

Chapter 4: More arduous than being a soldier? Convict police — their work, leadership and the stresses of the job.

This chapter will use the Campbell Town bench book to explore the realities of police work in the mid 1830s. While previous historians have catalogued many incidents of common police corruption, mostly compiled from newspaper reports, there is a danger that the emphasis of the existing literature will leave the impression that the force was ineffective. As Sturma points out, there is a second danger too. Police corruption has historically been a long run phenomenon and is certainly not limited to the era of convict policing.¹

This chapter will attempt to rectify the deficiency in the current literature by employing the magistrates' bench records to explore the day to day realities of convict policing in the 1830s, as the duties of the police magistrate and his staff expanded during the period of Arthur's administration. The court records provide a means of exploring the ways convict constables reacted to issues of loyalty, the power and class struggles with local magistrates and abuses from other convicts and emancipists. This chapter will approach the convict constables as people caught for a moment in the public gaze, and demonstrate why the job of policing a district was seen by some of their contemporaries as a more arduous job than soldiering.²

While the variety of police work had increased by the mid 1830s, putting pressure on both superior officers and constables, the quality of active policing was still in its infancy. Although Arthur argued their role was "detecting" as well as control, there were few examples of successful detecting in the 1835 bench book.³ Such work was often left to the senior officers if it was done at all. John Lyall was the acting chief district constable when Henry Emmett, a local storekeeper, called him in to investigate a suspected theft at his store. It must have surprised Lyall considerably to discover that Emmett had almost completed the entire investigation before he

¹ Sturma, *Vice in a Vicious Society*, op cit., pp. 4 -6.

² Haia Shpayer-Makov, *The Making of a Police Labour Force*, p. 126.

³ John West, *The History of Tasmania*, first published 1852, (Ed. A.G.L.Shaw), Sydney, Angus & Robertson in association with the Royal Australian Historical Society, 1971, p. 436.

arrived. Indeed Emmett later used the court as a stage to play out his powers of deduction almost as if suggest that the local police and their commanding officer were far less capable than he in resolving cunning thefts. Emmett delivered a masterly summary of his efforts to the court, which contained more than a hint of irony. He charged two of his assigned shop men with stealing 26 gallons of porter, 13 gallons of Cape wine and 4 gallons of rum over a period of several weeks. The quantity was too large for two men to consume without Emmett noticing they were frequently drunk, so it was probable they had stolen the liquor to resell it illegally around the village.

When he discovered his loss, Emmett removed the assigned servant, who had been ordered to sleep in the storeroom to protect the goods, and had another convict securely nail up the loft floor above the shop. He returned secretly, late on the Saturday night, and placed some goods on top of the liquor casks. On Monday morning he found the goods had been moved. In addition, he explained to the court, “I felt assured the premises had been entered and proceeded to examine the boards (of the loft floor)...I immediately perceived one of the boards to be split, by which means it was moveable at one end, and by moving it found a considerable opening was made to the cow house below”.

Certain that he knew who the thieves were, Emmett sent for chief constable Lyall, who arrived and searched the servants’ rooms, where he found several bottles of spirits. Although this appeared to be proof enough of their guilt, Emmett told the court that he continued to gather evidence. “I afterwards examined some of the spirit casks, in particular a cask of rum, which had been deposited with the store on Saturday last only and found that something more than two gallons had been taken out of it. From a cask of brandy I also found something more than one gallon had been taken. I have compared the rum in the bottle produced by Mr Lyall with a sample of that taken by me from a cask in the store, and I have no doubt it is the same rum. I have not yet compared the brandy”.⁴

⁴ LC 83/1, Return of Cases Heard, Magistrates Court, Campbell Town, AOT, Trial of William Watkins & Richard Taylor, 19 August 1835.

Emmett had suspected a long standing and continuing robbery, taken steps to prevent any further thefts, collected evidence of the break in, questioned the suspects, noted their responses, and finally called in the chief district constable.⁵ Emmett's investigation was more detailed than any police investigation that was recorded in the magistrate's bench book for 1835 and implied that the concept of logical investigation was possible in 1835, but more likely to be undertaken by the victim of a criminal act rather than the police or their officers. The truth was that in a rural police office the general round of duties left little time for sleuthing despite the governor's assertion that detecting crimes was one of the main duties of his police.

Rural police magistrates gained more responsibilities as their office began to function as the key local bureaucracy responsible for a range of duties that later would fall under the jurisdiction of local government. Convict control remained a substantial part of the duty of constables, particularly the newly recruited. They performed escort duties, attended to fines, dealt with disorderly persons, and enforced the growing numbers of regulations about hawkers, carriers, bakers, coaches and permits for selling wine and spirits.⁶ But the convict police were the magistrates' deployable staff and had to gradually extend their duties from these tasks to many additional functions. The increase in their duties sometimes perplexed their critics, who thought that the primary function of the police was to exercise control over the district's convict work force and not to interfere with the likes of free settlers.

