

Five hundred lashes and double irons: the origins of Australian capitalism

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The extraordinary rapid growth which has followed upon this settlement of the scum of the Earth on the shores of Australia would almost make it appear that in colonising it is as in gardening, the more your foundations consist of dung the more rapid and striking is the production...

– David Monro, later elected to the first New Zealand parliament, 1842.¹

Debates about capitalist development are generally conducted somewhere between the theoretical poles of contingency and necessity. According to the former, the establishment of a new social order comes as a type of historical accident, notwithstanding that humans intervene. According to the latter, the progressive march of history is only ever paused, even if for centuries.

In New South Wales it seems necessity ruled. Capitalist social relations were *immanent* in the social structure exported the continent.² The colony was an extension of empire, founded by officers who were witness to and participants in the tremendous social change taking place in Britain. They brought with them not only the expectations of the new world, but also an embryo of the society by which they had been shaped. Colonial “progress” involved the destruction of Indigenous societies, the importation and dissolution of a convict labouring class and the transformation of military officers and settlers into a native bourgeoisie.

To the extent that Britain took an interest in the fledgling economy, it discouraged modern urban expansion. The imperial authorities wanted to create a peasant society. Yet social change was propelled by important contingencies, largely out of London’s control. Ironically, the geographical isolation that was intended to keep the inhabitants far removed from civilisation – and which was compounded by political and economic seclusion created by the outbreak of the Napoleonic Wars

in 1793 – proved a crucial factor in early class formation and the beginnings of capital accumulation.

The first thirty years were decisive in setting the pattern of social development. So the relations of production and their development in this period are important. Our focus will be on the creation of what Marx called the “fundamental conditions” of capitalist production: the growth of free labour, the concentration of wealth and land in the hands of a minority, and the formation of a market economy.³ The formation of a state apparatus to discipline the population and foster capital accumulation will also be looked at. We also consider the role of religion and the attempt to integrate the labouring classes via the family institution.

Convict labour, hybrid labour, and the growth of a wage system

From 1788 to 1824 some 34,000 prisoners were shipped to New South Wales, forming the backbone of the white economy.⁴ They grew food for government stores, cleared roads and constructed buildings, worked on the docks, in quarries and on the land. The colonial governor directed their labour to government work or assigned them to a settler to whom they would provide services.

The prisoners were drawn almost entirely from the labouring classes. What was their social status – were they workers, slaves, a caste – or something else? Governor Macquarie (January 1810–December 1821) argued: “Transportation...is at best a state of slavery...[in which] the constant sense of degradation and loss of liberty is a severe punishment which has no remission while he is in that state of bondage.”⁵ The description contains a kernel of truth. Like slaves, convicts neither controlled their capacity to labour nor owned the implements of production. In theory they enjoyed no “positive” economic freedom (i.e. the freedom to enter and withdraw from an employment contract). A closer comparison, however, is indentured labour. Prisoners’ “services” rather than their bodies were owned and the period of bondage was limited by the length of their sentence.

Things were even more complicated than this. NSW chief statistician T.A. Coghlan divided convicts in government employment into three grades: those sent to labour in secondary penal settlements, those performing general duties, and those “holding positions, which, ordinarily, would have been filled by free persons”, such as clerks and

constables.⁶ Each of these grades enjoyed a progressively greater degree of freedom. Of those who obtained positions in the state apparatus, some were eligible to engage assigned labour (so some convicts had convict servants).⁷ Commissioner Bigge found that convict clerks, account keepers, medical dispensers and the like excited “a feeling of envy in the class to which they [belonged], and of indignation and contempt in that of free persons”.⁸

Governor Phillip (January 1788–December 1792) introduced a system of task work that gave prisoners in the two higher grades free time after completing duties in the morning. His decision has been seen as a way of providing incentives and a humane response to the hot weather. It was in part a necessity. Convicts had to find their own lodgings and therefore had to earn some sort of income. Phillip’s scheme had greater ramifications than the governor might have foreseen. In some instances, settlers or officers would simply allow their assigned servants to find employment for themselves, in return for a cut of the wages.⁹ From 1801, convicts could also be granted “tickets of leave” that exempted them from bondage, allowing them to independently seek employment and lodgings within a prescribed district. These developments marked the genesis of a wage system.

There were legal ambiguities as well. Convicts Henry and Susannah Kable launched the first legal action in the colony in July 1788 against Duncan Sinclair, master of one of the transport ships, for loss of property. Under British common law the Kables had no right to property. But Henry was described by the court as a “labourer” and his case was ultimately successful.¹⁰ A few others would later accumulate property as middlemen traders. David Dickinson Mann, transported for forgery but pardoned after three years, complained on his return to England that convict participation in industry was the thin end of a seditious wedge: “[I]t leads him, by gradual steps, from becoming careless of his proper duty, to the assumption of a degree of importance and independence which induces him to place himself above his master, and thus controverts the natural and necessary distinctions of society.”¹¹

While some prisoners could obtain a measure of practical freedom, those labourers who arrived or became formally free could find themselves effectively bound. D.R. Hainsworth, writing about the sealing industry prior to 1820, noted of one of the largest companies employing free labour:

[S]ealers were normally in debt to their employers for spirits and other goods supplied prior to the voyage or perhaps to their Sydney

dependants during the voyage... We need not expect much money changed hands. Sealers would take their pay in “currency”, small notes of hand, or in rum or other goods, or by having their debts with other tradesmen settled by their employer. The goods would be sold to them at inflated prices, a very profitable system to their employers, all of whom were dealers.¹²

Marxists have generally separated economic and non-economic coercion as the conceptual basis for distinguishing between free and forced labour. But difficulties arise when analysing the colonial labour force. On one hand, a transitional labour category – partly bonded, partly free – emerged within the convict labour regime.¹³ On the other, freedom for those such as the Sydney sealers could collapse into debt bondage due to purely economic factors.

Thus, a multifaceted labour market developed in which the differences between freedom and bondage could be a matter of degree.¹⁴ The military dictatorship of the NSW Corps from December 1792 to September 1795¹⁵ allowed for greater convict freedom than did the regime of Governor Bligh (August 1806–January 1808). Bligh also placed restrictions of free labour. Those who asked for more than, or accepted more than, the maximum wage set by the governor could be put in stocks for two days and a night and sentenced to three months’ hard labour.¹⁶ Macquarie pardoned or granted tickets of leave to nearly one-third of all arriving under his rule (moneyed convicts were able to buy their freedom on arrival).¹⁷ But he also began a process of winding back some established convict freedoms. For example, the ability of convicts to earn a wage in their free time was undermined in 1816 when Macquarie made an annual wage compulsory for assigned convicts. This pushed most “masters” to utilise the convict’s labour for the entire day, thereby curbing the part time labour market. In 1819 barracks were erected to house convicts thus putting greater restrictions on their movement. In the 1820s further impositions, such as the “weeding out” of convict labour from civil service positions and as overseers took place.

Location mattered. On a rural outpost convicts and free labourers alike were isolated and could be subject to an arbitrary labour regime. Sydney provided opportunities for socialising, but was also the centre of the state’s coercive apparatus. The employer’s temperament, and whether they were an officer, a settler, or the government, could mean the difference between misery and tolerability for convict and emancipist alike.¹⁸ The skill level and occupation of the labourer was often a determinant: a convict mechanic or engineer was highly sought

after compared with an unskilled free labourer, for example, and might attract greater “incentives” to work.

Around 85 percent of the population was male. Women convicts were often domestic servants and had far less room for personal control of their lives than their male counterparts. In the “Remarks” column of the muster records, almost invariably marital status is recorded for women – in the eyes of the establishment, a female’s respectability was determined not simply by her class position, but her capacity to reproduce a workforce or an heir in an orderly manner. By contrast, men’s occupations were deemed remarkable.¹⁹ Some women preferred prostitution to the drudgery and stifling control associated with being a domestic servant.²⁰ Many others were forced into servitude and treated little better than cattle at a stockyard – examined and acquired as property on arrival by the most privileged. Some women were also sold off by their husbands in exchange for food, animals and liquor. Presumably such acts were due to the significant material poverty that many suffered.

