resented. There was even 'a general maxim among English Thieves to consider everything in shape of work as a degradation.'⁶ But the right of the Crown to the use of a transported felon's labour was long established. From early in the seventeenth century convicts had been sent to the American plantations, where their labour would be beneficial. A century later the principle was re-asserted in an act of parliament, which 'recited ... that the labour of criminals in the colonies would benefit the nation.'⁷ Later in the eighteenth century convicts housed on the hulks were used to dredge harbours in Britain and Bermuda.⁸ There was never any doubt of the intention that convicts at secondary penal settlements were to be put to hard labour.

At Port Macquarie, and to a lesser extent on Maria Island, the work was not arduous. At Macquarie Harbour it was very arduous and on Norfolk Island and at Port Arthur the majority worked long and hard. Even so, there were of necessity considerable variations in the amount and type of tasks performed. Arthur reported to Hay in 1834 that there were good financial results from working convicts longer and harder,⁹ but re-assured him that gentlemen convicts 'when sent to

6. P. Cunningham, Two Years in New South Wales, first published 1827, new edition, ed. D.S. Macmillan (Sydney, 1966), p. 303.

7. West, The History of Tasmania, Vol. 2, p. 104.

8. Dallas, 'Slavery in Australia'.

9. G033/16, p. 276, 8 February 1834.

Port Arthur are not put to hard labour but are worked in the gardens, so essential a part of the system to prevent scurvy which mental depression and salt meat diet together are so likely to generate.¹⁰ During the foundation years at Port Arthur all convicts were allowed a small plot of land in which to grow vegetables, with the dual purpose of reducing scurvy and occupying their leisure hours. The difficulty of preventing trafficking led Booth to end the practice. He also banned tobacco, and stopped the prisoners hunting and fishing.

During the first two years, conditions at Port Arthur were primitive with few amenities and temporary huts of rough timber and bark to serve as a penitentiary.¹¹ Fish and game supplemented the rations for convicts, who laboured at clearing the land and laying the foundations of what was to become a virtual township occupied by thousands of prisoners, soldiers and civil staff. Problems of control increased as the numbers rose. The original sixty-eight convicts of September 1830 had increased to 475 in 1833, so that stricter discipline and greater regimentation had to be imposed. Not that Booth was quite arbitrary in these matters. Some convicts were sent fishing after it had been stopped as a general practice,¹² and on Christmas Eve of his first year at the settlement, Booth let the prisoners off work at four p.m. to enable them to go fishing

10. GO33/17, p. 421, 10 July 1834.

11. Backhouse and Walker, 'Report', pp. 240/241.

12. Lempriere, unpublished diary, 1 April 1834.

for 'a cart load of mutton fish ... and such a haul of salmon they were unable to draw them in.'¹³ After divine service and their Christmas dinner, the convicts were issued with grog and tobacco.¹⁴ There was never any work on Christmas Day, 'when those who were kept in the cells, together with all other prisoners, were permitted to assemble in the yard, and also to receive tea, sugar, tobacco, or whatever else would be given them by the free overseers. They were also permitted to smoke tobacco for that and the next three days.'¹⁵ Such occasional concessions acted as a safety valve for the tensions and rebellious spirits which built up in the monotonous day to day routine.

Surgeon Cunningham found on the many convict ships in which he travelled that 'convicts are very easily managed when once a regular system is introduced among them.'¹⁶ Nothing could have been more regular than the working day of a convict at Port Arthur. He rose early, washed in a tub in the penitentiary yard, had breakfast and went to work. After a one hour break for midday dinner he went back to work until late afternoon. The evening meal was the same as breakfast and he was then locked in his cell until daylight, when the pattern was repeated. The hours of labour varied with the time of year. From November to February they were from 5.30 a.m. to

13. Booth Diary, 24 December 1833.

14. Ibid., 25 December 1833.

15. Martin Cash, p. 63.

16. Cunningham, Two Years in N.S.W., p. 311.

6 p.m. ranging down through the spring and autumn months to 7.30 a.m. to 4.30 p.m. in June and July.¹⁷ Working parties in the bush were summoned to dinner at a quarter to twelve by a ball hoisted at the flagstaff.¹⁸ During the 1830's grace was not said 'lest merely ridiculed',¹⁹ but as part of the attempt at reform under the Probation System, prayers were said before breakfast and after dinner.²⁰ The monotony of the convict's existence was accentuated by his diet, which, while adequate and nourishing, was restricted and uninteresting. Although the prisoner in solitary confinement had to subsist on bread and water, Arthur was well aware that a convict subject to 'a continued and laborious coercion cannot be punished by privation of food. A sufficient quantity to preserve him in full health is necessary to render that punishment effective which must proceed from some other source.'²¹ In 1834 Arthur appointed a board to enquire into the scale of rations for convicts, and also sought the advice of the Colonial Surgeon and his assistant. The Executive Council then advised the following daily scale for convicts at penal settlements:²²

1½ lbs 12 p.c. bread of 1¼ lb bread plus ¼ lb oatmeal
 1 lb fresh or salt meat, or 10 oz salt pork
 ½ lb vegetables, ½ oz salt, ½ oz soap.

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17. Regulations for the Penal Settlement at Port Arthur. Original edition no date; reprinted 1858 and 1966. All references are to the 1966 edition. p. 21.
18. Martin Cash, p. 51.
19. Jane Franklin Diary, 24 March, 1837.
20. Crooke, The Convict, pp. 57/58.
21. Arthur, Defence of Transportation, p. 119.
22. E.C. 2/3, p. 336.

After 1840 this was changed slightly by reducing the meat to three quarters of a pound, and increasing the flour or bread to one and three quarter pounds and the vegetables to three quarters of a pound.²³ An educated convict, J.F. Mortlock, found felling trees and digging potatoes not too much for his strength on the 'daily ration of brown wheaten bread and good fresh mutton.'²⁴ Melville demonstrates how ample the convict's rations were by comparing them with the daily issue to soldiers.²⁵ The soldier was free to supplement his food by his own exertions, and of course sixpence a day would buy extras to give variety not available to the convict. Melville also compares the ration with that of an Irish schoolmaster,²⁶ who received three and a half pounds of potatoes and a pint of milk daily in addition to small quantities of tea, sugar, bread and oatmeal, but no meat. Once again the basis for comparison is limited. The schoolmaster was free, and received a salary of twenty pounds per annum. But it does indicate that by the standards of the day, convicts at Port Arthur were well fed. Officers stationed on Tasman's Peninsula drew the same rations as the convicts, except soap, and anything else they wanted could be bought through the Commissariat Department. An officer, possibly with a wife and children, could

23. Regulations for the Penal Settlement, p. 20.

24. J.F. Mortlock, Experiences of a Convict, First published 1864-5, new edition ed. G.A. Wilkes and A.G. Mitchell (Sydney 1965). All references are to the 1965 edition. p. 82.

25. Melville, The Present State, p. 172.

26. Ibid., p. 375.

also supplement his rations by keeping 'pigs and poultry secured on his premises.'²⁷

There appear to have been no real problems in the supply of the large quantities of food needed to feed the ever growing numbers on Tasman's Peninsula. It was the cost that caused the worries. Booth aimed at provisioning the settlement from its own resources,²⁸ an ambition that gradually receded as the number of convicts in his care increased. A twenty-eight acre farm at Safety Cove produced 'turnips, potatoes and fine cabbages',²⁹ enough to supply the whole establishment. Sufficient grain and meat were beyond the Peninsula's capacity to supply. The Commissariat Department bought wheat by tender from Van Diemen's Land farmers at an average price of six shillings per bushel during the 1830's.³⁰ It was an assured market and the settlers nearly doubled the acreage during this decade.³¹ The wheat was ground at Hobart and shipped to Port Arthur, with consequent loss in storage, grinding and transport. Booth and Lempriere wanted to use convict labour to grow their own wheat, grind it by treadmill, and fatten pigs on the bran.³² A committee to which Governor Franklin referred the suggestion vetoed any extensive system of agriculture as 'the depots of stores provisions and produce

27. Regulations for the Penal Settlement, p. 15.

28. Jane Franklin Diary, 26 March 1837.

29. Ibid.

30. R.M. Hartwell, The Economic Development of Van Diemen's Land, 1820-1850, (Melbourne, 1954), p. 135.

31. Ibid.

32. G033/31, p. 386 and p. 394.

rendered necessary ... would be inducement to plunder generally, and would provide subsistence for absconding convicts.³³ Lempriere calculated that 1,250 acres at an average of thirty bushels to the acre would produce the annual requirement of about two million pounds, or 37,500 bushels. Even such a saving did not tempt the committee to put cost before security; or perhaps they were the owners of wheat producing farms. Three years later in 1841 Saltwater River Probation Station was established, 'primarily for the purpose of wheat growing,'³⁴ and the following year Impression Bay Probation Station 'was hastily prepared ... and wheat sown as the main crop.'³⁵ Early in 1842 there were 3,259 convicts on Tasman's Peninsula,³⁶ dispersed on various stations under the Probation System. 'Wheat growing on the Peninsula was an expensive failure,'³⁷ typifying the operations of the System as a whole.

For much the same reasons, the settlement could never have become self-sufficient in meat. The original settler on the Peninsula, Joseph Tice Gellibrand, ran cattle on his farm near Coal Point, but the country would not support stock on any large scale. Lempriere estimated 'it would take about 4,300 head of cattle per annum' to

33. Ibid.

34. A. McMahon, 'The Convict Stations of Norfolk Bay', in T.H.R.A. Papers and Proceedings, Volume Thirteen, No. 3, p. 61.

35. Ibid.

36. CS022/52/305.

37. McMahon, 'The Convict Stations', p. 66.

supply the establishment in 1839 and there was not enough grazing ground for that number.³⁸ Tenders were called for the supply of some kinds of meat and cattle were also bought on the hoof, sometimes being brought from Twofold Bay in New South Wales. There was a slaughtering station on Forestier's Peninsula, about seven miles from Eagle Hawk Neck and a Commissariat clerk was stationed there to inspect the meat.³⁹ Livestock was not kept on Tasman's Peninsula in the 1830's as it 'might induce desertion on the part of the convicts';⁴⁰ but the policy was changed in 1841 with the introduction of livestock at Saltwater River.