By the mid to late 1830s, police magistrates were responsible for supervising the work of district surgeons, rural postmasters and their paid convict post messengers, local coroners and inspectors of stock. They also made recommendations to these appointments thereby exercising a degree of local patronage.⁷ They enforced the licensing laws and prosecuted local publicans for harboring and serving convicts.

⁵ Henry Emmett's performance in court may have been honed by his reputation as a former justice of the peace and registrar of the Court of Requests in Hobart before being dismissed for embezzling court funds. Constantly short of money to keep his large family, he applied afterwards for many government positions but was always blocked by Governor Arthur. He may have hoped to be considered either for the chief constable's or police magistrate's position in Campbell Town; both were to be decided later that year. See *Australian Dictionary of Biography*, Vol.1, p. 356.

⁶ Great Britain, Parliament, House of Commons, Select Committee on Transportation, *Report from the Select Committee of the House of Commons on Transportation*, Sir William Molesworth, chairman of the committee, Adelaide, Libraries Board of South Australia, 1967, Vol. 1, pp.328-329.

⁷ POL 39/1, Correspondence of C M Forth for Campbell Town, 1838&9, AOT.

They established pounds and deployed constables to run these, an unpopular duty, as farmers resented paying fines for stock that had strayed and hated the Slaughtering Act which forced them to pay for inspectors who verified the ownership of all stock slaughtered for meat. The magistrates oversaw the local Courts of Request that settled small debts thus creating security in everyday commercial transactions. The magistrate's office sometimes dealt with welfare issues concerning women and children. Frederick Forth, police magistrate in 1836, for example, received a letter from his district constable at Ross asking what could be done to help a married free woman who had been turned out of doors with a black eye by her husband who had been drunk for a week.⁸ The magistrate's office also acted as a labour exchange responding to desperate settlers seeking convict labour for the grain harvest.⁹ The office provided information about the availability of ticket of leave men, taken from the monthly musters, and sometimes public works convicts could be temporarily deployed to assist settlers to get their crops in.

In addition, some police magistrates could be expected to supervise and assist extensive public works projects in their areas. Throughout the early 1830s the various police magistrates in the Campbell Town district supervised the expansion and repair of police buildings in the government compounds and at remote police outposts.¹⁰ Superintendents of road parties in the district were supported by local police who helped move convict gangs and equipment to new sites, and new levels of co-operation were initiated between the Roads and Bridges Department in Hobart and local police magistrates, including the use of shared offices for police and road project superintendents.¹¹ In 1836, police magistrate Forth, a former military

⁸ POL 35, Campbell Town, Miscellaneous documents from the police magistrates letters/papers collection, AOT. Letter dated 7 January 1840 from district constable Edward Williams to police magistrate Frederick Forth, concerning William Crow and his wife. The Ross district constable was acting in a welfare role, a role formerly adopted by local gentry-magistrates in Britain. Another letter from William Wood, magistrate at Snake Banks, explained the advice he had given a female convict, who had been returned to the Crown, but whose child had been kept by the woman's former employer, without her consent.

⁹ *Ibid*, POL 35, AOT. 24 January 1840, William Wood, (local magistrate) Hawksridge farm, to police magistrate asking for men to help him get his oats crop in. 24 January 1840, R. Wales to police magistrate wanting 30 men to do the reaping. 11 January 1840, W. Whitchurch, Belle Vue farm, requesting more assigned men urgently.

¹⁰ PWD 266/1714, 1715, 1716, AOT. Elevations and plans for the police office at Snake Banks, showing the rudimentary type of split log huts built as rural government offices in the 1830s.

¹¹ POL 35, Campbell Town, *Miscellaneous papers*, AOT. Letter from Alexander Cheyne to Frederick Forth, police magistrate, 3 July 1839. Roads office at Snake Banks was ready to accommodate a

engineer, also acted as superintendent of the public works gangs that built the Red Bridge in Campbell Town.¹²

To cap things off, the role of keeping track of convicts also became more complex as increasing numbers of forms were required by the Chief Magistrate's Office and larger numbers of assigned and ticket of leave convicts came to work in the district. Annual convict musters, monthly ticket of leave musters, abstracts of local absconders, weekly abstracts of cases heard, depositions for particular cases, police characters (references for convicts), travel passes, financial accounts and pay abstracts were just a few of the dozens of documents that were produced or submitted to Hobart from the police magistrates' offices.¹³ Preventative policing also started to gain momentum by the late 1830s and some thorough police campaigns were mounted in the Campbell Town district. For example, an extensive sweep through bush land was conducted by police, to burn temporary huts where absconders could shelter.¹⁴ On another occasion, over forty men, including police, participated in a search for a bushranger, a costly exercise that ran over many days.¹⁵

In an era of mounting demands the high turnover of convict police and their officers, who rarely stayed for more than three years in a rural police office, presented considerable problems. While officers had high expectations of the constables' performance of their duties, there were no plans to train them beyond the imposition of a rigid system of military-style discipline.¹⁶ The arduous demands of these duties were described by James Mortlock, who served as a rookie constable for several weeks before persuading the police magistrate to transfer him to the less strenuous position of watch house keeper. As Mortlock described it:

mounted police man. Many other minor bureaucratic communications from Cheyne to Forth in this file.

