

# The 'Other' Bushrangers: Aboriginal, African American, Chinese and female bandits in Australian history and social memory, 1788-2019

**Author:**

Foster, Meg

**Publication Date:**

2019

**DOI:**

<https://doi.org/10.26190/unsworks/2094>

**License:**

<https://creativecommons.org/licenses/by-nc-nd/3.0/au/>

Link to license to see what you are allowed to do with this resource.

Downloaded from <http://hdl.handle.net/1959.4/65554> in <https://unsworks.unsw.edu.au> on 2024-04-24

**The 'Other' Bushrangers:  
Aboriginal, African American, Chinese and female  
bandits in Australian history and social memory, 1788-  
2019**

**Meg Foster**



A thesis in fulfilment of the requirements of the degree of Doctor of Philosophy

School of Humanities and Languages

Faculty of Arts and Social Sciences

December 2019

# Thesis/Dissertation Sheet

Surname/Family Name	: <b>Foster</b>
Given Name/s	: <b>Meg Sinead</b>
Abbreviation for degree as give in the University calendar	: <b>PhD</b>
Faculty	: <b>Arts and Social Sciences</b>
School	: <b>Humanities and Languages</b>
Thesis Title	: <b>The 'Other' Bushrangers: Aboriginal, African American, Chinese and female bandits in Australian history and social memory, 1788-2019</b>

## Abstract 350 words maximum:

This thesis investigates the 'other' bushrangers: Aboriginal, African American, Chinese and female bandits and their impact on colonial Australia as well as social memory. From the arrival of the First Fleet in 1788 to the early twentieth century, this study explores the relationship between these bushrangers and colonial ideas, society and identity, as well as the legacy of this history.

In contemporary Australia, 'bushrangers' are remembered as folk heroes. White men who took to the bush and survived by committing 'robbery under arms' are lauded as national icons, associated as they are with bravery, chivalry and ridiculing inept or corrupt authorities. But this was not how all bushrangers were seen in their own times, and white men were not the only people to engage in bushranging crime. This thesis is the first academic study to investigate bushrangers who were not white and male.

However, this thesis does more than recover these lesser known figures from historical obscurity. To merely insert 'other' bushrangers back into historical narratives does not do justice to the complex and ambiguous position that these men and women held in their own times. Rather than focus solely on historical redress, this study examines the meaning that these bushrangers gave to their own lives as well as the views of people who encountered them. It is an ethnographic history that uses ideas of race, gender, sex and class as well as law, order, crime, and justice to unpack these bushrangers' experiences alongside those of colonial society. The disruption that these bushrangers caused to colonial society provides a unique opportunity to examine that society at the time. Deeply cherished colonial ideas and institutions were made to respond to 'other' bushrangers in myriad complex ways, and the messiness of this lived experience expands and challenges our understanding of Australian colonial history as well as the national bushranging mythos.

## Declaration relating to disposition of project thesis/dissertation

I hereby grant to the University of New South Wales or its agents a non-exclusive licence to archive and to make available (including to members of the public) my thesis or dissertation in whole or in part in the University libraries in all forms of media, now or here after known. I acknowledge that I retain all intellectual property rights which subsist in my thesis or dissertation, such as copyright and patent rights, subject to applicable law. I also retain the right to use all or part of my thesis or dissertation in future works (such as articles or books).

.....  
Signature

.....  
Date

The University recognises that there may be exceptional circumstances requiring restrictions on copying or conditions on use. Requests for restriction for a period of up to 2 years can be made when submitting the final copies of your thesis to the UNSW Library. Requests for a longer period of restriction may be considered in exceptional circumstances and require the approval of the Dean of Graduate Research.

### **COPYRIGHT STATEMENT**

'I hereby grant the University of New South Wales or its agents a non-exclusive licence to archive and to make available (including to members of the public) my thesis or dissertation in whole or part in the University libraries in all forms of media, now or here after known. I acknowledge that I retain all intellectual property rights which subsist in my thesis or dissertation, such as copyright and patent rights, subject to applicable law. I also retain the right to use all or part of my thesis or dissertation in future works (such as articles or books).'

'For any substantial portions of copyright material used in this thesis, written permission for use has been obtained, or the copyright material is removed from the final public version of the thesis.'

Signed

Date:

### **AUTHENTICITY STATEMENT**

'I certify that the Library deposit digital copy is a direct equivalent of the final officially approved version of my thesis.'

Signed

Date:



#### **ORIGINALITY STATEMENT**

'I hereby declare that this submission is my own work and to the best of my knowledge it contains no materials previously published or written by another person, or substantial proportions of material which have been accepted for the award of any other degree or diploma at UNSW or any other educational institution, except where due acknowledgement is made in the thesis. Any contribution made to the research by others, with whom I have worked at UNSW or elsewhere, is explicitly acknowledged in the thesis. I also declare that the intellectual content of this thesis is the product of my own work, except to the extent that assistance from others in the project's design and conception or in style, presentation and linguistic expression is acknowledged.'

Signed

Date .....

### INCLUSION OF PUBLICATIONS STATEMENT

UNSW is supportive of candidates publishing their research results during their candidature as detailed in the UNSW Thesis Examination Procedure.

**Publications can be used in their thesis in lieu of a Chapter if:**

- The student contributed greater than 50% of the content in the publication and is the “primary author”, ie. the student was responsible primarily for the planning, execution and preparation of the work for publication
- The student has approval to include the publication in their thesis in lieu of a Chapter from their supervisor and Postgraduate Coordinator.
- The publication is not subject to any obligations or contractual agreements with a third party that would constrain its inclusion in the thesis

Please indicate whether this thesis contains published material or not.

☐

*This thesis contains no publications, either published or submitted for publication.*

☐

*Some of the work described in this thesis has been published and it has been documented in the relevant Chapters with acknowledgement.*

☐

*This thesis has publications (either published or submitted for publication) incorporated into it in lieu of a chapter and the details are presented below*

### CANDIDATE'S DECLARATION

I declare that:

- I have complied with the Thesis Examination Procedure
- where I have used a publication in lieu of a Chapter, the listed publication(s) below meet(s) the requirements to be included in the thesis.

Name	Signature	Date (dd/mm/yy)

## Acknowledgements

Like every history, this thesis on ‘other’ bushrangers has a history of its own. These acknowledgements go some way to expressing the personal and professional debts that I have accumulated over the past four and a half years of writing this thesis. I have drawn inspiration, support and strength from friends and colleagues in Australia and abroad. Without their time and generosity, this thesis would never have been written.

I have had the enormous privilege of working with two inspirational historians to develop this project. As my primary supervisor, Grace Karskens has been my guide and support throughout the entire thesis process. She has shared with me in the highs and lows of research: from the devastation of discovering that essential documents had been destroyed, to the euphoria of finding a ‘game changing’ source or making connections across mountains of historical material. Grace’s enthusiasm, positivity, patience and compassion have given me the strength to face many archival and personal obstacles, and the space to develop and grow as an historian. My associate supervisor, Lisa Ford, has also been a constant source of inspiration, advice and support. Her belief in my abilities pushed me forward, gave me the confidence to persevere and to develop this thesis to its full potential. My supervisors have been my mentors and my greatest advocates. I cannot thank them enough.

Institutional support and financial backing are essential to historical research, and this project was no exception. I would like to thank the University of New South Wales (hereafter UNSW) for funding my degree through an Australian Postgraduate

Award and Faculty of Arts and Social Sciences Top-Up Scholarship. An UNSW Postgraduate Research Support Scheme Travelling Scholarship and an International Society for the Study of Chinese Overseas (hereafter ISSCO) Travelling Scholarship enabled me to share my research at the ISSCO conference in Vancouver in 2016. I was able to conduct archival research in Britain in 2017 thanks to UNSW Higher Degree Research Funding, as well as an Australian Bicentennial Scholarship from King's College, London. Alongside these organisations, I am also grateful to Clare Anderson and the University of Leicester for sponsoring my Bicentennial Scholarship application and for hosting me as a visiting scholar in 2017. A UNSW Doctoral Practicum Scholarship, Faculty of Arts and Social Sciences Writing Up Award and a Higher Degree Research Exceptional Achievement Grant funded my year abroad at the University of Cambridge as a visiting student in 2018/19 and enabled me to explore the international connections of my research.

I have been the beneficiary of the skill and dedication of dozens of librarians and archivists, and I would like to express my deepest gratitude for their assistance in tracing these bushrangers' stories. In particular, I would like to recognise the staff at the New South Wales State Archives and Records Office, the State Library of New South Wales and the Mitchell Library, the Public Record Office of Victoria, the British National Archives, the British Library, the East Sussex Records Office and the Museum of Rye. This research of marginalised historical figures could not have been undertaken without the advent of digital archives and digital search technologies. I am greatly indebted to the Tasmanian Archives and Heritage Office, whose material on Tasmanian convicts is

digitised, and Trove, whose online newspaper collections form the backbone of this research.

Writing history can be a solitary endeavour: researching historical figures who have long since passed away does not necessitate much social interaction. I am grateful to many in Australia and the UK for adding new life and passion to my research. I would like to thank to Lorraine Martyn, who shared her family story with me, and whose warmth, openness and generosity made this history a joy to explore. I would like to express my gratitude to Jason Phu for our collaborations and his enthusiasm for this research. For our lively discussions, I would like to thank Rosa V. Campbell, Georgia Oman, Tracy Newlands, Izzy Goodman, Delyna Baxter, Tom Powell-Davis, Katy Roscoe, Ian Duffield, George Morris, Eureka Hendrich, Emma Battell Lowman, Melissa-Kelly Franklin, Zeb Woodpower, Amy Withnall, Becky Smith, Caroline Diamond, Alana Harris, Sheridan Humphries, Kimmy Shields, Bec McEwan, Aarushi Sahore, Jeevan Hariharan, Matthew, Paul and Lyn Barry. For their friendship, I would also like to thank Emma Hesselmann, Jenn Gifford-Wimble, Jeannette Walsh, Christine Bootes, Lucia Osborne-Crowley, Marianna Brigden, Olwen Williams, Rebecca Garden and Caitlin Foster. Their unfailing support bolstered my resolve and determination to complete this research.

An abridged version of Chapter 5 won the 2018 Aboriginal History Award from the History Council of New South Wales and appeared as 'Jimmy Governor and the Aboriginal People of Wollar' in *Australian Historical Studies* vol. 50, no. 3 in 2019. I would like to thank the History Council and judges for their continuing support of early career historians and promotion of Aboriginal history, as well as the editors and anonymous

reviewers of *Australian Historical Studies* for their insightful comments on this piece. I am similarly indebted to Sujit Sivasundaram at the University of Cambridge, whose supervision and feedback on draft chapters shaped and refined this thesis, as well as the members of Sujit's Cambridge reading group: Steph Mawson, Tamara Fernando, Tom Simpson, Charu Singh, Lachlan Fleetwood, Taushif Kara, Marie De Rudy, Scott Connors and Jake Richards, for their careful reading of draft chapters of this thesis.

In Australia, many scholars also took the time to share their expertise, shape my thinking, and send me chasing new leads. Anne O'Brien, Paul Irish, Kate Bagnall, Alana Piper, Zora Simic, Tanya Evans, Nadia Rhook, Paul Ashton, Richard White, Cath Bishop, Mike McDonnell, Alexandra Roginski, Claire Lowrie, Miranda Johnson, Kate Fullagar, Penny Russell, Kirsten McKenzie, Kiera Lindsay, Anna Clark, Katherine Biber, Sophie Loy-Wilson, Paul Macgregor, Lyndall Ryan, Simon Schapple, Michael Eburn and Terry Kass all discussed my research and provided advice and encouragement, for which I am grateful.

I would also like to thank the community of postgraduate and ECR historians in Sydney: James Keating, Genevieve Dashwood, Sophie Robinson, Liam Kane, Richard Egan, Anthea Compton, Isobelle Barrett Meyering, Jess Parr, Matt Haultain-Gall, Emma Kluge, Rohan Howitt, Jarrod Hore and Hollie Pich. Over seminars, workshops and coffees, writing retreats and emails, these historians created an empowering sense of community and a safe space to share research, dissect historical source material and embrace our passion for the past. Without their companionship and support, this thesis would not have developed into what it is today.

Historian Tom Griffiths has written that ‘knowledge starts with conversation’.<sup>1</sup> This thesis is indebted to every person who has been a part of this conversation with me.

---

<sup>1</sup> Tom Griffiths, *The Art of Time Travel: historians and their craft* (Melbourne: Black Inc Books, 2016).

## Abbreviations

A. A. Co.	Australian Agricultural Company
APB	Aboriginal Protection Board
ESRO	East Sussex Records Office
GAA	Gradual Abolition Act
LR	Law Reports
NSW RBDM	New South Wales Registry of Births, Deaths and Marriages
NSWSA	New South Wales State Archives
NSW SupC	New South Wales Supreme Court
PROV	Public Record Office of Victoria
SLNSW	State Library of New South Wales
TAHO	Tasmanian Archives and Heritage Office
TNA	The National Archives of the United Kingdom
UNSW	University of New South Wales
VDL	Van Diemen's Land



## Illustrations

Figure 1	William Strutt, <i>Bushrangers</i> , 1852.	5
Figure 2	A.C. Jackson, <i>The Hunt for the Governor Gang of Bushrangers. A posse of mounted police, Aboriginal trackers and district volunteers</i> , 1900.	28
Figure 3	S. T. Gill, <i>Road in Black Forest</i> , 1852.	49
Figure 4	S. T. Gill, <i>Sly Grog Shop</i> , 1852.	58
Figure 5	S. T. Gill, <i>Zealous Gold Diggers</i> , 1852.	60
Figure 6	William Strutt, <i>Cohunguim (on the left) and Munight (right), two members of the Victorian Native Police</i> , 1851.	68
Figure 7	William Strutt, <i>Native Police Escorting a Prisoner from Ballarat to Melbourne</i> , 1859.	71
Figure 8	Oswald Campbell, <i>Ben Hall, John Gilbert and John Dunn hold up the mail at Black Springs, New South Wales</i> , 1865.	165
Figure 9	Unknown Artist, <i>Morgan Sticking Up the Navvies, Burning their Tents and Shooting the Chinaman</i> , 1865.	175
Figure 10	Unknown Artist, <i>Portrait of Frederick Ward, alias Thunderbolt</i> , 1870.	195

Figure 11	Unknown Photographer, <i>Portrait believed to be of Mary Ann Ward (née Bugg)</i> , date unknown.	199
Figure 12	Unknown Photographer, <i>Jimmy Governor</i> , c.1900.	255
Figure 13	Unknown Photographer, <i>Ethel Governor</i> , c.1900.	263
Figure 14	A. C. Jackson, <i>The Hunt for the Governor Gang of Bushrangers. A posse of mounted police, Aboriginal trackers and district volunteers</i> , 1900.	284
Figure 15	James Waltham Curtis, <i>A Strange Apparition — Ned Kelly's fight and capture</i> , 1880.	304
Figure 16	Edward L. Wheeler, <i>Deadwood Dick, the prince of the road</i> , 1899.	322
Figure 17	Unknown Artist, <i>Jimmy Governor as He Appeared in Court Today</i> , 1900.	325
Figure 18	Unknown Artist, <i>Jimmy Governor</i> , 1900.	325
Figure 19	Unknown Photographer, <i>Ned Kellys at the Sydney Olympic Games</i> , 2000.	346
Figure 20	James Curtis, <i>Ned Kelly</i> , 1880.	349
Figure 21	Jason Phu, <i>Sam Poo</i> , 2018.	349

## Maps

Places of Note in Chapter 1	43
Places of Note in Chapter 2	91
William Douglas in New South Wales	120
William Douglas in Van Diemen's Land	134
Places of Note in Chapter 3	147
Places of Note in Chapter 4	192
Places of Relevance to the Bugg Family	218
Places of Note in Chapter 5	252
Jimmy and Joe Governors' Tracks	296

# Table of Contents

Acknowledgements	i
Abbreviations	vi
Illustrations	vii
Maps	ix
Introduction	1
Chapter 1: 'Black Douglas' and the Terror of the Goldfields	44
Chapter 2: The Life and Times of William Douglas	92
Chapter 3: The Many Histories of Sam Poo	148
Chapter 4: Mary Ann Bugg and the Power of Popular Appeal	193
Chapter 5: Intimacy and Violence in the Case of Jimmy Governor	253
Chapter 6: Bushrangers, Outlaws and Jimmy Governor	297
Conclusion	345
Bibliography	354

## Introduction

In May 1855, between 100 and 400 diggers on the Alma goldfields in Victoria rose up to capture a notorious desperado known as 'Black Douglas' and his gang. A pitched battle ensued but the miners were ultimately victorious. Lynching was proposed as an appropriate punishment for Douglas and his men's alleged crimes, which included the murder of a white woman at Avoca.<sup>1</sup>

In 1865, a court in Bathurst, New South Wales was asked to determine the fate of a Chinese man named Sam Poo. Poo was accused of murdering Senior Constable John Ward near Mudgee in New South Wales. He did not speak at his trial. Poo was found guilty and hanged in Bathurst Gaol on the 19<sup>th</sup> of December 1865. Three Chinese prisoners were among the witnesses to his execution.<sup>2</sup>

In 1867, members of the New South Wales Legislative Assembly came to the defence of an Aboriginal woman named Mary Ann Bugg. Bugg was then in Maitland Gaol serving a sentence for vagrancy. These parliamentarians referred to her as a 'poor woman' who had been unjustly imprisoned. They did not mention that she had been involved in robberies and habitually dressed in men's pants. Neither did they make any reference to the fact that she could read and write.<sup>3</sup>

In 1900, residents of New South Wales were on the hunt for an Aboriginal mass-murderer. Along with an accomplice, Jimmy Governor had murdered the family of his employer, Mr John Mawbey, in Breelong, New South Wales before going on a crime

---

<sup>1</sup> See Chapter 1.

<sup>2</sup> See Chapter 3.

<sup>3</sup> See Chapter 4.

spree throughout the colony. The country was in uproar as a result. The search for Governor involved thousands of police and civilians and has since been described as the 'largest manhunt in Australian history.'<sup>4</sup>

This thesis examines the lives of these four disparate figures: Black Douglas, Sam Poo, Mary Ann Bugg and Jimmy Governor. The above snapshots depict the moments that these individuals came to public notice for their criminal deeds and consequently, when they left the greatest archival trace. Although these figures were separated from each other by time, space, race and gender, there were two features that connected them: none were white men, and they each had affiliations with bushranging.

Bushranging, also known as 'robbery under arms' or rural banditry, is a part of the Australian national mythos. Today, white, male bushrangers are lauded as national icons, as they are associated with bravery, chivalry and ridiculing inept or corrupt authorities. Although they existed outside of the law, heroic bushrangers represented alternative forms of justice to their supporters. In bushranging history, myth and reality are similarly intertwined and bushranging is invariably cast as a white male pursuit. The existence of 'other' bushrangers challenges the white masculinist framework that is effectively synonymous with bushranging history and social memory.<sup>5</sup> By focussing on the lives of 'other' bushrangers, this thesis will illustrate that bushranging history was far more diverse than academic or public discourse has allowed. But it will do more than enlarge the parameters of Australian bushranging history.

---

<sup>4</sup> See Chapters 5 and 6. For the quotation, see Laurie Moore and Stephen Williams, *The True Story of Jimmy Governor* (Sydney: Allen & Unwin, 2001), p. vii.

<sup>5</sup> See pages 11-21.

This thesis is an ethnographic history that examines how ‘other’ bushrangers saw their own actions as well as the perspectives of colonial Australians.<sup>6</sup> While some ‘other’ bushrangers referred specifically to the white, male bushranging tradition, they also brought their own distinct experiences, beliefs and worldviews to the practice. Although bushranging has been defined as a ‘national institution’, ‘other’ bushrangers illustrate that bushranging was influenced by people and cultures that originated beyond the settler colonies. They illustrate that this ‘national’ tradition has roots in transnational history.<sup>7</sup>

This thesis is also a study of rupture and crisis. ‘Other’ bushrangers not only threatened lives and property when they engaged in bushranging crime, they challenged colonial Australians’ beliefs about racial and gendered hierarchy: they affected the way that colonial Australians saw themselves and their place in the world. The fears engendered by ‘other’ bushrangers affected many aspects of settler society, from popular culture, folklore, and social memory through to colonial law, governance and policing. The disruption caused by ‘other’ bushrangers provides a unique opportunity to explore

---

<sup>6</sup> For ethnographic history, see Inga Clendinnen, ‘Spearing the Governor’, *Australian Historical Studies* vol. 33, no. 118 (2002), pp. 157-174; Greg Denning, ‘Empowering Imaginations’, *The Contemporary Pacific* vol. 9, no. 2 (1997), pp. 419-429; Rhys Isaac, ‘On Explanation, Text, and Terrifying Power in Ethnographic History’, *Yale Journal of Criticism* vol. 6, no. 1 (1993), pp. 217-236; Tiffany Shellam, *Shaking Hands at the Fringe: negotiating the Aboriginal world at King George’s Sound* (Perth: University of Western Australia Press, 2009); Inga Clendinnen, *Dancing with Strangers: Europeans and Australians at first contact* (Melbourne: Text Publishing, 2003); Greg Denning, *Mr Bligh’s Bad Language: passion, power and theatre on the Bounty* (Cambridge: Cambridge University Press, 1992); Robert Darnton, *The Great Cat Massacre and Other Episodes in French Cultural History* (London: Allen Lane, 1984).

<sup>7</sup> Indeed, as Ian Tyrrell writes, ‘the nation itself is produced transnationally.’ Ian Tyrrell, *Transnational Nation: the United States in global history since 1789* (Basingstoke: Palgrave Macmillan, 2007), p. 3. See also David Lambert and Alan Lester, *Colonial Lives Across the British Empire* (Cambridge: Cambridge University Press, 2006), pp. 9-10.

the beliefs and anxieties of colonial society and the ways they were fortified, altered and challenged as a result.<sup>8</sup>

This thesis is not a comprehensive account of all ‘other’ bushrangers who existed in Australian history. There were other, ‘other’ bushrangers.<sup>9</sup> In this thesis, I examine four ‘other’ bushrangers not only because they were exceptional but because they left exceptional archival traces; fragments of sources that together were large enough for me to chart the contours of their lives.<sup>10</sup> All of the ‘other’ bushrangers in this thesis were

---

<sup>8</sup> This approach follows social historians and anthropologists such as Christine Arnold-Lourie, “‘A Madman’s Deed—A Maniac’s Hand’: gender and justice in three Maryland lynchings”, *Journal of Social History* vol. 41, no. 4 (2008), pp. 1031-1045; Victor Turner, ‘Social Dramas and Stories About Them’, *Critical Inquiry* vol. 7, no. 1 (1980), pp. 141-168; Clifford Geertz, *The Interpretation of Cultures* (New York: Basic Books, 1973), pp. 1-30.

<sup>9</sup> For example, the 1838 Select Committee on Transportation listed eight women committed to trial for ‘Highway Robbery, Bushranging, At Large with Fire-Arms’ between 1834 and 1835, five of whom were convicted, while Aboriginal people had engaged in crimes associated with bushranging since the beginning of colonisation. British House of Commons, *Report from the Select Committee on Transportation, with Minutes of Evidence* (London: House of Commons, 1838), p. 318.

For other references to female bushrangers, see ‘Domestic Intelligence’, *Sydney Monitor* (15 October 1827), p. 8; ‘Female Bushrangers’, *Australian News for Home Readers* (18 March 1865), p. 14; ‘Female Bushrangers’, *Age* (4 March 1865), p. 7; James Archibald, ‘Sketch of the Life of Kitty Morgan The Female Bushranger’, *Warraroo Times* (29 April 1868), p. 2; ‘Execution’, *Sydney Gazette* (12 July 1826), p. 3; ‘Domestic Intelligence’, *Monitor* (14 July 1826), p. 2; *R. v Connolly and Fairless* (1826). Published by Macquarie University. Accessed 8 January 2019 via: <[http://www.law.mq.edu.au/research/colonial\\_case\\_law/nsw/cases/case\\_index/1826/r\\_v\\_connolly\\_and\\_fairless/](http://www.law.mq.edu.au/research/colonial_case_law/nsw/cases/case_index/1826/r_v_connolly_and_fairless/)>. Extracted from NSW State Records (NSWSA): Supreme Court of New South Wales; NRS 13681, Chief Justice’s Letterbooks, [4/6651], *R. v. Connolly and Fairless* (1826) no. 41, pp. 37-38.

For Indigenous people and bushranging crime see Jan Kociumbas, “‘Mary Ann’”, Joseph Fleming and “‘Gentleman Dick’”: Aboriginal-Convict relationships in colonial history”, *Journal of Australian Colonial History* vol. 3, no. 1 (2001), pp. 28-54; Naomi Parry, “‘Hanging no good for blackfellow’: looking into the life of Musquito’ in Ingereth Macfarlane and Mark Hannah (eds.), *Transgressions: critical Australian Indigenous histories* (Canberra: ANU E Press, 2007), pp. 153-176; Naomi Parry, “‘Many Deeds of Terror’: Windschuttle and Musquito’, *Labour History* vol. 85 (2003), pp. 207-212.

<sup>10</sup> While the Irish were also racialised in the nineteenth century, there was never a majority who considered them a separate race, or who altered laws and other structures as a result of this perceived difference. The most celebrated bushranger of all time, Ned Kelly, was famously Irish, and there is a vast literature on this figure (see page 297, note 6 for more information). For these reasons, the Irish are not examined alongside the ‘other’ bushrangers in this thesis. For the racialisation of the Irish, see Elizabeth Malcolm and Dianne Hall, *A New History of the Irish in Australia* (Sydney: New South Publishing, 2018), pp. 22-47. See also Hsu-Ming Teo, ‘Multiculturalism and the Problem of Multi-Cultural Histories: an overview of ethnic historiography’ in Hsu-Ming Teo and Richard White (eds.), *Cultural History in Australia* (Sydney: UNSW Press, 2003), pp. 151-152.



either termed bushrangers by colonial society, reputed to have engaged in bushranging crime, or used the label themselves. But the aim of this thesis is not to prove that these figures *were* bushrangers. Rather, it examines the implications of calling them so.

## **Bushranging History, Historiography and Mythology**



*Figure 1 has been removed due to copyright restrictions.*

**Figure 1: William Strutt, *Bushrangers*, 1852.<sup>11</sup>**

### **A Concise History of Australian Bushranging**

‘Bushranger’ is a uniquely Australian word. It was invented in the Australian colonies and its first documented use was in 1801, although the practice of bushranging had occurred almost since the British First Fleet arrived in New South Wales in 1788. The term originally denoted an escaped convict who went to live in the bush, and it was only later that it became associated with a distinct type of crime. While ‘absconding’, or

---

<sup>11</sup> Source: ‘Bushrangers by William Strutt’, University of Melbourne. Accessed 10 November 2019 via: <https://library.unimelb.edu.au/teachingobjects/objects/bushrangers-by-william-strutt>

running away from settlement, was a crime in itself, many convicts were only able to hide in the bush rather than survive on its resources. Thus, escaped convicts increasingly engaged in robbery to make ends meet.<sup>12</sup> This is the most common definition today, bushrangers as ‘criminal[s] or thie[ves] who lived in the bush’, the bush being ‘a wild area of land’.<sup>13</sup> In early colonial history, bushrangers were predominantly white, male convicts or emancipists, however, bushranging changed over time.<sup>14</sup> By the 1860s, bushrangers were most likely to be ‘native born’, Anglo-Australian men of convict or emancipist parents, while by the 1870s and 1880s, bushrangers were also associated with the poorest among the ‘selectors’, the small landowners and farmers.<sup>15</sup>

The first bushranger in Australian history was a six-foot-tall African convict named John Caesar, more commonly known as ‘Black Caesar’. Chris Cunneen and Mollie Gillen suggest that Caesar was born in Madagascar, while Cassandra Pybus believes that Caesar was originally a slave from a plantation in the American colonies.<sup>16</sup>

---

<sup>12</sup> ‘Bushranger (n.)’, Australian National Dictionary Online. Accessed 8 January 2019 via: <<http://www.australiannationaldictionary.com.au/oupnewindex1.php>>; Jane Wilson, ‘Bushrangers in the Australian Dictionary of Biography’, Australian Dictionary of National Biography Online. Accessed 8 January 2019 via: <<http://adb.anu.edu.au/essay/12>>; Gwenda Davey and Graham Seal, ‘Bushrangers’ in Gwenda Davey and Graham Seal (eds.), *Oxford Companion to Australian Folklore* (Oxford: Oxford University Press, 1993), pp. 58-61; R. B. Walker, ‘Bushrangers in Fact and Legend’, *Australian Historical Studies* vol. 11, no. 42 (1964), p. 206; Humphrey McQueen, *A New Britannia* (St Lucia, QLD: Queensland University Press, 2004, c1970), p. 135.

<sup>13</sup> ‘Bushranger’, Cambridge English Dictionary Online. Accessed 18 December 2018 via: <<https://dictionary.cambridge.org/dictionary/english/bushranger>>

<sup>14</sup> Jennifer McKinnon, ‘Convict Bushrangers in New South Wales, 1824-1834’, Master’s Thesis (LaTrobe University, 1979); Paula J. Byrne, *Criminal Law and Colonial Subject: New South Wales, 1810-1830* (Cambridge: Cambridge University Press, 1993), pp. 129-150.

<sup>15</sup> John Hirst, *The Strange Birth of Colonial Democracy: New South Wales, 1848-1884* (Sydney: Allen & Unwin, 1998), pp. 119-131; Russel Ward, *The Australian Legend* (Melbourne: Oxford University Press, 1958), pp. 135-166; Susan West, ‘“The Thieftom”: bushrangers, supporters and social banditry in 1860s New South Wales’, *Journal of the Royal Australian Historical Society* vol. 101, no. 2 (2015), pp. 134-155; Peter C. Smith, *The Clarke Gang: outlawed, outcast and forgotten* (Kenthurst, NSW: Rosenberg Publishing, 2015); Doug Morrissey, ‘Ned Kelly and Horse and Cattle Stealing’, *Victorian Historical Journal* vol. 66, no. 1 (1995), pp. 29-48.

<sup>16</sup> Cassandra Pybus, ‘From “Black Caesar” to Mudrooro: the African diaspora in Australia’ in Annalisa Oboe (ed.), *Mongrel Signatures: the work of Mudrooro* (Amsterdam: Rodopi, 2003), p. 26; Chris Cunneen

Although there are questions over Caesar's origins, what we know for sure is that at some point John Caesar made his way to England, where he was tried at the Kent Assizes in 1786 for theft and sentenced to seven years' transportation for his crime.<sup>17</sup> He arrived in the colony of New South Wales on board the *Alexander* in the First Fleet, and quickly made a name for himself. Judge Advocate, David Collins, lampooned Caesar for his 'brutish' ways, for absconding from settlement on various occasions, stealing guns and robbing settlers of their food. But he also recognised that Caesar was one of the hardest working convicts in the colony.<sup>18</sup>

The distance of New South Wales from other 'civilised' outposts was meant to prevent convicts like Caesar from acting out because they needed the authorities to survive. The government believed that it had a monopoly on the food supply, and so if convicts did not abide by the law and work for their rations, they would starve. Unfortunately for the authorities, the reality was different. Convicts sought freedom and sustenance beyond the bounds of settlement. They increasingly gained knowledge of the land from their own expeditions or from Aboriginal people, and as this information spread, more convicts were emboldened to set out beyond Sydney Cove themselves.<sup>19</sup> Caesar was one of the first of these early figures as he absconded to try his luck in the bush, although without lasting success. In one instance after he ran away, Caesar

---

and Mollie Gillen, 'Caesar, John Black, (1763-1796)', Australian Dictionary of National Biography Online. Accessed 12 December 2018 via: <<http://adb.anu.edu.au/biography/caesar-john-black-12829>>; Cassandra Pybus, *Black Founders* (Sydney: University of NSW Press, 2006), pp. 1-136; Cassandra Pybus, 'Black Caesar and Billy Blue: subversive African performance in early colonial Sydney', *Arts: the journal of the Sydney University Arts Association* vol. 31 (2009), pp. 73-78; Kociumbas, "Mary Ann", p. 39.

<sup>17</sup> *ibid.*

<sup>18</sup> *ibid.*

<sup>19</sup> Grace Karskens, *The Colony: a history of early Sydney* (Sydney: Allen & Unwin, 2010), pp. 66, 110; Grace Karskens, "'This Spirit of Emigration': the nature and meanings of escape in early New South Wales", *Journal of Australian Colonial History* vol. 7 (2005), pp. 1-34.

staggered back into camp with spear wounds. Collins took this as evidence that Caesar had tried to join a group of local Aboriginal people but that his advances had been fiercely rebuffed. In 1796, after Governor John Hunter offered a reward of five gallons of spirits for his capture, Caesar was shot dead by John Wimbrow at Liberty Plains (the area now known as Strathfield).<sup>20</sup>

Caesar's story reveals much about Australian bushranging. It illustrates the tension between bushranging crime as a form of subsistence and a way to achieve greater freedom. While Pybus suggests that John Caesar left colonial employ because government rations were not large enough to sustain him, Caesar's turn to bushranging crime also placed him outside of colonial control.<sup>21</sup> Bushranging provided Caesar and his followers with an alternative way of living as well as a different space to live in, away from the colonial authorities' gaze. This spatial element is important, as 'the bush' was clearly essential to bushranging. Although the Australian landscape was naturally diverse and changed even more in the wake of colonisation, the bush became shorthand for any untamed area of land. It served a strategic purpose, as a place to hide and conceal escaped felons, but it also served a symbolic one. One of the justifications for British colonisation was the need to cultivate, and therefore 'civilise' supposedly 'wasted' land. In moral and increasingly legal terms, Aboriginal people who had allegedly not 'tamed' the environment were perceived to have no title to it, while colonists consolidated their possession of new territories by developing the land.<sup>22</sup> Bushrangers were a reminder that

---

<sup>20</sup> See note 16.

<sup>21</sup> Pybus, *Black Founders*, p. 94.

<sup>22</sup> This is a summary of an issue that was hotly debated at the time. See for example, Lisa Ford, *Settler Sovereignty: jurisdiction and Indigenous people in America and Australia, 1788-1836* (Cambridge, MA: Harvard University Press, 2010); Camilla Boisen, 'The Changing Moral Justification of Empire: from the right to colonise to the obligation to civilise', *History of European Ideas* vol. 39, no. 3 (2013), pp. 335-353.

this 'civilising' impulse had not been fulfilled and that the colonies were not under complete British control. Not all colonists wanted to domesticate the wilderness. Convicts were forcibly transported to these areas and instead of becoming honest, productive agriculturalists, they could become bushrangers and use the bush for their own nefarious ends.<sup>23</sup>

From Caesar's tale then, we not only see the importance of the bush and the connection between crime, necessity and freedom, but also that bushranging was a challenge to law and order from almost the beginning of the colony. As Alan Atkinson has written, 'In dealing with bushrangers the government was not just putting down outlaws. It was trying to prove that it was in fact the government.'<sup>24</sup> New South Wales experienced its highest number of bushrangers in the 1830s and 1860s, and the law responded to these challenges directly with the *Bushranging Act* (1830) and the *Felon's Apprehension Act* (1865). Among its many powers, the *Bushranging Act* reversed the presumption of innocence, as an alleged bushranger had to prove that they were not a criminal, while the *Felon's Apprehension Act* authorised any citizen to shoot an outlaw on sight.<sup>25</sup> These are two brief examples, but they highlight a recurrent theme in this thesis: that colonial responses to bushranging illustrate the malleability of the law in moments

---

It is also important to note that the British were mistaken in believing that Aboriginal people made no effort to develop their lands. Aboriginal people practiced their own form of land cultivation for centuries before British colonisation. Bruce Pascoe, *Dark Emu: Black Seeds: agriculture or accident?* (Melbourne: Scribe, 2014); Bill Gammage, *The Biggest Estate on Earth: how Aborigines made Australia* (Sydney: Allen & Unwin, 2011).

<sup>23</sup> Karskens, *The Colony*, pp. 66-68, 111.

<sup>24</sup> Atkinson writes this in reference to bushranging in Van Diemen's Land. Alan Atkinson, *The Europeans in Australia*, vol. 2 (Oxford: Oxford University Press, 2004), p. 69.

<sup>25</sup> *Bushranging Act* 1830 (NSW), 11 Geo. IV No. 10; *Felons Apprehension Act*, 1865 (NSW) 28 Vict. No. 2; Michael Eburn, 'Outlawry in Colonial Australia: Felons Apprehension Acts, 1865-1899', *Australia and New Zealand Law and History E-Journal* (2005). Accessed 12 June 2019 via: <[www.anzlhsejournal.auckland.ac.nz/pdfs\\_2005/Eburn.pdf](http://www.anzlhsejournal.auckland.ac.nz/pdfs_2005/Eburn.pdf)>

of perceived crisis.<sup>26</sup> They show ‘the paradoxical capacity of the law to authorise its own suspension’ in order to shore up colonial power.<sup>27</sup> While this legal response demonstrates how menacing bushranging appeared to colonial lawmakers, it does not reflect how individual bushrangers differed from one another. There were a variety of ways that white, male bushrangers challenged colonial authority.

The majority of bushrangers were not particularly well-liked, savvy or successful. Most were local, opportunistic men who turned to crime to get ahead. Susan West draws a useful distinction between these regular bushrangers and the select few who constituted the ‘elite’. It is the elite bushrangers who are now enshrined in Australian national memory and who constitute the Australian bushranging mythos. Although elite bushrangers were in the minority, their impact on the Australian colonies was profound. ‘Elite’ bushrangers were renowned for the success of their criminal exploits. They outwitted and outran the police and they often achieved a cult of personality among their supporters.<sup>28</sup> The government worried about the way that elite bushrangers continuously flouted colonial authority, but its issues did not end there. For colonial officials, bushrangers’ associates constituted a problem of their own.

---

<sup>26</sup> However, there was still ambiguity surrounding the law’s role in suppressing bushranging. Even in 1840, after the enactment of the *Bushranging Act*, Justice Alfred Stephen could not distinguish what made a particular crime ‘bushranging’, especially when associated acts such as burglary and robbery were already a feature of criminal law. Alfred Stephen, ‘A Legal Opinion: crimes committed by bushrangers’ (25 June 1840). State Library of New South Wales, MLMSS 7086.

<sup>27</sup> Julie Evans in Robert Foster and Amanda Nettelbeck, ‘The Rule of Law on the South Australian Frontier’, *Legal History* vol. 13 (2009), p. 213.

<sup>28</sup> Susan West, ‘The Role of the “Bush” in 1860s bushranging’, *Journal of the Royal Australian Historical Society* vol. 91, no. 2 (2005), p. 134; Susan West, *Bushranging and the Policing of Rural Banditry in New South Wales, 1860-1880* (Melbourne: Australian Scholarly Publishing, 2009). For bushrangers in the Australian mythos see for example Graham Seal, *The Outlaw Legend: a cultural tradition in Britain, America and Australia* (Cambridge: Cambridge University Press, 1996), pp. 119-164.

All manner of bushrangers could have supporters. Even regular, unspectacular bushrangers often found people to hide them from the authorities, provide them with food, shelter and information, or turn a blind eye to their criminal activities. Collectively, these supporters became known the 'bush telegraph' and the government attributed many bushrangers' success as well as an increase in crime to them. Indeed, the collusion between bushrangers and settlers was often what distressed colonial authorities the most.<sup>29</sup> Even though Doug Morrissey has demonstrated that bushrangers' supporters could be coerced to assisting wanted felons, the authorities saw the public's complicity as a sign that they were losing control.<sup>30</sup> Men could become bushrangers on a whim, and through shared loyalties, bribes, apathy or fear, they could pull otherwise law-abiding citizens down a criminal path with them.

## **Bushranging Historiography and Mythology**

Australian bushranging history has not always been presented in this way. It has a history of its own. As Rhys Isaacs reminds us, history 'moves and changes as we move onwards in time'.<sup>31</sup> Histories are embedded in the contexts in which they are written, and their content, styles and omissions are particularly revealing in the case of 'other' bushrangers, whose historical presence has been marginalised over the decades. Although I opened this introduction with the life of John Caesar, he has only been of

---

<sup>29</sup> See notes 14 and 15. See also Eburn, 'Outlawry in Colonial Australia'.

<sup>30</sup> Morrissey, 'Ned Kelly and Horse and Cattle Stealing', pp. 29-48. As early as 1964, R. B. Walker wrote that 'public sympathy for bushrangers can...be too easily confused with the fear they aroused.' Walker, 'Bushranging in Fact and Legend', p. 206.

<sup>31</sup> Isaac, 'On Explanation, Text, and Terrifying Power in Ethnographic History', p. 218.

interest to historians and depicted as Australia's first bushranger since 2002.<sup>32</sup> White, male bushrangers have been the subject of historical attention for over two hundred years and for that same time, bushranging histories have been entangled with colonial and national identity and mythology. It would be almost impossible to separate these four elements, and the following section examines them together to provide a full picture of their development and intersections.

Until the early 2000s, in historiography and popular consciousness, bushranging was seen as the preserve of white men and associated with a unique brand of settler masculinity. Some of the first histories of the Australian colonies recorded white, male bushrangers' actions and crimes as part of the colonial experience, while settlers' reminiscences are laden with these controversial figures.<sup>33</sup> Despite this early interest, the first comprehensive studies on bushrangers were not published until the turn of the twentieth century. Before this time, bushranging stories were almost exclusively part of more popular forms of commemoration such as folklore, bush ballads, local reminiscences and plays.<sup>34</sup> But even when books specialising in bushrangers were

---

<sup>32</sup> Pybus, 'Black Caesar', pp. 30-32. While Mollie Gillen appears to have been the first to write a biography of Caesar, in 1989, she does not describe him as a bushranger. Mollie Gillen, *The Founders of Australia: a biographical dictionary of the First Fleet* (Sydney: Library of Australian History, 1989), p. 63.

<sup>33</sup> See for example Henry Melville, *The History of the Island of Van Diemen's Land, from the year 1824 to 1835 inclusive* (Cambridge: Cambridge University Press, 2012, c1835); John West, *The History of Tasmania* (Cambridge: Cambridge University Press, 2011, c1852); Roger Therry, *Reminiscences of Thirty Years' Residence in New South Wales and Victoria* (London: Sampson Low Son & Co., 1863), p. 126; James Tobias Ryan, *Reminiscences of Australia: containing 70 years of his knowledge and 35 years of his ancestors* (Sydney: George Robinson, 1894), pp. 124-128; James S. Hassall, *In Old Australia: records and reminiscences from 1794* (Brisbane: R. S. Hews & Co., 1902), pp. 28, 107-108.

<sup>34</sup> Seal, *The Outlaw Legend*, pp. 119-164; Bill Wannan, *The Australian: yarns, ballads, legends, traditions of the Australian people* (London & Sydney: Angus & Robertson, 1964), pp. 13-22; Bill Beatty, *A Treasury of Australian Folk Tales and Traditions* (London: Edmund Ward Publishers, 1960), pp. 122-145, 265-272; Davey and Seal, 'Bushrangers', pp. 58-61; Richard Waterhouse, *The Vision Splendid: a social and cultural history of rural Australia* (Freemantle, WA: Curtin University Press, 2005), pp. 172-173, 185-186; Graham Seal, *Hidden Culture: folklore in Australian society* (Oxford: Oxford University Press, 1989), pp. 25-31; Andrew James Couzens, *A Cultural History of the Bushranger Legend in Theatres and Cinemas, 1828-2017* (London: Anthem Press, 2019).



eventually written, many bore striking similarities to these pre-existing, popular renditions.

In 1899, George E. Boxall published *The Story of the Australian Bushrangers* while in 1900, Charles White's *History of Australian Bushrangers* hit bookstore shelves.<sup>35</sup> These works concentrated on white, male bushrangers. Although they did not go as far as to openly celebrate these figures, they privileged white male characters and colonial tropes. Charles White in particular relied heavily on (what we would now call) oral history interviews with local residents to gather details for his stories and in this way, settler colonial ideas about bushranging were reinscribed in some of the first professional bushranging histories.<sup>36</sup> This colonial influence did not always take the form of complete exclusion, as at least one non-white character, the Chinese bushranger Sam Poo, appeared briefly in White's writing. However, when 'other' bushrangers' were discussed, their stories were intimately bound with colonial ideas of racial and gendered difference.

In White's 1909 book, *Short Lived Australian Bushrangers*, Sam Poo is not only portrayed as a criminal, but as a depraved character who sank into moral turpitude. He is pejoratively described as an 'almond-eyed son of the Flowery Land' who was not content to toil away on the goldfields in 1860s New South Wales. Laziness and avarice apparently compelled him to copy Europeans in 'the less arduous and more profitable' profession of bushranging. Sam Poo was said to have assaulted a white woman and her

---

<sup>35</sup> George E. Boxall, *The Story of the Australian Bushrangers* (London: Swann Sonnenschien, 1899); Charles White, *The History of Australian Bushranging* (Sydney: Angus and Robertson, 1900).

<sup>36</sup> Theo Barker, 'White, Charles (1845-1922)', Australian Dictionary of National Biography Online. Accessed 9 January 2019 via: <<http://adb.anu.edu.au/biography/white-charles-4834>>

little girl on the Mudgee Road, 'bailed up' travellers and murdered Senior Constable John Ward without hesitation when he was called on to surrender by the officer.<sup>37</sup>

There are many problems even with this short synopsis. Sam Poo apparently only copies Europeans. He does not appear to have the ingenuity or capacity to have acted on his own. Sam Poo's motives to become a bushranger are debased and morally suspect. Instead of taking up bushranging to gain freedom from tyranny, basic sustenance or overcome material want as other bushrangers claimed to have done, he was driven by indolence and greed. His behaviour becomes more and more degraded as the story unfolds: the assault of a young woman and her child carries dark sexual undertones and positions Sam Poo as a predator of the weak and vulnerable, while the honourable policeman's repeated calls to surrender prompt Sam Poo to engage in cold blooded murder.<sup>38</sup>

Charles White noted that the local community were shocked that a 'Chow' could become a bushranger as 'the Chinese were, in the main, a law-abiding class, even if they were otherwise objectionable', but even when he recognised the disjuncture between colonial expectations and Sam Poo's actions, he never interrogated colonial evidence.<sup>39</sup> He used it uncritically to create his story, replicating colonial Australians' racist assumptions that Chinese people were immoral and cunning and also infusing his narrative with the anti-Chinese sentiment of his own times, the early 1900s. As Rodney Noonan writes, White's narrative of Sam Poo is the dual product of colonial evidence and the twentieth-century notion that Australia should be a 'white man's country'.

---

<sup>37</sup> Charles White, *Short Lived Australian Bushrangers* (Sydney: NSW Bookstall Co., 1909), pp. 57-64.

<sup>38</sup> *ibid.*

<sup>39</sup> *ibid.*, p. 60.

Racial exclusion was one of the factors that led to the Federation of Australia in 1901, and the *Immigration Restriction Act* was passed that same year in an attempt to make politicians' dream of a White Australia a reality.<sup>40</sup> Charles White never interrogated the historical evidence because it aligned with his colonial inheritance as well as his own racial agenda. The result of this bias is that his story is xenophobic in tone and, as we shall see in **Chapter 3**, riddled with historical inaccuracies.

Factual errors continued to plague bushranging histories well beyond Charles White's day because bushranging was seen as the natural preserve of white men. Well into the twentieth century, Irish convict 'Bold Jack Donohoe' was typically cited as one of the first men who escaped to live in the bush and engaged in 'robbery under arms'.<sup>41</sup> In fact he operated well after Caesar, committing his first robbery in 1827.<sup>42</sup> While it is important to recognise the statistical imbalance that favoured white men over 'other' bushrangers, this was not the reason for 'other' bushrangers' historical exclusion. Their small numbers did not make them insignificant. As we shall see in the following pages, 'other' bushrangers were of great concern to the authorities and colonial society alike. The public outcry over these figures was loud and often hysterical because 'other' bushrangers posed not only physical threats to colonists' lives and property, but ideological ones too. Their actions challenged colonial Australian's ideas about racial and gendered hierarchies, law and order, not to mention settlers' own place in the world.

---

<sup>40</sup> Rodney Noonan, 'Chinese Bushrangers in Australian History and Literature', *Journal of Australian Studies* vol. 24, no. 65 (2000), pp. 129-130; Marilyn Lake and Henry Reynolds, *Drawing the Global Colour Line: white men's country and the question of racial equality* (Cambridge: Cambridge University Press, 2012), pp. 137-165;

Marilyn Lake, 'White Man's Country: the trans-national history of a national project', *Australian Historical Studies* vol. 34, no. 122 (2003), pp. 346-363; *Immigration Restriction Act 1901* (Cth).

<sup>41</sup> Wilson, 'Bushrangers'; Davey and Seal, 'Bushrangers', p. 59; Wannon, *The Australian*, pp. 13-14.

<sup>42</sup> Russel Ward, 'Donohoe, John (Jack) (1806-1830)', Australian Dictionary of National Biography Online. Accessed 8 February 2019 via: <<http://adb.anu.edu.au/biography/donohoe-john-jack-1985>>

A more convincing explanation for 'other' bushrangers' marginalisation can be seen in the relationship between history and national identity. It is no coincidence that the first Australian bushranging histories were written at the time of national Federation. Nor is it merely chance that Australia's first feature film, released in 1906, was *The Story of the Kelly Gang*: the story of bushrangers.<sup>43</sup> As historian Richard White reminds us, even before nationhood, there were attempts to find a unique 'Australian type' and examine the distinctive traits of men and women who were born and bred on Australian soil. The 'bushman' became the male exemplar of this type. He was a hardy man who could not only survive in the elements but make the bush his home. He had an affinity with the natural environment and a talent for deciphering its secrets.<sup>44</sup> Bushrangers took the prototype of the bushman one step further, as they not only lived in the bush, but could use it to their advantage in desperate times on their run from the law. Their bush skills and horsemanship also carried a mark of distinction as they stood in stark contrast to the police who they constantly outran, outwitted and outlasted in the elements, or so the popular depiction went.<sup>45</sup>

By 1901, bushrangers' display of physical prowess and manly strength increasingly became a symbol for the new nation's future. The bushranging crisis had

---

<sup>43</sup> Leigh Boucher and Sarah Pinto, 'Fighting for Legitimacy: masculinity, political voice and Ned Kelly', *Journal of Interdisciplinary Gender Studies* vol. 10, no. 1 (2006), p. 1.

The first book of general literature published in the Australian colonies (in 1818) was about the Van Demonian bushranger, Michael Howe. James Boyce, *Van Diemen's Land* (Melbourne: Black Inc Books, 2009), p. 79; Thomas Wells, *Michael Howe: the last and worst of the bushrangers of Van Diemen's Land* (Hobart Town: Andrew Bent, 1818).

<sup>44</sup> Richard White, *Inventing Australia: images and identity, 1688-1980* (Sydney: Allen & Unwin, 1981), pp. 63-85. See also Ward, *The Australian Legend*, pp. 180-238.

<sup>45</sup> Ward, *The Australian Legend*, p. 141; Hirst, *The Strange Birth*, pp. 218-240. Considering the obstacles that the police faced, Susan West argues that they were relatively successful in catching bushrangers. Susan West, "'Spiders in the Centre of their Webs': the NSW police and bushranging in the 1860s", *Journal of Australian Colonial History* vol. 8 (2006), pp. 1-22.

ended decades earlier in 1880 and by Federation the danger these figures posed to colonial society was increasingly forgotten.<sup>46</sup> In the vacuum left by this selective memory, these criminal men came to represent Australians' egalitarianism, anti-authoritarianism and pioneering success.<sup>47</sup> Ironically, bushrangers who in their own times were considered threats to the settler colonial project became romantic exemplars of it. Their success in the bush apparently epitomised colonists' capacity to be at home in the natural environment and use the bush for their own ends. Although they were originally treated as bandits who lived beyond the bounds of civilised society, white male bushrangers progressively became heroic ancestors who contemporary Australians could be proud of.<sup>48</sup>

White male bushrangers created a usable past for the new Australian nation that sought both national distinction and to be a part of a broader, masculine, Anglo world.<sup>49</sup> This popular investment was not limited to the public sphere: eventually it became the subject of academic history, and this is nowhere more apparent than in Russel Ward's 1958 monograph, the *Australian Legend*. In what could be seen retrospectively as a prequel to Benedict Anderson's *Imagined Communities*, Ward strove to explain Australians' national self-image.<sup>50</sup> He explicitly started his history from the perspective

---

<sup>46</sup> See Chapter 6.

<sup>47</sup> Note that bushrangers are not a part of John Hirst's 'Pioneer Legend'. John Hirst, 'The Pioneer Legend', *Australian Historical Studies* vol. 18, no. 71 (1978), pp. 316-337. For more on the pioneer legend see pages 18-19.

<sup>48</sup> See Chapter 6.

<sup>49</sup> Lake, 'White Man's Country', pp. 346-363; Lake and Reynolds, *Drawing the Global Colour Line*, pp. 137-165; Penelope Edmonds, "'I Followed England Round the World': the rise of trans-imperial Anglo-Saxon exceptionalism and the spatial narratives of nineteenth-century British settler colonies of the Pacific Rim' in Leigh Boucher, Jane Carey and Katherine Ellinghaus (eds.), *Re-Orientating Whiteness* (New York: Palgrave Macmillan, 2009), pp. 99-115.

<sup>50</sup> Benedict Anderson, *Imagined Communities: reflections on the origin and spread of nationalism* (London: Verso, 1983).

of the present as he sought to find historical reasons for the creation of a contemporary national ethos.<sup>51</sup> In the same decade, public interest in bushrangers was skyrocketing. Frank Clune's popular bushranging tales were selling in their thousands, while modernist artist Sidney Nolan painted his iconic (and now multi-million dollar) series on Ned Kelly in 1947.<sup>52</sup> Ward argued that bushrangers' mobility, egalitarianism and stoicism in the face of adversity were qualities of the 'typical' Australian. Bushrangers were mythologised and praised for contributing to the ideal 'national type', and to the values of a distinctive national character.<sup>53</sup> For Ward, a people's idea of itself 'springs largely from [their] past experiences', and so history provided fertile ground for developing national identity. Bushrangers were picked up by colonial Australians, their qualities were amplified and they became some of the founding figures of the *Australian Legend*.

Russel Ward's book has caused significant controversy over the years. Graeme Davison has argued that Ward's *Australian Legend* was the construction of a nationalist bourgeoisie, rather than the by-product of life in the bush.<sup>54</sup> In Davison's view, Ward

---

<sup>51</sup> Ward, *The Australian Legend*, p. 1. This book was one of the early works of 'academic' Australian history, as Australian history was not recognised as a University subject until the 1940s. For more on the creation of this book, that was based on Ward's doctoral thesis, see Graeme Davison, 'Rethinking the Australian Legend', *Australian Historical Studies* vol. 43, no. 3 (2012), pp. 429-451.

<sup>52</sup> Frank Clune, *Dark Outlaw: the story of gunman Gardiner* (Sydney: Angus & Robertson, 1945); Frank Clune, *Ben Hall: the bushranger* (Sydney: Angus & Robertson, 1947); Frank Clune, *Wild Colonial Boys* (Sydney: Angus & Robertson, 1948); Frank Clune, *The Kelly Hunters* (Sydney: Angus & Robertson, 1954); Frank Clune, *Martin Cash: the last of Tasmanian Bushrangers* (Sydney: Angus & Robertson, 1956); Bridget Griffen-Foley, 'Digging Up the Past: Frank Clune, Australian historian and media personality', *History Australia* vol. 8, no. 1 (2011), pp. 127-152; Michaela Bowland and James Madden, 'Sidney Nolan's Marksman Hits a Record Price', *Australian* (25 March 2010). Accessed 16 December 2018 via: <<https://www.theaustralian.com.au/news/nation/sidney-nolans-marksman-hits-a-record-price/news-story/60bf4c695272944f07f89b060a1a5c09>>; Andrew Sayers, *Sidney Nolan: the Ned Kelly story* (New York: Metropolitan Museum of Art, 1994).

<sup>53</sup> Ward, *The Australian Legend*, pp. 135-163.

<sup>54</sup> Graeme Davison, 'Sydney and the Bush: an urban context for *The Australian Legend*', *Australian Historical Studies* vol. 18 (1978), pp. 191-209.

merely replicates the legend that was created in the 1890s by an urban literary elite who were disillusioned with city-living, and his work bears no relation to the mythos of early colonial times. John Hirst provided an alternative argument in his essay, 'The Pioneer Legend', contending that colonists who 'settled'—who stayed on the land and through 'enterprise, hard work and perseverance' tamed the bush—were also heroized by colonial Australians.<sup>55</sup> Richard Waterhouse in turn critiqued Davison's argument in 2000 by proving that stories and ideas originating in the bush did circulate widely in urban popular culture.<sup>56</sup> Itinerant bushmen and bushrangers were not the only figures of the Australian legend. Hirst and Waterhouse have shown that even women and Aboriginal people were not excluded from 'legendary' status in the mid to late nineteenth century, but by the twentieth century these glimpses of diversity faded.<sup>57</sup> The national mythos may have expanded to include certain 'others' in early colonial history, but they were still marginal figures. The 'typical' Australian has always been imagined as a white man.

Considering this connection between bushranging history and a usable, white, male, past, it is easy to see why 'other' bushrangers have not featured heavily in Australian history. 'Other' bushrangers challenge, rather than support, the white masculinist framework that bolstered Australian nationalism for decades. They are a reminder of colonial diversity, and they illustrate that heterogeneity and difference were essential parts of Australian history. I see the disruption that 'other' bushrangers' caused

---

<sup>55</sup> Hirst, 'The Pioneer Legend', p. 316.

<sup>56</sup> Though they were not necessarily the same bush figures as Ward's interpretation. Richard Waterhouse, 'Australian Legends: representations of the bush, 1813-1913', *Australian Historical Studies* vol. 31, no. 115 (2000), pp. 201-221.

<sup>57</sup> *ibid.*, pp. 316-337; Waterhouse, 'Australian Legends', pp. 201-221.

For the gendered repercussions of this valourisation of nomadic men, see Marilyn Lake, 'The Politics of Respectability: identifying the masculinist context', *Australian Historical Studies* vol. 22, no. 86 (1986), pp. 116-131.

to colonial society as a unique opportunity to re-examine and critique common understandings of the nation's past. But it was precisely this radical potential that led earlier historians to either exclude 'other' bushrangers or place them on the periphery of their histories.

Given this context, it is fitting that the first histories to seriously consider 'other' bushrangers were written at the same time that historians began to critique Australian national history.<sup>58</sup> In the 1960s and 1970s the 'Great Australian Silence' about Australia's Aboriginal past, as well as the absence of women, working people and the racially or religiously marginalised began to be addressed in the wake of activism about contemporary discrimination. In these decades, there were movements to recover Aboriginal history, 'History from Below,' Feminist her-stories, as well as postcolonial approaches to the past. These movements sought to examine voices that had been excluded from Australian history and 'other' bushrangers aligned nicely with this new historical agenda.<sup>59</sup> Aboriginal bushrangers were first explored by Henry Reynolds in the 1970s and 1980s, and since then there have been several invaluable studies on particular, exceptional figures.<sup>60</sup> Most scholars, such as Malcolm Prentis and Naomi Parry, have undertaken painstaking research to piece together the careers of individual

---

<sup>58</sup> There was also renewed historical interest in white, male bushrangers at this time, although this was never connected to 'other' bushrangers. See for example, Walker, 'Bushrangers in Fact and Legend', pp. 206-221; McQueen, *New Britannia*, pp. 135-139; John McQuilton, 'Australian Bushranging and Social Banditry with Special Reference to the Kelly Outbreak', *Proceedings of the Royal Geographical Society of Australasia* vol. 80 (1979), pp. 48-63; Pat O'Malley, 'Class Conflict, Land and Social Banditry: bushranging in nineteenth century Australia', *Social Problems* vol. 26, no. 3 (1979), pp. 271-283.

