

## **Chapter 8: The Clash of Cultures: neither mothers nor whores.**

“An utter abomination...they contaminated all around them.”<sup>1</sup> While cultural concerns about the sexual and social behaviors of female convicts may have dominated official and settlers’ attitudes to them, the chapter will also look more broadly at their criminal behavior. It will argue that punishment and patriarchal chivalry towards women were incompatible, although the two attitudes existed uncomfortably side by side amongst the settler men and magistrates. The local lower courts were the stage where these conflicting responses met. The chapter will conclude by exploring which groups of settler men charged their female convicts with misdemeanors and the ways magistrates responded to particular charges by the types of punishments they inflicted, especially incarceration in the House of Correction.

Convict female domestic workers lived in the same house as their employer’s family and came under closer scrutiny than assigned men who lived in men’s barracks. Their behavior was less deferential than most servants in Britain and a lot of dissatisfaction with them was caused by their everyday manners and their personal activities that were embedded in working class culture and their lack of privacy. Mrs Murdoch caught their first convict domestic lying on her bed “with what she called a yard of clay in her mouth, and drinking a pot of porter, and blowing a cloud” when she entered the servant’s room unexpectedly.<sup>2</sup> Other employers were appalled by their bad language and their quickness to “give cheek” to their mistress.<sup>3</sup> Many settlers thought that female domestics were “depraved” or believed they prostituted themselves to the male farm hands or took a protector as a sexual partner.<sup>4</sup> These individual acts of some female convicts came to constitute a collective picture of the domestic from hell, who would create nightmares for any family who employed her. Some employers conceded that the system itself contributed to the women’s behavior as one confided, “I do not believe that one woman in 1000 has the moral energy to

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<sup>1</sup> 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. 118.

<sup>2</sup> *Ibid*, p. 118.

<sup>3</sup> *Ibid*, Evidence given by David Burns, p. 56, See also and Harris, *Settlers and Convicts*, p. 138.

<sup>4</sup> *Ibid*, Evidence given by Peter Murdoch, p. 119 and evidence given by John Russell, pp. 55-56.

resist the temptation she was exposed to in the places she went to.”<sup>5</sup> Yet the majority of settlers still employed female convicts in their homes and apparently had far fewer problems with their attitudes and culture than the popular stereotype allowed. Many also discovered that the free emigrant women who were sponsored to come and work in Van Diemen’s Land seemed very similar in their behavior to the female convicts and that some were “less than respectable”.<sup>6</sup> There was certainly a clash of working class and middle class culture occurring, regardless of whether the female domestic was convict or emigrant.

When looking at the experiences of settlers in the Campbell Town district, it is difficult to find any cases of domestics that fit the above stereotype of female convicts. Only small numbers of the female convicts were brought before the local courts and their offences seem trivial and very much grounded in their working class culture and their need for some time away from their work places. The cases that follow provide an insight into the way that convict and former convict women occupied their leisure time and pursued relationships with men. In addition, they demonstrate the opportunities for leisure taken by women working in villages compared with the surrounding rural districts. Many of the women were charged with being absent without the permission of their employer with the intention of engaging in some of the many forbidden leisure activities that both the convict regulations and the middle class found unacceptable for women.

Convict women who worked in the villages found it easier to slip away for a while. Jane Carr made her intentions clearly known to her employer. She walked out telling him that she was going down into the town to meet a man and get drunk.<sup>7</sup> She was admonished for this impertinence. Hannah Jones received three days in the solitary cell for absenting herself and getting drunk.<sup>8</sup> Margaret Hudson, a ticket of leave servant, was charged with being out after hours without a pass, which earned her two

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<sup>5</sup> *Ibid*, p. 119.

<sup>6</sup> *Ibid*, p. 119. Also see C80/50, *Female Prison Discipline Report*, Hobart, February 1843, AOT, Qu.240 to John Price, Police Magistrate at Hobart, pp.175 – 176.

<sup>7</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, AOT, Trial of Jane Carr, 29 April 1835

<sup>8</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, AOT, Trial of Hannah Jones, 28 January 1835

days in the solitary cell.<sup>9</sup> Women working on farms had fewer opportunities for leisure. Only two women from farms were charged with being absent without leave during the year. One had slipped away from a farm to spend the day in Campbell Town. The other had been found gambling one evening in one of the shepherd's huts.<sup>10</sup> However, so few convict women were charged with taking time away from their duties without permission in 1835, that probably a number of women had negotiated some free time or organized leisure activities that were less offensive to their employers. Many other households may not have found the occasional absence worth taking to a magistrate.

Another small number of women took time off to go drinking. The existing literature suggests that drinking formed an important source of recreation for convict women but was an activity which was discouraged by officials and employers. Daniels argues that it was not just because it was offensive to middle class behavior norms; it also led to dangerous and offensive behavior. Drunken women were vulnerable to physical and sexual assault and drinking was often associated with prostitution and brothels.<sup>11</sup> A small proportion of convict women who were frequently charged with being drunk and disorderly also committed other offences while drunk and received increasingly severe punishments. Catherine Owens from Hobart was prosecuted for over 50 drinking and associated charges and had her sentence extended three times between 1829 and 1846.<sup>12</sup> Damousi saw heavy drinking as a symbol of rebellion, an assertion of individual freedom in an unfree system, yet some of the examples she gives suggest women whose lives were chaotic and out of control rather than women who were practicing a type of informed subversion.<sup>13</sup> Smith also reported many examples of heavy drinking with dreadful personal consequences such as rape, beatings and destitution but concluded that a "crucial ingredient in their fate was

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<sup>9</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of Margaret Hudson, 20 May 1835

<sup>10</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trials of Elizabeth Harvey, 12 May 1835 and Ann Harding, 9 February 1835.

<sup>11</sup> Kay Daniels, *Convict Women*, St Leonards, New South Wales: Allen & Unwin, 1998, pp. 85, 155, 237.

<sup>12</sup> *Ibid*, pp. 145, 155.

<sup>13</sup> Joy Damousi, *Depraved and disorderly: female convicts, sexuality and gender in Colonial Australia*, Cambridge, Cambridge University Press, 1997, pp. 83-84.

their own character”.<sup>14</sup> This is a harsh judgment that probably would have been endorsed by many of the women’s contemporaries but doesn’t take into account what later generations came to know about the cumulative effects of alcoholism, homelessness and despair and the difficulty that convicts would have trying to break out of such a cycle. Some convict women may have been unable to control their drinking, but no evidence of this was found in the Campbell Town bench book. For the majority it appeared to be a controlled covert activity and it was unlikely that many masters knew a female servant was drinking unless it interfered with the woman’s ability to work well, or incited her to violence or abusive language. Some employers were prepared to excuse periodic drunkenness particularly when associated with weekends or traditional working class holidays like harvest festivals and Christmas. It is likely that a great deal of moderate drinking amongst women workers went unnoticed.