Freedom could be a function of class struggle. As Atkinson points out, “The convicts certainly thought in terms of rights and claims, and they were often ready to defy their masters when they thought their ticket [of leave] was due.”²¹ Governor Hunter (September 1795–September 1800) complained about convict sawyers demanding payment for work performed in the afternoon.²² Connell and Irving note that the use of the slow-down became widespread.²³ By holding out for incentives, recalcitrant convicts pushed up the cost of labour. This in turn likely attracted more of those entitled to land grants to take up labouring jobs instead. Labour shortages gave convict labour a measure of bargaining power and made labour regulation more difficult. Settlers often found it more economical to pay incentives than threaten a flogging, and systems of workplace bargaining attempted to reach some mutually satisfactory arrangement. On the other hand, struggle often led to greater levels of coercion. In 1822 one convict was charged with attempting to form a union to increase rations. He was sentenced to 500 lashes, solitary confinement on bread and water for a month, and transported to a secondary penal settlement to serve the rest of his term.²⁴

The extent of free labour

From early on the convict labour regime generated a layer of non-landowning nominally free subjects, mainly through an increase in emancipist (freed convict) numbers and discharges from the military. The Colonial Office originally instructed that NSW should become self-sufficient. Governor Phillip granted 30 acres of land to emancipists on the condition that they cultivated it. In an attempt to boost agricultural production, officers and privates from the military were soon also authorised grants of 100 acres and 50 acres respectively. All those accepting grants were to be provided with a year's worth of provisions, including livestock and assigned convict labour.²⁵

This plan for subsistence farming met with only limited success. Of those who became settlers most failed. The soil was poor and most lacked the tools and know-how. Others, weakened by the trip from Britain, were unable to cope with the exertion. Many became debt-laden and were foreclosed. On the other hand, only a minority of soldiers and emancipists actually took the land they were entitled to. Many preferred to settle in the town or were bought-out by military officers.²⁶

How large was the free population? We have hints. Thomas Daveney, a free immigrant, wrote in July 1794 that there were some 300 emancipists living by their own labour.²⁷ In 1797 Governor Hunter complained of the country being filled with 700 ex-convict "vagabonds" who became "a public and very dangerous nuisance...they have join'd large bodies of the natives, and have taught them how to annoy and distress the settlers."²⁸ The ex-convict David Mann estimated some 1200-1300 emancipists at the turn of the century.²⁹

How many of the free population were labourers as opposed to small farmers or self employed? In the general muster of 1806 at least 50 percent (some 2,400 people) of the adult, non-civil/military population was classified either "free" or "ex-convict".³⁰ Of these, around 650 owned, leased, or rented agricultural land; and of these nearly 190 collectively employed around 730 free labourers. Two landowners – Simeon Lord and Andrew Thompson, both emancipists – employed 394 free persons between them. No one else employed more than 10, most employing one or two.³¹ Many of Lord and Thompson's employees were not on the land but in Sydney. Here the sealing and boatbuilding industries employed up to 300 free labourers.³² Other industries like construction, light manufacture and trade also employed free labour. By 1810, the merchant Robert Campbell reportedly employed 126.³³

By 1819, the population was rapidly expanding. In March, 1250 petitioners argued: “[T]he free labourers of the colony are now numerous and becoming daily more so, and the period is not far distant when the free labour will supply all the demands of the colony, when consequently the labour of convicts will become unnecessary.”³⁴ The British, however, were not interested in slowing the pace of convict transportation. The cessation of the Napoleonic Wars and the continuing social upheaval in Britain, now compounded by economic downturn and the demobilisation of thousands of troops, saw convict transportation dramatically increase. But the general development of the colony was clear. In a population fast approaching 25,000, there were only 1,665 landowners out of a total free population of at least 9,000. A layer of nominally free people working for a wage now likely totalled several thousand.³⁵

State and coercion

Our jails are overcrowded with felons and every day continues to crowd them... [F]or eternity has lost its terrors with guilt, and hard labour is more alarming than an offended deity.

– *Hibernian Journal*, 1785.³⁶

In Britain, enclosures were driving traditional farmers off the land. As those expelled from the countryside joined the urban labour force, bosses and police broke them to the discipline of daily factory work. When their frustrations found an outlet in unruliness and crime, the state stepped in to restore order and protect property. Behind every aspect of capitalist development stood the magistrates, the police, the hangmen and the jailers, indispensable in carving a workforce out of rebellious human material.

In this new world order criminality became associated with lower class idleness and therefore poverty. Delinquency was attributed to individual deficiency. Just as capitalists transformed land and property into productive enterprise through the application of labour, criminals were transformed into productive members of society – which largely meant compliant labourers with respect for property. New South Wales was a laboratory in this regard. Debates raged about deterrence from crime versus reform of criminals, and the contribution of transportation to both. Forced labour found advocates among the establishment because it combined reform through toil with deterrence through its compulsory nature. John Macarthur, an officer in the NSW Corps who

became one of the richest men in New South Wales, wrote of the transformative effect of labour discipline:

[W]hen a lot of convicts were received from a ship, they were at once put to some very hard labour...which was a severe punishment to them; we kept them at that kind of work for a considerable period, according to their conduct, and so broke them in, and made them well disposed; taught them the difference between good conduct and bad, the advantages of regular and orderly behaviour.³⁷

If work and reformation became ideologically linked for some in the ruling elite, convict discipline and economic survival were practically inseparable. The colony was more than a prison; it was a society in which the jailers' existence was dependent on the inmates' toil. The state thus became the principal coordinator of the reproduction of economic life – a task at which it was initially unsuccessful. For at least the first four years, starvation was a constant threat. The soil around Sydney was so poor that government attempts at cultivation were abandoned. Two years after arrival no supplies or communication had come from Britain and only one shipload of goods had been procured from southern Africa. Marine officer Watkin Tench explained in his journal how food scarcity devastated both convicts and soldiers: "I every day see wretches pale with disease and wasted with famine, struggle against the horror of their situation."³⁸

So it isn't surprising that soldiers and prisoners alike would try to gain extra rations. Theft became prevalent and the marines wouldn't act to stop it. Major Ross insisted that they were dispatched as a garrison only. He and some of his officers refused to police the settlement and objected to court duties.³⁹ Phillip was forced to look elsewhere. Tench explained: "The Governor at length determined to select from the convicts a certain number of persons...for the purpose of being formed into a nightly watch... [This was] the first system of police [in] the colony."⁴⁰ The role of this embryonic police force in the very early years was not so much defending great material privilege – there was little material privilege to defend – but protecting property, maintaining order and helping to establish and enforce the hierarchy of authority. The first watch consisted of 12 prisoners, who gained preferential treatment in return for carrying out the duties.⁴¹ They briefly had power of detention over soldiers and sailors, until it became clear that, insulted by receiving orders from and being detained after curfew by prisoners, the garrison would not accept discipline from anyone other than the governor.⁴²

New South Wales was founded without representative institutions, a free press or trial by jury. The governor was head of the armed forces, chief magistrate, and held an executive power greater than the King of England.⁴³ There was no separation of powers. Yet colonial rule was structured not simply according to gubernatorial whim or military discipline. The Act establishing the colony enabled the convening of a criminal court for the trial of those whose conduct breached British common law, which was sometimes ignored but often applied – albeit with colonial peculiarities.⁴⁴ So elements of a civil state were there from the beginning, even if some elements lay dormant.⁴⁵

By mid-way through 1789, 15 criminal courts had been convened – around one per month in a population of little more than 1,000. Over the next year there were twelve executions of convicts and marines in equal number.⁴⁶ However, the dispensation of “justice” was almost always carried out by magistrates, rather than the criminal court. They didn’t take long to start entrenching the institutions of private property. “Of the first forty-odd prisoners brought before the Bench of Magistrates in Sydney in 1788, two-thirds were brought on charges of theft.”⁴⁷ The punishments were horrific. Convicts James Williams and William Lane were sentenced to 500 and 2,000 lashes respectively for stealing biscuits.⁴⁸ According to Golder, “A nadir of savagery seems to have been reached in 1806, when the colony’s precarious food supply was devastated by floods...the bench quite regularly awarded punishments of 500 lashes.”⁴⁹

In the first 32 years the magistracy remained a small clique numbering less than 30.⁵⁰ Unlike the police, magistrates were drawn from the establishment – surgeons, chaplains and officers. Appointments were part of a broader strategy to discipline members of the upper class who, eager for patronage, would toe the governor’s line. They were also assigned convicts, an arrangement that severely compromised judicial independence. As Governor Bourke (December 1831–December 1837) was later to observe, “Magistrates, who, with the exception of those who are Stipendiary, are always themselves Settlers directly interested in maintaining the strictest subordination, and in exacting the most laborious exertion which the law permits on the part of assigned servants.”⁵¹ The magistrates’ role became one of great significance. With growing social differentiation, a result of the development of the private economic sphere, “economic reproduction” increasingly meant private enrichment, rather than simply survival. Outside of Sydney, convict assignment and ticket-of-leave renewal came to be organised by the magistrates. They were thus able to use

their judicial power to bolster their economic situation, and became regulators of the labour market within the colony.