¹² POL 39/1, *Police Magistrates letter book*, ATO, 8 August 1836 and following. Letters concerning the setting up of public works gangs for specific tasks.

¹³ POL 39/1, *Police magistrates letter book*, AOT.

¹⁴ POL 35, Campbell Town, *Miscellaneous documents*, AOT.

¹⁵ *Ibid*, See Abstract of costs of mounting the search and the names of the 40 participants.

¹⁶ David Taylor, *The new police in nineteenth-century England: crime, conflict, and control*, Manchester, Manchester University Press, 1997, p. 51. Training was equally undeveloped in the London Metropolitan Police at this time. New recruits were 'trained' by being sent out 'on the beat' with more experienced constables.

A petty constable being supposed continuously to patrol an appointed beat, from eight o'clock in the evening until six next morning, anyone thinly clad found the duty very severe, especially in a strange place, during a dark, wet, cold night, the latter part of which he passed in a state of shivering, hungry drowsiness, quite incompatible with effectiveness. The hours of darkness should always be divided into at least two watches. Those few weeks were extremely harassing; I cannot remember that any period ever inflicted so painful a trial upon my fortitude...¹⁷

The absence of active policing in preventing petty crime was seen by some contemporary critics and later historians as evidence of a widespread corruption. While this was likely in some cases, the lack of preventative policing can also be interpreted as a lack of active leadership by local superior officers as well as a failure to develop policing procedures that actively investigated local crime. At this time, however, neither the new British police services nor the colonial forces had reached a stage of development, when leadership or policy goals could be clearly defined and implemented across the force.¹⁸

In Campbell Town, a heavy turnover of senior staff occurred between 1832 and 1836. The men who acted as police magistrate during those years were local farmers, with business responsibilities, and each seemed to attract a level of local support from different factions. Simpson and Leake appeared to be remembered fondly by local emancipists as fair men. On the other hand, some of justices of the peace criticized Leake for preferring the testimony of convicts to the word of a gentleman. Leake's replacement, John Whitefoord, was a farmer from Oatlands, who sustained strong criticism in local papers from the emancipist and small trader factions, but was later appointed by Arthur to the permanent position of police magistrate at Oatlands.

¹⁷ Mortlock J.F., *Experiences of a Convict*, first published 1851, (eds) G. A. Wilkes & A.G. Mitchell, Sydney, 1965, p. 90–91.

¹⁸ David Taylor, *The new police in nineteenth-century England: crime, conflict, and control*, Manchester, Manchester University Press, 1997, pp. 7, 89. Taylor argued that it took until well after the 1860 police reforms for the force to develop and refine training and strategies for dealing with general crime. See also Stefan Petrow, 'Police Organization in nineteenth-Century Tasmania', *Tasmanian Ancestry*, March 1997, pp. 223-29. Petrow traces similar attempts to refine the efficiency of policing as the century progressed.

Captain Frederick Forth, a military engineer, followed him to build the Red Bridge at Campbell Town and impose firm order. Forth had served on Governor Arthur's staff and was a professional colonial public servant who arrived from a position in the West Indies. Forth managed the bridge project well, but was dismissed by Governor Franklin in 1839 for failing to adequately supervise the collection of quit rents in his office. His free clerk, George Emmett, was at first charged with embezzling the funds but the charges were dropped when it was discovered the money was not missing but merely mislaid.¹⁹ There was a strong suspicion that as well as putting up a bond for the young Emmett, his friends may have also provided him with sufficient funds to remedy the deficit and clear his name. His father and brother had been similarly charged and escaped prosecution while serving in other government positions.²⁰

The quality and commitment of the local chief district constables in the mid 1830s was questionable too. There was little incentive for them to stay very long in the job. Despite having the responsibility for the overall management of the local police force, their small salary of £75 *per annum* was generally supplemented by holding other official part-time positions such as the summoning officer for the Court of Requests with remuneration of £50, pound keeper or Inspector of Stock.²¹ Some, like Francis Small only stayed ten months in the job before obtaining the better paid position of Superintendent of Convict Writers in Hobart in February 1835.²²

Particular duties were unpopular with some convict constables. After the comforts and camaraderie of the police barracks at Campbell Town or Ross, the isolation and loneliness of a month's duty reporting to James Sutherland, the local magistrate on the Isis River was quite unwelcome. Sutherland imposed strict control on the rostered constable who had to report to him daily and whose off duty hours were spent alone at the police hut situated on a neighboring farm. An incident in 1835 demonstrated how severely Sutherland dealt with any perceived breach of duty. Sutherland

¹⁹ Mackaness George (ed), *The Franklin Correspondence – Part 1*, Dubbo, 1977. Letter to Lady Franklin dated 9 May 1839, pp. 77-78; and *Correspondence Files*, H. J. Emmett, 165/234 and 1970/259, AOT.

²⁰ *Australian Dictionary of Biography*, Vol.1, p. 356-357.

²¹ Ross, *Almanack 1835*, pp.16, 27.