While it is not possible to gauge the level of private drinking that existed, public drunkenness as expressed in court charges was low amongst local women and suggested that convict and emancipist women were not frequently intoxicated. Only six assigned female convicts were charged with being drunk and disorderly during 1835. Four of these were women who were assigned to publicans and so had more opportunities to obtain liquor than many. None of the women were charged more than twice during the year, and in all cases the magistrates treated the charge as a trivial incident, either admonishing the woman, or ordering several days in solitary confinement. Such a small number of charges suggests that assigned women in the district moderated their drinking to acceptable levels. Being “tipsy” was a term sometimes used in the local court to suggest mild intoxication for both men and women, a state which appeared to be more acceptable to the court and quite different from being drunk and disorderly.

Public drunkenness was also low amongst women who were free by servitude or held tickets of leave. Being drunk and disorderly was a minor breach of the peace and more of a nuisance to the sober inhabitants of the villages than a danger. Six free or

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<sup>14</sup> Babette Smith, *A Cargo of Women, Susanna Watson and the convicts of the Princess Royal*, Kensington, New South Wales University Press, 1988, p. 171.

ticket of leave women were charged with drinking offences during the year and all received the customary fine of 5/-. None of these women were frequently drunk in a public place. Most had only two drinking offences for the year; the others had three or four each and had to find sureties to guarantee their future behavior. If these women continued to drink heavily, then they did most of their recreational drinking at home rather than at the local inns. However, three convict men were charged with assaults against women during the year and although two of the assaults occurred in public houses, it is not certain from the charges whether any of the men or the two convict women involved, were drunk at the time.<sup>15</sup>

Some emancipist women were not welcome in the local public houses because of their violent behavior. Two such were Jane Davies and Kate Dyster. Both were married women who arrived with a man at Heaney's inn early one evening, expecting to continue their drinking. Heaney went into the tap room to turn them out as soon as he heard they were there. They resisted violently by trying to bite him and hitting him with their fists. Even the constable who was called refused to try and arrest them until after more assistance arrived. Heaney complained that Davies threw a candlestick at him when she was in the tap room and that Dyster made her escape from the constables and "broke a pane of glass in the front door."<sup>16</sup> The magistrate simply reprimanded the women and dismissed the charge. Rowdy and even violent behavior from women in public did not always attract a sentence, especially if they were free women. Despite their reputations, this was the first and only charge against the two women for the year.

Although the middle class rejected the sight of women being drunk in public as uncouth and unfeminine, the local magistrates treated it as a trivial offence. The very few assigned convict women who were charged received a few days solitary confinement at worst or a reprimand if this was a first offence or infrequent. Free women received either a caution or a small fine. Although the occasional woman was

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<sup>15</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trials of Samuel Robinson, 29 April 1835; Thomas Auchinclose, 8 December 1835 and John Rowley, 21 December 1835.

<sup>16</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trials of Jane Davies and Catherine Dyster, 1 July 1835

seen drunk on the streets, there were no women who were frequently arrested for this offence in the district. Only one woman was arrested four times for being drunk and these were on two consecutive nights in January and March, suggesting that she had been on a couple of drinking sprees. The court details did not provide any information about whether these were episodes of recreational drinking or responses to grief or hardship. She simply attracted the usual 5/- fines and was finally required to provide a surety for her future good behavior. She did not offend again that year.<sup>17</sup>

Public drinking in respectable inns was only a small part of the possible recreational drinking available to the convict and free population. ‘Sly grog’ huts existed in the villages and on farms, usually managed by emancipists, where men and women could obtain rum or wine and settle in for an evening, or even several days of convivial company, gambling and drinking. In describing some of these huts, one traveler commented acidly that many of the people who frequented these huts “may seem generally intoxicated and always idle, the huts continuously echoing with boisterous mirth and resorted to by all the suspicious characters in the neighborhood.”<sup>18</sup> Drinking with friends outdoors was popular too. One assigned convict wrote back to an old friend in England regretting that he couldn’t have a beer under a furze bush with him as beer was rarely drunk in the colony but “I could find a wattle bush and a bottle of wine for a shilling.”<sup>19</sup> Many working class people regarded a little liquor as a tonic, which in moderation did them good.<sup>20</sup> A lot of rowdy drinking was done in private huts and houses and police were almost never called unless they received reports of a fight or a particularly unpleasant incident of domestic violence. Drinking was not exclusively the recreation of convicts: Ellen Viveash a magistrate’s wife on the Isis River, was critical of her neighbor Marianne Sutherland, whom she blamed for raising her daughter carelessly due to her drinking

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<sup>17</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, AOT, Trials of Margaret Hill, 12 January 1835, 13 January 1835, 13 March 1835, 14 March 1835.

<sup>18</sup> Edward Curr, *An Account of the Colony of Van Diemen’s Land principally designed for the use of Emigrants*, London, George Howie, 1824, pp. 39-40.

<sup>19</sup> Harley W. Forster, *The Dillingham Convict Letters*, Melbourne, Cyprus Books in association with the Victorian Historical Association, 1970, p. 22.

<sup>20</sup> *Ibid*, p. 20.

habit.<sup>21</sup> Local police acknowledged during one rare prosecution of landowners' sons, that they generally overlooked the drunken sons of the middleclass farmers, in deference to their social status.<sup>22</sup> Drinking was very much an offence prosecuted against the working class, but rarely against the middle class.

Local publicans generally cooperated with police as any likely conflicts between working class drinkers and local police could affect their ability to renew their annual license. In this district in 1835 over thirty charges of breaching the Licensing Act or harboring were laid against publicans and fines of £10 were common.<sup>23</sup> Because of this, local publicans banned from their premises any convict likely to cause trouble by becoming drunk or a nuisance; although in certain public houses some well behaved convicts would be served in the back yard.<sup>24</sup> Although it was never totally stamped out, both police and innkeeper vigilance played a significant role in reducing convicts' access to liquor in public houses in this district. Of course, this in turn encouraged the business of sly grog shops and the illicit sale of liquor by unlicensed suppliers in the villages and on farms.

A sentence of transportation in effect, sentenced young women to an extended period of enforced celibacy. They were put out to work, mostly refused the right to marry and expected to engage in no sexual relationships with men until they had served their time. This could take from seven to fourteen or more years. This differed substantially from the more open working class sexual behavior in which women sometimes partnered in their late teens especially in rural areas, where pre-marital sex and pregnancy was often the trigger for marriage.<sup>25</sup> In the large urban centers it

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<sup>21</sup> Pamela Statham (ed), *The Tanner Letters a Pioneer Saga of Swan River and Tasmania*, University of Western Australia Press, 1981, p. 87

<sup>22</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trials of Robert Bayles, William Hedlam, John Hedlam and Barry Cotter, 10 April 1835.

<sup>23</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, *passim*.

<sup>24</sup> Richard Heaney of the Tasmania Inn in Campbell Town and John Dickenson of the Robin Hood Inn in Ross had the most convictions for harboring or breaching the Licensing Act.