<sup>59</sup> W. E. H. Stanner, *After the Dreaming* (Sydney: Australian Broadcasting Commission, 1972), pp. 18-29; Anna Haebich, 'The Battlefields of Aboriginal History' in Martyn Lyons and Penny Russell (eds.), *Australia's History: themes and debates* (Sydney: University of New South Wales Press, 2005), pp. 1-9; John Tosh (ed.), *Historians on History* (London: Routledge, 2014).

<sup>60</sup> Henry Reynolds, 'Jimmy Governor and Jimmie Blacksmith', *Australian Literary Studies* vol. 9, no. 1 (1979), p. 18; Henry Reynolds, *Frontier: Aborigines, settlers, land* (Sydney: Allen & Unwin, 1987), pp. 78-80.



Aboriginal bushrangers, while others like Marilyn Wood have used these figures to illustrate broader themes such as Aboriginal resistance to colonial domination.<sup>61</sup> In 2000, Rodney Noonan published an article about the life of Chinese bushranger Sam Poo and his portrayal in colonial literature, while Cassandra Pybus' work on 'Black Caesar' has provided a nuanced and comprehensive look at the African man who was Australia's first bushranger.<sup>62</sup>

Although these studies are significant, they are by no means exhaustive.<sup>63</sup> There is no work that uses an ethnographic methodology to access 'other' bushrangers' worldviews alongside the circumstances that informed their actions. Current histories of 'other' bushrangers focus on individual figures and exist in isolation. No scholar has compared how colonial Australians responded to these figures or how this has changed over time. While 'other' bushrangers were certainly unique, we can gain new insights by examining them side by side. As Tom Griffiths has written in *Hunters and Collectors*, '[b]iography allows me to display the personal complexity and ambivalence that undermines cultural expectations; *collective* biography enables me to reach beyond the individuals towards social habits and cultural metaphors.'<sup>64</sup> Together, these

---

<sup>61</sup> Malcolm Prentis, 'The Life and Death of Johnny Campbell', *Aboriginal History* vol. 15, no. 1/2 (1991), pp. 138-152; Parry, "Hanging no good for blackfellow", pp. 153-176; Marilyn Wood, 'The "Breelong Blacks"' in Gillian Cowlishaw and Barry Morris (eds.), *Race Matters: Indigenous Australians and "our" society* (Canberra: Aboriginal Studies Press, 1997), pp. 97-120.

<sup>62</sup> Noonan, 'Wild Cathay Boys', pp. 128-135; Pybus, *Black Founders*; Pybus, 'From "Black" Caesar to Mudrooroo', pp. 25-42; Cassandra Pybus, 'Black Caesar', *Arena Magazine* vol. 57 (February-March 2002), pp. 30-34; Pybus, 'Black Caesar and Billy Blue', pp. 73-91.

<sup>63</sup> This statement includes popular histories of 'other' bushrangers such as Maurie Garland, *Jimmy Governor: blood on the tracks* (Melbourne: Brolga Press, 2009); Laurie Moore and Stephan Williams, *The True Story of Jimmy Governor* (Sydney: Allen & Unwin, 2001); Carol Baxter, *Captain Thunderbolt and His Lady: the true story of bushrangers Frederick Ward and Mary Ann Bugg* (Sydney: Allen & Unwin, 2011).

<sup>64</sup> Tom Griffiths, *Hunters and Collectors: the antiquarian imagination in Australia* (Cambridge: Cambridge University Press, 1996), p. 6.

bushrangers' stories paint a comprehensive and nuanced picture of how 'other' bushrangers shaped and were shaped by colonial society.

Perhaps most interestingly, few investigations of 'other' bushrangers connect these figures to bushranging history or examine the intersections between white, male bushrangers and these 'others'. David Andrew Roberts and Carol Baxter have gone the furthest in this respect, as they explore the life of Worimi Aboriginal bushranger Mary Ann Bugg alongside that of her famous, white, male bushranging spouse, Frederick Ward. Even in this instance, however, Roberts and Baxter examine the mythic afterlife of these figures, rather than what their lives can tell us about society at the time.<sup>65</sup> 'Other' bushrangers remain on the margins of bushranging history. Their exceptionalism is often used to place them apart from colonial society, rather than examine what their actions can tell us about the wider bushranging context or the nature of colonial culture, authority, law and policing.

### **Bushrangers and Social Banditry**

The distance between 'other' bushrangers and histories of their white, male counterparts is exacerbated by the conceptual framework commonly applied to bushranging: Eric Hobsbawm's theory of social banditry. According to Hobsbawm, social bandits represented the interests of peasants in preindustrial society. Before other forms of political engagement were available to common people, they fought physical and symbolic battles against the ruling elites, who were the common enemies of both the bandits and 'the people'. They were

---

<sup>65</sup> Carol Baxter and David Andrew Roberts, "'Mrs Thunderbolt': setting the record straight on the life and times of Mary Ann Bugg", *Journal of Australian Studies* vol. 99, no. 1 (2013), pp. 55-76.

robbers of a special kind, for they [were] not considered as simple criminals by public opinion. They [were] persons whom the State regard[ed] as outlaws, but who remain[ed] within the bounds of the moral order of the peasant community.<sup>66</sup>

According to Hobsbawm, social bandits served as a primitive form of political protest. 'Peasants [saw] them as heroes, as champions, and as avengers since they right[ed] wrongs when they def[ied] landlords or the representatives of the State.'<sup>67</sup> Social bandits entered the realm of folklore and became potent cultural symbols, and their popular appeal was often essential to their survival. Peasant communities' support of social bandits allowed these individuals to live outside of the law and evade the authorities.<sup>68</sup>

Despite the passing of over fifty years since Hobsbawm published his ideas, social banditry 'still dominates bandit theory' across the world.<sup>69</sup> Contemporary studies range from thuggee in India and robberies in Lithuania to American outlaw gangs.<sup>70</sup> It comes as no surprise, then, that in Australia, social banditry is the paradigm by which bushranging is most commonly understood and made intelligible to an international audience.<sup>71</sup> Pat O'Malley and John McQuilton's 1979 studies were the first to use

---

<sup>66</sup> Anton Blok, 'The Peasant and the Brigand: social banditry reconsidered', *Comparative Studies in Society and History* vol. 14, no. 4 (1972), p. 494.

<sup>67</sup> *ibid.*

<sup>68</sup> Eric Hobsbawm, *Primitive Rebels: studies in archaic forms of social movement in the nineteenth and twentieth centuries* (Manchester: Manchester University Press, 1959); Eric Hobsbawm, *Bandits* (Harmondsworth: Penguin Books, 1969).

<sup>69</sup> In 2015, for example, Pascale Baker declared that 'Eric Hobsbawm still dominates the literature on bandit theory'. Pascale Baker, *Revolutionaries, Rebels and Robbers: the golden age of banditry in Mexico, Latin America and the Chicano American Southwest, 1850-1950* (Cardiff: University of Wales Press, 2015), p. 4.

<sup>70</sup> Kim Wagner, 'Thuggee and Social Banditry Reconsidered', *The Historical Journal* vol. 50, no. 2 (2007), pp. 353-376; Tomas Balkelis, 'Social Banditry and Nation Making: the myth of a Lithuanian robber', *Past and Present* vol. 198 (2008), pp. 111-145; Richard White, 'Outlaw Gangs of the Middle Border: American social bandits', *Western Historical Quarterly* vol. 12, no. 4 (1981), pp. 387-408.

<sup>71</sup> The most strident critique to date is Anton Blok's 1972 article in *Comparative Studies in Society and History*, to which Hobsbawm felt compelled to reply in the same journal. See Blok, 'The Peasant and the Brigand', pp. 494-503; Eric Hobsbawm, 'Social Bandits: reply', *Comparative Studies in Society and History* vol. 14, no. 4 (1972), pp. 503-505.

Hobsbawm's theory to analyse bushranging, and since then, social banditry has become an increasingly popular theory for Australian historians.<sup>72</sup> In 1990, for example, Hamish Maxwell-Stewart used social banditry to frame his doctoral thesis on bushranging in Van Diemen's Land, while in 2011 Teagan Miller used 'Hobsbawm's theory of social banditry...to direct [her]...search for South Australian bushrangers'.<sup>73</sup> Significantly, the most comprehensive study of bushranging in 1860s New South Wales, Susan West's *Bushranging and the Policing of Rural Banditry*, explicitly positions bushranging as a form of social banditry, while Graham Seal's pathbreaking studies of outlawry and folklore similarly cast bushrangers as social bandits.<sup>74</sup>

Yet, in applying Hobsbawm's concepts to Australian bushranging history, Australian historians have moved well beyond merely replicating them. Maxwell-Stewart challenged the dominance of social banditry in historiography by illustrating that Australian historians have often portrayed convict bushrangers as antisocial, rather than social bandits.<sup>75</sup> O'Malley questioned whether social banditry was dependent on a traditional peasantry and existed only in pre-capitalist societies.<sup>76</sup> Even studies that make no explicit reference to social banditry can be used to test its parameters. Morrissey

---

<sup>72</sup> O'Malley, 'Class Conflict, Land and Social Banditry', pp. 271-283; Pat O'Malley, 'Social Bandits, Modern Capitalism and the Traditional Peasantry: a critique of Hobsbawm', *Journal of Peasant Studies* vol. 6, no. 4 (1979), pp. 489-501; McQuilton, 'Australian Bushranging and Social Banditry', pp. 48-63. While it was never published, Carlo Canteri's Bachelor of Letters thesis examined Vandemonian bushrangers as social bandits in 1975. Carlo Canteri, 'The Origins of Australian Social Banditry: bushranging in Van Diemen's Land, 1805-1818', B. Litt Thesis (University of Oxford, 1975).

<sup>73</sup> Hamish Maxwell-Stewart, 'Bushrangers and the Convict System of Van Diemen's Land', PhD Thesis (University of Edinburgh, 1990), pp. 16-22; Teagan Miller, 'Ruffians and Criminals: an exploration of bushrangers in South Australia', Master's Thesis (Flinders University, 2011), p. 2.

<sup>74</sup> West, *Bushranging and the Policing of Rural Banditry*; Graham Seal, 'The Wild Colonial Boy Rides Again and Again: an Australian Legend Abroad' in Ian Craven, Martin Gray and Geraldine Stoneham (eds.), *Australian Popular Culture* (Cambridge: Cambridge University Press, 1994), p. 161; Seal, *The Outlaw Legend*, pp. 6-7.

<sup>75</sup> Maxwell-Stewart, 'Bushrangers and the Convict System', p. 22.

<sup>76</sup> O'Malley, 'Social Bandits', pp. 489-501.

challenges the extent of bushrangers' popular appeal and highlights the difference between bushranging myth and reality.<sup>77</sup> Although historians have pushed the boundaries of social banditry, there is enough overlap between the concept and reality for Hobsbawm's work to remain the theoretical cornerstone from which bushranging history begins. This is a problem, as social banditry carries significant blind spots when it is applied to Australian history.

Hobsbawm's theory has a narrow focus. At its core is the idea that social bandits are important by virtue of their popular appeal. As Anton Blok suggests, whether this public support exists, or is imagined, is not the point.<sup>78</sup> Social bandits affect the communities who believe in them, they provide a mirror to the aspirations of peasant society and become representatives of their grievances and desires. In supporting social bandits, communities believe that they are advancing their own interests. As Hobsbawm himself recognised, his books do not investigate bandits who fall outside of this mould.<sup>79</sup> In a rejoinder to Blok, he noted that '[m]y work has not been concerned with banditry as such, but "only with some kinds of robbers, namely those who are not regarded as simple criminals by public opinion" ...or more exactly with that variant of robbery which represents an element of social protest'.<sup>80</sup> Hobsbawm's emphasis on popular appeal distances 'other' bushrangers from mainstream bushranging history because they are not seen to have an adequate base of support.

---

<sup>77</sup> Morrissey, 'Ned Kelly and Horse and Cattle Stealing', pp. 29-48. Susan West makes a similar argument, although with explicit reference to social banditry. West, "The Thieftom", pp. 134-155.

<sup>78</sup> Blok, 'The Peasant and the Brigand', p. 500.

<sup>79</sup> Hobsbawm, *Primitive Rebels*; Hobsbawm, *Bandits*.

<sup>80</sup> Hobsbawm, 'Social Bandits: reply', p. 505.

Colonial authorities were gravely concerned with popular support for white, male bushrangers, and this, alongside these criminals' presence in folklore and popular mythology, fits them squarely in Hobsbawm's frame of analysis.<sup>81</sup> Although 'other' bushrangers often committed the same crimes and operated at the same time as white, bushranging men, their race and/ or gender precluded them from the support of white colonists. They never entered mainstream folklore or popular culture, experienced no groundswell of support and they were never lauded as national heroes in the same way as white, male bushrangers.<sup>82</sup> Studies of 'other' bushrangers fail to situate these figures within bushranging history because 'other' bushrangers did not have the same popular appeal as white bushranging men.

This separation of 'other' bushrangers from bushranging history is ahistorical. 'Other' bushrangers did not exist in a vacuum. They were deeply embedded in colonial society: that is why their actions caused such a sensation. 'Other' bushrangers were enmeshed in the historical development of bushranging and changing ideas about law, society and colonial governance. Whether they were used as examples of how pervasive bushranging had become, as it was no longer the sole domain of white men, or actively

---

<sup>81</sup> See pages 1-22.

<sup>82</sup> This is not to say that 'other' bushrangers have not been remembered at all. There have been isolated instances of local commemoration, or references in popular culture, but these are the exceptions and not the rule. See for example Clare Britton, 'Posts in a Paddock: revisiting the Jimmy Governor tragedy, approaching reconciliation and connecting families through the medium of theatre', *Journal of the European Association for Studies of Australia* vol. 4, no. 1 (2013), pp. 143-157; Jeff Khan (ed.), *Posts in the Paddock: performance space, point 4, exchange* (Sydney: Performance Space Limited, 2011); Meg Foster and Jason Phu, 'The Artist, the Historian and the Case of the Chinese Bushranger', Museum of Contemporary Art (8 November 2018). Accessed 2 February 2019 via: <<https://www.mca.com.au/stories-and-ideas/artist-historian-and-case-chinese-bushranger/>>; Jason Phu, *The Ballad of The Widely Loved and Revered Aussie Bushranger Sammy "Poey" Pu: The Successful Great Revolt Against the Southern Crossers by L.H.C., The Shooting Death of S.C.J.W. by a Chinaman, The Great Chase and Final Showdown at Barney's Reef, The Trial of The Mute, The Execution by Hanging of Sam Poo*, 2015, ink, texta, coloured pencil on Chinese paper, 1050 x 60cm. Featured in the show 'From Old Ground', Bathurst Regional Gallery, curated by Joanna Bayndrian, 2015.

distanced from bushranging, because it was imagined the pursuit of white men, 'other' bushrangers were a part of bushranging discourse, and challenged its parameters.<sup>83</sup>

Contrary to popular belief, 'other' bushrangers also had supporters of their own. The extent of this support varied from individual to individual. In some instances, there is evidence of local or familial support, while in others, colonists feared that 'other' bushrangers were not alone and would incite others to join them.<sup>84</sup> Just as there were elements of physical and imagined support for white, male bushrangers, there were for 'other' bushrangers too. The difference is that 'other' bushrangers' advocates were not pulled from the ranks of otherwise law-abiding white colonists. Their race placed these supporters outside the bounds of white society.<sup>85</sup>

Studies of social banditry in Australia currently privilege colonists' perspectives. The nation's archives were created by settlers and enshrined their ideas, and so the 'public opinion' that Hobsbawm refers to is that of the *white, colonial* public. Local or familial groups who supported 'other' bushrangers are a lot harder to see than white settlers, and we often do not have enough material to bring these people squarely into view. It is difficult to push beyond the colonial frame of reference, especially when social banditry is premised on substantial evidence of popular support. Colonial ideas of difference continue to shape ideas about bushranging and social banditry. They influence who we believe garnered popular support and by extension, who warrants historical attention. But if we recognise this historical imbalance, we can push beyond it

---

<sup>83</sup> See Chapters 3 and 6 for example.

<sup>84</sup> Chapters 1, 4 and 5.

<sup>85</sup> In case of 'Black Douglas', his supporters' criminal status was an issue too. See Chapter 1.

to explore the new light that 'other' bushrangers can shine onto Australian colonial history.

### **Towards a History of 'Other' Bushrangers**



**Figure 2:** A.C. Jackson, *The Hunt for the Governor Gang of Bushrangers. A posse of mounted police, Aboriginal trackers and district volunteers, 1900.*<sup>86</sup>

### **Colonial Archive, Colonial Discourse and History**

The first step towards a history of 'other' bushrangers is recognising the constructed nature of the colonial archive.<sup>87</sup> Times have changed since the first professional historians thought of archives as objective repositories of knowledge. Ann Laura Stoler and Kate Eichhorn are among scholars who approach the archive 'as a *living* repository of knowledge', a process of creating 'recognised or disqualified knowledge'

---

<sup>86</sup> Source: State Library of New South Wales, graphic materials, BCP 03906.

<sup>87</sup> In this thesis, I use 'archive' to refer to any repository of historical material. It includes such disparate sources as newspaper articles and government documents though to oral histories, maps and photographs.



rather than an inert or stable structure.<sup>88</sup> Which documents were kept, which were not, how they were filed, what forms of writing they adhered to, how they portrayed certain people, programs, events or ideas were selected according to European forms of knowledge. Archiving also helped to bring subaltern or marginalised groups under the power of the colonial knowledge economy. It was used to invalidate competing forms of thought and reinforce commonly held white understandings about racial, gendered, class and religious hierarchies.<sup>89</sup>

While the Australian colonies (and consequently, their archives) originated from British imperialism, there is something distinct about the settler colonial enterprise of which the Australian colonies are a part.<sup>90</sup> As opposed to other colonies where the colonisers consisted of a small and transient elite, settlers came to stay.<sup>91</sup> They claimed sovereignty over the land, populated the colonies with British settlers and formed new societies. For this settler colonial project to be successful, the British needed to deny the sovereignty of Aboriginal Australians and rid themselves of the Indigenous populations: what Patrick Wolfe has described as the ‘elimination of the native.’<sup>92</sup> This elimination of Indigenous Australians involved physical violence, frontier warfare and genocide as

---

<sup>88</sup> Kate Eichhorn, ‘DIY Collectors, Archiving Scholars and Activist Librarians: legitimising feminist knowledge and cultural production since 1990’, *Women’s Studies* vol. 39, no. 6 (2010), p. 622; Ann Laura Stoler, *Along the Archival Grain: epistemic anxieties and colonial common sense* (Princeton: Princeton University Press, 2009), p. 20.

<sup>89</sup> Stoler, *Along the Archival Grain*; Dipesh Chakrabarty, ‘Postcoloniality and the Artifice of History: who speaks for “Indian” pasts?’ *Representations* no. 37 (Winter 1992), pp. 1-26.

<sup>90</sup> Present tense is used here as settler colonialism in a ‘structure not an event’. It is ongoing. Patrick Wolfe, ‘Settler Colonialism and the Elimination of the Native’, *Journal of Genocide Research* vol. 8, no. 4 (2006), p. 388; Shino Konishi, ‘First Nations Scholars, Settler Colonial Studies and Indigenous History’, *Australian Historical Studies* vol. 50, no. 3 (2019), pp. 1-16.

<sup>91</sup> Wolfe, ‘Settler Colonialism’, pp. 387-409. Quotation from page 388. See also James Belich, *Replenishing the Earth: the settler revolution and the rise of the Anglo-world, 1783-1939* (Oxford: Oxford University Press, 2009); Lorenzo Veracini, *Settler Colonialism: a theoretical overview* (London: Palgrave Macmillan, 2009).

<sup>92</sup> Wolfe, ‘Settler Colonialism’, pp. 387-409.

well as insidious forms of cultural and discursive erasure.<sup>93</sup> The legal fiction that Australia was *terra nullius* or 'nobody's land', for example, denied Indigenous land ownership and consequently, any competing claims to the land.<sup>94</sup> The archive concerning 'other' bushrangers was created by colonists as part of this settler colonial enterprise.

While the impact of settler colonialism in the archive of Aboriginal bushrangers Mary Ann Bugg and Jimmy Governor is immediately apparent, it has also influenced material on 'Black Douglas' and Sam Poo. Lorenzo Veracini suggests that 'triangular relations' between settlers, Indigenous people and subaltern/ exogenous 'others' best represents the dynamic of settler colonialism.<sup>95</sup> As immigrants and racial 'others' to the white British settlers, Douglas and Poo fall into this latter, somewhat liminal category. As both were foreigners living on Aboriginal country, they were complicit in Aboriginal dispossession. However, these men did not have equal power to white settlers. Their lives were curtailed by settler colonial structures that relied on racial exclusion.<sup>96</sup> These complex power dynamics crystallised in the archive. Most of the source material on

---

<sup>93</sup> A. Dirk Moses (ed.), *Genocide and Settler Society: frontier violence and stolen Indigenous children in Australian history* (New York: Berghahn Books, 2004).

<sup>94</sup> Andrew Fitzmaurice, 'The Genealogy of *Terra Nullius*', *Australian Historical Studies* vol. 38, no. 129 (2007), pp. 1-15.

<sup>95</sup> Lorenzo Veracini, 'On Settlerhood', *Borderlands* vol. 10, no. 1 (2010).

<sup>96</sup> For the issues with any simple settler/ Indigenous binary, see Konishi, 'First Nations Scholars', pp. 1-16; Bonita Lawrence and Enakshi Dua, 'Decolonizing Antiracism', *Social Justice* vol. 32, no. 4 (2005), pp. 120-143; Nandita Sharma and Cynthia Wright, 'Decolonizing Resistance, Challenging Colonial States', *Social Justice* vol. 35, no. 3 (2008-9), pp. 120-138; Candace Fujikane and Jonathan Y. Okamura (eds.), *Asian Settler Colonialism: from local governance to the habits of everyday life in Hawai'i* (Honolulu: University of Hawai'i Press, 2008); Dean Saranillio, 'Why Asian Settler Colonialism Matters: a thought piece on critiques, debates, and Indigenous difference', *Settler Colonial Studies* vol. 3, no. 3-4 (2013), pp. 280-294; Jodi Byrd, *The Transit of Empire: Indigenous critiques of colonialism* (Minneapolis, MN: University of Minnesota Press, 2011); Ann Curthoys, 'An Uneasy Conversation: the multicultural and the Indigenous' in John Docker and Gerhard Fisher (eds), *Race, Colour and Identity in Australia and New Zealand* (Sydney: UNSW Press, 2000), pp. 21-36; Veracini, *Settler Colonialism*.

'other' bushrangers is formed of court records or newspaper articles documenting these figures' encounters with crime. As this thesis progresses, it will become clear that these types of sources left little or no space for the opinions or perspectives of 'other' bushrangers. Instead, they perpetuated colonial understandings of racial and gendered difference and legitimised white, male, settler colonial power.

Although this thesis concentrates on the latter half of the nineteenth century, well after British invasion began in 1788, settler colonialism is still essential to this history. Frontier violence was dispersed and uneven. Colonisation came later to the north and west of the country than it did to the south eastern colonies of New South Wales, Victoria and Van Diemen's Land that this thesis examines.<sup>97</sup> Although frontier killings had largely ended in New South Wales by the 1860s, it continued into the twentieth century in Queensland, the Northern Territory and Western Australia.<sup>98</sup> Frontier violence forms the geographical and historical backdrop against which this history of 'other' bushrangers unfolded. Moreover, the impact of settler colonial governance continued long after the physical violence was over. Settler colonialism is a structure rather than an event. It is an 'organizing principal of settler-colonial society rather than a one-off (and superseded) occurrence' and so it remains an essential part of this history.<sup>99</sup>

---

<sup>97</sup> For works on 'Northern Revisionism', see Henry Reynolds, *North of Capricorn: the untold story of Australia's north* (Sydney: Allen & Unwin, 2004); Claire Lowrie, *Masters and Servants: cultures of empire in the tropics* (Manchester: Manchester University Press, 2016); Julia Martínez and Adrian Vickers, *The Pearl Frontier: Indonesian labor and Indigenous encounters in Australia's Northern trading network* (Honolulu: University of Hawai'i Press, 2015); Regina Ganter (ed.), *Mixed Relations: Asian-Aboriginal contact in North Australia* (Crawley: University of Western Australia Press, 2006); Regina Ganter, 'The View from the North' in Martin Lyons and Penny Russell (eds.), *Australia's History: themes and debates* (Sydney: UNSW Press, 2005), pp. 41-62.

<sup>98</sup> Heather Goodall, *Invasion to Embassy: land in Aboriginal politics in New South Wales, 1770-1972* (Sydney: Sydney University Press, 2008), pp. 124-125; Waterhouse, 'Australian Legends', p. 209.

<sup>99</sup> Wolfe, 'Settler Colonialism', p. 388.

Recognising these power dynamics means recognising the constructed nature of the colonial archive, and how representations of 'other' bushrangers were used to shore up settler colonial power. This thesis' preoccupation with discourse and the power of historical narratives has been influenced by subaltern studies and the work of scholars such as Edward Said.<sup>100</sup> Indeed, the term 'other' that I employ in this thesis was first used by Said. In his monograph, *Orientalism*, Said argued that 'the West' needed to portray 'the Orient' as the 'other' so that it had something to define itself against. Although the 'other' was variously denigrated, cast as inferior and fetishized, it was essential to the Western project. 'Self' and 'other' were mutually constitutive. One was what the other was not, and so, such categorisations were inherently about power.<sup>101</sup> In a similar way, settler Australians often defined 'other' bushrangers by their failure to meet the white, male norm.<sup>102</sup>

This process of 'othering' necessitated historical erasure: 'other' bushrangers' worldviews and personhood were erased from the archive to ensure that they were distinct from the colonial self.<sup>103</sup> In the first section of this thesis, **Chapters 1, 2 and 3** are

---

<sup>100</sup> For other works by subaltern studies scholars that have influenced this thesis, see Homi Bhabha, 'The Commitment to Theory', *New Formations* no. 5 (1998), pp. 5-23; Homi Bhabha, 'Signs taken for Wonders: questions of ambivalence and authority under a tree outside Delhi, May 1817' in Henry Louis Gates Jr (ed.), *Race, Writing and Difference* (Chicago: Chicago University Press, 1986), pp. 163-184; Homi Bhabha, *The Location of Culture* (London & New York: Routledge, 1994), pp. 85-92; Robert Young, *Colonial Desire: hybridity in theory, culture and race* (London: Routledge, 1995), pp. 22-26; Dipesh Chakrabarty, *Provincializing Europe: postcolonial thought and historical difference* (Princeton: Princeton University Press, 2009); Gyan Prakash, 'Subaltern Studies as Postcolonial Criticism', *American Historical Review* vol. 99, no. 5 (1994), pp. 1475-1490.

<sup>101</sup> Edward Said, *Orientalism* (London: Penguin, 1991). See also Adel Iskandar and Hakem Rustom (eds.), *Edward Said: a legacy of emancipation and representation* (Berkley: University of California Press, 2010).

<sup>102</sup> It could, of course, be argued that white male bushrangers were also 'othered' from mainstream colonial society due to their criminal actions. However, as the above sections have illustrated, the popular appeal that these bushrangers garnered at the time belies this interpretation and makes 'other' bushrangers (who were not white men) a distinct group.

<sup>103</sup> While white men's race and sex may have united them in a shared 'imagined community', they differed according to age, ability and disability, class, earning, education; the list goes on. In this thesis, I refer to

connected by this theme of erasure. We encounter 'Black Douglas' and Sam Poo first as an 'absent centres' around which colonial discourse swirls but never touches. While these bushrangers appear to saturate the colonial archive, their substance as people is missing and obscured by layers upon layers of colonial representation.<sup>104</sup> **Chapter 1** investigates the elements of myth and reality surrounding Douglas' life in the Victorian Gold Rush of the 1850s and uses the discrepancies between the two to provide a telling portrait of law, order, race and gender on the diggings. Concentrating on the figure of 'Black Douglas' brings the tensions inherent to goldfields' society into sharper focus as Douglas became a symbol for the goldfields writ large. **Chapter 3** explores the 1865 case that made Sam Poo 'an odd footnote' in the annals of bushranging history: his trial for the murder of Senior Constable John Ward.<sup>105</sup> While there is no doubt that Ward was killed, this chapter re-evaluates the colonial evidence and analyses representations of the crime and its alleged perpetrator. It does so to illustrate how tightly the community's outrage, fear and prejudice were woven into the fabric of the case and how the law was complicit in serving these ends. In both instances, 'Black Douglas' and Sam Poo became symbols that could be used to the ends of the colonial state.

---

white men as the 'self' against which the 'other' is defined, as this is how many men saw themselves and it informed how they responded to the bushrangers in this thesis. But it should be remembered that such terms of reference do not encapsulate the complex intersections that made each individual. It is both dangerous and ahistorical to view white men as a homogenous mass, for it gives them a power and uniformity that they never had. In this thesis, I refer to 'colonial society' and its representations of 'other' bushrangers to illustrate the complexity and contradictions embedded in each. Anderson, *Imagined Community*; Pat Jalland, *Australian Ways of Death: a social and cultural history 1840-1918* (Oxford: Oxford University Press, 2002).

<sup>104</sup> For a similar argument about absence, see Lata Mani, 'Contentious Traditions: the debate on Sati in colonial India' in Kumkum Sangari and Sudesh Vaid (eds.), *Recasting Women: essays in Indian colonial history* (New Brunswick, NJ: Rutgers University Press, 1990), pp. 88-125.

<sup>105</sup> Robert Travers, *Rogues' March: a chronicle of colonial crime in Australia* (Richmond, VIC: Hutchinson Group, 1973), p. 67.

But as Greg Denning has written, silences do not necessarily signify emptiness. In silences about 'other' bushrangers' lives, we can see "the active presence of absent things".<sup>106</sup> 'Other' bushrangers were not just ideas, but individual people, whose thoughts, choices and actions made tangible impacts on Australian colonial society.<sup>107</sup> Neglect of historical actors' agency has led to critiques of settler colonial studies and subaltern studies alike. Indigenous scholars in particular have challenged the deterministic, structuralist approach of settler colonial studies as they claim this leaves no space for Indigenous agency or the complex reality of settler colonialism.<sup>108</sup> Similarly, subaltern studies' emphasis on language and the construction of historical narratives has been critiqued for making no attempt to recover historical reality or the subaltern's voice: at the same time as deconstructing colonial narratives, subaltern studies' focus on colonial worldviews often marginalises subaltern historical actors.<sup>109</sup> In recognition of

---

<sup>106</sup> Denning, 'Empowering Imaginations', p. 421.

<sup>107</sup> For reading subaltern voices through 'action statements' see Bain Attwood, *The Making of the Aborigines* (Sydney: Allen & Unwin, 1989), pp. 145-146; Ehud R. Toledano, *As If Silent and Absent: bonds of enslavement in the Islamic Middle East* (New Haven: Yale University Press, 2007), pp. 34-36.

<sup>108</sup> For critiques from Indigenous scholars see, Konishi, 'First Nations Scholars', pp. 1-16; Crystal McKinnon, 'Indigenous Music as a Space of Resistance' in Tracey Banivanua Mar and Penelope Edmonds (eds.), *Making Settler Colonial Space: perspectives on race, place and identity* (London: Palgrave Macmillan, 2010), pp. 255-272; Aileen Moreton-Robinson, 'I Still Call Australia Home: Indigenous belonging and place in a white postcolonizing society' in Sara Ahmed et al. (eds.), *Uprootings/Regroundings: questions of home and migration* (New York: Berg Publishers, 2003), pp. 23-40; Lynette Russell, *Roving Mariners: Australian Aboriginal whalers and sealers in the southern oceans, 1790-1870* (Albany: State University of New York Press, 2012), pp. 27-29.

For critiques by non-Indigenous scholars see Lisa Ford, 'Locating Indigenous Self-Determination in the Margins of Settler Sovereignty' in Lisa Ford and Tim Rowse (eds.), *Between Indigenous and Settler Governance* (London: Routledge, 2012), pp. 1-11; Tim Rowse, 'Indigenous Heterogeneity', *Australian Historical Studies* vol. 45, no. 3 (2014), pp. 297-310.

<sup>109</sup> Gayatri Chakravorty Spivak, 'Can the Subaltern Speak?' in Patrick Williams and Laura Chrisman (eds.), *Colonial Discourse and Postcolonial Theory: a reader* (New York: Columbia University Press, 1993), pp. 66-111; Prakash, 'Subaltern Studies as Postcolonial Criticism', pp. 1475-1490; Chakrabarty, 'Postcoloniality and the Artifice of History', pp. 1-26.

these critiques, this thesis does not employ settler colonial theory or colonial discourse analysis in isolation.<sup>110</sup> It also uses ethnography.

## **Ethnographic History<sup>111</sup>**

What really happened? This is not easy to discover, because in all first-contact situations both peoples, lacking a common language and with no accumulation of mutual cultural knowledge, are like baffled infants squinting through a keyhole: they see only actions and only some of those, and what they hear will be unintelligible babble. They will not know which conversations and other subtler interactions are taking place before their eyes, much less offstage; they will not know where, who or what to watch.<sup>112</sup>

In this paragraph, ethnographic historian Inga Clendinnen explores the nature of some of the first encounters between the British and the Eora, the Aboriginal people of coastal Sydney, in the late eighteenth century, but these words could just as easily describe how ethnographic historians view themselves and their first encounters with the past. Drawing on the discipline of anthropology, ethnographic historians seek to find the meanings embedded in historical accounts, geography, material culture, gestures, language and power relations. They move beyond the 'thin' description of acts or objects to 'thick' descriptions of the meaning and significance of ideas, events, rituals, practices and language. They do so not only to understand how people lived in the past, but how they constructed their own reality.<sup>113</sup> To understand past times, ethnographic historians

---

<sup>110</sup> 'Colonial Discourse Theory', Oxford Reference Online. Accessed 9 January 2019 via: <<http://www.oxfordreference.com/view/10.1093/oi/authority.20110803095625148>>; Young, *Colonial Desire*. This is also similar to Alan Lester's notion of 'an historically embedded form of discourse analysis'. See Alan Lester, *Imperial Networks: creating identities in nineteenth-century South Africa and Britain* (London: Routledge, 2001), p. 3.

<sup>111</sup> An ethnographic approach is used alongside other historical methodologies in this thesis. The length it is dealt with in the introduction reflects the fact it is combined with these other methodologies. The chapter overview is combined with this section to illustrate how these methodologies will be used in each instance.

<sup>112</sup> Clendinnen, 'Spearing the Governor', p. 158.

<sup>113</sup> Geertz, *The Interpretation of Cultures*, pp. 1-30. See also Isaac, 'On Explanation', pp. 217-236; Clendinnen, 'Spearing the Governor', pp. 157-174.

must approach history as they would a first encounter: they must make the strange familiar, and make the familiar strange.

Recognising a shared humanity with the past is important because it helps historians to be engaged, receptive and open to historical actors' experiences, and this cannot be taken for granted. For historical actors like 'other' bushrangers who have been denigrated or marginalised, recognising their humanity is a radical act.<sup>114</sup> It is no coincidence that this approach has been so successful for writing Indigenous and contact histories.<sup>115</sup> Ethnographic history can give people who have been 'othered' back their voices by seeing their views as worthy of note, and their worlds as worthy of reconstructing. Although historical sources are skewed towards the opinions of their creators, ethnographic historians seek to understand historical actors on their own terms by reading colonial material 'against the grain', separating their actions from the meanings that they were ascribed by colonists and locating them in historical actors' own contexts and cultural worlds.<sup>116</sup>

---

<sup>114</sup> Recovering the lives of 'other' bushrangers is particularly important considering that the white, male bushranging canon concentrates on famous, individual figures.

For some select examples, see Nick Bleszynski, *"You'll Never Take Me Alive": the life and death of bushranger Ben Hall* (Sydney: Random House Australia, 2011); John Molony, *Ned Kelly* (Melbourne: Melbourne University Press, 2001); Peter FitzSimons, *Ned Kelly: the thrilling true story of Australia's most notorious outlaw* (Sydney: Random House Australia, 2014); Paul Terry, *In Search of Captain Moonlite: the strange life and death of the notorious bushranger* (Sydney: Allen & Unwin, 2013); Alec Morrison, *Frank Gardiner: bushranger to businessman 1830-1904* (Milton, QLD: John Wiley & Sons, 2003).

In academic terms, this approach also aligns with the 'New Biography' movement that has gained pace since the 1990s. This trend is defined by 'an explicit recognition of the constructed nature of identity and of the dependence on contextualization for elucidating an individual's "meaning" to the self or others', according to Jo Burr Margadant. Jo Burr Margadant, 'Introduction: the new biography in historical practice', *French Historical Studies* vol. 19, no. 4 (1996), p. 1057. See also Jo Burr Margadant, *The New Biography: performing femininity in nineteenth century France* (Berkeley: University of California Press, 2000).

<sup>115</sup> See for example Clendinnen, 'Spearing the Governor', pp. 157-174; Shellam, *Shaking Hands at the Fringe*; Clendinnen, *Dancing with Strangers*; Karskens, *The Colony*.

<sup>116</sup> Stoler, *Along the Archival Grain*. For reading subaltern voices through 'action statements' see Attwood, *The Making of the Aborigines*, pp. 145-146; Toledano, *As If Silent and Absent*, pp. 34-36.



This approach is used in **Chapters 2** and **3** of the thesis to move beyond viewing 'Black Douglas' and Sam Poo as absent centres and recover their lives as people. **Chapter 2** investigates William Douglas, the man behind the 'Black Douglas' myth, by tracing his life before he entered the colonial imagination as the 'terror of the goldfields'. It follows Douglas' journeys around the globe from post-emancipation Philadelphia, USA, to the Cinque Port Town of Rye in England as well as New South Wales and Van Diemen's Land. In doing so, this chapter not only makes a transnational intervention, but an archival and methodological one.

Although William Douglas' experiences were vast, archival fragments are all that remain about him. Frustratingly, these sources do not contain much more than basic information about where he was at different times in his life. To access William Douglas' experiences and worldviews then, ethnography is used alongside prosopography.<sup>117</sup> By looking at the common characteristics of the groups, times and places that Douglas was a part of, I explore what his life may have looked like, and the milieu that he operated in. As Clare Anderson suggests

traces can be assembled and then collated to construct snapshots of at least part of their [subaltern peoples'] lives and social worlds....[E]nsembles of multiple fragments...can be put to work in the construction of life histories that are not usually available to us and can take on larger meanings in reference to each other.<sup>118</sup>

This dual methodology, using prosopography for ethnographic ends, is also used in **Chapter 3** on Sam Poo. The third chapter moves beyond Poo's encounter with crime to look at indentured labour, Chinese banditry, lore and myth. In this chapter I use

---

<sup>117</sup> Clare Anderson, *Subaltern Lives: biographies of colonialism in the Indian Ocean world, 1790-1920* (Cambridge: Cambridge University Press, 2012); Lawrence Stone, 'Prosopography', *Daedalus* vol. 100, no. 1 (1971), pp. 46-79.

<sup>118</sup> Anderson, *Subaltern Lives*, pp. 6-7.

prosopography to explore the paths that Sam Poo may have taken, and bring forward layers of cultural meaning that were obscured by the colonial source material.

However, not all details of ‘other’ bushrangers’ lives need to be pieced together from fragments or deciphered using prosopography. The second section of this thesis moves from absent centres to agency as it examines the lives of Aboriginal bushrangers Mary Ann Bugg and Jimmy Governor. **Chapter 4** explores the way that Mary Ann used the politics of colonial representation to further her own ends. In 1860s New South Wales Mary Ann achieved notoriety as the partner of the white bushranger, Frederick Ward, alias Captain Thunderbolt. In this instance, it was not only the colonial authorities but Mary Ann who took active steps to shape public opinion, and her lived experience often differed dramatically from the narrative she herself constructed. This awareness of the power of public reputation both predated and outlived Mary Ann’s time with Captain Thunderbolt. It is situated in her early life as the daughter of a convict overseer and Aboriginal Worimi woman, as well as her life after Frederick Ward.

Even when the voices of ‘other’ bushrangers are present in the archive, however, they were often overlooked or disavowed by colonists, and this is nowhere more apparent than in the case of Jimmy Governor. In 1900, when the Australian colonies were on the verge of Federation, James ‘Jimmy’ Governor became infamous as a mass-murderer. He killed the family of his white employer, John Mawbey, before going on a crime spree for three months throughout northern New South Wales. During this time, he committed several more murders and countless crimes, including robbery under arms. Although Jimmy Governor is by far the most well-known figure in this thesis (as there is both popular and academic literature on his crimes) **Chapter 6** is the first study

to take seriously Governor's repeated claims that he was a bushranger. It explores how Governor saw bushranging as an act of protest against specific racial, class and gendered grievances, as well as popular perceptions of bushranging at the turn of the twentieth century. While this thesis proves that bushranging was never the sole preserve of white men, **Chapter 6** illustrates that white men were not the only ones to be influenced by the bushranging mythos. Jimmy Governor clearly felt an affinity with the bushranging legend too.

These last three chapters on Mary Ann Bugg and Jimmy Governor explore ideas of Aboriginal assimilation, choice and 'authentic Aboriginality' by seeing how they played out in each bushranger's life. They also illustrate that Aboriginal and settler identities were deeply intertwined, in often unexpected and surprising ways. Indeed, this thesis is just as much a history of Australian colonial society as it is of 'other' bushrangers. It takes seriously Bain Attwood's claim that 'too much of recent work starts from the assumption that "we already know about the whites"...or even that it is unnecessary to learn who they were' as this assumption risks perpetuating colonial power relations.<sup>119</sup> It promotes the ahistorical understanding that colonial thought was

---

<sup>119</sup> Attwood, *The Making of the Aborigines*, p. 147.

This is the same argument made by critical whiteness studies. See Alistair Bonnett, *White Identities: historical and international perspectives* (Harlow/New York: Prentice Hall, 2000); Leigh Boucher, Jane Carey and Katherine Ellinghaus (eds.), *Historicising Whiteness: transnational perspectives on the construction of an identity* (Melbourne: RMIT Press, 2007); Aileen Moreton-Robinson (ed.), *Whitening Race* (Canberra: Aboriginal Studies Press, 2004); Ruth Frankenberg (ed.), *Displacing Whiteness: essays in social and cultural criticism* (Durham: Duke University Press, 1997); Ruth Frankenberg, *White Women, Race Matters: the social construction of whiteness* (Minneapolis: University of Minnesota Press, 1993); Ghassan Hage, *White Nation: fantasies of white supremacy in a multicultural society* (Sydney: Pluto Press, 1998); Belinda McKay (ed.), *Unmasking Whiteness: race relations and reconciliation* (Brisbane: The Queensland Studies Centre, Griffith University, 1999); Toni Morrison, *Playing in the Dark: whiteness and the literary imagination* (New York: Vintage: Random House, 1992); David Roediger, 'Critical Studies of Whiteness, USA: Origins and Arguments', *Theoria* (December 2001): 74-76; David Roediger, *The Wages of Whiteness: race and the making of the American working class* (London/New York: Verso, 1991); Matt

normal and self-evident, and this consequently reifies settlers' 'knowledge' and makes it incontestable. In reality, the colonial imagination was fraught terrain as 'other' bushrangers threatened to divest colonists' of their cultural certainties. Studying how 'the whites' responded to 'other' bushrangers remains an important area of analysis.

It is also important to recognise that settlers' responses to 'other' bushrangers reached far beyond these individuals alone. As 'other' bushrangers were viewed as representatives of the racial and gendered groups to which they belonged, these groups were also targeted and colonial institutions altered in an attempt to prevent further 'outrages'. By shifting attention from Jimmy Governor to his family, for example, **Chapter 5** illustrates the extent of colonists' fears about the 'Governor rampage'. Both Governor's nuclear family (his white wife, Ethel, and their baby son, Sidney) and his Aboriginal family were key concerns of colonial society at the time. The publicity that Jimmy Governor's crimes gave to his interracial marriage, alongside Ethel's continued loyalty to her criminal husband, excited a frenzy of public commentary and condemnation. Through colonial sources on their marriage, we can see colonial fears over racial purity, deviant female sexuality, miscegenation and the politics of love and devotion. Meanwhile, Jimmy Governor's Aboriginal family were not only affected by the printed word, but physically moved and incarcerated in the ambiguous name of 'protection'. It was not only 'other' bushrangers' criminal actions but their intimate relationships that affected on the burgeoning Australian nation.

---

Wray, *Not Quite White: white trash and the boundaries of whiteness* (Durham/London: Duke University Press, 2006).

‘Other’ bushrangers articulated fears about the instability and porousness of colonial boundaries.<sup>120</sup> In so doing, they challenged colonists’ identity and sense of self. This point is powerfully displayed in the final section of the thesis, as **Chapter 6** examines how Jimmy Governor’s trial for outlawry shook colonists’ identity as enlightened subjects, as well as their faith in the justice of the law. In this court case, allegations of savagery and barbarism shifted from Governor to the legal system and to the scandalous procedures demanded by the law of outlawry. Jimmy Governor’s case in the Supreme Court of New South Wales illustrates how legal and societal expectations were irrevocably bound at the turn of the twentieth century, as well as how deeply ‘other’ bushrangers’ challenged colonial Australians’ sense of self and their place in the world.

Each chapter in this thesis focuses on one ‘other’ bushranger, in the same way that stories of white, male bushrangers usually feature one figure.<sup>121</sup> However, this thesis does more than recover these lesser known figures from historical obscurity. To merely insert ‘other’ bushrangers back into historical narratives does not do justice to the complex and ambiguous position that these men and women held in their own times. Rather than focus solely on historical redress, this study examines the meaning that these bushrangers gave to their own lives as well as the views of people who encountered them. It is an ethnographic history that uses ideas of race, gender, sex and class as well as law, order, crime, and justice to unpack these bushrangers’ experiences alongside

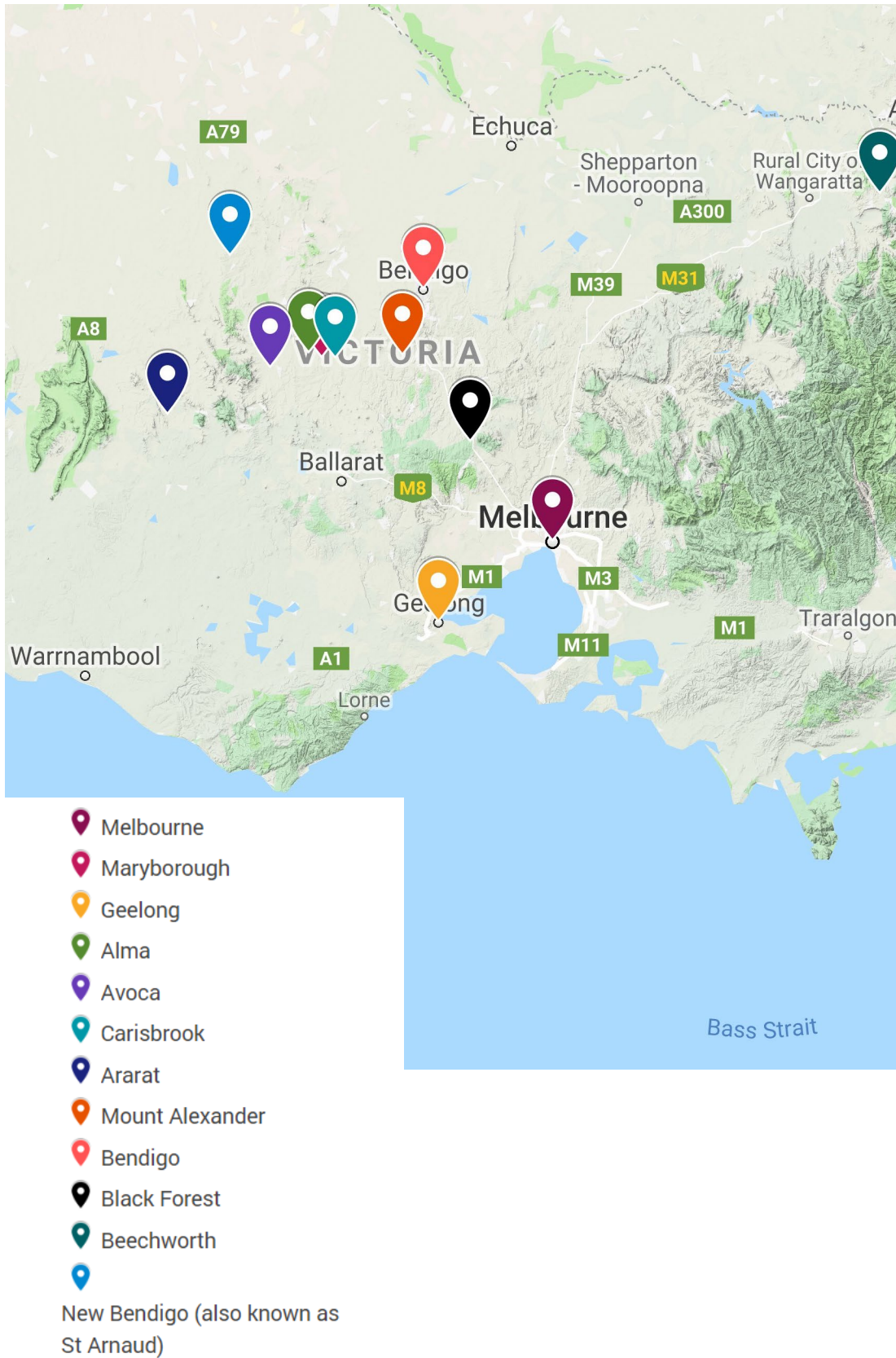
---

<sup>120</sup> Subaltern scholar Homi Bhabha would call this ‘hybridity’, the ability for designated ‘others’ to collapse categories by being ‘neither one nor the other, thereby contesting the terms and territories of both.’ Bhabha, ‘The Commitment to Theory’, p. 13. See also Bhabha, ‘Signs taken for Wonders’, pp. 163-184; Bhabha, *The Location of Culture*, pp. 85-92; Young, *Colonial Desire*, pp. 22-26.

<sup>121</sup> For some select examples, see Bleszynski, “*You’ll Never Take Me Alive*”; Molony, *Ned Kelly*; FitzSimons, *Ned Kelly*; Terry, *In Search of Captain Moonlite*; Morrison, *Frank Gardiner*.

those of colonial society. The disruption that these bushrangers caused colonial society provides a unique opportunity to examine that society at the time. Deeply cherished colonial ideas and institutions were made to respond to 'other' bushrangers in myriad complex ways, and the messiness of this lived experience expands and challenges our understanding of Australian colonial history as well as the national bushranging mythos.

## Places of Note in Chapter 1



## Chapter 1

### **‘Black Douglas’ and the Terror of the Goldfields**

In May 1855, a storekeeper from the Maryborough goldfields penned a letter to the *Age* newspaper in Melbourne. This was one of many pieces of mail sent to the capital, as the booming ‘tent city’ of Melbourne relied on such correspondence to get news of the interior and keep up to date with the ever-expanding web of diggings dotted across the colony’s landscape. However, far from relaying the usual news of gold discoveries, the weather or the cost of grog or grain, this storekeeper used the newspaper to mount an attack on the present justice system on the diggings. Indeed, the disgruntled author wrote that

Crime is fearfully on the increase, and the persons and properties of Her Majesty’s subjects are quite unprotected in this quarter. Several storekeepers join with me in asking you to give Sir Charles [Hotham, the Governor of Victoria] a hint on the subject. For our part, we would suggest Lynch Law at once, and rid the colony of such blackguards.<sup>1</sup>

Storekeepers are rarely depicted at the vanguard of calls for ‘rough justice’ nor as so insubordinate as to ‘hint’ at how their Governor and the Queen’s representative should do his job. However, this group of men apparently could not help but raise their voices in protest when the threat to their lives and livelihoods was so great. And while this correspondent wrote of the general degraded and criminal state of the diggings, he felt compelled to write because of an event that had just occurred at the Alma diggings,

---

<sup>1</sup> ‘Lynch Law’, *Age* (14 May 1855), p. 3.



a goldfield not far from his own: the capture of a notorious 'blackguard' known as 'Black Douglas'.

Named after the Alma River, the site where the first battle of the Crimean War took place in September 1854, the Alma goldfields lay 140 kilometres north west of Melbourne.<sup>2</sup> Although this remote region of Victoria was thousands of miles from the battlefield that was its namesake, in May 1855, the Alma diggings experienced a violent outburst of their own. The details of this event vary from report to report, but we know that at about 1pm on Sunday the 6<sup>th</sup> of May, word reached miners that a black bushranger named 'Black Douglas' and his gang were attempting to rob their tents while they were toiling away in the afternoon sun. In response, between 100 and 400 miners captured the gang and its infamous leader.<sup>3</sup> The men were not taken peaceably. The *Geelong Advertiser* reported that '[t]he injuries sustained by the gang in their conflict with the diggers, who fought with picks, shovels &c, are said to be very severe...one was so badly wounded that his life was in danger.'<sup>4</sup> At one point lynching was proposed, and it was only after considerable persuasion that the posse of diggers consented to cart the bound and gagged bushrangers six kilometres to the police in Maryborough instead.<sup>5</sup> We can imagine our storekeeper correspondent watching the procession of miners and

---

<sup>2</sup> 'Alma', Victorian Places: by Monash University and the University of Queensland. Accessed 17 January 2017 via: <<http://www.victorianplaces.com.au/alma>>; James Flett, *Maryborough Victoria: goldfields history* (Glen Waverly: Poppet Head Press, 1975), p. 42.

<sup>3</sup> See for example 'Lynch Law', *Age* (14 May 1855), p. 3; 'Maryborough Diggings', *Age* (14 May 1855), p. 6; 'Capture of "Black Douglas" and his gang by Diggers', *Geelong Adviser* (18 May 1855), p. 2; 'Victorian Times', *Sydney Morning Herald* (25 May 1855), p. 5; 'Untitled', *Courier* (23 May 1855), p. 3; 'Victoria', *Courier* (23 May 1855), p. 3; 'Colonial News: Victoria', *Maitland Mercury* (26 May 1855), p. 1; 'Maryborough', *Mount Alexander Mail* (11 May 1855), p. 2.

<sup>4</sup> 'Capture of "Black Douglas" and his gang by Diggers', *Geelong Adviser* (18 May 1855), p. 2.

<sup>5</sup> 'Lynch Law', *Age* (14 May 1855), p. 3; 'Maryborough', *Mount Alexander Mail* (11 May 1855), p. 2.

their captives enter the town, for along with his comments about crime, he reported these diggers' actions to the press. Instead of condemning the outbreak of mob violence, this storekeeper suggested that the best way forward was Lynch Law. In his view, the miners need not have bothered to make their journey, as they should have the right to exact justice themselves.<sup>6</sup>

The picture that this episode paints seems to be one of endemic lawlessness. Police are never mentioned, miners are organising their own protection, conducting violent citizens' arrests and contemplating whether to lynch the would-be thieves. In historiography, we are used to hearing that the Australian Gold Rushes were more orderly and civilised than their American equivalent. California in particular was known as a place of lawlessness, where 'popular justice' held sway, lynchings were a reality, and the government struggled to exert influence over the sprawling goldfields.<sup>7</sup> And yet, this distinction between the lawful and lawless frontiers of Australia and America was not as clear as hindsight might lead us to believe.<sup>8</sup> Crime and disorder pervaded the goldfields and affected gold miners from every walk of life. It influenced their actions,

---

<sup>6</sup> 'Lynch Law', *Age* (14 May 1855), p. 3.

<sup>7</sup> David Goodman, 'Making an Edgier History of Gold' in Iain McCalman, Alexander Cook and Andrew Rees (eds.), *Gold: forgotten histories and lost objects of Australia* (Cambridge: Cambridge University Press, 2001), p. 30; David Goodman, *Gold Seeking: Victoria and California in the 1850s* (Sydney: Allen & Unwin, 1994), pp. 64-104; Robert Stafford, 'Preventing the "Curse of California": advice for English emigrants to the Australian goldfields', *Historical Records of Australian Science* vol. 7, no. 3 (1987), pp. 215-230. For case studies of California during the goldrush see Fernando Purcell, "'Too Many Foreigners for My Taste": law, race and ethnicity in California, 1848-1852' in John Parry (ed.), *Evil, Law and the State: perspectives on state power and violence* (Amsterdam: Rodopi, 2006), pp. 17-30; Mary Marki and Christopher Clayton Smith, 'Vigilantism During the Gold Rush' in Gordon Morris Bakken (ed.), *Invitation to an Execution: a history of the death penalty in the United States* (Albuquerque: University of New Mexico Press, 2010), pp. 403-411.

<sup>8</sup> A recent chapter by Benjamin Mountford about order on Pacific goldfields is an exception to this larger trend. Benjamin Mountford, 'The Pacific Gold Rushes and the Struggle for Order' in Benjamin Mountford and Stephen Tuffnell (eds.), *A Global History of Gold Rushes* (Oakland, California: University of California Press, 2018), pp. 88-108.

ideas about the legitimacy of violence as well as the rhetoric that they used to restore order. This is nowhere more apparent than in the case of Black Douglas.

Black Douglas was a man of flesh and blood who roamed the Victorian goldfields during the nineteenth century, but miners were far better acquainted with his mythic persona than they were with the man. Tales of his horrid misdeeds circulated the goldfields and gripped the population. Such was his notoriety that he became a part of folklore in his own time. As Graham Seal and Gwenda Davey observe, people are not randomly chosen to become a part of folklore. They are selected 'for the purpose of self-expression and commemoration'; they are meant to be remembered.<sup>9</sup> Or at least, their mythic alter-egos were. In colonial discourse, stories about Black Douglas served as cautionary tales to keep miners alert and watchful of their lives and property. But paradoxically, they also helped to assuage colonists' fears. Douglas' alleged dastardly deeds restored colonial ideas about gendered and racial hierarchies, while the colour of his skin made Douglas a reassuringly visible symbol of crime at a time when all miners' lawfulness was called into question. In this way, Black Douglas became emblematic of the fears and frustrations of colonial society during the Victorian Gold Rush.

Although this chapter explores what Douglas' legendary persona can tell us about goldfields society, Douglas the man constantly fades in and out of view. We first encounter Douglas as an 'absent centre' around which colonial discourse revolves. His substance as a person is missing and obscured by layers upon layers of colonial

---

<sup>9</sup> Graham Seal and Gwenda Davey, 'Introduction' in Graham Seal and Gwenda Davey (eds.), *The Oxford Companion to Australian Folklore* (Melbourne: Oxford University Press, 1993), p. xiv.

representation.<sup>10</sup> It is difficult to distinguish between strands of myth and reality in Douglas' life, but it is possible to untangle these elements. By testing stories about Douglas against other colonial sources, we can separate out the fact from fabrication, and these discrepancies reveal the extent of colonial insecurities. The mythic elements of Douglas' tale gained traction for a reason. And we can learn so much more about Gold Rush society by teasing out what purposes they served.

### **The Terror of the Goldfields**

When the diggers fell upon Black Douglas and his men on that May afternoon they were not only responding to the immediate threat to their property, but to tales depicting Douglas as the worst of criminals. Gold was only (publicly) discovered in the fledgling colony of Victoria in 1851, and the following year, reports already started to emerge of the criminal exploits of Black Douglas.<sup>11</sup> At a public meeting in Melbourne in April 1852, for example, Captain Harrison reported that

the notorious ruffian "Black Douglas" ... was seen carrying on his shoulders the dead body of a man who doubtless was one of his victims, and which body he

---

<sup>10</sup> For a similar argument about absence, see Lata Mani, 'Contentious Traditions: the debate on Sati in colonial India' in Kumkum Sangari and Sudesh Vaid (eds.), *Recasting Women: essays in Indian colonial history* (New Brunswick, NJ: Rutgers University Press, 1990), pp. 88-125.