Until the changes brought about by the Probation System, primary production was confined almost exclusively to vegetable growing, so there would have been little use for the talents of farm labourers among the convict intake.

Use was made of any skills possessed by convicts, but throughout the colony 'skilled labour was scarce and dear'.⁴¹ Many convicts were taught trades at Port Arthur and returned to free life in the colony equipped to earn a living, while at the same time contributing to the growth of the community. But the majority were unskilled

38. Lempriere, The Penal Settlements, p. 78.

39. Ibid., p. 70.

40. C.D. correspondence, quoted McMahon, 'The Convict Stations', p. 62.

41. Hartwell, The Economic Development of V.D.L., p. 144.

labourers. The gamut ran from clerk and schoolmaster down to firewood cutter, but there were fifteen woodcutters to one schoolmaster, forty-nine timber carriers to one barber.⁴² By far the biggest proportion of labour at Port Arthur was used on timber in one way or another. Timber is a constant theme in the settlement's economy and activities. In 1830 Port Arthur was authorised as an establishment of a secondary penal character to which convicts might be removed from the penal settlements and employed in cutting and sawing timber for Government purposes.⁴³ Apart from large quantities shipped off the Peninsula, timber of all kinds was used extensively at the settlement. The first buildings were of rough timber and bark, but by 1834 all the buildings were of weatherboard except the temporary penitentiary huts.⁴⁴ These were replaced by four wooden buildings ranged around a large yard,⁴⁵ which served until the four storey brick penitentiary was first occupied on New Year's Day 1846.⁴⁶ Not until the 1840's were brick and stone used extensively to build the larger more permanent buildings. During the first decade, only the church and the guardhouse were built of stone. All the other buildings were of wood, white-washed outside, and with shingle roofs. Ranged up the hill from the harbour were three rows of houses, 'as regularly built as the locality of the place and the skill of its

42. Backhouse and Walker, 'Report', p. 247.

43. E.C. 2/3, 15 September 1830.

44. Backhouse and Walker, 'Report', pp. 240/241.

45. Jane Franklin Diary, March 1837.

46. Tasmanian Mail, 8 January 1898, p. 12, c.3.

first architects would admit',⁴⁷ and the many other buildings comprising the settlement included one two hundred and twenty eight feet long by twenty eight feet wide which was subdivided into a store for raw materials and shops for the various artificers.⁴⁸

Timber was cut, sawed and carried by hand to erect these buildings, roof them, and fit them out with sleeping berths, benches and anything else needed. Timber handling of all kinds occupied two in seven of all convicts at Port Arthur in 1834, a total of 190 men. The next biggest deployment of labour was 124 men at various improvements on the settlement, and eighty shoemakers.⁴⁹

Saw-pits were dug wherever timber was cut in the bush and the finished product carried to the settlement,⁵⁰ a tedious and wasteful use of labour. Booth suggested a sawmill be erected at Port Arthur at a cost of £250. It was approved for disciplinary as well as practical reasons,⁵¹ as parties of sawyers would no longer have to be sent out under the inadequate supervision of a convict overseer, but could be more profitably employed for the full working day at the settlement. A range of saw-pits on one side of the lumber yard⁵² were later used for tanning leather.⁵³

47. Lempriere, The Penal Settlements, p. 106.

48. Ibid.

49. Backhouse and Walker, 'Report', p. 247.

50. Martin Cash, pp. 50/52.

51. E.C. 2/3 p. 411, 12 February 1835.

52. Lempriere, The Penal Settlements, p. 110.

53. B.C. Smith, Shadow Over Tasmania, (Hobart, 1941), p. 64.

Cutting firewood for daily use at the settlement may have been the most humble and unskilled of timber work. Building ships 'put together with such neatness and compactness almost like joiners work' was skilled work of considerable value. Shipbuilding was 'Tasmania's first major industrial enterprise'.⁵⁴ Ships were built in Hobart from about 1813, and major centres of shipbuilding activity developed at Launceston, Hobart, on the Huon, at Macquarie Harbour and later Port Arthur.⁵⁵ The industry was to boom in the late 1830's and 1840's, underpinning a shaky economy. Several factors made this possible - the demand for vessels from whalers, increasing inter-colonial shipping, and abundant supply of suitable timber, skilled shipwrights operating in competition at both large and small yards, and a plentiful supply of labour. The island tradition of ship-building grew quickly and convicts, albeit under the tuition of free master shipwrights, made their contribution. At Macquarie Harbour about thirty-six convicts were usually employed at the dockyard 'and not more than three of these had served their apprenticeship to either ship or boat building, and indeed very few of them knew the use of sharp-edged tools.'⁵⁶ The master shipwright simply selected 'such men as appeared active and willing to be taught; and who were under a long

54. Hartwell, The Economic Development of V.D.L., p. 156.

55. Ibid.

56. Lempriere, The Penal Settlements, p. 41.

sentence to the settlement ... Some of them in time became efficient and good workmen, whilst others, not realising the hopes that were entertained of them, were turned out into the labouring gangs.⁵⁷

Enormous stands of Huon pine were immediately at hand. In one year, 1827, 2,869 logs were procured, the largest weighing twelve and a half tons. The combination of plentiful timber and free labour produced a brig, a sloop, two schooners, a lighter and several launches and whale-boats in the early years at Macquarie Harbour. Then late in 1827 David Hoy was appointed to the Convict Department and sent to Macquarie Harbour to superintend ship-building.⁵⁸ In the remaining seven years of operations at this settlement Hoy superintended the re-building of the brig Cyprus and the building of four brigs of about 130 tons each, a 200 ton barque, three fifty-ton cutters, five twenty-five ton schooners, twenty-two launches of from five to ten tons, and forty-six small boats.⁵⁹ Both the Cyprus and the Frederick were to be piratically seized by convicts and sailed to other countries.

Melville was again astray when he claimed that convicts at Macquarie Harbour 'absolutely wasted their time and labour; for, with the exception of a few logs of wood, now and then forwarded to

57. Ibid.

58. Hobart Town Courier, 1 November 1827.

59. Lempriere, The Penal Settlements, p. 40.

Hobart Town, the prisoners had no regular occupation.⁶⁰ He did concede that at Port Arthur there was ship-building 'on a small scale, and every now and then a new craft arrives in the Derwent from Port Arthur, and is sold by auction, and thus does considerable injury to the master ship-builders.'⁶¹ David Hoy transferred as master shipwright to Port Arthur after Macquarie Harbour was abandoned in 1834. He was preceded at Port Arthur by its first master shipwright, J. Watson, who was responsible for the first ship built and launched there, the *Eliza* of 120 tons.⁶² The best known of Hoy's productions at Port Arthur was the 270 ton barque *Lady Franklin*, launched in 1838. One of her uses was as a transport between Van Diemen's Land and Norfolk Island.⁶³ Thus a convict built ship gave other convicts 'a tolerably fair passage of nineteen days'⁶⁴ from one secondary penal settlement to another. Apart from new work, considerable repairs and refitting were carried out at the Port Arthur dockyard.

Building was the other major industry that occupied the time and talents of convicts at Port Arthur and accounted for a fairly high proportion of the settlement's costs. As already stated, most of the buildings in the first decade were of timber; late in 1834

60. Melville, The Present State, p. 156.

61. Ibid., p. 148.

62. Jane Franklin Diary, 24 March 1837.

63. Mortlock, Experiences of a Convict, p. 79.

64. Ibid.

there were twenty-five carpenters and one turner occupied on the Peninsula.⁶⁵ However, the first stone building, the round tower guardhouse-magazine, was built in 1835 and the church in 1836. The guardhouse-magazine was the store for arms and ammunition and its tower served as a look-out post.

Much has been written about the 'lottery' of assignment for transported convicts during the assignment period of transportation to Australia. To a lesser degree, transportation to Port Arthur could be something of a 'lottery' as far as work load was concerned. It is a moot point whether there was equal punishment for the convict architect's draftsman, Henry Laing, spending his days at Port Arthur drawing plans for the church, and for the stone-mason hewing and cutting stone to build it. The mason had the added task of teaching his trade to boys from Point Puer, who were principally responsible for the stone work of the church.⁶⁶ A convict with any skill at all was put to his trade and did not do the hard labour exacted from the unskilled men, and so can be regarded as having an easier life. He would have to work hard, but had the satisfaction of operating at a level above that of the unskilled labourer. With any pride in workmanship, he could do a good job and retain some feeling of self

65. Backhouse and Walker, 'Report', p. 247.

66. Lempriere, The Penal Settlements, p. 111.

respect and decency among men who were forced to soul destroying labour in the bush. He could also take some pride in handing on his skills to boys from Point Puer. The boys were trained as boot and shoemakers, carpenters, blacksmiths, tailors, coopers, bakers, sawyers, kitchen gardeners, book-binders, turners, boat-builders and stone-masons.⁶⁷

If educated, a convict could be placed as schoolmaster to the children of military and civil officers stationed at Port Arthur, or as one of the many clerks needed to keep copious records. This allotment of tasks put a premium on skill and in theory would seem unfair to the unskilled man. In fact, it was the only sensible and practical disposition of labour that could be made. The first stage of the Probation System required that all convicts be put to hard labour at the level of the chain gang, thus avoiding the discrimination between the skilled and unskilled, but in practice this could not always be observed. A blanket order for equal punishment was no more feasible at the Probation stations in the 1840's than it would have been at Port Arthur in the 1830's. It would also have hampered the establishment and development of the settlement. Free to use his own judgment in disposing labour, Booth achieved results so quickly that a visitor who saw Port Arthur when Booth took command in March 1833, wrote in October: 'The settlement had greatly improved