<sup>25</sup> Barry Reay, *Rural England: Labouring Lives in the Nineteenth Century*, New York, Palgrave MacMillan, 2004, pp. 173, 189, and June Purvis, *Hard lessons: lives of working-class women in nineteenth-century England*, Minneapolis, University of Minneapolis Press, 1989, pp. 163, 169.

became a problem for young pregnant women who were abandoned, although it was unlikely to permanently exclude these women from marriage.<sup>26</sup> During economic downturns, some women occasionally offered themselves for paid sex in between jobs or to supplement their income.<sup>27</sup> The conduct registers of quite a few of the female convicts in Van Diemen's Land noted that the women had been 'on the town' for several months, or at various times prior to their convictions. This too, was unlikely to permanently exclude working class women from a later marriage.<sup>28</sup>

Cases from the Campbell Town bench show that, despite the differences of opinion between the middle and working classes about appropriate sexual behavior for women, few employers brought cases against their female servants for engaging in casual sex in their leisure or working hours. When they did, the magistrates often regarded the charge as trivial and dismissed it with an admonishment. This inaction from local employers may have occurred because of the risk of losing the bond of £20 they had to post with the Convict Department that guaranteed they would not permit a convict woman to be absent from their home for even one night.<sup>29</sup> Either some middle class employers accepted that some degree of sexual behavior amongst their female servants was tolerable, or growing numbers of female convict servants in rural areas were choosing to restrict their sexual activity.

In most local cases of suspected or actual sexual behavior, only women were charged and they generally received light sentences from the magistrates. The magistrates heard five cases against assigned women who were discovered with men in the evening. One received a reprimand and the others between one and seven days in solitary confinement. Ann Jones a ticket of leave holder was reprimanded for entertaining a man. Her master interceded with the magistrate on her behalf before

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<sup>26</sup> Ginger Frost, *Promises broken: courtship, class and gender in Victorian England*, Charlottesville, University Press of Virginia, 1995, p. 148 and Alan Kidd, *State, society, and the poor in nineteenth-century England*, New York, St Martins Press, 1999, pp. 35-37.

<sup>27</sup> Smith, *A Cargo of Women*, p. 167.

<sup>28</sup> Daniels, *Convict Women*, pp. 188, 194, 204-205 and Smith, *A Cargo of Women*, pp.167, 175 ff. provides numerous examples of women from the *Princess Royal* who had sometimes worked as prostitutes but married after their sentence was served.

<sup>29</sup> James Ross, 'An essay on prison discipline in which is detailed the system pursued in Van Diemen's Land', *The Hobart Town Almanack*, Hobart, James Ross, 1830, p. 77.

sentencing which indicated he did not want her removed from his service.<sup>30</sup> Charlotte Hackwood was discovered drunk in Campbell Town one evening with a man also employed by her master. She spent seven days in solitary for this.<sup>31</sup> Catherine Lindsay also received seven days solitary for entertaining a man in her room and as well for refusing to work.<sup>32</sup> Ann Hughes employed by Richard Heaney the publican, received three days in solitary for a concealing a key one evening on the assumption that she intended to go out and meet some of the “strange company” who were staying in the inn that night. She slept in the same room as Heaney’s young children and he used to lock them all in the bedroom at night.<sup>33</sup>

Heaney was more certain of the actions of another servant, Sara Weston. When he returned home unexpectedly from Launceston at four am one Saturday morning, he clearly expected to find that not all was well as he told his two young sons to wait at the back of the house and tell him if anyone came out, while he entered the parlor through an unfastened French window where he saw two people sleeping on the sofa. He left quietly, took a light and checked the guest and servants’ bedrooms. Weston was absent from her room and as Heaney returned downstairs he was met by his young son shouting: "Father, father, George the shoemaker has run out of the house with nothing but his shirt, carrying a bundle of clothes". His older son had tried to speak to the shoemaker who told him he couldn't stop! Heaney told the magistrate that he “then went into the parlor and found (Weston) on the sofa sleeping where I had seen two persons on my first entering the house. This was not her proper place for sleeping. I am confident there was another person in bed there when I came in”.<sup>34</sup> Weston received one day in the solitary cell for this incident, a light sentence probably because the magistrate could only infer that the two had sexual intercourse.

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<sup>30</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, AOT, Trial of Ann Jones, 28 December 1835.

<sup>31</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, AOT, Trial of Charlotte Hackwood, 26 November 1835.

<sup>32</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, AOT, Trial of Catherine Lindsay, 19 September 1835.

<sup>33</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, AOT, Trial of Ann Hughes, 23 January 1835.

<sup>34</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, AOT, Trial of Sara Weston, 18 May 1835.

However, three convict women were sentenced to be returned to the House of Correction for pursuing relationships with men. Their masters were all local justices of the peace. The charges against them, as recorded in the bench book, did not appear to be substantially different from the previous ones which had attracted only a reprimand or several days in solitary, yet their sentences were much harsher than those given to other women on similar charges. These employers appeared to have very different views about tolerating courting relationships between their female servants and men. Major Gray charged Eliza Orrell with being absent all night. She was returned to second class at the House of Correction and was reassigned.<sup>35</sup> Captain Wood charged Margaret Laurie with "indecent and improper conduct by harboring and secreting a man in a bedroom adjoining the kitchen being there seen by Mrs Wood, holding the door shut with both hands". Perhaps it was the distress the incident caused Mrs Wood that merited a sentence of fourteen days in solitary and six months to be served at the House of Correction.<sup>36</sup> Laurie had arrived on the *Sovereign* in 1827 with a life sentence. She had already served eight years in the colony, yet was still restrained from forming relationships with men and was harshly punished when caught.

Richard Willis another magistrate, charged Mary Magee with being out after hours in the hut of one of his convict farm hands, George Demper. Initially Magee was sentenced to two days in solitary and Demper was not charged. But later that month the overseer found them both in the shrubbery while he was doing his nightly check of the men's huts. The overseer also found potatoes in Demper's hut which Willis argued were stolen. Possibly the two servants had started a more permanent relationship. This time, both were charged with being out after hours and stealing potatoes. Magee was sentenced to six months in Crime Class and Demper received twelve months with hard labour with the Sorell Rivulet road party.<sup>37</sup> In this instance the case was built around the theft of potatoes, rather than the sexual relationship between the two assigned servants. Local magistrates may have prosecuted such

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<sup>35</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of Eliza Orrell, 21 February 1835

<sup>36</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of Margaret Laurie, 29 December 1835

<sup>37</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trials of Mary Magee, 3 February 1835 & 25 February 1835, & George Demper, 25 February 1835.

cases against their own servants and asked for harsh punishments as it reflected badly on their respectability and social position to allow their female servants to be sexually active.