<sup>11</sup> For the discovery of gold in 1851 see Goodman, *Gold Seeking*, p. ix; Geoffrey Serle, *The Golden Age: a history of the colony of Victoria, 1851-1861* (Melbourne: Melbourne University Press, 1963), pp. 9-11; Rodney Maddock and Ian McLean, 'Supply-Side Shocks: the case of Australian gold', *Journal of Economic History* vol. 44, no. 4 (1984), p. 1047. For these reports see 'Forest Creek', *Argus* (4 March 1852), p. 2; 'Assaulting a Constable', *Argus* (15 April 1852), p. 4; 'Supreme Court', *Geelong Advertiser* (16 April 1852), p. 2; 'Supreme Court', *Argus* (22 April 1852), p. 4.

News of Douglas' exploits on the Victorian goldfields even reached Van Diemen's Land. See for example 'Victoria', *Launceston Examiner* (13 March 1852), p. 4; 'Victoria', *Tasmanian Colonist* (19 April 1852), p. 3; 'Local', *Cornwall Chronicle* (21 April 1852), p. 252; 'Melbourne', *Cornwall Chronicle* (11 August 1852), p. 504; 'Melbourne', *Cornwall Chronicle* (14 August 1852), p. 512; 'Local', *Courier* (4 December 1852), p. 3; 'Mount Alexander', *Tasmanian Colonist* (20 December 1852), p. 4.

was endeavouring to conceal or bury: but such was the terror of his name that no one dared to attempt to ascertain the fact!<sup>12</sup>

The passing of time did nothing to diminish Black Douglas' ill repute. Referring to Douglas and his criminal brethren in 1855, the *Geelong Advertiser* reported that

The whole neighbourhood of Simpson's, from Carisbrook to the Avoca and New Bendigo, has for several weeks past been kept in a continual state of terror and apprehension, by the depredations of gangs of scoundrels, whose maraudings [sic] gradually increased in violence and brutality...<sup>13</sup>



**Figure 3: S. T. Gill, *Road in Black Forest*, 1852.<sup>14</sup>**

In later years, it would become a mark of distinction to say that you had an encounter with Black Douglas on the Victorian goldfields, while tales of his horrid

<sup>12</sup> 'Victoria', *Tasmanian Town Colonist* (19 April 1852), p. 3.

<sup>13</sup> 'Capture of "Black Douglas" and his gang by Diggers', *Geelong Adviser* (18 May 1855), p. 2.

<sup>14</sup> Source: National Library of Australia, PIC Volume 181 #S133.

misdeeds were passed around campfires and greeted 'new chums' as they advanced into the bush and left their sea legs behind.<sup>15</sup> Although crimes all over the colony were attributed to him, it was the 'dreaded precincts of the Black Forest' that stood between Melbourne and the diggings at Bendigo and Mount Alexander that were considered Black Douglas' favourite haunt.<sup>16</sup> Even today, Douglas' infamy has not completely faded from popular consciousness. The Australian Government included Douglas on its bushranging webpage in 2015, while *Australian Geographic* ran a piece on the bushranger the previous year. Although the government website was brief, the magazine took the time to regale its readers with tales of Douglas' transgressions. According to the *Australian Geographic*, Douglas' modus operandi was to strip his victims naked, tie them to trees and fill their 'boots full of bull ants' leaving them 'to die a slow and excruciating death'.<sup>17</sup>

---

<sup>15</sup> For example, miners referred to these encounters in R. L. J. Ellery et al., *Victoria and Its Metropolis, Past and Present. Volume 11A: The Colony and Its People in 1888* (Melbourne: McCarron, Bird & Co. Publishers, 1888), p. 180, 234; R. L. J. Ellery et al., *Victoria and Its Metropolis, Past and Present. Volume 11B: The Colony and Its People in 1888* (Melbourne: McCarron, Bird & Co. Publishers, 1888), p. 224, 304; 'Death of Mr. John Renwick', *Bendigo Advertiser* (7 June 1900), p. 3; J. M. Barr, 'Black Douglas' *Independent* (2 July 1887), p. 3; (9 July 1887), p. 3; (23 July 1887), p. 3, (30 July 1887), p. 3; (13 August 1887), p. 3; (20 August 1887), p. 3; Royal Historical Society of Victoria, *Linda Webb Burge—memoirs re parental and maternal ancestors*, Box 24/2, MS 000055; Ellen Clacy, *A Lady's Visit to the Gold Diggings of Australia in 1852-53* (Melbourne: Lansdowne Press, 1963), p. 37; William Craig, *My Adventures on the Australian Goldfields* (Melbourne: Cassell and Company, 1903), p. 40.

Douglas was also fictionalised in an 1867 collection of short stories published in England. Octavious Frederick Timins, *Station Dangerous and Other Tales for the Young* (London: James Nisbet, 1867), pp. 169-263.

<sup>16</sup> Clacy, *A Lady's Visit*, p. 37; J. F. Hughes in *Records of the Castlemaine Pioneers* (Melbourne: Rigby Limited, 1972), p. 2.

The Black Forest was 'a densely timbered area that had to be traversed for nine miles on the way from Melbourne to the Mount Alexander and Bendigo goldfields.' Taken from Caitlin Mahar, 'Bushrangers', eGold: the electronic encyclopaedia of Gold in Australia. Accessed 26 January 2016 via: <<http://www.egold.net.au/biogs/EG00180b.htm>>. It is also significant to note that the Black Forest was viewed as a hotbed for bushranging crime more generally. See for example 'The Song of the Bushranger', *Melbourne Punch* (2 August 1855), p. 24; Charles White, *Short Lived Bushrangers* (Sydney: NSW Bookstall, 1909), p. 99.

<sup>17</sup> 'Early Australian Bushrangers', Australian Government. Accessed 20 July 2015 via: <<http://www.australia.gov.au/about-australia/australian-story/early-austn-bushrangers>>; Lauren Smit,

Despite this swathe of contemporary and historical stories, the crime that ensured Douglas' downfall at the hands of the miners in 1855, and that left the most enduring legacy, was the murder of a white woman at Avoca. Newspaper articles from Mount Alexander to Geelong, Maitland to Hobart connected this crime with the diggers' uprising in no uncertain terms.<sup>18</sup> According to the *Mount Alexander Mail*

The crowning act of the barbarities committed by these ruffians, was the murder of a woman at Avoca, as reported elsewhere, and the diggers became sensible that they must themselves take measures for securing their own lives and property.<sup>19</sup>

It appears, then, that the murder of a defenceless woman was the impetus for so many men to bear arms and toy with the idea of murdering Douglas and his brothers in crime. Revenge, the restoration of justice and ideas of honour and gallant masculinity seem to have been the driving forces behind this uprising, and as we shall see, these reasons were made all the more pressing due to the gender of the victim and the race of the murderer.<sup>20</sup> Responsibility for this murder enhanced Black Douglas' notoriety and influenced his public persona for years to come. Decades later, in 1887, the *Independent*

---

'Australia's Most Notorious Bushrangers', Australian Geographic Online (23 October 2014). Accessed 12 October 2018 via: <<https://www.australiangeographic.com.au/topics/history-culture/2014/10/australias-most-notorious-bushrangers/>>. This was not the first time that stories of bushrangers included death by ants. See for example the fictionalised adventures of Ralph Rashleigh in James Tucker, *The Adventures of Ralph Rashleigh: a penal exile in Australia, 1825-1844* (London: Jonathan Cape, 1929, c1845).

<sup>18</sup> 'Capture of "Black Douglas" and his gang by Diggers', *Geelong Adviser* (18 May 1855), p. 2 (the *Geelong Advertiser* took its story from the *Mount Alexander Mail*); 'Victoria', *Courier* (23 May 1855), p. 3; 'Colonial News: Victoria', *Maitland Mercury* (26 May 1855), p. 1.

<sup>19</sup> 'Capture of "Black Douglas" and his gang by Diggers', *Geelong Adviser* (18 May 1855), p. 2 (the *Geelong Advertiser* took its story from the *Mount Alexander Mail*).

<sup>20</sup> For studies that examine colonial fears surrounding relationships between black men (in this context, Aboriginal men) and white women in Australian history, see Victoria Haskins and John Maynard, 'Sex, Race and Power: Aboriginal men and white women in Australian history', *Australian Historical Studies* vol. 36, no. 126 (2005), pp. 191-216; Katherine Ellinghaus, *Taking Assimilation to Heart: marriages of white women and Indigenous men in the United States and Australia, 1887-1937* (Lincoln, Nebraska: University of Nebraska Press, 2006); Ann McGrath, *Illicit Love: interracial sex and marriage in the United States and Australia* (Lincoln, Nebraska: University of Nebraska Press, 2015).

still depicted the murder of this woman as a critical moment in Douglas' career, while in 1982 Allan Nixon repeated this story in his book *100 Australian Bushrangers*.<sup>21</sup>

Despite its influence and longevity, we cannot accept this colonial narrative as fact because in the 1850s Black Douglas was never convicted for any of these heinous crimes. He was never convicted for theft. Or highway robbery. And certainly not for murder. The spectacular scene of hundreds of miners joining forces to end Douglas' reign of terror is undermined by the fact he faced court accused only of unlawfully entering the tent of two Māoris, and was sentenced under the Vagrant Act to two years hard labour.<sup>22</sup> *Mount Alexander Mail* and *Geelong Advertiser* reporters aired their disbelief that

[n]otwithstanding the reputation which this chief of the robbers has obtained, it seems difficult to establish any serious charge against him, and...he will have to be proceeded against...as a consorter with thieves and vagabonds.<sup>23</sup>

Douglas was released early in February 1857 for good conduct, but within two months he was spotted amongst the rowdy crowds in grog tents on the Goulbourn Diggings, and in another two he was in Beechworth Gaol for drunk and disorderly conduct. Only days after his release, he was before the bench again, fined 5 shillings for

---

<sup>21</sup> J. M. Barr, 'Black Douglas', *Independent* (30 July 1887), p. 3; Allan Nixon, *100 Australian Bushrangers, 1789-1901* (Adelaide: Rigby, 1982), p. 49. Nixon was citing the work of James Flett in his entry on Douglas. See James Flett, *Dunolly: story of an old gold diggings* (Melbourne: Hawthorn Press, 1974), p. 115.

<sup>22</sup> 'Maryborough Diggings', *Age* (14 May 1855), p. 6; 'Capture of "Black Douglas" and his gang by Diggers', *Geelong Adviser* (18 May 1855), p. 2; 'Victorian Times', *Sydney Morning Herald* (25 May 1855), p. 5; 'Maryborough', *Argus* (15 May 1855), p. 5; 'Untitled', *Courier* (23 May 1855), p. 3; 'The Pentridge Stockade', *Bendigo Advertiser* (20 February 1857), p. 2; 'Black Douglas Out Again', *Mount Alexander Mail* (20 February 1857), p. 5; Public Record Office of Victoria (PROV), VA 475 Chief Secretary's Department, VPRS 515/P0001 Central Register of Male Prisoners; Alexander Douglas, Unit 4, 1855, p. 352 (William Douglas went by many aliases over the years, and this is just one of them).

<sup>23</sup> 'Capture of "Black Douglas" and his gang by Diggers', *Geelong Adviser* (18 May 1855), p. 2.



a similar offence, and ordered to leave the district.<sup>24</sup> According to his criminal record, the 'redoubtable' Douglas was a vagrant and a drunkard as opposed to a murderous, violent thief.<sup>25</sup>

This interpretation is borne out when we examine the crime that hastened Douglas' capture: the murder of a woman at Avoca. The court records for the Avoca district no longer exist, but newspaper articles, the *Government Gazette* and police correspondence provide detailed evidence of crimes committed on the goldfields during this era. From these sources, it appears that there were only two murders of white women on the goldfields between March and early May 1855. The first was committed over thirty kilometres away from the Avoca district and so does not appear to be the case that newspapers attributed to Douglas.<sup>26</sup> The second murder was committed on the 29<sup>th</sup> of April on the road between Avoca and New Bendigo. Five mounted men committed a series of crimes in that vicinity

---

<sup>24</sup> 'The Pentridge Stockade', *Bendigo Advertiser* (20 February 1857), p. 2; 'Black Douglas Out Again', *Mount Alexander Mail* (20 February 1857), p. 5; 'Mining Intelligence: Goulburn Diggings', *Bendigo Advertiser* (4 April 1857), p. 2; 'Black Douglas at Yachandaneah', *Bendigo Advertiser* (23 June 1857), p. 3.

<sup>25</sup> This is also consistent with Douglas' conviction for larceny in the UK as well as Black Douglas' crimes later in life. Tasmanian Archives and Heritage Office (TAHO): Convict Department (TA60); Conduct Registers of Male Convicts, CON35/1/1, p. 184; 'Wednesday', *Sydney Monitor* (20 August 1841), p. 2; PROV, VA 475 Chief Secretary's Department, VPRS 515/P0001 Central Register of Male Prisoners; Alexander Douglas, Unit 4, 1855, p. 352; PROV, VA 1464 Penal and Gaols Branch, Chief Secretary's Department, VPRS 515/P0001 Central Register of Male Prisoners; Charles Douglas, Unit 38, 1886 and 1888, p. 237; PROV, VA 1464 Penal and Gaols Branch, Chief Secretary's Department, VPRS 515/P0001 Central Register of Male Prisoners; Charles Russell, Unit 44, 1892, p. 318.

Black Douglas was referred to as 'redoubtable' in 'Victoria,' *Courier* (23 May 1855), p. 3.

<sup>26</sup> This murder took place 20 miles from New Bendigo (St Arnaud). Avoca is 38 miles from New Bendigo, and this makes it unlikely to have been the 'murder of a woman at Avoca' that the newspaper articles in note 18 refer to. 'Ballarat', *Geelong Advertiser* (7 May 1855), p. 2; 'Ballarat', *Sydney Morning Herald* (12 May 1855), p. 4; 'Avoca', *Age* (14 May 1855), p. 6.

and among the outrages attacked, and robbed a party of four men and one woman, near Hawkin's Hotel, shooting at and wounding the woman, of which wound the woman died on the following day.<sup>27</sup>

This crime appears to match the one ascribed to Douglas but for one crucial flaw. All five men were meticulously described in the *Government Gazette's* notice on the murder, but none of the offenders were depicted as black. When the *Gazette* took the time to describe one criminal as a 'short, stout, full-faced man, with light hair, aged about 22, wearing a light black coat and a Jim Crow hat, riding on a brown pony with a tan muzzle', it appears a glaring absence that it did not describe any offender's race. It strongly suggests that a black man was not among the perpetrators of this crime.<sup>28</sup>

How could these stories have gained so much traction when they had so little basis in fact? One possible answer is that the nature of the Gold Rush made securing evidence extremely difficult. Thousands of people flowed in and out of the ever-shifting goldfields. There was always word of a 'New Eldorado' and miners hurried about the colony following reports of new riches.<sup>29</sup> As the decade progressed, people flooded in from outside of the colony too. In 1852, the first ships from Britain arrived, bringing with them 'new chums' eager to make their fortune, but others arrived from all over the world.<sup>30</sup> The Chinese were the largest and the most resented new immigrant population on the fields, but there were also Māoris, Poles, Germans and Americans—the list goes

---

<sup>27</sup> 'Highway Robbery and Murder', *Geelong Advertiser* (12 May 1855), p. 2; 'Highway Robbery and Murder', *Argus* (9 May 1855), p. 5; 'Highway Robberies and Murder', *Victorian Government Gazette*, no. 41 (8 May 1855), p. 1141.

<sup>28</sup> *ibid.*

<sup>29</sup> Serle, *Golden Age*.

<sup>30</sup> Geoffrey Blainey, *A History of Victoria* (Cambridge: Cambridge University Press, 2006), p. 40.

on.<sup>31</sup> In this turbulent context of mobility and demographic change, witnesses to crimes could be hard to track down. They had often shifted to a new camp, and there were few means to ascertain their whereabouts. Issues of identity were an inescapable part of the goldfield experience.<sup>32</sup> Marks of distinction were not as apparent as they were in the cities. All men paid an equal fee for an equally small piece of land and toiled alongside each other in the elements.<sup>33</sup> Symbols of class and refinement certainly developed over time, but in gold camps, new identities could be assumed, and characters remade. Although many found this anonymity liberating, it also made it difficult to know who to trust.<sup>34</sup> If ostracised from one goldfield, an offender could usually move onto the next without difficulty.

However, this does not explain how the murder of a woman by five white assailants could be attributed to a black man. Descriptions of the culprits were circulated in both metropolitan and regional papers and the *Geelong Advertiser* reported both the description of the five guilty men and later a report implicating Douglas in the same crime.<sup>35</sup> Although mobility and identity were important issues on the goldfields, more compelling reasons for this woeful inconsistency can be found when we ask what

---

<sup>31</sup> Weston Bate, *Victorian Gold Rushes* (Ballarat, VIC: Sovereign Hill Museums Association, 1999), pp. 27-28; Serle, *Golden Age*, pp. 75-76.

<sup>32</sup> Serle, *Golden Age*, p. 77.

<sup>33</sup> Although capital, mining knowledge and resources could influence a person's chances on the goldfields, it did not determine them. Miners paid an equal licence fee for a miner's licence and were allowed an equally small piece of land (originally 8 feet squared, and then in 1853 it increased to 12 feet squared). And as Geoffrey Blainey has repeatedly written, luck and chance played a big role in diggers' success or failure on the goldfields. Geoffrey Blainey, 'The Gold Rushes: the year of decision', *Australian Historical Studies* vol. 10, no. 38 (1962), pp. 136-140; Blainey, *A History of Victoria*, p. 42.

<sup>34</sup> Serle, *Golden Age*, p. 82.

<sup>35</sup> 'Highway Robbery and Murder', *Geelong Advertiser* (12 May 1855), p. 2; 'Highway Robbery and Murder', *Argus* (9 May 1855), p. 5; 'Highway Robberies and Murder', *Victorian Government Gazette*, no. 41 (8 May 1855), p. 1141; 'Capture of "Black Douglas" and his gang by Diggers', *Geelong Advertiser* (18 May 1855), p. 2.

purposes this fabricated story served, and more particularly, what role gendered ideas played on the goldfields.

## Gender and Violence

Although the Australian goldfields have been described as masculine landscapes by contemporary commentators and historians alike, over the past two decades revisionist historians have challenged this view.<sup>36</sup> Contrary to popular belief, their studies have shown that women were a conspicuous, active and integral part of goldfields' society.<sup>37</sup> Women and children constituted forty-five per cent of the population at Ballarat in 1854.<sup>38</sup> Some women, like Elizabeth Ramsay-Laye, saw their main role on the goldfields as looking after their husbands, and bringing as much refinement and feminine delicacy as was possible to remote places. Indeed, Caroline Chisholm's famous campaign to civilise the goldfields by bringing women to domesticate the 'wilderness' seems to have reflected how many women saw their own

---

<sup>36</sup> While the idea that itinerant, mining men helped to forge the ideal 'Australian type' was advanced by Russel Ward in the 1950s, the stereotype of the diggings as a man's world found considerable support in the nineteenth century. Russel Ward, *The Australian Legend* (Melbourne: Oxford University Press, 1958), pp. 112-144; Clare Wright, *The Forgotten Rebels of Eureka* (Melbourne: Text Publishing, 2013), p. 131. There has been debate as to whether Ward was reviving pre-existing colonial traditions, or these ideas were created by a late nineteenth century literary elite. The idea of the goldfields were masculine landscapes, however, had traction at the time. For the debate over Ward's *Australian Legend*, see Graeme Davison, 'Sydney and the Bush: an urban context for *The Australian Legend*', *Australian Historical Studies* vol. 18 (1978), pp. 191-209; Richard Waterhouse, 'Australian Legends: representations of the bush, 1813-1913', *Australian Historical Studies* vol. 31, no. 115 (2000), pp. 201-221.

<sup>37</sup> Margaret Anderson, 'Mrs Charles Clacy, Lola Montez and Poll the Grog Seller: glimpses of women on the early Victorian goldfields' in Iain McCalman, Alexander Cook and Andrew Rees (eds.), *Gold: forgotten histories and lost objects of Australia* (Cambridge: Cambridge University Press, 2001), pp. 225-249; Dorothy Wickham, 'Women in Ballarat 1851-1871: a case study in agency', PhD Thesis (University of Ballarat, 2008); Dorothy Wickham, *Women of the Diggings, Ballarat 1854* (Ballarat: Ballarat Heritage Publishing, 2009); Susan Lawrence, *Dolly's Creek: an archaeology of a Victorian goldfields community* (Melbourne: Melbourne University Press, 2000); Wright, *The Forgotten Rebels*.

<sup>38</sup> Wright, *The Forgotten Rebels*, p. 131.

position.<sup>39</sup> Women courted, married, and made love on the diggings. They gave birth, maintained their tents, prepared meals, darned socks, washed clothes and performed myriad other tasks that were expected of them because of their gender.<sup>40</sup> The nineteenth century saw domesticity dominate rhetoric about women. Women were meant to be confined to the domestic sphere as they were seen to be the fairer sex, the weaker sex, and dependent upon men for financial and physical security.<sup>41</sup> These ideas had a tangible impact on women's lives. They ensured that their wages were far lower than men's, the logic being that women were only meant to be providing for themselves, while men were supposed to support their whole families.<sup>42</sup> They were also reflected in women's denial of civic rights like the right to vote or stand for parliament, and in their loss of their property and surnames upon marriage.<sup>43</sup> These are just a few examples of many of the gendered nature of colonial public and private space.

---

<sup>39</sup> Anderson, 'Mrs Charles Clacy', pp. 225-249; Betty Osborn and Trenear DuBourg, *Maryborough: a social history, 1854-1904* (Maryborough: Maryborough City Council, 1985), p. 48.

<sup>40</sup> *ibid.*; Wickham, *Women in Ballarat 1851-1871*; Wickham, *Women of the Diggings*.

<sup>41</sup> For an overview of these issues in Australia, see Patricia Grimshaw et al., *Creating a Nation, 1788-1990* (Ringwood, Victoria: Penguin Books, 1996), pp. 73-131. For the wider English and American context, see Lucy Delap, 'The "Woman Question" and the Origins of Feminism' in Gareth Stedman Jones and Gregory Claes (eds.), *The Cambridge History of Nineteenth Century Political Thought* (Cambridge: Cambridge University Press, 2011), pp. 319-348, especially pp. 345-346.

<sup>42</sup> Marilyn Lake, 'The Politics of Respectability: identifying the masculinist context', *Australian Historical Studies* vol. 22, no. 86 (1986), p. 122; Catherine Bishop, *Minding Her Own Business: colonial businesswomen in Sydney* (Sydney: New South Publishing, 2015), p. 4; Desley Deacon, 'Political Arithmetic: the nineteenth century Australian census and the construction of the dependent woman', *Signs: Journal of Women in Culture and Society* vol. 11, no. 1 (1985), pp. 27-47; Susan Magarey, *Passions of the First Wave Feminists* (Sydney: UNSW Press, 2001), pp. 117-140.

<sup>43</sup> For an overview of these issues in Australia, see Patricia Grimshaw et al., *Creating a Nation, 1788-1990* (Ringwood, Victoria: Penguin Books, 1996), pp. 73-131. For women and citizenship in Australia, see Magarey, *Passions of the First Wave Feminists*, pp. 141-170. For married women and property in NSW see Prue Vines, 'Annie Ludford, Postmistress: the *Married Women's Property Acts* and public service employment in 1890s NSW', *Law and History* vol. 2 (2015), pp. 146-176. For the position of married women in English property law, and the gendered assumptions that underpinned it, see Lee Holcombe, *Wives and Property: reform of the married women's property law in nineteenth century England* (Toronto: University of Toronto Press, 1983).



**Figure 4: S. T. Gill, *Sly Grog Shop*, 1852.<sup>44</sup>**

Despite the weight of these ideas, Catherine Bishop reminds us that women did not always conform to Victorian ideals about their sex.<sup>45</sup> Some women sought individual prosperity among the mine shafts instead of merely domestic bliss. Some became entrepreneurs. Martha Clendinning and her sister ran a small but prosperous shop on the goldfields, female entertainers found local fame and eager audiences on the diggings, while other women dug for gold alongside their male counterparts. Indeed, these mining women were visible enough for the Governor to contemplate extending the miner's licence to include them.<sup>46</sup> Certain women also had success in the more nefarious trades

<sup>44</sup> Source: National Gallery of Australia, NGA 86.634.

<sup>45</sup> Bishop, *Minding Her Own Business*.

<sup>46</sup> William Ottey in *Records of the Castlemaine Pioneers* (Melbourne: Rigby Limited, 1972), p. 58.

such as sex work and sly grog selling.<sup>47</sup> The police were not ignorant of these pursuits as they often engaged in local trade with great enthusiasm. When the authorities were not drinking at sly grog tents, they closed these establishments down and their owners became even more well-known through their encounters with the law. In the Avoca district late in 1855, for example, five women were arrested for sly grog selling while one managed to escape custody and go on the run.<sup>48</sup> Clare Wright has even demonstrated that women were involved in the Eureka Stockade of 1854.<sup>49</sup> This uprising, the year before Douglas' capture, involved a pitched battle of the mining community against the police and military. There were thirty-seven fatalities from both sides of the conflict, while many more were wounded in the encounter.<sup>50</sup> Among their many grievances, the men and women of Eureka fought this battle to end what they believed to be abuses of power by government officials.<sup>51</sup> In short, women were visible, active and essential on the goldfields. While some engaged solely in domestic labour, others worked independently or engaged in supposedly masculine pursuits like politics, rioting, and manual labour. Women in both lawful and illicit business formed an essential part of the diggings' social landscape.

---

<sup>47</sup> Anderson, 'Mrs Charles Clacy', pp. 225-249; Patricia Grimshaw and Graham Willett, 'Women's History and Family History: an exploration of colonial family structure' in Norma Grieve and Patricia Grimshaw (eds.), *Australian Women: feminist perspectives* (Oxford: Oxford University Press, 1981), p. 139; PROV, VA 724 Victorian Police, VPRS 937/P0000 Inward Registered Correspondence; Avoca District, Unit 6, 1855; William Nawton, *Diaries, 1852-53*. Unpublished Manuscript. State Library of Victoria, MS 10251. Catherine Bishop's pioneering work has similarly demonstrated that colonial Sydney was full of entrepreneurial businesswomen. Bishop, *Minding Her Own Business*.

<sup>48</sup> PROV, VA 724 Victorian Police, VPRS 937/P0000 Inward Registered Correspondence; Avoca District, Unit 6, 1855.

<sup>49</sup> See Wright, *The Forgotten Rebels*, p. 131 for statistics, and view the book in its entirety for women's involvement in the Eureka Stockade.

<sup>50</sup> Dorothy Wickham, *Deaths at Eureka* (Ballarat: Wickham, 1996), pp. 48-49.

<sup>51</sup> *ibid.*; John Molony, *Eureka* (Melbourne: Melbourne University Press, 2001); 'Eureka Stockade', State Library of Victoria. Accessed 9 November 2018 via: <<http://ergo.slv.vic.gov.au/explore-history/golden-victoria/impact-society/eureka-stockade>>





Figure 5: S. T. Gill, *Zealous Gold Diggers*, 1852.<sup>52</sup>

In this context, one reason that the story of Douglas' murder of a white woman might have gained currency was that it helped to reassert the male-dominated gender order.<sup>53</sup> While diggers' reminiscences are littered with examples of how the goldfields inverted class distinctions, they also opened new opportunities for women from all levels of society, offering the chance for them to raise themselves up financially and in terms of power and local status.<sup>54</sup> In such a context the world appeared 'topsy-turvy', to use one gold miner's expression.<sup>55</sup> Perhaps this portrayal of the murder gained

<sup>52</sup> Source: National Library of Australia PIC Volume 200 #U1034 NK586/10.

<sup>53</sup> Although Catherine Bishop has demonstrated that there were also businesswomen in colonial Sydney at this time, the goldfields offered particular opportunities to women from all levels of society. Bishop, *Minding Her Own Business*.

<sup>54</sup> See for example, James Robertson in *Records of the Castlemaine Pioneers* (Melbourne: Rigby Limited, 1972), pp. 45-46; Ottey in *Records*, p. 57.

<sup>55</sup> Quotation from Robertson in *Records*, p. 45. See also Craig, *My Adventures*, pp. 38-53.



traction by establishing a separate feminine sphere. Reassuringly, in these reports there were no independent, strong women vying with men for a share in the riches of the Gold Rush. All that the press reported was that an anonymous woman was shot by one of a gang of male bushrangers and later died of the wound.<sup>56</sup>

When we compare these events in the original police correspondence to their publication in the press, we can see gendered power dynamics more clearly at play. In a report sent from the authorities at Avoca to the Chief Commissioner of Police, as well as in the original proclamation sent by the police to be published in the *Government Gazette*, the murder victim was not just referred to as a 'woman', but as Margaret Wade.<sup>57</sup> When this name reached the printing press, however, it was excluded and replaced by Margaret's sex. Newspapers and the *Government Gazette* could have used Margaret Wade's name to alert her family and acquaintances of her death but instead, they chose to refer to her merely as a woman.<sup>58</sup> This detail was apparently all that was needed to convey the crime to a popular audience.<sup>59</sup> Women's identities were commonly obscured in colonial reportage and this did not change in the Gold Rush. Despite women's presence and activity in the colony, they were rarely seen as important enough to be referred to by name. When male reporters deigned to mention them at all, they were usually identified as the wives of named men. Although the Gold Rush offered new

---

<sup>56</sup> 'Highway Robbery and Murder', *Geelong Advertiser* (12 May 1855), p. 2; 'Highway Robbery and Murder', *Argus* (9 May 1855), p. 5; 'Highway Robberies and Murder', *Victorian Government Gazette*, no. 41 (8 May 1855), p. 1141.

<sup>57</sup> PROV, VA 724 Victorian Police, VPRS 937/P0000 Inward Registered Correspondence; Avoca District, Unit 6, 1855.

<sup>58</sup> Indeed, communication on the goldfields was so poor that public notices were often nailed to trees in mining towns in the hope of getting messages through. Ottey in *Records*, p. 58.

<sup>59</sup> 'Highway Robbery and Murder', *Geelong Advertiser* (12 May 1855), p. 2; 'Highway Robbery and Murder', *Argus* (9 May 1855), p. 5; 'Highway Robberies and Murder', *Victorian Government Gazette*, no. 41 (8 May 1855), p. 1141.

opportunities to women, men still controlled essential public services like the press.<sup>60</sup> And they could insist upon their dominance in discourse by eliminating women's names from the news.

Besides overshadowing women's autonomy, this story of Douglas murdering a white woman could also help to restore the honour of white men. Miners were constantly under attack from both the government and the press for violence on the goldfields.<sup>61</sup> In April and June 1855, the months either side of Douglas' capture, there were two further instances of mass unrest and near lynching in Alma and Maryborough. On the 4<sup>th</sup> of April, Assistant Commissioner Drummond reported that 5,000 men assembled at Alma 'in a state of great excitement caused by a murderous assault alleged to have been committed by a party of foreigners...[and that] preparations had already been made...to try and lynch the accused.' It was only after speaking to the men and assuring them that the law was equipped to deal with the offenders that the party of miners dispersed. Similarly, in June 1855 at Maryborough, over a thousand armed diggers dragged a group of 'disorderly' men to camp and there were fears that a riot would take place between the supporters of each party. All available reinforcements were called in to deal with the anticipated bloodshed, but luckily, the situation had deescalated by the time the extra police reached the diggings.<sup>62</sup> Although in both instances, illegal behaviour such as lynching and rioting did not occur, they exposed a

---

<sup>60</sup> These statements are based on a wide reading of colonial newspaper articles.

<sup>61</sup> Although Geoffrey Serle has written that major challenges to law and order declined by the middle of the decade, this was not the case in Avoca, Alma or Maryborough in 1855. Serle, *Golden Age*, pp. 36, 81-82, 126. See also David Goodman who has written of the lawful conduct on the Victorian diggings compared to those of California. Goodman, 'Making an Edgier History of Gold', p. 30; Goodman, *Gold Seeking*, pp. 64-104.

<sup>62</sup> PROV, VA 724 Victorian Police, VPRS 937 Inward Registered Correspondence; Avoca District, Unit 6, 1855.

tendency towards mob violence that shocked the authorities and the conservative press alike.

Vigilante diggers were active in defending their character and demonstrating that their actions were necessary to *restore* order on the goldfields. In Alma and the surrounding areas, there was only one police officer to protect a population of over 25,000.<sup>63</sup> Miners used numbers such as these to argue that the police were incapable of protecting the population and had forced diggers to mobilise for their own defence. Many also complained that the police only cared about retrieving licence fees. Rather than pursuing the real criminals who endangered lives and property, diggers alleged that the police resorted to degrading and brutal tactics to arrest men whose only crime was to fail to show a piece of paper.<sup>64</sup> Echoing the insurgents at Eureka, miners went dangerously close to asserting that their methods of governing the goldfields were superior to those of colonial officials.<sup>65</sup>

To combat claims of sedition that might follow these grievances, and to further promote the legitimacy of their actions, miners created protection societies. Soon after Douglas' dramatic capture at Alma, the Maryborough Mutual Protection Society was formed "to apprehend, and vigorously to prosecute, all offenders, and specially to suppress crime."<sup>66</sup> These organisations had a set of rules that controlled their members'

---

<sup>63</sup> PROV, VA 724 Victorian Police, VPRS 937/P0004 Inward Registered Correspondence; Miscellaneous Correspondence, 1855.

<sup>64</sup> As Goodman notes, this issue of miners' licences was increasingly couched in 'the language of rights and British freedoms and defence of the dignity of the working classes.' David Goodman, 'Gold and the Public in the Nineteenth Century Gold Rushes', in Benjamin Mountford and Stephen Tuffnell (eds.), *A Global History of Gold Rushes* (Oakland, California: University of California Press, 2018), p. 79.

<sup>65</sup> See note 51 for Eureka.

<sup>66</sup> 'Impromptu Law at Maryborough', *Argus* (14 June 1855), p. 4. Although there is contention as to when the Society was created, primary evidence suggests that the Maryborough Protection Society was created after Black Douglas' capture. See 'Colonial News: Victoria', *Maitland Mercury* (26 May 1855), p. 1;

conduct and participants sought to differentiate themselves from the criminal population by agreeing to assist the police and abide by the law. Governor Hotham even gave his support to Mutual Protection Societies in recognition of their necessity.<sup>67</sup> With regulations and this official endorsement, members hoped that their organisations would dispel allegations that they were deaf to all but the authority of 'Judge Lynch'.<sup>68</sup>

Despite miners' efforts, these strategies were still not enough to legitimise protection societies. Similar arguments were made about the need for 'rough justice' on the American goldfields in California. In that context, lynching was not just threatened, but enacted as diggers claimed that they were the only thing standing between the goldfields and complete lawlessness.<sup>69</sup> Michael Pfeifer has drawn a distinction between impulsive, spontaneous mob violence and the creation of 'Vigilante Committees' and protection societies in an American context. Here too, organisation was essential to these groups' legitimacy as was the membership of many leading community figures.<sup>70</sup> Colonial Australians knew of the violence of the Californian Gold Rush and were well

---

'Correspondence: Vigilance Committees', *Mount Alexander Mail* (22 June 1855), p. 5; 'Impromptu Law at Maryborough', *Mount Alexander Mail* (22 June 1855), p. 5; 'Impromptu Law at Maryborough', *Argus* (20 June 1855), p. 5; 'Maryborough Diggings', *Age* (14 May 1855), p. 6; 'Maryborough', *Age* (23 June 1855), p. 5. In one article, the author even suggests that the police attempted to arrest Douglas, but after finding him too difficult to capture, they called on the miners for help. 'Digging News', *Age* (10 May 1855), p. 6.

<sup>67</sup> Osborn and DuBourg, *Maryborough*, p. 40.

<sup>68</sup> 'Maryborough', *Age* (23 June 1855), p. 5; 'Correspondence: Vigilance Committees', *Mount Alexander Mail* (22 June 1855), p. 5; 'Lynch Law at the Diggings', *Age* (20 June 1855), p. 4; 'Impromptu Law at Maryborough', *Mount Alexander Mail* (22 June 1855), p. 5; 'Impromptu Law at Maryborough', *Argus* (20 June 1855), p. 5; 'Impromptu Law at Maryborough', *Argus* (14 June 1855), p. 4.

<sup>69</sup> Goodman, *Gold Seeking*, pp. 88-104; Christopher Waldrep, *The Many Faces of Judge Lynch: extralegal violence and punishment in America* (New York: Palgrave Macmillan, 2002), 49-66. For order on the goldfields in comparative perspective, see Mountford, 'The Pacific Gold Rushes', pp. 88-108.

<sup>70</sup> Michael Pfeifer, *Rough Justice: lynching and American society, 1874-1947* (Urbana and Chicago: Illinois University Press, 2004), pp. 6-7, 47 in particular, but the whole book, which spans more of America than the goldfields and covers more time than the 1850s, refines these issues.

aware that beneath the veneer of respectability, protection societies were more than capable of being the instigators of violence, and their members capable of murder.<sup>71</sup>

Given these circumstances, the story of Black Douglas' murder of a white woman helped miners to justify their actions. Not only had the men handed Douglas and his gang over to the authorities, illustrating their respect for the law, but they had apparently acted out of a sense of duty towards Douglas' female victim. At this time, it was seen to be white men's responsibility to defend and avenge the 'weaker sex'.<sup>72</sup> This made the miners' extra-legal actions appear natural, gallant and just. By capturing Douglas and his men, the diggers were apparently righting the wrongs committed against one of 'their' women, and this lent urgency and moral legitimacy to their cause.<sup>73</sup>

These attempts to establish the righteousness of their actions were made all the more pressing by the fact that there were many instances in the Gold Rush when white men committed violence against white women. Violence was usually condoned if it was inflicted by a woman's husband, father or male family member, as the patriarchal nature of colonial society meant that she was under their supervision and control.<sup>74</sup> Beyond this

---

<sup>71</sup> Goodman, *Gold Seeking*, pp. 64-70; Stafford, 'Preventing the "Curse of California"', pp. 215-230; Jay Monaghan, *Australians and the Gold Rush: California and Down-Under, 1849-1854* (Berkeley: University of California Press, 1966), pp. 180-193; Mountford, 'The Pacific Gold Rushes', pp. 97-103.

<sup>72</sup> This idea was largely confined to white women. Women of other races, like Aboriginal women, were often the victims of white men's violence. See for example, Libby Connors, 'Uncovering the Shameful: sexual violence on an Australian colonial frontier' in Robert Mason (ed.), *Legacies of Violence: rendering the unspeakable past in modern Australia* (New York: Berghahn Books, 2017) pp. 33-52; Larissa Behrendt, 'Consent in a (Neo) Colonial Society: Aboriginal women as sexual and legal "other"', *Australian Feminist Studies* vol. 15, no. 33 (2000), pp. 353-367; Amanda Nettelbeck, 'Intimate Violence in the Pastoral Economy: Aboriginal women's labour and protective governance' in Penelope Edmonds and Amanda Nettelbeck (eds.), *Intimacies of Violence in the Settler Colony: economies of dispossession around the Pacific Rim* (London: Palgrave Macmillan, 2018), p. 68.

<sup>73</sup> It is important to note that the defence of women was used as a justification for many lynchings in the United States. See for example: Waldrep, *The Many Faces of Judge Lynch*, pp. 53-54, 73, 75, 88-91, 116-122, 128, 130, 144-145, 165.

<sup>74</sup> For example, although women could technically take their husbands to court for battery, these cases went against the common idea that a man had the right to punish his wife. Moreover, men could not be charged

intimate group of male relatives, it was socially unacceptable, but this did not stop violence against women from being a major issue on the goldfields. As Margaret Anderson has written '[a]lmost every chronicler of the diggings commented on the drunkenness and violence they saw around them, with women frequent victims, despite their...apparent desirability.'<sup>75</sup> In the Avoca area only a few months after Douglas' capture

a man named Morris Beresford attempted to take liberties with a Mrs McDonald wife of a shepherd residing about three miles from Avoca Camp, and upon her resisting his advances, he struck her a violent blow upon the head from the effects of which she nearly lost her life.<sup>76</sup>

Moreover, in the murder of Margaret Wade, the 'white woman at Avoca', the killers were originally described as white men.<sup>77</sup> If defending white women could enhance the honour and prestige of white men, then attacking women could demonise this same group.

Violence against women was certainly an inversion of white men's role as women's protectors, but it was by no means the most common one. Hundreds of women

---

with the sexual assault of their wives, as marital rape was not recognised in British or colonial Australian common law. According to English judge Sir Matthew Hale, marriage was a contract that allowed a husband sexual access to his wife, and she could not retract her consent. Kay Saunders, 'The Study of Domestic Violence in Colonial Queensland: sources and problems', *Australian Historical Studies* vol. 21, no. 82 (1984), pp. 68-84; Lisa Featherstone and Alexander George Winn, 'Marital Rape and the Marital Rapist: the 1976 South Australian Rape Law Reforms', *Feminist Legal Studies* vol. 27 (2019), pp. 57-78; Lake, 'Identifying the Masculinist Context', pp. 123-124, 128-129.

<sup>75</sup> Anderson, 'Glimpses of Women', p. 233. See also for example, Nawton, *Diaries*.

<sup>76</sup> PROV, VA 724 Victorian Police, VPRS 937/P0000 Inward Registered Correspondence; Avoca District, Unit 6, 1855.

<sup>77</sup> We can infer that these men were white as their race was not remarked upon in reports and 'white' was considered normal on the goldfields, while miners went to great pains to differentiate between other races on the goldfields. See pages 69-76 for more information. 'Highway Robbery and Murder', *Geelong Advertiser* (12 May 1855), p. 2; 'Highway Robbery and Murder', *Argus* (9 May 1855), p. 5; 'Highway Robberies and Murder', *Victorian Government Gazette*, no. 41 (8 May 1855), p. 1141.

faced abandonment in the wake of the Gold Rush, as many men who journeyed out to the goldfields left their wives and children behind, either in Melbourne or on older goldfields that no longer yielded easy riches. Christina Twomey writes that

[in] nineteenth-century Victoria, cultural commentators and charitable institutions were...uniformly convinced that deserted wives and children were the largest and most needy group of the colonial poor...

and feared that this would diminish the moral standing of the colony.<sup>78</sup> Reformers were terrified that without their 'natural protectors', women would be lured into illicit trade and sex work while their children would be corrupted by this environment.<sup>79</sup> By the 1860s, manly independence 'included being...someone who could support their dependants', and so abandonment increasingly reflected poorly on a husband's masculinity too.<sup>80</sup> Many policy makers and social reformers attempted to explain away these men's neglect of their family responsibilities by blaming external factors. The absence of viable alternatives to the goldfields for men to earn a living was often raised.<sup>81</sup> Yet this discursive manoeuvre did little to address the fact that many women lived in complete destitution due to being abandoned by their 'natural protectors'.

---

<sup>78</sup> Christina Twomey, 'Without Natural Protectors: responses to wife desertion in Gold Rush Victoria', *Australian Historical Studies* vol. 27, no. 108 (1997), p. 29. See also Ottey in *Records*, p. 61.

<sup>79</sup> Twomey, 'Without Natural Protectors', pp. 23-24. See also Christina Twomey, 'Gender, Welfare and the Colonial State: Victoria's 1864 Neglected and Criminal Children's Act', *Labour History* vol. 73 (1997), pp. 169-186.

<sup>80</sup> Angela Woollacott, 'Frontier Violence and Settler Manhood', *History Australia* vol. 6, no. 1 (2009), p. 11.1-11.15. This idea of manly independence is markedly different to that of the 1890s. By this time, the tables had turned again, and manly independence came to be viewed as independence from the influence of families. Lake, 'The Politics of Respectability', pp. 116-131.

<sup>81</sup> Twomey, 'Without Natural Protectors', p. 22-46. This tension between different settler uses of the land can be seen in David Goodman, 'Gold Fields/ Golden Fields: the language of agrarianism and the Victorian gold rush', *Australian Historical Studies* vol. 23, no. 90 (1988), pp. 19-41.

The gendered context of the goldfields was clearly complex and dynamic. The Gold Rush expanded and challenged colonial ideas about masculinity and femininity, legitimate and illegitimate violence, duty and honour. In such unstable times, white miners could use the story of Black Douglas murdering a white woman to reaffirm their ideas of gendered order. Although murder was an affront to civilised society, this murder distracted miners from the ambiguous status of women, law and justice on the diggings. Or at least, it allowed them to craft a narrative in which these issues were addressed instead of merely brought to the fore. However, gendered hierarchies were not the only ones to be rocked by the Gold Rush.



**Figure 6: William Strutt, *Cohunguim (on the left) and Munight (right), two members of the Victorian Native Police, 1851.***<sup>82</sup>

---

<sup>82</sup> Source: State Library of Victoria Pictures Collection, H88.21/112.



## Race on the Diggings

Making Black Douglas the most fearsome goldfields personality also helped white miners to restore a colonial racial order that was inverted by the opportunity of the diggings. The issue was not just that white men acted in ways that brought their moral standing into disrepute, but rather that other, supposedly 'inferior' races held positions of status and authority on the goldfields. The most obvious examples of this were the Aboriginal police officers who first patrolled the diggings. The Native Police Force was originally formed in 1837, before Victoria was a colony and when the Port Phillip area that later became Melbourne was still under the control of New South Wales.<sup>83</sup> Although this early force was disbanded after only two years, it was reinstated in 1842 and continued to operate until dispersed for good in Victoria in 1853.<sup>84</sup> The government initially envisaged the Native Police as a way to 'civilise' the colony's Aboriginal people through discipline and regimentation, but Amanda Nettelbeck and Lyndall Ryan note how 'as the force became more professional from the late 1840s, it became responsible for more Aboriginal killings.'<sup>85</sup> The Native Police attracted young Aboriginal warriors keen to accrue the distinction and status of the office. In many

---

<sup>83</sup> Marie Fels, *Good Men and True: Aboriginal police of the Port Phillip District, 1837-1853* (Melbourne: Melbourne University Press, 1988), pp. 7-31; Amanda Nettelbeck and Lyndall Ryan, 'Salutary Lessons: native police and the "civilising" role of legalised violence in colonial Australia', *Journal of Imperial and Commonwealth History* vol. 46, no. 1 (2018), pp. 50-51.

Victoria became its own colony on 1 July 1851. A. G. L. Shaw, 'Separation and Federation: the relationship of Port Phillip with the government of New South Wales', *Victorian Historical Journal* vol. 68, no. 1 (1997), p. 13; Douglas Wilkie, 'Earth, Wind, Fire, Water—Gold: bushfires and the origins of the Victorian gold rush', *History Australia* vol. 10, no. 2 (2013), p. 95.

<sup>84</sup> Nettelbeck and Ryan, 'Salutary Lessons', p. 53. The Native Police continued to operate in other colonies, such as Queensland, after this date. For the Queensland Native Police, see Johnathan Richards, *The Secret War: a true history of Queensland's Native Police* (St. Lucia: University of Queensland Press, 2008); Chris Cunneen, *Conflict, Crime and Politics: Aboriginal communities and the police* (Sydney: Allen & Unwin, 2001), pp. 46-79; Denis Cryle, *The Press in Colonial Queensland: a social and cultural history, 1845-1875* (St. Lucia: University of Queensland Press, 1989), pp. 55-72.

<sup>85</sup> Nettelbeck and Ryan, 'Salutary Lessons', p. 52.

instances, it appears that this distinction manifested in the Native Police separating themselves from the 'wild blacks' who attacked settlers' properties and whom they reportedly boasted of killing.<sup>86</sup>

When gold was first, unofficially, discovered in the emergent colony of Victoria in 1849, the Native Police were the first on the ground to maintain order on the diggings, track criminals and later to collect licence fees from the mining population. Their presence on the goldfields was practical: here was a group of officers who were already tried and tested, whose aptitude in the bush was widely recognised, and who were a lot less expensive than white officers who might occupy the same role.<sup>87</sup> To white miners, however, there was a difference between Native troopers policing Aboriginal people, and policing whites. Many of the goldfields' population resented being sanctioned by men whom they believed to be their racial inferiors.<sup>88</sup> To make matters worse for miners of Anglo stock, Aboriginal troopers stood out not just for their skin colour, but also for their dignified appearance. At a time when white men and women toiled alongside each other in the dirt, Native Police were mounted and immaculately dressed.<sup>89</sup> One miner from Ballarat in 1851 described how, after failing to produce a miner's licence, he was guarded by eight or nine troopers 'who in their uniforms and polished boots looked as proud as possible'.<sup>90</sup> Digger and artist William Strutt similarly remarked upon a scene

---

<sup>86</sup> *ibid.*, p. 51. It is important to note that these 'wild blacks' were usually from different clans and language groups to those in the Native Police.

<sup>87</sup> Fred Cahir, *Black Gold: Aboriginal people on the goldfields of Victoria, 1850-1870* (Canberra: ANU Press, 2012), pp. 49-54; Fels, *Good Men and True*, pp. 212-220; Henry Dana, evidence to the Select Committee on the Police (28 July 1852), p. 24, Victorian Legislative Council, *Report from the Select Committee on Police* (Melbourne: John Ferres, 1852).

<sup>88</sup> *ibid.*

<sup>89</sup> Fels, *Good Men and True*, pp. 83-88; Bruce Moore, *Gold! Gold! Gold! The language of the nineteenth-century Australian gold rushes* (Oxford: Oxford University Press, 2000), pp. 8-9.

<sup>90</sup> Cahir, *Black Gold*, p. 52.

where 'a [white] prisoner and a villainous squint-eyed scoundrel he looked, [was] handcuffed and escorted by two well mounted and smart looking black troopers.'<sup>91</sup>



**Figure 7: William Strutt, *Native Police Escorting a Prisoner from Ballarat to Melbourne*, 1859.<sup>92</sup>**

In these comments, we can see a reversal of racial expectations. Colonials commonly depicted Aboriginal people as criminal, immoral and degraded, but here they embodied dignity and moral standing in contrast to the physical and moral decay of white miners. At a time when commentators in Victoria and the United Kingdom emphasised Britons' lawfulness as a mark of their distinction, it was discomforting that these men and women needed to be policed at all, let alone by Aboriginal men.<sup>93</sup> However, by circulating tales of Black Douglas' crimes, miners diverted attention from

<sup>91</sup> William Strutt in Cahir, *Black Gold*, p. 50.

<sup>92</sup> Source: State Library of Victoria. Accessed 12 November 2019 via: <<http://ergo.slv.vic.gov.au/image/native-police-escorting-prisoner-ballarat-melbourne>>

<sup>93</sup> Goodman, *Gold Seeking*, pp. 64-88.

this reversal of racial expectations. In colonial depictions, Black Douglas embodied the crime and disorder of the Gold Rush.<sup>94</sup> With little to no evidence, he could be blamed for almost any crime. A nervous digger requesting government protection assumed it was Douglas who took a dish of his tailings. A man on trial for sly grog selling declared that he committed the crime because ‘he lived in a state of excitement, fearing his life to be in danger from Black Douglas.’<sup>95</sup> When miners heard of murder, or tales of unfortunate travellers robbed of their possessions, stripped of their clothes, tied to trees and attacked by ferocious ants, they were warned to be watchful, aware and ready to defend their person and property.<sup>96</sup> Through repeated telling, these stories ensured that Black Douglas was as “familiar in...[miners’] ears as household words” and while this terrorised many, it also shifted attention away from the fact that most criminals on the goldfields were white.<sup>97</sup>

Tales of Black Douglas also countered the image of Aboriginal officers as upstanding agents of the law. Newspapers from the time never referenced Black Douglas’ actual race or origin, and this allowed him to represent the perceived inferiority of all black men. For centuries, black had been associated with evil and villainy, and in the nineteenth century these ideas were further legitimised by supposedly ‘objective’ science. Both stereotypes and scientific ideas placed black people at the bottom of the racial hierarchy, and so Black Douglas’ depredations aligned nicely with white

---

<sup>94</sup> ‘Maryborough Diggings’, *Age* (14 May 1855), p. 6.

<sup>95</sup> ‘Alma Diggings’, *Age* (11 April 1855), p. 7; ‘Castlemaine’, *Sydney Morning Herald* (21 April 1855), p. 3.

<sup>96</sup> See for example ‘Capture of “Black Douglas” and his gang by Diggers’, *Geelong Adviser* (18 May 1855), p. 2 (The *Geelong Advertiser* took its story from the *Mount Alexander Mail*); ‘Victoria’, *Courier* (23 May 1855), p. 3; ‘Colonial News: Victoria’, *Maitland Mercury* (26 May 1855), p. 1; Smit, ‘Australia’s Most Notorious Bushrangers’.

<sup>97</sup> ‘Impromptu Law at Maryborough’, *Argus* (14 June 1855), p. 4.

understandings.<sup>98</sup> In stories about Douglas, a black man was the criminal while white miners were valiantly protecting the community. In this way, these tales restored white miners' ideas about racial order and accommodated their sense of superiority: they allowed white diggers to make sense of their place in the world once more.

Despite the 'scientific' and cultural resonance of blackness at this time, it is peculiar that Douglas was known by his skin colour alone. Goldmining communities in fact made specific racial distinctions.<sup>99</sup> They knew the difference between African Americans, Māori and Aboriginal people.<sup>100</sup> In 1852 newspapers reported that 'Black Douglas and an African black' had been arrested, giving a racial designation to one man but not the other.<sup>101</sup> This was clearly a deliberate act that enhanced Douglas' symbolic potential, as he could represent the apparent 'fiendishness' of all black men. But the all-encompassing nature of blackness also obscured issues that might arise if miners focussed on a specific racial group. If Douglas was depicted as an Aboriginal man, for example, he may have reminded miners of their anxieties about Aboriginal people on the goldfields instead of merely representing their supposedly criminal nature.

Alongside policing and goldmining, some Aboriginal people declared their sovereignty over the land and made claims to rights and recognition, much to the

---

<sup>98</sup> Alan Lester, 'Settler Colonialism, George Grey and the Politics of Ethnography', *Environment and Planning D: Society and Space* vol. 34, no. 3 (2016), pp. 495-496; David Livingstone, *Adam's Ancestors: race, religion and the politics of human origin* (Baltimore: John Hopkins University Press, 2008); Russell McGregor, *Imagined Destinies: Aboriginal Australians and the Doomed Race Theory 1880-1939* (Melbourne: Melbourne University Press, 1997), pp. 1-21.

<sup>99</sup> Lloyd Carpenter, 'Finding "Te Wherō in Otakou": Otago Māori and the gold rush' in Lloyd Carpenter and Lyndon Fraser (eds.), *Rushing for Gold: life and commerce on the goldfields of New Zealand and Australia* (Dunedin: Otago University Press, 2016), pp. 90-91.

<sup>100</sup> *ibid.* See also, Cahir, *Black Gold*.

<sup>101</sup> 'Forest Creek', *Argus* (4 March 1852), p. 2. See also 'Victoria', *Launceston Examiner* (13 March 1852), p. 4.

discomfort of the white community.<sup>102</sup> When mounted police asked a group of Aboriginal people to show their miner's licences at Forest Creek in 1852, for example, they apparently replied that "the land was theirs by right so why should they pay money to the Queen?"<sup>103</sup> In other instances, Aboriginal people requested goods, food or equipment as recompense for the miners' use of their land, and tried to teach goldfields migrants the laws of reciprocity that governed their communities.<sup>104</sup> Welsh swagman Joseph Jenkins was one such recipient of this education. In his reminiscences, he noted that a Djadjawurrung man complained to him that, 'when a native discovers a [bee] hive, he invites the neighbours to partake of the honey, but when a white Christian discovers it, he keeps the produce for himself.'<sup>105</sup> In Aboriginal groups, members had a responsibility to share their possessions and wealth among their kin, and some clearly believed that migrants had the same obligations.

Although Aboriginal people's assertions of their customs and rights might have begun as an attempt to educate newcomers, as the Gold Rush went on, they were increasingly made out of necessity. As diggers pushed deeper into Aboriginal country, it became harder for Aboriginal people to live off the land alone. Their foodstuffs were either destroyed by the creation of the goldfields or else appropriated by the miners, while their waterholes were muddied or dredged by the diggers.<sup>106</sup> This was not a veiled

---

<sup>102</sup> For examples of Aboriginal people mining for gold see Cahir, *Black Gold*, pp. 22-28; 'Aboriginal Fossickers', *Mount Alexander Mail* (21 March 1862), p. 4.

<sup>103</sup> Robyn Annear, *Nothing But Gold: the diggers of 1852* (Melbourne: Text Publishing, 1999), p. 289; Cahir and Clark, "why should they pay money to the Queen?", p. 123; Cahir, *Black Gold*, p. 86.

<sup>104</sup> Cahir and Clark, "why should they pay money to the Queen?", pp. 115-128.

<sup>105</sup> Joseph Jenkins with William Evans (ed.), *Diary of a Welsh Swagman, 1869-1898* (Melbourne: Macmillan, 1975), p. 38; Cahir and Clark, "why should they pay money to the Queen?", p. 125.

<sup>106</sup> For the environmental impact of goldmining see, Barry McGowan, 'Mullock Heaps and Tailing Mounds: environmental effects of alluvial goldmining' in Iain McCalman, Alexander Cook and Andrew Rees (eds.), *Gold: forgotten histories and lost objects of Australia* (Cambridge: Cambridge University

issue, as the report of the 1859 Select Committee into Victoria's Aboriginal population attests. The Committee declared that when the government took from Aboriginal people 'their hunting grounds and their means of living, proper provision should have been made for them.' To not have done so was 'a great injustice.'<sup>107</sup> Although a small portion of the goldmining population appear to have been concerned about Aboriginal people, there was official recognition that the rapid advancement of the Gold Rush necessitated the rapid dispossession of Aboriginal people. And that the effect of this on the Aboriginal population was often devastating.

Aboriginal people's vocal declarations of their sovereignty as well as their attempts to educate miners of customary law unsettled not only the mining community's sense of entitlement to the land but interrupted their exclusive use of the goldfields. In extreme cases, Aboriginal people used violence to ensure that their customary and material needs were met. George Robins described how an Aboriginal man threatened to shoot him if he did not give the man and his group supplies, while miner Abraham Abrahamsohn barely escaped with his life after evading payback for assaulting an Aboriginal man.<sup>108</sup> The damage that colonisation wreaked upon Aboriginal communities also undermined some of the key ideas behind British imperialism. In humanitarian thought, Britons were meant to be a benevolent and civilising force upon foreign lands

---

Press, 2001), pp. 85-100; Peter Davies, Susan Lawrence and Jodi Turnbull, 'Harvesting Water on a Victorian Goldfield', *Australasian Historical Archaeology* vol. 29 (2011), pp. 24-32.

<sup>107</sup> Victorian Legislative Council, *Report of the Select Committee on the Aborigines* (Melbourne: Government Printer, 1859), p. iv. Accessed 10 June 2019 via: <<https://digitised-collections.unimelb.edu.au/handle/11343/21346>>

<sup>108</sup> Cahir and Clark, "why should they pay money to the Queen?", p. 122; George Robins in *Records of the Castlemaine Pioneers* (Melbourne: Rigby Limited, 1972), p. 176-177; M. H. Kellerman, 'Interesting Account of the Travels of Abraham Abrahamsohn', *Australian Jewish Historical Society* vol. 7 (1974), pp. 488-489.

as this justified their colonisation of these territories.<sup>109</sup> It could be argued that Aboriginal people posed the most extreme form of ‘racial disturbance’ to the goldfields, as they were both a ‘problem’ and a responsibility for the mining population and the settler colonial government. They were not migrants, as the land was theirs.