67. Ibid., p. 85.

since my former visit about seven months ago.'⁶⁸ Backhouse and Walker visited the settlement in 1833 and again in November 1834 when they found it 'greatly improved',⁶⁹ and, over a longer period, J. Sweatman on a visit in 1847 found 'the place itself' much improved in appearance, a large and very handsomely laid out public garden had been made, a fine water mill and new Commissariat Stores and granaries erected and many new private houses built since we lived there.⁷⁰

Expenditure on buildings was considerable, indicating a long-sighted policy. This was fairly general, whether the secondary penal settlements were under New South Wales or Van Diemen's Land government auspices. Substantial buildings on Norfolk Island are understandable, considering the life span of the settlement, the numbers detained there and the advantages for control purposes. Equally substantial buildings on Maria Island proved wasteful for a few hundred prisoners over seven years and when this settlement was abandoned in 1832 in favour of Port Arthur, the government sought to recoup its expenditure by sale or lease of the buildings.⁷¹ The large increase in convict numbers on Tasman's Peninsula in the 1840's

68. Flomley (ed.), Friendly Mission, p. 799.

69. Backhouse and Walker, 'Report', p. 229.

70. Sweatman Journal, Vol. 2, p. 323.

71. Morris, 'Early Convict History of Maria Island', p. 175.

provided a bigger labour force for the extensive building programme carried out during that decade and into the next. For the defensible barracks and officers quarters built in 1846, the schedule of materials procurable on the spot included 297 tons of limestone, 36,000 shingles and 918,750 bricks, three quarters of them for the boundary wall.⁷² Building at Port Arthur had become big business. Except for the church and the guardhouse-magazine, all the major permanent buildings at Port Arthur were erected in the forties and early fifties. They were put to full use for less than another decade before declining numbers made their upkeep unjustifiably expensive. Substantial permanent buildings were being erected when the colony was just emerging from a severe depression, and, more to the point, when agitation for an end to transportation was gaining momentum. The asylum, one of the last built and best preserved buildings at Port Arthur, was not erected until the early 1850's and transportation ended in 1852. Having fixed on a policy, perhaps the wheels of government ground too slowly to go into reverse when the British government bowed to the demands of the anti-transportationists. Or perhaps it was thought this was the most durable way to use an embarrassing amount of convict labour available on the Peninsula. Whatever the reasoning, the result was better housing for convicts

72. M.L. No. A1080, Tasmanian Papers 51, Volume 8.

and soldiers, a large hospital, asylum and model prison.

Apart from limited primary production, building and ship-building, there was some production of consumer goods and services at Port Arthur. This was considerable in range, but extensive in volume in only a few industries such as bootmaking and iron work. In many ways Port Arthur was a microcosm of Van Diemen's Land industry. Until the mid-1840's there was little manufacturing in the colony because of the smallness of demand, scarcity of capital, scarcity of skilled labour; food production was more necessary, and woolgrowing and merchandising more profitable.⁷³ At Port Arthur the very nature of the settlement made immediate necessity the primary reason for working such tradesmen as carpenters, coopers, plasterers and wheelwrights at their own crafts. In 1834 Backhouse and Walker observed convicts at forty-eight occupations and of these twenty-nine were directly or indirectly connected with production of goods. Four years later the value of labour at the settlement for the year was put at £30,363, including exports at £3,286, mostly of clothing, leathergoods and timber.⁷⁴ In heavier industry, Port Arthur had had several blacksmiths in operation from its earliest days and by the mid-1840's it was 'a small industrial centre, with a blacksmith's shop which employed seventeen men and made all the

73. Hartwell, The Economic Development of V.D.L., p. 144.

74. M.L. No. A1063, Volume 4, No. 34, pp. 739/749.

iron work for the government buildings. Besides a furnace capable of casting five tons of iron in one piece, and brass frames of one hundredweight, the prison had six forges in constant operation.⁷⁵ This matched a concurrent growth in the metal trades in the colony. Activities at the outstations do not properly come within the scope of this study, but it should be mentioned that at Slopen Main on the north west tip of the Peninsula 'the only successful mining venture before 1850'⁷⁶ was carried on. Coal had been mined there since the foundation of the settlement and by 1848 over four hundred men were employed at the mine.

Boot and shoemaking was one industry carried on extensively at Port Arthur despite set-backs in its establishment. It began as a compromise by the authorities with the illegal activities of tradesmen in chain-gangs. Tailors and shoemakers in the gangs could not be prevented from working at their trades to earn money. The demand for their products was so great that only the presumably well shod and clothed inspector of roads and bridges, Roderic O'Connor did anything to stop them. He recommended to the Executive Council that they be sent to Port Arthur and it was decided that a shoe-making gang be established to work for the Government.⁷⁷ Within two

75. Quoted in Hartwell, p. 153.

76. Ibid.

77. E.C. 2/2, p. 408, 7 July 1832.

years the gang had eighty operatives cobbling under free superintendent Samuel Burrows. Arthur told Spring Rice that shoes made at Port Arthur were much superior in quality to any received from England and that such profitable labour reduced convict department expenditure.⁷⁸ Boots and shoes were also made for free persons, adding £215 to the settlement's earnings in 1838,⁷⁹ and also adding to the foot comfort of that intrepid searcher after aborigines, George Augustus Robinson, on his long walks throughout the island.⁸⁰ Some shoes were still being sent from England in 1840, perhaps through entrenched patronage in the contract to supply, but Franklin reported that they 'don't last a month', and he had to authorise extra issues.⁸¹ He suggested the problem would be best overcome by having all boots made in the colony. Leather supplies posed no problems. Tanning boomed after it was discovered that mimosa bark cured leather as effectively as imported English oak bark, and there were thirty-eight tanneries operating in Van Diemen's Land by 1849.⁸² Tanning and shoemaking was also important in the activities of convicts on Maria Island. A team of twelve shoemakers and an overseer were annually producing about 1700 pairs of shoes valued at six and six pence per pair when the island was evacuated in favour

78. G033/19, p. 995, 18 June 1835.

79. M.L. No. A1063, Volume 4, No. 34, p. 749.

80. Plomley (ed.), Friendly Mission, p. 800.

81. G033/36, pp. 747/757, 30 November 1840.

82. Hartwell, The Economic Development of V.D.L., p. 151.

of Port Arthur.⁸³

This transfer of convicts also brought to Port Arthur a supply of labour experienced in cloth and garment manufacture. On Maria Island convicts had been producing about 100 yards of cloth each week bringing in revenue of about £2,000 per annum, and the tailors shop made up 300 suits of prisoners' clothing each year.⁸⁴

There was no woollen mill at Port Arthur and clothing production was not adequate for local needs. However, sufficient clothing for the boys at Point Puer and part of the supply for the men at the settlement were made at the tailoring shop. Men and boys received an annual issue of two jackets, two pairs trousers, two pairs of boots, two striped cotton shirts, one cloth waistcoat and one cap. Their bedding issue was one rug, one blanket and one tick or hammock.⁸⁵

The aged and invalid were expected to contribute something to the labour force of the settlement; only the truly incapacitated were exempted from work. Invalids could be basket weavers and broom makers and some geriatric convicts were capable of light gardening duties. One old convict, too feeble to work, was watchman at a brickyard and lived in his own hut on the site. Unfortunately he was murdered by another convict named Shaw.⁸⁶

83. Morris, 'Early Convict History of Maria Island', pp. 172/173.

84. Ibid.

85. Lempriere, The Penal Settlements, p. 87.

86. Martin Cash, p. 54.

With full and constant use of its labour force Port Arthur was built into a sizeable community. Its buildings were permanent and the whole presented a neat and orderly appearance.⁸⁷ Booth, and later Champ, took pride in the way the establishment was run. Booth's achievement in particular was no mean feat considering the resentful recalcitrant work force. It may be argued that creation of a substantial township was not the aim of a social and legal system that sent thousands of men to secondary penal settlements. They were sentenced to hard labour under confinement at a particular place; and there can be little argument with the end of that labour if the conditions were just and humane. Some of the labour was used to produce goods that were sold and thus offset the cost of the establishment, but this was secondary to the prime purpose of all such establishments, which was to contain men for the duration of their sentences and keep them at hard labour. Still, there is a touch of irony in the use of all those man hours to create from virgin bush the second largest 'town' in the colony, when, until the 1840 depression, settlers could not get enough labour for the normal legitimate purposes of a pioneer society in a new land. This was one paradox in the story of labour as a theme of Australian

87. Burn, 'A Visit to Port Arthur', and Sweatman Journal.

settlement, when 'the supply of skilled workmen ... was not rationally determined by colonial demand; but depended rather on the criminal propensities of craftsmen in Great Britain and on the frequency with which they were reduced to the status of pauper immigrants.' ⁸⁸

88. Hartwell, The Economic Development of V.D.L., p. 144.

CHAPTER 7

WELFARE

Little attention has been given to the lighter and more humane sides of life at Port Arthur. The popular image is one of convicts, half starved and frequently flogged, kept hard at constant labour in a state of absolute misery and dejection. This is much too gothic an impression that will not bear close scrutiny in the light of what was done in matters of religion, education, medical care, indulgences, and provision for leisure on holidays. To highlight the harshness of conditions and the punishments inflicted, and ignore the benefits available to those who cared to earn them and the care for the health of all, is to present a distorted and misleading picture. Admittedly the recorded achievements were not great in areas other than artificer and trade training. Some men were given an elementary education and perhaps a few acquired notions of a christian ethic previously foreign to them. There is a little evidence that Port Arthur operated to retrieve a handful of convicts from a life of crime, but any influence for good rather than evil is intangible and cannot be tabulated and assessed against records of punishments; and even if it were, there could be no equation. What was done for the welfare of prisoners is not to be balanced against the harshness of the system. It was an integral part of that system, ameliorating conditions which otherwise may have justified the brutal and inhuman

picture of the settlement presented by its detractors.