²² CSO 50/10/1835, AOT.

explained to the police magistrate how he was “called out of bed, by one of my servants, tapping very gently at my window, and telling me, that the constable was at that moment, harboured in (Joseph) Albany's bedroom.” Sutherland left the house immediately and accompanied by his servant, William German, went out to the kitchen door and confirmed that German’s information was correct.

William German had a busy evening. When constable Thomas Kirby arrived for the start of his month at the Isis, he first delivered the mail to Sutherland’s where German had overheard the cook, Albany, arrange to meet Kirby later that evening. German went back several times to check the kitchen and cook’s room to see what was happening and eventually around eleven o’clock, he heard somebody talking in Albany's bedroom. He went through the kitchen and surprised the two men demanding to know: “What games do you call this. This I said in consequence of seeing meat and potatoes. Kirby asked me to have some supper. I refused and went and told the men, in the hut and they advised me to tell my master.”

After informing Sutherland, German was keen to ensure that Kirby didn’t leave before Sutherland found him, “so I returned and held the kitchen door. Kirby said Open the door—open the door. But I would not do so till my master came.” Sutherland was not convinced by Kirby’s explanation that he had lost the key to his handcuffs and had returned from the police hut to try and find it, as he could have searched for it the next morning when he reported for duty. Sutherland was scandalized that it was late at night and that “Albany was entertaining Kirby with supper.”²³

Convict constables had to be careful. There was always someone, either a settler or a fellow convict, who hated or mistrusted them and would try to expose them to punishment. Police were caught between the two groups and in many respects could trust no-one. From the court records it’s not possible to deduce whether German was trying to pay back either the cook or the constable, or even if he was one of those convict servants who had aligned himself with his master’s interests and dobbed in

²³ LC 83/1, *Return of Cases Heard, Magistrates Court ,Campbell Town*, AOT. Trials of Thomas Kirby per *Lotus*- police number 387 and Joseph Albany per *Thames* –police number 332, 4 April 1835, AOT

fellow servants for his own gain. Kirby clearly knew he was not supposed to fraternize with Sutherland's assigned servants, when he tried to buy off German by inviting him to join them at supper. Whatever social contacts constables made with the general convict class was likely to be viewed with suspicion by their officers as it could potentially compromise their loyalty.²⁴ The court records also don't include enough information to judge whether or not the magistrate suspected the friendship between Kirby and Albany was more intimate than a simple social call, or more criminal, and that the two were involved with theft or fencing goods. Certainly the sentences given to both men suggest they were being punished for more than having supper together. Albany was sentenced to thirty five lashes and returned to the Crown for reassignment and Kirby was suspended and spent six months in a road party before resuming his police duties in Campbell Town. This harsh regime of isolation from both the barracks and companionship throws some light on why another constable later in the year begged the chief constable to relieve him of his duty at Sutherland's.²⁵

There were other cases where convict servants tried to manipulate their master's lack of trust of convict constables in the hope of gaining an advantage. John Smith, a former baker, was employed as a convict javelin man (guard) at the Campbell Town jail. One morning after the church muster he came across John Maker outside the Blue Anchor inn. Maker had worked for Henry Jellicoe, a local magistrate, for nine months and confided to Smith that he wanted to leave Jellicoe's employment and get another master. Smith told him that the way to do it was to pretend to abscond and that Smith could come and pick him up at a pre-arranged spot. That way they could share the £2 reward that Smith would get for Maker's recapture and Maker would be returned to the Crown for reassignment. The plan was enacted, however, Maker was sentenced to Notman's road gang instead of being returned for reassignment as he had expected. A further unpleasant surprise was that Smith could not give him the

²⁴ David Taylor, *The new police in nineteenth-century England: crime, conflict, and control*, Manchester, Manchester University Press, 1997, pp. 53, 58. This separation of police from their working class entertainments and companions was not exclusively a problem experienced only by the convict police. Constables in the new Metropolitan Police in London were prevented, on pain of dismissal, from engaging in many working class leisure activities such as attending fairs or boxing matches, gambling or drinking. Rigid respectability was enforced.

²⁵ LC 83/1, *Return of Cases Heard, Magistrates Court, Campbell Town*, AOT, Trial of Thomas Moore, 5 June 1835.

ten shillings he promised until he got his quarterly pay, but instead gave Maker tea and sugar to take with him to the gang. Six months later, Maker was released and assigned to another magistrate, John Leake, at which point he pressed his claim for the ten shillings he was owed.

Maker not only wanted to get his own back on Smith, whom he believed had failed to honor their agreement, but felt he could use his new master to do so. He told the whole story to Leake, including his recent attempts to collect the money owed to him. He confided that “about six weeks ago I was in Campbell Town and I asked him (Smith) for money on account of the absconding. He gave me half a crown. This was at the back of the police office.” Maker told Leake he couldn’t provide a witness to this conversation but when he asked Smith if that was all he was going to give him, Smith replied “Yes, and if I was not contented he would give me in charge if I asked for any more”.