Had Black Douglas been portrayed as Aboriginal, tales about him might have been read against these issues. Stories about him could have articulated anxieties about Aboriginal people on the goldfields at the same time as remedying miners’ other concerns. Isolating Douglas from any specific racial group increased his symbolic utility to white miners. It allowed him to become an almost empty signifier, ready to be imbued with the meanings that diggers found most urgent and useful. By contrast to Aboriginal people, ‘Black Douglas’ was cast as an outsider instead of an internal threat. He apparently did not have a pre-existing connection or entitlement to the land and was an external menace who came to wreak havoc on the diggings.

### **A Representative Character?**

If we peel back these layers of colonial discourse, it becomes clear that Douglas was never the isolated figure that common depictions of him would have us believe. In many ways, his life was representative of the goldfields’ population and by examining

---

<sup>109</sup> Elizabeth Elbourne, ‘The Sin of the Settler: the 1835-36 Select Committee on Aborigines and debates over virtue and conquest in the early nineteenth century British white settler Empire’, *Journal of Colonialism and Colonial History* vol. 4, no. 3 (2003); Barbara Arneil, *John Locke and America: the defence of English colonialism* (Oxford: Oxford University Press, 1996); Elizabeth Elbourne, ‘Domesticity and Dispossession: British ideologies of “home” and the “primitive” at work in the early nineteenth-century Cape’ in Wendy Woodward, Patricia Hayes and Gary Minkley (eds.), *Deep histories: gender and colonialism in Southern Africa* (Amsterdam: Rodopi, 2002), pp. 27-54; L.R. Hiatt, *Arguments About Aborigines: Australia and the evolution of social anthropology* (Cambridge: Cambridge University Press, 1996), pp. 13–35.



these connections, we can see the lengths that the white mining population went to in order to create his villainous alter ego.

Ex-convicts from Van Diemen's Land were some of the first to descend upon the goldfields, and they were frequently depicted as the diggings' criminal class.<sup>110</sup> It is fitting then, that Black Douglas was actually William Douglas, an ex-convict from Van Diemen's land.<sup>111</sup> He came to Victoria in 1851 as a steerage passenger on board the *City of Melbourne* steamer and was one of 2,437 men to enter the colony from Van Diemen's Land that year.<sup>112</sup> It is very likely that Douglas' 'gang' was composed of ex-convict men. From the ships' register for the *City of Melbourne* for example, we know that of the 90 men and women who sailed with Douglas, 53 passengers, or 59 per cent, had been convicts themselves.<sup>113</sup> Black Douglas was clearly part of a larger social group of ex-convicts and might have been condemned as such, had goldfields' communities ever attempted to ascertain his origins. Besides making sense of Douglas' criminal pedigree, the possibility of longstanding convict connections might also help to explain his loyalty towards his criminal mates.

By the end of 1852 Douglas had already been arrested for offences on various goldfields. In one of the cases that year, Douglas came before the Supreme Court for assaulting a police officer. According to the *Argus*

---

<sup>110</sup> Serle, *Golden Age*, pp. 82, 126; Robert Haldane, *The People's Force: a history of the Victorian police* (Melbourne: Melbourne University Press, 1986), p. 19; Blainey, *A History of Victoria*, p. 40; A. G. L. Shaw, 'Violent Protest in Australian History', *Australian Historical Studies* vol. 15, no. 60 (1973), p. 553.

<sup>111</sup> TAHO: Convict Department (TA60); Conduct Registers of Male Convicts, CON35/1/1, p. 184.

<sup>112</sup> TAHO: George Town Police (TA1862); Returns of Crew and Passengers on Ships Departing from Launceston, POL220/1/1, p. 425; Victorian Legislative Council, *Return Respecting the Goldfields* (Melbourne: John Ferres, 1851), p. 7.

<sup>113</sup> TAHO: George Town Police (TA1862); Returns of Crew and Passengers on Ships Departing from Launceston, POL220/1/1, pp. 425-426.

Mr John Tucker, the Chief Constable at Kyneton, stated that on the 23<sup>rd</sup> of January a man named Fahey was given into his custody on a charge of stealing gold. He was on his way to the Watch House with Fahey when the prisoner Douglas came up to him, and seizing Fahey by the arm, said that witness would not take him to the Watch House. Douglas carried a short bludgeon, which he brandished in the face of the witness, and threatened to use it if Fahey was not released. Fahey then began to struggle and with the assistance of the prisoner contrived to effect his escape.<sup>114</sup>

In this instance, Douglas risked his life and freedom to liberate one of his associates and was later found guilty of assault for his efforts.<sup>115</sup> He could have saved Fahey to protect his own interests, or to prevent Fahey from informing on him, or divulging their criminal plans, but this seems unlikely. Assaulting a police officer was the most serious crime that Douglas was ever convicted of in Victoria and stands in stark contrast to the majority of low-scale offences that he committed.<sup>116</sup> The risk that Douglas might be implicated if Fahey passed information to the authorities was surely small compared to his risk of arrest for assaulting a police officer.

This episode can be best understood as Douglas acting to defend his mate and when seen in this light, his actions correspond with emergent Australian values. In the *Australian Legend*, Russel Ward argues that one of the characteristic traits of colonial Australians was their 'mateship'; the loyalty, friendship and support that they showed to their fellows. According to Ward the foundations of this tradition were forged among convicts and in the pastoral industry, but it also found expression on the goldfields. Mining practices usually demanded parties of two or more for success, while collective solidarity was also encouraged by diggers' resentment of miners' licences and the heavy-

---

<sup>114</sup> 'Assaulting a Constable', *Argus* (15 April 1852), p. 4. See also 'Supreme Court', *Geelong Advertiser* (16 April 1852), p. 2; 'Local', *Cornwall Chronicle* (21 April 1852), p. 252.

<sup>115</sup> *ibid.*

<sup>116</sup> Douglas was convicted most often for alcohol related offences. See note 124.

handed approach of the police.<sup>117</sup> Douglas' actions could have been understood against this emergent tradition, but they were not. As Douglas was a criminal and potent symbol of Gold Rush disorder, this possibility found no expression in colonial discourse. Nevertheless, it seems to have informed Douglas' actions. There appears to have been honour among thieves.

William Douglas also showed a keen awareness of manly behaviour and the law in the case of Fahey's liberation. The *Argus* reported that Douglas 'cross-examined Mr Tucker [the police constable] with great tact' and addressed the jury with his own closing remarks. His defence rested on turning attention from his criminal actions and back onto the arresting officer, as Douglas contended that 'he could not have rescued the prisoner from an armed constable except the latter was an arrant coward.' Through cross-examination, Douglas elicited from the constable that when the incident took place, the officer had a loaded revolver, but had never used it. Douglas engaged in legal advocacy while questioning the honour, integrity and ability of his opponent. He may have lost the case, but according to the *Argus* court reporter at least, it was not for want of trying.<sup>118</sup>

William Douglas' legal skill did not end there. At another trial for assault in August 1852, it is clear that Douglas both knew and invoked his rights before the law. When asked if he had any reason why the court should not sentence him according to the law, Douglas

---

<sup>117</sup> Ward, *Australian Legend*, pp. 17-19, 23. It should be noted that Ward's thesis has come under criticism and been supplemented over the years. However, his argument about the longevity of 'Australian' characteristics such as 'mateship' has never been completely overturned. For articles that critique and expand on Ward's approach, see Graeme Davison, 'Rethinking the Australian Legend', *Australian Historical Studies* vol. 43, no. 3 (2012), pp. 429-451; Waterhouse, 'Australian Legends', pp. 201-221; John Hirst, 'The Pioneer Legend', *Australian Historical Studies* vol. 18, no. 71 (1978), pp. 316-337.

<sup>118</sup> 'Assaulting a Constable', *Argus* (15 April 1852), p. 4.

...pleaded the long period he had been already in confinement, and the hardships he had undergone since his arrest. He had been kept without food, and chained to trees without sufficient shelter from the weather, and all this before he had been brought to trial, and...when, according to the law, he was to be considered innocent.<sup>119</sup>

One of the central tenets of British law, upon which the Victorian legal system was based, was the innocence of the accused until they were proven guilty.<sup>120</sup> Indeed, eighteenth century jurist William Blackstone famously commented that ‘the law holds that it is better that ten guilty persons escape than that one innocent suffer’, and although this maxim had its origins in the thirteenth century, by the nineteenth century it was clearly articulated in legal treatises on criminal law.<sup>121</sup> In this knowledge of the law, Douglas was not alone. David Neal has demonstrated how, from the very beginning of colonisation, convict men and women mobilised the law to achieve their own ends, and as Douglas illustrates, not all convicts who knew and used the law in the Australian colonies were white.<sup>122</sup> Legal knowledge could cut across race as white men and women were not the only ones who claimed the protection of the law.

---

<sup>119</sup> ‘Supreme Court’, *Argus* (22 April 1852), p. 4.

<sup>120</sup> Upon colonisation, settlers inherited ‘[a]ll laws and statutes in force within the realm of England...so far as the same can be applied within the...colonies’. Although this legal inheritance was largely assumed before 1828, it became formalised in the *Australian Courts Act*, 1828 (NSW), 9 Geo. IV, c. 83, section 24. Accessed 12 August 2017 via: <[http://www.legislation.act.gov.au/a/db\\_1785/19870112-2268/pdf/db\\_1785.pdf](http://www.legislation.act.gov.au/a/db_1785/19870112-2268/pdf/db_1785.pdf)>

<sup>121</sup> William Blackstone, *Commentaries on the Laws of England in Four Books* (Philadelphia: J.B. Lippincott Co., 1893), p. 359. Accessed 12 November 2018 via: <<https://oll.libertyfund.org/titles/blackstone-commentaries-on-the-laws-of-england-in-four-books-vol-2/simple>>; Kenneth Pennington, ‘Innocent Until Proven Guilty: the origins of a legal maxim’, *The Jurist* vol. 63 (2003), pp. 106-124.

<sup>122</sup> David Neal, *The Rule of Law in a Penal Colony: law and power in early NSW* (Cambridge: Cambridge University Press, 1991), pp. 1-60; Kristyn Harman, *Aboriginal Convicts: Australian, Khoisan and Maori exiles* (Sydney: New South Books, 2012); Ian Duffield, ‘The Life and Death of “Black” John Goff: aspects of the black convict contribution to resistance patterns during the transportation era in eastern Australia’, *Australian Journal of Politics* vol. 33, no. 1 (1987), pp. 30-44; Ian Duffield, ‘From Slave Colonies to Penal Colonies: the West Indian convict transportees to Australia’, *Slavery and Abolition* vol. 7, no. 1 (1986), pp. 25-45; Diana Paton, ‘An “Injurious” Population: Caribbean-Australian penal transportation and imperial racial politics’, *Cultural and Social History* vol. 5, no. 4 (2008), pp. 449-464; Cassandra Pybus, *Black*

In addition to these connections, Douglas experienced the same brutal treatment by police of which white miners so often complained. George Chislehurst wrote in 1855 of a strikingly similar incident. After being captured by the police for failing to produce his mining licence, Chislehurst was chained with a group of like offenders. There, he met a man who remarked that their situation was not as bad as it could be, for the last time that he had been taken by the authorities “twenty of us was chained to a gum-tree and the rain come down till we was almost drowned.”<sup>123</sup> Combined with Douglas’ place among the ex-convicts on the goldfields, evidence of ‘mateship’, and legal advocacy, these experiences place Douglas firmly within goldfields society. Distinctions between upstanding white miners and regular criminals blurred on the goldfields, rendering the real William Douglas an ambiguous Gold Rush figure.

If we put aside the crimes that Black Douglas was alleged to have committed and look instead to his criminal record, we can see that the man William Douglas was most often convicted for alcohol related offences on the Victorian goldfields. He was imprisoned for sly grog selling, and repeatedly apprehended for drunk and disorderly conduct.<sup>124</sup> In this, he was perhaps most typical of the goldfields’ population. According to contemporary writers and government reports, drunkenness on the goldfields was

---

*Founders: the unknown story of Australia’s first black settlers* (Sydney: UNSW Press, 2006); Cassandra Pybus, ‘Billy Blue: an African-American journey through empire in the long eighteenth century’, *Early American Studies* vol. 5, no. 2 (2007), pp. 252-287.

<sup>123</sup> George Chislehurst, ‘Selections from the Blunderbore Correspondence’, *Melbourne Punch* (2 August 1855), p. 50.

<sup>124</sup> ‘Local’, *Courier* (4 December 1852), p. 3; ‘Northern Circuit Assizes’, *Argus* (19 April 1853), p. 9; ‘Seymour’, *Argus* (28 June 1853), p. 5; ‘Domestic Intelligence’, *Argus* (8 July 1853), p. 5; ‘Black Douglas’, *Age* (14 November 1854), p. 5; ‘The Pentridge Stockade’, *Bendigo Advertiser* (20 February 1857), p. 2; ‘Black Douglas Out Again’, *Mount Alexander Mail* (20 February 1857), p. 5; ‘Mining Intelligence: Goulburn Diggings’, *Bendigo Advertiser* (4 April 1857), p. 2; ‘Black Douglas at Yachandaneah’, *Bendigo Advertiser* (23 June 1857), p. 3.

pervasive even though it was illegal to sell alcohol on diggings themselves. The Victorian government feared that with a mobile, predominately male population, freed from the grounding influences of regular society, alcohol would prove a major threat to order on the diggings. And they were right.<sup>125</sup> Charles Latrobe, the Governor of Victoria before Hotham took the office in 1854, believed that 'the illicit trade of spirits [was] the root of nine tenths of the crime and disorder on the diggings', and involvement in this trade was not confined to men or the criminal classes.<sup>126</sup> We have already seen how many women ran sly grog stores on the diggings, but some were also customers and drunkards themselves. Samuel Lazarus for example, remarked in his diary that drunkenness on the diggings was so ubiquitous that 'even women, feeling themselves relieved from the salutatory checks which society in civilized life lays on them, fall...'<sup>127</sup> Respectable people were equally susceptible to the lure of alcohol. In evidence put before the 1853 Select Committee on the Goldfields, for instance, E. N. Emmet declared that sly grog tents were also frequented by 'respectable persons...for men will have liquor and they are unable to get it except at these tents.'<sup>128</sup>

People continued to visit sly grog tents despite their illegality, their extortionate prices, and the harm that the government and temperance advocates believed these beverages caused to civilised society.<sup>129</sup> Spirits were the drink of the diggings. They could be transported more easily than beer and this meant that enterprising sly grog

---

<sup>125</sup> Serle, *Golden Age*, p. 82; Goodman, *Gold Seeking*, pp. 174-176.

<sup>126</sup> Serle, *Golden Age*, p. 82.

<sup>127</sup> Samuel Lazarus in Goodman, *Gold Seeking*, p. 174.

<sup>128</sup> Victorian Legislative Council, *Report of the Select Committee of the Legislative Council on the Gold Fields* (Melbourne: John Ferres, 1853), p. 4. Accessed 27 November 2018 via: <<https://www.parliament.vic.gov.au/vufind/Record/76583>>

<sup>129</sup> A. E. Dingle, "'A Truly Magnificent Thirst': an historical survey of Australian drinking habits", *Australian Historical Studies* vol. 19, no. 75 (1980), p. 238.

sellers could be as mobile as the miners themselves.<sup>130</sup> It was easier to get drunk on liquors such as these, with their high alcohol content, and many batches were adulterated to keep up with demand. This lethal combination of spirits and spiked concoctions ‘killed many, and made many more insane’.<sup>131</sup> In humanitarian and temperance circles, it was blamed for breaking up families and friendships, increasing crime and constituting a barrier to many miners accumulating wealth.<sup>132</sup> And so the question remains as to why drinking was so prevalent. When people on the diggings apparently witnessed their neighbours drinking themselves to death and destroying ‘in a few weeks the chance of placing himself [sic] in easy and happy circumstances for life...’ why did they seek out alcohol?<sup>133</sup>

A. E. Dingle offers us part of the picture. In his article, ‘A Truly Magnificent Thirst’, Dingle proposes that as ‘incomes were high and alternatives few’, miners sought alcohol on the goldfields.<sup>134</sup> This idea was not confined to Victoria alone, as the 1854 Select Committee into Intemperance in New South Wales contained similar opinion, that gold had ‘increased the wage so much’ that people were more likely to indulge in liquor.<sup>135</sup> Despite this correlation between Dingle’s idea about wages and contemporary sources, however, his suggestion that ‘alternatives [were] few’ deserves attention too. There were other ways that diggers spent their newfound wealth. Gambling was a

---

<sup>130</sup> *ibid.*, p. 235.

<sup>131</sup> Serle, *Golden Age*, p. 83.

<sup>132</sup> Anne O’Brien, *Philanthropy and Settler Colonialism* (Basingstoke: Palgrave Macmillan, 2015), p. 48.

<sup>133</sup> Samuel Lazarus in Goodman, *Gold Seeking*, p. 174.

<sup>134</sup> Dingle, “A Truly Magnificent Thirst”., p. 238.

<sup>135</sup> Matthew Allen, ‘The Temperance Shift: drunkenness, responsibility and the regulation of New South Wales’, PhD Thesis (University of Sydney, 2013), p. 233. For more on the 1854 Select Committee into Intemperance in NSW, see A. W. Martin, ‘Drink and Deviance in Sydney: investigating intemperance, 1854-5’, *Australian Historical Studies* vol. 17, no. 68 (1977), pp. 342-360.

particularly popular pastime, with prize-fights, card games and Chinese 'gambling dens' rife on the diggings.<sup>136</sup> Miners did not have to spend their money on liquor. A more convincing reason for diggers' consumption of alcohol can be found when we look at the environmental impact of the Gold Rush. Rivers and waterways were muddied and polluted by the miners, in many instances making the water contaminated and unsafe to drink.<sup>137</sup> Water was a precious commodity on the goldfields but it was predominately used, hoarded and traded to assist miners to find gold through practices such as sluicing, and not to satiate their thirst.<sup>138</sup> And so, despite temperance advocates' push for the goldfields' population to drink water, this was not a feasible suggestion or a top priority on many diggings.<sup>139</sup>

Attempts to limit or prohibit drinking and drunkenness were also hampered by the social meaning that many goldfields' communities gave to alcohol. As Matthew Allen writes of New South Wales, there was a sense among some of the colonial elite that the growing criminal problem of drunkenness was part of 'a wider British culture,

---

<sup>136</sup> Indeed, some commentators saw goldmining itself as a form of gambling. See Goodman, *Gold Seeking*, pp. 59, 190, 206. For gambling on the goldfields more generally, see Richard Waterhouse, *Private Pleasures, Public Leisure: a history of Australian popular culture since 1788* (Sydney: Longman, 1995), p. 39; Goodman, *Gold Seeking*, pp. 74; Geraldine Carrodus, *Gold, Gamblers and Sly Grog: life on the goldfields, 1851-1900* (Oxford: Oxford University Press, 1981); Keir Reeves, 'Goldfields Settler or Frontier Rogue?: the trial of James Acoy and the Chinese on the Mount Alexander Diggings', *Provenance: the journal of the public record office of Victoria* vol. 5 (2006); Tim Costello and Royce Millar, *Wanna Bet? Winners and losers in gambling's luck myth* (Sydney: Allen & Unwin, 2000), pp. 25-27.

<sup>137</sup> For the environmental impact of goldmining see McGowan, 'Mullock Heaps', pp. 85-100; Serle, *Golden Age*, p. 80. Even outside of the goldrush, water in colonial Australia was often unsafe to drink. See Ross Fitzgerald and Trevor L. Jordan, *Under the Influence: a history of alcohol in Australia* (Sydney: Harper Collins, 2009), pp. 65-66.

<sup>138</sup> McGowan, 'Mullock Heaps', pp. 85-100; Davies, Lawrence and Turnbull, 'Harvesting Water on a Victorian Goldfield', pp. 24-32. Chinese miners' excessive use of water was often cited as a reason for whites' animosity towards them. See for example Mae Ngai, 'Chinese Miners, Headmen and Protectors on the Victorian Goldfields, 1853-1863', *Australian Historical Studies* vol. 42, no. 1 (2011), p. 15; Peter Davies and Susan Lawrence, 'A "Mere Thread of Land": water races, gold mining and water law in colonial Victoria', *Journal of Australian Colonial History* vol. 16 (2014), p. 176.

<sup>139</sup> Goodman, *Gold Seeking*, p. 174.



in which intoxication was a subject of levity and drinking was regarded as healthy and normal.<sup>140</sup> For many, drinking alcohol was essential for hard work, and a part of sociability.<sup>141</sup> Few men drank alcohol alone. In the eighteenth century in particular, heavy drinking was associated with manliness across all classes, while the consumption of liquor was intertwined with almost all aspects of life. It was a way to seal a bargain, to solidify friendships, to celebrate success and drown out misfortune. Babies often had alcohol mixed in with some of their first meals, doctors prescribed it as medicine and families farewelled their loved ones by drinking to their memory.<sup>142</sup> Historian Roy Porter summed the situation up neatly when he remarked that ‘from cradle to grave, drink gratified and compensated.’<sup>143</sup> It was woven into the fabric of social interaction and community life.

The customs and rituals surrounding alcohol took on an even greater meaning in the context of the Gold Rush. In such a tumultuous time, some miners clung to the familiar as a way to anchor their lives.<sup>144</sup> Susan Lawrence’s archaeological studies have shown this in material terms, as remains from the Moorabool goldfields included cups and plates in a ‘multitude of patterns and colours’: the trappings of domesticity brought to maintain the outward signs of civilised life.<sup>145</sup> Drinking culture appears to have served

---

<sup>140</sup> Allen, ‘The Temperance Shift’, p. 237.

<sup>141</sup> Grace Karskens, *People of the River* (Sydney: Allen & Unwin, in press), chapter 11.

<sup>142</sup> Karskens, *People of the River*, chapter 11; Grace Karskens, *The Colony: a history of early Sydney* (Sydney: Allen & Unwin, 2009), pp. 126-127.

<sup>143</sup> Roy Porter, ‘The Drinking Man’s Disease: the “pre-history” of alcoholism in Georgian Britain’, *British Journal of Addiction* vol. 80 (1985), pp. 385-387. Quotation from page 386.

<sup>144</sup> See for example Robertson in *Records*, p. 45; Craig, *My Adventures*, pp. 38-53.

<sup>145</sup> It should be noted, however, that most archaeological work, including Lawrence’s, concentrates on subsistence goldfields that emerged after the goldrush was largely over. Susan Lawrence, ‘After the Gold Rush: material culture and settlement on Victoria’s central goldfields’ in Iain McCalman, Alexander Cook and Andrew Rees (eds.), *Gold: forgotten histories and lost objects of Australia* (Cambridge: Cambridge University Press, 2001), pp. 250-266, quotation from page 258; Susan Lawrence, *Dolly’s Creek: an archaeology of a Victorian goldfields’ community* (Melbourne: Melbourne University Press, 2000); Kate

a similar role, as it was a known mode of interaction, expression and performance in a rapidly changing landscape. Despite its illegality, storekeepers would often provide their customers with a glass of alcohol at the end of their transaction and it was rude to refuse.<sup>146</sup> E. N. Emmet was right when he declared that no matter the regulation 'men will have liquor.'<sup>147</sup> Indeed, many believed it to be their right to access the intoxicating beverage.

The language of freedom and liberty was increasingly used to speak about alcohol, as mining communities believed that the government was unfairly intervening in their lives when they curtailed their access to liquor.<sup>148</sup> This was not just the preserve of radicals. Serle has written that, in response to liquor laws, 'the majority of moderate men...objected to interference with their liberty.'<sup>149</sup> Resistance was exacerbated by the position of the police. As one man testified to the Select Committee in 1853, 'the present spirit law places a great number of persons outside the pale of the law' while another declared that '[t]he police have been engaged in looking after...grog shops, instead of protecting the people, so that at last they have come to be viewed as the oppressors of the people'.<sup>150</sup> As many of the goldfields' population frequented illegal sly grog tents, many were outside the law's protections and at the mercy of the police.<sup>151</sup> Indeed,

---

Quirk, 'The Colonial Goldfields: visions and revisions', *Australasian Historical Archaeology* vol. 26 (2008), pp. 13-20.

<sup>146</sup> Serle, *Golden Age*, p. 82.

<sup>147</sup> From the evidence of goldfields drinking culture, this should actually read 'men and women'. 'Select Committee on the Goldfields', p. 4.

<sup>148</sup> Matthew Allen, 'Australia and New Zealand' in Scott C. Martin (ed.), *The Sage Encyclopaedia of Alcohol: social, cultural and historical perspectives*, vol. 1 (Los Angeles: Sage Reference, 2015), pp. 195-196.

<sup>149</sup> Serle, *Golden Age*, p. 82.

<sup>150</sup> 'Select Committee on the Goldfields', pp. 43, 46.

<sup>151</sup> Unfortunately, as the liquor trade was officially illegal, we have no statistics on the men and women who frequented sly grog tents. The furore over these establishments, however, as well as the fact that they

another respondent declared that all manner of crime was hushed up at sly grog tents, as all patrons were acting illicitly by being there and had no wish to implicate themselves by reporting what they had witnessed.<sup>152</sup> This failure of the police to recognise the socially acceptable nature of drinking struck many as betrayal by the government as well as an oppressive curtailment of their freedom. Instead of protecting the community, the police were apparently there to undertake surveillance and control it.<sup>153</sup>

We are now back at those familiar grievances that miners levelled at the police—that the authorities failed to go after the ‘real’ criminals—but in this context, William Douglas was among the persecuted. His alcohol-related offences reflected the broader context of the diggings as well as the fact that alcohol was consumed by almost all manner of goldfields society. When drinking water was not an option, and the social meaning that alcohol held for digging communities was so great, it is easy to understand Douglas’ crimes. This wealth of evidence proves that the real William Douglas most often encountered the law for offences that were not deemed criminal by the majority of the goldfields’ population. And yet, in discourse, he was cast beyond the pale of goldfields’ society.

---

are frequently referenced in petitions to the authorities, newspapers, government reports, diggers’ letters and reminiscences support the idea that drinking alcohol was rife on the Victorian goldfields.

<sup>152</sup> ‘Select Committee on the Goldfields’, p. 21.

<sup>153</sup> Debates about state surveillance and drinking were also afoot in the UK at this time. See James Kneale, “‘A Problem of Supervision’: moral geographies of the nineteenth century British public house’, *Journal of Historical Geography* vol. 25, no. 3 (1999), pp. 333-348.

## Conclusion

All of this indicates that William Douglas, the drunken yet legally astute ex-convict who had a way with words and an awareness of the values of honour and mateship, was not a lone figure, cut adrift from the goldfields' population. Instead, he was intimately a part of it, and more representative of the mining population than stories about him allow. This is something Douglas himself appears to have concluded. In 1853, '[t]he somewhat celebrated Black Douglas' was arrested for drunkenness, but he did not go quietly. At his hearing, he 'complained that the police were always pouncing on him and that he had a bad reputation without a cause.' Although he was eventually discharged, the mayor (serving as magistrate) did not let Douglas go without reminding him of the old English proverb 'Give a dog an ill name and hang him', signalling that Douglas' 'plight [wa]s hopeless once his reputation ha[d] been blackened.'<sup>154</sup> It did not matter that Douglas did not commit the heinous crimes that he was accused of or that in many ways, he was a representative figure of the goldfields population as a whole. He had a bad name, and that proved his undoing, and until now, his sole legacy.

Black Douglas died in relative obscurity in Bendigo Gaol in 1892.<sup>155</sup> He died of 'old age and senile debility' under the pseudonym Charles Russell. This was by no means the only false name that William Douglas assumed in his 75 years.<sup>156</sup> While

---

<sup>154</sup> 'Domestic Intelligence', *Argus* (8 July 1853), p. 5; 'Give a Dog a Bad Name and Hang Him', Oxford Reference Online (taken from the *Oxford Dictionary of Proverbs*, 2009). Accessed 27 November 2018 via: <<http://www.oxfordreference.com/view/10.1093/acref/9780199539536.001.0001/acref-9780199539536-e-574>>

<sup>155</sup> Death: Charles Russell, Register of Births, Deaths and Marriages (RBDM) 1892/5199; PROV, VA 2889 Registrar-General's Department, VPRS 24/P0001 Inquests into Deaths (deposition files, 1840-1985), Unit 596, 1892.

<sup>156</sup> *ibid.* Apart from the names William Douglas and Black Douglas, Douglas also went by Alexander Douglas, Charles Douglas and Charles Russell. PROV, VA 1464 Penal and Gaols Branch, Chief Secretary's Department, VPRS 515/P0001 Central Register of Male Prisoners, Unit 4, 1855, page 352; PROV, VA

obituaries noted that he had once been the ‘notorious bushranger Black Douglass [sic]’, they were riddled with inaccuracies and untruths.<sup>157</sup> Since his goldfield days, Douglas was constantly in and out of gaol for vagrancy and drunk and disorderly conduct. He lived his life in prison, on the streets, in the pub, or in benevolent institutions.<sup>158</sup> This seems a marked contrast to the infamous figure of the Victorian goldfields. Once the Gold Rush was over, there was no need to spread tales of Douglas’ misdeeds: the needs and desires that these stories fulfilled were no longer present. Black Douglas featured in Gold Rush reminiscences, but once his discursive utility was over, no one cared about the man that this discourse was tethered to.<sup>159</sup>

---

1464 Penal and Gaols Branch, Chief Secretary’s Department, VPRS 515/P0001 Central Register of Male Prisoners, Unit 38, 1886, page 237; PROV, VA 1464 Penal and Gaols Branch, Chief Secretary’s Department, VPRS 515/P0001 Central Register of Male Prisoners, Unit 44, 1891, page 318; Death: Charles Russell, Register of Births, Deaths and Marriages (RBDM) 1892/5199; PROV, VA 2889 Registrar-General’s Department, VPRS 24/P0001 Inquests into Deaths (deposition files, 1840-1985), Unit 596, 1892.

<sup>157</sup> ‘The End of “Black Douglass”, the bushranger’, *Bendigo Advertiser* (17 May 1892), p. 3.

<sup>158</sup> *ibid.*; ‘Death of a Notorious Bushrangers’, *Age* (17 May 1892), p. 6; ‘Death of a Notorious Bushranger’, *Sydney Morning Herald* (17 May 1892), p. 5; PROV, VA 1464 Penal and Gaols Branch, Chief Secretary’s Department, VPRS 515/P0001 Central Register of Male Prisoners, Unit 44, 1891, page 318; Death: Charles Russell, Register of Births, Deaths and Marriages (RBDM) 1892/5199; PROV, VA 2889 Registrar-General’s Department, VPRS 24/P0001 Inquests into Deaths (deposition files, 1840-1985), Unit 596, 1892.

<sup>159</sup> Black Douglas story is not an ‘urban’ or ‘modern’ legend. These terms describe a specific, fabricated narrative that ‘deal[s] with familiar, everyday matters’. The term itself was created in the 1940s to refer to twentieth century folklore that circulated in urban contexts (see Jan Harold Brunvand, *Encyclopedia of Urban Legends* (Santa Barbara, Calif.: ABC-CLIO, 2001), pp. xxv-xxxiii). None of these traits are present in the case of Douglas. It would be anachronistic to apply this term to Douglas’ history when it deals with modern phenomena from the twentieth century onwards, stories about him do not describe everyday occurrences, but rather exceptional events that were worthy of note, and there is no specific narrative structure, with a beginning, middle and end that characterises reports about him. He is a symbol and a metonym for goldfields disorder. He was used in various contexts for various purposes. There is no narrative arc or story that determined how he was referenced. Therefore, this is not an appropriate framework for understanding this chapter.

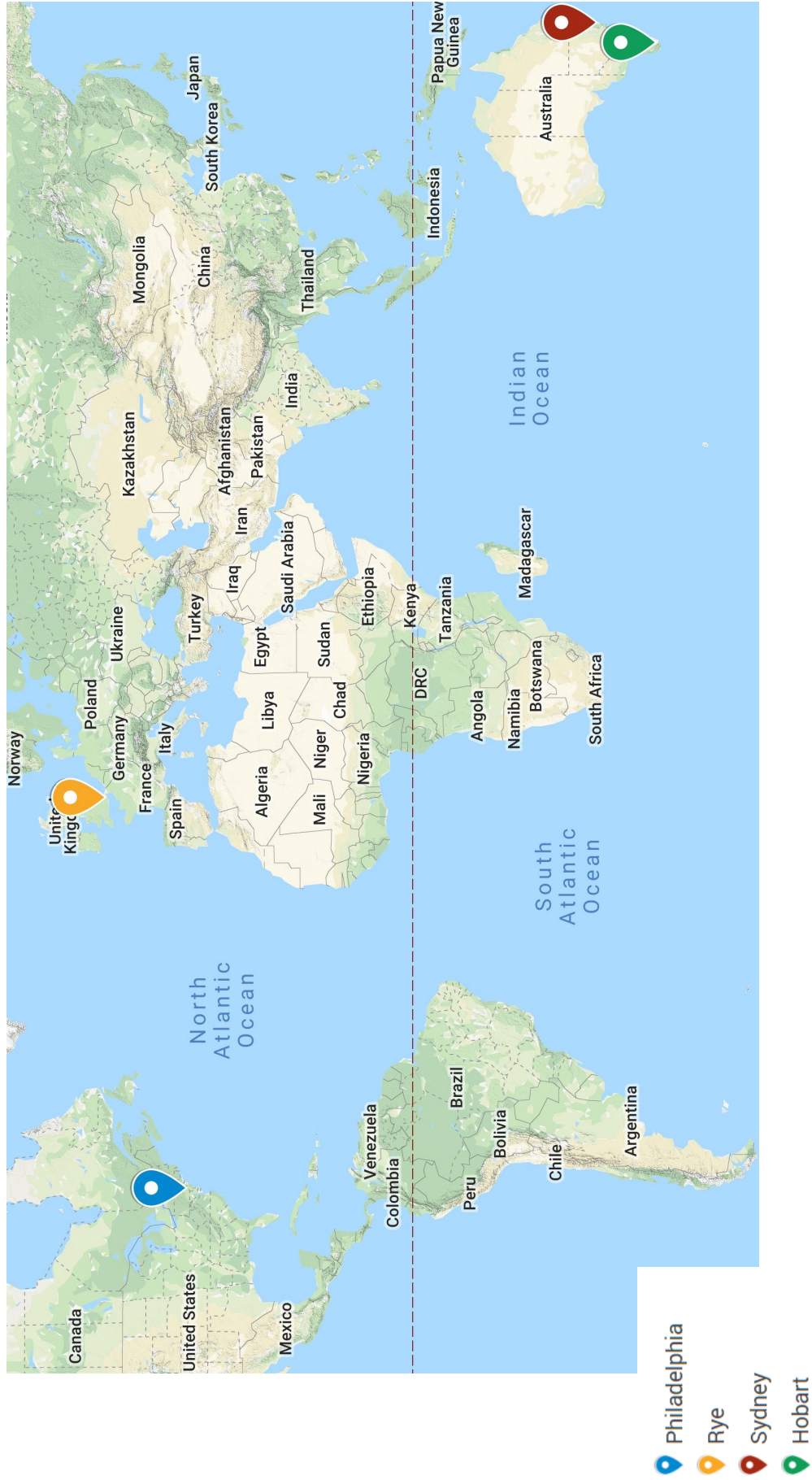
Rumour is also an inappropriate framework for this chapter. Anjan Ghost describes rumour as ‘anonymously authored speech which conveys the collective will of a section of people, often contrary to dominant discourses’ (Anjan Ghosh, ‘The Role of Rumour in History Writing’, *History Compass* vol. 6, no. 5 (2008), pp. 1235-1236). The narratives about Black Douglas were not anonymously authored. We have very specific evidence from authorities, and people who claimed to have seen Douglas, however, by using other evidence, I questioned these narratives’ validity. Narratives about Black Douglas were not solely oral but included newspaper articles and official sources like court documents. Moreover, narratives about Douglas were used to shore up the power of dominant colonial narratives, rather than convey the

We need not leave Douglas' story here, largely wedded to the desires and prejudices of colonial Australians. The next chapter addresses the lack of interest in William Douglas, the man. It will take us further back in time, to William Douglas' birth and origins, to look at the man behind the 'terror of the goldfields' and flesh out his life before he entered the realm of myth. Only then can we begin to address the inadequacies of the colonial archive and anchor the creation of Victoria's most fearsome bushranger in the reality of Douglas' experience.

---

'collective will of a section of people.' Central tenets of what constitutes a rumour are not present in Douglas' case, and therefore the historiography of rumour is not relevant for discussion in the chapter.

## Places of Note in Chapter 2



## Chapter 2

### The Life and Times of William Douglas

On the 5<sup>th</sup> of July 1835, 320 convicts on board the *Marquis of Huntly* reached Sydney Cove after 100 days at sea.<sup>1</sup> Although this voyage from England to Port Jackson was short by nineteenth century standards, the prisoners had nevertheless spent over three months in undesirable conditions.<sup>2</sup> The *Marquis of Huntly* was by far the oldest ship to reach the colony of New South Wales that year, having been constructed over three decades previously.<sup>3</sup> Although the ships' surgeon recorded only one fatality, there were many cases of general illness and debility among the convicts on board.<sup>4</sup> This, combined with the absence of female company (as the ship was only transporting male convicts) and the changeable nature of the sea must have made many convicts eager to leave the vessel.<sup>5</sup> However, there was to be no immediate transition from sea to land. Before they were permitted to leave the ship, each convict had to endure a thorough interrogation by a colonial clerk.

The government required that a detailed description, known as a 'convict indent', be taken of every prisoner upon entry to the new colony. Twenty-four to forty-

---

<sup>1</sup> Charles Bateson, *The Convict Ships, 1787-1868* (Glasgow: Brown, Son & Ferguson Ltd., 1959), pp. 302-303; NSW State Archives (NSWSA): Secretary to the Governor; NRS 1155, *Musters and Papers Relating to Convict Ships, 1812-1840* [2/8269], reel 2425, p. 285.

<sup>2</sup> *ibid.* See also Bateson, *The Convict Ships*, p. 214. Although the ships' surgeon remarked that there was only one fatality, there were a large numbers of cases of general illness and debility. See: The National Archives of the United Kingdom (TNA), ADM 101/50/10.

<sup>3</sup> Bateson, *The Convict Ships*, p. 302.

<sup>4</sup> TNA, ADM 101/50/10.

<sup>5</sup> There were no female convicts on this ship. See: Bateson, *The Convict Ships*, p. 334; NSWSA: Superintendent of Convicts; NRS 12188, *Convict Administration, Indents, 1830-42*, [4/4019], reel 906.



eight hours after a ship's arrival, the clerk and the Principal Superintendent of Prisoners would finally have ascended the vessel, and the clerk was then tasked with recording the intimate details of every criminal soul on board. The convicts were questioned on a range of topics including their previous occupation, place of birth, religion, literacy, crimes and sentence but their answers were not the only information that was recorded.<sup>6</sup> Convict registers were already partially filled by the time that convicts were confronted by government clerks and because of this, the Lieutenant-Governor of Van Diemen's Land, at least, believed that the convicts gave a true account of themselves.<sup>7</sup> To the 1837 Select Committee on Transportation, George Arthur declared that

The man [convict] perceives at once that the officer who is examining him does know something of his history; and not being quite conscious how much of it is known, he reveals, I should think, generally a very fair statement of his past life, apprehensive of being detected in stating what is untrue.<sup>8</sup>

After this interrogation came the physical examination. While we do not have a description of how this process operated in Australia, Hamish Maxwell-Stewart and James Bradley refer to a Canadian source for a sense of colonial procedure. According to a convict named William Gunn

We were...stripped of our clothing, and a minute description of every scar, blemish or mole on our persons, placed on record. There was another officer who eyed us most searchingly, and who also put on record a faithful description of our features, the color [sic] of our hair...eyes...nose, ears, chin, mouth &c., together with our height...<sup>9</sup>

---

<sup>6</sup> NSWSA, NRS 12188 [4/4019], reel 906.

<sup>7</sup> Deborah Oxley, 'Convict Indents', Digital Panopticon. Accessed 26 January 2018 via: <[https://www.digitalpanopticon.org/Convict\\_Indents\\_\(Ship\\_and\\_Arrival\\_Registers\)\\_1788-1868](https://www.digitalpanopticon.org/Convict_Indents_(Ship_and_Arrival_Registers)_1788-1868)>

<sup>8</sup> British House of Commons, 'Report from the Select Committee on Transportation together with minutes of evidence, appendix and index', *Parliamentary Papers* 1837 (518) XIX, p. 282.

<sup>9</sup> William Gunn in Hamish Maxwell-Stewart and James Bradley, 'Embodied Explorations: investigating convict tattoos and the transportation system' in Ian Duffield and James Bradley (eds.), *Representing Convicts: new perspectives on convict forced labour migration* (London: Leicester University Press, 1997), p. 191.

In July 1835, the passengers on board the *Marquis of Huntly* endured a similar examination, and it is lucky for us that they did. For among the 320 convicts to make it to New South Wales on this voyage was William Douglas, the man who would become 'Black Douglas', the terror of the Victorian goldfields. Douglas' convict indent from 1835 is the most detailed source on his life that remains. From this information, we know that he was sentenced at the Rye Quarter Sessions in England to seven years' transportation for larceny.<sup>10</sup> The register describes an 18-year-old of 5ft 8in in height, with curly brown hair and brown eyes. His complexion was 'mulatto' though he was not so dark that freckles could not be seen on his skin. His nose was broad, and his breast covered in numerous scars. William Douglas was a Protestant originally from Philadelphia, USA who could read and write, was single and marked by several tattoos. He had a half moon and three dots on his lower left arm and an anchor etched onto the back of his left hand.<sup>11</sup> This description of Douglas is worlds apart from depictions of him in the previous chapter.<sup>12</sup> In the Gold Rush material, Douglas appeared to be a black, shadowy figure as

---

<sup>10</sup> TNA, HO8/43, p 81; TNA, HO27/50, p 352; East Sussex Records Office (ESRO), Criminal Indictments, RYE 8/134.

<sup>11</sup> NSWSA, NRS 12188 [4/4019], reel 906.

<sup>12</sup> For the problems with viewing convict indents as accurate historical sources, see Kirsten McKenzie, *Imperial Underworld: an escaped convict and the transformation of the British colonial order* (Cambridge: Cambridge University Press, 2016), pp. 262-263; Clare Anderson, *Legible Bodies: race, criminality and colonialism in South Asia* (Oxford: Berg, 2004), p. 3; Deborah Oxley, *Convict Maids: the forced migration of women to Australia* (Cambridge: Cambridge University Press, 1996), p. 26.

There are slight discrepancies in physical descriptions of Douglas. In different sources, Douglas is described as an inch and a half taller in height. Douglas' convict indent (1835) refers to him as 5ft 8in, while all other sources (bar one, from 1891) describe him as 5ft 9½in. Given that he was only eighteen on entering NSW, Douglas could have still been growing. The only reference to his freckles comes from the convict indent, and his tattoos are not always described consistently. By the time that Douglas was tried in Carisbrook, Victoria in 1855, the anchor on his hand was replaced by a sunflower. The subjectivity of clerk's descriptions, and the poor quality of nineteenth century tattooing certainly influenced our record of convicts' appearances.

we had no indication of his physical appearance apart from the colour of his skin. The William Douglas of this 1830s indent is vividly described and although this helps us to picture him as an individual, this source was not intended to humanise him.

Convict indents provide more information on working-class people than almost any other source in the world but the reason for this was far from benign.<sup>13</sup> From the 1820s, British officials envisaged New South Wales as a colony that would be built on convict labour, but convict men and women often had other plans.<sup>14</sup> Despite the new environment, many frequently left settlements and pastoral runs to take their chances in the bush. The longer the colonisers remained in the colony, the more information about the contours of the landscape as well as its flora and fauna grew, and the more

---

NSWSA, NRS 12188 [4/4019], reel 906; Tasmanian Archives (TAHO): Convict Department (TA60); Conduct Registers of Male Convicts, CON35/1/1, p. 184; Public Record Office of Victoria (PROV), VA 475 Chief Secretary's Department, VPRS 515/P0001 Central Register of Male Prisoners; Alexander Douglas, Unit 4, 1855, p. 352; PROV, VA 1464 Penal and Gaols Branch, Chief Secretary's Department, VPRS 515/P0001 Central Register of Male Prisoners; Charles Douglas, Unit 38, 1886 and 1888, p. 237; PROV, VA 1464 Penal and Gaols Branch, Chief Secretary's Department, VPRS 515/P0001 Central Register of Male Prisoners; Charles Russell, Unit 44, 1892, p. 318.

However, the critical aspects of Douglas' story remain the same. All criminal sources, from 1835 to 1842 refer to Douglas as Philadelphian. Although later evidence from when Douglas was free (and used several aliases), describe him as a Bostonian, a Londoner and English, the most consistent, official representation is of Douglas as a Philadelphian. All sources bar one cite Douglas' birth year as either 1816 or 1817, so his age is almost consistent throughout.

NSWSA, NRS 12188 [4/4019], reel 906; TAHO, CON35/1/1, page 184; PROV, VPRS 515/P1, Unit 4, 1855/352; PROV, VPRS 515/P1, Unit 38, 1886-88/237; PROV, VPRS 515/P1, Unit 44, 1891/318.

This interpretation of Douglas' origin is also supported statistically, as 33.3 per cent of all black men transported to the Australian colonies from Britain between 1812 and 1852 were born in North America. Of these African Americans, 12 per cent were like Douglas and born in Philadelphia. Ian Duffield, 'Skilled Workers or Marginalised Poor? The African population of the United Kingdom, 1812-52', *Immigrants and Minorities* vol. 12, no. 3 (1993), p. 67. For the exceptional source that cites Douglas as 10 years older than his actual age, see TNA, HO27/50, p 352.

<sup>12</sup> TNA HO8/43, p. 81; NSWSA, NRS 12188 [4/4019], reel 906; TAHO, CON35/1/1, page 184; PROV, VPRS 515/P1, Unit 4, 1855/352; PROV, VPRS 515/P1, Unit 38, 1886-88/237; PROV, VPRS 515/P1, Unit 44, 1891/318.

<sup>13</sup> Hamish Maxwell-Stewart, 'The Search for the Convict Voice', *Tasmanian Historical Studies* vol. 6, no. 1 (1998), p. 76; Maxwell-Stewart and Bradley, 'Embodied Explorations', p. 184.

<sup>14</sup> Prior to the 1820s, New South Wales was intended for the convicts themselves. See pages 121-122 for more information.

emboldened convicts were to embrace the bushland that was meant to contain them.<sup>15</sup>

As we have seen, some of these escapees were the first ‘bushrangers’ as many turned to theft to survive.<sup>16</sup> Such convicts needed to be caught, and so these indents served as a ‘written mugshot’ to identify absconding prisoners and bring them back under official control.<sup>17</sup>

Convict indents are embedded with colonial ideas about crime and punishment, but they can also be read ‘against the grain’: they can be repurposed and recontextualised to examine Douglas’ life on its own terms and restore his position as an active participant in history.<sup>18</sup> Convict indents provide invaluable, personal details that can then be interrogated and explained with reference to larger historical trends. In this chapter I move between the specifics of Douglas’ life and the broader context in which he lived. When I am unsure which path Douglas travelled, I signpost both. And when I

---

<sup>15</sup> Grace Karskens, *The Colony: a history of early Sydney* (Sydney: Allen & Unwin, 2009); Grace Karskens, “‘This Spirit of Emigration’: the nature and meanings of escape in early New South Wales”, *Journal of Australian Colonial History* vol. 7 (2005), pp. 1-34; Alan Atkinson, ‘Pioneers who left early’, *The Push* no. 29 (1991), pp. 110-116; Clare Anderson, ‘Multiple Border Crossings: “convicts and other persons escaped from Botany Bay and residing in Calcutta”’, *Journal of Australian Colonial History* vol. 3, no. 2 (2001), pp. 1-22.

<sup>16</sup> ‘Bushranger, (n.)’, Australian National Dictionary Online. Accessed 26 February 2018 via: <<http://www.australiannationaldictionary.com/oupnewindex.php>>

<sup>17</sup> Oxley, *Convict Maids*, p. 21; Deborah Oxley, ‘Peopling the Pacific with Prisoners: the transportation of women to Australia’ in Katarina Ferro and Margot Wallner (eds.), *Migration Happens: reasons, effects and opportunities of migration in the South Pacific* (London: Transaction Publishers, 2005), p. 174; Hilary Golder, *Politics, Patronage and Public Works: the administration of New South Wales* vol. 1, 1842-1900 (Sydney: UNSW Press, 2005), p. 39; Oxley, *Convict Indents*.

<sup>18</sup> Ann Laura Stoler, *Along the Archival Grain: epistemic uncertainties and colonial common sense* (Princeton: Princeton University Press, 2010); Maxwell-Stewart, ‘The Search for the Convict Voice’, pp. 75-89. See also Hamish Maxwell-Stewart and Lucy Frost (eds.), *Chain Letters: narrating convict lives* (Melbourne: Melbourne University Press, 2001); Maxwell-Stewart and Bradley, ‘Embodied Explorations’, pp. 187-203.

am struck by an absence of individual detail, I engage with prosopography to show the milieu of which Douglas was a part.<sup>19</sup>

This chapter is composed of chronological, place-based vignettes of William Douglas' life. It moves from Philadelphia, USA, to life at sea, to Rye in England, and then to New South Wales and Van Diemen's Land in Australia. The transnational nature of Douglas' experiences mean that this chapter interrogates such seemingly disparate areas as the legacies of slavery, convict regulation, bushranging and the local administration of justice. It examines how issues of race, discipline, labour and criminality changed over space as well as over time. This place-based approach allows me to undertake a deep, ethnographic analysis of Douglas' actions alongside the situations he encountered, and to gauge the extent to which Douglas was shaped by his context and his own choices. While William Douglas was variously defined by his race, skills, criminality and deviancy in colonial records, he also acted in unexpected ways and resisted attempts to curtail his freedom. William Douglas was not always successful in escaping colonial control, but he constantly pushed back against societal constraints, tested their boundaries and carved out opportunities for himself in relation to what he found. These opportunities and constraints changed according to his location.

While this chapter is grounded in specific places, it is not bound by them. Places do not exist in isolation. As scholars of Empire and the Age of Revolutions remind us, in the nineteenth century places were connected in vast and tangled webs of trade,

---

<sup>19</sup> Lawrence Stone, 'Prosopography', *Daedalus* vol. 100, no. 1 (1971), pp. 46-79; Clare Anderson, *Subaltern Lives: biographies of colonialism in the Indian Ocean World, 1790-1920* (Cambridge: Cambridge University Press, 2012).

commerce, ideology, culture, politics and people that traversed the globe.<sup>20</sup> Of necessity then, this chapter is also a history of mobility, connection and the cumulative nature of transnational experience. Although archives provide snapshots about Douglas at particular places and moments in time, his life was not lived in fragments. Douglas took experiences from one context to another: they provided layers to his life. He also bore physical marks of this past experience as his body was changed by specific encounters. By tracing Douglas' life, we not only gain insights about the man behind the 'Black Douglas' myth, but a unique vantage-point from which to view the interconnected world of which he was a part. William Douglas' choices *and* his circumstances influenced the course of his life. And the unique constellation of his experiences illustrates as much about the complexity of nineteenth-century colonial and imperial history, as it does about the man.

## **Eighteen Years: from birth to conviction**

### ***America***

According to his convict indent, William Douglas was born in 1817 in Philadelphia, Pennsylvania, thirty-four years after it became a part of the United States

---

<sup>20</sup> See for example Kate Fullagar and Mike McDonnell (eds.), *Facing Empire: Indigenous experiences in a revolutionary age* (Baltimore: John Hopkins University Press, 2018); David Lambert and Alan Lester (eds.), *Colonial Lives Across the British Empire: imperial careering in the long nineteenth century* (Cambridge: Cambridge University Press, 2006); Alan Lester and Zoë Laidlaw (eds.), *Indigenous Sites and Mobilities: connected struggles in the long nineteenth century* (London: Palgrave Macmillan, 2015); Tracey Banivanua Mar, *Decolonisation and the Pacific: Indigenous globalisation and the ends of Empire* (Cambridge: Cambridge University Press, 2016); Tony Ballantyne and Antoinette Burton (eds.), *Moving Subjects: gender, mobility and intimacy in an age of global empire* (Urbana, IL: University of Illinois Press, 2009).

of America.<sup>21</sup> There are no records to corroborate Douglas' birth or where he lived in Philadelphia, but this is not particularly unusual. Little evidence of this sort remains from the time, and children born to one white and one African parent were less likely to be recorded than their white peers. Until 1780, there were severe penalties for both parties if a white person married or 'fornicated' with a black person in Pennsylvania. A free black person could be indentured as a servant for seven years for 'fornication' and if they married a white, they could be sold into slavery. A white person could be fined up to £30 for marrying a 'Negro' or made a servant for seven years, while their children 'would be put out to service until they come to the age of 31.'<sup>22</sup> Although this law was repealed over thirty years before Douglas' birth, it still existed in living memory and there remained a social stigma surrounding 'mixed-race' unions. They were considered shameful to genteel observers and were more likely to be hushed up than broadcasted if one knew the couple intimately. This attitude towards 'mixed-race' couples and their offspring is reflected by their absence from the archival material that the white elite left behind.<sup>23</sup>

---

<sup>21</sup> NSWSA, NRS 12188 [4/4019], reel 906; Robert Middlekauff, *The Glorious Cause: the American Revolution, 1763-1789* (Oxford: Oxford University Press, 2007); Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge, Massachusetts: Belknap Press, 2017); John R. Alden, *A History of the American Revolution: Britain and the loss of the thirteen colonies* (London: Macdonald, 1969); Jack P. Greene (ed.), *The American Revolution: its character and limits* (New York: New York University Press, 1987).

<sup>22</sup> It is unclear whether this refers to children of previous relationships or solely the children of this union. *An Act for the Better Regulation of Negroes in this Province 1725-1726* (Pennsylvania) in James T. Mitchell and Henry Flanders (eds.), *The Statutes at Large of Pennsylvania from 1682-1801*, volume 4 (Philadelphia: Clarence M. Busch, 1897), pp. 62-63; Joel Williamson, *New People: miscegenation and mulattoes in the United States* (New York: The Free Press, 1980), p. 11; Edward Turner, *The Negro in Pennsylvania: slavery, servitude, freedom* (Washington: American Historical Association, 1911), pp. 29-31.

<sup>23</sup> *ibid.* See also for example Alison Duncan Hirsch, 'Uncovering the "Hidden History of Mestizo America" in Elizabeth Drinker's Diary': interracial relationships in late eighteenth century Philadelphia', *Pennsylvania History: a journal of mid-Atlantic studies* vol. 68, no. 4 (2001), pp. 483-506.

The America that William Douglas grew up in was marked by slavery. It would be another thirty years until the American Civil War brought about complete emancipation, and even though Pennsylvania was a state that supported abolition, its steps to curtail the slave trade were far from complete.<sup>24</sup> In 1780, Pennsylvania's *Gradual Abolition Act* (hereafter *GAA*) decreed

That all persons, as well Negroes and Mulattoes as others, who shall be born within this state from and after the passing of this act, shall not be deemed and considered as servants for life, or slaves; and that all servitude for life, or slavery of children, in consequence of the slavery of their mothers... shall be, and hereby is utterly taken away, extinguished and for ever abolished.<sup>25</sup>

However there were conditions upon this newfound freedom, and we can chart the intergenerational impact of slavery in Pennsylvania by examining how the *GAA* could have affected Douglas and his black family.<sup>26</sup> Free black people were still in the minority at this time, not only in Philadelphia but nationwide, and this means that Douglas probably had slave ancestry.<sup>27</sup> Any slave born prior to 1780 was exempt from

---

<sup>24</sup> James M. McPherson and James K. Hogue, *Ordeal by Fire: the Civil War and Reconstruction* (Boston: McGraw-Hill Higher Education, 2010); James M. McPherson, *The Battle Cry of Freedom: the Civil War era* (New York: Oxford University Press, 2011); Allan Nevins, *The War for the Union* (New York: Scribner, 1959-1971); Bruce Catton, *The Centennial History of the Civil War* (New York: Washington Square Press, 1967); James Oakes, *Freedom National: the destruction of slavery in the United States, 1861-1865* (New York: W. W. Norton and Company, 2013); Junius P. Rodriguez, *Slavery in the United States: a social, political and historical encyclopaedia* (Santa Barbara, California: ABC-CLIO, Inc., 2007), pp. 136-142.

<sup>25</sup> *An Act for the Gradual Abolition of Slavery 1780* (Pennsylvania). Accessed 12 February 2018 via: <[http://avalon.law.yale.edu/18th\\_century/pennst01.asp](http://avalon.law.yale.edu/18th_century/pennst01.asp)>

<sup>26</sup> This would often be the case for legislation that aimed to achieve emancipation. For example, the *Slavery Abolition Act 1833* (United Kingdom), 3 & 4 Will. IV, progressively freed slaves over a number of years. Most slaves had to undergo a period of 'apprenticeship' to their former masters before they were free and 1838 is generally considered the year that slavery was abolished in the British Empire. Kate Boehme, Peter Mitchell and Alan Lester, 'Reforming Everywhere and All at Once: transitioning to free labor across the British empire, 1837-1838', *Comparative Studies in Society and History* vol. 60, no. 3 (2018), pp. 688-718.

<sup>27</sup> *Gradual Abolition Act 1780* (Pennsylvania). Richard S. Newman, "'Lucky to be born in Pennsylvania': free soil, fugitive slaves, and the making of Pennsylvania's anti-slavery borderland", *Slavery and Abolition* vol. 32, no. 3, (2011), p. 414. Ira Berlin describes Philadelphia as 'the world capital of abolition'. Ira Berlin, 'Slavery, Freedom, and Philadelphia's Struggle for Brotherly Love, 1685 to 1861' in Richard Newman and



the GAA and, given the date of Douglas' birth, this means that if his black grandparents were slaves, they would have been unaffected by the Act and remained enslaved.<sup>28</sup> Another qualifying clause in the GAA is likely to have affected Douglas' black parent. According to the legislation, children born to slave mothers were forced to work for their masters until they were twenty-eight years old, effectively buying their freedom with twenty-eight years' worth of unpaid labour.<sup>29</sup> Douglas' age suggests that his black parent would have fallen into this category, and that he was one of the first generations of black people in Pennsylvania to have been born completely, legally, free from enforced labour, thanks to the GAA.

Slavery in Philadelphia was not just affected by legislation, but by the composition of labour in the city. Unlike their counterparts on the more famous plantations of the American south, most Philadelphian slave owners had only one or two men or women at their disposal, and this fundamentally changed aspects of the slave experience.<sup>30</sup> The slave trade had declined by 1773 in Philadelphia when a high duty tax was levied upon each person purchased.<sup>31</sup> Although slaves were useful in times of labour shortages, they were never the region's sole form of labour. Indentured, free

---

James Mueller (eds.), *Antislavery and Abolition in Philadelphia: emancipation and the long struggle for racial justice in the city of brotherly love* (Baton Rouge: Louisiana State University Press, 2011), p. 19.

<sup>28</sup> This was until 1847 and slavery was abolished in the state of Pennsylvania. *Gradual Abolition Act 1780* (Pennsylvania); Berlin, 'Slavery, Freedom', p. 24.

<sup>29</sup> *Gradual Abolition Act 1780* (Pennsylvania).

<sup>30</sup> James Gigantino, 'Slavery and the Slave Trade' in *The Encyclopaedia of Greater Philadelphia* (New Brunswick: Rutgers University, 2012). Accessed 1 March 2018 via: <<http://philadelphiaencyclopedia.org/archive/slavery-and-the-slave-trade/>>; Berlin, 'Slavery, Freedom', p. 20; Jean R. Soderlund, *Quakers and Slavery: a divided spirit* (Princeton, NJ: Princeton University Press, 1985), p. 80.