Over time, the most common convict offences became drunkenness or absconding from work – a pattern that fitted with both the ruling philosophy of reformation through labour and the practical wants of the establishment for material wealth. Idleness could result in 500 lashes and double irons.⁵² The corollary of labour policing was the policing of movement. Gradually, surveillance of every person in the colony increased. Governor Hunter introduced a pass system, the stipulations of which read:

No person, unless a settler, to leave his place of abode without a pass, which he is to produce to the chief constable at the settlement expressed in it, and return it to the officer who granted it, under the penalty of three months hard labour, if free; and, if a prisoner, corporal punishment, at discretion of one magistrate, not exceeding one hundred lashes.⁵³

On top of the night watch, magistrates and pass system, there were musters for the detailed accounting of the colony, plus the extra surveillance of privately-assigned labour. Masters produced regular progress reports and monthly reports on the behaviour of convict servants.⁵⁴ There were also networks of police informants. Under Macquarie, the coercive apparatus grew in number and became more complex. By 1814, “constable” was the fourth largest occupational category.⁵⁵ The first full-time magistrate, who was also police superintendent, was appointed. Each Sydney district obtained a watch house and district constable.

People with little stake in any social institution are likely to be rebellious. Despite the repressive apparatus of state – often because of it – rebellion was reasonably common. The problem was that it was fragmented, poorly organised, and collapsed easily, typically through betrayal from within. This had much to do with the uneven and changeable circumstances of convict life. If there was any indication of serious disorder, the garrison would spring to action. For example, the uncovering of a planned rebellion in 1800 led to brutal reprisals from the authorities. Paddy Galvin, a twenty-year-old Irishman accused of making and hiding pikes, was given 300 lashes. Joseph Holt, a likely participant in the planned revolt, witnessed the punishment and detailed both the gruesome floggings and the resolve of some to resist:

He got one hundred on the back, and you could see his backbone between his shoulder blades. Then the Doctor ordered him to get another hundred on his bottom. He got it, and then his haunches were in such a

jelly that the Doctor ordered him to be flogged on the calves of his legs. He got one hundred there and as much as a whimper he never gave. They asked him if he would tell where the pikes were hid. He said he did not know, and would not tell. "You may as well hang me now," he said, "for you never will get any music from me."⁵⁶

The authorities could never extinguish the flame of revolt completely. But the criminal code and its punishments helped create social mores. The flip side of the discipline was a system of incentives, like payment of rum, sentence remissions and pardons to encourage good behaviour and help the state monitor the population through a network of informants.⁵⁷ There was much more stick than carrot, but both had the ultimate aim of increasing labour productivity and teaching subordination. So while recalcitrance and resistance were features of penal life, many were also being integrated into the new society, accepting its dictates and aspiring to "make something of themselves". As Commissioner Bigge commented, the prisoner "finds that, by increased exertion, he possesses the means of improving both his present and future condition; and he every day becomes more skilful in that species of labour, by which he may hereafter seek to establish himself in the possession of property, and make it available for his support."⁵⁸

A primitive accumulation

[T]he fraudulent alienation of the State domains, the robbery of the common lands, the usurpation of...clan property, and its transformation into modern private property under circumstances of reckless terrorism, were just so many methods of primitive accumulation. They conquered the field for capitalistic agriculture, made the soil part and parcel of capital, and created for the town industries the necessary supply of a "free" and outlawed proletariat.

– Karl Marx, 1867.⁵⁹

Marx's comment that the dual foundations of modern society were equal parts violence and theft was as relevant for New South Wales as for Britain. Capitalist development in Australia was enabled by the concentration of land rights in the hands of the crown. The dispossession of the original owners ultimately flowed from industrialisation in Britain itself. In fact they had something in common with Celtic clans forced off communal lands in the Scottish highlands to make way for capitalist sheep runs, after which Celtic bards lamented

that “nothing was heard but the bleating of sheep and the voices of English speakers”.⁶⁰

Despite heroic and at times effective resistance from the Indigenous inhabitants, they were brutally put down. In 1795 the NSW Corps smashed the Dharuk clan’s warriors in a battle near Richmond Hill on the Hawkesbury; two years later they inflicted a major defeat on the Eora clan. Even so it was only after the death of the black leader Pemulwuy in 1802 that serious armed resistance came to an end. And while this broke the back of resistance in the Sydney region, it was only the opening act in a “100 Years’ War” which saw successive Aboriginal clans wiped out or driven from their land. After the defeat of the Dharuk and Eora, fighting subsided for about 15 years until pastoralism took off west of the Blue Mountains. Then determined resistance by the Wiradjuri people in the Bathurst area forced Governor Brisbane (December 1821–December 1825) to declare martial law and send extra troops before the Aborigines were beaten in 1824.

The embryonic administration of the colony was designed simply to run a penal settlement closely dependant on the mother country. But after three fleets had transported more than four thousand people to NSW in 1788-92, few arrived before the turn of the century. Isolated because of the outbreak of war in Europe, the colony began to develop a distinct political and social life. Major Francis Grose, head of the NSW Corps, replaced Phillip in December 1792. An interregnum ensued under first Grose, then Captain Patterson, lasting until the arrival of John Hunter in September 1795. With military dictatorship came moral hazard: those entrusted to run the place now had the authority and the incentive to advance their own private interests. A “second privatisation” – of the crown by civil and military officers – became the basis for a class of private property owners. The magistrates were sidelined and, according to Hunter, “all the duties respecting the distribution of justice and every other concern of that office was taken into the hands of the military” as economic and political power were fused.⁶¹

Development of state infrastructure ceased as the colony’s resources were put to use in the private service of the officers. Grose granted 100 acres of land, and assigned 10 convicts, to any officer who asked.⁶² Many soldiers were also granted 25 acres, but the grants stipulated that the land be “occupied and cultivated by the proprietor”. These soldiers, having other duties to perform, often sold the land to the officers, who acquired large holdings.⁶³

The organisation of agricultural production had initially changed under Phillip. With the near collapse of state-run farming, the governor introduced incentives for private production, guaranteeing that any settler capable of producing a surplus would have a market provided by the Commissariat (government store). Government production of use-values in food was transformed into private petty commodity production. Under Grose and Patterson land became centralised and the accumulation of private wealth began in earnest. It was a foolproof scheme: free land, free labour and a guaranteed market. The assignment system did increase meat and staple goods, but the officers saw their interests not in farming, but in exploiting labour. As an example, David Mann later complained that “the general disposition which prevailed amongst almost every class of society [was] to push their individual interests, to the detriment of the public service; and, instead of giving their full assistance to promote the prosperity of the colony, to retard its progress, and make its necessities the source of their profit.”⁶⁴

The authorities were charged with the task of reforming the prisoners, but this mission became bound up with the logic of wealth creation. For convicts, hard labour meant improving the land through cultivation, and thereby improving themselves in the process. As the Marxist historian Ellen Wood points out, in its original sense “improvement” meant “turn to profit”.⁶⁵ There was not only compatibility between exploitation and reform; the former could easily be rationalised as requisite for the latter.

Accumulation was difficult, but the decisive factor was the state – the colony received an incredible investment via the British Treasury. After only five years the total British outlay amounted to around £500,000. After seven years only 3 percent of the white population was supporting itself without government assistance.⁶⁶ Without the purchasing power of the Treasury the market for the officers’ grain would have been dramatically smaller. With it small fortunes could be made. By 1796 the officers in NSW numbered fewer than 50 out of a white population of 4,500, but one-third of the total produce in the white economy was coming from their farms.⁶⁷ This “second privatisation” of land made possible a more complex labour market⁶⁸ and promoted the capitalist development of agriculture. The extent of free labour would have been sharply limited in this period if convicts had spent more of their time working on government projects. Macarthur benefited greatly from the arrangement:

The changes we have undergone since the departure of Governor Phillip are so great and extraordinary that to recite them all might create some suspicion of their truth... As to myself, I have a farm containing 250 acres, of which upwards of 100 are under cultivation...of this year's produce I have sold £400 worth, and I have now remaining in my granaries upwards of 1,800 bushels of corn... My stock consists of a horse, two mares, two cows, 130 goats, and upwards of 100 hogs. Poultry of all kinds I have in abundance.⁶⁹

Macarthur wasn't exaggerating. Prior to the arrival of the NSW Corps less than 5 percent of the convicts (i.e. 38 out of 900) worked on officers' farms. By the time Hunter arrived in 1795, Macarthur alone had 30 to 40 for himself, while the new governor claimed there were scarcely 20 prisoners available for government projects. Hunter's correspondence contains positive sentiments about the officers' self-interested behaviour. But it is riddled with complaints about the general state of the colony:

We are...destitute of every kind of tool used in agriculture...; Not a [public] barn, granary, or storehouse wherein to preserve those crops [has even been] thought of yet... Our boats gone to ruin and decay; huts or houses, formerly the property of Government, leas'd away...; [T]he people here are being nearly naked, and the convicts, which arrived in the last ship being put on shore wholly in rags, without a bed to lay on.⁷⁰

Diverting government labour to private projects was only one of the ways the officers enriched themselves. With almost all available labour deployed in private employment, the wages system had expanded. With little coinage in the settlement, incentives were often paid in rum, tobacco, soap, clothes etc. The only source of most of these goods was the import trade. Using their dual monopoly of armed force and access to foreign exchange via military payrolls, the officers secured a stranglehold on this trade. Receipts from the sale of grain to the Commissariat could also be accumulated and consolidated for British treasury bills, which were regarded as currency and became the basis of external accounts with visiting merchants.⁷¹

G. Bond, former officer, noted at the turn of the century that officers who had arrived without property obtained fortunes of twenty to thirty thousand pounds.⁷² By comparison a major's salary was £257 per year. They could accumulate readily because they had access to credit and to the wages of hundreds of soldiers. They would pool financial resources for trading while paying the soldiers in kind... from the proceeds of the trade! This system allowed some officers to invest the equivalent of one

or two years' wages at a time.⁷³ In the eight years to 1800, paymaster's bills, mostly drawn to fund the officers' scheme, exceeded £50,000.⁷⁴

Within the colony promissory notes and credit formed the basis of economic transactions. Rum also became a de facto currency. The inflated prices of imported goods pushed up the cost of labour. This in turn helped consolidate the officers' position in agriculture: an emerging set of middlemen traders engaged in land speculation, foreclosing on some of the small farmers who had become indebted due to rising costs and the Commissariat's prioritisation of purchasing the officers' grain.⁷⁵ The officers benefited from the existence of a layer of settlers able to purchase the monopolised imports, but they also benefited from squeezing out the small farmers, which reduced competition by further centralising land ownership. A diabolical logic.