The seemingly more serious charge of prostitution also received mild responses from the magistrates. The Reverend Mackersey charged Ann Kelly his female servant, with being discovered “in an improper situation on the town with a man”, which was a euphemism for soliciting men for sex. Kelly received three days in solitary for this.<sup>38</sup> Maria Dowling, employed by Mr Sadler a publican in Ross, was also found “on the township for improper purposes”. Mrs Barton the proprietor of a recently opened brothel, had recruited Dowling to work some of her leisure time in her establishment. Dowling received ten days in solitary and Mrs Barton who held a ticket of leave, was sentenced to twenty one days in Crime Class.<sup>39</sup> Alicia Wynn was the only other woman charged with prostitution to receive a custodial sentence. She was charged with being drunk and disorderly and ‘on the town’ at six o’clock one morning. She was a convict servant at Heaney’s inn, and as such was exposed to the availability of liquor and had opportunities to meet men. She received a sentence of two months at the washtubs at the House of Correction in Launceston, the last seven days to be served in solitary.<sup>40</sup>

These were the only four identifiable charges related to prostitution that were heard by the magistrates in 1835. This suggests that it was relatively easy in small rural villages to identify and close down brothels or to catch women who were regular streetwalkers. There were too many evening police patrols and prying eyes who would report these types of activities. It was more likely that the incidents of paid sex that took place in the small villages were *ad hoc* arrangements between men and women who met each other around the village during the day or in places like sly grog huts or public houses at night. This may support the type of inferences made about women who were found in the company of men at night. If brothels and

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<sup>38</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, AOT, Trial of Ann Kelly, 28 December 1835

<sup>39</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, AOT, Trials of Mary Barton, 21 March 1835 & Maria Dowling, 21 March 1835.

<sup>40</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, AOT, Trial of Alicia (Elizabeth) Wynn, 14 January 1835

streetwalking were systematically shut down when they were discovered, then suspicion would fall on convict women out at night illegally. No men were charged with meeting a woman at night and convict women, who were found with men, were likely to receive a light sentence if the offence was infrequent.

The low numbers of reported instances of female convicts being absent without leave, drinking, meeting men for sex and prostitution suggest a very different profile of the average female convict in a rural area from the public stereotype that existed. But there were other reasons why offences involving sexual and social behavior may have been low amongst the emancipist and convict women of the district or even in the towns. A major shift in social behavior had been happening in Britain since the 1790s. The emerging middleclass claimed the virtues of sobriety, thrift, industriousness and a Christian morality that was centered on the family and enforced strong prohibitions against sexual behavior outside marriage, especially for women.<sup>41</sup> By comparison, working class men and women were sometimes regarded as inappropriately sexually active, lazy and hostile to the discipline of factory working hours, illiterate, spendthrift, drunk and without a religious faith.<sup>42</sup> It is unlikely that many of the working class, except those suffering the most extreme poverty, were as hopeless as the stereotype suggests. Instead, a continuum of working class behaviors existed, that in varying degrees came to absorb many middle class behavioral traits introduced by Methodist, Unitarian and Baptist missionaries to their working class followers.<sup>43</sup> Other successful working class families also adopted behaviors that were modeled on creating economic security for the family group. Self improvement became a high priority for many sections of the working class, as for the middle classes.<sup>44</sup> In the Campbell Town district, as in other parts of the colony, there were likely to be working class convicts who adopted some of the personally advantageous behaviors that were taking hold of sections of nineteenth century British society.

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<sup>41</sup> Alan Kidd , *State, society, and the poor in nineteenth-century England*, New York, St Martins Press, 1999, pp. 53-57.

<sup>42</sup> *Ibid*, p. 18.

<sup>43</sup> E.P. Thompson, *The Making of the English Working Class*, Middlesex, Penguin Books reprint, 1977, pp. 385-411, *passim*.

<sup>44</sup> Eric Hopkins, *Working-class self-help in nineteenth-century England: responses to industrialization*, New York, St Martins Press, 1995, pp. 182-185.

The possibility that considerable numbers of convict women chose either to restrict their sexual activity, or were controlling their fertility while under sentence, is supported by the low number of cases of pregnancy that were reported to the magistrates in 1835 in the district. Working class women in England had been using techniques to control their fertility since the early 1800s after abortion became illegal. Books about methods were available especially in the factory areas and particularly around Manchester in the 1830s.<sup>45</sup> Abortion was reputed to be common amongst convict women in the colonies.<sup>46</sup> Out of around ninety convict women working in the district in 1835, only two identifiable cases of pregnancy and a possible third were reported and all the women were returned to the House of Correction at Launceston. The houses of correction served as lying in hospitals for pregnant convicts, where they could wait the birth of their child and live after the birth, although they were then moved to punishment class. They would be assigned after their child was three years of age and sent to an orphanage, established by the administration for this purpose. Jane Brisbane, who had worked on a farm owned by Henry Keach close to Ross, was returned by her employer as she was pregnant and could no longer work.<sup>47</sup> Keach had only recently arrived from England with his family and settled near Ross. Mary Sutherland was returned by George Cocks, an assistant foreman with the Ross Bridge gang. Cocks asked the magistrate to record that she was of good character.<sup>48</sup> Major Gray the local magistrate for the St Pauls Plains area, returned Jane Raydon to the Crown “under peculiar circumstances”, a phrase which may have been a way of concealing a pregnancy thereby sparing the Gray family any embarrassment.<sup>49</sup> This appears a relatively low rate (3%) of pregnancy for female convicts in the district, but is supported by Robson’s claim that less than 11% of female convicts in Van Diemen’s Land gave birth while unmarried

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<sup>45</sup> David Kent & Norma Townsend, ‘“Female Convicts”: An Accurate View of Working Class Women?’, *Labour History*, 65, Nov 1993, pp. 186-187.

<sup>46</sup> Daniels, *Convict Women* pp. 86, 136.

<sup>47</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, AOT, Trial of Jane Brisbane, 27 November 1835

<sup>48</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, AOT, Trial of Mary Sutherland, 27 February 1835

<sup>49</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, 1835, AOT, Trial of Jane Raydon, 9 August 1835.

and serving their sentence.<sup>50</sup> The possibility that around 90% of female convicts in Van Diemen's Land did not give birth while single and under sentence suggests that many women were restricting their sexual activity or controlling their fertility. Either way convict women seem far from promiscuous.

While the reported rates of pregnancy seem low in the district in 1835 there remains the possibility that some other convict domestic servants were becoming pregnant but concealed the situation or were not reported. While this is possible, little evidence could be found to support the contention in the literature. Bowd found that in New South Wales only 15 women, (6.2%) of her sample of 241 female heads of families including single mothers, were working as assigned or ticket of leave convicts for employers.<sup>51</sup> A proportion of these women may have placed their children in an orphanage while they worked. Smith found, that not only were employers reluctant to take women with children, but some did so and afterwards arranged for the children to be sent to the orphanage, with or without the mother's consent.<sup>52</sup> Daniels argued that women were returned to the government as employers did not want to keep a pregnant woman or one with an infant as they would be unable to work efficiently.<sup>53</sup> The evidence she provides is anecdotal from several comments made by settlers. However, it is not possible to gauge whether this was done universally, or to what extent some employers may have retained pregnant convict servants, or for what reasons. The *Blue Books* data for births in the Campbell Town district are not helpful in this regard either. In Table 8.1 official statistics show that between 1834 -1837 there were only between 29 and 38 births annually.<sup>54</sup> However, these records do not attempt to distinguish between births to settler wives, emancipist or convict wives, or single female assigned convicts. As these were probably only the births registered through baptism, some additional births were likely to have been excluded. Very few emancipist and convict couples recorded births through baptism. Atkinson estimated that only 18% of convict couples who

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<sup>50</sup> Robson, *Convict Settlers*, p. 135. Robson claims all births to unmarried assigned women were recorded in Van Diemen's Land, but alas does not specifically identify these records.