<sup>31</sup> *ibid.* For attitudes towards slaves as consumer goods, see David Richardson, 'Consuming Goods, Consuming People: reflections on the transatlantic slave trade' in Philip Misevich and Kristin Mann (eds.), *The Rise and Demise of Slavery and the Slave Trade in the Atlantic World* (Rochester, NY: Rochester University Press, 2016), pp. 31-63.

wage and bonded workers toiled alongside each other as labourers and domestic servants.<sup>32</sup> The small numbers of slaves increased the proximity between slaves and their owners, and this dynamic continued to affect free black people after the GAA was passed. Indeed, Garry Nash and Jean Soderlund write that

Children and young adults comprised the largest proportion of free blacks in white households, as masters retained the services of nominally freed slaves and their children through their most productive years. As late as 1820, three quarters of young black men and 58 per cent of young women aged 14 to 25 were working in the households of whites.<sup>33</sup>

From this information we can deduce that Douglas' black parent, if not Douglas himself, were well known members of the household staff.<sup>34</sup> Being one of a few workers could have fostered a greater intimacy between slave and master, and it was not uncommon for masters to have sex with their slaves (and later, their black 'employees' under the GAA).<sup>35</sup> While there were many cases of non-consensual sex between masters and their slaves or black servants, there were also instances of affectionate, loving relationships between whites and blacks from all classes.<sup>36</sup> We have no way of knowing

---

<sup>32</sup> Gigantino, 'Slavery and the Slave Trade'.

<sup>33</sup> Gary Nash and Jean Soderlund, *Freedom By Degrees: emancipation in Pennsylvania and its aftermath* (Oxford: Oxford University Press, 1991), p. 183.

<sup>34</sup> This was also the case for household staff on large American plantations. See for example Elizabeth Fox-Genovese, *Within the Plantation Household: black and white women of the old South* (London: University of North Carolina Press, 1988).

<sup>35</sup> This notion of 'employer/ employee' does not reflect the fact that children born to slave-mothers would not be entitled to a wage until they were twenty-eight years old. *Gradual Abolition Act 1780* (Pennsylvania). For the proximity between slaves and their masters, see Berlin, 'Slavery, Freedom', p. 20.

<sup>36</sup> For the rape of African women by their white slave masters, see: Thelma Jennings, "'Us Colored Women Had to Go Through a Plenty': sexual exploitation of African-American Slave Women", *Journal of Women's History* vol. 1, no. 3 (1990), pp. 45-74; Helene Lecaudey, 'Behind the Mask: ex-slave women and interracial sexual relations' in Patricia Morton (ed.), *Discovering the Women in Slavery: emancipating perspectives on the American Past* (Athens: University of Georgia Press, 1996), pp. 260-277; Traci C. West, 'African Americans' in Merrill D. Smith (ed.), *Encyclopedia of Rape* (Greenwood Press: Westport, Connecticut, 2004), pp. 5-7; Sharon Block, 'Lines of Color, Sex and Service: exploring comparative sexual coercion in the Early Republic', *Institute of Early American History and Culture Colloquium* (21 January 1997); Manning Marable, *How Capitalism Underdeveloped Black America: problems in race, political economy and society* (Boston, MA.: South End Press, 1983), pp. 73-74. There were also consensual unions

which group Douglas' parents belonged to, but their relationship was not the only factor to have influenced Douglas' upbringing. The political context in Philadelphia was just as important in affecting Douglas' future.

Philadelphia was the centre of the abolition movement in the United States and the first city in the world to attempt state enforced emancipation.<sup>37</sup> While the GAA did not immediately release slaves from bondage, it was a trailblazing piece of legislation. Even the British (who would later contrast their benevolent liberation of slaves to the tyrannical oppression of the United States) would not bring about the formal abolition of slavery until over fifty years later, in 1838.<sup>38</sup> In words as well as deeds, the reform-minded citizens of this city worked to liberate, protect and support the black population. From the 1810s, Philadelphia became a hub for runaway slaves trying to flee bondage in the American south. Individuals smuggled black men and women into the city and hid runaways, while Vigilance Committees provided housing, food and basic assistance to

---

between whites and Africans as early as 1705. See for an example, voluntary marriages between whites and Africans in Virginia. Rodriguez, *Slavery in the United States*, p. 389. Legislators and members of the white elite feared liaisons between lower class whites and black Philadelphians. Hirsch, 'Uncovering "the Hidden History of Mestizo America"', pp. 483-506; Turner, *The Negro in Pennsylvania*, p. 31.

<sup>37</sup> *Gradual Abolition Act 1780* (Pennsylvania). Newman, "Lucky to be born in Pennsylvania", p. 414. Ira Berlin describes Philadelphia as 'the world capital of abolition'. Berlin, 'Slavery, Freedom', p. 1.

<sup>38</sup> Indeed, Christopher L. Brown argues that Britain's desire for moral capital after the American Revolution fundamentally changed the British abolition movement. Christopher L. Brown, *Moral Capital: foundations of British Abolitionism* (Chapel Hill: University of North Carolina Press, 2006). 1838 signified the end to the 'apprenticeship' system in the British colonies. Seymour Drescher, *The Mighty Experiment: free labour versus slavery in British Emancipation* (Oxford: Oxford University Press, 2002), p. 7; Boehme, Mitchell and Lester, 'Reforming Everywhere and All at Once', pp. 688-718.

newcomers in the area.<sup>39</sup> By 1830, Philadelphia had a black population of about 14,000 and the largest number of free blacks in the United States.<sup>40</sup>

Alongside this population growth, educational opportunities increased for the free black population of which Douglas was a part. As a port city, news and ideas from all over the world flowed through Philadelphia and gave shape to new schools of thought.<sup>41</sup> Emancipation became a test for whites to see whether Africans were 'degraded' by nature, and education and religion spearheaded attempts to remedy years of oppression.<sup>42</sup>

From Philadelphia's narrow alley's [sic] and cramped courtyards came men and women who established many of the first northern black schools; literary, musical, and historical societies; and black newspapers. Here the first Negro convention met in 1830.<sup>43</sup>

From the late 1820s, Philadelphia was also home to thriving black literary societies that provided their own schools, libraries and rhetorical education.<sup>44</sup> This was a remarkable feat considering that at this same time, reading was viewed as a 'seditious skill' for slaves in the American south.<sup>45</sup> By 1834, Louisiana, North and South Carolina,

---

<sup>39</sup> For a comprehensive overview, see Newman and Mueller (eds.), *Antislavery and Abolition*. See also Nilgun Anadolu Okur, 'Underground Railroad in Philadelphia, 1830-1860', *Journal of Black Studies* vol. 25, no. 5 (1995), pp. 537-557. To compare abolition in Philadelphia to the rest of the American North, see Arthur Zilversmit, *The First Emancipation: the abolition of slavery in the North* (Chicago: University of Chicago Press, 1967).

<sup>40</sup> Nash, *Forging Freedom*, pp. 66, 247.

<sup>41</sup> Newman and Mueller refer to the importance of the Atlantic Basin to the spread of emancipation. Newman and Mueller, 'Introduction', p. 6.

<sup>42</sup> *ibid.*, pp. 3-4.

<sup>43</sup> *ibid.*, p. 7.

<sup>44</sup> Jacqueline Bacon and Glen McClish, 'Reinventing the Master's Tools: nineteenth-century African-American literary societies of Philadelphia and rhetorical education', *Rhetoric Society Quarterly* vol. 30, no. 4 (2000), pp. 21-22.

<sup>45</sup> E. Jennifer Monaghan, *Reading for the Enslaved, Writing for the Free? Reflections on liberty and literacy* (Worcester, Mass.: American Antiquarian Society, 2000), pp. 309-341.

Alabama and Georgia had passed laws that prohibited anyone from teaching slaves to read or write, while the latter three states also penalised anyone who taught free black people these skills.<sup>46</sup> William Douglas appears to have benefitted from Philadelphia's unique educational advances. They could explain his literacy, and the fact that he possessed notable advocacy skills by the time he faced the magistrate's bench in 1850s Victoria.<sup>47</sup> Because of the fortitude and perseverance of black men and women as well as white sympathisers, 'Philadelphian abolitionists grappled with the broader meaning of black freedom earlier and more consistently than perhaps anyone else in American culture.'<sup>48</sup> This provided free black children like Douglas with the opportunity to advance their education alongside their awareness of racial injustice.

However, not all Philadelphians supported the growing black population. Racial hatred grew as the nineteenth century progressed. Anxious questions were raised about the place these newly freed slaves would hold in civilised society, and whether they should live amongst whites.<sup>49</sup> In 1832, a group of Philadelphians brandished weapons to prevent a ship carrying ninety-two former slaves from landing on their shores.<sup>50</sup> In 1838 the right of free blacks to vote was revoked by the state legislature.<sup>51</sup> And in 1850, the federal government strengthened legislation making it illegal to assist runaway

---

<sup>46</sup> *ibid.*, pp. 335-336.

<sup>47</sup> NSWSA, NRS 12188 [4/4019], reel 906; 'Assaulting a Constable', *Argus* (15 April 1852), p. 4; 'Supreme Court', *Argus* (22 April 1852), p. 4. See pages 79-81 in Chapter 1 for more details about Douglas' advocacy skills.

<sup>48</sup> Newman and Mueller, 'Introduction', p. 2.

<sup>49</sup> Nash, *Forging Freedom*.

<sup>50</sup> *ibid.*, pp. 1-2. Newman and Mueller also refer to race riots throughout the 1830s and 40s. Newman and Mueller, 'Introduction', p. 4.

<sup>51</sup> Eric L. Smith, 'The End of Black Voting Rights in Pennsylvania: African Americans and the Pennsylvania constitution', *Pennsylvania History* vol. 65 (1998), pp. 279-299; Newman and Mueller, 'Introduction', p. 4; Richard Bushman, *The Refinement of America: persons, houses, cities* (New York: Vintage Books, 1992), p. 438; Okur, 'Underground Railroad', p. 539.

slaves.<sup>52</sup> So while Douglas may have been a part of the most prosperous, well-established free-black community in the United States, he was not wholly accepted by his white peers.<sup>53</sup> He is likely to have witnessed or experienced racial intolerance and might have predicted its increase. This may have been why he decided to travel to England.

### *Maritime Experience*

We know that William Douglas reached England by 1835 because he was tried at the Quarter Sessions in Rye, Sussex, in January that year. Sometime before this date he must have made the 5,600-kilometre journey to the British Isles. The most likely way that Douglas could have made this trip was by working for his passage on-board a trading vessel. Seafaring was the most accessible job for African Americans. Indeed, as W. Jeffrey Bolster has written

American shipping expanded during the early nineteenth century, employing more than 100,000 men per year [and]...black men...filled about one-fifth of sailors' berths...[B]lack sailors established a visible presence in every North Atlantic seaport and plantation roadstead...<sup>54</sup>

Philadelphia was no exception. Between 1810 and 1838, 16.6 to 22.4 per cent of berths in Philadelphia were held by African Americans.<sup>55</sup> As Douglas would have travelled before he was 18, he was still young for this type of trade. Only 8.9 per cent of

---

<sup>52</sup> This was the federal *Fugitive Slave Act* 1850 (USA). See also Newman and Mueller, 'Introduction', p. 8.

<sup>53</sup> Berlin, 'Slavery, Freedom', pp. 29-31; Okur, 'Underground Railroad', pp. 552-555; Nash, *Forging Freedom*; Richard Newman and James Mueller, 'Introduction' in Richard Newman and James Mueller (eds.), *Antislavery and Abolition in Philadelphia* (Louisiana: Louisiana University Press, 2011), pp. 5-6.

<sup>54</sup> W. Jeffrey Bolster, *Black Jacks: African American seamen in the age of sail* (London: Harvard University Press, 1997), pp. 3-4. See also Berlin, 'Slavery, Freedom', pp. 28-29.

<sup>55</sup> Bolster, *Black Jacks*, p. 236.

black seamen from Philadelphia were under 19 years old.<sup>56</sup> However, his youth does not appear to have stopped Douglas from identifying with this profession. By the time he reached New South Wales in 1835, Douglas had an anchor tattoo on the back of his left hand.<sup>57</sup> Although anchors were symbols of hope and common tattoos for convicts, they were also closely associated with a seafaring life.<sup>58</sup>

Perhaps Douglas believed that he had found freedom at sea. Merchant ships provided a number of economic and social advantages for their workers. A ship's crew were not bound to their masters through slavery, patronage or fealty but by contracts. During times of high demand, the crew had a great deal of bargaining power. They could negotiate for higher wages, and if they had objections to their lot on board a ship, they could always look for work elsewhere.<sup>59</sup> Ships also 'generally offered more equality and liberty to those whose skin colour marked them out for oppression and enslavement on land'.<sup>60</sup> For centuries, seafaring was an international profession as ships were composed of motley crews from all over the world.<sup>61</sup> Due to the nature of maritime work, sailors were more likely to be organised by ability than race. Collective labour was essential to many tasks: men were often 'pushing or pulling in unison' and gave rhythm to their labours through songs or chants.<sup>62</sup> Distinctions between crew members broke down even further in times of impending disaster (from stormy seas, pirates, a sinking ship

---

<sup>56</sup> *ibid.*, p. 239.

<sup>57</sup> NSWSA, NRS 12188 [4/4019], reel 906.

<sup>58</sup> David Kent, 'Decorative Bodies: the significance of convicts' tattoos', *Journal of Australian Studies* vol. 21, no. 53 (1997), p. 81.

<sup>59</sup> Miles Ogborn, *Global Lives: Britain and the World, 1550-1800* (Cambridge: Cambridge University Press, 2008), pp. 150-151.

<sup>60</sup> *ibid.*, p. 150.

<sup>61</sup> Peter Linebaugh and Marcus Rediker, *The Many Headed Hydra: sailors, commoners and the hidden history of the Revolutionary Atlantic* (Boston: Beacon Press, 2000), p. 151.

<sup>62</sup> Ogborn, *Global Lives*, p. 146.

and so on) when 'all hands' were needed to protect the vessel. This not only brought seamen into proximity with one another but fostered a collective maritime culture where sailors asserted their rights to liberty and freedom from tyranny.<sup>63</sup> Black seamen such as Douglas were more likely to have been accepted as part of this multi-racial collective than they were as individual black men on land.<sup>64</sup>

However, this did not mean that they were completely free from racial prejudice. Not all crew members saw black seamen as their equals. Although maritime culture militated against racial discrimination, there was a tension between sailors' rights and racism. Black seafarers were often designated the lowest ranked positions. Even if they proved their maritime prowess, black crew members had virtually no chance of being elevated to officers, while white sailors could racially abuse black 'ordinary seamen' to emphasise their inferior position in the ship's hierarchy.<sup>65</sup> Many black sailors were 'consigned to particular roles upon the ship such as musicians, servants or cooks' and Douglas appears to have been one of these men.<sup>66</sup> In his convict indent, he is described as a 'cook/ servant'.<sup>67</sup> Captains and their crew frequently employed domestic servants from among free blacks when they entered Philadelphia, and it was not unknown for these African Americans to then be recruited for the next voyage.<sup>68</sup> Servants on ships

---

<sup>63</sup> *ibid.*, p. 151; Linebaugh and Rediker, *The Many Headed Hydra*, p. 157.

<sup>64</sup> Ogborn, *Global Lives*, pp. 146-150.

<sup>65</sup> Bolster, *Black Jacks*, p. 77.

<sup>66</sup> Ogborn, *Global Lives*, p. 152.

<sup>67</sup> NSWSA, NRS 12188 [4/4019], reel 906.

<sup>68</sup> Gigantino, 'Slavery and the Slave Trade'. As Nash and Soderlund show, by 1820 free blacks in Philadelphia were overwhelmingly employed in domestic service. Nash and Soderlund, *Freedom By Degrees*, p. 181.



were also usually young men or boys, making this an ideal position for someone of Douglas' age.<sup>69</sup>

Even though black seamen were designated certain positions due to their race, the status of Douglas' occupations would have changed according to context. If he was a cook on board a ship, he would have had a certain degree of status (although not an officer) and might have even had a servant working underneath him.<sup>70</sup> However, it is just as possible that Douglas was the Cook's servant (the 'Cook's mate'), placing him lower down the ship's hierarchy.<sup>71</sup> Even the term 'servant' was ambiguous. At sea, this could mean someone apprenticed to an officer as well as a domestic servant, and in both instances, a servant's rank depended upon their master's position as well as their own experience.<sup>72</sup>

The social value of Douglas' occupations also depended on supply and demand. By the time that he reached the Australian colonies in 1835, his experience as a 'cook/servant' may have worked in Douglas' favour. Indeed, the Lieutenant-Governor of Van Diemen's Land, John Franklin, believed that convicts prized domestic work above other employment, and colonists were only too eager to secure a servant with experience to enhance their own social status and comfort.<sup>73</sup> However, these same skills could have forced Douglas out of work when he reached England. The nineteenth century saw a contraction in the labour market that affected black, male domestic servants and seamen

---

<sup>69</sup> N. A. M. Rodger, *The Wooden World: an anatomy of the Georgian navy* (London: Collins, 1986), p. 27.

<sup>70</sup> *ibid.*, pp. 24, 27.

<sup>71</sup> *ibid.*, p. 27.

<sup>72</sup> *ibid.*, pp. 18, 24-28.

<sup>73</sup> For Franklin's views, see his correspondence with Lord Glenelg. 'A Copy of a Dispatch from Lieut.-Governor Sir John Franklin, to Lord Glenelg...relative to the present system of Convict Discipline in Van Diemen's Land', p. 4. Taken from British House of Commons, *Parliamentary Papers*, vol. 42 (London: H. M. Stationary Office, 1938).

alike. In this period, the gendered dynamic of domestic service was changing. Rising numbers of middle-class employers preferred female servants to men, and so, despite the cultural cache attached to black domestic servants, many black, male workers were pushed out of the profession. The demobilisation of the navy after the Napoleonic Wars also placed black seafarers in a precarious position. Sailors lost much of their bargaining power as competition for employment increased dramatically. When Douglas was at sea, black seamen had to vie with white sailors for a dwindling supply of jobs.<sup>74</sup> This may explain why, by the time that he faced the Rye Quarter Sessions in 1835, Douglas had left seafaring behind and was working as a labourer.<sup>75</sup>

Labouring was low-skilled work, especially compared to the specialised work that Douglas would have performed on a ship, but it did have its advantages. As a casual labourer, Douglas would not have been beholden to the arbitrary power of his superiors in the same way that he was on a ship. Admiralty law put sailors under the authority of high-ranking individuals who would inflict corporal punishment for any misdemeanour. The logic behind this approach was that hierarchy, obedience and absolute authority were necessary to maintain order, and by extension, the safety of the ship. In reality, however, this system was based on an officer's discretion and open to abuse.<sup>76</sup> As Greg Denning has written of naval vessels

...so many trivial decisions taken in the course of ordinary living were subject to violent reprisal on the personal interpretation of what a superior thought a

---

<sup>74</sup> Duffield, 'Skilled Workers', pp. 60-64. For more on black domestic service in Britain, see Gretchen Gerzina, *Black London: life before emancipation* (New Brunswick: Rutgers University Press, 1995), 29-67. For more information on black seamen in Britain, see Duffield, "I asked how the vessel could go", pp. 121-154.

<sup>75</sup> ESRO, Criminal Indictments, RYE 8/134.

Although criminals were commonly described as labourers when their employment history was unknown, it seems that by this time, Douglas had left his seafaring life behind. Oxley, *Convict Maids*, p. 21.

<sup>76</sup> Bolster, *Black Jacks*, pp. 72-73.

particular social situation meant...The ordinary right to negotiate what words, gestures, actions mean was taken out of the hands of the participants and given to one man or a group of men who could impose a particular interpretation violently.<sup>77</sup>

Seamen's experiences on board a ship often depended on the disposition of their superiors, and black seafarers suffered disproportionately from arbitrary punishments due to their race.<sup>78</sup> Flogging was the most common form of punishment on board a ship, but superior officers could inflict whatever punishment they deemed necessary. Perhaps this is how Douglas received the scars on his breast that were recorded by the colonial clerk in New South Wales in 1835.<sup>79</sup> It was certainly an environment where he would have experienced intense discipline. However, if Douglas hoped to find more liberty on land, he was quickly mistaken. New forms of confinement awaited him in England.

## *Rye*

The 7<sup>th</sup> of January 1835 was market day in the port town of Rye in Sussex. Every Wednesday vendors sold their wares on the bottom floor of the Georgian town hall that stood in the town centre, and the stock sold each week alternated between corn and cattle.<sup>80</sup> On this day it is unclear which goods were for sale but either way, the market's presence would have disrupted the courtroom located on the second floor of the building. The call of sellers touting their wares could not have been shut out from the

---

<sup>77</sup> Greg Denning, *Mr Bligh's Bad Language: passion, power and theatre on the Bounty* (Cambridge: Cambridge University Press, 1992), p. 118.

<sup>78</sup> Bolster, *Black Jacks*, pp. 72-73. Bolster argues that this system of Admiralty Law left all sailors open to similar treatment to slaves.

<sup>79</sup> NSWSA, NRS 12188 [4/4019], reel 906.

<sup>80</sup> Thomas Horsfield, *The History, Antiquities and Topography of the County of Sussex* (Lewes, UK: Sussex Press, 1835), pp. 497-498; Samuel Lewis, *A Topographical Dictionary of England* (London: S. Lewis and Co., 1831), p. 630.

hallowed halls of British justice, and perhaps even the lowing of cows and the smell of their excrement wafted up the staircase to where the representatives of the British justice system presided over the day's trials.<sup>81</sup>

Despite the irreverence of this scene, for William Douglas and John Smith, their presence in Rye Town Hall was no laughing matter. The men faced the magistrate's bench charged with stealing 'two woollen cloth coats of the value of four pounds of the goods and chattel of one Charles Taylor.' Although seven witnesses were called for the prosecution, none came forward for the defence. Both men were found guilty and sentenced to seven years' transportation.<sup>82</sup> On first inspection, this appears to be a common tale of misfortune. Larceny was the crime that most often sent convicts to Australia, and according to the indictment, the two men were caught red handed in the middle of the theft.<sup>83</sup> Douglas' race is not recorded in this court document, and the fact that he received the same sentence as his white accomplice seems to belie any racial power imbalance.<sup>84</sup> Four pounds was a lot of money in 1835. It was the equivalent of almost £200 in today's currency and more than the average craftsman builder would

---

<sup>81</sup> For the importance of sensory experience and spatial geography to the operation of law and justice, see Clare Graham, *Ordering Law: the architectural and social history of the English law court to 1914* (Aldershot: Ashgate, 2003); Clare Graham, 'The History of Law Court Architecture in England and Wales: the institutionalisation of the law' in Richard Pollard (ed.), *Silence in the Court: the future of the UK's historic law courts* (London: Save Britain's Heritage, 2004), pp. 36-47; Linda Mulcahy, 'Watching Women: what illustrations of courtroom scenes tell us about women and the public sphere in the nineteenth century', *Journal of Law and Society* vol. 42, no. 1 (2015), pp. 53-73; Linda Mulcahy, 'I'm Not Watching, I'm Waiting: the construction of visual codes about women's role as spectators in the trial in nineteenth century England', *Legal Information Management* vol. 14 (2014), pp. 23-24; Linda Mulcahy, 'Architects of Justice: the politics of courtroom design', *Social and Legal Studies* vol. 16, no. 3 (2007), pp. 383-403.

<sup>82</sup> ESRO, Criminal Indictments, RYE 8/134.

<sup>83</sup> For the crimes that led convicts to be transported to Australia, see Stephen Garton, 'The Convict Origins Debate: historians and the problem of the "criminal class"', *Australia and New Zealand Journal of Criminology* vol. 24 (1991), p. 77. For Douglas and Smith being caught red handed in the act of theft, see ESRO, Criminal Indictments, RYE 8/134.

<sup>84</sup> ESRO, Criminal Indictments, RYE 8/134.

earn in two and a half weeks.<sup>85</sup> After spending seven days in Rye Prison, the men were transferred to the *Fortitude* prison hulk in Chatham where they awaited their voyage to the colonies. It seems to have been a clear-cut case, but the archive should not be taken at face value.<sup>86</sup>

Transportation was a common punishment in Britain in the early nineteenth century and in 1834, 4,920 convicts, the largest number to ever leave Britain for Australia, set sail for the colonies.<sup>87</sup> But in Rye, this punishment was not the norm. Between 1788 and 1834, only one person had received this sentence in Rye prior to Douglas and Smith. From 1789 to 1867, almost the entire duration of transportation to Australia, only seven men, including Douglas and Smith, were ever sent to the colonies.<sup>88</sup> Although Rye had been known for centuries as the home of nefarious characters, smugglers and illicit trade, by 1833 J. D. Parry could not help but describe the town as 'tolerably built...but rather dull.'<sup>89</sup> Tales of skirmishes, carousing and lawlessness had long since passed, and a majority of early nineteenth century offences were for misbehaviour in workhouses, vagrancy and the odd assault.<sup>90</sup> In an 1834 Inquiry into local administration,

---

<sup>85</sup> Conversions taken from the UK National Archives' 'Historical Currency Converter'. The currency was converted from its 1830 value to that of 2005. 'Historical Currency Converter', The National Archives UK. Accessed 23 January 2018 via: <<http://www.nationalarchives.gov.uk/currency/>>

<sup>86</sup> This time has been calculated by subtracting the date of the trial on the 7<sup>th</sup> of January 1835 from when Douglas and Smith were moved to the *Fortitude* prison hulk on the 13<sup>th</sup> of January that same year. However, it is possible that these men also spent some time in the prison between their arrest and trial. TNA, HO8/43, p. 81; TNA, HO27/50, p. 352; ESRO, Criminal Indictments, RYE 8/134; TNA, HO13/66, p. 116.

<sup>87</sup> 'Convict Facts', Convict Records (in association with ancestry.com). Accessed 12 January 2018 via: <<https://convictrecords.com.au/facts>>

<sup>88</sup> Michael J. Burchall, *Sussex Convicts Transported to Australia 1789-1867* (Hampshire, Parish Register Transcription Society, 2011).

<sup>89</sup> J. D. Parry, *An Historical and Descriptive Account of the Coast of Sussex* (London: E & W Books Ltd., 1970, c1833), p. 299. For information about the history of Rye, see Horsfield, *The History*, pp. 487-501; Lewis, *A Topographical*, pp. 649-651; Leopold Amon Vidler, *A New History of Rye* (Hove, Sussex: Combridges, 1934).

<sup>90</sup> ESRO, Summary Offences, RYE 11/1-72.

commissioners declared that in this town ‘...all, except trifling cases, are sent for trial at the [Sussex] assizes’ and yet Douglas and Smith were exceptions to this rule as they were tried at the Rye Quarter Sessions.<sup>91</sup> Clearly, for this port town in Sussex, transportation was an unusual punishment.<sup>92</sup> We need to look deeper into the history and social context of the town to understand William Douglas’ sentence.

In his nineteenth-century exploration of the county of Sussex, Thomas Horsfield described the ‘ancient town of Rye’ as

...near the eastern extremity of the county...sixty-three miles from London... The river Rother, with its sluggish current, flows through the salt marsh, on the western margin of which the town is built and empties itself at Old Rye Harbour. This was one of the two ancient towns added to the Cinque Ports, after the reign of the valiant Conqueror, and before that of the promiscuous John.<sup>93</sup>

Two points are worthy of note here. First, Rye’s position at the far end of England and ensconced between river and sea made it ideal for trade. As well as domestic goods, there was a large international trading scene with imports ‘principally in Dutch cheese, timber from Norway and America, rags for manure from Hambro’ [sic], eggs, poultry, rape and linseed cake from France...’<sup>94</sup> In 1831 the population of Rye was listed as 3,715, but in reality its numbers ebbed and flowed along with the ships that moored on its shores.<sup>95</sup> The second point of note is that Rye’s designation as a Cinque Port meant that it had unique powers to control its internal affairs. Local government (known as the ‘Rye

---

<sup>91</sup> Great Britain, Commission for Inquiring into the State of the Several Municipal Corporations in England and Wales, *Introductory Report on the Cinque Ports* (England, 1834), p. 1035.

<sup>92</sup> It is impossible to say how many men from Rye were executed, as death sentences received at the Sussex Assizes or Special Commissions of Gaol Delivery were often commuted to transportation for life, but these were rarely noted in the idents that survive. Burchall, *Sussex Convicts*, p. iv.

<sup>93</sup> Horsfield, *The History*, pp. 487-488.

<sup>94</sup> Parry, *An Historical and Descriptive Account*, p. 297.

<sup>95</sup> Horsfield, *The History*, p. 488; Commission of Inquiry, *Introductory Report*, p. 1038.

Corporation') had a considerable jurisdiction over the town with the power to control tax, trade and criminal justice, including capital offences.<sup>96</sup> In this context, understanding the local administration is important.

By the time of Douglas' trial in 1835, Rye was undergoing a significant change in government. Prior to the 1820s, the Lamb family had retained the office of mayor for almost a century.<sup>97</sup> Allegations of nepotism and injustice were comparatively slow to develop, but when they came, they hit the Lamb family hard.<sup>98</sup> For decades the number of freemen (who could vote) had been deliberately kept low and 'the object of appointing so few was to confine the choice of the freemen, in the election of the mayor to personal friends or family connections of the patrons.'<sup>99</sup> This not only affected local government, but the administration of justice. The mayor was the chief magistrate, and he chose up to twelve jurors from the freemen of the town to assist him on the bench.<sup>100</sup> Professional lawyers were not frequently employed, and the mayor was known to take evidence, charge the juries and examine '...the witnesses from the depositions.'<sup>101</sup> In Rye there was no separation of powers, as the legislature and judiciary were composed of the same men, who relied on elections for their power. The people of Rye were not happy with this state of affairs. In 1832, a government report on the Rye Corporation stated that this system created 'great dissatisfaction...jealousy and discontent' among the population

---

<sup>96</sup> Commission of Inquiry, *Introductory Report*, pp. 921-927, 1029-1039. Although, in reality, this jurisdiction over capital offences was rarely exercised and most indictable offences were tried at the Sussex Assizes. See page 1035.

<sup>97</sup> For a list of the mayors of Rye, see Vidler, *A New History of Rye*, pp. 161-163.

<sup>98</sup> Vidler, *A New History of Rye*, pp. 119-123.

<sup>99</sup> Commission of Inquiry, *Introductory Report*, p. 1032.

<sup>100</sup> *ibid.*, pp. 1031-1035.

<sup>101</sup> *ibid.*, p. 1035.

and 'diminished the confidence which ought to exist towards the magistracy in the town.'<sup>102</sup>

Only a couple of years before Douglas' arrest, the wealthy men of Rye moved against the Lambs and a new mayor named William Ramsen was appointed in 1833. This was literally the end of an era as it was the last time that any Lamb held this office.<sup>103</sup> But the change brought about by this election was far from absolute. Ramsen and succeeding mayors expanded the franchise so that there were more freemen who could vote on Corporation affairs and increasing numbers of middle-class residents began to fill the freemen's ranks, however, new freemen needed to be voted into power by existing freemen.<sup>104</sup> This meant that issues of patronage and favouritism continued to influence all levels of local administration. Furthermore, the composition of the courts remained the same, leaving judicial power at the mercy of local politics. Ramsen was voted into power on the understanding that he offered an alternative to the self-interested rule of the Lambs, and so he needed to convince his constituents that he represented their interests.

The local aristocracy was evidently on the decline and the middle class on the rise at this time, and one man to benefit from the change was David Taylor.<sup>105</sup> Taylor gained the status of freeman in 1830.<sup>106</sup> He was also brother to the victim of Douglas'

---

<sup>102</sup> *ibid.*, p. 1033.

<sup>103</sup> Vidler, *A New History of Rye*, p. 162-163.

<sup>104</sup> Prior to this, the right be a freeman was 'acquired by Birth [sic] only, and confined to the eldest son of a freeman.' Commission of Inquiry, *Introductory Report*, p. 1032. For the occupations of freemen elected from 1829-1830, see Vidler, *A New History of Rye*, pp. 119-120.

<sup>105</sup> Vidler, *A New History of Rye*, pp. 119-120.

<sup>106</sup> Sensing a change of in popular opinion, the mayor in 1830, William Phillipps Lamb, added more freemen in 1830. R. A. Longley, *Rye Street Directory 1822/3* (St Leonards-On-Sea: R. A. and K. J. Longley, 2006), pp. 3, 6, 8, 11; Vidler, *A New History of Rye*, pp. 120, 162.



theft, Charles Taylor. Born in Chiddingstone, Kent, in the late 1700s, the Taylor brothers were established men of Rye by the early nineteenth century.<sup>107</sup> David Taylor was a bookseller, binder, stationer, library owner, 'local fire office agent', letter press printer, perfumer, stamp office agent, and in 1836 he also became one of twelve councillors of Rye.<sup>108</sup> Certainly Taylor was a well-known man about town. Although Charles Taylor was less socially engaged than his older brother, he was also a part of the town's burgeoning bourgeoisie. Charles Taylor was a banker's clerk (most likely for Curteis, Pomfret, and Co., the town's local establishment), and also an insurance agent.<sup>109</sup> It was unfortunate for Douglas and Smith that they stole from a man who was so well connected at a time when the mayor was trying to reinstall his electorate's faith in the criminal justice system.<sup>110</sup> Given these circumstances, it is likely that Douglas and Smith were punished severely as an example of the new government's robust stance on crime. All seven men sentenced to transportation in the history of Rye were convicted for property offences.<sup>111</sup> They could have been sent to the Sussex Assizes to be tried, as residents accused of indictable offences usually were, but instead they were tried and convicted in Rye.<sup>112</sup> The Rye Corporation clearly wanted to be responsible for exacting justice in these cases and went to great lengths to be seen to protect its wealthy

---

<sup>107</sup> Compare the birth records of David and Charles Taylor. Ancestry.com. *England, Select Births and Christenings, 1538-1975* [database on-line]. Provo, UT, USA: Ancestry.com Operations, Inc., 2014.

FHL film number: 1473701 (David) and 1473701 (Charles).

<sup>108</sup> Vidler, *A New History of Rye*, p. 123.

<sup>109</sup> TNA, HO107/1109, Book: 4; Civil Parish: Rye; County: Sussex; Enumeration District: 1; Folio: 14; Page: 20; Line: 24; GSU roll: 464159; ESRO, Diary for Thomas Chester Daws for 1834, HMU/1/4/3/11.

<sup>110</sup> By 1835, the mayor was no longer William Ramsen but Stanes Brocket Brocket as elections were held yearly. Vidler, *A New History of Rye*, p. 163.

<sup>111</sup> Burchall, *Sussex Convicts*.

<sup>112</sup> Commission of Inquiry, *Introductory Report*, p. 1035.

constituents' possessions. Catering to the wants of the electorate was, after all, the most sure-fire way to receive votes.<sup>113</sup>

Not only this, but witnesses at the trial also had a stake in seeing Douglas and Smith punished. By using censuses, directories and local guides we can access biographical data for four of the seven witnesses present in court, and this reveals how intimate the trial really was. Unlike the transient population of sailors, traders and merchants who streamed in and out of the area, these four men were all residents of the town. And while the district of Rye sprawled far beyond the walled remnants of the ancient city, by the 1841 census three of these men lived in close proximity to one another in the heart of the town. Charles Taylor (as well as his brother) and James Newbery lived on High Street by that decade.<sup>114</sup> James Newbery was the local tailor, and so it is possible

---

<sup>113</sup> This reflects the creation of the 'Bloody Code' in England and Wales, as parliamentarians passed statutes that allowed the death sentence for property offences. Frank McLynn, *Crime and Punishment in Eighteenth Century England* (London: Routledge, 2002), p. xi.

<sup>114</sup> For Charles Taylor in the 1841 census, see TNA, HO107/1109, Book: 4; Civil Parish: Rye; County: Sussex; Enumeration District: 1; Folio: 14; Page: 20; Line: 24; GSU roll: 464159.

David Taylor was not a witness at Douglas' trial, but given his public presence and family connection to the victim, Charles Taylor, his situation is worth considering. We do not have Taylor's details from the 1841 census, however, Pigot's 1832 Directory describes his address as in High Street, and in the 1851 census it is the same. Ancestry.com, Pigot, *Pigot's Sussex Directory*, (Place of Publication Unknown: Pigot & Co, 1832). For David Taylor in the 1851 census, see TNA, HO107/1634, Folio: 252; Page: 15; GSU roll: 193537-193537.

For James Newbery in the 1841 census, see TNA, HO107/1109; Book: 4; Civil Parish: Rye; County: Sussex; Enumeration District: 1; Folio: 16; Page: 25; Line: 20; GSU roll: 464159.

Thomas Hearsfield died in 1839 before the 1841 census, but we know from the 1837 electoral roll that he was a resident of Rye. United Kingdom Poll Books, *East Sussex Election: list of the registered electors, with the votes of those who actually polled* (Lewes: R. W. Lower, 1837), p. 88. For Hearsfield's death, see TNA, PROB11/1912.

The fourth witness at the trial that we know about is George Allen who lived at Cottage Spring Cliff in Rye in 1841. For George Allen in the 1841 census, see TNA HO107/1109; Book: 5; Civil Parish: Rye; County: Sussex; Enumeration District: 4; Folio: 10; Page: 12; Line: 8; GSU roll: 464159.

that Newbery had originally sold the coats to Charles, or else provided expert testimony at the trial about the coats' make and worth.<sup>115</sup> He was also a man who relied on local clientele. Thomas Hearsfield lived in Watchbell Street and ran a local pub there called the *Jolly Sailor*. This establishment was known to house sailors, drifters and the like due to its proximity to the harbour, and Douglas may have stayed in this accommodation. Like Newbery, Hearsfield had his own reasons to appease the magistrate's bench. It took him two attempts and a large public petition to gain his publican licence in 1832, and the men presiding over the trial had the power to take away such hard-won favours.<sup>116</sup>

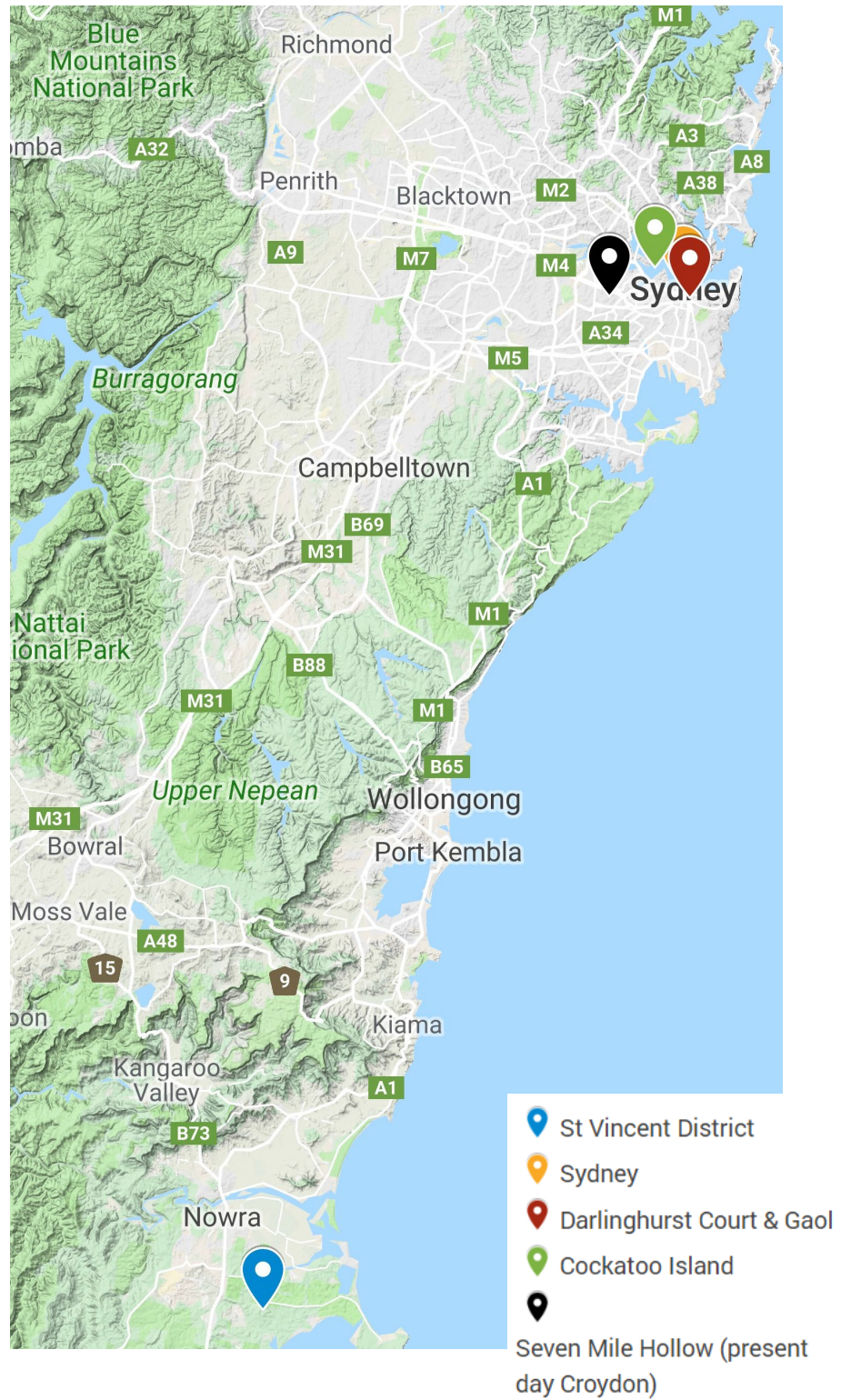
Whether against transient outsiders or competing classes, the freemen of Rye were prepared to close ranks to protect their interests. The intimate quotidian encounters in the heart of the town as well as the new government desperate for their constituents' support ensured that loyalty and patronage were of the utmost importance to Rye's inhabitants. All these webs of self-interest and connection could not have worked in Douglas' favour. On the 7<sup>th</sup> of January 1835, they culminated in his conviction for larceny and his sentence to seven years' transportation to New South Wales.

---

<sup>115</sup> For Newbery's occupation, see Pigot, *Pigot's Sussex Directory*; Longley, *Rye Street Directory*, p. 9.

<sup>116</sup> David Russell, *Pubs of Rye, East Sussex, 1750-1950* (Place of Publication Unknown: Lynda Russell, 2012). Republished as 'Jolly Sailor', *Hasting's Pub History*. Accessed 12 March 2018 via: <<https://www.hastingspubhistory.com/page20.html>>; David Russell, 'The Jolly Sailor', *Rye's Own Magazine*. Accessed 23 February 2018 via: <<https://ryesown.co.uk/the-jolly-sailor/>>

## William Douglas in New South Wales, 1835-1842



## 1835—1851: convict life

### *New South Wales*

It is clear that by the age of eighteen when Douglas arrived in New South Wales, he had a swath of experiences and interactions with people from all over the world. Before 1835, he appears to have travelled in search of greater freedom and liberty, but after his conviction at Rye, his mobility was coerced. He did not choose to be transported to New South Wales, or to be sent to the St Vincent district on the south coast of the colony, where he was assigned to work for a free settler named D. W. Kellar.<sup>117</sup> Sentences of transportation had not always curtailed convicts' freedom in New South Wales. It was unfortunate for Douglas that he arrived in the colony after a series of penal reforms increased the authorities' control over convicts' lives.

Prior to the 1820s, convicts enjoyed a relative degree of freedom and status in New South Wales. The sentence of convicts shipped to New South Wales was deemed to be exile from their homeland, and there was originally no provision for auxiliary punishment. Indeed, New South Wales was unique in that all discipline, even flogging, could only be meted out if it was sanctioned by the law. If convicts refused to work, ran away, were insolent or disorderly, they had to face a magistrate who would then decide their sentence for this new offence. They were not to be punished twice for the crime that led to their transportation, and there were originally no convict indents. Convicts were not distinguished by the nature of their offence in Britain or the duration of their sentence but were employed according to their skills. Incentives were offered for

---

<sup>117</sup> The 1837 convict muster placed Douglas in the St Vincent district, near present day Jervis Bay on the south coast of NSW. At this time, he was apparently assigned to a D. W. Kellar—but apart from this information we know nothing of Douglas' whereabouts until 1841. TNA, HO 10/33, p. 14.

convicts to live on the land and off the public stores and in this early period, convicts were encouraged to become settlers. John Hirst and Grace Karskens are among historians who have shown that in the colony's formative years, New South Wales is best thought of not as a penal outpost but a 'colony of convicts'.<sup>118</sup>

By the time that Douglas arrived in New South Wales in 1835, changing ideas about crime and punishment worked against this more integrated society. The British Government's interest turned towards the reformatory and deterrent aspects of punishment, over the mere eviction of criminals from the British Isles.<sup>119</sup> To this end, a Commission of Inquiry into New South Wales was conducted by John Thomas Bigge in 1819. One of the explicit aims of this Commission was to investigate whether transportation was an effective deterrent of crime. Far from the 'horrors of transportation', Bigge entered a society where convicts were land and stock owners, occupied important, respectable trades, were elevated to positions of authority and not even the doors of high society were closed to ex-offenders. Although scandal and gossip infiltrated Bigge's Commission, the Commission report remained decisive.<sup>120</sup> It was no

---

<sup>118</sup> Hirst, *Convict Society*; Karskens, *The Colony*. For the term a 'settlement of convicts', see John Hirst, *Australian History in Seven Questions* (Melbourne: Black Inc Books, 2014), p. 28.

<sup>119</sup> It is important to note that Jeremy Bentham and his utilitarian followers were concerned with transportation's inability to deter further crime, and reform criminals decades before the Bigge Commission. See for example, R. V. Jackson, 'Jeremy Bentham and the New South Wales Convicts', *International Journal of Social Economics* vol. 25, no. 2-4 (1998), pp. 370-379; Jeremy Bentham, 'Third Letter to Lord Pelham (1803)' in Tim Causer and Philip Schofield (eds.), *Writings on Australia v. Third Letter to Lord Pelham* (London: The Bentham Project, 2018), pp. 1-7.

<sup>120</sup> Kirsten McKenzie, *Scandal in the Colonies: Sydney and Cape Town, 1820-1850* (Melbourne: Melbourne University Press, 2004), pp. 54-56; McKenzie, *Imperial Underworld*, pp. 52-55; Lauren Benton and Lisa Ford, *Rage for Order: the British Empire and the origins of international law, 1800-1850* (Harvard: Harvard University Press, 2016), pp. 62-66; J. M. Bennett, 'The Day of Retribution: Bigge's inquiries in colonial New South Wales', *The American Journal of Legal History* vol. 15, no. 2 (1971), pp. 85-106; David Neal, *The Rule of Law in a Penal Colony: law and power in early New South Wales* (Cambridge: Cambridge University Press, 1991), pp. 269-270; Richard J. Ross, *Legal Pluralism and Empires, 1500-1850* (New York: New York University Press, 2013), p. 18; British House of Commons, 'Report of the

longer enough for convicts to be exiled from their country. They needed to be kept in subjugation in the colonies too. Convicts were assigned to settlers in isolated areas and forced to work for the duration of their sentence.<sup>121</sup> From 1823 penal policy 'assumed an increasingly military, authoritarian and anti-philanthropic character'.<sup>122</sup>

William Douglas entered New South Wales after this policy had been in place for twelve years, but for him, life in the colony appears to have been a rude awakening. He refused to abide by the rules of this new system. In his six years in New South Wales, he endured 336 lashes and spent twelve months working in irons.<sup>123</sup> In the early nineteenth century, flogging was a typical punishment for 'convict offences', 'offences...which only became such or were punished in this way because of the need to discipline forced labour.'<sup>124</sup> In his first five years in the colony, Douglas was solely convicted for these offences. Between 1835 and 1841 William Douglas received lashes for being absent without leave, highly disorderly conduct, insolence and neglect of work. However, his

---

Commissioner of Enquiry into the State of the Colony in New South Wales', *Parliamentary Papers* 1822 (156) (Bigge Report).

Indeed, not all scholars believe that Bigge was impartial in his report. See for example John Douglas Ritchie, *Punishment and Profit: the reports of Commissioner John Bigge on the colonies of New South Wales and Van Diemen's Land, 1822-1823, their origins, nature and significance* (Melbourne: Heinemann, 1970).

<sup>121</sup> However, as Lisa Ford and David Andrew Roberts note, by the late 1700s forced labour was often conflated with transportation across the British Empire. Lisa Ford and David Andrew Roberts, 'New South Wales Penal Settlements and the Transportation of Secondary Punishment in the Nineteenth-Century British Empire', *Journal of Colonialism and Colonial History* vol. 15, no. 3 (2014).

<sup>122</sup> Raymond Evans and William Thorpe, 'Power, Punishment and Penal Labour: *Convict Workers* and Moreton Bay', *Australian Historical Studies* vol. 25, no. 98 (1992), p. 101. See also, Evans and Thorpe, 'Commanding Men', p. 21; Catie Gilchrist, "'This Relic of the Cities of Pain": penal flogging, convict morality and the colonial imagination', *Journal of the Royal Australian Historical Society* vol. 9 (2007), p. 21.

<sup>123</sup> For Douglas' punishments in NSW, see TAHO, CON35/1/1, page 184.

<sup>124</sup> John Hirst, *Convict Society and Its Enemies: a history of early Sydney* (Sydney: Allen & Unwin, 1983), pp. 57-58. See also Raymond Evans and Bill Thorpe, 'Commanding Men: masculinities and the convict system', *Journal of Australian Studies* vol. 22, no. 56 (1998), pp. 17-34. It should be noted, however, that flogging had been a form of punishment since the beginning of the colony. In the early nineteenth century it increased in frequency.

misdemeanours increased in frequency and seriousness over time. By 1840, he was sentenced to work in irons for assault.<sup>125</sup> While we do not know the specific details of these cases, Douglas' sentencing pattern suggests that he found the restrictions of convict life increasingly unbearable. And from a master's perspective, this meant that he was a liability as a worker.

It was not in masters' interests to send their convicts to the magistrate to be sentenced to a flogging.<sup>126</sup> While the disposition of each master varied considerably, their main concern was their convicts' labour. If convicts were incapacitated due to the lash, this would cost valuable time in which they could otherwise be working. Masters overlooked many offences from minor infractions to direct insubordination so long as their convicts were good at their jobs, and this reluctance to use the lash is borne out by statistics.<sup>127</sup> Stephen Nicholas has calculated that the probability of a convict being beaten every year of their sentence (for transportation) was only 0.001.<sup>128</sup> William Douglas was flogged on seven occasions, and from 1839 at least once per year, so he was in the minority.<sup>129</sup> It seems that his masters repeatedly placed reprimand (and its intended, corrective effects) above the value of his labour.<sup>130</sup> Douglas' repeated infractions would have made him 'incurable' in the eyes of his superiors as flogging

---

<sup>125</sup> TAHO, CON35/1/1, page 184. Decades later in 1855, the 'flagellation marks on [his] back' were listed among Douglas' identifying physical features on his criminal record. PROV, VPRS 515/P1, Unit 4, 1855/352.

<sup>126</sup> Evans and Thorpe, pp. 20-26; Gilchrist, pp. 1-28.

<sup>127</sup> Hirst, *Convict Society*, pp. 76-77.

<sup>128</sup> Stephen Nicholas, 'The Care and Feeding of Convicts' in Stephen Nicholas (ed.), *Convict Workers: reinterpreting Australia's past* (Cambridge: Cambridge University Press, 1998), p. 181.

<sup>129</sup> TAHO, CON35/1/1, page 184. The probability of convicts being whipped at least once a year for three years of their sentence (as Douglas was from 1839-1841) was still only 0.088. Nicholas, 'The Care and Feeding of Convicts', p. 181.

<sup>130</sup> TAHO, CON35/1/1, page 184.



was not enough to mend his behaviour, but he was not just punished to force him to work more effectively. He was also flogged to mitigate the threat that his actions posed to convict society. By refusing to work on his master's terms and being 'insolent', 'highly disorderly' and otherwise disruptive, Douglas undermined the convict labour system.<sup>131</sup> His physical and vocal resistance to colonial authority might have become an example for other convicts to follow, and so he was also punished to deter his convicts fellows from behaving the same way.

Although flogging was meant to dissuade convicts from committing crimes, a convict subculture evolved in which repeated flogging could confer status upon an offender.<sup>132</sup> In certain circumstances, receiving the lash could produce savage pride among convicts. The iron-willed offender who refused to scream and silently suffered their sentence could be a source of inspiration to their associates.<sup>133</sup> Scars physically distinguished convict offenders from law-abiding convict workers, and the meaning of these marks changed according to context. The lacerations on Douglas' back marked him as a repeat offender to any employer (and a potential danger to any peace-loving convict), but they could also serve as a sign of strength and resistance to other convicts.<sup>134</sup> As a 5ft 8in black man, Douglas would have already stood out among the majority of his white fellow convicts (who were on average 5ft 4in in height), and his flagellation marks

---

<sup>131</sup> *ibid.*

<sup>132</sup> There was some awareness of this at the time. From the 1830s, there were debates about effectiveness of the lash to punish, deter and reform convicts. See Hirst, *Convict Society*, p. 63; Evans and Thorpe, 'Commanding Men', pp. 20-21, 25.

<sup>133</sup> Evans and Thorpe, 'Commanding Men', p. 26; Hirst, *Convict Society*, p. 60.

<sup>134</sup> For convict markings as a way to access convict life stories, see Maxwell-Stewart, 'The Search for the Convict Voice', pp. 75-89; Maxwell-Stewart and Bradley, 'Embodied Explorations', pp. 183-203; Ian Duffield and Hamish Maxwell-Stewart, 'Skin Deep Devotions: religious tattoos and convict transportation to Australia' in Jane Caplan (ed.), *Written on the Body: the tattoo in European and American history* (London: Reaktion, 2000), pp. 118-135; Evans and Thorpe, 'Commanding Men', pp. 26-28.

would have made him attract even more attention.<sup>135</sup> William Douglas was a physically imposing, striking convict figure. For better or for worse, he was already making a name for himself in 1830s New South Wales for upsetting the colonial order.

By 1841, it appears that William Douglas was so unsatisfied with his place in convict society that he tried to leave the convict system. Less than two months after completing his sentence to work in irons, Douglas absconded from his work and on the 2<sup>nd</sup> of July 1841, he became a bushranger. This was the only time that Douglas ever entered the bushranging game, but it proved quite anticlimactic as he was captured soon after.

John Wood and William Douglas were indicted for assaulting and robbing Thomas Healey, at the Seven Mile Hollow [near present day Croydon], of his blankets, some tea, sugar and other property, while returning to his residence. The prisoners were assigned to Mr. Prout, and ...part of the property was subsequently found in the hut occupied by the prisoners, in which some other assigned servants were also lodged. The Court found both the prisoners guilty, and sentenced each of them to be transported to a penal settlement for the period of [ten] years.<sup>136</sup>

---

<sup>135</sup> NSWSA, NRS 12188 [4/4019], reel 906.

The average height of male convicts transported to the Australian colonies was just over 5ft 4in. Hamish Maxwell-Stewart, 'The Rise and Fall of John Longworth: work and punishment in early Port Arthur', *Tasmanian Historical Studies* vol. 6, no. 2 (1999), p. 98.

For black convicts, see Kristyn Harman, *Aboriginal Convicts: Australian, Khoisan and Maori exiles* (Sydney: New South Books, 2012); Kristyn Harman, "'The Same Measure of Justice': Aboriginal convicts in the Australian penal colonies", *Australian Studies* vol. 1, no. 2 (2009), pp. 1-20; Clare Anderson, 'Transnational Histories of Penal Transportation: punishment, labour and governance in the British imperial world, 1788-1939', *Australian Historical Studies* vol. 47, no. 3 (2016), pp. 381-397; Diana Paton, "'An Injurious Population": Caribbean-Australian penal transportation and imperial racial politics', *Cultural and Social History* vol. 5, no. 4 (2008), pp. 449-464; Ian Duffield, 'The Life and Death of "Black" John Goff: aspects of the black convict contribution to resistance patterns during the transportation era in Eastern Australia', *Australian Journal of Politics* vol. 33, no. 1 (1987), pp. 30-44; Ian Duffield, 'From Slave Colonies to Penal Colonies: the West Indian convict transportees to Australia', *Slavery and Abolition* vol. 7, no. 1 (1986), pp. 25-45.

<sup>136</sup> 'Sydney Intermediate Court of General Sessions', *Sydney Herald* (19 August 1841), p. 2. While the original article stated that the pair were sentenced to seven years penal servitude, they were actually sentenced to ten years. See NSWSA: Clerk of the Peace; NRS 847, Registers of Criminal Cases Tried at Sydney Quarter Sessions, 1839-1845 [5/2917], reel 2431; TAHO, CON35/1/1, page 184; TNA, HO10/41, p. 29.

In this instance, race played a role in Douglas' trial as the colour of his skin was used to identify him as one of the perpetrators. According the *Sydney Monitor*, Thomas Healey

...was going home in his cart with his wife and daughter, when two men stopped the cart at the seven mile hollow. He recognized Wood, but Douglas, who is a man of colour, had a black handkerchief over his face, but prosecutor [Healey] knew him to be a man of Colour [sic] by his hands.<sup>137</sup>

In contrast to the panic caused by Douglas' supposed bushranging crimes in Victoria in the 1850s, this case went largely unremarked.<sup>138</sup> The above articles were the most extensive reports on the case, and the two men were moved from Darlinghurst Gaol, to Cockatoo Island awaiting their second bout of transportation without apparent incident.<sup>139</sup>

Although this one, real instance of William Douglas as a bushranger was unspectacular, it was representative of bushranging in the colony in the early nineteenth century. Most bushrangers during this period were convict bolters as opposed to free men.<sup>140</sup> Some bushrangers like 'bold Jack Donohoe', 'The Captain', William Geary, and Edward the 'Jewboy' Davies achieved status and fame during this period, but these men were the exceptions and not the rule.<sup>141</sup> Most bushrangers committed small-scale

---

<sup>137</sup> 'Wednesday', *Sydney Monitor* (20 August 1841), p. 2.

<sup>138</sup> For Douglas' time in Victoria, see Chapter 1.

<sup>139</sup> NSWSA: Sydney and Darlinghurst Gaol; NRS 2519, Entrance Books [Sydney Gaol and Darlinghurst Gaol], [4/6440-41], reel 854.

<sup>140</sup> Paula Byrne, *Criminal Law and Colonial Subject: New South Wales, 1810-1830* (Cambridge: Cambridge University Press, 2003), pp. 130, 132.

<sup>141</sup> For Jack Donohoe see, Graham Seal, *The Outlaw Legend: a cultural tradition in Britain, America and Australia* (Cambridge: Cambridge University Press, 1996), pp. 121-124; for William Geary see, Byrne, *Criminal Law and Colonial Subject*, pp. 132-136, 139; for Edward Davies see, G. F. P. Bergman, 'Davies, Edward, 1816-1841', *Australian Dictionary of National Biography*. Accessed 1 May 2018 via: <<http://adb.anu.edu.au/biography/davis-edward-1964> >; Morris Forbes, 'A Reconsideration of Edward

robberies. While some made grand moral claims about their turn to bushranging, stating that they intended to punish poor masters and redistribute the colony's wealth amongst the deserving poor, this appears have been a plea for public sympathy more than a reflection of reality. Most bushrangers did not see their actions as part of a noble quest to right the social order, but as a way to gain personal freedom and advance their own immediate interests. For convicts, absconding often necessitated bushranging.<sup>142</sup> As a witness told the New South Wales Committee on Police in 1835, by 'taking to the bush the prisoner cannot be expected to have any honest means of support in the wilderness.'<sup>143</sup>

In light of this, Douglas and Wood's bushranging escapades were not unusual. In the 1830s convict bushrangers largely robbed to survive, and we can see this reflected in the items that Douglas and Wood stole from Thomas Healey: blankets, tea, sugar and 'other property.'<sup>144</sup> Blankets would have been particularly important to Douglas and Wood, as their robberies took place in one of the coldest months of winter. Moreover, as local robberies were the norm, it was not uncommon for witnesses to recognise convict bushrangers.<sup>145</sup> While we do not know where Douglas and Wood's master lived, it appears to have been close to their hold-up location as Wood was immediately identified by his victim. It seems that Douglas only took longer to recognise due to his mask.<sup>146</sup>

---

Davies: the Jewboy bushranger and his family', *Australian Jewish Historical Society* vol. 18, no. 3 (2007), pp. 302-329.