By 1800 officers of the NSW Corps, in alliance with other public officials, "formed a tight group controlling the state machine – military, administrative and judicial".⁷⁶ Twenty percent of colonial land was in the hands of one percent of landowners, and six percent of landowners owned almost half of all private land.⁷⁷ What the enclosure movement had done in Britain, the officers had accomplished by other means in New South Wales. They got away with all this because financial responsibility fell across several British government departments, and because of imperial preoccupation with the Napoleonic Wars.⁷⁸ But it didn't go completely unchallenged. The secretary of state for the colonies protested in 1795:

[T]he amount of the public livestock and cultivated ground bears by no means that proportion to the private which might be expected from the nature of the case and the number of convicts employed, whose labour should be considered as the property of the public by whom they are supported.⁷⁹

Over the next five years Hunter made a few pathetic attempts to change the system Grose had initiated. His successor King prosecuted some officers' abuses and created more space for small farming. But the governors were caught in a bind. To enforce their edicts they relied on the very public officials who had a vested interest in subverting them. As Noel Butlin explained:

Short of draconian measures...[t]hey might surrender to the military-civil complex; or they might simply join it. Successively, Hunter, King and Bligh followed a convoluted and frustrated path along the various option lines. Hunter largely surrendered to and compounded the privatisation. King made an initial attempt to claw back the public estate

and reduce the numbers of publicly supported assigned convicts... Only Bligh attempted to take on frontally the military-civil complex.⁸⁰

The officers also faced a dilemma. A really serious clash with a governor could provoke the authorities in London to remove the NSW Corps, as happened after the 1808 “Rum Rebellion” against Governor Bligh. Bligh set out to create an alternative apparatus by siphoning off public resources and using them to create a rival patronage network. But he was unable to consolidate his position before the officers deposed him. Although his removal allowed them another couple of years to plunder the state, it also ensured that the next governor, Lachlan Macquarie, arrived with a new regiment. The landowning elite which had emerged from the officer class would no longer control the state, which would become more distinct from the private sector. More importantly, the new regime would develop a civil society within which this elite would only be part of a wider ruling class, and would have to contend with market forces.

The rise of capital

The officers had no interest in completely centralising land in their hands.⁸¹ A level of prosperity for the settlers was in their interests. How would they realise any profit on the import trade without an internal market? The trade monopoly combined with the consolidation of small farming brought an expansion of the private market and a more complex internal division of labour involving private trading via convict and emancipist intermediaries. Coal, cedar, lime, salt, tobacco, oil, soap, bricks, beer, textiles and clothing, foodstuffs and, of course, rum were all trading more readily within the colony in spite of the state’s restrictions on movement. The growth of this internal trade, along with the governors’ curbing of some excesses, began to undermine the officers’ economic supremacy.

The arrival of merchant Robert Campbell in 1798 was a nail in the coffin for the trade monopoly. Campbell established a private wharf and warehouses, bypassing the officers and selling directly to settlers. By 1810 he had well over 100 employees. This would have counted as a large business in London at the time.⁸² Professional merchants and sea captains representing agency houses based in England and India also began appearing from 1800. They were the first major channel of private investment.⁸³ Pamela Statham writes:

[T]he period 1801-5 marks a watershed... Before this, trade was basically confined to retailing of cargoes introduced as speculations by incoming ships' captains and overseas merchant houses. Afterwards a clear differentiation developed between wholesale trade and direct ordering, supported by growing export activities, and retailing by dealers in the colony.⁸⁴

Trade had been the dominant private activity in the colony since the officers came to power. Now, in a conscious effort to open a space for private enterprise, the colonial government stopped buying anything but necessities. The retail industry took off. Mann wrote of the period to 1809:

Many of the settlers themselves have either disposed of their farms or deserted them, to obtain the means or the leisure to devote themselves to a species of dealing which never failed to turn to good account. Many who had also served their terms of transportation, instead of remaining to aid the public service, withdrew themselves from the stores, and turned their thoughts to trade... Many of the convicts soon acquired property in this way, and some of those who had been in that unfortunate situation, by their good conduct are now considered as respectable characters, and are in possession of horses, carriages, and servants.⁸⁵

An obstacle to growth was the lack of any colonial export that might be used to defray the cost of shipping. (For the officers, this was no insurmountable problem. But the new merchants were not financed by the British Treasury.) Whale and seal oil were the first exports of any significance, but the main export continued to be British Treasury Bills. Something else had to be found, for by 1808 the officers' share of crop production had fallen to about 5 percent⁸⁶ and increased competition in commerce saw their trading profits significantly diminished. To find new investment outlets for their accumulated wealth they moved into grazing. Macarthur had been sent back to Britain to face charges after injuring Patterson in a duel. During his trip home he had been encouraged by the British Committee of Manufacturers, which was eager to break the guild system in woollens manufacture in order that the industry could follow cotton down the path of industrialisation. The industrial revolution was transforming domestic land usage in Western Europe: intensive farming practices were being adopted to feed the growing populations and production of livestock for meat consumption was increasing. There would be supply problems were wool manufacture to expand.

Just as the domestic division of labour in New South Wales was becoming more complex, an imperial division of labour was thus emerging.⁸⁷ Through wool exports, New South Wales might not only be able to become financially self-sufficient, but also provide a much needed primary input to industrial Britain. A shift in government policy saw large land grants increasingly gifted to establishment types, including new settlers arriving with capital. Macarthur returned in 1805 with a grant of an additional five thousand acres. A year later Gregory Blaxland was granted four thousand acres and allowed to purchase eighty head of livestock from the government herd. The government gave them both assigned convicts.

Trading was still where big money could be made. But it was a risky business in the unstable economic situation. A paucity of development, lack of a stable means of payment and a population whose fortunes were dramatically tied to the weather – all this created a market that moved rapidly from shortage to glut. Then, just as the colony was easing its way out of commercial seclusion, it was rocked by a financial crisis in Britain. The flow of imports began to dry up from 1811 and a credit crisis was later transmitted via trading houses in India. New South Wales was pushed back into isolation. Many merchants went belly up as commercial depression gripped the colony. The crash sent speculators packing and left creditors in India reluctant to patronise local traders. By 1815 commerce had almost completely collapsed.⁸⁸

With profits hard to come by in trade, more investment moved into the pastoral industry. The whites' crossing of the Blue Mountains also opened up new and expansive areas for colonisation and livestock grazing. Wool exports to London began tentatively from about 1810. By 1821 175,000 pounds were shipped per year. Twenty-five percent of the colony's income was from cattle and sheep.⁸⁹ The foundation was laid for a later expansion which would firmly integrate Australia into the world economy. A growing chorus called for increased pastoral expansion, claiming wool would "give to the colony a national character, increase its credit and raise it in the estimation of the world".⁹⁰

Alongside the pastoralists, a rudimentary urban bourgeoisie emerged. Merchants had provided finance for the emerging wool trade while pastoralists held shares in the first joint stock companies. They formed alliances through intermarriage and drank together in exclusive clubs. Officers and newly wealthy emancipists generally engaged in some combination of trade, agriculture, small-scale manufacture or retailing, and grazing. Blaxland established a woollens manufactory, lime kilns

and salt pans. Wentworth was in construction as well as sheep. Lord engaged in trade, sealing, and was an auctioneer among other things.

The public sector was also expanding. In 1816 Governor Macquarie created the Bank of New South Wales to provide a stable money supply and public credit. The governor placed strong emphasis on public infrastructure, averaging two projects per month. More than any other of his time, he saw civilisation embodied in public architecture. There was a moral dimension to the opulent building construction. As historian Mary Casey points out, under Macquarie “The landscape of the Domain was remade to encourage certain forms of respectable socialisation as well as to reform old beliefs and practices and to thereby establish new patterns of behaviour.”⁹¹ This activity annoyed individual capitalists as it diverted skilled labour away from the private sector.⁹² It also provoked charges of wastefulness from Britain. Yet much of the work reflected the objective needs of capital in general for roads, towns and improved communications.