<sup>51</sup> Lynne Bowd, 'On Her Own: Women as Heads of Family Groups in the 1828 Census', *Australian Historical Studies*, No. 107, 1996, p. 307.

<sup>52</sup> Smith, *Cargo of Women*, pp. 53, 58.

<sup>53</sup> Daniels, *Convict Women*, p. 95. See also LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of Jane Brisbane, 27 November 1835.

<sup>54</sup> Blue Books, CSO 50/8-12, 1833-1838, AOT.

married in 1838 in Van Diemen's Land had a child christened within two years of the marriage.<sup>55</sup>

Table 8.1: Births and marriages in the Campbell Town police district 1834-1838.

	1834	1835	1836	1837	1838
Number of births	33	29	No data	29	38
Number of marriages	58	44	No data	15	No data

Source: *Blue Books*, CSO 50/8-12, 1834-1838, AOT.

Official records in magistrates' bench books of the number of pregnant assigned servants returned to the government are still the best indicator of the numbers of assigned women falling pregnant in a district. Although some doubts remain about whether some employers did not report their pregnant convict domestics, this would have been to risk the good reputation of their own family. For these reasons it is likely that the three pregnant assigned women who were returned to the government in 1835 represented the numbers who actually fell pregnant.

While there is evidence that female convicts found it easy to obtain permission to marry during the early 1820s, the marriage rates amongst serving women convicts in Van Diemen's Land declined rapidly after Arthur's arrival.<sup>56</sup> In the General Muster of 1835, only 198 out of the 1900 serving convict women were recorded as married.<sup>57</sup> This represented only 10% of the convict women. This suggests that permission to marry was only rarely given to serving convict women, and is confirmed by a closer look at Table 8.2. The *Lady of the Lake*, the *Eliza* and the *Mellish*, arrived at Hobart between November 1829 and June 1830, yet only 12 % of the convict women from these boats had gained permission to marry (38 of 311 women) during their first five year's service in the colony. The 21 women assigned

<sup>55</sup> Alan Atkinson, 'Convicts and courtship', in *Families in Colonial Australia*, Patricia Grimshaw, Chris McConville & Ellen McEwan, (eds), Sydney, Allen & Unwin, 1985, p. 29. A convict couple was defined as a couple where at least one of the partners was still under sentence.

<sup>56</sup> Kirsty Reid, *Setting Women to Work*, AHS, p. 10.

<sup>57</sup> HO 10/49, *Female Convict Muster* 31 December 1835, AOT. Married – 112, Assigned to husband – 86 from a total of 1917 women.

to their husbands were married while still serving as assigned women and technically could be removed and reassigned to an employer if they misbehaved. The additional seventeen married women had tickets of leave and so their relationship with their husband was similar to that of free women.

Table 8.2: Distribution on 31 December 1835 for all female convicts landed from the *Lady of the Lake*, *Eliza 1* and the *Mellish* female transports to VDL.

Location of female convicts. (Dec.1835)	Lady of the Lake (arr.Nov. 1829)	Eliza 1 (arr.Dec.1830)	Mellish (arr.Jun.1830)	Total
Assigned to settlers	23	38	51	112
Assigned: Orphan school		1	1	2
Assigned: Govt. House		1		1
Invalid	1	2	1	4
Hospital	1	2	1	4
Dead		2	4	6
House of Correction	11	27	20	58
Jail	2	2		4
Ticket of Leave	16	18	16	50
Free by servitude/pardon	14	3	1	18
Assigned to husband	4	7	10	21
Married (ticket of leave)	3	7	7	17
Women not accounted for ie missing.	4	8	2	14
<b>Total</b>	<b>79</b>	<b>117</b>	<b>115</b>	<b>311</b>

Source: HO 10/ 49, AOT, 31 December 1835, General Muster List of all female convicts and P. R. Eldershaw, *Guide to the Public Records of Tasmania, Section 3, Convict Department*, Hobart, State Library of Tasmania, 1958, p. 55.

Some additional women from the group of 21 freed by servitude or pardoned may also have married, but did so after they were released from their sentence. Even after Governor Arthur's departure, marriage rates amongst convict women under sentence, continued to be low under Governor Franklin's administration. Atkinson argues that in 1838 a total of 422 marriages were recorded in Van Diemen's Land, of which only 188 involved convicts.<sup>58</sup> Even if all 188 marriages included a female convict or ticket of leave female partner, permission to marry was granted to only a very small number of the total female convict population that year, which was in excess of 2000 women, all of marriageable age. Overwhelmingly, female convicts were treated as a

<sup>58</sup> Atkinson, *Convicts & Courtship*, p.19.

necessary labour force, rather than as potential marriage partners while they were under sentence in Van Diemen's Land.

However, Atkinson asserts that only 6% of marriage petitions were rejected by officials in Van Diemen's Land in 1838. If this is so, then other factors may have restricted female convicts' rates of marriage.<sup>59</sup> Some were prevented from marrying as they had declared themselves married on their indents when they arrived. Others may have found it more difficult to meet suitable men as courting was not approved while women were under sentence. There is evidence to suggest that marriage was increasingly regarded as a contract in which the parties would benefit financially and provide friendship and other tangible benefits. Alternatively female convicts may have been far more careful about whom they chose to marry than contemporaries believed. Memorialists rarely mentioned affection, romance or the desire for children, but recommended convict women as "industrious" or "a good manager", while men were recommended as "sober" or "well conducted" or "capable of maintaining a wife".<sup>60</sup>

Even when approved by the Convict Department, around one third of the convicts who obtained permission to marry did not proceed with it. In 1838, 284 couples that included at least one convict were given permission to marry but only 188 (66%) actually married. This pattern was common amongst free couples as well. In Longford 25% of all couples, including free couples, failed to marry after the banns had been read.<sup>61</sup> Culturally marriage was a different type of union in the nineteenth century and many women did not marry at all. Robson estimated that only 60% of convict women eventually married in the colony and Sturma suggested this marriage rate was similar to that in Britain.<sup>62</sup> The 1852 British Census showed that 42% of women aged 20-40 years were not married.<sup>63</sup> It is also possible that numbers of female convicts did not want to bind themselves by contract to marriage but may have preferred to wait until free to choose a *de facto* union or preferred to remain

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<sup>59</sup> *Ibid*, p. 29.

<sup>60</sup> *Ibid*, pp. 22-23.