<sup>142</sup> Byrne, *Criminal Law and Colonial Subject*, p. 129-151; Jennifer McKinnon, 'Convict Bushrangers of New South Wales, 1824-1834', Master's Thesis (La Trobe University, 1979). Although Byrne suggests that bushrangers made some distinction between rich and poor, Byrne, *Criminal Law and Colonial Subject*, p. 136.

<sup>143</sup> Quotation taken from Byrne, *Criminal Law and Colonial Subject*, p. 130.

<sup>144</sup> 'Sydney Intermediate Court of General Sessions', *Sydney Herald* (19 August 1841), p. 2.

<sup>145</sup> Byrne, *Criminal Law and Colonial Subject*, p. 132. See also McKinnon, 'Convict Bushrangers', p. 69.

<sup>146</sup> 'Wednesday', *Sydney Monitor* (20 August 1841), p. 2.

Douglas was also in the majority with this disguise, as most 'bushrangers were masked or had their faces blackened' in an attempt to retain their anonymity.<sup>147</sup> William Douglas and John Wood were by no means exceptional bushranging figures.

Although the pair's return to their convict quarters (which they shared with other assigned servants) after the robbery might appear an ill-conceived move, it too makes sense when we look at the bushranging context.<sup>148</sup> Douglas and Wood may have been able to buy their comrades' silence with the goods they procured as this was the most common way that bushrangers secured the loyalty of their harbourers. Convicts and small landowners were often open to such incentives due to the precariousness of their own financial position, but they also assisted bushrangers for fear of their personal safety, greed or their belief in these convicts' quest for freedom.<sup>149</sup> Once they had entered into this arrangement, harbourers found it hard to rescind their support. They were immediately compromised by their actions and following the introduction of the *Bushranging Act* in 1830, the repercussions of bushranging crime had never been more severe.<sup>150</sup>

New South Wales lawmakers believed that local support was essential to the success of bushrangers like Douglas and Wood, and so this Act went to great lengths to divide and conquer the population. Police search and seizure powers expanded under

---

<sup>147</sup> Byrne, *Criminal Law and Colonial Subject*, pp. 134-135.

<sup>148</sup> 'Sydney Intermediate Court of General Sessions', *Sydney Herald* (19 August 1841), p. 2.

<sup>149</sup> Byrne, *Criminal Law and Colonial Subject*, pp. 139-141.

<sup>150</sup> Although this act became known as the *Bushranging Act*, its official title was *An Act to Suppress Robbery and Housebreaking and the Harbours of Robbers and House Breakers*. In this thesis, I follow convention and refer to it as the *Bushranging Act*. For the original Act, see *Bushranging Act 1830* (NSW), 11 Geo. IV No. 10. See also Jane Wilson, 'Bushrangers in the Australian Dictionary of Biography', Australian Dictionary of Biography. Accessed 1 May 2018 via: < <http://adb.anu.edu.au/essay/12> >; Seal, *The Outlaw Legend*, pp. 125-126.

the *Bushranging Act* so that with only a general warrant, the authorities could force their entry into any property to pursue bushranging crime. They could remove any potentially stolen goods, and arrest anyone believed to be harbouring bushrangers. The *Bushranging Act* also sought to shift the balance of power by making it every colonist's duty to assist the police in their endeavours. If they neglected to do so, settlers could be fined a maximum of 5 pounds.<sup>151</sup> We do not know what happened to the assigned servants who resided with Douglas and Wood, but as the *Bushranging Act* was in force during this time, it is unlikely that they emerged unscathed. If they were not the ones who reported the pair to the authorities, they would not have escaped lightly.

Douglas and Wood became bushrangers at a time when the government believed that New South Wales was experiencing a bushranging crisis. This sense of emergency ensured that the *Bushranging Act* did more than punish bushranging supporters: to stem the tide of criminals, the Act disregarded foundational tenets of British law. Under the legislation, any citizen could lawfully detain any person they suspected of 'being a transported felon, unlawfully at large.'<sup>152</sup> This took no account of the legal safeguard of warrants for arrest.<sup>153</sup> Furthermore, in these cases the burden of proof was reversed. It was the accused who needed to prove their innocence to a Justice of the Peace, and they could be detained for as long as was necessary to ascertain their identity. If anyone carried arms without proof that they were intended for lawful use, they could be treated in the same manner.<sup>154</sup> No one was above suspicion. It appears that even the Chief Justice

---

<sup>151</sup> *Bushranging Act* 1830 (NSW), 11 Geo. IV No. 10.

<sup>152</sup> *ibid.*

<sup>153</sup> Burton to Bourke (19 August 1834), *Historical Records of Australia (HRA)*, series I, volume XVII (Canberra: Library Committee of the Commonwealth Parliament, 1923), pp. 523-533.

<sup>154</sup> *Bushranging Act* 1830 (NSW), 11 Geo. IV No. 10.

of New South Wales, Francis Forbes, was apprehended as a potential bushranger and made to give a full account of himself.<sup>155</sup>

The *Bushranging Act* was originally created as a 'temporary measure' necessitated by the 'urgency of the occasion' and yet it was re-enacted almost every year until 1853, long after this sense of 'crisis' was over.<sup>156</sup> Indeed, Governors Darling and Bourke felt uneasy at the renewal of the Act, and in 1835 Justice Burton explicitly challenged the legislation's validity.<sup>157</sup> In a letter to the Governor comparing the Act to British law, Burton declared the legislation to be 'repugnant to the laws of England' and called for its repeal.<sup>158</sup> In reply, Governor Bourke conducted an inquiry into the Act, asking magistrates about its necessity and seeking support from the free settlers of the colony.<sup>159</sup> Despite later accounts of the Chief Justice's arrest under the *Bushranging Act*, Francis Forbes was the Act's most ardent defender.<sup>160</sup> New South Wales had inherited 'all laws and statutes in force within the realm of England...so far as the same can be applied within the...colonies' in 1788.<sup>161</sup> The Chief Justice subsequently argued that in the colony, there

---

<sup>155</sup> This information comes from multiple secondary sources, however, they do not refer to a primary source as evidence. This means that it is impossible to know for certain this event took place, or when Forbes was allegedly arrested. Stuart Macintyre, *A Concise History of Australia* (Cambridge: Cambridge University Press, 2009), p. 74; Bruce Kercher, 'Homer in the Australian Alps: attitudes to law since 1788', *Australian Journal of Legal History* no. 1 (1995), p. 5; C. H. Currey, *Sir Francis Forbes: the first chief justice of the Supreme Court of New South Wales* (Sydney: Angus and Robertson, 1968), pp. 417-418.

<sup>156</sup> *Bushranging Act* 1830 (NSW), 11 Geo. IV No. 10; Wilson, 'Bushrangers in the Australian Dictionary of Biography'; Seal, *The Outlaw Legend*, pp. 125-126; Gregory D. Woods, *A History of Criminal Law in New South Wales: the colonial period, 1788-1900* (Sydney: The Federation Press, 2002), pp. 77-78.

<sup>157</sup> Bourke to Stanley (15 September 1835), *HRA*, series I, volume XVII, pp. 20-523; Burton to Bourke (19 August 1834), *HRA*, series I, volume XVII, pp. 523-533.

<sup>158</sup> Burton to Bourke (19 August 1834), *HRA*, series I, volume XVII, pp. 523-533.

<sup>159</sup> Bourke to Stanley (15 September 1835), *HRA*, series I, volume XVII, pp. 520-523.

<sup>160</sup> The literature makes no note of the date of Forbes' arrest under the *Bushranging Act*, and so it is impossible to tell whether this occurred before or after his defence of the Act. Macintyre, *A Concise History of Australia*, p. 74; Kercher, 'Homer in the Australian Alps', p. 5; Currey, *Sir Francis Forbes*, pp. 417-418.

<sup>161</sup> Although this legal inheritance was largely assumed before 1828, it became formalised in *Australian Courts Act*, 1828 (NSW), 9 Geo. IV, c. 83, section 24. Accessed 12 August 2017 via: <[http://www.legislation.act.gov.au/a/db\\_1785/19870112-2268/pdf/db\\_1785.pdf](http://www.legislation.act.gov.au/a/db_1785/19870112-2268/pdf/db_1785.pdf)>

existed 'a State of Society so widely differing from that of the parent State as obviously to require a corresponding difference in the law.'<sup>162</sup> The Act was no longer necessitated by a bushranging crisis, *per se*, but by the nature of the colony. As an outpost for transported felons whose criminal propensities were facilitated by 'the faculties to escape and concealment, which are supplied by the uncleared forests and trackless retreats of the colony', unique action needed to be taken. To ensure the protection of the free population, 'the Governor and Council [needed to be] clothed with sufficient power to meet the actual state of the Colony, and to pass coercive law...'<sup>163</sup>

As long as there were convicts in New South Wales, there were concerns that the unfree population would revolt and take power from the government, and so convict bushranging was easily conflated with convict uprising. It was not only within the colony that the precariousness of British authority was felt keenly. In 1831 Viscount Goderich of the Colonial Office wrote to Governor Darling of the need to guard against the bushranging danger. He was anxious that 'should these Bands [of bushrangers] encrease [sic] in strength, they will direct their first efforts to the chain Gangs [iron gangs], by a union with whom they would be enabled to threaten the very existence of the constituted Authorities.'<sup>164</sup> Not only were iron gangs composed of incorrigible convicts, they were one of the worst forms of punishment. The actions of desperate men who were forced to work in shackles were hard to predict, and their primary goal was often escape. Douglas' convict experiences align with Goderich's concerns. It appears

---

<sup>162</sup> Forbes responds to Burton's comments before the Legislative Council (15 September 1834) *HRA*, series I, volume XVII, p. 534.

<sup>163</sup> Forbes responds to Burton's comments before the Legislative Council (15 September 1834) *HRA*, series I, volume XVII, p. 534.

<sup>164</sup> Goderich to Darling (23 March 1831), *HRA*, series I, volume XVI, p. 115.

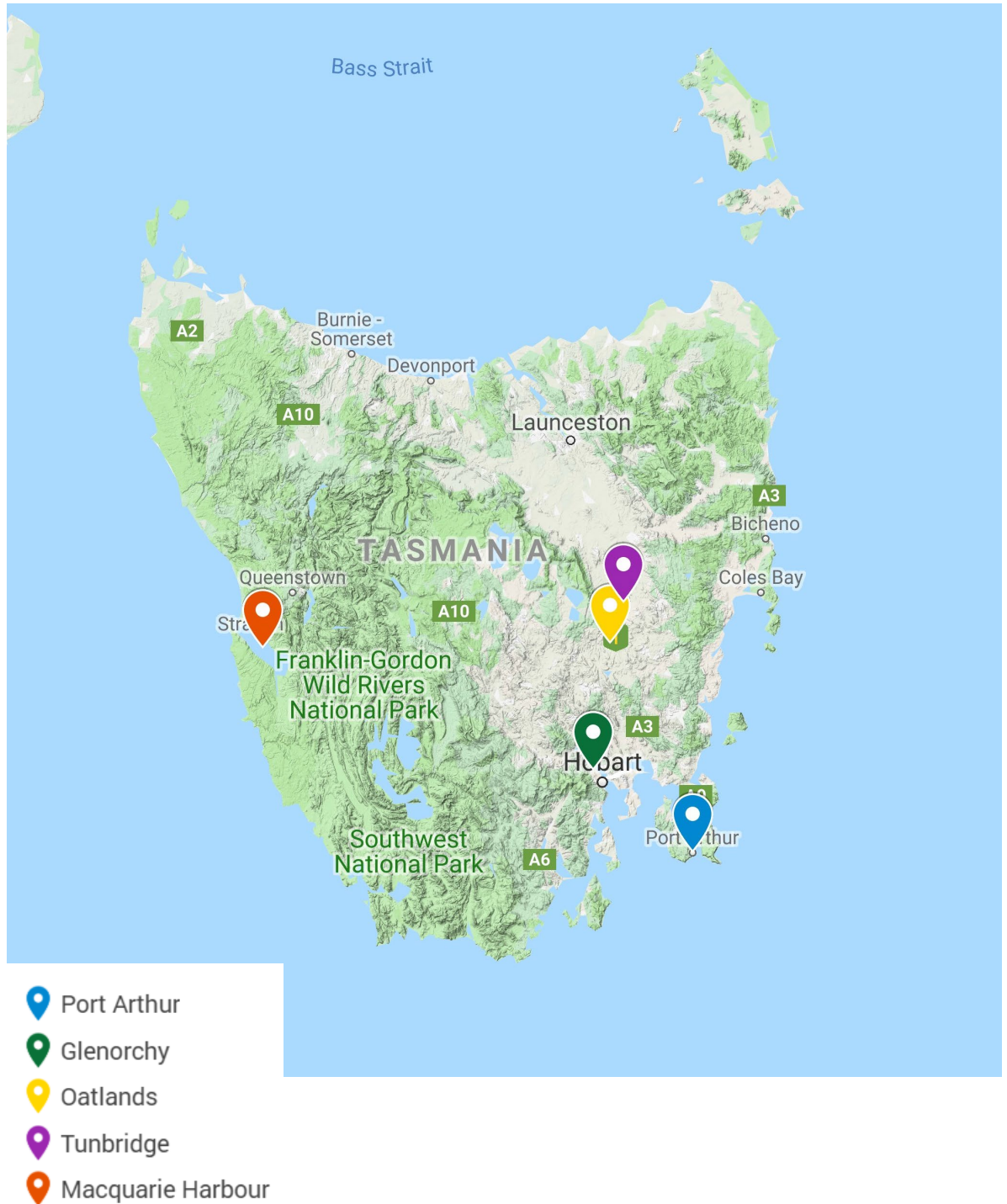


that Douglas worked in an iron gang for a year and just two months after his release from working in irons, he bolted to become a bushranger.<sup>165</sup> Evidence like this exacerbated the fear of a convict uprising. While Douglas and Wood faded into relative obscurity in New South Wales, their bushranging crimes were part of a much larger, dangerous story. Douglas and Wood's sentences of ten years' transportation ensured that by 1842, the New South Wales government at least had two less convict bushrangers to worry about. They were then the responsibility of authorities in Van Diemen's Land (hereafter VDL).

---

<sup>165</sup> TAHO, CON35/1/1, page 184.

## William Douglas in Van Diemen's Land, 1842-1851



## *Van Diemen's Land*

In 1842 William Douglas was forced to sea once more and travelled to VDL on board the *Marian Watson*.<sup>166</sup> By this time he was twenty-five years old, and on the verge of experiencing the supposed cutting edge of penal discipline.<sup>167</sup> In 1840 Lieutenant-Governor Arthur introduced a new scheme termed 'probation' to replace the system of assigning convicts to work for settlers. Informed by Benthamite penal theory and the advent of penitentiaries in Britain, this system aimed to punish and reform offenders through surveillance and strict regulation.<sup>168</sup> This approach not only diverged from New South Wales, but a centuries old, European tradition of corporal or capital punishment instead of rehabilitation.<sup>169</sup> On arriving in VDL, convicts were forced to undergo a period of confinement and hard labour at a designated station. Offenders were grouped according to their crimes to contain their corrupting influence to those of their own

---

<sup>166</sup> *ibid.*

<sup>167</sup> This was slightly older than the 23.5-year average of convicts in Van Diemen's Land after 1840. Decie Denholm, 'Port Arthur: the men and the myth', *Australian Historical Studies* vol. 14, no. 55 (1970), p. 411.

<sup>168</sup> Ian Brand, *The Convict Probation System: Van Diemen's Land, 1839-1854* (Hobart: Blubber Head Press, 1990); Michael Sproud, 'The Probation System' in Alison Alexander (ed.), *The Companion to Tasmanian History* (Hobart: Centre for Tasmanian Historical Studies, 2005), p. 290; Meredith and Oxley, 'Contracting Convicts', pp. 45-70; A. G. L. Shaw, 'The Origins of the Probation System in Van Diemen's Land', *Australian Historical Studies* vol. 6, no. 21 (1953), pp. 16-28.

For the British context see, Randall McGowen, 'The Well-Ordered Prison: England, 1780-1865' in Norval Morris and David J. Rothman (eds.), *The Oxford History of the Prison: the practice of punishment in western society* (Oxford: Oxford University Press, 1995), pp. 79-110; U. R. Q. Henriques, 'The Rise and Fall of the Separate System of Prison Discipline', *Past & Present* vol. 54 (1972), pp. 61-93; Leslie Fairweather, 'Prison Architecture in England', *British Journal of Criminology* vol. 1, no. 4 (1961), pp. 339-361; Michael Ignatieff, *A Just Measure of Pain: the penitentiary in the Industrial Revolution, 1750-1850* (New York: Columbia University Press, 1978); Robin Evans, *The Fabrication of Virtue: English prison architecture, 1750-1840* (Cambridge: Cambridge University Press, 1982); Bradley, *The Convict Probation System*, pp. 7-8.

<sup>169</sup> For the approach in New South Wales, see the section above. For the European tradition of physical, bodily punishment, see Michel Foucault, *Discipline and Punish: the birth of the prison* (London: Penguin, 1991); Douglas Hay et al., *Albion's Fatal Tree: crime and society in eighteenth century England* (Harmondsworth: Penguin, 1977); McGowan, 'The Well-Ordered Prison', pp. 79-110.

‘criminal class’.<sup>170</sup> After progressing through ‘several stages of decreasing severity, convicts received a probation pass and became available for hire to the settlers.’<sup>171</sup> This incremental approach was meant to discipline convicts while also providing incentives for them to work their way to reformation.

Although promising in theory, the probation system often failed to achieve these goals.<sup>172</sup> William Douglas’ conduct record from VDL reveals the inability of the probation system to ensure a convict’s reform. In his nine years on the island, Douglas was punished for thirty-two separate offences. As in New South Wales, his crimes in VDL increased in severity over time. Douglas was originally convicted only of misdemeanours: disorderly behaviour, drunkenness, misconduct and using obscene language. After 1848 however, he was also convicted for absconding, using ‘threatening language’, ‘riotous’ behaviour and two assaults.<sup>173</sup> This escalation in Douglas’ crimes occurred despite the fact that he was sent almost the entire length of VDL in his nine years in the colony and experienced probation stations as distant as Fingal, Oatlands and Port Arthur.<sup>174</sup> It also occurred despite Douglas enduring a new form of punishment: solitary confinement.

Douglas suffered eight bouts of solitary confinement in VDL, totalling fifty-nine days and twelve hours in isolation.<sup>175</sup> This punishment was meant to remove offenders

---

<sup>170</sup> Brand, *The Convict Probation System*; Sproud, ‘The Probation System’, p. 290; Meredith and Oxley, ‘Contracting Convicts’, pp. 45-70; Shaw, ‘The Origins of the Probation System in Van Diemen’s Land’, pp. 16-28.

<sup>171</sup> Sproud, ‘The Probation System’, p. 290.

<sup>172</sup> See note 170.

<sup>173</sup> TAHO, CON35/1/1, page 184.

<sup>174</sup> *ibid.* From his conduct record, we know that Douglas spent time at Port Arthur, Glenorchy, Tunbridge and Oatlands.

<sup>175</sup> It should be noted, however, that Douglas never endured more than fourteen days of solitary confinement at a time. TAHO, CON35/1/1, page 184.

from the corruptive influence of their peers as well as give them time to reflect upon their misdemeanours and open their hearts to God and moral reform.<sup>176</sup> Yet solitary confinement often had unintended consequences. Convicts like Douglas could find the isolation debilitating, and we can see this most clearly when we look at this punishment's extreme form in the United Kingdom. Many convicts' experiences of the probation system actually started in Britain, as men and women intended for VDL served a period of their sentence in solitary confinement in one of England's new penitentiaries before they left for the colony.<sup>177</sup> Months and sometimes years in complete isolation from their fellows had a discernible effect on the prisoners, and the words of John Hampton, surgeon on board the *Sir George Seymour* on this matter are telling in the extreme. In his view

the sudden change from extreme seclusion to the noise and bustle of a crowded ship [as convicts boarded vessels to VDL] produced a great number of cases of convulsions, attended in some instances with nausea and vomiting, in others simulating hysteria, and in all being a most anomalous character.<sup>178</sup>

It was not only the bodies of the convicts that were negatively affected, but their minds. Another surgeon remarked how convicts' 'power of thinking, their common sense, and in a particular degree their *memory*, appeared to have been left behind them,

---

<sup>176</sup> For information on the separate and silent systems as well as prison architecture that was based upon these systems, see: McGowen, 'The Well-Ordered Prison', pp. 79-110; Henriques, 'The Rise and Fall of the Separate System of Prison Discipline', pp. 61-93; Fairweather, 'Prison Architecture in England', pp. 339-361; Ignatieff, *A Just Measure of Pain*; Evans, *The Fabrication of Virtue*; Bradley, *The Convict Probation System*, pp. 7-8.

<sup>177</sup> These convicts, who were sent after 1846 having served part of their sentence in a penitentiary in the United Kingdom, were known as 'exiles'. See Richard Davis, 'Exile' in Alison Alexander (ed.), *The Companion to Tasmanian History* (Hobart: Centre for Tasmanian Historical Studies, 2005), pp. 432-437; Katherine Foxhall, 'From Convicts to Colonists: the health of prisoners and the voyage to Australia, 1823-1853', *Journal of Imperial and Commonwealth History* vol. 39, no. 1 (2011), p. 11.

<sup>178</sup> John Hampton as quoted in Foxhall, 'From Convicts to Colonists', p. 11.

buried in their cell.’<sup>179</sup> While some convicts might have been ‘reformed’ after this treatment as they did not commit any further crimes, it appears that physical and psychological debility were common effects of solitary confinement.<sup>180</sup>

In VDL itself, solitary confinement was never so long nor so absolute as that experienced by inmates in the penitentiaries of England.<sup>181</sup> An overpopulation of convicts, poor administration, lack of government funds, and an economic depression made strict standards of regulation impossible to maintain.<sup>182</sup> However solitary confinement was still greatly feared by convicts, in part because isolation was so different from their daily experience. Offenders in VDL usually slept, ate and worked with their criminal counterparts.<sup>183</sup> They often suffered punishments together. Hard labour was the most common punishment for convicts in VDL and Douglas was no exception.<sup>184</sup> He served forty-nine months and fourteen days hard labour both with and without chains.<sup>185</sup> Hard labour was designed to combat the perceived idleness of the criminal classes, but it also allowed prisoners to work alongside their fellows.<sup>186</sup> In Douglas’ criminal record, he may appear as one man resisting the convict system, but apart from spells in solitary confinement he was never alone. Isolation stood in contrast

---

<sup>179</sup> As quoted in Foxhall, ‘From Convicts to Colonists’, p. 12.

<sup>180</sup> Foxhall, ‘From Convicts to Colonists’, pp. 1-19.

<sup>181</sup> The government did not have the facilities for men and women to be completely separated from their peers. See for example Hamish Maxwell-Stewart, ‘The Bushrangers and the Convict System of Van Diemen’s Land, 1803-1846’, PhD Thesis (University of Edinburgh, 1990), pp. 97-110.

<sup>182</sup> *ibid.*; Sproud, ‘The Probation System’, p. 290.

<sup>183</sup> Denholm, ‘Port Arthur’, p. 406. See for example an instance in 1847 when Douglas was brought to trial as a witness to a work mate’s crime. ‘Hobart Town Supreme Court’, *Courier* (23 January 1847), p. 2.

<sup>184</sup> Maxwell-Stewart, ‘The Bushrangers’, pp. 97-110.

<sup>185</sup> TAHO, CON35/1/1, page 184.

<sup>186</sup> McGowan, ‘The Well-Ordered Prison’, p. 84; Stefan Petrow, ‘Policing in a Penal Colony: Governor Arthur’s police system in Van Diemen’s Land’, *Law and History Review* vol. 18, no. 2 (2000), p. 360; Shaw, ‘The Origins of the Probation System in Van Diemen’s Land’, pp. 19-20.

to the communal nature of convict life in VDL and this made solitary confinement all the more despised by convicts.

For their part, colonists were more concerned with overcrowding than they were with secondary offenders in solitary confinement. After transportation to New South Wales ended in 1840, VDL was used almost exclusively as the site for transported convicts in the Australian colonies until the 1850s.<sup>187</sup> When Douglas arrived in VDL, free settlers were not only incensed that they were flooded with convicts, but that these men and women were 'delayed in becoming useful employees' as they needed to work through several stages of government service before they received probation passes and could be hired by private employers.<sup>188</sup> Colonists were similarly incensed that convicts needed to be paid for their labour as they had been forced to work for free under the assignment system.<sup>189</sup> Quite apart from these economic concerns, the fact that out-stations such as Port Arthur were 'places of closer confinement, harsher discipline and more primitive living conditions than were the seats of Government' exacerbated colonists' fears about the immorality of the convict population.<sup>190</sup> '[C]oncerns were raised about probation stations as breeding grounds for idleness, vice, and "unnatural

---

<sup>187</sup> Richard Ward, 'Transportation Under the Microscope', The Digital Panopticon. Accessed 26 April 2019 via: <<https://blog.digitalpanopticon.org/transportation-under-the-macroscopic/>>

It is important to note that British convict transportation was not just to the Australian colonies, and continued into the twentieth century, long after transportation to Australia ceased in 1867. Clare Anderson, 'Transnational Histories of Penal Transportation: punishment, labour and governance in the British Imperial World, 1788-1939', *Australian Historical Studies* vol. 47, no. 3 (2016), pp. 381-397.

<sup>188</sup> Katherine Roscoe, 'Tasmania: Van Diemen's Land, 1804-1853', *Convict Voyages: a global history of convicts and penal colonies*, University of Leicester. Accessed 12 April 2018 via: <<http://convictvoyages.org/expert-essays/tasmania>>; David Meredith and Deborah Oxley, 'Contracting Convicts: the convict labour market in Van Diemen's Land', *Australian Economic History Review* vol. 45, no. 1 (2005), pp. 45-72.

<sup>189</sup> Meredith and Oxley, 'Contracting Convicts', pp. 45-49.

<sup>190</sup> Denholm, 'Port Arthur', p. 406.

crime" (homosexual acts).<sup>191</sup> Such was the scandal that these complaints generated that Arthur's successor, Lieutenant-Governor Eardley-Wilmot, was recalled by the Colonial Office in 1846 for failing to adequately address settlers' allegations of misconduct.<sup>192</sup>

While it is impossible to know whether William Douglas' probation experience aligned with colonists' fears about moral contagion, he was part of an incredibly homosocial society. There were not only large numbers of men, with men composing 85.1 percent of the convict population of in 1847, but popular, masculine pursuits like prize fighting.<sup>193</sup> To the lower orders prize fighting epitomised gallant masculinity, honour, pride and power, and among William Douglas' many activities in VDL, he was a famous prize fighter.<sup>194</sup> Although illegal in the colony, prize fighting contests were of particular importance to convicts, as they spent day after day toiling away with hard labour. Manly strength, physical prowess and endurance affected the course of their

---

<sup>191</sup> Roscoe, 'Tasmania'.

<sup>192</sup> Catie Gilchrist, "'A Victim of His Own Temerity'? Silence, scandal and the recall of Sir John Eardley-Wilmot', *Journal of Australian Studies* vol. 28, no. 84 (2005), pp. 151-161.

<sup>193</sup> James Barnard, 'Observations on the statistics of Van Diemen's Land for 1849: compiled from official records in the Colonial Secretary's Office', *Papers and Proceedings of the Royal Society of Tasmania* vol. 2, no. 1 (1852), pp. 1-2.

<sup>194</sup> Douglas was punished on two occasions for prize fighting between 1850 and 1851, however, it is possible that his conduct record underrepresents the number of Douglas' fights because it only recorded when he was caught. TAHO, CON35/1/1, page 184.

Douglas was also a man who went down in sporting history, as years later, fighters on the Victorian goldfields still referred to their matches with Douglas in VDL as a testament to their experience and sporting prowess. See for example 'The Ring in Victoria', *Bell's Life in Sydney* (5 December 1857), p. 2; 'Bob Fee and Tom Woods for £180', *Bell's Life in Victoria* (30 January 1858), p. 3; 'The Ring', *Bell's Life in Victoria* (25 June 1859), p. 4; 'The Ring', *Bell's Life in Victoria* (9 March 1861), p. 4.

For the cultural meaning of prize fighting amongst the lower orders, see Richard Waterhouse, 'Bare Knuckle Prize Fighting, Masculinity and Nineteenth Century Australian Culture', *Journal of Australian Studies* vol. 26, no. 73 (2002), pp. 101-110; Alison Alexander and David Young, 'Boxing' in Alison Alexander (ed.), *The Companion to Tasmanian History* (Hobart: Centre for Tasmanian Historical Studies, 2005), p. 52; Dennis Brailsford, *Bareknuckles: a social history of prize-fighting* (Cambridge: Lutterworth Press, 1988).



everyday lives, and the 'ring' became a microcosm of this reality: albeit one more happily cast in the guise of entertainment.

Prize fighting gave men like Douglas a chance to make a name for themselves and we can see this celebrity status most clearly in 1850 when Douglas fought his most memorable fight, against Bob Fee of Sheffield. In three hours and twenty-nine minutes, the men battled it out, using bare fists, agility and raw strength in an attempt to get the better of their opponent. By this year, both men had already achieved a degree of fame as sporting newspaper *Bells Life in Sydney* remarked that, '[t]he known capabilities of these men rendered the...event of no slight degree of interest'. This statement carried even more weight considering that the match itself took place in Hobart, miles away from where the paper was published in Sydney. Douglas actually identified as a Sydneysider in this particular bout of fighting, but this was not as unusual as it sounds.<sup>195</sup> As Richard Waterhouse notes, prize-fighters commonly used their home country or locale 'as a means of securing backing and support from those with a similar identification.'<sup>196</sup> In a public forum, this sport required fighters to prove not only their own manly mettle, but the strength and valour of the people they represented. It made more sense for Douglas to identify as a Sydneysider than a Philadelphian as the colonial association was more likely to garner popular appeal.<sup>197</sup> Douglas was not the only felon

---

<sup>195</sup> 'The Ring: gallant fight in Van Diemen's Land between Bob Fee of Sheffield, and Black Douglas of Sydney', *Bell's Life in Sydney and Sporting Reviewer* (26 October 1850), p. 2.

<sup>196</sup> Waterhouse, 'Bare Knuckle Prize Fighting', p. 107.

<sup>197</sup> Although Douglas was not the only black man transported to VDL during this period, there were more likely to be Sydney-siders than black men at the match. After 1837, for example, West-Indian convicts stopped being transported to Australia. Diana Paton argues that this 'highlights the significance of an emerging racial and spatial politics of empire that coded Australia white and the Caribbean black, and tried to ensure that the two did not mix.' See Paton, 'An Injurious Population', pp. 449-464. Quotation from page 449. For more information on black convicts in Australia, see Duffield, 'From Slave Colonies to Penal Colonies', pp. 25-45. For Aboriginal convicts, see Harman, *Aboriginal Convicts*.

facing secondary punishment in VDL, and it was more than likely that fellow Sydney-siders formed the ranks of spectators.<sup>198</sup>

Prize fighting was an elusive sport in VDL. Although it was popular throughout America, England and the Australian colonies during this time, in VDL 'only a few prize fights took place...for modest purses' because of its illegality.<sup>199</sup> The police were usually quick to pursue any would-be combatants and Douglas' fight was typical in this sense, as '[t]he Blues, unluckily, were on the alert, and a shift was compelled to be made for fear of ulterior consequences' before the match could start.<sup>200</sup> Fortunately, the organisers 'sequestered [a] bit of turf on Clarence Plains, where the roped area was put up, long before the unlucky toddlers could find out the whereabouts.'<sup>201</sup> The elusive nature of the sport in VDL may have enhanced Douglas' fame, as he was one of only a few fighters there.

Indeed, the prize fighting ring appears to have been where the Black Douglas legend was born. The name 'Black Douglas' first appeared in VDL as William Douglas' prize fighting name. Although it carried the most weight on the Victorian goldfields in the 1850s, the moniker 'Black Douglas' was not created by goldminers. And it was not originally a derogatory term. In contrast to later, racist depictions of black men on the Victorian goldfields, Ian Duffield suggests there was little racism among convicts themselves, and that the authorities treated these men and women in the same manner

---

<sup>198</sup> Maxwell-Stewart, *The Bushrangers*, pp. 151, 154-155; Shaw, 'The Origins of the Probation System in Van Diemen's Land', pp. 16-28.

<sup>199</sup> Waterhouse, 'Bare Knuckle Prize Fighting', p. 103; Alexander and Young, 'Boxing', p. 52.

<sup>200</sup> 'Blues' was a colloquial term for the police.

<sup>201</sup> 'Toddlers' was also a colloquial term for the police. 'The Ring: gallant fight in Van Diemen's Land between Bob Fee of Sheffield, and Black Douglas of Sydney', *Bell's Life in Sydney and Sporting Reviewer* (26 October 1850), p. 2.

as their Anglo peers. 'Black' was not necessarily a pejorative term among convicts, but a statement of pigmentation, relatively untethered to derogatory stereotypes.<sup>202</sup> Although this sporting title may have been arbitrarily bestowed upon William Douglas, he could have invented the name 'Black Douglas' himself, owned it and embraced it.

## Conclusion

William Douglas has left the greatest archival trace as a notorious bushranger in 1850s Victoria, but bushranging was not the defining feature of his history. Not only has this chapter proven that Douglas was only convicted for one, unspectacular attempt at bushranging in New South Wales in 1841 and was captured soon later, but that bushranging was just one small strand in the vibrant tapestry of his life. Douglas' experiences were inherently transnational. His life was shaped by American, British and colonial regimes of power and control. In each locale, Douglas pushed back against societal constraints, tested their boundaries and carved out opportunities for himself in relation to what he found. Although this chapter is drawn from fragmentary archival material from around the world, Douglas' life was not lived in fragments. His experiences were cumulative: ideas, lessons and social capital accumulated at one site were taken to another and added different layers to his life. No facet of his experience was fixed or stable. Not even Douglas' 'blackness' remained the same over space and time.

---

<sup>202</sup> Duffield, 'From Slave Colonies', p. 30.

For how race was conceived by the colonial elite during this time, see Henry Reynolds, 'Racial Thought in Early Colonial Australia', *Australian Journal of Politics and History* vol. 20, no. 1 (1974), pp. 45-53.

Although the pseudonym, 'Black Douglas' followed him for 42 years of his life, the social meaning of Douglas' black skin changed according to context.<sup>203</sup> In Philadelphia, Douglas' pigmentation connected him to the legacy of slavery, racial prejudice and an emergent free black subculture. On a ship, Douglas' race was less important than his ability, but his black skin could have marked him out for exemplary punishment to restore white ideas of racial order. Douglas' blackness could have put him in competition with white sailors for a dwindling supply of seafaring jobs, while on land, it may have provided him with a certain cultural cache as a servant. Douglas' black skin was used to identify him as a perpetrator of bushranging crime in New South Wales, but was unremarked upon in his trial for larceny in Rye in 1835. Douglas' skin distinguished him from the majority of white convicts and may have marked him out as a leader, while the laceration marks on his back added another transgressive dimension to his physical appearance. The social and cultural meaning of Douglas' blackness was unstable. It shifts in and out of view in the archives, although Douglas' pigmentation remained the same throughout his life.<sup>204</sup>

The ambiguities of race were not lost on Douglas. At the end of his life, he was able to leverage colonists' ideas about race to his advantage. Douglas remained in

---

<sup>203</sup> Apart from 'William Douglas' and 'Black Douglas', William Douglas went by: 'Alexander Douglas', 'Charles Douglas' and 'Charles Russell'.

PROV, VPRS 515/P1, Unit 4, 1855/352; PROV, VPRS 515/P1, Unit 38, 1886-88/237; PROV, VPRS 515/P1, Unit 44, 1891/318; Death: Charles Russell, Register of Births, Deaths and Marriages (RBDM) 1892/5199; PROV, VA 2889 Registrar-General's Department, VPRS 24/P0001 Inquests into Deaths (deposition files, 1840-1985), Unit 596, 1892.

<sup>204</sup> For more on bodies in history, see Antoinette Burton and Tony Ballantyne (eds.), *Bodies in Contact: rethinking colonial encounters in world history* (Durham N. C., Duke University Press, 2005).

Victoria until he died of ‘old age and senile debility’ in Bendigo Gaol in 1892.<sup>205</sup> After his goldfield days in the 1850s, he was constantly in and out of gaol for vagrancy and drunk and disorderly conduct. Douglas lived his life in prison, on the streets, in benevolent institutions, or in the pub. Although a pub may not appear to be an obvious space to invert colonial racial understandings or ply a pseudo-scientific trade, it was here, ‘late in life’ that Douglas became a phrenologist.<sup>206</sup> Phrenologists believed that by studying the size and shape of a skull, they could divine information about a person’s character and mental abilities.<sup>207</sup> Although phrenology was ‘the most popular mental science of the Victorian age’, it was also deeply imbricated in Western racial ideology.<sup>208</sup> The majority of white, male phrenologists used their findings to justify their position at the top of the racial order. And yet, at the same time William Douglas, a black man in a pub, was ‘reading’ white people’s skulls in exchange for a pint.<sup>209</sup> Although white patrons may have come to Douglas for a reading because of the absurdity or novelty of the experience, in this encounter, the dynamics of power were reversed.<sup>210</sup> Douglas was the one

---

<sup>205</sup> Death: Charles Russell, Register of Births, Deaths and Marriages (RBDM) 1892/5199; PROV, VA 2889 Registrar-General’s Department, VPRS 24/P0001 Inquests into Deaths (deposition files, 1840-1985), Unit 596, 1892.

<sup>206</sup> ‘The End of “Black Douglass”, the bushranger’, *Bendigo Advertiser* (17 May 1892), p. 3; ‘Death of a Notorious Bushrangers’, *Age* (17 May 1892), p. 6; ‘Death of a Notorious Bushranger’, *Sydney Morning Herald* (17 May 1892), p. 5; PROV, VPRS 515/P1, Unit 44, 1891/318; Death: Charles Russell, Register of Births, Deaths and Marriages (RBDM) 1892/5199; PROV, VA 2889 Registrar-General’s Department, VPRS 24/P0001 Inquests into Deaths (deposition files, 1840-1985), Unit 596, 1892.

<sup>207</sup> ‘Phrenology’, Cambridge English Dictionary. Accessed 5 June 2019 via: <<https://dictionary.cambridge.org/dictionary/english/phrenology>>

<sup>208</sup> James Poskett, *Materials of the Mind: phrenology, race, and the global history of science, 1815-1920* (Chicago: University of Chicago Press, 2019), p. 1. See also James Poskett, ‘Phrenology, Correspondence and the Global Politics of Reform, 1815-1848’, *The Historical Journal* vol. 60, no. 2 (2017), pp. 409-442; Alexandra Roginski, ‘A Touch of Power: popular phrenology in the Tasman World’, PhD Thesis (ANU, 2018).

<sup>209</sup> ‘The End of “Black Douglass”, the bushranger’, *Bendigo Advertiser* (17 May 1892), p. 3; ‘Death of a Notorious Bushrangers’, *Age* (17 May 1892), p. 6.

<sup>210</sup> For a study of black phrenologists and popular phrenology in the Tasman world, see Roginski, ‘A Touch of Power.’

decreeing the character and racial worth of white men. Even as an old man, Douglas continued to rail against societal expectations and work situations to his own advantage. Race, class, labour, mobility, law and masculinity defined the parameters of Douglas' life, but he made a life for himself in the space between them.

The history of Sam Poo, 'Australia's only Chinese bushranger', begins in 1865, thirty years after Douglas came to colonial shores and after major changes to the nature of bushranging, crime and society in New South Wales. Sam Poo's criminal career coincided with the 1860s 'bushranging crisis' and structural changes to law and policing in New South Wales. While the following chapter explores this shift in context, there are continuities between this Chinese man's history and that of William Douglas. Both appear to us first as 'absent centres' in the archives. And both require a careful re-reading of the colonial material to separate the myth from the reality of their lives.

### Places of Note in Chapter 3



-  Mudgee
-  Coonabarabran
-  Maitland
-  Talbragar
-  Burrangong (Lambing Flat)
-  Bathurst

## Chapter 3

### The Many Histories of Sam Poo

On the 4<sup>th</sup> of February 1865, Mr John Plunkett and his family, of Talbragar New South Wales, sought to ease the suffering of a dying man. They barely knew the ailing Senior Constable John Ward, as Plunkett had found him shot and bleeding in the bush only the previous day.<sup>1</sup> Plunkett took the wounded officer to his homestead, and while they waited for the closest doctor to travel some seventy-two kilometres, he recited the Church of England service for the sick and dying as his wife and children knelt down beside him and offered their own prayers.<sup>2</sup> Unfortunately for Senior Constable Ward, neither the family's assistance nor the medical expertise of Dr William King could save him from the fatal gunshot wound he had sustained to his pelvis. At 32 years of age, John Ward died at four o'clock that February afternoon.<sup>3</sup> Even before he drew his last breath, men were on the hunt for the culprit of this unexpected murder. For although the 1860s 'became known as the "bushranging decade" because of the number and exuberance of the...crimes committed', the man accused of this felony was apparently the first of his kind.<sup>4</sup> This case of bushranging was one of more than 300 in 1860s New

---

<sup>1</sup> 'Murder of Senior Constable Ward', *Sydney Morning Herald* (10 February 1865), p. 4.

<sup>2</sup> See John Plunkett's deposition in 'Wilful Murder', *Sydney Mail* (14 October 1865), p. 12.

<sup>3</sup> NSW State Archives (NSWSA): Supreme Court; NRS 6034, Justice Hargrave's Notebook, 1865 [2/4469]; NSWSA: Clerk of the Peace; NRS 880, Papers and Depositions of the Supreme Court on Circuit, 1865 [9/6474, 9/6475]. For Ward's age, see Edgar Penzig, *Troopers, Villains, Vipers and Vixens: an illustrated history of police and colonial crime 1850-1915* (Katoomba: Tranter Enterprises, 1995), p. 82.

<sup>4</sup> Susan West, *Bushranging and the Policing of Rural Banditry in New South Wales, 1860-1880* (Melbourne: Australian Scholarly Publishing, 2009), pp. 18-19.



South Wales when bushranging was at 'its most acute stage', but it was the only one to have a Chinese man accused of such crimes.<sup>5</sup>

Sam Poo was said to have 'bailed up' travellers and robbed shepherds' huts for just a few days in 1865. It was also insinuated that he tried to rape a white woman and her young daughter, although charges were never brought against him.<sup>6</sup> The ill-fated Senior Constable Ward only became a part of this history because he heard that there was a Chinese bushranger in the Mudgee area, spied a suspect and was shot while trying to apprehend him. Newspapers wasted no time in lamenting John Ward's violent death. He was said to have been 'a most efficient, intelligent and active officer.'<sup>7</sup>

A gentleman by birth and education....He entered the police, and hoped by devotion to his duties to obtain advancement. That his conduct at Coonabarabran, where he was stationed, was appreciated, will appear from a subscription having started not long since, with the purpose of presenting him a purse of money and a testimonial; but he instantly vetoed it when he heard of its being afoot. And now poor fellow, he is dead. He died unflinchingly performing his duty—could the greatest hero that ever breathed do more?<sup>8</sup>

To contemporary news bulletins, Ward was all things good and honourable. He epitomised the ideal police officer. He would be missed by his loving wife and six children as well as by the community he died to defend.<sup>9</sup> In this unusual episode of

---

<sup>5</sup> Susan West, "'Spiders in the centre of their webs': the NSW police and bushranging in the 1860s", *Journal of Australian Colonial History* vol. 8 (2006), p. 2; West, *Bushranging*, p. 23.

<sup>6</sup> Elizabeth Golding deposed that the accused said to her 'If I cannot have the will of the girl [Golding's young daughter], I will of you.' However, this is where any implication that Sam Poo assaulted women ended. See for example 'Wilful Murder', *Sydney Mail* (14 October 1865), p. 12; NSWSA: Clerk of the Peace; NRS 880, Papers and Depositions of the Supreme Court on Circuit, 1865 [9/6474, 9/6475].

<sup>7</sup> 'Murder of Senior Constable Ward', *Sydney Morning Herald* (10 February 1865), p. 4.

<sup>8</sup> 'The Murder of Senior Constable John Ward', *Maitland Mercury* (18 February 1865), p. 5.

<sup>9</sup> 'Murder of Senior Constable Ward', *Sydney Morning Herald* (10 February 1865), p. 4; 'Murder of Senior Constable Ward', *Maitland Mercury* (11 February 1865), p. 1.

Australian history, the police officer and not the bushranger is cast as a frontier hero.<sup>10</sup> Ward's death was made all the more poignant by the fact that he was not meant to be in Mudgee on that February summer's day. The *Maitland Mercury* reported how the Senior Constable was stationed in Coonabarabran, almost 200 kilometres away. He was only in Mudgee to deliver a criminal to the courthouse for trial. Duty called him to Mudgee, and he appeared to have died there for the same cause.<sup>11</sup>

It would be easier to write the history of Senior Constable Ward, the benevolent squatter John Plunkett or well-travelled bush doctor William King, than it is to write the history of Sam Poo. In part, this is because Sam Poo's career as a bushranger and murderer lasted for only twenty-five days.<sup>12</sup> However during that time in early 1865, he threatened the security of white settlers, obtained incredible notoriety and became more than just an armed criminal: he also became a symbol of the 1860s bushranging crisis. Although brief, Sam Poo's criminal career is important.

To write Sam Poo's history is also a difficult task because of the ambiguous place that he holds in the colonial archive. There are few traces of his life in the remaining

---

<sup>10</sup> See Chapter 1 for negative depictions of the police. See also Graham Seal, *The Outlaw Legend: a cultural tradition in Britain, America and Australia* (Cambridge University Press, 1996).

<sup>11</sup> 'The Murder of Senior Constable John Ward', *Maitland Mercury* (18 February 1865), p. 5.

<sup>12</sup> *ibid.*; 'Telegraphic Messages', *Sydney Morning Herald* (6 February 1865), p. 4; 'Murder of Senior Constable Ward', *Sydney Morning Herald* (10 February 1865), p. 4; 'Mudgee', *Sydney Mail* (11 February 1865), p. 2; 'Murder of Senior Constable Ward', *Maitland Mercury* (11 February 1865), p. 1; 'Capture of the Chinaman Bushranger', *Illawarra Mercury* (24 February 1865), p. 2; 'Capture of the Chinaman Who Shot Senior Constable Ward', *Maitland Mercury* (25 February 1865), p. 3; 'Summary', *Sydney Mail* (25 February 1865), p. 4; 'Arrest of the Chinese Bushranger', *Tumut and Adelong Times* (27 February 1865), p. 2; 'Mudgee', *Maitland Mercury* (2 March 1865), p. 4; 'Retrospect of the Month', *Illustrated Sydney News* (16 March 1865), p. 2; 'Bathurst Circuit Court', *Empire* (13 April 1865), p. 2; 'General News: Bathurst Circuit Court', *Maitland Mercury* (20 April 1865), p. 3; 'Bathurst Assizes—Sentences', *Queanbeyan Age* (26 October 1865), p. 2; NSWSA: Corrective Services; NRS 1993, Bathurst Gaol Entrance Book, 1865 [4/8492], reel 2321, entry for 'Sam Poo'; NSWSA: Supreme Court; NRS 13492, Register of Criminal Indictment, 1865 [9/2630], reel 1860, entry for 'Sam Poo'; NSWSA: Supreme Court; NRS 6034, Justice Hargrave's Notebook, 1865 [2/4469]; NSWSA: Clerk of the Peace; NRS 880, Papers and Depositions of the Supreme Court on Circuit, 1865 [9/6474, 9/6475].

sources. In the archive, Sam Poo, like Black Douglas, is an absent centre around which colonial discourse about crime, justice, race and power revolve. While salacious details about his alleged crimes abound, very little can be divined from colonial sources about who Sam Poo was as a person or his life before he was branded a criminal. This makes his distorted image in colonial discourse easier to relate than his substance as a man, but it does not make an alternative perspective impossible. By using ethnography and prosopography, it is possible to approach Sam Poo's life on its own terms and in the process understand, challenge and remedy the colonial inaccuracies that have defined his history until now.

This chapter begins by examining colonial depictions of Sam Poo's crimes, and then moves onto a forensic rereading of the colonial material, and an examination of Poo's Chinese context. It explores the relationship between colonial discourse, archival silences and historical reality to understand the threat that Sam Poo posed to colonial society and add substance to a Chinese figure who has been relegated to an 'odd footnote' in Australian bushranging history.<sup>13</sup> While positioned as an outsider to colonial society, Sam Poo's violent crimes informed debates about bushranging, policing, criminality and law. But the disjuncture between this discourse and historical evidence indicates that Sam Poo was not so much feared for the physical as the symbolic threat that he posed to colonial society. By uncovering the many histories of Sam Poo, we can see that 1860s bushranging had a multilayered, multiracial history, and that settler

---

<sup>13</sup> Robert Travers, *Rogues' March: a chronicle of colonial crime in Australia* (Richmond, VIC: Hutchinson Group, 1973), p. 67.

Australian anxieties about the bushranging crisis were informed by colonial ideas of difference as much as the real threat of crime.

## **Sam Poo: The Colonial Story**

### ***The Bushranging Era***

The *Maitland Mercury* was the closest major news publication to the scene of Ward's murder, and it bore the responsibility of informing local readers about the crime and the perpetrator who remained at large. Although Ward's bloody death was certainly newsworthy, the paper opened its reporting of the case with an apology to its audience. 'As bushranging is now confessedly one of the institutions of New South Wales', the Mudgee correspondent acknowledged that, 'I do not suppose another case of its happening...will occasion much astonishment'.<sup>14</sup> In this statement, the correspondent was right. Bushranging was at its peak in 1860s New South Wales. It was not simply local hysteria that drove the reporter to describe bushranging as endemic to rural colonial society. Even historians cannot help but describe bushranging by this time as a 'settled institution'.<sup>15</sup> The numbers are astounding, and an estimate of more than 300 bushranging cases in this decade only represents the number of people who were convicted for bushranging crimes.<sup>16</sup> There were many more cases that never made their way to court or where there was insufficient evidence to secure a conviction.

---

<sup>14</sup> 'The Murder of Senior Constable John Ward', *Maitland Mercury* (18 February 1865), p. 5.

<sup>15</sup> John Hirst, *The Strange Birth of Colonial Democracy: New South Wales 1848-1884* (Sydney: Allen & Unwin, 1988), p. 223.

<sup>16</sup> West, "Spiders in the centre of their webs", p. 2.

While bushranging was a common feature of the social landscape on the Victorian goldfields in Black Douglas' time, the form of this menace had changed by the 1860s in New South Wales. Although immigrants still flocked to New South Wales, where new goldfields were being discovered well into the 1870s, the main bushranging threat did not come from ex-convicts or immigrants but 'native' New South Welshmen who had been born in the colony.<sup>17</sup> These were meant to represent the colony's 'coming man', the new colonial type upon whose shoulders New South Wales' future rested.<sup>18</sup> While some looked upon these men as a new, robust and admirable breed, the fact that they composed 67.7 per cent of bushranging offenders between 1862 and 1867 seemed to belie this more favourable view.<sup>19</sup>

Earlier episodes of bushranging caused panic and disruption in the colony, but they could be more easily explained as originating beyond New South Wales' borders. The original convict bushrangers had already been tarred by their criminal actions before they set foot on the colony's shores. That some reoffended often came as no surprise to free settlers.<sup>20</sup> Ex-convicts who travelled to the goldfields in the 1850s and became bushrangers could be explained in the same manner, while Gold Rush immigrants from

---

<sup>17</sup> R. B. Walker, 'Bushranging in Fact and Legend', *Australian Historical Studies* vol. 11, no. 42 (1964), p. 211.

Settlers of European descent who were born in Australia called themselves 'natives'. John Molony, *The Native-Born: the first white Australians* (Melbourne: Melbourne University Press, 2000); Ken Macnab and Russel Ward, 'The Nature and Nurture of the First Generation of Native-Born Australians', *Australian Historical Studies* vol. 10, no. 39 (1962), pp. 289-308.

<sup>18</sup> For more information about the 'Coming Man', see Richard White, *Inventing Australia: images and identity, 1688-1980* (Sydney: Allen & Unwin, 1981), pp. 63-84.

<sup>19</sup> West, *Bushranging*, p. 82. While these exact figures were not calculated at the time, 'native' Australians' turn to bushranging crime was widely remarked upon in 1860s New South Wales. See for example Susan West, 'The Role of the "Bush" in 1860s bushranging', *Journal of the Royal Australian Historical Society* vol. 91, no. 2 (2005), pp. 133-147; Susan West, "'The Thieftom": bushrangers, supporters and social banditry in 1860s New South Wales', *Journal of the Royal Australian Historical Society* vol. 101, no. 2 (2015), pp. 134-155.

<sup>20</sup> Walker, 'Bushranging in Fact and Legend', p. 206.

overseas who turned to bushranging were an external menace.<sup>21</sup> Although these bushrangers were greatly feared, they did not challenge the colony's future prospects in quite the same way as bushrangers who were born on colonial soil.

In colonists' eyes, the rural, 'native' youth of the 1860s who turned to bushranging were different from their predecessors.<sup>22</sup> By the middle of the decade, half of the population of New South Wales was colonial-born.<sup>23</sup> Many were related to convicts but had been born free and so had a unique connection to the land. For this generation, the home of 'Mother England' was an image conjured from conversation with their elders, while the only home that they had ever truly known was the bush.<sup>24</sup> However, official recognition of this connection, in the form of land ownership, was often difficult for these men to achieve. Colonial policy 'kept the price per acre so high that the average member of the working classes could only dream of land ownership.'<sup>25</sup> Instead, colonial land policy favoured wealthy immigrants who disparaged local bush life and culture, and this was a source of great resentment among colonial-born men and women. The new free selection system that was meant to address this class issue would only 'become operational after the bushranging outbreak was largely over'.<sup>26</sup> There was no formal recognition of the colonial-born's connection to the bush.

---

<sup>21</sup> See Chapter 1. See also Walker, 'Bushranging in Fact and Legend', p. 209.

<sup>22</sup> For statistics on 1860s bushrangers' country of origin, see West, *Bushranging*, p. 298.

<sup>23</sup> West, "The Thieftom", p. 136.

<sup>24</sup> *ibid.*; West, 'The Role of the "Bush"', p. 135.

<sup>25</sup> West, 'The Role of the "Bush"', p. 133.

<sup>26</sup> *ibid.*

Furthermore, although white men were granted the vote in 1856, 'the six-month residency clause resulted in only 48 per cent of men in agricultural electorates, and 72 per cent in urban electorates being qualified to vote.' With their limited access to the vote as well as land ownership, many colonial-born men felt disenfranchised. West, "The Thieftom", p. 137.

In response to this exclusion from land ownership, historians argue that itinerant, 'native' men honed a different set of skills. The bush-born became bushmen. From the 1860s, an increasingly romantic, mythic tone inflected depictions of these men. They were meant to know the lie of the land, its gullies, ravines and plains. They apparently knew how to ride a horse along rocky outcrops and loose roads, how to muster thousands of heads of cattle; how to make the bush an ally. In reality, the range and depth of experience varied from person to person and place to place just as the bush encompassed a vast array of different vegetation, landscapes and geography.<sup>27</sup> But overall, colonial-born men possessed many of the same skills as bushrangers. Practiced bushcraft alongside local support meant that even the most short-lived and opportunistic of bushrangers posed a deep threat to colonial society. They added a new criminal stain to the colony's character, just as that of the convict era was slowly fading away. They jeopardised lives and property, and they threatened to further contaminate the communities in which they operated. The editor of the *Sydney Morning Herald* felt that

...we have the proof that there is something socially rotten amongst a too considerable portion of the community in the fact that men who ought everywhere to be regarded as ruffians, as outcasts, as curses to the country, have a circle of colleagues, a large circle of sympathisers, a still larger circle of admirers, and a still larger circle of those who take a romantic interest in their achievements.<sup>28</sup>

---

<sup>27</sup> Hirst, *The Strange Birth of Colonial Democracy*, pp. 119-131; Russel Ward, *The Australian Legend* (Melbourne: Oxford University Press, 1958); Graeme Davison, 'Sydney and the Bush: an urban context for *The Australian Legend*', *Australian Historical Studies* vol. 18 (1978), pp. 191-209; Richard Waterhouse, 'Australian Legends: representations of the bush, 1813-1913', *Australian Historical Studies* vol. 31, no. 115 (2000), pp. 201-221.

<sup>28</sup> 'Editorial. Monday, July 11, 1864', *Sydney Morning Herald* (11 July 1864), p. 4.

The original Mudgee correspondent was correct, then, in declaring that another instance of bushranging would be of no surprise to his readers. But he was also correct in his assertion that Sam Poo's case had 'peculiarities to distinguish it above ordinary ones.'<sup>29</sup> Not only was Sam Poo a Chinese man, but he was 'unfriended, on foot and ignorant of localities.'<sup>30</sup> The 'elite' bushrangers—those successful, long-term criminals that newspapers were used to describing—often had a large support base.<sup>31</sup> Although tales of men and women riding out to join bushrangers were the dramatic encounters that captured public attention, the extent of local support varied considerably.<sup>32</sup> Susan West's study of rural banditry suggests that many settlers assisted bushrangers by simply ignoring their activities, or were compelled to provide food or shelter for fear that their own properties would be compromised.<sup>33</sup> But this did not sell newspapers in the same way as networks of informants and supporters (dubbed 'bush telegraphs'). Papers alternated between bewailing the extent of popular support that bushrangers received and giving a sly nod of approval when a white bushranger achieved a brave or daring feat.<sup>34</sup> And into the middle of this established print culture came Sam Poo.

While certainly different from their regular bushranger reportage, the newspapers' descriptions of Sam Poo being alone and 'unfriended' may suggest that he posed a limited threat to colonial society.<sup>35</sup> Not only in his crimes, but at his trial, Sam

---

<sup>29</sup> 'The Murder of Senior Constable John Ward', *Maitland Mercury* (18 February 1865), p. 5.

<sup>30</sup> 'Summary', *Sydney Mail* (25 February 1865), p. 4.

<sup>31</sup> West, 'The Role of the "Bush"', p. 134.

<sup>32</sup> See for example 'Female Bushrangers', *Age* (4 March 1865), p. 7; 'Female Bushrangers', *Australian News for Home Readers* (18 March 1865), p. 14.

<sup>33</sup> For the range of motivations that led colonists to assist bushrangers, see West, "The Thieftom", pp. 135-155; West, *Bushranging*, pp. 121-158; West, 'The Role of the "Bush"', p. 143.

<sup>34</sup> See for example 'The Reappearance of Bushrangers', *Sydney Morning Herald* (3 October 1867), p. 4; 'Editorial. Tuesday, February 7, 1865', *Sydney Morning Herald* (7 February 1865), p. 4.

<sup>35</sup> See note 30.