Sydney had flour mills, breweries, shipyards, tanneries, boot and shoe factories, as well as small firms making soap, candles, rope and pottery-ware. Much of this was government run, but competition, along with increasing immigration of both capital and labour, had driven the expansion of a wider market in land, goods and labour. In 1815 the first steam engine arrived and by the end of the decade the foundations of the industries that would dominate manufacturing throughout the nineteenth century – food and drink, clothing; the metal trades, building and construction and their offshoots – had been laid.⁹³

Civil rights vs penal state

The legislative code of the colony requires a careful revision... That system which would suit the original establishment, composed only of two classes, the officers of government and the convicts, will scarcely be expected to adapt itself to the wants and wishes of a community advanced in civilization: In the former case, the principal object was to punish delinquency; in the latter, to...insure the safety of that wealth which now began to shew itself in the multiplication of luxuries, and the augmentation of individual splendour.

– David Dickson Mann, 1811.⁹⁴

In the first 22 years of the colony politics was framed by the struggle for power between the military officers and successive governors. The growth of the free population, the removal of the NSW Corps, the

development of commerce and the birth of a small layer of capitalists and entrepreneurs created a more complex political framework. Over time, the contradiction between penal and civil society grew. One manifestation of this was the emerging conflict between those who had come to the colony free and those who arrived in chains. When the officers were in control, emancipists had been socially and politically excluded. With the removal of the NSW Corps from active duty, the ex-convicts began pressing their claims for full civil rights and to be included in the existing institutions of colonial power.

Some emancipists – like Lord, Kable and Underwood – were making fortunes, but they would never be accepted into respectable society by men like Macarthur or the Reverend Samuel Marsden, the colony’s chief preacher. The so-called “exclusivists” – rich free settlers, civil servants, officers and ex-officers – thought themselves a higher class of citizen. When Macquarie backed the emancipists and started appointing some to positions of authority he won the enmity of the establishment. Many saw in the governor’s alleged favouritism an attack on the existing social order; an attempt to contaminate and degrade respectable society. Marsden furiously protested that the governor was attempting to “raise one class and lower the other, and to bring bond and free to a common level”.⁹⁵

Macquarie’s leanings did not reflect any great sympathy for the lower classes. In fact he complained about the arrival of “idle and profligate” poor free settlers after 1817, urging that only settlers with £500 capital be granted land. He flattened the homes of those with meagre incomes if they were an impediment to his grand architectural plans.⁹⁶ Macquarie shared the exclusivists’ love of profit. But their social outlook was still influenced by rigid notions of rank, and less attuned to capitalism’s tendency to allow for the “self-made man”. Macquarie on the other hand valued industriousness and improvement – he was a reformer. He flattered and embraced the wealthy or skilled emancipist, and to a lesser extent the productive small farmer. His policies were “aimed at normalising the social, commercial and ultimately political life of the colony”.⁹⁷ Since convicts and ex-convicts were most of the population, and some of them were budding entrepreneurs, certain concessions were simply unavoidable. And when the governor put emancipists into various public offices he was merely adjusting institutions to accord with social realities.

The emancipists’ political claims were only partly successful under Macquarie’s rule. They did not yet have sufficient social weight to enforce their will and there was no public political forum in which to

debate and democratically institute new laws. By the end of the governor's appointment, those emancipists with property were forcefully petitioning London for constitutional change, the ending of the East India trade monopoly (which stifled trade between Britain and NSW) and the easing of duties that were inhibiting industrial development.⁹⁸ They wanted the rights afforded them as British subjects, and the political power due to them as a rising propertied class.

The bulk of the population – convicts and free labourers – had little stake in this struggle. It was an emerging conflict within the propertied classes over power at the top of society, rather than over the conditions of life for those at the bottom. Their struggles continued to be over more basic freedoms and the conditions of labour.

Meanwhile the rapid changes under Macquarie's rule led to friction and complaints from both London and the exclusivists. In response the British government empowered John Thomas Bigge to carry out a wide-ranging enquiry into the development of NSW. His recommendations led to a crackdown in convict discipline and the opening up of wider areas of settlement. Another outcome was the 1823 *Act to Provide for the Better Administration of Justice in New South Wales*, which provided for the creation of a colonial Legislative Council. The Council was no more than a consultative body appointed by the governor, but its establishment was acknowledgement that New South Wales was more than just a penal outpost.

There were other conflicts between civil and penal society that some emancipists and exclusivists could unite around. One was the increasing tension between the executive and the judiciary. As early as 1802, complaints were raised about judicial process. George Caley, an English botanist employed in the colony, wrote during King's rule: "[E]very Englishman that has arrived in this colony within the last three years (who had not violated the laws of his country)...may be truly said to have lost his liberty."⁹⁹ The restrictive atmosphere in New South Wales – the pass system, musters, and gubernatorial prerogative in determining regulations – was not welcoming to free people, and did not make for the most favourable business environment. Calls for trial by jury, an easing of restrictions on movement, and the creation of some sort of legislature were being made at least from 1811. Growing ranks of propertied emancipists added weight to the calls for a curbing of the governor's power.

The growth of commerce and the developing division of labour also began to change the state's structure. When the colony was founded there were four departments – medical, lands, ecclesiastical and the

Commissariat – and nine civilian officials. As the private sphere grew so did the complexity of regulation and with it the number of civilian officials. To bolster state revenues, Governor Hunter ordered levies on grain and alcohol. This represented the beginning of a colonial fiscal system.¹⁰⁰ The number of taxes and levies gradually expanded to defray the costs of building and payment of the growing number of civil servants. When Macquarie arrived, there were over 100 different fees charged by officers, both civilian and military, for services rendered. He took steps to turn official fees charged into salaries, thereby formalising a public service and creating a larger bureaucracy.¹⁰¹ By 1820 there were eight departments and nearly 500 civil servants – over half of whom were employed in the security apparatus.¹⁰²

Beyond the origins

[W]hile New South Wales continues as a convict colony, and subject accordingly to the summary and arbitrary administration by which it is now governed, it can never become a flourishing commercial establishment – not even the settlement of a contiguous free port could give it such a character.

– Alexander M’Konochie, 1818.¹⁰³

By the time Commissioner Bigge arrived in September 1819, 50 percent of whites in New South Wales resided in the towns and trade was recovering – the settlement was emerging as a commercial society.¹⁰⁴ In the absence of landed gentry to obstruct economic progress, there had been a rapid growth in merchants, shopkeepers, artisans and also a range of tradesmen and labourers working for wages. Class divisions in urban commerce were comparatively vague and fluid, but the capital city taken as a whole was clearly divided. Eastern Sydney, home of Government House, was the domain of a small and affluent elite, while the suburbs further west were shabby and impoverished and The Rocks was a slum.

Through the 1820s mild reforms were undertaken, including the introduction of an independent Supreme Court, trial by jury and a free press. New financial institutions arose to bankroll the growing economy. Exclusivists created the Bank of Australia to compete with the emancipist Bank of NSW, while leading colonial capitalists joined in two major collective investments backed by the state: the Australian Agricultural Company (AAC) in NSW and the Van Diemen’s Land Company. The Newcastle coalmines were handed over to the AAC on Commissioner Bigge’s recommendation. And in 1826 the Van

Diemen's Land Company began operations under the leadership of Edward Curr, a friend of Lt Governor Sorrell.

British capitalism suffered another crisis in 1825, which found colonial echoes. Investment was curtailed, aggravating a downturn that was already underway due partly to drought. Yet wool exports continued to rise. As British demand grew, the colonial administrators shifted their land policy to promote even larger estates. In 1824 parliament granted the AAC a charter to occupy a million acres of grazing land if it invested £1 per acre and employed 1,200 convicts. In the 30 years to 1820, governors had given away 600,000 acres of land in NSW. Over the next decade the figure was three million plus another 500,000 acres sold.¹⁰⁵

The pace of expansion initially caused the authorities some alarm. A settlement boundary was declared. "Settlement ends," read a notice in the *Sydney Gazette*. "The flocks must stop... Beyond this boundary is a forbidden land where Government influence does not run. No protection will be afforded to transgressors. And, if this will not suffice, you will be prosecuted."¹⁰⁶ It was too late. The pastoralists' horses had bolted. The age of squatting arrived as graziers, many of them wealthy establishment types, created facts on the ground. As historian Margaret Kiddle noted, those who pushed far into the west of what is now Victoria "were bent on making the largest possible amount of money in the shortest possible time".¹⁰⁷ The results were disastrous for the Indigenous population. Violence was a permanent feature of the frontier; the original owners bore the brunt of the losses as they were pushed aside to make way for animals.