Conditions at Port Arthur were not as bad as those at Macquarie Harbour and Norfolk Island. On the other hand, they were not as good as those at Maria Island and Port Macquarie. Among the comforts not only allowed but actually encouraged at Port Macquarie was marriage, which also brought with it a cottage and garden. Women prisoners were sent there in 1825, with a naive governmental hope that they would be a restraining influence and 'an incentive towards the men's return to sobriety.'¹ Wives of some men already married were brought from England. There was also a proposal to move some of the women prisoners from the Cascades near Hobart to Maria Island so that spinning as well as weaving could be carried on at the same site, but the authorities had second thoughts and the island remained a penal settlement for men only. Women played no part in Lieutenant Governor Arthur's concept of a secondary penal establishment and, apart from a few female servants assigned to officers' families, no women convicts served sentences on Tasman's Peninsula.

It is claimed that religion was a hollow mockery beside the harshness of the system² and the question arises, was enforced religion a mockery in the context of convict discipline? Certainly there is little evidence that men at these settlements received much comfort from the religious instruction provided; but how many had

1. Hogg, 'A History of Port Macquarie', p. 39.

2. Ibid., p. 43.

any religious convictions when they went there, and of those who had such convictions, how many were strong enough to retain them while cohabiting with amoral felons? Opportunities for conversion would be practically non-existent. A convict responding to the exhortations of an evangelist would be ridiculed by his fellows. In such an unpropitious climate, it is surprising that the authorities could find clergymen to accept posts at secondary penal establishments, and significant that for many years Wesleyans were the only denomination with men stationed at Port Arthur.

It remains possible that some convicts, especially short term men who were not exposed to the Port Arthur routine for long periods of time, gained some respite for their spirits and perhaps even a little comfort from the facilities provided for religion. Although by no means a devout man, Booth encouraged religious sentiments and observed the Sabbath strictly in accordance with regulations. When the kindly Quakers Backhouse and Walker visited the settlement in 1833 Booth gave the prisoners a half day free of labour to hear 'Friend Backhouse deliver a very good discourse',³ In their report to the government, the Quakers said they had often heard reformed prisoners 'acknowledge that they have brought their punishment upon themselves by their own evil deeds, and therefore must endeavour to bear it patiently.'⁴ Such admissions are rare in convict records.

3. Booth Diary, 27 November 1833.

4. Backhouse and Walker, 'Report', p. 241.

'Reformed' prisoners were sometimes conveniently so far as long as it suited them to gain preferential treatment or an indulgence. Lieutenant Governor Denison thought that to grant indulgences to penitents was bribery producing hypocrites.⁵

Writing too late (1850) to be influential in the policies adopted for thousands of secondary offenders, the Reverend H.P. Fry nevertheless clearly stated the crux of the problems facing ministers of religion at penal settlements. Years of experience in Van Diemen's Land led him to believe it was essential to separate the civil and religious departments of prison discipline and that 'the minister should not be regarded by the prisoner as having anything to do with his punishment, in its character, amelioration, or continuance.'⁶ Fry, who was of the Church of England, opposed the revivalist approach in preaching to prisoners. He disapproved of the recounting of past lives and confessions of crime, and of any public exhibition of moral or religious improvement, believing this induced hypocrisy. His concern for convicts' well-being extended to their physical as well as their moral welfare. Fry criticised the administration for building a stone church, store and officers' buildings when the convicts' huts were of weatherboard, close, decayed and incapable of proper partitioning.⁷ This concern was

5. Quoted H.P. Fry, A System of Penal Discipline, (London, 1850), pp. 159/160.

6. Ibid., pp. 80/81.

7. Ibid., p. 174.

prompted by reports of 'shocking vice' which he thought were not exaggerated.⁸

The position of religious instructors at Port Arthur was not an easy one. While answerable to the hierarchy of their own denomination, they were also subject to the final authority of the commandant at the settlement. The first collated standing instructions for the regulation of the settlement, set out by the Colonial Secretary in January 1833, bear the hallmark of Arthur's zeal. Apart from detailed instructions on how the Sabbath was to be kept and other duties performed, chaplains were instructed to send quarterly reports on the manner in which the Sabbath was kept and to particularise offenders, whether free or bond, of whatever class or rank.⁹ This put the chaplains in the invidious position of being required to spy on men to whom they ministered. Later regulations applying to Tasman's Peninsula during the Probation period lacked the fervour of the 1833 instructions, and requested rather than commanded co-operation.

Insufficient religious instructors was just one of the many problems that beset the Probation System. It is open to conjecture just what standards were set by some of the ministers appointed. La Trobe thought the religious instructors in the probation gangs

8. Ibid., p. 173.

9. Reproduced in J.V. Barry, The Life and Death of John Price, (Melbourne, 1964), p. 160 et seq.

'were not of the stamp that must be employed',¹⁰ while Franklin in 1841 complained to London of the want of 'proper religious instruction at Tasman's Peninsula' and stressed the need for two pious ministers of the Church of England.¹¹

He was still complaining in 1843 and reminding the Secretary of State that he had brought the matter up many times before. By this time there were many more convicts on Tasman's Peninsula and the 'great deficiency in religious instructors for the various parties'¹² was more apparent. The best Franklin could do locally was appoint a catechist for the probation gangs at Impression Bay at the same salary as that paid to the catechist at the older settlement at the Coal Mines. An influx of convicts from Ireland at this time brought a large increase in the Roman Catholic population, and Franklin said he needed a Roman Catholic clergyman of decided piety, sound discretion and Christian moderation to influence moral improvement in this class of offender.¹³ That Franklin needed to stipulate such characteristics in the required clergymen hints at some decline in standards of colonial clergy.

But it was not until the end of 1843 that the Lieutenant Governor moved to appoint a Roman Catholic clergyman and build him a residence 'with convict labour and at the smallest possible expense; also a

10. Fry, A System of Prison Discipline, p. 159.

11. G033/38, p. 867, 10 July 1841.

12. G033/44/3 pp. 49/53, Franklin to Stanley, 3 January 1843.

13. Ibid.

plain brick or stone chapel in the same economical manner.¹⁴ The decision came within three weeks of Booth reporting to Colonial Secretary Bicheno that a building was needed for Roman Catholics as soon as possible.¹⁵ There was no clergyman available so the government looked for a catechist as a stop-gap, and in January 1844 appointed Mr. John O'Halloran to the post.

The appointment of the first Anglican bishop of Tasmania in 1842 aggravated rather than improved the position of clergy vis a vis the convict department. Bishop Nixon clashed with Lieutenant Governor Eardley-Wilmot and:

... refused to ordain, licence or have any official responsibility for chaplains to the convicts because they could be appointed, dismissed and restored without his privity and were therefore exclusively under civil jurisdiction.¹⁶

A lengthy correspondence between Hobart, Downing St. and Canterbury was necessary before a reasonable compromise was reached.

Fry, who also led a faction opposed to Nixon on doctrinal matters, blamed the bishop for failing to support the clergy serving at Probation Stations. He admitted that many conscientious men had left the service at the stations and that in general instructors appeared indolent and neglectful. But this, he claimed, was not

14. CS022/90/1916, 27th October 1843.

15. Ibid., 8th October 1843.

16. W.R. Barrett, 'Francis Russell Nixon', in A.D.B. Volume 2, p. 286.

surprising when they were unsupported by ecclesiastical authority and they were so circumstanced that:

... zeal would have been an offence, and activity and energy certain to embroil them with the civil authority. To possess influence was to excite jealousy, to deplore and endeavour to oppose the prevailing vice, was to excite suspicion as bringing a reproach upon the establishment. ¹⁷

Altogether, not a very happy or dignified picture, and one showing more concern for power and position than the welfare and interests of the convicts.

This had not always been the case. The first chaplain at Port Arthur, John Manton and his fellow Wesleyans John Orton, William Simpson and William Butters, earned high praise from Arthur for their work at Macquarie Harbour and Port Arthur, both with free people, and with 'those unhappy men who are so truly objects of compassion, the convicts in the road and chain gangs.'¹⁸ Arthur had expected much good would come of appointing Wesleyans to penal settlements, but did not anticipate such results as he personally witnessed.¹⁹ This was more than a conventional 'thank you' from a retiring governor.

During the 1830's when only the Wesleyans were chaplains at Port Arthur there was no sectarian strife. The convicts' respect and esteem for Manton were such that when Bishop Nixon proposed in 1843

17. Fry, A System of Penal Discipline, p. 161.

18. Arthur Letters, BT. 54 in M.L. A.1962.

19. Ibid.

to appoint the Reverend Philip Durham as chaplain to Port Arthur, the convicts protested. Bardley-Wilmot explained to Downing St. that all denominations of christians, whether Presbyterian, Wesleyan, Independent or Roman Catholic were satisfied to attend worship in the only church at Port Arthur so long as no 'decided ensign of any particular creed' was erected. If a Church of England clergyman was established there and a church consecrated, men of other creeds claimed they could not conscientiously attend the Church of England service.

One Sunday in October, 1843, 185 convicts, to support their protest against Manton's replacement, refused to go to church. Booth allowed their religious scruples and kept them in a room by themselves with proper books at their disposal during the time of divine service.²⁰ But despite fourteen years ministry at penal stations, Wesleyans were withdrawn as chaplains by a government 'unsettled by the influence of Bishop Nixon.'²¹ The 'religious uprising' of the 185 convicts was the only mass action in opposition to authority on the Peninsula, and even that did not achieve its ends.