Poo appeared an outsider. After he was eventually captured by three police officers and an Aboriginal tracker, fourteen days after Ward's death, Poo did not speak.<sup>36</sup> Witness depositions made it clear that Sam Poo knew English well and a Chinese translator was provided in case of difficulty, yet he remained silent.<sup>37</sup> No witnesses came forward in his defence.<sup>38</sup> Unlike many white bushrangers who enjoyed the support of their peers, Sam Poo was alone in his endeavours and, one could assume, less dangerous for his isolation. The image of a lone Chinese man could also be used to more fully condemn his actions. Here was a man adrift from all society — both from his own race and the labouring classes to which he belonged.<sup>39</sup> Colonial sources offered no reason for his crimes: there is no evidence that he righted wrongs or defended the oppressed as some white bushrangers

---

<sup>36</sup> 'Capture of the Chinaman Bushranger', *Illawarra Mercury* (24 February 1865), p. 2; 'Capture of the Chinaman Who Shot Senior Constable Ward', *Maitland Mercury* (25 February 1865), p. 3; 'Summary', *Sydney Mail* (25 February 1865), p. 4; 'Arrest of the Chinese Bushranger', *Tumut and Adelong Times* (27 February 1865), p. 2; 'Mudgee', *Maitland Mercury* (2 March 1865); 'Retrospect of the Month', *Illustrated Sydney News* (16 March 1865), p. 2; 'Bathurst Circuit Court', *Empire* (13 April 1865), p. 2; NSWSA: Clerk of the Peace; NRS 880, Papers and Depositions of the Supreme Court on Circuit, 1865 [9/6474, 9/6475].

<sup>37</sup> 'Capture of the Chinaman Bushranger', *Illawarra Mercury* (24 February 1865), p. 2; 'Capture of the Chinaman Who Shot Senior Constable Ward', *Maitland Mercury* (25 February 1865), p. 3; 'Bathurst Circuit Court', *Empire* (13 April 1865), p. 2; 'General News: Bathurst Circuit Court', *Maitland Mercury* (20 April 1865); NSWSA: Clerk of the Peace; NRS 880, Papers and Depositions of the Supreme Court on Circuit, 1865 [9/6474, 9/6475]; NSWSA: Supreme Court; NRS 6034, Justice Hargrave's Notebook, 1865, [2/4469]; 'Arrest of the Chinese Bushranger', *Tumut and Adelong Times* (27 February 1865), p. 2.

<sup>38</sup> *ibid.*

<sup>39</sup> Sam Poo's isolation was also unusual from a Chinese point of view as the Chinese in Australia usually had tight family and community bonds. See Michael Williams, *Chinese Settlement in NSW: a thematic history* (Sydney: NSW Heritage Office, 1999); Shirley Fitzgerald, 'Chinese', *Dictionary of Sydney*. Accessed 24 June 2015 via: <<http://dictionaryofsydney.org/entry/chinese>>; Ann Curthoys, "'Men of All Nations, Except Chinamen": Europeans and Chinese on the goldfields of New South Wales' in Iain McCalman, Alexander Cook and Andrew Reeves (eds.), *Gold: forgotten histories and lost objects of Australia* (Cambridge: Cambridge University Press, 2001), pp. 105-107; Barry McGowan, 'Reconsidering Race: the Chinese experience on the goldfields of southern NSW', *Australian Historical Studies* vol. 36, no. 124 (2004), pp. 312-331; NSWSA: Corrective Services; NRS 1993, Bathurst Gaol Entrance Book, 1865 [4/8492], reel 2321, entry for 'Sam Poo'.

claimed to have done in this period.<sup>40</sup> In popular depictions, Sam Poo offered nothing to colonial society, and in return society offered no assistance to him.

Far from minimising the danger that Sam Poo posed to settler Australians, however, reports of his isolation accentuated it. After shooting Senior Constable Ward Sam Poo remained at large for two weeks, and the words of the *Sydney Mail* gain new meaning in this context. What did it say about the security of white society if 'a Chinaman, unfriended, on foot and ignorant of localities' was able to remain at large for two weeks after committing murder?<sup>41</sup> When it was reported that the 'residents assist the police energetically, the ground of the bushranger's concealment is comprised in a radius of four miles; the troopers engaged are instantly on the alert, in disguise and well mounted', how could Sam Poo have remained on the run for so long?<sup>42</sup>

In responding to these questions, colonists chose a different explanation to the one they offered for Aboriginal bushrangers. To make sense of how an Aboriginal person could outwit (supposedly superior) white residents and police, colonists declared that they possessed innate bush skills. Unlike the hard-earned skills of the Anglo-bushman, these instinctual attributes were seen to require no talent. It was an Aboriginal's primordial traits that kept white authorities at bay.<sup>43</sup> Chinese men, on the

---

<sup>40</sup> West, *Bushranging*, pp. 17-62; John Peisley, 'To The Editor of the *Bathurst Free Press and Mining Journal*', *Bathurst Free Press* (14 September 1861), p. 2; Andy Kaladelfos, 'Citizens of Mercy: bushrangers, punishment and public opinion in colonial NSW', David Scott Mitchell Memorial Lecture (Sydney: State Library of NSW, 2010). Accessed 12 January 2014 via: <[http://www.sl.nsw.gov.au/podcasts/videos/ds\\_mitchell\\_memorial\\_fellow\\_2010\\_kaladel.html](http://www.sl.nsw.gov.au/podcasts/videos/ds_mitchell_memorial_fellow_2010_kaladel.html)>.

For the twenty and twenty-first century tradition of bushrangers as Australian Legends, see Ward, *The Australian Legend*, pp. 135-166; Seal, *The Outlaw Legend*.

<sup>41</sup> 'Summary', *Sydney Mail* (25 February 1865), p. 4.

<sup>42</sup> 'The Murder of Senior Constable John Ward', *Maitland Mercury* (18 February 1865), p. 5.

<sup>43</sup> Meg Foster, "'Black Bushrangers': a colonial paradox. Aboriginal Bushrangers in Australian popular culture, 1864-1903", Honours Thesis (University of Sydney, 2013), pp. 61-67. A similar argument was put forward to explain the skills of Indigenous trackers. See Henry Reynolds, *Frontier: Aborigines, settlers,*

other hand, were not supposed to possess any bush skills at all, innate or not. The question of how Sam Poo could overcome such a 'superior' white force was explained by an alternative view, a view that revolved around the power of the bush.

The Talbragar correspondent for the *Maitland Mercury* believed Sam Poo's evasion of capture was due to his environment. 'Although intelligence was received almost daily of ...[Sam Poo's] presence in some part or another', the correspondent wrote that 'the bush is here chiefly of so scrubby a nature that it has constantly afforded him safe hiding places.'<sup>44</sup> Here, the bush replaced settlers as the source of a bushranger's concealment, but this still did not erase the danger that Sam Poo posed. While bushranging supporters could turn against their heroes, the bush had no such capacity. Although in these types of articles, the bush was given a certain agency—to hide, to conceal—this was indiscriminate, 'a natural opportunity' offered to all.<sup>45</sup> In the bush, Sam Poo found a 'colour blind' ally, and a resource to keep white justice at bay.<sup>46</sup>

---

land (Sydney: Allen & Unwin, 1987), p. 103; Russell McGregor, *Imagined Destinies: Aboriginal Australians and the Doomed Race Theory, 1880-1939* (Melbourne: Melbourne University Press, 1997), pp. 46-47.

<sup>44</sup> 'Capture of the Chinaman Who Shot Senior Constable Ward', *Maitland Mercury* (25 February 1865), p. 3.

<sup>45</sup> 'Summary', *Sydney Mail* (25 February 1865), p. 4.

<sup>46</sup> For more newspaper articles about Sam Poo and the 'bush', see 'The Murder of Senior Constable John Ward', *Maitland Mercury* (18 February 1865), p. 5; 'Murder of Senior Constable Ward', *Maitland Mercury* (11 February 1865), p. 1; 'Capture of the Chinaman Bushranger', *Illawarra Mercury* (24 February 1865), p. 2; 'Bathurst Assizes—Sentences', *Queanbeyan Age* (26 October 1865), p. 2; 'Summary', *Sydney Mail* (25 February 1865), p. 4; 'Arrest of the Chinese Bushranger', *Tumut and Adelong Times* (27 February 1865), p. 2.

## *Riots, Law and the New Police*

Sam Poo was not only a product of the bushranging era. By going back to 1861, four years before his crime spree, it is clear that Poo's portrayal in the colonial press was also informed by years of intense opposition to the Chinese presence in the Australian colonies, as well as dramatic changes to law and policing. In 1861, the Lambing Flat Riots occurred. On the goldfields of Burrangong, over ten months, there were six riots against the Chinese. The largest of these involved 2,000 diggers.<sup>47</sup> Miners' opposition to Chinese men was vitriolic and broad in scope, and they targeted practical as well as cultural concerns. Chinese diggers were said to use an excessive volume of water to access gold when this resource was in short supply.<sup>48</sup> They were accused of 'dirty habits' and spreading disease. And they were said to undermine the moral virtue of the goldfields. Chinese men were condemned as heathens and bearers of drugs, gambling and sexual vice.<sup>49</sup> According to the *Bathurst Free Press*

The Chinese are, in every aspect we view them, an inferior race...Murder is winked at by the authorities in China...Unnatural crimes are looked upon with a lenient and an approving eye by the great majority of their [Chinese migrant's] countrymen. Gambling is a national passion with them. Under these circumstances, will the people of these colonies stand quietly by, and see their country overrun with those "human vermin" and their mothers, wives and daughters exposed to their contaminating influence [sic] Heaven forbid. Let them, then, rise up as one man throughout the length and breadth of the land

---

<sup>47</sup> John Hirst, *Freedom on the Fatal Shore: Australia's first colony* (Melbourne: Black Inc., 2008), pp. 345-353; 'Lambing Flat Riots', National Museum of Australia. Accessed 14 March 2015 via: <[http://www.nma.gov.au/collections/collection\\_interactives/endurance\\_scroll/harvest\\_of\\_endurance\\_html\\_version/explore\\_the\\_scroll/lambing\\_flat\\_riots](http://www.nma.gov.au/collections/collection_interactives/endurance_scroll/harvest_of_endurance_html_version/explore_the_scroll/lambing_flat_riots)>; Curthoys, "Men of All Nations, except Chinamen", pp. 110-113.

<sup>48</sup> Hirst, *The Strange Birth of Colonial Democracy*, p. 162.

<sup>49</sup> Ann Curthoys, 'Race and Ethnicity: a study of the response of British colonists to Aborigines, Chinese and non-British Europeans in New South Wales', PhD Thesis (Macquarie University, 1973), pp. 250-347. For 'the Chinese question' on other goldfields in the mid-nineteenth century, see Mae M. Ngai, 'The Chinese Question: the gold rushes and global politics, 1849-1910' in Benjamin Mountford and Stephen Tuffnell (eds.), *A Global History of Gold Rushes* (Oakland, California: University of California Press, 2018), pp. 109-136.

and demand that these “outcasts of humanity” shall at once and for ever [sic] be prohibited from landing on the shores of Australia.<sup>50</sup>

This article makes abundantly clear the low position that the Chinese held in the colonial racial hierarchy. They were said to be barbarians and incapable of any form of civilisation. The *Free Press* went as far as to describe them as a ‘race with whom...[the white diggers] have little more in common than with a race of baboons or a tribe of ourang-outangs [sic].’<sup>51</sup> In many colonists’ eyes, the Chinese could not be reformed or civilised any more than such animals. This placed them precariously on the fringes of colonial society.

Yet their numbers continued to grow. In the nineteenth century, the largest arrival of Chinese migrants to the Australian colonies came with the Gold Rushes.<sup>52</sup> From 327 Chinese men in New South Wales in 1857, the population rose so quickly that they numbered around 13,000 by April 1861, and formed nearly a quarter of all diggers in the colony.<sup>53</sup> At this time the Chinese population was at its most visible. Chinese were renowned for congregating in groups on the goldfields, bringing with them their unfamiliar attire, joss houses, ceremonies, customs, food, languages and mining practices.<sup>54</sup> There was fear and suspicion among white diggers of these men who seemed

---

<sup>50</sup> ‘The Chinese Question’, *Bathurst Free Press* (15 September 1858), p. 3.

<sup>51</sup> Curthoys, “Men of All Nations, except Chinamen”, pp. 109; ‘The Chinese’, *Bathurst Free Press* (20 March 1858), p. 2.

<sup>52</sup> David Goodman, ‘The Gold Rushes of the 1850s’ in Alison Bashford and Stuart Macintyre (eds.), *The Cambridge History of Australia*, vol. 1 (Cambridge: Cambridge University Press, 2013), p. 182.

<sup>53</sup> Curthoys, “Men of All Nations, except Chinamen”, p. 106.

<sup>54</sup> Goodman, ‘The Gold Rushes of the 1850s’, pp. 182-184; Curthoys, “Men of All Nations, except Chinamen”, pp. 106-107; Marilyn Lake and Henry Reynolds, *Drawing the Global Colour Line: white men’s countries and the question of racial equality* (Melbourne: Melbourne University Press, 2008), pp. 18-19; G. D. Wood, *A History of Criminal Law in NSW: the colonial period, 1788-1900* (Sydney: Federation Press, 2002), pp. 185-186.

so remarkably different to themselves. As Ann Curthoys has written, although the goldfields were constantly changing and had a cosmopolitan population, 'the definition of "colonists" could...never include Chinese.'<sup>55</sup> In many miners' eyes, they lacked 'the right to share in the wealth of the colony.'<sup>56</sup>

Chinese residents of New South Wales did, however, have the right to protection—at least according to colonial authorities. The 1842 *Treaty of Nanking* explicitly stated that Chinese subjects were to receive 'full security and protection of their persons and property' in all British dominions, and this included the Australian colonies.<sup>57</sup> In response to the Lambing Flat riots, the New South Wales government similarly declared that 'the Chinese must have the same justice and protection extended to them as other people', but securing this protection proved more difficult than anticipated.<sup>58</sup>

John Hirst has shown that there was 'great trouble in assembling an adequate police force' at Lambing Flat. In June, 'demonstrators moved into the Chinese area, demolishing tents, beating up Chinese miners and burning their property.'<sup>59</sup> According to one eye witness, Chinese men 'were knocked down with clubs; and their tails [pigtailed] cut off with tomahawks and butcher's knives; one man was shot in the thigh;

---

<sup>55</sup> Curthoys, "Men of All Nations, except Chinamen", p. 108.

<sup>56</sup> *ibid.*, p. 115. There were also instances of cooperation and comradery between Chinese people and Europeans. Barry McGowan's pioneering study 'Reconsidering Race' illustrates that there were a variety of goldfields experiences, with some townspeople sharing in Chinese New Year celebrations and depending on Chinese market gardeners for fresh fruit and vegetables. However, because voices of opposition to Chinese people were louder, and instances of violence towards Chinese miners more pressing, these peaceful encounters were constantly overlooked. McGowan, 'Reconsidering Race', pp. 312-331.

<sup>57</sup> *Treaty of Nanjing* 1842 (Nanking). Taken from UCLA International Institute: Asia Pacific Centre, 2016. Accessed 12 December 2016 via: <<http://www.international.ucla.edu/asia/article/18421>>

<sup>58</sup> While it did not explicitly reference the *Treaty of Nanking*, the immediate import of the government's statement the same. Curthoys, "Men of All Nations, except Chinamen", p. 111.

<sup>59</sup> Wood, *A History of Criminal Law in NSW*, p. 186.

several were hamstrung and several were murdered.’<sup>60</sup> In July, after the death of a miner in a pitched battle, the police retreated to a nearby town and left ‘the field in possession of the rebels.’<sup>61</sup> They were disorganised and unprepared to combat such a large-scale attack on the Chinese population. ‘Twice at great expense and political embarrassment troops had to be sent to maintain order’ and almost six months after these violent outbursts begun, on the 17<sup>th</sup> of July, martial law was declared.<sup>62</sup> The Lambing Flat riots not only brought anti-Chinese sentiment firmly into the public arena, but threw the inadequacies of the police force into stark relief. And here, the riots connect to another thread of Sam Poo’s history. This large-scale protest led to the creation of a new police force, of which Senior Constable Ward was a part.<sup>63</sup>

\*\*\*\*\*

The year of 1862 saw the most dramatic change to the police force that the colony of New South Wales had ever seen. Virtually overnight, the system used to enforce the law was unrecognisably altered. Six police forces—the Sydney Police, the Mounted Police, the Sydney Water Police, the Border Police, the Native Police and the Rural Constabulary—were amalgamated into one central body. The rural constabulary had been the main force dealing with bushrangers in the rural districts of New South Wales, and it underwent the greatest changes. The members of this arm of the police had been chosen by local magistrates. Despite officers’ appointment by judicial officials, the force

---

<sup>60</sup> James Henley in Wood, *A History of Criminal Law in NSW*, p. 187.

<sup>61</sup> Hirst, *The Strange Birth of Colonial Democracy*, p. 221; Robin Walker, ‘The New South Wales Police Force, 1862-1900’, *Journal of Australian Studies* vol. 8, no. 15 (1984), p. 26.

<sup>62</sup> Hirst, *The Strange Birth of Colonial Democracy*, p. 221; Walker, ‘The New South Wales Police Force’, p. 26; Curthoys, ‘Men of All Nations, except Chinamen’, p. 113.

<sup>63</sup> Mark Finnane, *Police and Government: histories of policing in Australia* (Melbourne: Oxford University Press, 1994), pp. 28-29; Hirst, *The Strange Birth of Colonial Democracy*, pp. 218-241.

had a checkered past, having had many convicts, ticket-of-leave men and emancipists in its ranks. Corruption was rife and although these men mingled easily with their local communities, respect for their office was low. The new system sought to break these communal bonds. The rural constabulary was absorbed into the New Police Force and was responsible to the Inspector General of Police. 'New chums' were brought across from Ireland to fill the majority of police positions, while the few old officers who remained were moved to new areas in the hope that this would minimise their collusion with local criminals.<sup>64</sup>

Although the New Police Force was intended to be more efficient and practical than its predecessors, it was poorly equipped to deal with the conditions of rural New South Wales. In 1863, an *Empire* reporter bemoaned that

The new system was adapted to cope with insurgency but not with bushranging. The system which it had displaced had been accommodated to this purpose by a long course of gradual adaptations ... it had grown out of the penal times, and it embraced the matured art of thief catching in the bush of Australia, as practiced by experienced officers who, in their respective districts, were like spiders in the centre of their webs, cognisant not only of every illicit movement, but of every flutter of their lawful prey. But all this having been swept away, bushranging became rampant at once.<sup>65</sup>

Unfortunately for the new force, riding in military formation and sporting polished sabres also did little to command the respect of local communities.<sup>66</sup> While West has shown that the New Police achieved considerable success against bushrangers, their embarrassing blunders were emphasised by the press and 'elite' bushrangers alike.<sup>67</sup>

---

<sup>64</sup> West, "Spiders in the centre of their webs", pp. 1-22.; Finnane, *Police and Government*, pp. 58-59.

<sup>65</sup> 'Summary', *Empire* (17 February 1863), p. 4.

<sup>66</sup> West, "The Thieftom", p. 143; West, "Spiders in the centre of their webs", pp. 1-22.

<sup>67</sup> West, "The Thieftom", p. 143; West, "Spiders in the centre of their webs", pp. 1-22; Hirst, *The Strange Birth of Colonial Democracy*, pp. 217-241; Seal, *The Outlaw Legend*, pp. 119-164.



Stories of police guns misfiring, bushrangers striding confidently past search parties and taunting officers with their missteps helped to undermine the prestige of the force and garnered support for their more talented foes.<sup>68</sup>



**Figure 8: Oswald Campbell, Ben Hall, John Gilbert and John Dunn hold up the mail at Black Springs, New South Wales, 1865.<sup>69</sup>**

By the time of Senior Constable Ward's death in 1865, however, an alternative narrative about the police was beginning to unfold. By the 4<sup>th</sup> of February 1865 when John Ward was shot, residents of New South Wales were morbidly familiar with

<sup>68</sup> 'Editorial: Tuesday, February 7, 1865', *Sydney Morning Herald* (7 February 1865), p. 4.

<sup>69</sup> Source: State Library of Victoria Pictures Collection, 49368311.

policemen who died attempting to catch bushrangers.<sup>70</sup> Ward was the fifth police officer in less than a year to have been killed by a bushranger in New South Wales.<sup>71</sup> The most recent murder was that of Constable Nelson, committed just over a week before Ward's fatal encounter with Sam Poo, and this connection was not lost on the press. In its coverage of Ward's death, the *Western Post* reported that '[s]carcely have the public recovered from the shock of the intelligence of Constable Nelson's death, than they are alarmed by the news of another brave constable being assassinated, not this time by Hall's Gang [of bushrangers], but by a single armed Chinaman.'<sup>72</sup> These murders could never make settlers forget the police force's many blunders, but it did open space for a different perspective. Although these men failed to apprehend their suspects, they died honourable deaths in the pursuit of this end. Death was the ultimate test of an officer's character, a personal sacrifice that proved his intention to perform his duty and protect the community at all costs. This redeemed these policemen in some colonists' eyes, and newspapers were willing to make concessions for these fallen representatives of the law.<sup>73</sup> Four days after Ward was attacked, for example, the *Sydney Morning Herald* conveyed to its audience the hardships that police were forced to undergo in the name of their office.

---

<sup>70</sup> Although the original *Western Post* article no longer exists, the *Maitland Mercury* copied the *Western Post* article as part of its coverage of the murder. 'The Murder of Senior Constable John Ward', *Maitland Mercury* (18 February 1865), p. 5.

<sup>71</sup> 'Honour Role', NSW Police Force. Accessed 14 October 2016 via: <[http://www.police.nsw.gov.au/about\\_us/proud\\_traditions](http://www.police.nsw.gov.au/about_us/proud_traditions)>

<sup>72</sup> 'Murder of Senior Constable Ward', *Maitland Mercury* (11 February 1865), p. 1. See also 'Murder of Senior-Constable Ward', *Sydney Morning Herald* (10 February 1865), p. 4; George Boxall, *The Story of the Australian Bushrangers* (Ringwood, Victoria: Penguin Books, 1974), p. 248; William Joy and Tom Prior, *The Bushrangers* (Sydney: Shakespeare Head press, 1963), pp. 38-39; 'Execution of John Dunn the Bushranger for the Murder of Constable Nelson', *Queanbeyan Age* (29 March 1866), p. 4.

<sup>73</sup> This is remarkably similar to Graham Seal's invocation of the 'Outlaw Hero'. Seal, *The Outlaw Legend*.

[D]escriptions of the ravages of the bushrangers are commonly followed by some reference to the police which reads like a sneer, and probably often is intended as such. Yet no man who knows the country, and the conditions under which these persons act, has the right to sneer.<sup>74</sup>

While this made officers' failure to catch bushrangers understandable, it did not lessen the threat that bushrangers posed to colonial society. Sam Poo's murder of Senior Constable Ward heightened the sense that New South Wales was experiencing a bushranging crisis. Concerned colonists not only used the number of murdered police, but explicitly used the unique features of Sam Poo's case to promote tougher measures to apprehend bushrangers. A Sydney newspaper declared that after hearing how Sam Poo remained at large without skills or resources, it 'becomes intelligible how well mounted men, familiar with the country and secretly assisted by troops of friends can so long evade police.'<sup>75</sup> White bushrangers became even more dangerous by comparison. If an armed Chinese man could remain at large and be so destructive, one could only imagine the damage that a skilled, reckless, young white 'native' could do.

Sam Poo's turn to bushranging added a sense of urgency to legislative debates about bushranging crime. It is striking that two months after Ward's death in April 1865, the *Felons Apprehension Act* was passed in parliament, after months of heated discussion. According to the Act, bushrangers who committed murder and did not surrender themselves to the authorities were outlawed. As such, police officers and ordinary citizens were given the power to stop these criminals by whatever means necessary. This included killing bushrangers if they resisted. Without a trial and the opportunity for

---

<sup>74</sup> 'Editorial: Tuesday, February 7, 1865', *Sydney Morning Herald* (7 February 1865), p. 4.

<sup>75</sup> 'Summary', *Sydney Mail* (25 February 1865), p. 4.

legal defence, these men could be summarily executed.<sup>76</sup> For a colonial outpost that supposedly prided itself on the British rule of law, this suspension of British justice speaks volumes about the anxieties of the time.<sup>77</sup> Proponents of the new law argued that it was unconventional, but necessary. The bushranging epidemic had moved so far beyond the pale of British civilisation and control that normal legal standards no longer applied. The Crown had to take extraordinary measures and temporarily suspend the safeguards of British justice to restore order.<sup>78</sup>

### Sam Poo: The Trial and the Execution

The 19<sup>th</sup> of December 1865 was the day of Sam Poo's execution. While Poo's alleged crimes were used to make grand arguments about the state of bushranging, law and policing in the colony, only the *Bathurst Free Press* concerned itself with writing an

---

<sup>76</sup> *Felons Apprehension Act* 1865 (NSW), 28 Vict. No. 2, pp. 2-4; Woods, *A History of Criminal Law*, pp. 203-204; Michael Eburn, 'Outlawry in Colonial Australia: Felons Apprehension Acts, 1865-1899', *Australia and New Zealand Law and History E-Journal* (2005). Accessed 12 June 2015 via: <[www.anzlhsejournal.auckland.ac.nz/pdfs\\_2005/Eburn.pdf](http://www.anzlhsejournal.auckland.ac.nz/pdfs_2005/Eburn.pdf)>; Jane Wilson, 'Bushrangers in the Australian Dictionary of Biography', Australian Dictionary of National Biography Online. Accessed 20 May 2015 via: <<http://adb.anu.edu.au/essay/12>>; 'Friday, February 10, 1865 [editorial]', *Sydney Morning Herald* (10 February 1865), p. 4.

<sup>77</sup> For the importance of the rule of law to the British, as well as its fraught application in colonial Australia, see Heather Douglas and Mark Finnane, *Indigenous Crime and Settler Law: white sovereignty after empire* (Basingstoke: Palgrave Macmillan, 2012); Lisa Ford, *Settler Sovereignty: jurisdiction and Indigenous people in America and Australia, 1788-1836* (Harvard: Harvard University Press, 2010); Penny Russell, *Savage or Civilised? Manners in colonial Australia* (Sydney: University of New South Wales Press, 2010).

<sup>78</sup> See for example 'Wednesday, May 17, 1865 [editorial]', *Sydney Morning Herald* (17 May 1865), p. 5; 'Our Australian Banditti', *Sydney Morning Herald* (10 October 1863), p. 4; 'Why Should Not Bushrangers Guilty of Murder and Refusing to Surrender for Trial be Tried and Convicted Ex Parte, and then Outlawed?', *Sydney Morning Herald* (9 February 1865), p. 8; 'Editorial', *Sydney Morning Herald* (10 February 1865), p. 4; Seal, *The Outlaw Legend*, pp. 134-135; Rodney Noonan, 'Wild Cathay Boys: Chinese bushrangers in Australian history and literature', *Journal of Australian Studies* vol. 24, no. 65 (2000), p. 139. This was a similar argument to that made in the first few decades of British colonisation to justify the mass slaughter of Aboriginal people. See Douglas and Finnane, *Indigenous Crime and Settler Law*.

original article about his fate.<sup>79</sup> Sam Poo had been through a lot before that day. While a vortex of rhetoric swirled around the colony, bringing his image into parliamentary chambers and court rooms, urban and rural dwellings, he was held first in Mudgee hospital, and then in Bathurst Gaol. Poo had not been expected to recover from the injuries he sustained during his capture. Constable Miles Burns had smashed Sam Poo in the head with his rifle so hard that its stock had shattered to pieces.

But, somehow, on the 10<sup>th</sup> of April, Poo appeared before the court and faced the first of three trials. Since his arrest, Sam Poo had not spoken to anyone, and so his first trial was to determine whether he was mute by malice or divine intervention. Although he could not stand and appeared ‘very weak and emaciated’,<sup>80</sup> ‘his face bore the marks of the shot and only one of his eyes was partially open’, the *Maitland Mercury* was relieved that his injuries ‘were not nearly as dangerous as was first imagined’ and so that he might ‘live to meet the death he so richly deserve[d].’<sup>81</sup> The men of the jury appeared indifferent to Sam Poo’s ‘emaciated’ state. With no reference to his injuries, the jury swiftly decided that he was guilty of deliberately holding his tongue, and the next trial was ready to proceed.<sup>82</sup>

---

<sup>79</sup> Although the *Bathurst Free Press* article no longer exists, every newspaper that references Sam Poo’s execution states that its report is copied from the *Free Press*. See for example ‘Execution’, *Empire* (25 December 1865), p. 5; ‘Execution’, *Brisbane Courier* (30 December 1865), p. 5; ‘Execution at Bathurst’, *Sydney Mail* (30 December 1865), p. 2; ‘Execution at Bathurst’, *Clarence and Richmond Examiner* (2 January 1866), p. 3.

This argument in favour of suspending the rule of law to combat bushranging was still being made in 1866. ‘The Revival of Bushranging’, *Maitland Mercury* (14 April 1866), p. 4.

<sup>80</sup> ‘Bathurst Circuit Court’, *Empire* (13 April 1865), p. 2. See also ‘Bathurst Circuit Court’, *Sydney Morning Herald* (13 April 1865), p. 8.

<sup>81</sup> ‘Mudgee’, *Maitland Mercury* (2 March 1865), p. 4. For Sam Poo’s injuries, see also ‘Capture of the Chinese Bushranger’, *Illawarra Mercury* (24 February 1865), p. 2.

<sup>82</sup> NSWSA: Circuit Court; NRS 7868, Justice Wise’s Notebook, 1865 [2/7776]; ‘Bathurst Circuit Court’, *Empire* (13 April 1865), p. 2; ‘Bathurst Circuit Court’, *Sydney Morning Herald* (13 April 1865), p. 8.

In the second trial, Sam Poo was accused of shooting with the intent to kill Harry Hughes, the Aboriginal tracker who helped the police apprehend him. This case was more involved than the first. Legislation meant that Aboriginal evidence was not admitted in New South Wales unless it was corroborated by white witnesses.<sup>83</sup> Legal experts and politicians alike contended that even though Aboriginal people were British subjects, 'admitting the evidence of a witness "acknowledged to be ignorant of a God or a future state would be contrary to the principles of British jurisprudence."' <sup>84</sup> Although this law did not change until over a decade after Sam Poo's case, Hughes made his deposition.<sup>85</sup> He opened with the fact that he lived with white people, that he was christened and understood the nature of an oath. While it fell on Constable Burns to support Hughes' declaration, the leading evidence at this trial was the tracker's own.<sup>86</sup> Heather Douglas and Mark Finnane have demonstrated that despite legal opinion about Aboriginal evidence, 'the reality was that prosecutors and courts would make exceptions to rules about testamentary capacity when it suited them'.<sup>87</sup> In this instance, the ability of an Aboriginal person to stand as a witness before the court was recognised as it served the Crown's purposes. Rigid racial categories became malleable when it suited the settler state. At this trial, Sam Poo was found guilty and sentenced to ten years imprisonment with hard labour.

Finally, on the 10<sup>th</sup> of October 1865, Sam Poo stood before Bathurst court for his third trial, this time for crime that made him a colonial sensation—the murder of Senior

---

<sup>83</sup> Douglas and Finnane, *Indigenous Crime and Settler Law*, p. 59.

<sup>84</sup> *ibid.*, p. 57.

<sup>85</sup> *ibid.*, p. 59.

<sup>86</sup> NSWSA: Clerk of the Peace; NRS 880, Papers and Depositions of the Supreme Court Circuit, 1865 [9/6474].

<sup>87</sup> Douglas and Finnane, *Indigenous Crime and Settler Law*, p. 59.

Constable Ward. This trial had been months in the making. Originally, the prosecution did not have enough evidence to proceed with the case and witnesses were sought from around the colony.<sup>88</sup> In October, one by one these men (and one woman) made their way to the witness box, giving testimony against the accused. No one came forward in Poo's defence and he remained silent. The odds were not stacked in Sam Poo's favour.<sup>89</sup> The citizens of Bathurst, from whose numbers the jury was comprised, had already gained a reputation for their hard-line policy on bushrangers. Only three years before, they had petitioned for a gang of bushrangers to be tried in their town as opposed to Sydney for fear that city dwellers would be too lenient.<sup>90</sup> After only a 'short interval', the jury found Sam Poo guilty of murder.<sup>91</sup> The following day, Justice Hargrave sentenced him to death.<sup>92</sup> According to the *Illawarra Mercury*, the Judge was almost moved to tears by his ruling, but these were not the final words at Sam Poo's trial. The last remarks were in Chinese, as a court interpreter translated the verdict in the hope that the newly convicted felon would understand.<sup>93</sup>

Sam Poo was hanged on the 19<sup>th</sup> of December 1865. The *Bathurst Free Press* reported that he

suffered the extreme penalty of the law...within the precincts of the gaol. In the absence of any of his countrymen from outside the prison walls, three Chinese prisoners, who are at present confined in Bathurst gaol, were brought out to see the end of Sam Poo...The wretched man, who, ever since his apprehension, has been quite weak in intellect, appeared perfectly unconscious of his fate and until his arms were pinioned by the executioners, stood at the door of his cell clapping his hands. The ceremony of pinioning over, he was led to the gallows

---

<sup>88</sup> 'Bathurst Circuit Court', *Maitland Mercury* (20 April 1865), p. 3.

<sup>89</sup> 'Murder', *Empire* (13 October 1865), p. 5; 'Wilful Murder', *Sydney Morning Herald* (13 October 1865), p. 5; 'Wilful Murder', *Sydney Mail* (14 October 1865), p. 12.

<sup>90</sup> Hirst, *The Strange Birth of Colonial Democracy*, p. 225.

<sup>91</sup> 'Wilful Murder', *Sydney Mail* (14 October 1865), p. 12.

<sup>92</sup> NSWSA: Supreme Court; NRS 6034, Justice Hargrave's Notebook, 1865 [2/4469].

<sup>93</sup> 'Bathurst Assizes', *Illawarra Mercury* (20 October 1865), p. 2.

without speaking a word, or even lifting up his head. The rope was fixed, the bolt drawn and the soul was ushered into eternity. The unfortunate victim of crime struggled convulsively for about a minute, and then all was still.<sup>94</sup>

‘Sam Poo ceased to exist.’<sup>95</sup>

## **Sam Poo: The Man**

### *A Victim of Crime?*

‘Australia’s only Chinese bushranger’ may have died on that day in 1865, but this is not where his story ends.<sup>96</sup> So far, this chapter has been a colonial discourse analysis. It has explored the impact that Sam Poo had on colonial New South Wales and the way that his life intersected with the beliefs and structures of that society. But by forensically interrogating the colonial archive, we can uncover new layers to Sam Poo’s history. The first issue that arises when we use this approach is whether the man who was hanged for Senior Constable Ward’s murder was actually his killer.<sup>97</sup>

Although Sam Poo remained silent, he had legal representation and to the chagrin of the prosecution it appears that his lawyer, J. L. Innes, was rather zealous in

---

<sup>94</sup> *Bathurst Free Press* quoted in ‘Execution’, *Empire* (25 December 1865), p. 5.

<sup>95</sup> ‘Execution at Bathurst’, *Sydney Mail* (30 December 1865), p. 2.

<sup>96</sup> See for example U. E. Parry-Okeden, ‘Sam Poo Was Australia’s Only Chinese Bushranger’, *Queenslander* (20 February 1936), p. 10; Heather Crosby, ‘Australia’s Only Chinese Bushranger Remembered 150 Years On’, *Daily Liberal* (7 February 2015). Accessed 22 May 2019 via: <https://www.dailyliberal.com.au/story/2866513/australias-only-chinese-bushranger-remembered-150-years-on/> >

<sup>97</sup> The *Sydney Morning Herald* and the *Sydney Mail* were the only papers to broadcast the alternative view that was presented to the court on this matter. This was likely because they were published hundreds of kilometres from the scene of bushranging and murder, safely out of harm’s way. ‘Wilful Murder’, *Sydney Morning Herald* (13 October 1865), p. 5; ‘Wilful Murder’, *Sydney Mail* (14 October 1865), p. 12.



his defence.<sup>98</sup> While witnesses stated that they had encountered Sam Poo with guns in his possession, Innes suggested that the Chinese man may have had a reason to carry them. John Clough, an employee of John Plunkett, had seen the accused the day after Ward was shot. Apparently after coming through the scrub, Clough

saw him [Sam Poo] covering me with a gun. He asked me where I was going, and on my telling him I was going to Mr Plunkett's, he said, "Go on, or I will give you one too," pointing to the gun and a pistol that was lying near him on a log.<sup>99</sup>

Although this evidence made Sam Poo appear menacing, Innes deftly queried who the victim was in this situation. Under cross examination, he asked Clough if it had ever occurred to him that the prisoner might think that Clough intended to rob him.<sup>100</sup> In the court records, there is evidence that Innes took this line of defence one step further. He claimed that even if Sam Poo had shot John Ward

...it was not shown in the evidence that Ward had any right whatever to molest the prisoner. In order to justify an arrest by a constable, he must be armed with a warrant, or have reasonable suspicion of felony having been committed. Now, it was not shown that Ward had a warrant, or that he suspected the prisoner had committed a felony.<sup>101</sup>

Innes' interpretation is supported by legal evidence. Ward may have heard of a Chinese bushranger in the Mudgee area, but this did not mean that the bushranger was Sam Poo.

---

<sup>98</sup> It is unclear who paid for Poo's defence counsel, as there was no right to free legal representation, even in felony cases, in 1860s NSW. Woods, *A History of Criminal Law*, pp. 4, 338-340.

<sup>99</sup> 'Wilful Murder', *Sydney Morning Herald* (13 October 1865), p. 5; 'Wilful Murder', *Sydney Mail* (14 October 1865), p. 12.

<sup>100</sup> 'Wilful Murder', *Sydney Morning Herald* (13 October 1865), p. 5; 'Wilful Murder', *Sydney Mail* (14 October 1865), p. 12.

<sup>101</sup> NSWSA: Supreme Court; NRS 6034, Justice Hargrave's Notebook, 1865 [2/4469].

Although Sam Poo was labelled a bushranger by the press, he was never convicted or even charged with bushranging crime.

This attempt to paint Sam Poo as a victim acting in self-defence would have resonated with audiences at the time. Bushrangers were notorious for targeting Chinese people, especially Chinese miners on the goldfields. They were seen as easy targets for men in the pursuit of a quick buck, and fair game because of their race. To name just one example, bushranger John Vane's entry into the criminal world was the result of what he saw as a 'prank' on a lone Chinese man. While carousing at a pub, one of Vane's mates spied a Chinese man and declared that if he had a revolver, he would rob the man. In what appears to have been a fit of male bravado, Vane immediately stole a gun from the bar and robbed the Chinese man himself. Neither the man he accosted nor the police saw any humour in the situation. Pursued by the authorities, Vane turned to bushranging to survive on the run from the law.<sup>102</sup> From 1860 to 1869, 4.7 per cent of all bushranging victims in New South Wales were Chinese.<sup>103</sup> This was high considering that the Chinese population declined after the introduction of the *Chinese Immigration Restriction Act* in 1861.<sup>104</sup> From 3.7 per cent of the population of New South Wales in 1861, the number of Chinese dropped to 1.4 percent of the population of New South Wales in 1871.<sup>105</sup> At the

---

<sup>102</sup> Charles White, *Australian Bushranging: John Vane, bushranger* (NSW Bookstall Co. Ltd.: Sydney, 1921), pp. 19-23. See also Kate Bagnall, "'To His Home at Jembaicumbene": women's cross-cultural encounters on a colonial goldfield' in Jacqueline Lackie, Angela McCarthy and Angela Wanhalla (eds.), *Migrant Cross Cultural Encounters in Asia and the Pacific* (London: Routledge, 2017), p. 61.

<sup>103</sup> West, *Bushranging*, p. 55.

<sup>104</sup> Curthoys, 'Race and Ethnicity', pp. 374-435; *Chinese Immigration Restriction Act* 1861 (NSW) 25 Vict. No. 3, pp. 3396-3398.

<sup>105</sup> To produce the above percentages, I compared the 1861 and 1871 figures of the Chinese population in NSW to the entire population of NSW in 1861 and 1871. For Chinese population statistics see T. A. Coghlan, *The Wealth and Progress of New South Wales, 1898-1899* (Sydney: William Applegate Gullick, 1900), pp. 558-559. For the population figures for the entire colony of NSW, see J. C. Caldwell, 'Population' in Wray Vamplew (ed.), *Australians: historical statistics* (Sydney: Fairfax, Syme & Weldon Associates, 1987), p. 26.

time of Sam Poo's trial, goldfields were still operating, white bushrangers were still at large, and animosity towards Chinese people was yet to subside.<sup>106</sup> It is likely that Sam Poo was personally threatened or experienced discrimination, violent or otherwise, during his time in the Mudgee district. Innes' interpretation of Sam Poo's actions had a solid foundation in local experience.



**Figure 9: Unknown Artist, *Morgan Sticking Up the Navvies, Burning their Tents and Shooting the Chinaman*, 1865.<sup>107</sup>**

<sup>106</sup> Curthoys, "Men of All Nations, except Chinamen", pp. 103-123; NSWSA: Colonial Secretary Special Bundles; NRS 906, Particulars of Deaths and Bodily injuries sustained by the Police from Bushrangers from the time of Peisley's depredations March 1862 to 7th June 1870 [4/1880; 67/4659].

For a list of major goldfields in NSW and when they were discovered, see Derek Carrington, 'The Gold Rushes of New South Wales, 1851-1874', Master's Thesis (Australian National University, 1960), pp. vii-viii.

Although Ann Cuthroys has written that 'Chinese and Europeans co-existed in the colony in an atmosphere of comparative calm [to the Lambing Flat Riots]' from 1862 to 1877, her research also demonstrates that European animosity towards Chinese people continued. It appears that tensions did not reach breaking point during these years because the Chinese population declined significantly after introduction of the *Chinese Immigration Restriction Act* in 1861. Curthoys, 'Race and Ethnicity', pp. 374-436; *Chinese Immigration Restriction Act*, 1861 (NSW) 25 Vict. No. 3, pp. 3396-3398.

<sup>107</sup> Source: State Library of Victoria Pictures Collection, IMP25/01/65/9.

Despite its convincing nature, this defence failed, but it need not have been the only line of defence that Innes used. After reading the court documents, it appears that Sam Poo's lawyer missed a glaring opportunity to question his client's involvement in these crimes. Witnesses' reasons for identifying Sam Poo as the Chinese man they encountered around the time of Ward's death relied solely on his general appearance. He was Chinese and apparently 'dressed as a Chinese man'. Long descriptions of Sam Poo's attire fill the depositions. But the items listed are not consistent, and, as Ward himself stated to John Plunkett before he died, this would 'be of no use for the Chinaman would change his clothes.' None of the witnesses listed any distinguishing features of the man who was hostile towards them except for his race.<sup>108</sup> This is problematic as Sam Poo was not the only Chinese man in the area. William Pitts deposed that he had seen another Chinese man only 3 to 4 hours before he saw Sam Poo.<sup>109</sup> Given the mobility of Chinese moving between goldfields, it is likely that even more Chinese men walked through the town on their way to and from the diggings.<sup>110</sup> Although the number of Chinese in New South Wales declined after 1861, there were still 7220 in the colony in 1871: there were far more Chinese men than Sam Poo traversing the land.<sup>111</sup>

The witnesses at Sam Poo's trial could only prove that they had encountered a Chinese man who threatened them with violence. He did not steal their possessions.

---

<sup>108</sup> 'Wilful Murder', *Sydney Morning Herald* (13 October 1865), p. 5; NSWSA: Clerk of the Peace; NRS 880, Papers and Depositions of the Supreme Court on Circuit, 1865 [9/6474, 9/6475]; NSWSA: Supreme Court; NRS 6034, Justice Hargrave's Notebook, 1865 [2/4469].

<sup>109</sup> NSWSA: Clerk of the Peace; NRS 880, Papers and Depositions of the Supreme Court on Circuit, 1865 [9/6475].

<sup>110</sup> F. F. Bailliere and Robert P. Whithworth, *Bailliere's NSW Gazetteer, LO-Z* (Sydney: F. F. Bailliere, 1866), pp. 376-377; Curthoys, 'Race and Ethnicity', p. 375. There were also isolated Chinese people in the pastoral industry who may have travelled in search of work. Curthoys, 'Race and Ethnicity', p. 409.

<sup>111</sup> Coghlan, *The Wealth and Progress of New South Wales*, p. 559. See also Curthoys, 'Race and Ethnicity', pp. 374-435; *Chinese Immigration Restriction Act*, 1861 (NSW) (25 Vict. No. 3), pp. 3396-3398.

Even if this was same man who later resisted arrest, there was no direct evidence that he shot Senior Constable Ward. The medical examiner stated that weapons similar to those possessed by Sam Poo *could* have made the wounds that Ward sustained.<sup>112</sup> But the only witness to the crime was Ward himself, and the only evidence left was his dying declaration. Knowing himself to be ‘dangerously ill and at the point of death’, the officer declared: ‘To the best of my belief, the Chinaman was a short little cranky old man.’<sup>113</sup> Sam Poo was only 35 years old.<sup>114</sup> The *Western Post* thought that he looked even younger and stated that in court he appeared ‘rather a well built man, of about four and twenty.’<sup>115</sup> John Clough declared that the Chinese man who he encountered was not ‘an old man. He was stouter than he is now.’<sup>116</sup> There was originally controversy about whether Ward’s words could be admitted in evidence, but Justice Hargrave ruled that as Ward declared them at the point of death, it had the same validity as any evidence provided under oath. The voice of the only witness to this crime was admitted to the court. It was just not used to interrogate a majority of the evidence.<sup>117</sup>

From the standpoint of the present looking back into the archive, there appears to be doubt as to whether Sam Poo was the murderer of Senior Constable John Ward. At

---

<sup>112</sup> NSWSA: Clerk of the Peace; NRS 880, Papers and Depositions of the Supreme Court on Circuit, 1865 [9/6474, 9/6475]; ‘Wilful Murder’, *Sydney Morning Herald* (13 October 1865), p. 5; ‘Wilful Murder’, *Sydney Mail* (14 October 1865), p. 12.

<sup>113</sup> ‘Wilful Murder’, *Sydney Morning Herald* (13 October 1865), p. 5.

<sup>114</sup> NSW Registry of Births, Deaths and Marriages, *Sam Poo, Death Certificate*. Registration number 2742/1865.

<sup>115</sup> *Western Post* as quoted in: ‘Mudgee’, *Maitland Mercury* (2 March 1865).

<sup>116</sup> ‘Wilful Murder’, *Sydney Mail* (14 October 1865), p. 12.

<sup>117</sup> ‘Wilful Murder’, *Sydney Morning Herald* (13 October 1865), p. 5; ‘Wilful Murder’, *Sydney Mail* (14 October 1865), p. 12.

As Justice Plunkett wrote in 1866, ‘...the principle upon which these dying declarations are received in evidence is founded on the situation of the dying person, which is considered as powerful over his conscience as the obligation of an oath...’ John Hubert Plunkett, *The Australian Magistrate* (Sydney: J. J. Moore, 1866), p. 222.

this point, we can see clearly how inadequate colonial representations of crime can be. Although white bushrangers' place in the archive was largely the result of their criminality, other information about their lives also remains. It was not uncommon for sympathetic newspaper articles, petitions for clemency, parliamentary debates and court defences to draw on white bushrangers' backgrounds. Through this information, colonials tried to make connections between these men's experiences and their turn to crime. Whether to advocate for social change to prevent more offenders, or to defend a bushranger's character or actions, white bushrangers were regarded as individuals. It was not only their actions that were significant, but their personal histories.<sup>118</sup>

This divergence between sources about Sam Poo and those featuring well-known white bushrangers prompts a more critical approach to the colonial archive. Silences are not without power or meaning: that which is left unsaid remains unsaid for a reason.<sup>119</sup> Without critical analysis, Sam Poo remains a tool that was used for colonial purposes. He is denied character and selfhood, and while this may have made it easier for colonial Australians to condemn his supposed crimes, there is more to his history than colonial ideas. It is possible to recover how Sam Poo may have seen his own actions, circumstances and place in the world.

---

<sup>118</sup> See for example Kaladelfos, 'Citizens of Mercy'; Ashley Thomas Freeman, 'Bushrangers, Itinerant Teachers and Constructing Educational Policy in 1860s NSW', *History of Education Review* vol. 48, no. 1 (2019), pp. 15-30.

<sup>119</sup> See for example Michel Foucault, *The Archaeology of Knowledge* (London: Routledge, 2002); Michel Foucault, *The History of Sexuality*, vol. 1 (London: Penguin, 1992); Michel Foucault, *Discipline and Punish* (New York: Vintage Books, 1995).

## *The Evidence of Experience*

The primary sources that remain on Sam Poo almost completely overlook his origins. In nearly all of the surviving documents, he only exists from that moment in 1865 when he first engaged in crime. On the rare occasion that secondary sources make any reference to Sam Poo's life, he is assumed to have just been one of the thousands of Chinese people who came to try their luck on the goldfields in the 1850s.<sup>120</sup> But this was not when Sam reached the Australian colonies. In one prison register from 1865, an official scrawled Sam Poo's city of origin alongside the details of his crimes. The register states that Sam came from 'Amoi' [sic] in China, and this detail changes his entire biography.<sup>121</sup>

The Chinese miners who came to Australia during the Gold Rush were largely from Guangdong province in the south of China and sailed to Australia from Hong Kong.<sup>122</sup> The migrants who came from the treaty port of Amoy in Fujian province were part of a very different story. After the end of transportation to New South Wales in the 1840s, squatters with large tracts of land started to energetically look for a new, cheap labour force to replace their dwindling supply of convict workers. After initially looking to India, the landed classes turned their attention to China. While indenture was

---

<sup>120</sup> Penzig, *Troopers, Villains*, p. 82; Travers, *Rogue's March*, pp. 87-88; U. E. Parry-Okeden, 'Sam Poo was Australia's only Chinese Bushranger', *Queenslander* (20 February 1936), p. 10; Stephan Williams, *Sam Poo: the Chinese bushranger* (Woden, ACT: Popinjay Press, 1987).

<sup>121</sup> NSWSA: Corrective Services; NRS 1993, Bathurst Gaol Entrance Book, 1865, [4/8492], reel 2321, entry for 'Sam Poo'.

<sup>122</sup> Curthoys, "Men of All Nations, except Chinamen", pp. 104-105. In the same period, a small number of Chinese convicts were transported to Van Diemen's Land via Hong Kong. Ships leaving Amoy did not travel via Hong Kong, and so Sam Poo was not a part of this history. For more on Chinese convicts, see Christopher Munn, 'The Transportation of Chinese Convicts from Hong Kong, 1844-1858', *Journal of the Canadian Historical Association / Revue de la Société historique du Canada* vol. 8, no. 1 (1997), pp. 113-145.

technically illegal under the Qing government of the time, the coastal city of Amoy provided a way around these rules.<sup>123</sup> For centuries the people of Amoy had travelled to distant lands to engage in trade and to sell their labour as workers. In the nineteenth century, Amoy was one of the ports open to foreigners by the Treaty of Nanking, and Chinese officials chose to turn a blind eye to the recruitment of labour from the city's shores. Colonial powers other than the British were interested in Chinese labourers and recruited them during this time, but from 1848 to 1852, when indentured labourers were sent to Australia, the vast majority of migrants came to New South Wales. Of the 4,840 men who left Amoy during these years, 2,738 were bound for Australia.<sup>124</sup> There have been some invaluable studies into this episode of Australia's past, but the history of these indentured labours remain on the periphery of the nation's history.<sup>125</sup> This is despite the fact that the experiences of these men were different to their goldmining countrymen who followed them.

---

<sup>123</sup> Tan Chee-Beng, 'Introduction' in Tan Chee-Beng (ed.), *The Routledge Handbook of the Chinese Diaspora* (Oxford: Routledge, 2012), p. 4; Yen Ching-Hwang, *Coolies and Mandarins: China's protection of overseas Chinese during the late Ch'ing period (1851-1911)* (Singapore: Singapore University Press, 1985), pp. 72-76; Zhuang Guotu, 'China's Policies on Chinese Overseas' in Tan Chee-Beng (ed.), *The Routledge Handbook of the Chinese Diaspora* (Oxford: Routledge, 2012), p. 34.

<sup>124</sup> Sing-wu Wang, *The Organisation of Chinese Emigration, 1848-1888: with special reference to Chinese emigration to Australia* (San Francisco: Chinese Materials Centre Inc., 1978), p. 120. Chinese labourers were also sent to Cuba, Honolulu, Peru and Demerara at this time. Sing-wu Wang, 'The Organisation of Chinese Emigration, 1848-1888: with special reference to Chinese emigration to Australia', Master's Thesis (ANU, 1969), p. 105.

<sup>125</sup> For notable exceptions, see Maxine Darnell, 'The Chinese Labour Trade to NSW 1783-1853', PhD Thesis (University of New England, 1997); Maxine Darnell, 'Responses and Reactions to the Importation of Indentured Chinese Labourers', *Working Paper Series in Economic History UNE* no. 99/2 (1999), pp. 2-24; Maxine Darnell, 'Master and Servant, Squatter and Shepherd: the regulation of indentured Chinese labourers to NSW, 1847-1853' in Henry Chan, Ann Curthoys and Nora Chiang (eds.), *The Overseas Chinese in Australasia: history, settlement and interactions* (Taipei and Canberra: Interdisciplinary Group for Australasian Studies and the Centre for the Study of the Chinese Southern Diaspora, 2001), pp. 44-53; Margaret Slocomb, *Among Australia's Pioneers: Chinese indentured pastoral workers on the Northern Frontier 1848-c1880* (Bloomington, IN: Balboa Press, 2014).



Sam Poo's story is shaped by the assumption that he was drawn to the colonies by gold.<sup>126</sup> Although 'gold fever' was said to have affected all miners to varying degrees, to white diggers, Chinese men represented the extreme of this affliction.<sup>127</sup> This emphasis on gold is misleading as it does not recognise the complex motives that led Chinese indentured labourers to leave their homes. Amoy was one of the poorest areas in southern China. It had very little fertile land, and was plagued by ongoing clan feuds, banditry, overpopulation and famine.<sup>128</sup> In many villages, people would 'talk of [a] twenty, thirty or forty crop, or a nobody crop'—meaning the crop was so poor that a number of their clan would have to emigrate, or so good that nobody had to leave.<sup>129</sup> Sam Poo may have volunteered to work overseas to escape this abject poverty and support his family, for it appears that he did have a family. In contrast to colonial depictions of Sam Poo as an isolated figure, his death certificate states that he had a wife in China.<sup>130</sup> It was not unusual for citizens of Amoy to travel overseas in search of work and to send what they could back to their families struggling at home. This practice was a significant part of their culture and had been carried out for hundreds of years.<sup>131</sup> From

---

<sup>126</sup> See note 120.

<sup>127</sup> This stemmed from European miners' belief that the Chinese had no right to any of the riches of the goldfields. Although goldfields consisted of multicultural populations, white men believed that they were the only ones who had the 'right' to be there. Curthoys, "Men of All Nations, except Chinamen", p. 108; Lake and Reynolds, *Drawing the Global Colour Line*, pp. 15-45.

<sup>128</sup> Darnell, 'The Chinese Labour Trade to NSW 1783-1853', pp. 64-82; Harry J. Lamley, 'Hsieh-Tau: the pathology of violence in south-eastern China', *Ch'ing-shih wen-t'i* vol. 3, no. 7 (November 1977), pp. 1-39.

<sup>129</sup> Darnell, 'The Chinese Labour Trade to NSW 1783-1853', p. 79.

<sup>130</sup> NSW Births, Deaths and Marriages. *Sam Poo, Death Certificate*, 1865. Registration Number 2742/1865. It is unclear how this information about Sam Poo came to be registered on his death certificate when he did not speak after he was caught by the police. The gaoler of Bathurst gaol was the informant for the death certificate. Sam Poo may have responded physically to some of the gaoler's questions (with a nod of the head for example), but it is impossible to know for sure.

<sup>131</sup> Henry Chan, 'Becoming Australian But Remaining Chinese: the future of the Down Under Chinese past' in Henry Chan, Ann Curthoys and Nora Chiang (eds.), *The Overseas Chinese in Australasia: history, settlement and interactions* (Taipei: Interdisciplinary Group for Australasian Studies and the Centre for the Study of the Chinese Diaspora, 2001), pp. 8-9; Kate Bagnall, 'Rewriting the History of Chinese Families

these two brief administrative notes about his place of origin and marital status, we already have more details about Sam Poo's life than in newspaper articles and court documents combined.<sup>132</sup> Already we can see Sam Poo was part of a social landscape that forced him to respond to very real pressures and make decisions that would affect his life and that of his family.

While he may have been one of hundreds of Chinese workers who left willingly for New South Wales, Poo could equally have been one of hundreds more who were forced to leave their homeland. The demand for indentured labourers in New South Wales only increased after the first workers arrived in 1848, and British agents in Amoy and their Chinese underlings (known as 'crimps') increasingly engaged in 'crimping' to meet their quotas.<sup>133</sup> Crimping could involve myriad different practices, but they all had the same goal of forcing unsuspecting Chinese into labour contracts. By gambling or receiving goods which they could not afford, many people became indebted to crimps and lost their liberty in order to repay this debt.<sup>134</sup> Others were deceived, believing they were about to engage in 'employment in a foreign firm or on a foreign ship on highly advantageous terms.'<sup>135</sup> Still more were lured to areas where ships were waiting and were swiftly kidnapped.<sup>136</sup> Procuring workers for indenture became a lucrative and

---

in Nineteenth-Century Australia', *Australian Historical Studies* vol. 42, no. 1 (2011), pp. 66, 73-76; Michael Williams, 'Chinese Australia—the view from the village', *Locality* (Autumn 2003), p. 17.

This practice also continued into the twentieth century. Huifen Shen, *China's Left Behind Wives: families of migrants from Fujian to Southeast Asia, 1930s-1950s* (Honolulu: University of Hawaii Press, 2012).

<sup>132</sup> This is not to suggest that newspapers could have known this specific information. As Sam Poo did not speak after he was captured and was supposedly 'unfriended', it is unlikely anyone could have informed the press of these details. My argument is that newspapers never referred to Sam Poo as an individual who had a past to be recovered. There was no interest or awareness that his personal history was absent from newspaper reports.

<sup>133</sup> Darnell, 'The Chinese Labour Trade to NSW 1783-1853', pp. 78-80.

<sup>134</sup> Wang, *The Organisation of Chinese Emigration*, pp. 59-60.

<sup>135</sup> *ibid.*, p. 60.

<sup>136</sup> *ibid.*, pp. 62-64.

notorious trade. In contrast to anti-Chinese sentiment and the idea that ‘no one’ wanted Chinese people to come to Australia, many squatters were desperate for them.<sup>137</sup> And although some workers from Amoy wanted to engage in this form of employment, others were deprived of the choice. Contrary to colonial rhetoric, it seems unlikely that Poo’s actions were the product of race, gold and greed.

There is no trace in the records of where Sam Poo went when he first arrived. Maxine Darnell has conducted an exhaustive study of individual Chinese indentured labourers, but Sam Poo is not referenced in any of this material.<sup>138</sup> Despite this absence, we can use context, probability and common experiences under indenture to envisage what may have happened to him. The majority of Chinese indentured workers were employed as shepherds on vast pastoral stations, and this was hard and isolating work.<sup>139</sup> Day after day the ‘shepherd would lead his flock of between 300 and 1000 sheep...out to pasture.’<sup>140</sup> Long hours out in the elements left them vulnerable to illness, and as Richard Waterhouse has written, some shepherds ‘overwhelmed by their lives of absolute solitude, degenerated into alcoholism and insanity. So common was this that shepherds generally were assumed to be “dotty”, as mad as the proverbial hatter.’<sup>141</sup> Here, Waterhouse is referring to white men. Chinese men had the added disadvantage of linguistic and cultural barriers.

---

<sup>137</sup> The idea that no white settler wanted Chinese in NSW does not reflect the primary source material. For example, Ann Curthoys has demonstrated that the squatters in NSW were so desperate for Chinese labourers that they refused to pass legislation restricting Chinese immigration until after Lambing Flat. See Curthoys, “Men of All Nations, except Chinamen”, pp. 104-116.

<sup>138</sup> Darnell, ‘The Chinese Labour Trade to NSW 1783-1853’, pp. 331-348.