A state-run prison with capitalist features was transforming itself into a full-blown capitalist society in eastern Australia. Macquarie had still relied heavily on subsistence agriculture and subsidised infrastructure development. Now the private sector began to grow more rapidly and the relative power of the state declined. Greater use of assignment "privatised" the convict system; deregulation of British shipping allowed more vessels to trade in Sydney and helped boost local business. Transportation of convicts was rapidly increasing, which helped maintain a temporary check on the emancipists' political claims. But more and more free immigrants were also being lured to the colony. Pastoralism, agriculture, commerce, construction, mining and manufacturing – each in varying degrees was contributing to economic growth. The profit motive had taken command.

Appendix: Religion and the family

Religion played little role in the forging of capitalism in New South Wales. Richard Johnson, the first chaplain in the colony, lamented in 1790 that he was incapable of stirring his new flock to either fear or rapture. When assistant chaplain Samuel Marsden arrived in March 1794, he had even greater difficulties. Grocott relates: "Like a prophet of doom, on his first Sunday ashore, he warned some people of the mortal perils of desecrating the Sabbath by working on the Lord's Day: 'Behold the great day of wrath is come, and who shall be able to stand?' The reaction was one of ribald laughter."¹⁰⁸ The sole church in the colony was burned to the ground by convicts four years later.

Macquarie built more churches to provide moral guidance and foster a sense of social duty,¹⁰⁹ but the effort bore little fruit. The officers too were preoccupied with more earthly desires, and by and large congregations remained small until made compulsory. Marsden's proselytising was hardly food for the soul: one officer complained that after Sunday service the convicts would "run immediately to the Rocks, where every species of Debauchery and villainy is practised".¹¹⁰ In part this was because the British working class was alienated from the establishment Church of England. Irish Catholic priests were prohibited until around 1820, less on doctrinal grounds than due to fears that they would become agitators. Many Irish had turned to the Church not because they were deeply religious, but because it became a rallying point for Irish nationalism and offered ways to maintain values threatened by the British.¹¹¹ The fact that Johnson and Marsden were magistrates would not have helped their cause among the prisoners. Marsden in particular developed a reputation for savage punishments.¹¹²

The establishment seems to have placed more faith in the family as an institution capable of wedding both male and female prisoners to the system. British politician Henry Dundas wrote in 1794: "[T]here can be no doubt that [the female convicts] will be the means by inter-marriage of rendering the men more diligent and laborious."¹¹³ Phillip's instructions stipulated that married emancipists were entitled to an extra 20-acre grant of land. Fifty-six marriages were performed in 1788. However, after a decree was issued prohibiting married convicts from "abandoning" their wives and children to return to Britain on expiry of sentence, the marriage rate plummeted until the arrival of the Second Fleet.¹¹⁴ In 1806 the colonial office instructed Governor Bligh "in every case to make the reformation of the female convict and the regular

settlement by marriage a consideration superior to the saving, for any short period, the expense of maintaining her".¹¹⁵

By the time Macquarie arrived, the colony was noted for riotous behaviour and relaxed sexual mores. His administration set about the process of social consolidation. Controlling the workforce and building a strong family institution went hand in hand. He took steps to force couples living together to get married, though he was by no means entirely successful, nor could he be in a convict system. The colony had a huge preponderance of males over females, and its institutions weren't conducive to marriage. In Katrina Alford's words, "As a capitalist economy relies on free contractual relations between capital and labour for its functioning and growth, so too may the institution of marriage require for its survival and success a free population, with sexual relations being voluntary and contractual."¹¹⁶

Marriage was a means for regulating the inheritance of private property, and the nuclear family encouraged stable work habits as well as providing the next generation of workers. It would sink roots gradually. Macquarie couldn't force the pace, but he tried to help the process along, proclaiming the virtues of marriage along with those of "habits of industry", while warning women that "the mere circumstance of illegal cohabitation...with any man, confers no valid title upon the woman to the goods and effects of such person should he die intestate".¹¹⁷

The governor's moralistic stance was not some personal eccentricity; in fact it was typical of a certain kind of reformer active at the time. Fear of revolution and the unruly masses, provoked by events in France and Ireland as well as the social consequences of industrialisation at home, had moved the British upper classes to look for ways to reinforce social and ideological control. Philanthropic movements, often associated with evangelical Christianity, sought to raise the moral standards of the populace, particularly the working classes, and consolidate family structures and values. This translated readily into the NSW social environment. Upper class women both in Britain and NSW were prominent in these efforts, playing the role of "God's Police".

Slowly the authorities succeeded in imposing the institution of marriage. In 1806, Governor King had reported that only 25 percent of all women were married. By 1831 the marriage rate had nearly doubled. Even so, we can see a significant number of ex-convicts resisting the pressure. Family relations became a battleground in the class struggle. That is why in the 1830s a clarification about the marriage laws was sought by the propertied class. The laws were still not considered

sufficiently clear to guarantee property inheritance, and the elite didn't like it. The lower classes didn't give a damn; Roger Thierry lamented that not till the 1840s was the marriage ceremony "regarded as an indispensable preliminary to the union of man and woman".¹¹⁸

Notes

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¹ Quoted in G.J. Abbott, "Economic Growth", in G.J. Abbott and N.B. Nairn (eds), *Economic growth of Australia 1788-1821*, Melbourne University Press, 1969, p.139.

² McMichael also makes this point. See Philip McMichael, *Settlers and the agrarian question: capitalism in colonial Australia*, Cambridge University Press, Melbourne, 1984, p.35.

³ Karl Marx, *Capital*, Vol.1, Foreign Languages Publishing House, Moscow, 1961 (1867), p.714.

⁴ Total convict transportation to Australian colonies was in the order of 160,000, most from England, Scotland and Ireland, but some from North America, the Caribbean, and other British colonies. Half of these went to New South Wales (1788-1840), the rest to Van Diemen's Land (1818-1853) and the Swan River area (1850-1868).

⁵ Governor Macquarie quoted in A.G.L. Shaw, *Convicts and the colonies*, Faber and Faber, London, 1966, p.103.

⁶ T.A. Coghlan, *Labour and industry in Australia*, Vol.1, Oxford University Press, 1918, p.173.

⁷ See Henry Grey Bennet, A letter to Earl Bathurst, Secretary of State for the Colonial Department, James Ridgeway, London, 1820, p.50.

⁸ Quoted in Alastair Davidson, *The invisible state: the formation of the Australian state 1788-1901*, Cambridge University Press, Sydney, 1991, p.101.

⁹ Barrie Dyster, "Public employment and assignment to private masters, 1788-1821", in Stephen Nicholas (ed), *Convict workers*, Cambridge University Press, Melbourne, 1988, p.131; Shaw, *Convicts and the colonies*, p.90.

¹⁰ *Cable v. Sinclair* 2/8147 (July 1788), Court of Civil Jurisdiction Proceedings, State Records of New South Wales, http://www.law.mq.edu.au/research/colonial_case_law/nsw/cases/case_index/1788/cable_v_sinclair/#bn1. See also Bruce Kercher, *An unruly child*, Allen & Unwin, St Leonards, 1995, pp.22-3.

¹¹ David Dickinson Mann, *The present picture of New South Wales*, John Booth, London, 1811.

¹² D.R. Hainsworth, "Iron men in wooden ships: the Sydney sealers 1800-1820", *Labour History*, No.13, 1967, p.20.

¹³ G.A. Cohen discussed such a category: "We may say that he [a producer who owns some of his labour power but is divorced from productive property] is partly enslaved and partly free in the manner of a proletarian. For example, for a certain stretch of the day or year he is bound to work for some particular reason, but for the

rest he may sell his labour to whomever, if anyone, he pleases. [He] is a possible transitional form..." G.A. Cohen, *Karl Marx's theory of history: a defence*, Oxford, 1979, p.67, quoted in W. Nichol, "Ideology and the convict system in New South Wales 1788-1820", *Historical Studies*, Vol.22 (86), April 1986, p.5.

¹⁴ Stephen Nicholas, "The convict labour market", in Nicholas, *Convict workers*, p.124.

¹⁵ A 300-strong military garrison that replaced the First Fleet Marines in 1792, and ruled directly for nearly three years between the departure of Phillip and the arrival of Governor Hunter. The Corps were replaced by the 73rd Regiment in 1810.

¹⁶ Coghlan, *Labour and industry in Australia*, p.57.

¹⁷ Manning Clark, *A History of Australia*, Vol.1, Melbourne University Press, Parkville, 1963, p.239.

¹⁸ Bennet noted that "the convict in the employ of government is not only less likely to obtain any remission of his sentence, but is condemned to hard labour..." Bennet, *A letter to Earl Bathurst*, p.65.

¹⁹ General musters recorded the details of every person in the colony, with the exception of the civil servants, the military establishment, and their families.