Durham, despite the bickering about his appointment, served at Port Arthur for ten years from 1843, and earned testimony from a convict as 'a zealous, truly charitable, apostolic clergyman.'²²

20. G033/46, 4 November 1843.

21. E.R. Pretyman, 'John Allen Manton', in A.D.B. Volume 2, p. 205.

22. Mortlock, Experiences of a Convict, p. 107.

At this time the Roman Catholics at Port Arthur and their Vicar General applied for a priest and a place of worship at government expense, precisely the consequence that Eardley-Wilmot had predicted of Nixon's action. A Roman Catholic Church was built at the southern end of the penitentiary in 1844 and the Reverend McGrath was the first priest appointed to officiate in it.²³

If convicts were required to attend divine service every Sunday provision had to be made for those services. For the first two and a half years they must have met either in the open in fine weather, or in the mess. The first chapel at Port Arthur was a long room ordered to be built in 1833. It was later used by the Commissariat Department.²⁴ This was the year that the first chaplain was appointed, but by the end of the next year there were three missionaries on the settlement.²⁵ The decision to build the large stone church in 1835 is rather surprising and Fry's criticism²⁶ seems justified. The greater practical need was for better housing for the convicts. Arthur's propensity for laying foundation stones of churches perhaps explains the priority given to church over penitentiary. He laid the foundation stone of the Port Arthur church in April 1836, the year he returned to England. Most references to the church give its seating capacity as 2,000, a common mistake probably stemming from

23. Colonial Times, 20 October 1844.

24. CSO 15655.

25. Booth Diary, 27 November 1834.

26. See above, p. 159.

Beattie's enthusiastic but inaccurate booklet.²⁷ Measurement of the seating space on the working drawings, allowing eighteen inches per man, confirms Lempriere's statement that it was 'calculated to hold one thousand persons on the ground floor and is so built as to admit at any time of galleries being added'.²⁸ There were also pews for about 200 officers and free persons.

When the Model Prison was built for the Separate Treatment punishment of refractory convicts a chapel was incorporated so that these convicts would not have to go to the church, and so defeat the purpose of the Prison by breaking their isolation. The chapel formed one of the four wings of the Prison, a rather wasteful use of an expensive building.

On the whole it seems that apart from the first couple of years, there was more than adequate accommodation for religious services. There was parsimony in reliance on missionaries from one denomination for twelve years and this probably threw an undue burden on them; but it proved in the long run to be the most harmonious arrangement. If no more can be said for it, due observance of the sabbath at Port Arthur provided the men with at least one day of rest each week. It may also have achieved some religious purpose.

27. J.W. Beattie, Port Arthur, an historical survey, (Hobart n.d.), p. 10.

28. Lempriere, The Penal Settlements, p. 111.

Concern for the convicts' health was constant, even if provision of medicaments did not always equal the attention given to sick men. Port Arthur's first two commandants were doctors, as also was its last commandant, John Coverdale. The doctor held a commission as justice of the peace, and sat on the bench when the law required that charges be heard by more than one magistrate. As the commandantship was a military post and the medical officer a civilian, this provided a nice balance in the early years.

The surgeon's instructions of 1833, like those for the chaplain, are more precise and demanding than the post-1840 regulations. Arthur's hand is seen again in the stress placed on reports and recommendations, and in the concern that the surgeon should not be deceived by malingerers. No doubt many convicts tried to avoid the constant hard labour by feigning illness. The onus of proof was put on the doctor in an instruction that he was not to:

... exempt any individual from labour, or receive him into the hospital, without taking down for subsequent report, a minute detail of the symptoms of his case, to which must be added the reasons which induced him to conceive the disease not to be feigned but real.

This and another instruction, that the surgeon's 'most difficult duty is the distinguishing of feigned from real illness', were dropped from the later regulations. On the other hand, the later regulations instruct the medical officer in a duty which he in fact always performed. This was to attend when corporal punishment was inflicted

and be answerable that 'according to the best of his judgment no greater number of lashes is inflicted than the offender can bear without endangering life or future health.'

The doctor was generally responsible for the health and cleanliness of the convicts and their quarters, and for the mental as well as physical wellbeing of men in solitary confinement.

The only general threat to the convicts' health at Port Arthur in the first year or two was scurvy, and this (due to improved vegetable supplies) was 'not very prevalent',²⁹ by the end of 1834. Arthur had visited the settlement earlier that year and found a 'greater degree of sickness, though of a mild nature' than he expected. He instructed the doctor to look into this and report through the Colonial Surgeon, and to hold medical parades of all convicts twice a week instead of weekly 'so that the slightest disease would be speedily detected.'³⁰

Arthur also ordered an immediate improvement in the quality of the bread. Yeast was sent from Hobart and generally spoilt on the voyage. A substitute was devised by brewing siftings of bran with sugar and the bread then made at Port Arthur was 'sweet and wholesome'.³¹

Concern for healthy conditions for the convicts did not extend to provision of drugs to cure the sick. This would be regarded as

29. Backhouse and Walker, 'Report', p. 229.

30. CS01/716/15655, 5 May 1834.

31. Lempriere, The Penal Settlements, p. 108.

unwarranted expense by a government which was constantly enjoined to practise the severest economy. The patient had to rely on the skill of the surgeon and on nature in a place where 'a remedy for a cough even is wanting.'³² This state of affairs was not peculiar to Port Arthur. Convicts in the gangs constructing the causeway at Bridgewater above Hobart were dosed from a chest containing a single drug, whatever their complaint.

Although some of the convicts seem to have suffered from cold and damp in the winter, the climate of southern Tasmania would be more conducive to general good health than that of semi-tropical Norfolk Island where dysentery was a threat to health, or Macquarie Harbour where the excessive rainfall posed problems. Convicts from Great Britain would soon be acclimatised, but several prisoners, natives of the West Indies, suffered greatly from rheumatism in the winter months. Their health and general constitution was affected, so Lieutenant Governor Franklin had them moved to the 'more genial sphere' of New South Wales.³³ He acted from motives of humanity as well as economy, as the West Indians' plight was 'likely to reduce them to a state of decrepitude.'³⁴

Some convicts arriving at Port Arthur were already in a state of general decrepitude. One such was the ex-sailor Dennis Collins who

32. Lempriere's unpublished diary, entry for 15 May 1834.

33. G033/26, p. 231, 18 August 1837.

34. Ibid.

at Ascot in 1832 threw a stone at King William IV. At Port Arthur he refused to work, refused to eat for fourteen days, was put into hospital and lingered seven more days before dying.³⁵ Such cases contributed to a death rate among convicts under sentence that was still astonishingly low. In 1848 there were 244 deaths, or one in ninety-nine of all convicts in the colony, while the death rate in the free population was one in fifty-four males and one in fifty-nine females.³⁶

During three years of Maconochie's tenure at Norfolk Island, one in nine of the convicts died, and morale was seriously impaired by dysentery.³⁷ By contrast, Port Arthur in 1836 had a death rate of one in sixty, made up of eight from sickness in hospital, and eight others - three drowned, three apoplexy, one shot and one when a tree fell on him.³⁸

Given the number of men at Port Arthur, the law of averages dictates that there would be a certain amount of sickness and some accidents, even though the majority of convicts were young men and some were presumably at the healthiest time of their lives. There was always at least one doctor and a hospital for immediate care of the sick and injured.

In the 1830's the hospital was 'a very long building consisting

35. J.A. Manton, The Isle of the Dead, (1843) p. 5. I used the copy in the Dixon Library, Sydney.

36. Barnard, Statistics of V.D.L., p. 15.

37. Barry, Alexander Maconochie, p. 141.

38. M.L. No. A1063, Volume 4, No. 34, pp. 739/749.

of one principal ward, and two smaller ones, a Dispensary and a room for the Dispenser, a verandah in front ... for the convalescent patients to walk in ... a kitchen and a dissecting room attached.³⁹

In 1842 a new brick hospital was built on the site of the old one because of the pleasant aspect and healthy position. This contained four wards with about eighteen beds in each and several small rooms, and was staffed by two surgeons, Graham and Blyth.⁴⁰ Wardsmen were drawn from among the convicts.

According to the standards of their day, the medical officers who served at Port Arthur appear to have been competent enough. None was suspended, their capabilities do not appear to have been questioned, and there was no unpleasantness about appointments. C.G. Casey replaced Macbraire in January 1834 and served until 1838 when he quarrelled with Booth and asked to be moved to New Norfolk.⁴¹ Booth 'appears to have acted with restraint and generosity', while Casey was described as 'zealous and attentive to his duties.'⁴²

After probation gangs were established on Tasman's Peninsula a hospital was built at Saltwater River and, at least in theory, there was a doctor attached to each probation centre. This meant that the medical officers at Port Arthur attended convicts only at that settlement and did not have to travel around the Peninsula to see

39. Lempriere, The Penal Settlements, p. 108.

40. Fry, A System of Penal Discipline, p. 172.

41. Lord Casey, Australian Father and Son, (London-Sydney, 1966), p. 31.

42. Ibid.

convicts and constables at the out-stations as they had done in the past.

Doctors were recruited in England and a Dr. Townsend, one of three new arrivals in 1842, was placed in general medical charge of Tasman's Peninsula and Forestier's Peninsula to inspect the numerous probation hospitals established there and to ensure the efficiency and economy of the convict medical service. The Principal Medical Officer, Dr. J.F. Clarke, informed the Colonial Secretary, G.W.T. Boyes, that constant supervision of the staff medical officer was absolutely necessary if this was to be achieved. Dr. Clarke had ideas on the re-organisation of the medical department, and his plans and suggestions were considered by the Director General of the Army Department in London.^{43.}

The station at the Cascades (Koonya) on Norfolk Bay appears to have been something of a medical sinecure. A convict serving there recorded that 'although, occasionally, a falling tree killed and maimed a few individuals, the medical gentleman, a Dr. Baillie* ... did not find his duty heavy.'⁴⁴

Convicts on Tasman's Peninsula probably suffered some discomfort in cold cells in winter, but if they were injured or genuinely sick they received immediate medical attention. Due concern was always

* Dr. W. H. Baylie was stationed at the Cascades 1845-47.

43. CS022/48/249, 22 September 1841, Boyes to Clarke, and 15 September 1842, Clarke to Boyes.

44. Mortlock, Experiences of a Convict, p. 82.

shown for their general health; after all, an unfit convict was a liability.

If compulsory religion at Port Arthur can be explained by the mores of the time, and medical services by the desire to keep the convicts fit for work, education can only have been provided from altruistic motives. There were enough educated convicts to serve as clerks with government departments, so there was no immediate practical purpose in educating men under sentence.