Although Leake claimed he was initially dubious of Maker’s motives, he was convinced when Maker explained that he didn’t tell Leake, “in order that the javelin man might be prosecuted”, but that, “he thought it was a scandalous thing when he had bolted that the man should only pay him half a crown and then threatened that if he troubled him for anything further he would take him into custody”. Apparently Maker’s sense of outrage moved Leake to take action.

Leake advised Maker to make several applications in writing to Smith for the 7/6d that he owed him but Smith again refused to pay up, telling the man who presented the order that he didn’t know Maker. Leake sent Maker back to Smith, with the groom accompanying him to act as a witness to their conversation, but again Smith declined to pay up. However, Smith was becoming suspicious of Maker’s persistence and asked him how he came to serve the order in that way and kept the note. The groom, when questioned later in court, was quite unhelpful to either party in the matter, saying he had only seen the note passed to Smith but hadn’t heard what they spoke about.

Meanwhile Maker claimed he had met Smith later, while he was droving some sheep into the village and arranged to meet him near the jail where he “gave me about a quarter of a pound of tea and about two lbs of sugar.” By all accounts, either Smith felt he had paid off Maker sufficiently with a half crown and two lots of sugar and

tea, which apparently he had taken from the jail's supplies, or the tale was a fabrication.²⁶ The police magistrate dismissed the case for lack of evidence thus avoiding antagonizing Leake, one of his local magistrates, while at the same time putting his convict constable—Smith on notice. Making something on the side out of police work, if that was what Smith had actually tried to do, was a lot more difficult than the critics of the police anticipated. Any disgruntled convict with an axe to grind could complain against them and at least get a hearing, apparently without much risk to themselves even if they implicated themselves in an illegal transaction.

In any case, additional income from rewards for apprehending absconders or drunks was actually quite modest if other rural districts were similar to Campbell Town. The local courts processed around 110 men for being drunk that year, which raised around £28 from the 5/- fines.²⁷ In addition, constables apprehended around 36 absconders, so around £72 could be distributed from the £2 rewards. Twenty one constables claimed rewards, but most only apprehended one or two absconders during the year. Three constables seemed more successful than most, although by October senior officers were beginning to wonder if some constables were deliberately losing prisoners they were escorting in order to try and claim a reward for recapturing them. Constables Holden and Moore each captured four absconders, but Moore was eventually fined for letting prisoners escape. William Bowtell held the district record for capturing five absconders.²⁸ However, most of the Campbell Town constables would have been lucky to earn an additional £2 - £3 from rewards and fines in 1835.

Yet even if it was difficult to make extra money out of police work, some police had information to exchange that they could use to their advantage. Stock theft was rife in the district according to settlers, but few convicts or emancipists were prosecuted for it. As chief constable Lyall found out, they operated at night and in out of the way places which made them too hard to catch in the act. Perhaps convict constables at

²⁶ LC 83/1, *Return of Cases Heard, Magistrates Court, Campbell Town*, AOT, Trial of John Smith per *Larkins*, 9 July 1835, AOT

²⁷ LC 83/1, *Return of Cases Heard, Magistrate's Court, Campbell Town, 1835*, AOT.

²⁸ *Ibid.* Assigned servants also handed many absconders in and collected rewards. Generally, if a reward was to be claimed the bench book noted where the absconder was recaptured and by whom. However, a number of captures do not record who handed in the absconder.

Lake River or St Pauls Plains had suspicions or even firm information about some local characters, if they did, they rarely appeared to follow it up.

However, this information could be a very valuable commodity of exchange for a convict constable in trouble. Constable Richard Collins, a former basket maker from Woolwich, was only twenty four years old when he was sentenced to nine months with the Constitution Hill road party for inducing two assigned men to buy him drinks at the Blue Anchor Inn in Campbell Town. He had an excellent conduct record and this was the first misconduct recorded against his name in the six years since he had arrived in the colony.²⁹

Collins only stayed four weeks with the gang before absconding. Four soldiers later testified they overheard him say “he would rather hang twenty men to save his punishment on a chain gang”, and although Collins denied using this phrase, it seems clear that his first experience with a road party created a very strong incentive for him to avoid returning to his punishment.³⁰ Collins remained at large for eight days at the end of February, during which time he made his way back to the Campbell Town district. There he gave himself up to Mr Davidson and Archibald McIntyre, the divisional constable, on Davidson’s farm at Salt Pan Plains.³¹ He appeared before Magistrate Whitefoord and was initially arraigned to be returned to the Constitution Hill road gang for sentencing.

Collins spent ten days in the Campbell Town jail waiting to be returned to his gang, and during this time he and constable Thomas Griffiths devised a plan. Collins told the police magistrate that he had valuable information that could convict sheep stealers at St Pauls Plains on the property of the magistrate, Major William Gray. Eager to improve the local conviction rate, Whitefoord ordered Collins to work with Griffiths at the Avoca police office rather than returning him to Constitution Hill.

²⁹ Con 31, Richard Collins, 931, *Georgiana 1*, AOT. LC 83/1, *Return of Cases Heard, Magistrates Court*, Campbell Town, Trial of Richard Collins, 12 January 1835.