²⁰ So Bennet complained in 1819: "[G]reat numbers [of emancipated women convicts] quit the service of their masters, and subsist by prostitution; considerable unwillingness exists among them to be taken as servants...because they consider that by going into a family they will be controuled." Bennet, *A letter to Earl Bathurst*, pp.70-1.

²¹ Alan Atkinson, "Four patterns of convict protest", *Labour History*, No.37, 1997, p.35.

²² Coghlan, *Labour and industry in Australia*, p.50.

²³ R.W. Connell and T.H. Irving, *Class structure in Australian history*, Longman Cheshire, Melbourne, 1980, p.47.

²⁴ Coghlan, *Labour and industry in Australia*, p.39.

²⁵ "Phillip's instructions", 25 April 1787; "Phillips's additional instructions", 20 August 1789, *Historical records of New South Wales*, Vol.1 (2), Lansdown Slattery & Co., Mona Vale, 1978 (1892), pp.90-1 and 257.

²⁶ Sixty percent of military discharges from the NSW Corps did not take up land grants; of those who did two-thirds had sold up by 1811. See Pamela Statham (ed), *A colonial regiment: new sources relating to the New South Wales Corps*, Australian National University, 1992, p.11.

²⁷ "Daveney to a friend at Wycombe", 1 July 1794, *Historical Records of New South Wales*, Vol.2, Southwood Press, Marrickville, 1978 (1893), pp.814-5. The official account at this time ("State of the settlement", 25 August 1794) indicates 31 free adults plus 15 emancipists but there is a separate status recorded for those hundred or so not victualled by the government store. The overall population figures, however, do not add up.

²⁸ "Hunter to Portland", 20 and 25 June 1797, *Historical Records of Australia*, Series 1 (2), Library Committee of the Commonwealth Parliament, 1914, pp.24 and 32.

²⁹ Mann, *The present picture of New South Wales*. For settler numbers see Brian Fletcher, *Landed property and penal society*, Sydney University Press, Sydney, 1976, table 13, p.90.

³⁰ The population count in the early musters is always lower than the total population, due to the exclusion of children, and the civil and military establishment and their wives. The bulk of omissions were the military, as there were, initially at least, only 11 civilian officials, including the governor. In 1806, the muster roll contains 4,880 entries, while the total population was around 7,100. More recent estimates put the population at around 8,500.

³¹ Carol Baxter (ed), *Musters of New South Wales and Norfolk Island 1805-1806*, Australian Biographical and Genealogical Record, Sydney, 1989, pp.xvii and 119-43.

³² Hainsworth writes: "Only the muster of July 1804 tallied absent sealers separately, showing 123 'free men' off the Store 'on the Islands at the Southward, and in coasting vessels, sealing'. This number would increase as the industry expanded during 1805 and 1806. In December 1804 King reported that Campbell and Kable and Underwood had 180 men employed at the sealing islands. In October 1805 'two or three' ex-convicts (probably Lord, Kable and Underwood with Andrew Thompson) had 216 men sealing. Probably about ten to fifteen percent of the total male population 'off the Store' were sealers or mariners by 1805-6." Hainsworth, "Iron men in wooden ships", p.19.

³³ Margaret Steven, "Public credit and private confidence", in James Broadbent and Joy Hughes (eds), *The Age of Macquarie*, Melbourne University Press, Melbourne, 1992, p.52.

³⁴ Petition contained within the correspondence "Macquarie to Bathurst", 22 March 1819, *Historical Records of Australia*, Series 1 (10), the Library Committee of the Commonwealth Parliament, 1917, p.62.

³⁵ Robinson estimated that "Of the men transported prior to 1821, 16 percent became something more than labourers. Included in this 16 percent are such persons as brewers, carpenters, tinsmiths, tailors, and harness-makers...". See Lloyd Robson, *The convict settlers of Australia*, Melbourne University Press, Carlton, 1994 (1965), p.102.

³⁶ "Crime in the year 1785", *Hibernian Journal*, Dublin, 21 December 1785, reprinted in *Historical records of New South Wales*, Vol. 2, p.735.

³⁷ Quoted in Davidson, *The invisible state*, p.46.

³⁸ Watkin Tench, 1788, The Text Publishing Co., Melbourne, 1996 (1793), p.183.

The early settler Matthew Everingham also related in 1792: "The first six months everything seemed to run against me my crop failed my daughter died and my wife hung on my hands very ill and not having any supply in time from England the whole colony was almost starving." University of Melbourne Archives, R.B. Ritchie & Son Collection, 1974.0084. Box 19, file 1/2, "Everingham to Shepherd", 12 October 1792.

³⁹ "Phillip to Nepean", 9 July 1788, *Historical records of New South Wales*, Vol.1 (2), p.153. They relented on their objections to serving in the Criminal Court in mid-1789. See "Ross to Phillip", 6 May, 1789, *Historical records of New South Wales*, Vol.1 (2), p.244.

⁴⁰ Tench, 1788, p.113.

⁴¹ George Barrington (not a member of the original 12) was one who was later rewarded in this way: "Sentenced for seven years in September 1790, he had been made a principal watchman at Toongabbie before receiving a conditional pardon and 30 acres near Parramatta" in November 1792. Jan Kociumbas, *The Oxford History of Australia*, Vol.2, Oxford University Press, Melbourne, 1992, p.40.

⁴² "Phillip to Stanley", 1 February 1790, *Historical records of New South Wales*, Vol.1 (2), pp.288-90.

⁴³ David Neal, *The rule of law in a penal colony*, Cambridge University Press, Melbourne, 1991, pp.10 and 32.

⁴⁴ "The Act of parliament establishing the colony", 1787, *Historical records of New South Wales*, Vol.1 (2), p.69. The British common law, however, could be loosely applied or ignored. We have already noted the case of *Cable vs. Sinclair*. For more see Kercher, *An unruly child*, pp.22-3.

⁴⁵ R. Else-Mitchell, "The foundation of New South Wales and the inheritance of the common law", *Journal of the Royal Australian Historical Society*, Vol.49 (1), Sydney, 1963, p.6.

⁴⁶ "Phillip to Sydney", 15 June 1789; "Phillip to Stanley", 12 February 1790, *Historical records of New South Wales*, Vol.1 (2), pp.237 and 297-98. Illustrative of the dire situation of scarcity, the marines were all executed for theft, as were at least the first two convicts.

⁴⁷ Connell and Irving, *Class structure in Australian history*, p.35.

⁴⁸ G.D. Woods, *A history of criminal law in New South Wales*, The Federation Press, 2002, Leichhardt, 2002, p.25.

⁴⁹ Hilary Golder, *High and responsible office*, Sydney University Press, Sydney, 1991, p.9.

⁵⁰ Alex Castles, *An Australian legal history*, The Law Book Co., Sydney, 1982, p.73.

⁵¹ "Bourke to Stanley", Jan 15, 1834, quoted in McMichael, *Settlers and the agrarian question*, p.133.

⁵² Shaw, *Convicts and the colonies*, p.72.

⁵³ Quoted in Mann, *The present picture of New South Wales*, 1811.

⁵⁴ Davidson, *The invisible state*, p.47.

⁵⁵ Carol Baxter (ed), *General muster of New South Wales 1814*, Australian Biographical and Genealogical Record, Sydney, 1987, table 1, p.227.

⁵⁶ Quoted in Tim Pat Coogan, *Whatever green is worn*, Palgrave, New York, 2000, p.439.

⁵⁷ Neal, *The rule of law in a penal colony*, p.146.

⁵⁸ Quoted in Davidson, *The invisible state*, p.43.

⁵⁹ Karl Marx, *Capital*, pp.732-33.

⁶⁰ Henry Reynolds, *Frontier*, Allen & Unwin, North Sydney, 1987, p.193.

⁶¹ "Hunter to Portland", 12 November 1796, *Historical records of New South Wales*, Vol.3, Southwood Press, Marrickville, 1978 (1895), p.171.

⁶² "Grose to Dundas", 16 February 1793 and 29 April 1794, *Historical records of New South Wales*, Vol.2, pp.14 and 209. Fletcher showed that the extent of official

grants – not all of them to officers – was about six times greater under Grose and Patterson than under Phillip. See Fletcher, *Landed enterprise and penal society*, Appendices 4 and 5, pp.232-3.

⁶³ “Hunter to Portland”, 12 November 1796, *Historical records of New South Wales*, Vol.3, p.170.

⁶⁴ Mann, The present picture of New South Wales.

⁶⁵ Ellen Wood, *Liberty and property*, Verso, London, 2012, p.274.

⁶⁶ “Civil and military accounts”, 5 June 1793; “State of the Settlements”, 15 June 1795, *Historical records of New South Wales*, Vol.2, pp.43 and 310.

⁶⁷ Hunter claimed it to be more than half, but Fletcher calculates the lesser amount from the records, with three-quarters of privately-owned livestock in their hands. See “Hunter to Portland”, 28 April 1796, *Historical records of New South Wales*, Vol.3, p.40; Fletcher, *Landed enterprise and penal society*, table 6, p.65.