The 1833 Regulations made special provision for educated convicts, declaring them to be a distinct class. Although they were to wear grey clothing instead of the hated convict-yellow, and were to be employed in gardening, fencing and farming instead of heavier and degrading labour, they were still subject to punishment and demotion to one of the lower grades. Under the Probation System no concessions were made to education. All convicts were subject to the same regulations, except that the 'better informed' were to act as monitors at a regular evening school at which the fundamental parts of education only were to be taught.⁴⁵

Educated convicts had always been pressed into service on behalf of their fellows under the supervision of the chaplain who was instructed to 'establish schools and anxiously to superintend them'.⁴⁶

45. Regulations for the Penal Settlement, p. 21.

46. 1833 Regulations.

In 1835 seven educated prisoners were teaching reading, writing and arithmetic to forty-six adults who regularly attended evening school and to a further twenty-four who attended fairly regularly.⁴⁷

As attendance at school was voluntary, such figures were encouraging as they accounted for about one in thirteen of the Port Arthur convict population. The chance to learn came at the end of a long day's hard labour when concentration would not be easy. Those who attended regularly could only have been an ambitious minority with plans to improve their position in emancipated life. Or perhaps they had been handicapped in the past by their inability to read, and now planned to be better equipped for a further life of crime. Regardless of the uses to which the convicts put their new found knowledge, the commendable point is that the administration provided them with an elementary education.

Lieutenant Governor Arthur's interest in educating the convicts was so keen that after a visit to the settlement in 1834 he directed that the school hut was to be the first erected in a new complex, and 'every accommodation allowed for convicts to attend school.'⁴⁸ The plan of instruction was to be made as inviting as possible, and, seizing an opportunity for moral rehabilitation, lessons were to close with a prayer and an occasional judicious exhortation.⁴⁹ A

47. M.L. Box 54, pp. 1967/1969, 18 January 1836.

48. CS01/716/15655, 5 May 1834.

49. Ibid.

large range of solitary cells was to be erected for 'the most vicious characters' as Arthur wanted to establish a contrast between the small solitary cells and the warm and cheerful schoolroom, which was to be the only comfortable hut at the establishment. Arthur's visit must have coincided with a particularly cold autumn as he also ordered a large fireplace for the chapel.

The Wesleyan missionaries who established the school also provided a broader education for the children of military officers. At a day school they added English grammar, geography and the elements of Latin to the basic subjects taught to the convicts.

The schoolroom being used in 1839, probably the one ordered by Lieutenant Governor Arthur five years earlier, was seventy-six feet by twenty feet, capable of holding 150 scholars and 'well supplied with desks, forms, lamps etc.'⁵⁰ The same room is also referred to by the Reverend Fry in 1850 as being used as a Roman Catholic chapel.⁵¹

At the Probation Stations similar facilities were available. Convicts who chose to attend school under the management of the religious instructor 'were provided with books, slates, pens, ink and paper.'⁵²

Access to reading matter would have been a boon to educated convicts seeking some retreat from the harsh realities of their everyday life. Apparently there was always a library of sorts at Port Arthur,

50. Lempriere, The Penal Settlements, p. 109.

51. Fry, A System of Penal Discipline, p. 172.

52. Crooke, The Convict, p. 58.

and later at the Probation Stations, although the range and quality of the contents is not known. Backhouse and Walker recommended that the government donate a large number of books to Port Arthur and Point Puer, and Lempriere also suggested that the library be increased with cheap suitable and useful works.⁵³ The Religious Tract Society donated seventy volumes, and Lady Franklin donated books for Point Puer boys. Convicts who wanted access to these books were lent them on Sundays, a practice that one religious instructor thought was 'about the only humanizing part of the whole system.'⁵⁴ He said the better men sought them greedily.

One writer says that:

On Sundays and on days too wet for outside labour ... they amused themselves in the Day Room by reading books from the comprehensive library which occupied part of the large mess-room. Dominoes, marbles, a kind of "two-up", and other games served to while away the time.⁵⁵

This must have been in Port Arthur's last years as a penal settlement. Before about 1850 there is no indication of a 'comprehensive library', the playing of games on Sunday would not have been tolerated, and on weekdays the convicts were required to work, wet or dry. The few exceptions were occasional holidays such as Christmas Day and the

53. Lempriere, The Penal Settlements, p. 103.

54. Crooke, The Convict, p. 58.

55. Smith, Shadow Over Tasmania, p. 62.

King's Birthday. Martin Cash describes an entertainment on one such occasion, given by the convicts on 'a stage erected in the centre of the yard, where comic and sentimental singing was to be heard ... the famed Frank the Poet who threw off a few extempore verses for the amusement of the company and .. the day with us passed off very pleasantly.'⁵⁶ Sports meetings were held with prizes donated by the officers and Booth was fond of organising whaleboat races.

The official attitude to individual indulgences such as tobacco, tea, and sugar varied from time to time. In 1834 there were 212 prisoners receiving an extra ration of tea and sugar.⁵⁷ The Commissariat Officer records issuing tea and sugar from the store and some spirits to the watchman.⁵⁸ These were indulgences for men who had made themselves useful, but the possession of luxuries gave rise to trafficking, and as the granting of indulgences was later seen as fostering hypocrisy it was stopped.

Mathew Forster was surprised at the number of extra rations being issued to convicts at Port Arthur in 1840, compared with the lack of indulgences granted to men in the working gangs. These rations had risen from 82 to 117 and this he called 'purchasing good conduct and quiet',⁵⁹ which of course it was in one view; in another the

56. Martin Cash, pp. 63/64.

57. M.L. A.1160, T.P. 131, Volume 3.

58. Lempriere's unpublished diary, 18 July 1834.

59. CS05/236/6021, 7 March 1840, Forster to Franklin.

indulgences were rewards which had been earned. Incentives to good behaviour were still needed to aid discipline, and the tea and sugar of the early years was replaced by a complex system of remission of sentence for industry and good conduct, which 'operated most excellently in producing industrious habits and orderly behaviour.'⁶⁰ In effect, it was a simplified version of the marks system suggested by Maconochie.

A convict serving a short sentence of perhaps a month at Port Arthur would be able to tolerate the harsh conditions and severe discipline, knowing he would soon be returned to the settled districts of the colony. Men confined there for long sentences would have found life intolerable without the leaven of religion, medical care, education and an occasional holiday. Too few took advantage of the chance to be educated, and many scorned the religious practices, but whether they were aware of it or not, these humanising elements in their life at Port Arthur may have saved their sanity.

60. Mortlock, Experiences of a Convict, p. 114.

CHAPTER 8

THE PORT ARTHUR MYTH

Considering the facts of life at Port Arthur summarised in the preceding chapters, one wonders how the Port Arthur myth could have emerged, survived, gained strength and remained largely unrefuted for more than 130 years. Myths die hard, and once established, this one would be sustained by the morbid interest human beings take in the sufferings of others.

The image of Port Arthur as a 'hell on earth', a 'modern Gomorrah', 'the scene of unceasing suffering' was created by an irresponsible press which was antipathetic to Lieutenant Governor Arthur, and it was created within a very short time of the settlement being established. Despite some rational and factual refutation, the image persisted and the myth was founded. It might have faded during the last quarter of the nineteenth century after the closing of Port Arthur as a place of punishment in 1877, except for what is probably the greatest single source of misunderstanding of the establishment's role in secondary penal discipline, Marcus Clarke's novel, For the Term of His Natural Life.^{*} This generated the second stage of the myth, what might be called its gothicisation. Clarke aimed at verisimilitude by loosely basing the novel on material gleaned from primary sources, and succeeded only too well. The gothic view, Port Arthur through the eyes of Marcus Clarke, is now an inextricable part of the myth.

* Hereafter referred to by its original title, His Natural Life.

In the last two or three decades governmental promotion of Port Arthur as a tourist attraction has, perhaps unwittingly, fostered the unsavoury image. So it can be seen that the myth has had a three stage development.

The first stage, the creation of the myth, can only be fully appreciated when seen against the background of Lieutenant Governor Arthur's relations with the colonial press in Van Diemen's Land. The first permanent newspaper in the colony, the Hobart Town Gazette, was established by Andrew Bent under government patronage and control. When Arthur arrived as the new lieutenant governor in 1824, Bent seized the opportunity to gain independent control of the newspaper, claiming he had a property in the title. This was disputed by Lieutenant Governor Arthur, who brought a printer from Launceston to maintain publication of the Hobart Town Gazette. Bent continued to publish his own newspaper under the same title until August 1825, when he conceded the point and changed his title to the Colonial Times. It was the first encounter in a bitter war between the lieutenant governor and the press, which was proliferating at a rate that seemed to bear no relation to the size of the colonial reading public. And it was a war that was to continue to the end of Arthur's administration.¹

1. West, The History of Tasmania, Vol. 1, p. 110

The lieutenant governor attempted to control the press by a licensing system under powers gained in an act of 1827. His argument was that while the colony 'was a place for the reception of convicts, the press could not be free: that it was dangerous to authority, and calculated to destroy the security of domestic life.'² In short, Lieutenant Governor Arthur's autocratic approach to governing would not allow for a press he did not control.

The free population was almost unanimous in its support of the pressmen and the law was disallowed the following year by Lord Goderich. In the meantime Bent had been prosecuted for libel. It was one of many prosecutions against him, a tendency to libel being one of the unfortunate consequences of his strong anti-Arthur policy. Frequent litigation and imprisonment contributed to near-bankruptcy, but it also made him 'worthy of remembrance for his indomitable fight for the freedom of the press in Tasmania.'³

Henry Melville bought the Colonial Times from Bent in 1830 and continued to conduct it as an anti-Arthur organ. He wrote a history of the colony from 1824 to 1835 which in fact was a critical description of Lieutenant Governor Arthur's administration during those years. While in gaol for contempt of court he also wrote an essay on prison discipline which was later published with the history.