<sup>61</sup> *Ibid*, p. 26.

<sup>62</sup> Robson as cited in Michael Sturma, 'Eye of the Beholder: The Stereotype of Women Convicts, 1788-1852', *Labour History*, 34, 1978, p. 8.

<sup>63</sup> *Ibid*, p. 8.

single. For a number of reasons it appears that by the 1830s female convicts in Van Diemen's Land had a low marriage rate while under sentence, and that culturally up to 40% of them would not marry after they were freed, although this did not preclude them having *de facto* unions. Molesworth's disgust with convict women in his report in 1838 could have been prompted by the numbers of working class emancipist women who chose to live in *de facto* unions with men, instead of marriage, a cultural practice that was acceptable to the working class, but challenged the middle class cult of respectability and was often regarded by them as a type of prostitution.

A major economic consequence of the assignment system was that convict women's fertility rates were reduced despite the majority marrying or living in *de facto* unions after they were freed. Convict women were mostly aged between eighteen and thirty five years. By removing the ability of around 2000 women to marry and reproduce for anywhere between four to fourteen years during their years of highest potential fertility, the assignment system placed considerable limits on the population growth of Van Diemen's Land.<sup>64</sup> Dr Ross using statistics from the official *Blue Books*, commented in the *Hobart Town Almanack* that there had been static natural population growth in Van Diemen's Land in 1833. Around 500 deaths had been officially recorded for 1833 and only around 500 births.<sup>65</sup> Although the actual number of births could have been higher than this because there was a high rate within the working class of not baptizing and thus recording births, Ross's comments show that the problem of low natural population growth was recognized at the time, even though contemporaries like Ross believed the solution was to import more free women as marriage partners for the disproportionate number of males, rather than encourage convict women to marry while under sentence.

Working class courting, *de facto* and marriage relationships were clearly more complex than the simple stereotype of the promiscuous female convict allows. Much more work needs to be done on the cultural and economic issues of marriage in the colonies for working class women before historians can understand their motivations

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<sup>64</sup> Large numbers of emancipist men, who stayed in Van Diemen's Land, also did not permanently partner and reproduce due to the shortage of females.

<sup>65</sup> James Ross, *Van Diemen's Land Annual Hobart Town Almanack for 1834*, Hobart, James Ross Printer, 1834, p. 41.

for their partnering decisions. Neither should we see all their choices as simple statements of rebellion against nor acquiescence to their servitude as convicts. This is also evident in their decisions to abscond.

Absconding from assignment could be a complex business. For some, running represented the only way of maintaining relationships with their partner. Jane Jones was picked up in Ross in August and charged with absconding from Hobart in July. She had in fact traveled to Ross with her husband William Overall, a free man. Overall was also apprehended on suspicion of felony and agreed to be held in the jail while the police checked with Hobart authorities to see if there was a warrant issued for him. Apparently no outstanding warrant was found and he was released without being charged with harboring his own wife. After some consideration, Jones's charge was modified to "leaving Hobart without a pass to follow her husband".<sup>66</sup> She was sentenced to three days in the solitary cell, but later that year was recorded as assigned to Mr McLeod, a farmer near Campbell Town. Both temporary and permanent relationships with men could create problems for convict women, as their personal relationships were subordinated to the regulations of the convict system, against which even marriage had few claims.

Other women absconded for a variety of different reasons. On her arrival to Van Diemen's Land, Mary Davis was assigned to Captain Serjeantson's remote farm on the South Esk River. She rejected being put to work and was charged with unsatisfactory work by her employer. She absconded in protest.<sup>67</sup> She had only been in the colony a matter of weeks but this type of resistance drew a severe response from the local magistrate. Early resistance had to be crushed in case many other newly arrived women rebelled in this way. She was sentenced to eighteen months in the Launceston House of Correction. Eliza Roberts on the other hand, appeared to be manipulating the system when she absconded from Davidson's farm on the Macquarie River and she behaved "in a disorderly fashion" in the local jail while waiting for her charge to be heard. Instead of being returned to the House of

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<sup>66</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of Jane Jones, 17 August 1835.

<sup>67</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trials of Mary Davis, 8 August 1835 & 29 September 1835.

Correction for reassignment to another employer, she was sent to the wash tubs for a month with the possibility of being returned to Davidson afterwards.<sup>68</sup> Julia Devine, however, served two days in the local solitary cell after abandoning her employer's family during their visit to Campbell Town and slipping off to enjoy a day of leisure round the village by herself. This was a rare opportunity for her, as she usually worked on a farm in the remote St Pauls Plains and had in fact not absconded, despite the charge, but merely been absent without permission.<sup>69</sup>

Elizabeth Davis successfully evaded recapture for a year after absconding the previous November from John Dickinson's Robin Hood Inn at Ross. She handed herself in to the police office in Campbell Town, which suggests she may have remained in the district and been sheltered in a farm hut by a convict shepherd or emancipist.<sup>70</sup> It was unusual for any prisoner to remain free for that long without recapture.

These incidents show the complex and different reasons women had for running: fear of an unknown land; resentment at being forced to work; running off to live with a man; following a husband; wanting a new work placement; preferring to return to jail; or needing some leisure time away from work. Women's motives for absconding were often embedded in their need to normalize their experience and reestablish private and community bonds. Absconding was one way of taking control over their immediate experiences and reasserting individual choice.

Although only three women absconded in the district in 1835, a total of 54 women from across the colony were recorded as absconders in the *Government Gazette* from 1 January 1835 to 30 June 1835. Table 8.3 shows that assigned women absconded at a similar rate from employment (3.7%) to assigned men (3.5%). However, women appeared more successful than men at staying free immediately after absconding. This suggests they had plans of how to travel and where to stay before they

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<sup>68</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of Eliza Roberts, 11 February 1835.

<sup>69</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of Julia Devine, 19 June 1835.

<sup>70</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of Elizabeth Davis, 26 October 1835.

absconded. Less than one third (15) of women who absconded were picked up within a few days of running, compared to over 80% (189) of male absconders. Although the details about where the women hid were not included in official notices, it is likely that some arranged to travel or stay with people they knew. Planning and involving friends, lovers or sympathizers in sheltering them for some time, may have been part of the women's success in avoiding immediate recapture.

Table 8.3: Estimates of absconding assigned male and assigned female convicts in VDL from 1 January 1835 to 30 June 1835.

	Total assigned convicts	Absconded from settlers	Absconded and apprehended within 1-6 days
Assigned Females	1426	54 (3.7%)	15 (27%)
Assigned Males	6475	224 (3.5%)	189 (84%)

Source: *Government Gazettes*, Hobart, 1 January 1835- 30 June 1835. See also Ross, *Almanack*, 1836, pp. 51-52 for numbers of assigned male & female convicts.