³⁰ *Colonial Times*, 24 November 1835, p.347.

³¹ LC 83/1, *Return of Cases Heard, Magistrates Court*, Campbell Town, AOT, Trial of Richard Collins, 14 March 1835.

A fortnight later, the two constables staked out the hut used by a couple of ticket-of-leave convicts named Macpherson and Spicer who worked for Gray. Griffiths told the magistrate that early in the morning they saw “James Macpherson and another person killing a sheep which proved to be the property of Major Gray”. As they moved in to arrest them, one escaped, but Macpherson was secured. They picked up a third man, James Spicer, in the hut. Several days later, they apprehended William Duncan whom they strongly believed “to have been the person who was with Macpherson on the night in question.” As Griffiths put it: “He answers to the description of Macpherson's companion in all respects. I can't venture to swear to him—having had no knowledge of the prisoner before, and the night being dark”.

Collins could do little better. Although he believed Duncan to be the culprit, he confessed that: “I can't swear to him.” He reported, however, that he had seen Duncan at Avoca, the night before the offence took place and had seen him several times at Macpherson's hut. Griffiths further damned Duncan by claiming that, “the prisoner has told me he is night shepherd to a person named Smith who bears a very indifferent character. He left the neighborhood of Avoca directly the subject of sheep stealing was made public”. Duncan countered these claims by providing an alibi of sorts for the night. According to his testimony he had stayed with Robert James and Paddy Sullivan at Avoca “from dark at night to sunrise” and volunteered that Sullivan at least had been sober.

Given the fragility of the evidence, Police magistrate Whitefoord acted with caution. All three men had their tickets of leave suspended. Duncan was given some benefit of the doubt. He was sent to the town surveyor's gang in Launceston, one of the lighter punishment stations. The charge against Spicer was dismissed as he had not been caught with the sheep. Nevertheless, he was relocated to a road party for twelve months.

Immediately, however, the case raised public suspicions. When McPherson was convicted as a sheep stealer at the Quarter Sessions, the *Colonial Times* informed its readers about Collin's recent sentence to the road gang and revealed that Griffiths had been tried four years earlier as a bushranger, along with a gang of seven or eight other men. Despite the severity of this offence, he had not only escaped a hanging

but had been made a constable.³² Although the paper did not directly state it, readers would have inferred that Griffiths may have saved himself by giving up the information that hanged his companions. By comparison, the *Colonial Times* argued that McPherson's character was more trustworthy than either of the two constables, as Major Gray must have had a good opinion of him when he employed him as his shepherd. Both Collins and Griffiths remained in the local force, Collins being officially reinstated in July. It is the only recorded instance in the bench book of constables successfully catching suspected offenders while they were committing a felony.

The paradox of the convict constables lay in the need for them to be able to exert appropriate control over others, while displaying subservience to their officers and the magistrates in keeping with their lower class and their prisoner status.³³ It took considerable skill for constables to be constantly negotiating this dangerous ground as two of them discovered one evening on the Main Road, while shifting a convict public works gang to a new location. Constables Isaac Bowater and Richard Cloak had unhitched their bullock carts and set up their night camp at Snake Banks on Captain William Wood's land. Wood, the local magistrate, sent his son to enquire who they were. John Wood made his enquiries circumspectly, perhaps used to the growing assertiveness of convict workers. As he explained to the court, "I went down and asked them if they had leave to stay there and told them if they did not ask permission I could take the bullocks to pound. Cloak said in a very indifferent manner they should not leave till tomorrow morning and that I should not impound the bullocks. I left them and returned to my father and acquainted him with what had occurred". Not satisfied with this lack of respect and continuing refusal to seek his permission to camp, Captain Wood and his overseer rode down and told them to leave. Capt Wood met with the same assertiveness. When confronted with the demand, Cloak once more replied that he would not leave until the morning. As Captain Wood explained, "I then directed my sons to get their horses and take the bullocks to pound. One of my servants took one of the prisoner's horses. The

³² *Colonial Times*, November 25 1835, p. 374.

³³ David Taylor, *The new police in nineteenth-century England*, p. 90. This too was a difficult task for working class police in England, where control of others and initiative was expected, yet at the same time, complete obedience to officers was enforced.

prisoner Bowater said something to the servant, which I did not hear, it induced him to call me up. I desired Bowater to immediately tell me his name. He knew me to be a magistrate. I am a constable, constable Bowater. This he said in a contemptuous manner and turning upon his heel walked off saying to the overseer, “it is of no use saying any more”.³⁴

What makes this confrontation interesting is that it happened within earshot of the road gang. Bowater and Cloak knew they would lose credibility if they backed down and insisted on their right to camp there as they were on government business. Wood, however, was furious that his authority as a landowner, gentlemen and magistrate had been challenged by two serving convict constables. The confrontation provides a good illustration of the ambiguous role of the convict police and the tensions that would rise when they tried to assert the authority that had been vested in them. Local magistrates were aware of these tensions, but also seemingly unable to resolve them either. Peter Murdoch, captured this when he told the Molesworth Committee that “I think Colonel Arthur had got the police of the colony to a very high pitch of discipline, but still it was not less disagreeable to the feelings of us as independent magistrates.”³⁵ Convict police lacked the moral authority to pursue their role fully and the class authority to subject the middle class to their orders.