2. Ibid., p. 109.

3. E. Morris Miller, Pressmen and Governors, (Sydney, 1952), p. 85.

Robert Lathrop Murray, editor of Murray's (later Tasmanian) Austral-Asiatic Review, deviated from his contemporaries' pattern a little by modifying his attitude to Arthur after 1828, although this did not alter the tone of his violent writing against anything non-humanitarian pertaining to transportation. He was exceeded only by Gilbert Robertson, editor of the True Colonist, who 'filled its columns with strictures on government'. Heedless of libel charges, Robertson 'heaped on the governor, and the members of his administration, charges of misdemeanour and felony ... the rashness of his imputations was never surpassed.'⁴ The one newspaper voice wholeheartedly in support of the lieutenant governor was that of James Ross, who, after several years as government printer, established the Hobart Town Courier in 1827.

These were the men with the power to shape public opinion. In a time and place of limited communications they became irresponsible purveyors of biased opinions instead of respecting the responsibility of a free press. Having suffered in a very real way to gain that freedom, they then 'destroyed the moral weight of the press'.⁵

Not only the press was anti-Arthur. All those who suffered, or thought they suffered, under the new authoritarian rule that replaced the more easy-going ways of earlier lieutenant governors were loosely

4. West, The History of Tasmania, Vol. 1, p. 174.

5. Ibid.

united in what became known as the anti-Arthur faction. The fact that Port Arthur carried his name may have provided an associational link that led the faction to identify the place with the man and attempt to discredit both. No doubt the penal settlement has played a part in the image of Arthur as a tyrant, an image that is now being corrected with more dispassionate study of the man, but a long-lived and damaging one nevertheless.

The evil reputation of Port Arthur, just as long-lived and as much in need of dispassionate study, was given to the settlement astonishingly early in its career; so early in fact that one wonders if the press assumed that Port Arthur would be another Macquarie Harbour, treated it as such and so had another stick with which to beat the lieutenant governor.

The official attitude to Macquarie Harbour penal settlement was that it should be the object of dread to convicts and a sentence to be served there should be feared as 'worse than death'. The place lived up to the reputation desired for it and was indeed the scene of great misery and hardship. What the pressmen failed to see was that the convicts brought to Port Arthur when Macquarie Harbour was abandoned did not bring with them the West Coast environment and conditions. It was convenient to assume that the new settlement would be as bad as the old, so they wrote as though it was. Not that the Van Diemen's Land

press was united on this or any other matter. An example of the 'literary love tokens' that flew from one editor to another was the description of one by his rival as 'an addle-pated upstart - a superannuated Zany'.⁶ James Ross wrote some sane and reasonable articles about Port Arthur, but he was more than counteracted in long range influence by Murray and Melville. Murray was 'almost ungovernable in his denunciation of chain gangs, lashings, and tortures',⁷ while Melville 'also referred to the Port Arthur penal settlement in terms as severe as those applied by Murray'.⁸ Murray must have been the greater master of vituperation as Professor Morris Miller considered that 'altogether his outpourings of venom and wrath against penal discipline in Van Diemen's Land prepared the way for Marcus Clarke and succeeding novelists'.⁹ Ross and Murray conducted a running battle in the columns of their respective newspapers during the first half of 1836. Both claimed to be presenting the facts about Port Arthur, Ross basing his writings on evidence gained during a tour of Tasman's Peninsula, Murray never quite coming to the point with factual material in his plethora of emotive writing.

Decrying Port Arthur was 'one of the most favourite themes of the majority of his [Ross's] contemporaries',¹⁰ and he felt that

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6. Ibid., p. 110.
 7. Miller, Pressmen and Governors, p. 16.
 8. Ibid., p. 187.
 9. Ibid., p. 17.
 10. Hobart Town Courier, 1 May 1836, p. 2. c.4.

he should disabuse the public. He was not concerned with excusing the administration of the penal settlement, but with making statements with which there can, even now, be little argument, writing that:

Port Arthur is a dreadful place to the offender ... not from severity, but because the retributive attendant of offence is permitted to follow its principal. The horror of this place to the offender consists far more in the industry that is elicited from him, in the deprivation of luxuries, and in the silence almost universally imposed.¹¹

The Courier hoped that while on one of his visits to Port Arthur that month the 'governor would ... satisfy himself of the truth or untruth of the numerous and incessant reports respecting it.'¹² Murray retorted that the Governor 'would have found everything in order because he was expected',¹³ then, inconsistently, praised Booth, on whom he had 'never intended to cast the shadow of blame ... that gentleman does his duty,' apparently imagining that Booth happily and efficiently commanded a penal settlement which Murray described as 'a Gomorrah, Norfolk Island is a paradise to it.'¹⁴ To refute criticism of his articles on Port Arthur, Murray promised to present facts, apologising that 'of course to do this, this day is impossible, but we shall not fail to present to the Courier in our next, a statement

11. Ibid.

12. Hobart Town Courier, 15 May 1836, p. 2. c.1.

13. Tasmanian Austral-Asiatic Review, 29 May 1836.

14. T.A.A.R., 1 January 1836, p. 3. c.2.

of facts, which we will defy him to refute.' ¹⁵ Any fact Murray was able to present could not have suited his argument as no such statement appeared either in his 'next' or in any subsequent edition of his newspaper. As an example of what was promised he gave Ross one 'fact' in the meantime. It was a claim that:

... the number of deaths at the Port Arthur Gomorrah exceeds beyond all possible comparison those which ever occurred in any other of the British Secretary's "Earthly Hells", in proportion to numbers, even "plague, pestilence and famine", included! ... Even in the Hobart Town Hospital, where every possible care, attention and comfort is bestowed, the deaths average ONE EVERY OTHER DAY ... But at "the Hell": It is impossible to describe the system, or the scenes of unceasing suffering consequent upon it. ¹⁶

To exceed an average of a death every other day, there would have had to be more than 182 deaths at Port Arthur in any one year before this was written in 1836. In that year there were sixteen deaths at the settlement among a convict population of more than 900. ¹⁷

During 1834 Murray had written several leading articles on transportation, publishing them in the form of open letters to Lord Brougham, who was then Lord Chancellor. He used the same form for anti-Port Arthur fulminations in 1836, addressing the letters to Brougham and to Archbishop Whately of Dublin. ¹⁸

15. Ibid.

16. Ibid.

17. M.L. A.1063, Vol. 4, pp. 739/749.

18. e.g. T.A.A.R. 4¹/₂ column editorial on 8 May 1836.

The next year he addressed a letter to the new lieutenant governor, Sir John Franklin, reporting an alleged conversation with 'a lad' who had just returned from Port Arthur and told him 'I have received upwards of a thousand lashes - never has there been a charge of dishonesty against me in one single instance.' ¹⁹

Murray felt so strongly about transportation he was obviously capable of any distortion or exaggeration, and many of his readers would accept his statement on their face value. There is a large section of society, now as then, which gains vicarious pleasure from reading of human cruelty and is only too ready to believe what they read. There was only Ross presenting a fair and reasonable picture of Port Arthur against the combined attacks of Murray, Melville and Robertson in the field of newspaper reports and comment. They laid the foundations of the myth so well and truly that a description of a visit to Port Arthur by Scotch playwright and Van Diemen's Land settler David Burn in 1842 was a voice in the wilderness. Burn wrote that Port Arthur '... has furnished a thousand texts for a thousand fallacious, if not perverted commentaries. It was a place the economy of which was little understood even in this colony, and, of course, utterly unknown to the British public.' ²⁰ Like Ross, Burn

19. T.A.A.R. 27 January 1837, p. 28. c.l.

20. Burn, 'A Visitor to Port Arthur'. In Beattie, p. 29.

did not attempt to whitewash Port Arthur. He moralised on the consequences of evil-doing, but at the same time honestly described what he saw at the settlement.

Description and informed comment on all the Van Diemen's Land penal settlements were compiled in book form by Lempriere in 1839, but unfortunately it was not published at the time. In mild language contrasting with the invective of the contemporary colonial press, Lempriere wrote that Port Arthur:

... has been denominated by the grave editor of one of the Hobart Town newspapers the "Earthly Hell." How far it deserves that fiery appellation the sequel will show. It is, however, just to observe that the editor in question has never visited the settlement in person. His ideas have no doubt, been formed upon the accounts given to him by some of the unfortunate (forces) inhabitants, of the Peninsula, whose naturally uncomfortable situation would, we presume, rather incline them to give an unfavourable opinion of (as it is called by other periodicals), the "Abode of Misery".

This was not the stuff of myths. Had it been published it is unlikely it would have been heeded except by those of like opinion, and that would simply have been a case of preaching to the converted. On the other hand, the success of the anti-Port Arthur propagandists cannot be explained only by the willingness of the public to accept all the tales of cruelty told to them. The climate of opinion on the subject in general must have been such that sustained attacks like that of Murray were credible.

It is ironical that forty years later, just at a time when the myth might have faded into the limbo, it was given a completely new lease of life in a gothecised form by another skilled journalist. And once again, as in the 1830's, there was a receptive reading public, a desire to discredit the penal settlements, and, of course, the constant factor in the public's appetite for cruelty and the bizarre.

In the 1870's the school of writers headed by Marcus Clarke and Price Warung were at their peak. They were writing at the height of nineteenth century melodrama for a reading public that had cut its eye teeth on the neo-gothic literary tradition that grew out of the romantic period. In this atmosphere, transportation in its many-coloured coat was an obvious source of material, and naturally they seized on it. The fact that the transportation of convicts to eastern Australia had ceased barely twenty years earlier meant that the subject matter was tantalisingly near enough in time to contribute to the desired air of verisimilitude, while still being a thing of the past and therefore safe enough to be commented upon without offending the susceptibilities of the living. Port Arthur was still operating as a penal settlement in the early and mid-1870's and Australia's convict origins were still too uncomfortably close for the completely detached view. The journalists and fiction

writers needed to take a line of approach that would satisfy the desire of their readers for romanticised stories of the country's beginnings, while at the same time avoiding any suggestion that the convicts en masse were anything but petty offenders, the victims of an oppressive legal and social system in Britain, or better still, innocent men and women wrongly convicted by corrupt courts or miscarriages of justice. Clarke's biographer, Dr. Brian Elliott, suggests that 'the exaggerated legend of convict suffering and official oppression was invented to counter the embarrassment which many felt at the penal origin of Australian settlement.'²¹ This is a natural enough reaction to attribute to the children and grandchildren of convicts who aspired to a higher social standing. But, it is doubtful whether it was consciously part of Clarke's aim when he wrote His Natural Life. As Elliott himself points out, Clarke 'had no intention originally of writing a pamphlet against the system. He had no special sympathy for convicts as a class. He was merely interested in writing a novel and saw that this subject afforded excellent scope for his talents.'²² Yet this is precisely what Clarke did achieve, in spite of himself. His gothic novel was so successful in condemning the system and raising sympathy for the

21. Brian Elliott, Marcus Clarke, (Oxford, 1958), p. 149.

22. Ibid., p. 145.

convict that laurels for the perpetuation of the myth over a period of nearly a century rest squarely on his brow.