Although the majority of women had been transported for theft, very few common law charges were laid against local convict women in 1835, despite their service in settlers' houses which provided them with ample opportunity to steal. Their low rate of criminal activity suggests that many had adopted a position of greater social responsibility while in service or had less need to support themselves through felony. Only three local assigned women were charged with serious theft during 1835. Josephine Dickens was charged with stealing a gun or fowling piece from her employer Benjamin Horne a local farmer and justice of the peace and she was referred to the Quarter Sessions court.<sup>71</sup> Grace Nielson was charged with stealing £8 from a military officer who was staying at the Tunbridge Wells inn where she was employed as a general servant. She received a twelve month sentence in crime class at the House of Correction in Launceston.<sup>72</sup> Louisa Inscipp had several charges brought against her in 1835. The first was for insolence to her mistress, but it was her attempts to get money from a hapless local drinker, Tommy May, that brought her trouble. Mrs. Heaney, the publican's wife, implied that May, a carter, was a pleasant

<sup>71</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of Josephine Dickens, 20 February 1835.

<sup>72</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of Grace Nielson, 10 February 1835.

but hopeless case and under her protection at the pub where she kept an eye on him to make sure the locals didn't take advantage of him. Inscipp was caught there trying to get May to give her £5. She was evicted by the publican and charged with disorderly conduct. Later that month she managed to get May to give her £1, but was charged by May with obtaining it fraudulently, possibly on the instigation of Mrs. Heaney. Inscipp was sentenced to six months in Crime Class.<sup>73</sup>

Theft and assault were the most frequent charges brought against emancipist or ticket of leave women, and convict women who were assigned to their husbands. Convict wives had the same levels of everyday freedom as any free wife with the exception that they were required to reside within certain police districts. They were unlikely to be charged by their husbands for laziness, bad language or drinking. However, other people were free to bring them before the magistrates and sometimes did so if they felt they had a case. Mr Appleby a local shop keeper, charged Catherine Berry with beating his convict shop boy. Will Dyer her husband, got drunk and confronted Appleby and threatened him for jeopardizing his wife's freedom after she was sentenced to two days solitary confinement in the local jail.<sup>74</sup> More seriously Charlotte Jarret was removed from assignment to her *de facto* husband John Jarret, after she was charged on suspicion of stealing £5. The investigation showed the Jarrets were not married and she was sentenced under her own name as Hackwood and was reassigned to a local farmer.<sup>75</sup> The charge of stealing the money was not pursued.

Within the local emancipist community two freed women were charged by emancipist plaintiffs. Catherine Burns, along with a co-accused, was sent to the Quarter Sessions court to answer a charge of stealing four silk handkerchiefs and Emma Boyce was charged with assaulting Sara Tucker, the wife of a local bricklayer, but the charge was dismissed.<sup>76</sup> In two other more unusual common law

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<sup>73</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trials of Louisa Inscipp, 18 May 1835, 10 August 1835, 22 August 1835.

<sup>74</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of Catherine Berry, 10 October 1835.

<sup>75</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of Charlotte Hackwood (Jarrett), 3 August 1835.

<sup>76</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trials of Catherine Burns, 3 July 1835 and of Emma Boyce, 18 September 1835

cases against local women, the magistrate did not support the charges. Ellen Harris and Ellen Kains, who were probably free small holders or emancipist tenants, were both charged in the summer of 1835 with pulling down a dam that Henry Jellicoe a local justice of peace had placed illegally on the Elizabeth River to divert water to his farm. Jellicoe charged them with malicious damage and hounding his land in an effort to intimidate them. The court persuaded Jellicoe to withdraw the charges.<sup>77</sup>

Police magistrate Whitefoord only sent two common law cases to the Quarter Sessions during the course of 1835. Of the rest, two convict women were returned to the House of Correction, one to be reassigned and one to serve a crime class sentence. In addition one woman was sent to the solitary cells for two days. Of the eleven common law charges brought against women, five were either withdrawn or dismissed by the court, suggesting that the local magistrates required higher evidence of guilt to convict in these cases than they did for cases related to moral or work issues. The small number of common law cases brought against both free and convict women provide little evidence to suggest they were either particularly troublesome as a community group or were constant offenders.

Generally the employers in the Campbell town district brought few charges against their female convicts. The two exceptions however were publicans and local magistrates. Publicans paid an annual license fee of £100 and needed to demonstrate that they ran orderly public houses in order to renew their licenses. Furthermore the inns were closely watched in Campbell Town and Ross by the police who patrolled the villages every two hours at night. Fines of £5 and £10 were handed down against publicans if they were caught serving or harboring convicts. Publicans tended to be assigned the less reputable female convicts or ones who had been returned to the magistrate by other local employers.<sup>78</sup> In 1835, local publicans laid eighteen charges against their female servants for being drunk or meeting men or being out after

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<sup>77</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trials of Ellen Harris & Ellen Kains, 13 January 1835.

<sup>78</sup> Penny Russell, 'Lady Franklin: Female Convicts and the Problem of Authority in Van Diemen's Land', *Journal of Australian Studies*, 3, June 1997, p. 36. Franklin explained that the Assignment Board gave wealthiest settlers the most respectable female convicts. See also Kirsty M. Reid, *Work, Sexuality and Resistance; The Convict Women of Van Diemen's Land, 1820-1839*, Thesis for Degree of Doctor of Philosophy, University of Edinburgh, July 1995, p. 201.

hours. Richard Heaney the licensee of the Tasmania Inn in Campbell Town brought seven charges against his female servants while other local publicans brought three or fewer. The police magistrate mostly admonished the women or handed down sentences of several days in solitary. Arthur acknowledged that public houses were unsuitable locations for female convicts when he ceased assigning them there in mid 1835.<sup>79</sup>

Local magistrates with the exception of Henry Jellicoe and Charles Viveash, brought ten charges against their female servants.<sup>80</sup> They were familiar with the magistrates' courts and used them as a strategy to discipline or remove their own unsatisfactory servants. They were probably under pressure to be seen to run very respectable households too. By comparison, only six local farmers, all who lived close to either Ross or Campbell Town, chose to bring convict women before the local court, as well as four local businessmen, who ran commercial establishments in either town.<sup>81</sup> But the majority of district farmers and their wives, appeared to have little need to use the local court to discipline their female servants.

While absconding satisfied the personal needs of female convicts, on the other hand, the imprisonment of women convicts was concerned with the needs of their captors: the convict department officials and their agents- the police magistrates. Table 8.4 lists the 17 local women who were sentenced to the crime class in prison in 1835 and another four women who were returned to the Crown. Collectively, in official eyes, they were the group of recidivists and rebels. Imprisoning them was not just an attempt to reform them; it was a message to the many generally compliant women convicts in the district that they were at risk of following them should their trivial disobediences continue.

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<sup>79</sup> *Cornwell Chronicle*, 30 May 1835, Convict Department Notice that female convicts will no longer be assigned to public houses.

<sup>80</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT. The following justices of the peace brought charges against their female convict servants: Capt. Serjeantson (3), Richard Willis (2), Geo. Harrison (2) former JP, Ben. Horne (1), Major Gray (1), Capt. Wood (1).