Although there is some evidence, mostly reported in newspapers, that some police rough handled or beat suspects, they were also the victims of beatings which added greatly to the stress of their jobs.³⁶ The general level of violence and drinking amongst some working class men in Britain and the colonies may have been a contributing factor to this.³⁷ The physical brutality of the convict system may have exacerbated this further, by accustoming men to receiving and perpetrating violence. Some convict police were caught in this cycle of violence as they could be both

³⁴ LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, 1835, AOT, Trials of Richard Cloak & Isaac Bowater, 4 April, 1835. Bowater was suspended for three months and sentenced to a road party for that period. Cloak was reprimanded.

³⁵ Great Britain, Parliament, House of Commons, Select Committee on Transportation, *Report from the Select Committee of the House of Commons on Transportation*, Sir William Molesworth, chairman of the committee, Adelaide, Libraries Board of South Australia, 1967, Vol. 1, p. 117.

³⁶ Petrow, *Policing in a Penal Colony*, p. 385.

³⁷ Bruce Hindmarsh, ‘Beer and Fighting: Some Aspects of Male Convict Leisure in Rural Van Diemen’s Land 1820-40’, *Journal of Australian Studies*, 63, 1999, pp. 150- 205.

perpetrators of violence against other convicts and victims themselves. An examination of the conduct records of local constables showed that many of them had been flogged at least once during their career as police, while suspended and under punishment in road gangs.

As well as receiving institutionalized floggings the police were sometimes beaten quite severely by emancipists while they were performing their duties. During 1835 seventeen attacks on police were reported. Not many of the minor attacks were prosecuted and were probably a reflection of the general levels of violence in the community. In most cases the assailant was drunk. In January, Ellen West struck Constable MacManus when he found her running from constable West's hut while drunk after a probable domestic dispute.³⁸

Another constable was later threatened with a knife when he tried to arrest an assigned carter on a farm. The man had arrived back very drunk with two other assigned men, after completing some deliveries with the farm cart. He refused to leave his hut and two other assigned servants had to help to disarm him. Despite this, his actions did not appear to pose a serious threat to the constable.³⁹

Later that year, a drunken emancipist assaulted constables West and Johnson in the police office. West said in evidence:

Yesterday during the time the business of the office was going on, the prisoner came near the office door. He was very drunk. I told him to go away. He said; "B---gger you and Mr Whitefoord (police magistrate) too." I seized him by the collar and he struck me several times. With the assistance of Cons

³⁸ Ellen West was an emancipist in 1835, who claimed to have previously arrived in NSW on the *Princess Royal*. She is listed as West's wife and the hut was likely to have been their home and situated in the Government compound. She had one further charge against her in 1835 for a drunk and disorderly offence. See LC81/1 for 6 February 1835, and 7 September 1835, Cases against Ellen or Elenor West.

³⁹ LC 83/1 Return of Cases Heard, *Magistrates Court*, Campbell Town, AOT, Trial of William Allard, 29 April 1835.

Johnson, whom he also assaulted, and others, we succeeded in lodging him in gaol.⁴⁰

Other assaults offended public decency more. Two men who were drunk and fighting at the church service one Sunday morning had to be forcibly removed by two constables, who were assaulted in the process.⁴¹ These assaults seem to be part of the general round of police work and one of the hazards of the job, often an illustration of the resentment with which convicts viewed police.

More severe assaults on police were the result of particular police investigations and prosecutions. Neighbors called police to intervene when Ellen Gregory, the stonemason's wife was being beaten by her husband's assigned assistant, Edward Evans. As Evans was being taken to the watch house by three constables, they were intercepted by Gregory and his employee Bradford. Constable Holden told the magistrate: "when Gregory came up he demanded that we should give up his servant. I explained to him that we had taken him up for beating his wife. I am sure it was Gregory that kicked me and broke my ribs. Bradford just struck me with his fist under the ear". Holden described the severity of the beating and explained when asked, "I was ill for a fortnight and two days from the effects of the treatment I received. I have not recovered from the bad usage I met with. I cannot walk without a stick".⁴²

Sometimes, constables preferred to disregard minor incidents of disorderly behavior. Constable Patrick Flynn of Ross was passing the Robin Hood inn, the main drinking spot of convicts, when he was followed and taunted by an emancipist drinker. Ironically he ignored the man's behavior, but one of the important landowners riding

⁴⁰ LC 83/1 Return of Cases Heard, *Magistrates Court*, Campbell Town, AOT, Trial of Joseph Debnam, 22 September 1835. Debnam had to find sureties for good behavior, and was fined five shillings for damaging an office tub.

⁴¹ LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trials of Robert Seward, *Royal George* and Patrick Kearney, *K.S. Forbes*, 2 March 1835, AOT. Seward had his ticket of leave suspended for a month and went to a road party for this time, and Kearney was sentenced to 50 lashes.