The view of Port Arthur presented in the novel has been accepted by three generations of readers as historically accurate. Literary critics have been aware of the distortion of facts in His Natural Life, although they are, on the whole, rather indeterminate on just how firmly the novel is based on primary source material.

They are concerned primarily with the literary qualities of the novel and are not qualified to assess just how far or in what direction it is firmly grounded, or loosely based, on fact. Indeed, it would be a formidable task for an historian to track down all possible historical sources used by Clarke. This being so, can it be wondered at that the novel-reading public of Clarke's generation 'acclaimed His Natural Life{and} willingly swallowed the heavy melodramatic story - did not scruple, indeed, to accept it for the naked truth of history.'²³ It is difficult to gauge the extent of public familiarity with the novel, but Elliott claims 'it once graced every cottage library shelf in Australia, taking its place alongside Shakespeare, the dictionary, and the Bible.'²⁴ In addition, the original version reached a wide reading public as a serial in the Australian Journal and there have since been many new

23. Ibid., p. VI.

24. Ibid., p. xi.

editions published in both hard cover and paperback format, as well as translations into two foreign languages.²⁵ Fact is inextricably woven with fiction throughout the whole long novel. In some places Clarke took a fact and let his imagination run riot with it. In others he virtually reproduced the text of primary source material. And the result is that it is virtually impossible to correct the distorted half-truth in the overall impression left with the average reader.

While collecting material in Tasmania and in the Melbourne Public Library, Clarke 'was well aware of the interest of the novel-reading public in outrage and desperation, and such data would encourage rather than deter him.'²⁶ Unfortunately for Port Arthur's reputation, he transferred the setting of certain events from Norfolk Island and Macquarie Harbour to Tasman's Peninsula, adding depth to the horrible picture painted of that settlement. He made no attempt to create fictional names or settings for the action of the novel, and he chose to set it in the time span of 1827 to roughly 1850. In view of this very precise placing, it is hard to accept Elliott's claim that 'Clarke wrote it neither as a descriptive nor an historical story', and that 'The struggle of Rufus Dawes is a struggle with life, not primarily with a local or historical environment.'²⁷ No doubt Dawes's struggle with life can be interpreted at one level

25. E. Morris Miller, Australian Literature 1810-1935, (Melbourne, 1940), Vol. 2, p. 611 lists the major editions.

26. Elliott, Marcus Clarke, p. 142.

27. Ibid., pp. 148/150.

as 'the survival against odds of a tortured spirit' and he may be a symbol of the 'helplessness and frustration of the spirit crushed by the processes of a cruel system'.²⁸ But the fact remains that Clarke set Dawes's struggle with life in a particular time and place and interwove so much factual material into the fabric of his story that Dawes does not 'exist' outside that setting. He can be generalised against that background, but not abstracted from it.

Once this has been said, the point to return to and emphasise is that Clarke could have had no idea of the long-range effects of his novel. After all, he was not writing history. He was writing a melodramatic story for a particular market because he was urgently in need of the money. By an odd quirk of fate it was to be his only great literary achievement, and the truly astonishing thing is that this novel should have had such an influence outside the ambit of its own genre.

Although it is the best known, His Natural Life is only one of several novels dealing with Australia's convict era, and it has recently been pointed out that in four novels based on convict life in Tasmania 'the action moves at one stage to the convict settlement at Port Arthur'.²⁹ The identification of Port Arthur with the convict system in Van Diemen's Land is indeed unfortunate.

28. Ibid., p. 145.

29. J. Horner, 'The Themes of Four Tasmanian Convict Novels', in T.H.R.A. Papers and Proceedings, Volume Fifteen, No. 1, p. 18.

Unfortunate too is the perpetuation of that identification in the third stage of the myth. Port Arthur has enough natural beauty to be a scenic attraction in its own right, but its long history as a secondary penal settlement, plus the established myth, made its possibilities for tourist promotion too good to be overlooked by any but the most myopic of ministers for tourism. The Scenery Preservation Board, a statutory body, controls most of the township of Port Arthur, and with quite inadequate funds it has begun to restore some of the original buildings and to beautify their surroundings. Despite the Board's inability to achieve very much in the way of major restoration or re-building, the public has flocked to the Peninsula in the past two decades. Only the shadow of its former glory remains but the tourist can get vicarious pleasure from staring at the site and imagining what took place there. He does not want to be told by the official guides that the convicts on the whole were well fed, clothed and housed, worked fixed hours and had certain amenities for health and recreation purposes. He wants to hear of the floggings, and to peer into the 'dumb' cells in the Model Prison, imagining that this was the norm of convict treatment.

The Tasmanian Government's action in vesting control of Port Arthur in the Scenery Preservation Board was sensible. What it possibly could not have foreseen was that the very success of its

promotion would recoil on the image of the state taken away by visitors. A very high proportion of visitors to Tasmania go to Port Arthur and this has led to the association of the state with one facet of its early convict history. In very recent times there has been a switch in emphasis to the attractions of the Hydro Electric Commission's establishments in the Tasmanian highlands, drawing the attention of the tourist to these extensive engineering and building achievements. Port Arthur may now be left to rest on its laurels in the hope that a new image will emerge, shorn of the distortions of the nineteenth century myth.

This, then, has been the pattern of the Port Arthur myth, begun in an atmosphere of bitterness and hostility, revived from near extinction almost by accident, and surviving as an adjunct of government economic policy. Port Arthur in fact as opposed to myth was something much less dramatic than the myth makers would have it. Its operations were quite deliberate and publicly proclaimed, not hidden or apologised for. It was part of the penal system which was a product of the time, created for purposes which it served well and without undue brutality.

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APPENDIX I.

Statistical returns of corporal punishments for the years 1830 to 1837 are published in H.R.A. 1/19, p. 653, and A.G.L. Shaw, Convicts and the Colonies, London 1966, p. 202. The figures may be summarised in this way:

At Port Arthur there was a steady decline in the numbers receiving corporal punishment except for large variations in the years 1835 and 1837, when the proportions were one to three and one to four of all convicts at the settlement. In the alternate years, 1836 and 1838 the figure was one to nine, the lowest of the whole period. Conversely, in the years when the number of men punished was high the average number of lashes inflicted was low. For instance, in 1835 one in three convicts suffered an average of twenty-nine lashes; in 1836 one in nine convicts received an average of forty-two strokes each. The highest average number of strokes was fifty on one in six convicts in 1833.

In New South Wales the number of convicts flogged, pro rata to the number of male convicts in the colony, was constant at one in four in the years 1833, 1834 and 1836. It rose to one in three in 1835, which was a 'black' year at Port Arthur too, and dropped to one in five in 1837. The total number of lashes dropped from 332,810 in the peak year of 1835, to 304,327 in 1836 and to 268,013 in 1837.

In New South Wales the highest and lowest numbers of men flogged were one in three and one in seven respectively; while at Port Arthur the figures were one in three and one in thirteen. The average number of lashes inflicted in New South Wales ranged from 38 to 58; and at Port Arthur from 19 to 50.

APPENDIX 2.

Lieutenant Governors of Van Diemen's Land from 1824 to self government in 1856:

1824-1836	Colonel George Arthur
1836-1843	Sir John Franklin
1843-1846	Sir John Eardley-Wilmot
1847-1856	Sir William Denison

Note: After 1856 the Imperial Government and the new Tasmanian Government shared responsibility for Port Arthur administration with a diminishing proportion of cost being borne by the Imperial Government as the last of the transported convicts were emancipated.

APPENDIX 3.

Commandants of Port Arthur were:

1830	Dr. J. Russell
1831	Dr. Thomas
1831-1832	Captain Mahon
1832-1833	Lt. John Gibbons
1833-1844	Capt. C. O'H. Booth
1844-July 1845	Capt. F. Mainwaring
1845-1848	Lt. H.T.N. Champ.
1848-1852	Lt. G. H. Courtney
1853-1871	James Boyd (Civil Commandant)
1874-1877	Dr. J. Coverdale

APPENDIX 4

Chapter two is based on the conduct records of 250 convicts. The sampling was done by the late P.R. Eldershaw, State Archivist of the Tasmanian State Library, who also devised the sampling method. For the first one hundred records, he drew at random ten numbers from a series corresponding to the total number of volumes in the series indexed as CON 31, which covers convicts in the assignment period. From each of these volumes he took the first ten convicts who had Port Arthur records. This series is alphabetical. The sample was extended to 250 by the same method, taking a further seven volumes from CON 31, and eight volumes from the series indexed as CON 33, which covers the post-1840 or probation period. This latter series is bound in volumes according to the ship on which the convicts arrived, but is alphabetical within each volume.

The incomplete assignment period records were filled out in some places from Shipping Indents and assignment lists.

About 12,700 sentences were served at Port Arthur, and as the 250 convicts in the sample served a total of 354 sentences, they represent a sample of one in thirty-six.

Although Dr. L. L. Robson's study, The Convict Settlers of Australia has been used as a guide for analysing the material gained from this sample, and for comparative purposes, there is no attempt to emulate the thoroughness and complexity of his analysis.