<sup>81</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT. Farmers who brought charges were: David Murray (2), Henry Keach (1), John McLeod (1), George Alston (1), Will. Davidson (1), and Capt. Francis Allison (1). Businessmen were James Thompson (2), James Hume (1), George Emmett (1).

The local incarceration rate reveals another aspect of the severity of punishment meted out to women. The police magistrate only tolerated a small number of trivial offences from each woman. Those who appeared before him several times, or whose conduct records showed a history of minor defiance, were likely to be jailed. Only two of the women jailed committed offences for which free people could be charged. All other offences punished by jail time were only for offences against convict regulations. It is not surprising that most emancipist women, even those with long lists of offences on their conduct registers, disappeared from the public records, by not re-offending, after their release.<sup>82</sup>

The imprisonment rate for women convicts in the district was high but probably lower than the overall imprisonment rate for women across the colony. This suggests that convict women were generally subject to incarceration for petty disobedience. During 1835, twenty one local women were returned to the House of Correction, either as charged, or they were returned to the Crown by their employer, or were pregnant. This was around 24% of the 88 women convicts employed in the Campbell Town police district. In December 1835, the annual muster for the whole colony showed that 24% (468 women) of the 1917 women convicts who were counted in the muster, were incarcerated during that month but higher than this if the whole year is taken into account.<sup>83</sup> This general incarceration rate for women was somewhat lower than the punishment rates for men but still very high considering the trivial nature of their offences. By comparison, around 31% (4896) of 15724 male convicts were incarcerated in road parties, chain gangs or penal settlements at any one time.<sup>84</sup> Convict authorities had a greater range of more severe physical punishments available to inflict on men than on women but both sexes experienced high punishment rates for non-compliance with the convict regulations.

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<sup>82</sup> Hirst, *Convict Society and its Enemies*, p. 120.

<sup>83</sup> *General Muster List*, HO 10/ 49, ATO, 31 December 1835.

<sup>84</sup> Ross, *Hobart Town Almanack*, 1836, pp. 51-52. Annual Return of Convicts for 1835.

Table 8.4: Female convicts from the Campbell Town Police District sentenced to the House of Correction or returned to the Crown, 1835.

Common Law	Work Related	Drinking	Absconding	Relationships with men	Other
Inscipp, fraud, crime class	Woodcock, returned to crown	Dowling, 1 month wash tubs	Davis, 12 months crime class	Orrell, returned to crown	Brisbane, pregnant, returned to crown
Nielson, stole £8, 12 months crime class	Jones, 1 month wash tubs		Dowd, 18 months crime class	Barton, 21 days crime class	Sutherland, pregnant, returned to crown
	Lowig, 3 months wash tubs			Harding, 1 month, crime class	Raydon, possible pregnancy, returned to crown
	Todd, 6 months crime class			Wynn, 2 months crime class	Jones, misleading accusations. 6 months crime class.
	Young, 6 months, crime class			Laurie, 6 months, crime class	
	Galloway, 8 months crime class			Magee, 6 months, crime class	

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

By 1830, Van Diemen's Land existed in a strange time warp in regard to official discipline and punishment compared to Britain and Europe. Public executions were still carried out in public view in Hobart and Launceston during Arthur's administration and people were encouraged to gather and watch despite changing practice in Europe.<sup>85</sup> Prisoners were forced to perform public works, building all types of infrastructure as punishment. Torture in the form of flogging was common for male prisoners as was working in irons. Head shaving and hair cutting of women was still carried out. Stories circulated of women in prison being gagged or forced to wear iron collars.<sup>86</sup> The treadmill and stocks were still used for both sexes. Conspicuous prison dress was forced on men in road parties and chain gangs, and also on women in the House of Correction and armed guards accompanied prisoners

<sup>85</sup> Richard P. Davis, *The Tasmanian Gallows*, Hobart, Cat & Fiddle Press, 1974, pp. 13-14.

<sup>86</sup> Daniels, *Convict Women*, p. 105.

to destinations or supervised them in work parties. These practices had started to disappear in Britain and Europe in the early 1800s as criminal codes were reformed and punishment shifted from the terror of inflicting pain and humiliation on the body to incarceration.<sup>87</sup> Instead, emphasis was placed on imprisonment with the deprivation of privileges, solitary confinement and reduced food rations, while cooperation brought rewards and better conditions.<sup>88</sup>

So great was the need to control the large numbers of convicts in Van Diemen's Land, that both the old brutal ways and the new manipulative forms of incarceration existed simultaneously. In the 1830s, both a new female prison in Launceston was opened as well as the penal station at Port Arthur, where solitary confinement in the Model Prison and incarceration in the dark cell would later be introduced, which was as psychologically brutal as physical punishment. Incarceration, humiliations, the treadmill, the stocks, solitary confinement and reduced food were regarded as particularly appropriate for uncooperative women prisoners as it was argued that these punishments were less physically violent. The whole paraphernalia of control was held in reserve, always ready to be used against women when needed.

Punishments of these types, and conversely the growing patriarchal chivalry towards women were quite contradictory ways that colonial society responded to women. The formidable public myth of the debased female convict may have been needed by magistrates and officials to justify their punishments of convict women and to distance themselves from the working class culture that they believed made women impure and unworthy of the normal social protections. However, not all male settlers could tolerate the official punishments given to female convicts and some were troubled by the contradictions in the way their society treated free and bond women. One wrote that: "The imagination of Englishmen at home cannot even conceive the degradation and consequent deterioration to which their country-woman are thus subjected in the existing Penal Colonies..."<sup>89</sup> By naming convict women as "their country-women" Maconochie reinstated them as part of his society's whole

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<sup>87</sup> Michel Foucault, *Discipline and Punish: the Birth of the Prison*, Penguin, 1979, pp. 7-8.

<sup>88</sup> *Ibid*, pp. 10-13.

<sup>89</sup> Alexander Maconochie, *Thoughts on Convict Management and other Subjects connected with Australian Penal Colonies*, London, John W. Parker, 1839, p. 129.

community and forced readers to stop viewing them as outsiders. If one group of middle class women was elaborately protected and supported by his community, how could a different group be punished and further debased by society? He argued that convict women were “accessible to moral influences”, and needed “kindness and solicitude.” They should receive training “in self reliance” and be encouraged to dress in a feminine way as it would assist them to recover their self respect. They should be allowed to engage as servants or wives and even keep pets as this was a “therapeutic activity”.<sup>90</sup> Although his arguments were heavily dependent on inculcating moral virtues and assumed a patriarchal responsibility towards women, his comments also contained a genuine kindness towards convict women that was generally lacking in the public debate about them. “I am convinced that a great many most excellent women might be thus recovered, even out of a class condemned at present to hopeless degradation...and it is almost suicidal for society to act in regard to them as it now does, first inadequately protecting them from the influences of its vices, and then deliberately crushing them under the weight of its contempt.”<sup>91</sup>

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<sup>90</sup> *Ibid*, pp. 131-133.

<sup>91</sup> *Ibid*, p. 133.