⁴² LC 83/1, Return of Cases head, *Magistrates Court*, Campbell Town, 1835, AOT. Trials of John Gregory on 26 May 1835, and Edward Evans and George Bradford on 11 May 1835, AOT. Gregory was an emancipist stonemason who employed both convict labour and emancipists. He was charged a number of times in 1835 with drinking and fighting.

by, commanded him to do something about the man's bad language. Flynn explained in evidence: "he (Love) struck me violently in the face with his clenched fist. I was taking him to the watch house when Sweet came out of Dickenson's Public House. He laid hold of me and said:" Let the man go." I said I will not leave hold him by the collar. He then struck me two or three times and kicked me violently". Neither Captain Horton, who had first complained, nor other bystanders gave Flynn assistance, but Horton did ride to the watch house and got police help. When they returned, Horton recorded that, "the two men had then got the constable down and were pegging away at him as hard as they could. The other constables came up and they were secured. The constable was very badly used and I think he would have been very badly treated indeed had I not been there".⁴³ Although a more considered opinion may have conceded that the incident would never have occurred, if Horton had not insisted that Flynn arrest Love in the first place.

Sundays and evenings were key times for assaults on constables and women, as they provided the leisure time for men to drink and fight. Police were also vulnerable on other holidays and around public houses at all times of the year. In particular, fighting was common if police tried to empty out public houses especially at Christmas time in Ross.⁴⁴ Most of the severe assaults on police happened in Ross, where the institutionalized flogging of gang members, appeared to escalate violence in the community, by former gang members who settled there.

Police were also likely to be injured when attending fights around the villages between drunken emancipists or ticket of leave men. Respectable people were likely to call police to intervene and this level of vigilance may have helped reduce the number of serious assaults, as only around fifteen resulted in court appearances. All assaults on police were likely to be reported by them though, if only to explain how uniforms became torn or injuries were received.

⁴³ LC 83/1, Return of Cases head, *Magistrates Court*, Campbell Town, 1835, AOT. Trials of Alexander Love and John Sweet on 13 August 1835. Love and Sweet, both emancipists, were each fined 20/- for the assault and a further 5/- for damage to the constable's clothes.

⁴⁴ LC 83/1, Return of Cases head, *Magistrates Court*, Campbell Town, 1835, AOT. See the numerous cases for 26 December 1835.

Other stressful conditions affected the quality of the work of the convict police. Low pay made it difficult for convict police to afford to live honestly and the records of the local Court of Requests show that some had to borrow money from local lenders while waiting for their monthly pay. Campbell Town petty constables received between £ 28 - £32 per annum from 1828 to 1840 and rarely more than an additional £2-£3 from arresting drunks or apprehending absconders.⁴⁵ Few convict police were married, unlike the British Metropolitan police where 75% were married men.⁴⁶ Most Campbell Town police were unmarried and subjected to the stresses of barracks life, or were rostered to live in the police huts at remote locations. The three or four who were married appeared to have lived separately in huts or rented houses in the village. A handsome brick terrace of three houses, Gloucester House, was commenced in 1836 in Church Street, Campbell Town. This was an attempt to attract more married police and also a symbol of the middle class respectability that the police magistrate hoped to encourage amongst his constables.

The system of convict police never functioned as efficiently as Arthur boasted to his superiors in the Colonial Office. It was weak on detection and relatively inefficient on surveillance, even though the idea of police outposts commanding the rural roads seemed like a reasonable plan. New chums who absconded could be more easily stopped and apprehended on the roads than seasoned convicts who knew the ways of the colony, the back roads and the bush. For old lags there were many spaces in-between through which they could travel where police, soldiers and settlers rarely went. There were also many safe huts off the beaten track where they would be welcomed and sheltered.

And yet, the convict police created a semblance of control, especially in rural areas like the Campbell Town district, largely through the fear they inspired. They knew

⁴⁵ CSO14, Blue Book, 1840, AOT. See also History Committee of the National Trust of Australia (Tasmania), Campbell Town Tasmania, *History and Centenary of Municipal Growth*, Sydney, 1966, pp. 158-159.

⁴⁶ Haia Shpayer-Makov, 'The Making of a Police Labour Force', p. 117 and Hazel King, 'Some Aspects of Police Administration in New South Wales, 1825-1851', *Royal Australian Historical Society*, Vol.42, Part 5, 1956, pp. 211-212, who noted that most in the Irish Constabulary were unmarried.

the local population well: they heard rumors about the assigned convicts and emancipists; convict informers knowingly or unwittingly assisted them; they were well linked into the gossipy networks of information that circulated in the convict world. But their reputation was mainly based on bluff. They were not encouraged to show initiative, were poorly trained and tightly disciplined. They functioned as an isolated social group, necessary to the community but never welcomed as part of it. The more respectable they tried to become, the more this pretension was rejected by emancipists and settlers alike, who would not accept their moral authority as convicts to enforce the law. Physically demanding and relatively poorly paid, their job was at least as arduous as a soldier's