⁶⁸ The establishment of a maximum daily wage rate for reaping, an attempt to circumvent the problems associated with labour shortages, was one reflection of this. See “Government and general order” 27 November 1795, *Historical records of New South Wales*, Vol.2, p.339.

⁶⁹ “The Macarthur papers”, 22 August 1794, *Historical records of New South Wales*, Vol.2, pp.508-09.

⁷⁰ “Hunter to Portland”, 11 September 1795, *Historical records of New South Wales*, Vol.2, p.318; “Hunter to Portland”, 20 August 1796 and 1 July 1798, *Historical records of New South Wales*, Vol.3, pp.75 and 408.

⁷¹ “The Macarthur papers”, 22 August 1794, *Historical records of New South Wales*, Vol.2, p.511. Hainsworth remarks that in the years 1795-1800, “There is no evidence of any but officers taking part in wholesale purchases.” See D.R. Hainsworth “Trade within the colony”, in Abbott and Nairn, *Economic growth of Australia 1788-1821*, p.270.

⁷² G. Bond, “A brief account of the colony of Port Jackson, in New South Wales”, in Frank Crowley, *A Documentary history of Australia*, Vol.1, Thomas Nelson Australia, West Melbourne, 1980, p.87. Macarthur was worth £19,000 by 1801, but the stock of wealth that he and the other officers had accumulated primarily took the form of land, buildings, crops and livestock, rather than hard currency. See Statham, *A colonial regiment*, p.229.

⁷³ D.R. Hainsworth, *The Sydney Traders*, Cassell Australia, North Melbourne, 1971, p.26-8.

⁷⁴ A.G.L. Shaw, “Some aspects of the history of New South Wales”, *Journal of the Royal Australian Historical Society*, Vol.57 (2), Sydney, 1971, p.102.

⁷⁵ Small holders’ debt totalled £4,419 by mid-1796; by 1801 17 percent of small farmers “were in jail or on farms under execution for debt. The first figure is from Brian Fletcher, “The development of small scale farming in New South Wales under Governor Hunter”, *Journal of the Royal Australian Historical Society*, Vol.50 (1), Sydney, 1964, p.11. The second is in G.J.R. Linge, *Industrial Awakening*, Australian National University Press, Canberra, 1979, p.26.

⁷⁶ Ken Buckley, “Primary accumulation: the genesis of Australian capitalism”, in E.L. Wheelwright and Ken Buckley (eds), *Essays in the political economy of*

Australian capitalism, Vol.1, Australia and New Zealand Book Company, Sydney, 1975, p.15.

⁷⁷ Brian Fitzpatrick, *British Imperialism and Australia*, Sydney University Press, Sydney, 1971 (1939), p.112.

⁷⁸ It was only after 1815 that the British Treasury began to oversee the colony with greater diligence. See H.M. Boot, "Government and the colonial economies", *Australian Economic History Review*, Vol.38 (1), 1998, p.78.

⁷⁹ Quoted in Abbott, "Economic Growth", pp.143-4.

⁸⁰ Noel Butlin, *Forming a colonial economy*, Cambridge University Press, 1994, p.156.

⁸¹ The number of settler farmers rose from 72 to 213 under their rule, and to at least 350 by 1799. See Fletcher, "The development of small scale farming in New South Wales under governor Hunter", pp.4 and 21.

⁸² Simon Ville, "Business development in colonial Australia", *Australian Economic History Review*, Vol.38 (1), March 1998, p.24.

⁸³ M.J.E. Steven, "Enterprise", in Abbott and Nairn, *Economic growth of Australia 1788-1821*, pp.120 and 123-4.

⁸⁴ Statham, *A colonial regiment*, p.230.

⁸⁵ Mann, The present picture of New South Wales.

⁸⁶ McMichael, Settlers and the agrarian question, p.50.

⁸⁷ McMichael, Settlers and the agrarian question, p.53.

⁸⁸ Margaret Steven, "The changing pattern of commerce in New South Wales, 1810-1821", *Business Archives and History*, Vol.3 (2), August 1963, p.144.

⁸⁹ G.J. Abbott, "The pastoral industry", in Abbott and Nairn, *Economic growth of Australia 1788-1821*, p.219.

⁹⁰ Abbott, "The pastoral industry", p.233.

⁹¹ Mary Casey, "Remaking Britain: establishing British identity and power at Sydney Cove, 1788-1821", *Australasian Historical Archaeology*, Vol.24, 2006, p.96.

⁹² Bigge noted that in the period 1814-1820 Macquarie retained almost half of all convicts to work on government projects. He was also careful to retain the services of the most skilled. Thus the number privately assigned was very low: "15 blacksmiths out of 284; 16 carpenters and wheelwrights out of 337; 8 sawyers out of 15; and 5 bricklayers and brickmakers out of 284." John Thomas Bigge, *Report of the Commissioner of Inquiry into the state of the Colony of New South Wales*, Libraries Board of South Australia, Adelaide, 1966 (1822), pp.21 and 56.

⁹³ G.P. Walsh, "Manufacturing", in Abbott and Nairn, *Economic growth of Australia 1788-1821*, pp.263-4.

⁹⁴ Mann, The present picture of New South Wales.

⁹⁵ Quoted in Malcolm Ellis, *Lachlan Macquarie*, Angus & Robertson, Sydney, 2010 (1947), p.227.

⁹⁶ Grace Karskens, *The Colony*, Allen & Unwin, Crows Nest, 2009, p.198.

⁹⁷ John Eddy, "Empire and politics", in Broadbent and Hughes, *The Age of Macquarie*, p.42.

⁹⁸ “Macquarie to Bathurst”, 22 March 1819, *Historical Records of Australia*, Series I(10), pp.52-65.

⁹⁹ Quoted in R. Else-Mitchell, “The foundation of New South Wales and the inheritance of the common law”, *Journal of the Royal Australian Historical Society*, Vol.49 (1), 1963, p.8.

¹⁰⁰ Arthur McMartin, “The payment of officials in early Australia”, *Australian Journal of Public Administration*, Vol.17 (1), March 1958, p.62.

¹⁰¹ Butlin, Forming a colonial economy, p.74-5.

¹⁰² Arthur McMartin, *Public servants and patronage*, Sydney University Press, Sydney, 1983, p.52.

¹⁰³ Alexander M’Konochie, *A summary view of the statistics and existing commerce of the principal shores of the Pacific Ocean*, London, 1818, p.250. Quoted in Steven, “The changing pattern of commerce in New South Wales, 1810-1821”, fn.1, p.140.

¹⁰⁴ A note attached to Everingham’s letters states that there were “215 colonial ships in constant employment and have netted in trade a capital of £150,000”. See University of Melbourne Archives, R.B. Ritchie & Son Collection, 1974.0084. Box 19, file 1/2, “New South Wales, 1823”. See also McMichael, *Settlers and the agrarian question*, p.46. The development of common law in NSW to accommodate commercial claims also indicated that the seeds of a capitalist economy were being sown. See Bruce Kercher, “Commerce and the Development of Contract Law in Early New South Wales”, *Law and History Review*, Vol.9 (2), 1991, pp.311-2.

¹⁰⁵ Crowley, *A Documentary History of Australia*, pp.321-2.

¹⁰⁶ Quoted in Stephen Roberts, *History of Australian land settlement 1788-1920*, Macmillan, South Melbourne, 1968, p.165. The boundaries spread west to a point not much further than where Canberra is currently located, north to 100km north of Newcastle, and south to somewhere near Bateman’s Bay.

¹⁰⁷ Margaret Kiddle, *Men of Yesterday*, Melbourne University Press, Parkville, 1963, p.47.

¹⁰⁸ Allan Grocott, *Convicts, Clergymen and Churches*, Sydney University Press, Sydney, 1980, pp.62-3.

¹⁰⁹ Nichol, “Ideology and the convict system in New South Wales 1788-1820”, p.14.

¹¹⁰ Quoted in Karskens, *The Colony*, p.223.

¹¹¹ Brian Fletcher, “Religion and education”, in Broadbent and Hughes, *The Age of Macquarie*, p.80.

¹¹² Roger Thompson, *Religion in Australia*, Oxford University Press, Melbourne, 2002, pp.3-4.

¹¹³ “Dundas to Grose”, 15 February 1794, *Historical Records of New South Wales*, Vol.2, p.118.

¹¹⁴ Grocott, *Convicts, Clergymen and Churches*, p.70.

¹¹⁵ Quoted in Davidson, *The invisible state*, p.52.

¹¹⁶ Katrina Alford, *Production or reproduction?* Oxford University Press, Melbourne, 1984, p.27.

¹¹⁷ Alford, *Production or reproduction?* p.40.

¹¹⁸ Alford, *Production or reproduction?* table 1.3, p.24; pp.31 and 233.