<sup>139</sup> *ibid.*; Slocomb, *Among Australia’s Pioneers*.

<sup>140</sup> Richard Waterhouse, *The Vision Splendid: a social and cultural history of rural Australia* (Freemantle, WA: Curtin University Books, 2005), p. 101.

<sup>141</sup> *ibid* 101-102. For more information about Chinese labourers’ experiences, see Darnell, ‘The Chinese Labour Trade to NSW 1783-1853’, pp. 258-275.

Indeed, these workers from Amoy spoke Hokkien, which was a completely different dialect to the Cantonese that goldminers from Guangdong spoke.<sup>142</sup> Although these Chinese shepherds could have learnt English over the five years of their indenture, when they arrived they would have been restricted to communicating with their fellow Fujianese workers.<sup>143</sup> Miscommunication was a feature of indenture from the very beginning. Indentured workers had to sign two contracts, one in English and the other in Chinese. As Darnell has written,

Although a contract in Chinese was provided along with an English language contract the illiteracy of many of the labourers precluded them from not only reading the contract for themselves and thereby ensuring that what was written down was equivalent to what was explained to them, but also precluded them from resigning the contract personally when they arrived in the colony.<sup>144</sup>

In some cases, the contract signed in China was more favourable to the employee than the one subsequently signed in New South Wales.<sup>145</sup> Even though the law upheld the validity of the initial agreement, it is likely that most cases of disagreement over contracts were never heard.<sup>146</sup> Ignorance of their rights under the law, as well as poor English language skills meant that many Chinese men could never bring this matter to court. The system was open for Chinese indentured labourers to be 'beguiled... into

---

<sup>142</sup> See for example Herbert Giles, *Glossary of Reference on Subjects Connected with the Far East* (Shanghai: Kelly & Walsh, 1900), p. 70; Stephen Matthews and Virginia Yip, *Cantonese: a comprehensive grammar* (London: Routledge, 1994), p. 5; Bernard Comrie, Stephen Matthews and Marina Polinsky (eds.), *The Atlas of Languages: the origin and development of languages throughout the world* (London and New York: Facts on File, 1996), p. 68; Ely Finch, *Private Correspondence with the Author* (5 January 2017).

<sup>143</sup> Slocomb, *Among Australia's Pioneers*, p. xiii; Darnell, *The Chinese Labour Trade to NSW 1783-1853*, p. 152. As Hokkien was a minority dialect of Chinese in NSW at this time, the translator at Sam Poo's trial was unlikely to have spoken to him in his own tongue. Settler Australians' ignorance of Chinese language differences meant that even as the court attempted to ensure a transparent trial, they failed to effectively communicate with the accused.

<sup>144</sup> Darnell, 'The Chinese Labour Trade to NSW 1783-1853', p. 158.

<sup>145</sup> See for example Darnell, 'Master and Servant', pp. 57-59.

<sup>146</sup> Darnell, 'The Chinese Labour Trade to NSW 1783-1853', p. 158.

agreements by attaching marks, by proxy, to documents which were not read nor explained to them, or which, if explained, they did not understand.’<sup>147</sup>

Because of their limited knowledge of legal working conditions, Chinese labourers’ experiences in New South Wales largely depended on their employers and superiors on the station. Although some squatters treated ‘their men’ well, it was their encounters with the law that left records and there is ample evidence of employers’ abuse of power. Some would overcharge their workers for goods, ensuring that they became indebted and faced the severest penalty under the *Masters and Servants Act* (of three months hard labour) if they left before their contract ended. A number of Chinese workers still refused to work and absconded. Some were found by the court to have legitimate grievances, but the majority were imprisoned and eventually forced to resume their work. This not only ensured that the squatter got his money’s worth out of his employee, but acted as a deterrent to any worker contemplating the same action.<sup>148</sup>

Sam Poo would have fitted somewhere along this broad spectrum of experiences, and it is safe to say that he would not have had an easy life. After their five years of indenture, some workers’ contracts were renewed or they stayed on working for their original employer on a casual basis.<sup>149</sup> Some made the journey back to China, and others stayed in the colony and left the site of their indenture far behind.<sup>150</sup> If Sam Poo was an indentured labourer, after his initial contract ended, he would have spent another seven

---

<sup>147</sup> ‘News from the Interior: Goulburn: The Chinese’, *Sydney Morning Herald* (12 April 1852), p. 2.

<sup>148</sup> Darnell, ‘The Chinese Labour Trade to NSW 1783-1853’, p. 278-284; Darnell, ‘Master and Servant’, pp. 54-65.

<sup>149</sup> The average duration of a contract was five years. Wang, *The Organisation of Chinese Emigration*, p. 43.

<sup>150</sup> Darnell, ‘The Chinese Labour Trade to NSW 1783-1853’; Slocomb, *Among Australia’s Pioneers*, in particular, see ‘Part 3: Love and Fortune’.

to twelve years in the colony before the tragic events of 1865. This meant it was more than likely witnesses were correct in stating that Sam Poo spoke English well in 1865, for by that time, he seems to have been in New South Wales for between twelve and seventeen years.<sup>151</sup> Sam Poo was no ignorant 'new chum' by the time he encountered the law in the 1860s. He was not just one of the Cantonese migrants who had lately flocked to the colony's goldfields. He appears to have worked on a pastoral station, helping to turn the land from a supposedly uncivilised wilderness into a thriving pastoral empire. Margaret Slocomb has called for indentured labours such as Sam Poo to be regarded as 'pioneers' alongside their white counterparts, as many went out beyond the boundaries of settlement, cleared the land and brought livestock to new areas.<sup>152</sup> This also means that Sam Poo was complicit in the colonial project that dispossessed Aboriginal people.<sup>153</sup> From this material, we can see that this man who was supposedly an outsider to colonial society had likely lived and worked in the colony for over a decade. And willingly or not, he had been a part of the system that made that society possible.

---

<sup>151</sup> As Chinese indentured labourers to NSW arrived between 1848 to 1852, Sam Poo would have lived in NSW for between 13 and 17 years by 1865. As the average duration of a labour contract was 5 years, and this means that by 1865, he would have remained in the colony between 7 and 12 years after his contract ended. Wang, *The Organisation of Chinese Emigration*, pp. 43, 120.

<sup>152</sup> Slocomb, *Among Australia's Pioneers*.

<sup>153</sup> For literature that examines this issue, see Iyko Day, 'Indigeneity, Anitblackness and Settler Colonial Critique', *Critical Ethnic Studies* vol. 1, no. 2 (2015), pp. 105-107; Lorenzo Veracini, 'On Settlerism', *Borderlands* vol. 10, no. 1 (2011), pp. 1-17; Bonita Lawrence and Enakshi Dua, 'Decolonising Antiracism', *Social Justice* vol. 32, no. 4 (2005), pp. 120-143; Nandita Sharma and Cynthia Wright, 'Decolonising Resistance, Challenging States', *Social Justice* vol. 35, no. 3 (2008-9), pp. 120-138; Candace Fujikane and Jonathan Y Okamura (eds.), *Asian Settler Colonialism: from local governance to habits of everyday life in Hawai'i* (Honolulu: University of Hawai'i Press, 2008); Jodi Byrd, *The Transit of Empire: Indigenous Critiques of Colonialism* (Minneapolis, MN: University of Minnesota Press, 2011); Ann Curthoys, 'An Uneasy Conversation: the multicultural and the Indigenous' in John Docker and Gerhard Fisher (eds), *Race, Colour and Identity in Australia and New Zealand* (Sydney: UNSW Press, 2000), pp. 21-36.

## *An 'Other' Outlaw Tradition*

This chapter has already brought into question the identity of Senior Constable Ward's killer, as well as painted an alternative picture of the man accused of this crime. But there is one more colonial legacy to interrogate. By looking at Sam Poo's cultural background, experiences and context, we can ask how he would have understood the crimes that he was accused of committing, and we can uncover the power dynamics of calling him a 'bushranger.' It is possible that Sam Poo actually saw these crimes as acts of bushranging. He could easily have heard stories about bushrangers during his time in the colonies, or even encountered these criminals himself. If we turn our attention to Sam Poo's life before he entered New South Wales, however, an alternative narrative comes to light.

White, male Australian bushrangers are said to have their roots in the British tradition of highway robbery that goes back to medieval stories of Robin Hood.<sup>154</sup> Few scholars recognise that there were other cultural traditions of outlaw heroes.<sup>155</sup> In China, a celebrated outlaw tradition goes back to at least the twelfth century (with some scholars proposing an even earlier date between 475-221 BC).<sup>156</sup> This was not some obscure legend as stories of outlaw heroes, their codes of conduct and exploits were (and remain) a pervasive aspect of Chinese culture. The compilation of stories *Outlaws of the Marsh*, also known as *Water Margin* and *All Men Are Brothers*, is the most famous

---

<sup>154</sup> Seal, *The Outlaw Legend*.

<sup>155</sup> Some notable exceptions do exist. See for example Eric Hobsbawm, *Bandits* (Harmondsworth: Penguin Books, 1969); Eric Hobsbawm, 'Social Banditry' in Henry A. Landsberger (ed.), *Rural Protest: peasant movements and social change* (London: Palgrave Macmillan, 1974), pp. 142-157; Graham Seal, *Outlaw Heroes in Myth and History* (London: Anthem Press, 2011); Ye Zhang, 'The Marsh and the Bush: outlaw hero traditions in China and the West', PhD Thesis (Curtin University of Technology, 1998).

<sup>156</sup> Zhang, 'The Marsh and the Bush', pp. 75-76.

narrative about Chinese rebels. Written in the fourteenth century, this text features one hundred and eight different characters and charts their lives of crime and adventures on the run.<sup>157</sup> These stories were not restricted to the wealthy and literate members of Chinese society, but were recounted orally, portrayed in dramas and passed down in local lore. Like their Western counterparts, these Chinese figures were heroes when they observed a certain moral code and were seen to be fighting against injustice. But the foundation of these ideas rests in Confucian ethics, notions of “Yi” (honour), brotherhood and political revolution, as opposed to Sherwood Forest.<sup>158</sup>

It is likely that Sam Poo had knowledge of this outlaw tradition from growing up in China, and as a resident of Amoy, the dimensions of this alternative outlaw tradition increase again.<sup>159</sup> Quite apart from romantic and mythologised outlaw heroes, Sam Poo also would have been exposed to what Ye Zhang dubs ‘pure bandits’: men and women who became outlaws for practical reasons and took no interest in the outlaw code.<sup>160</sup> Banditry increased in relation to social unrest, famine, natural disasters, overpopulation, clan feuds and corruption. Amoy was plagued by all of these destabilising factors.<sup>161</sup> There was almost no government support in times of need or unrest. Corrupt officials would turn a blind eye to most depredations if they were paid

---

<sup>157</sup> Shi Nai’an and Lou Guanzhong, *Outlaws of the Marsh* (Hong Kong: The Commercial Press, 1991); Seal, *Outlaw Heroes in Myth and History*, pp. 18-21; Robert J. Antony, ‘Peasants, Heroes and Brigands: the problems of social banditry in early nineteenth-century South China’, *Modern China* vol. 15, no. 2 (1989), p. 124.

<sup>158</sup> Seal, *Outlaw Heroes in Myth and History*, pp. 18-21, 105-107; Zhang, ‘The Marsh and the Bush’, pp. 74-111; Antony, ‘Peasants, Heroes and Brigands’, p. 126.

<sup>159</sup> NSWSA: Corrective Services; NRS 1993, Bathurst Gaol Entrance Book, 1865, [4/8492], reel 2321, entry for ‘Sam Poo’.

<sup>160</sup> Zhang, ‘The Marsh and the Bush’, p. 98. See also Antony, ‘Peasants, Heroes and Brigands’, pp. 138-141.

<sup>161</sup> Hobsbawm, ‘Social Banditry’, p. 149; Darnell, ‘The Chinese Labour Trade to NSW 1783-1853’, pp. 64-82; Lamley, ‘Hsieh-Tau’, pp. 1-39.



enough money. Pressure for basic necessities like food, work and money drove many to become 'floating people', drifting from place to place in search of sustenance and it was these people who were the most likely to become outlaws.<sup>162</sup> As Xu Ke has written of bandits from Guangdong 'living in hunger and cold, they were sure to die, while being bandits, though violating the law, not everyone is captured.'<sup>163</sup>

Secret societies and brotherhoods were closely associated with bandit culture, for both personal and practical reasons. Organisations provided a new level of stability and security for individual drifters. Many had internal hierarchies, delegated positions and were able to recruit scores of supporters. These groups also provided a bond to replace that of family, with family being a sacred and driving force in Chinese life.<sup>164</sup> Given this context, it is likely that Sam Poo would have felt his isolation in New South Wales. While there were occasionally bandits who, like him, operated alone, groups, clans, societies and brotherhoods were the norm, and the standard against which other bandits were judged. Banditry and outlaw traditions were a major part of Chinese society, especially in Fujian province where Sam Poo originated.<sup>165</sup> These types of crimes had been carried out for thousands of years. To date, China has experienced over five hundred different regimes and as Zhang notes 'in the transition period from one regime or dynasty to another, values changed radically. The lawful to the previous regime or dynasty might

---

<sup>162</sup> Zhang, 'The Marsh and the Bush', pp. 74-111; Antony, 'Peasants, Heroes and Brigands', pp. 128-135.

<sup>163</sup> Xu Ke in Zhang, 'The Marsh and the Bush', p. 94.

<sup>164</sup> Zhang, 'The Marsh and the Bush', pp. 78-89; Susan Mann, 'The Male Bond in Chinese History and Culture', *American Historical Review* vol. 105, no. 5 (2000), pp. 1603, 1607-1611.

<sup>165</sup> Lamley, 'Hsieh-Tau', pp. 1-39; Antony, 'Peasants, Heroes and Brigands', pp. 134-136. Banditry in Fujian province continued well in to the twentieth century. See Xu Youwei and Philip Billingsley, 'When Worlds Collide: Chinese bandits and their "foreign tickets"', *Modern China* vol. 26, no. 1 (2000), pp. 38-78; Phil Billingsley, *Bandits in Republican China* (Stanford: Stanford University Press, 1988), pp. 36-38.

be unlawful to the new one; the outlawed now could come back inside the law.’<sup>166</sup> And so it was not only the colonial context of white bushranging, policing and legal change that defined Sam Poo’s story. The Chinese social landscape of instability, flux and struggle for survival would all have affected how Sam Poo saw his alleged crimes in New South Wales as well as his place in colonial society.

## Conclusion

Given the different physical and cultural worlds that Sam Poo came from, should we even call him a ‘bushranger’? On the one hand, naming Sam Poo a bushranger remains important if we are to use this man as a lens to uncover the meaning, motivations, fears and certainties held by colonial Australians. But to take this approach alone risks reimposing colonial forms of thought onto the past in the present. This chapter has demonstrated that there are many histories of Sam Poo, and he was never just a ‘bushranger’. Indeed, although he was termed a bushranger in the press, Poo was convicted of murder and never charged with bushranging crime.<sup>167</sup> Sam Poo was likely a man with an alternative outlaw tradition and roots in China, as well as experiences as an indentured labourer on the pastoral frontier. His rich and complex life history would have informed who he was, how he acted and how he saw the world. Although sources about Sam Poo are laden with the cultural assumptions of their colonial authors, he was never just an absent centre. The fact that he was a man with a mind of his own and

---

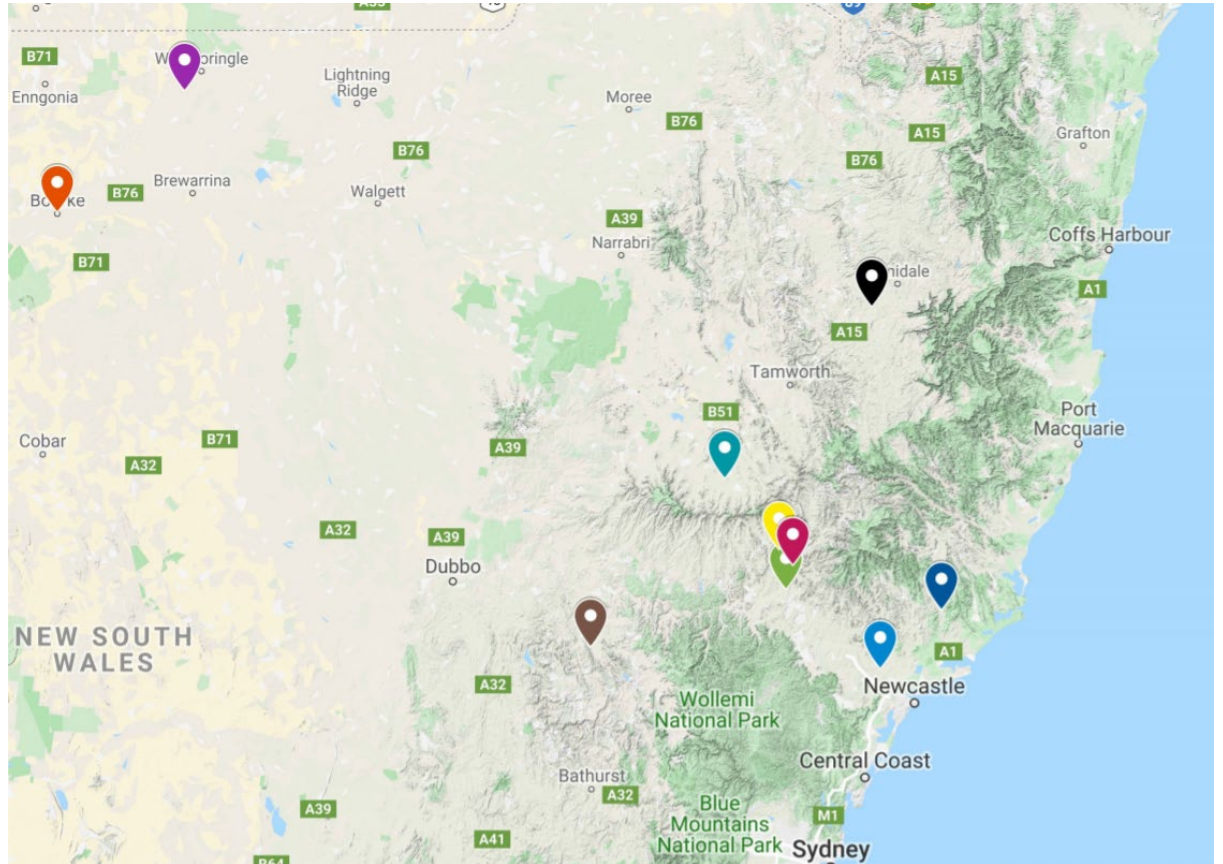
<sup>166</sup> Zhang, ‘The Marsh and the Bush’, p. 106.











<sup>167</sup> It appears that Sam Poo was labelled a bushranger to legitimise Ward’s attempt at his arrest as well as for its discursive utility.

actions that affected the lives of colonial Australians made him significant. It was Sam Poo's agency that made him a threat.

The next chapter explores the tension between discourse and choice in the life of Mary Ann Bugg. Although Bugg operated in the same decade as Sam Poo, her relationship with the burgeoning bushranging legend appears to have been of her own making, and her public persona was shaped equally by colonists and her own efforts. In this chapter, we move from absence to agency, as Bugg attempted to use colonial discourse to further her own ends.

## Places of Note in Chapter 4



-  Maitland
-  Culgoa River
-  Bourke
-  Muswellbrook
-  Scone
-  Rouchel
-  Uralla
-  Liverpool Plains
-  Mudgee
-  Stroud

## Chapter 4

### Mary Ann Bugg and the Power of Popular Appeal

On Thursday the 30<sup>th</sup> of March 1865, Sergeant Clearly and Constable Byrnes were on the hunt for bushrangers. They had been called to the station of Macleay, Little and Co. on the Culgoa, about 100 miles from Bourke, New South Wales, after it was 'stuck up' by a gang of men the previous day. While one of the owners, Mr Beaumont, had been inclined to 'show fight', he had not found the station workers quite as keen to risk life and limb to resist the marauders. This lack of enthusiasm led to the theft of firearms, ammunition and two pack horses heavily laden with supplies, and had lost Cleary and Byrnes a comparatively peaceful Thursday back at Bourke police station. Catching armed bushrangers was an unpleasant and risky business. With Mr Beaumont and an Aboriginal man, the officers scoured the bush from 'the Brie and across the country to the Bokarra, from thence to Narran'. The bandits were four days in advance of their pursuers, had burnt the grass for miles around to obliterate their tracks and crossed a lake to further confuse the authorities. After days of false leads and travel through harsh country, in April the search party finally found fresh tracks and followed them to the bushrangers' camp.<sup>1</sup>

The male bushrangers were gone and only one heavily pregnant woman and two small children remained in the clearing, surrounded by incriminating stolen property.<sup>2</sup>

---

<sup>1</sup> 'Bourke', *Empire* (2 May 1865), p. 5.

<sup>2</sup> *ibid.* Jillian Oppenheimer, 'Thunderbolt's Mary Ann—an Aboriginal bushranger', *Journal of the Royal Australian Historical Society* vol. 78, no. 3-4 (1992) p. 102.

This was not the prize that the search party was hoping for and it was only after unsuccessfully lying in wait, willing their prey to return that the men decided to apprehend the woman and her children instead. Sergeant Cleary and Constable Byrnes may have been quietly relieved that they missed the gun toting gang, but if they expected the danger to be over then they were sadly mistaken. The woman 'twitted them on their want of success, and was particularly severe on Mr Beaumont, who, she said, was only showing off at the station when he wanted to show fight.' If this remonstrance was unusual from a woman, what happened next was even more unexpected.<sup>3</sup> According to the *Maitland Mercury*, their captive suddenly became a 'perfect amazon, who sprung like a tigress upon one of the police, ribboning his uniform, and taunting him with cowardice for seeking her apprehension instead of [the bushranger] Thunderbolt's.'<sup>4</sup> The *Empire* continued that her response was so severe that 'with her passion she brought on, or feigned to bring on labour'.<sup>5</sup> Against their better judgement, the police were obliged to leave their prisoner at a nearby station for her confinement while they continued to hunt the male bushrangers.<sup>6</sup> Upon the police's departure the woman's contractions appear to have miraculously stopped, for when Thunderbolt called by the property she and the children swiftly escaped.<sup>7</sup>

This remarkable woman's name was Mary Ann Bugg. She was born in 1834, the daughter of James Bugg, a convict assigned to the Australian Agricultural Company (hereafter A. A. Co.) and Charlotte, a Worimi woman from the Hunter Region of New

---

<sup>3</sup> 'Bourke', *Empire* (2 May 1865), p. 5.

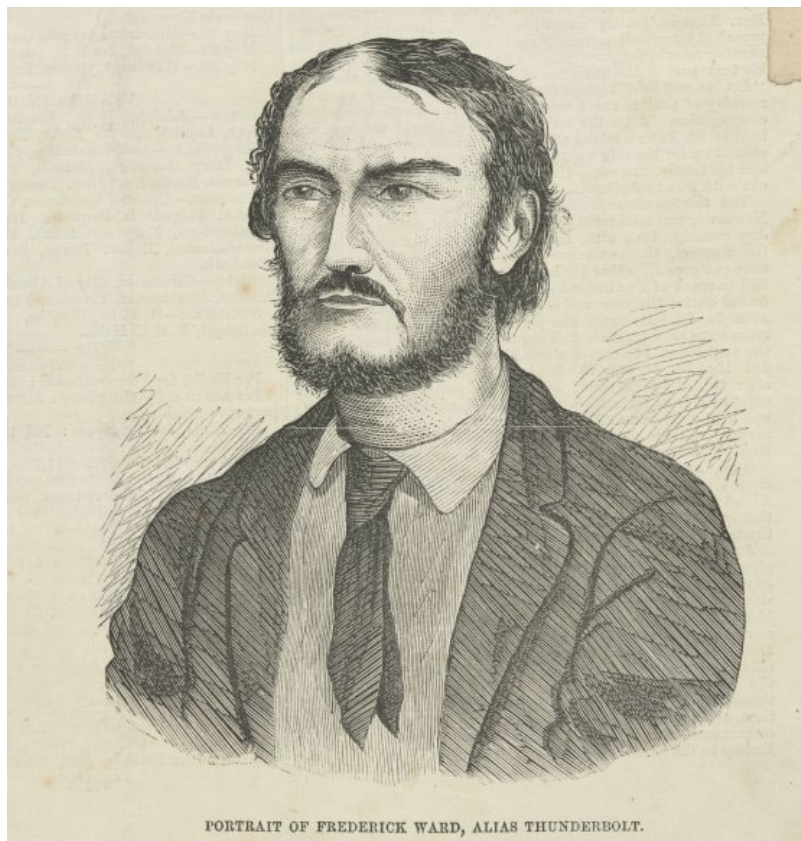
<sup>4</sup> 'The Exploits of Captain Thunderbolt and His Gang', *Maitland Mercury* (18 April 1865), p. 2.

<sup>5</sup> 'Bourke', *Empire* (2 May 1865), p. 5.

<sup>6</sup> *ibid.*

<sup>7</sup> 'The Exploits of Captain Thunderbolt and His Gang', *Maitland Mercury* (18 April 1865), p. 2.

South Wales.<sup>8</sup> Between 1863 and 1867, Mary Ann lived with Frederick Ward, alias Captain Thunderbolt, one of the longest operating bushrangers in Australian history.<sup>9</sup>



**Figure 10: Unknown Artist, *Portrait of Frederick Ward, alias Thunderbolt*, 1870.<sup>10</sup>**

Ward was one of those ‘elite’, white, ‘gentlemen’ bushrangers upon which the bushranging mythos relied. He fashioned himself in the manner of a dashing British highwayman, achieving a reputation as something of a colonial Robin Hood among his supporters. Thunderbolt was handsome, gallant and courteous to women. He took great

---

<sup>8</sup> NSW Registry of Births, Deaths and Marriages, *Mary Ann Bugg, Baptism Certificate*, vol. 23. Registration number 1839/1494. See also, Carol Baxter and David Roberts, “‘Mrs Thunderbolt’: setting the record straight on the life and times of Mary Ann Bugg”, *Journal of the Royal Australian Historical Society* vol. 99, no. 1 (2013), pp. 55-56.

<sup>9</sup> Although the pair had a relationship before this time as their daughter, Marina Emily Ward, was born in October 1861. NSW Registry of Births, Deaths and Marriages, *Maria Emily Ward, Birth Certificate*. Registration number 1861/7193; Baxter and Roberts, p. 57.

<sup>10</sup> Source: National Library of Australia, PIC Row 60/2 #PIC/14662.

care to entertain his 'hostages', regaled his victims with tales of police ineptitude and injustice, and in many (although not all) instances, he refused to steal from the poor.<sup>11</sup>

Mary Ann is unique in this study of 'other' bushrangers as she, too, is remembered as a part of the bushranging legend. Given the demonisation of William Douglas and Sam Poo, her inclusion in this heroic national imaginary is clearly remarkable. However, Mary Ann has never been an equal to the white men who dominate in this tradition, as her inclusion is completely dependent on her white, male bushranging spouse. In popular histories and local legend, she is described as Ward's 'helpmate' and loyal 'gin', a sidekick in the background of the action.<sup>12</sup> In one well-known, apocryphal version of Ward's escape from imprisonment on Cockatoo Island, Mary Ann swam through the shark infested waters of Sydney Harbour to help free her noble partner.<sup>13</sup> In this story Mary Ann plays a larger role in events than usual, but she still only acts to assist the Captain and never on her own account.<sup>14</sup> Even the *Australian*

---

<sup>11</sup> For just some of the wide array of literature on Thunderbolt, see note 12 below. See also Annie Rixon, *The Truth About Thunderbolt: Australia's Robbin Hood* (Sydney: George M. Dash, 1940); Barry McDonald, 'Thunderbolt, Folksong, and the Legend of the "Noble Robber"', *Australian Folklore* no. 8 (1993), pp. 40-47; Bruce Tranter and Jed Donoghue, 'Bushrangers: Ned Kelly and Australian Identity', *Journal of Sociology* vol. 44, no. 4 (2008), pp. 379, 384-385; R. B. Walker, 'Captain Thunderbolt, Bushranger', *Journal of the Royal Australian Historical Society* vol. 43, no. 5 (1957), pp. 223-251. Even though Walker's article aimed to move beyond the Thunderbolt myth by being a scholarly biography, Walker also recognised Ward's popularity, stating that his 'charm' was one of the reasons for his bushranging success. See page 241.

<sup>12</sup> For some of the many texts that mention Mary Ann in relation to Thunderbolt, see Jack Bradshaw, *The True Story of the Australian Bushrangers* (Sydney: W. J. Anderson & Co., 1924), pp. 53-54; W. H. Fitchett, *In the Days of Thunderbolt and Moonlite: the dramatic story of the second generation of bushrangers* (Melbourne: Fitchett Brothers Pty. Ltd., 1938), pp. 30-31; Stephan Williams, *A Ghost Called Thunderbolt: the career and legend of Frederick Ward, bushranger throughout northern NSW* (Woden, ACT: Popinjay Publications, 1987); A. R. Macleod, *The Transformation of Manillae: a history of Manilla* (Sydney: Halstead Press, 1949), pp. 21-27.

<sup>13</sup> Baxter and Roberts, "Mrs Thunderbolt", pp. 60-64; Williams, *A Ghost Called Thunderbolt*, pp. 25; Macleod, *The Transformation*, p. 23; A. Rixon, *Captain Thunderbolt* (Sydney: Annie Rixon, 1951); Walker, 'Captain Thunderbolt', p. 227.

<sup>14</sup> To make matters worse, this famous tale is complete fabrication, as Mary Ann was miles away in Dungog when Ward made his escape. Baxter and Roberts, "Mrs Thunderbolt", p. 62.



*Dictionary of Biography* perpetuates the notion that Mary Ann was no more than an accessory to Thunderbolt's crimes. Denied an entry herself, Mary Ann occupies only a small portion of Victor Crittenden's account of Frederick Ward. She is mentioned twice, when Crittenden remarks that Ward lived quietly with Mary Ann for a time between 1864-1865 and that when Thunderbolt was on the run 'she followed Ward whenever possible'.<sup>15</sup> Few writers have made Mary Ann's life their focus or examined its course beyond her adventures with Captain Thunderbolt. The work of Carol Baxter and David Roberts has started to 'set the record straight' on Mary Ann Bugg, but their single article stands in contrast to over a century of misinformation, embellishment, hearsay and local myth.<sup>16</sup>

In reality, Mary Ann's story was far more rich and complex than the legends would have us believe. For four years, her life was intertwined with Ward's, but as more than a mere 'helpmate'. She accompanied him around the colony, acting as his scout, informer, lover and confidante. She helped to provide food and shelter, bore him three children, and at the time, many colonists alleged that she took part in the robberies herself.<sup>17</sup> In the previous chapters, we have seen how 'other' bushrangers became 'absent centres' in the colonial archive: how their personhood was stripped from records and colonial discourse posited in its stead. Mary Ann's case is different. Although she was

---

<sup>15</sup> Victor Crittenden, 'Ward, Frederick (Fred), 1835-1870', Australian Dictionary of National Biography Online. Accessed 15 July 2018 via: <<http://adb.anu.edu.au/biography/ward-frederick-fred-4801>>

<sup>16</sup> Baxter and Roberts, "Mrs Thunderbolt", pp. 55-76. Other notable attempts to uncover aspects of Mary Ann's life include: Carol Baxter, *Captain Thunderbolt and His Lady: the true story of bushrangers Frederick Ward and Mary Ann Bugg* (Sydney: Allen & Unwin, 2012); Oppenheimer, 'Thunderbolt's Mary Ann', pp. 92-105; Kali Bierens, 'The Captain's Lady: Mary Ann Bugg', Honours Thesis (University of Tasmania, 2008). Compared to Baxter and Roberts' article, however, these texts are still laced with dramatic myth or misinformation.

<sup>17</sup> For the story of Mary Ann's bushranging career, see note 16.

also depicted in terms of white ideas and expectations, her own actions and words have left a mark on the colonial record.

This chapter examines this tension between structure and agency as Mary Ann attempted to use colonial standards to achieve her own ends. By investigating her encounters with the law and her family history as well as her life after Thunderbolt, we can see how white, nineteenth-century ideas about Aboriginality, matrimony, motherhood, gender and the burgeoning bushranging legend converged and intersected in Mary Ann's life. But we can also do more than this. This dance between respectability and deviance, public discourse and lived reality also shines a unique light back onto the hopes and fears of colonial society. Values and cultural norms are brought into stark relief when they are challenged.<sup>18</sup> And Mary Ann's position both inside and outside of colonial society 'contested the terms and territories of both.'<sup>19</sup>

---

<sup>18</sup> Victor Turner, 'Social Dramas and Stories About Them', *Critical Inquiry* vol. 7, no. 1 (1980), pp. 144-168.

<sup>19</sup> Homi Bhabha, 'The Commitment to Theory', *New Formations* no. 5 (Summer 1998), p. 13. See also Homi Bhabha, 'Signs Taken for Wonders: questions of ambivalence and authority under a tree outside Delhi, May 1817', *Critical Inquiry* vol. 12 no. 1 (1985), pp. 144-165; Homi Bhabha, *The Location of Culture* (London: Routledge, 1994), pp. 85-92; Robert Young, *Colonial Desire: hybridity in theory, culture and race* (London: Routledge, 1995), pp. 22-26.



*Figure 11 has been removed due to copyright restrictions.*

**Figure 11: Unknown Photographer, *Portrait believed to be of Mary Ann Ward (née Bugg)*, date unknown.<sup>20</sup>**

## **1866. 'Thunderbolt's Gin' is Charged with Vagrancy**

On Saturday the 31<sup>st</sup> of March 1866, Thomas Nicholls made himself ready for a day of legal proceedings as magistrate for the bench at Stroud, New South Wales. This township was an old one as far as the Northern Districts were concerned having been

---

<sup>20</sup> Unknown Photographer, *Portrait believed to be of Mary Ann Ward (née Bugg)*, date unknown. Source: Carol Baxter, 'Mary Ann Bugg Biography', Thunderbolt Bushranger. Accessed 13 June 2015 via: <<http://www.thunderboltbushranger.com.au/mary-ann-bugg-biography.html>>

established by the A. A. Co. in 1826, but its residents had experienced a number of setbacks since the boom years of the 1830s.<sup>21</sup> A decline in the A. A. Co.'s profits in the depression of the 1840s led the company to sell large tracts of land, and by the 1850s the business retreated from the remnants of its inland estates and moved its headquarters to Sydney.<sup>22</sup> Once the nerve centre of the greatest private agricultural enterprise in the country, Stroud became a small and quaint rural town, a relatively unremarkable dot on the colony's ever expanding map.<sup>23</sup> Perhaps Nicholls' magistracy was popular among the remaining residents, as the court provided a renewed sense of purpose and importance to the town.<sup>24</sup> When the notorious bushranger, Captain Thunderbolt's 'half caste woman' graced their courthouse with her presence, the colony's attention focused on the town of Stroud once more.<sup>25</sup>

---

<sup>21</sup> 'Stroud House', NSW Government Office of Environment and Heritage. Accessed 1 June 2018 via: <http://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?ID=5060873>

<sup>22</sup> *ibid.*; John Chadban, *Stroud and the A. A. Co.* (Stroud, NSW: Stroud Shire Council, 1970), p. 6.

<sup>23</sup> *Ibid.* For the history of the A. A. Co., see Damaris Bairstow, *A Million Pounds, A Million Acres: the pioneer settlement of the Australian Agricultural Company* (Sydney: D. Bairstow, 2003); Damaris Bairstow, 'The Australian Agricultural Company at Port Stephens: an archaeological contribution to history', PhD Thesis (University of Sydney, 1985); Jesse Gregson, *The Australian Agricultural Company, 1824-1875* (Sydney: Angus & Robertson, 1907), John Campbell, 'The First Decade of the Australian Agricultural Company, 1824-1834', *Journal of the Royal Australian Historical Society* vol. 9, no. 3 (1923), pp. 113-161; Penny Russell, *Savage or Civilised? Manners in colonial Australia* (Sydney: New South, 2010), pp. 53-79.

<sup>24</sup> For literature on the symbolic and performative aspects of the court and public justice, see Douglas Hay et al. (eds.), *Albion's Fatal Tree: crime and society in eighteenth century England* (New York: Pantheon, 1975); Clare Graham, *Ordering Law: the architectural and social history of the English law court to 1914* (Aldershot: Ashgate, 2003); Linda Mulcahy, 'Architects of Justice: the politics of courtroom design', *Social and Legal Studies* vol. 16, no. 3 (2007), pp. 383-403; Amy Milka and David Lemmings, 'Narratives of Feeling and Majesty: emotions in the eighteenth century criminal courtroom', *Journal of Legal History* vol. 38, no. 2 (2017), pp. 155-178; Peter Goodrich, 'Specula Laws: image, aesthetic and common law', *Law and Critique* vol. 2, no. 2 (1991), pp. 233-254. See Michel Foucault for the importance of public spectacle to the administration of justice. Michel Foucault, *Discipline and Punish: the birth of the prison* (New York: Vintage Books, 1979).

<sup>25</sup> Newspapers commonly referred to Mary Ann as a 'half caste woman' and used the phrase as a pejorative reminder of her 'mixed race' heritage. See for example 'Epitome of News', *Armidale Express* (7 April 1866), p. 3; 'Mrs Captain Thunderbolt', *Maitland Mercury* (7 April 1866), p. 5; 'Town and Country News', *Sydney Mail* (7 April 1866), p. 2; 'Weekly Summary', *Freeman's Journal* (7 April 1866), p. 209.

When Mary Ann was called to approach the bench, onlookers saw a ‘dark fallow’ woman with black hair and brown eyes walk into view. She was not particularly tall, being only 5ft, 2½ inches in height, and her nose was ‘slightly cocked’.<sup>26</sup> Holding her infant child in her arms, this young woman was charged with ‘being an idle and disorderly person and a companion of reputed thieves, having no visible means of support or fixed place of residence.’<sup>27</sup> Only a few days previously another posse of police had come upon her camp in search of Frederick Ward and had missed him again.<sup>28</sup> Tales of police incompetence were becoming a common occurrence in the metropolitan and local press, as weary colonists noted that several years had elapsed since Thunderbolt’s first bushranging spree. The number of near misses inflamed the issue, as guns misfiring, slow horses and officers’ inexperience in the bush allowed Thunderbolt to repeatedly escape from the clutches of the New Police Force.<sup>29</sup> Loath to return to ‘civilisation’ empty handed, Senior Sergeant Kerrigan arrested Mary Ann on a charge of vagrancy.<sup>30</sup>

---

<sup>26</sup> ‘Return of Prisoners Discharged Free’, *New South Wales Police Gazette* (2 May 1866), p. 160.

<sup>27</sup> NSWSA: Department of Corrective Services; NRS 2318, Maitland Gaol Entry Book, 1866-1867, [5/747-50], reel 2368, entry for ‘Mary Ann Ward’; ‘Local News’, *Maitland Mercury* (3 April 1866), p. 2.

<sup>28</sup> ‘Capture of “Thunderbolt’s” Wife’, *Sydney Morning Herald* (3 April 1866), p. 5; ‘Capture of “Thunderbolt’s Wife”’, *Clarence River Examiner* (10 April 1866), p. 3; ‘Pursuit of Thunderbolt and Capture of His Wife’, *Tumut Times* (12 April 1866), p. 2.

<sup>29</sup> For the previous discussion of the NSW New Police Force, see pages 160-168 in Chapter 3.

Sarcasm was one tactic that was often used when referencing the police efforts. In the *Armidale Express* in 1866, for example, their correspondent wrote: ‘The praiseworthy conduct of the police, in remaining at home since the occurrence [of a mail robbery near town], will no doubt be a warning to the bushrangers, and at least effectually prevent them from coming any further this way. If, however, the thieves should wish to meet the police, I can assure them their best, and indeed only plan will be to come into town and lay siege to the barracks, for there is in most people, but especially policemen, a natural antipathy to their company.’ ‘Tenterfield’, *Armidale Express* (23 June 1866), p. 3. See also Walker, ‘Captain Thunderbolt’, pp. 241-244. For the context of the NSW police and bushranging, see Susan West, *Bushranging and the Policing of Rural Banditry in New South Wales, 1860-1880* (Melbourne: Australian Scholarly Publishing, 2009); Susan West, “‘Spiders in the centre of their webs’: the NSW police and bushranging in the 1860s”, *Journal of Australian Colonial History*, vol. 8 (2006), pp. 1-22.

<sup>30</sup> NSWSA: Department of Premier and Cabinet; NRS 905, Main Series of Letters Received [Colonial Secretary], Re: Mary Ann Ward, 1866 [4/573, 66/1844]; ‘Apprehensions’, *New South Wales Police Gazette* (4 April 1866), p. 122.

Vagrancy was a common public order offence in this period and the *Vagrancy Act's* highly ambiguous terms gave the police ample discretion to arrest almost anyone they considered a nuisance.<sup>31</sup> As Julie Kimber writes, 'vagrancy laws were used as social policy devices' and as such 'this discretion was also [their] power'.<sup>32</sup>

Mary Ann took an unusual approach in her defence to these charges. She declared to the courtroom that she was no vagrant, as her husband, Frederick Ward, 'kept her.'<sup>33</sup> To try to escape a conviction for vagrancy, Mary Ann openly claimed a man who was one of the most notorious white bushrangers in the colony. When Mary Ann stood before the court in 1866, she was charged as 'Mary Ann Ward'. All depositions, gaol logbooks and court records referred to her by this name. It was the name she gave when arrested by Senior Sergeant Kerrigan, the way she was introduced to the court and her only defence to vagrancy charges.<sup>34</sup> While declaring yourself the wife of a fugitive may appear counterproductive to escaping a charge of 'being in the company of reputed

---

<sup>31</sup> For historical work that unpacks the social and legal construction of vagrancy, see Julie Kimber, 'Poor Laws: a historiography of vagrancy in Australia', *History Compass* vol. 11, no. 8 (2013), pp. 537-550; Julie Kimber, "'A Nuisance to the Community': policing the vagrant woman", *Journal of Australian Studies* vol. 34, no. 3 (2010), pp. 275-293; Suzanne Davies, "'Rugged, Dirty...Infamous and Obscene": the 'vagrant' in late nineteenth century Melbourne' in David Phillips and Suzanne Davies (eds.), *A Nation of Rogues? Law, crime and punishment in colonial Australia* (Melbourne: Melbourne University Press, 1994), pp. 141-165; Suzanne Davies, 'Vagrancy and the Victorians: the social construction of the vagrant in Melbourne, 1880-1907', PhD Thesis (University of Melbourne, 1990); Leigh Straw, "'The Worst Female Character": criminal underclass women in Perth and Freemantle, 1900-1939', *Journal of Australian Studies* vol. 37, no. 2 (2013), pp. 208-224. For vagrancy in international context, see A. L. Beier and Pail Ocobock (eds.), *Cast Out: vagrancy and homelessness in global and historical perspective* (Athens: University of Ohio Press, 2014). For the connection between vagrancy, mobility and settler colonialism, see Catherine Coleborne, 'Mobility Stopped in its Tracks: institutional narratives in the Australian and New Zealand World, 1870s-1900s', *Transfers* vol. 5, no. 3 (2015), pp. 87-103; Tony Ballantyne, 'Mobility, Empire, Colonisation', *History Australia* vol. 11, no. 2 (2014), pp. 7-37; Amanda Nettlebeck, 'Creating the Aboriginal Vagrant: protective governance and Indigenous mobility in colonial Australia', *Pacific Historical Review* vol. 87, no. 1 (2018), pp. 79-100.

<sup>32</sup> Kimber, 'Poor Laws', p. 538.

<sup>33</sup> NSWSA: Department of Corrective Services; NRS 2318, Maitland Gaol Entry Book, 1866-1867, [5/747-50]. Reel 2368. Entry for 'Mary Ann Ward'; 'Local News', *Maitland Mercury* (3 April 1866), p. 2.

<sup>34</sup> NSWSA: Department of Premier and Cabinet; NRS 905, Main Series of Letters Received [Colonial Secretary], Re: Mary Ann Ward, 1866 [4/573, 66/1844].

thieves', Mary Ann made this association very deliberately.<sup>35</sup> We know this because there is no evidence that she ever married Ward. Although Mary Ann claimed that she was married by a travelling minister, no such person, or record of her wedding has ever been found.<sup>36</sup>

By calling herself Ward's wife, Mary Ann drew on white notions of respectability. At a time when some members of the press referred to her as 'Thunderbolt's Half caste gin', Mary Ann's claim to be a lawful wife gave her greater social standing.<sup>37</sup> Marriage was a bond that legitimised her relationship with Ward, as their union had been sanctified before God and the community.<sup>38</sup> As Ann McGrath notes, '[m]arriage confirmed public recognition and acceptance of a couple's intimacy' as the performance of a ceremony and the presence of a legal contract moved the relationship from a matter for individuals to a matter of the State.<sup>39</sup> Furthermore, in the nineteenth century, marriage enshrined a wife's dependency on her husband.<sup>40</sup> According to the law, husband and wife were one legal entity, a husband had the right to act on his wife's behalf in official matters and a woman's property became that of her husband upon their union.<sup>41</sup> By drawing on this discourse about marriage that the

---

<sup>35</sup> *ibid.*

<sup>36</sup> *ibid.*; Roberts and Baxter, "Mrs Thunderbolt", p. 59.

<sup>37</sup> 'Bourke [from our own correspondent]', *Empire* (2 May 1865), p. 5.

<sup>38</sup> Rajendra Kumar Sharma, *Fundamentals of Sociology* (New Delhi: Atlantic Publishers, 2007), pp. 245-246; Meg Foster, "'Black Bushrangers': a colonial paradox. Aboriginal Bushrangers in Australian popular culture, 1864-1903", Honours Thesis (University of Sydney, 2013), p. 53.

<sup>39</sup> Ann McGrath, *Illicit Love: interracial sex and marriage in the United States and Australia* (Lincoln and London: University of Nebraska Press, 2015), p. 7.

<sup>40</sup> For more information see pages 269-271 in Chapter 5.

<sup>41</sup> Married women remained largely legally and economically dependent on their husbands into the twentieth century. *Married Women's Property Act* 1893 (NSW), 56 Vict. No. 11, pp. 13-19; Prue Vines, 'Annie Ludford, Postmistress: the *Married Women's Property Acts* and public service employment in 1890s NSW', *Law and History* vol. 2 (2015), pp. 146-176. See also Frank Bates, 'To Have but Not to Hold by Henry Finlay. Book Review', *UNSW Law Journal* vol. 29, no. 2 (2006), p. 278.

colonial courtroom would know well, Mary Ann made it appear natural that Frederick Ward 'kept' her and provided for his family. If this meant that Mary Ann was living off the proceeds of crime, then she made it clear that this was her partner's misdeed and not her own. Mary Ann's words suggested that like all dutiful, lawful wives, she was guilty of relying upon her husband, and nothing more.

Besides these strategic reasons, Mary Ann could very well have believed in the importance of marriage, despite not having married Frederick Ward. Her white father had petitioned the church in New South Wales for seven years to be allowed to marry her Aboriginal mother, and Mary Ann had previously entered the sacred institution herself, having married an emancipist named Edmund Baker at the age of fourteen.<sup>42</sup> Baker apparently died a few years after their union, but Mary Ann's youth suggests that her father arranged, or at the very least actively supported the match.<sup>43</sup> The wedding of a minor, below the age of twenty-one, almost always required the consent of the child's father at this time.<sup>44</sup> While it would have been to the family's advantage if Mary Ann married well, and she may have been pregnant to Baker at the time, from this evidence

---

<sup>42</sup> Bierens, 'The Captain's Lady', p. 10; Carol Baxter, 'Timeline: James and Charlotte Bugg and Family', Thunderbolt Bushranger. Accessed 5 May 2015 via: < <http://www.thunderboltbushranger.com.au/timeline-bugg-family.html> >;

NSWSA: Department of Premier and Cabinet; NRS 905, Main Series of Letters Received [Colonial Secretary], Re: Mary Ann Ward, 1866 [4/573, 66/1844]; NSW Registry of Births, Deaths and Marriages (NSW RBDM), *Edmund Baker and Mary A. Bugg, Marriage Certificate*. Registration number 1848/518.

<sup>43</sup> Although Baker's death is a matter of conjecture as his death certificate has never been found. See Carol Baxter, 'Mary Ann Bugg and her husband Edmund Baker', Thunderbolt Bushranger. Accessed 5 May 2015 via: < <http://www.thunderboltbushranger.com.au/mary-ann-bugg-and-edmund-baker.html> >

<sup>44</sup> The words 'almost always' are used deliberately here, as the *Minors Marriages Act* (1838) provided several, specific instances where minors could be married without parental consent. These instances were, however, exceptions and not the norm, and this act only remained in force until the *Marriage Act* (1855). *Minors Marriages Act* 1838 (NSW), 2 Vict. No. 13, pp. 823-825; *Marriages Act* 1855 (NSW), 19 Vict. No. 30, pp. 2995-2998.



it is clear that marriage was valued in Mary Ann's family and its importance had been instilled in her upbringing.<sup>45</sup>

Heterosexual marriage was regarded as a bastion of civilisation for many Western societies in the nineteenth century, but it had a particular resonance in colonial New South Wales. From its very inception, the colony suffered from a chronic imbalance of the sexes and the passing of over eight decades had yet to amend the high ratio of men compared to women.<sup>46</sup> Although white women were deemed to be the only appropriate spouses for white men, the realities of life in the colony meant that exceptions had always been made. The government feared that the absence of white women would lead to 'unnatural acts' between men as well as other forms of insidious moral decay. At the founding of the colony in 1788, Governor Phillip was so concerned that he suggested fetching women from the Pacific Islands to remedy the situation.<sup>47</sup> While racial purity was an issue, it appears that sexual and moral deviancy occasionally pressed more strongly on the minds of those in government.

---

<sup>45</sup> The precise date of Helena Baker's birth is unknown. For Helena Baker's birth records, see Baxter and Roberts, "Mrs Thunderbolt", pp. 57, 70.

<sup>46</sup> While the imbalance between the sexes had certainly narrowed since 1788, there were still more men than women in late nineteenth century NSW. In the 1861 census, there were 152 372 white women living in NSW compared to 198 488 men, while in the 1871 census, there were 228 156 white women and 274 842 men. J. C. Caldwell, 'Population' in Wray Vamplew (ed.), *Australians: Historical Statistics* (Sydney: Fairfax, Syme & Weldon Associates, 1987), pp. 27-28.

<sup>47</sup> 'Phillip's Views on the Conduct of the Expedition and the Treatment of Convicts (1787)', *Historical Records of New South Wales (HRNSW)*, volume I, part 2 (Sydney: Government Publisher, 1890-1901), pp. 52-53; 'Phillip's Instructions from King George III (25 April 1787)', *HRNSW* volume I, part 2, p. 90; 'Governor Phillip to Lord Sydney (15 May 1788)', *HRNSW* volume I, part 2, p. 127; John Hirst, *Freedom on the Fatal Shore: Australia's first colony* (Melbourne: Black Inc, 2008), pp. 71-73; Marian Aveling, 'Bending the Bars: convict women and the state' in Kay Saunders and Raymond Evans (eds.), *Gender Relations in Australia: domination and negotiation* (Sydney: Harcourt Brace Jovanovich, 1992), pp. 145-146; Marian Aveling, 'Imagining New South Wales as a Gendered Society, 1783-1821', *Australian Historical Studies* vol. 25, no. 98 (1992), pp. 1-12.

Sexual unions between Aboriginal women and white men were as old as the frontier itself, but experiences of Aboriginal women were wide and varied. Some Aboriginal women offered themselves to white men willingly, acting as emissaries for their clan and hoping through sex to incorporate the invaders into their world as kin.<sup>48</sup> This appears to have been how Mary Ann's mother first encountered her father, as the Worimi had a long tradition of this diplomatic practice.<sup>49</sup> James Bugg was the overseer of shepherds in the Berrico area, a man of authority and power over his immediate peers: a man seemingly worthy of such diplomatic efforts.<sup>50</sup> However, there were also countless cases of white men capturing, abducting, stealing and raping Aboriginal women for lust, intrigue or sport.<sup>51</sup> As Penelope Edmonds writes of colonial Victoria, colonists commonly viewed Aboriginal women as debased prostitutes and Aboriginal men as unworthy of their 'fair ones'. Such men were either portrayed as pimps, willing to sell their 'wives' for a touch of tobacco, or barbarians who brutalised their women themselves. According to this 'logic' Aboriginal women were fair game and white men

---

<sup>48</sup> Reynolds, *The Other Side of the Frontier*, pp. 76-77; Patricia Grimshaw et al., *Creating a Nation: 1788-1990* (Ringwood, VIC: McPhee Gribble, 1994), pp. 139, 146; Jan Kociumbas, "'Mary Ann", Joseph Fleming and "Gentleman Dick": Aboriginal-Convict relationships in colonial history', *Journal of Australian Colonial History* vol. 3, no. 1 (2001), p. 40.

<sup>49</sup> Bierens, 'The Captain's Lady', p. 2.

<sup>50</sup> NSWSA: Department of Premier and Cabinet; NRS 905, Main Series of Letters Received [Colonial Secretary], Police Port Stephens [4/2332.2], letter 35/7317.

<sup>51</sup> See for example Libby Connors, 'Uncovering the Shameful: sexual violence on an Australian colonial frontier' in Robert Mason (ed.), *Legacies of Violence: rendering the unspeakable past in modern Australia* (New York: Berghahn Books, 2017) pp. 33-52; Larissa Behrendt, 'Consent in a (Neo) Colonial Society: Aboriginal women as sexual and legal "other"', *Australian Feminist Studies* vol. 15, no. 33 (2000), pp. 353-367; Amanda Nettelbeck, 'Intimate Violence in the Pastoral Economy: Aboriginal women's labour and protective governance' in Penelope Edmonds and Amanda Nettelbeck (eds.), *Intimacies of Violence in the Settler Colony: economies of dispossession around the Pacific Rim* (London: Palgrave Macmillan, 2018), p. 68.

were entitled to sexual access by virtue of their status as the superiors of a colonised race.<sup>52</sup>

This leads us to the other advantage of Mary Ann claiming to be married to Frederick Ward. The majority of mixed-race relationships in the 1800s were informal and casual. In colonial thought, interracial sex could be explained as part of a white man's power over a supposedly inferior race, and a natural (if unfortunate) result of the absence of white women.<sup>53</sup> Even when a man lived with one Aboriginal woman for a long time she was usually considered a 'common law wife' and denied the legal status of marriage.<sup>54</sup> Only certain, civilised people were deemed to have the capacity to wed, and the marriage of Mary Ann's parents was forbidden for seven years due to this belief. In response to James Bugg's petition to marry Charlotte, William Broughton, Anglican Bishop of New South Wales, declared that a marriage between an Aboriginal and a white could not take place as Aboriginal people were heathens.<sup>55</sup> To marry, a person was

---

<sup>52</sup> Penelope Edmonds, 'The Intimate, Urbanising Frontier: native camps and settler colonialism's violent array of spaces around colonial Melbourne' in Tracy Banivanua Mar and Penelope Edmonds (eds), *Making Settler Colonial Space: perspectives on race, place and identity* (London: Palgrave Macmillan, 2010), pp. 129-154. See also Liz Conor, *Skin Deep: settler impressions of Aboriginal women* (Crawley, WA: UWA Press, 2016), pp. 52-79; Hannah Robert, 'Disciplining the Female Aboriginal Body: inter-racial sex and the pretence of separation', *Australian Feminist Studies* vol. 16, no. 34 (2001), p. 73.

<sup>53</sup> Foster, "Black Bushrangers", pp. 23-24; Henry Reynolds, *Frontier: Aborigines, settlers, land* (Sydney: Allen & Unwin, 1987), pp. 42-50, 108-130; Raymond Evans, "'A King of Brutes': stereotyping the vanquished' in Raymond Evans, Kay Saunders and Kathryn Cronin (eds.), *Exclusion, Exploitation and Extermination: race relations in colonial Queensland* (Sydney: Australia and New Zealand Book Company, 1975), pp. 67-84; Claudia Knapman, *White Women in Fiji, 1835-1930: the ruin of Empire?* (Sydney: Allen & Unwin, 1986), pp. 116-119; Jennifer Sabbioni, 'Aboriginal Women's Narratives: reconstructing identities', *Australian Historical Studies* vol. 27, no. 106 (1996), p. 73; Robert, 'Disciplining the Female Aboriginal Body', pp. 69-81.

<sup>54</sup> Katherine Ellinghaus, 'Margins of Acceptability: class, education and interracial marriage in Australia and North America', *Frontiers* vol. 23, no. 3 (2002), p. 56; Mary Anne Jebb and Anna Haebich, 'Across the Great Divide: gender relations on Australian frontiers' in Kay Saunders and Raymond Evans (eds.), *Gender Relations in Australia: domination and negotiation* (Sydney: Harcourt, Brace, Jovanovich, Publishers, 1992), pp. 36-37.

<sup>55</sup> R. H. W. Reece, *Aborigines and Colonists: Aborigines and colonial society in New South Wales in the 1830s and 40s* (Sydney: Sydney University Press, 1974), pp. 205-206; Bierens, 'The Captain's Lady', p. 10; Baxter, 'Timeline: James and Charlotte Bugg'.

meant to have attained a certain degree of enlightenment and moral understanding. They were supposed to be educated in the ways of the church to ensure the spiritual integrity of that union could be maintained. In this way, marriage helped Mary Ann to create a respectable image of herself. Far from a heathen from the bush, she claimed to have adhered to white cultural norms, attained this degree of 'civilisation' and been eligible to claim her entitlements as a wife.

But for all of its strategic appeal, Mary Ann did not refer to herself by her 'married' name alone. She was also said to have described herself as the 'Captain's Lady.'<sup>56</sup> The word 'lady' carried particular cultural meanings in the nineteenth century. The term gave a woman authority and distinguished her from others. Although she was usually referred to as belonging to an eminent household or as the companion of a noble man (and never in her own right), a lady was a superior form of woman. She was said to have attained a degree of refinement, culture and feminine delicacy. In the 1800s, there was also a revival of the term 'lady' in a chivalric sense, as a woman who was the object of a gallant, courtly love.<sup>57</sup> This word was used in many different ways when referring to Mary Ann. In some newspapers the term 'lady' could be taken seriously, while in others it may have been viewed ironically, to illustrate the absurdity of applying that

---

<sup>56</sup> See for example 'Local News', *Maitland Mercury* (3 April 1866), p. 2; 'New South Wales', *Mercury* (10 April 1866), p. 3.

<sup>57</sup> 'Lady, n.', Oxford English Dictionary Online. Accessed 15 June 2015 via: <<http://www.oed.com.ezproxy1.library.usyd.edu.au/view/Entry/105011?rskey=EDB6fQ&result=1&isAdvanced=false#eid>>; These allusions would have resonated with the revival of medieval Romance and chivalry in the Victorian era. Walter E. Houghton, *The Victorian Frame of Mind, 1830-1870* (New Haven: Yale University Press, 1957), pp. 372-393; Jennifer A. Palmgren and Lorretta M. Holloway (eds.), *Beyond Arthurian Romances: the reach of Victorian medievalism* (New York: Palgrave Macmillan, 2005); Clare A. Simmons, *Popular Medievalism in Romantic-era Britain* (New York: Palgrave Macmillan, 2011); Stephanie L. Barczewski, *Myth and National Identity in Nineteenth Century Britain: the legends of King Arthur and Robin Hood* (Oxford: Oxford University Press, 2000).

status to an Aboriginal woman.<sup>58</sup> Although diametrically opposed, these representations existed side by side. For her own part, it appears that Mary Ann went to great lengths to associate herself with the respectable meaning of the word. She emphasised her supposed adherence to white cultural norms and in this discourse, her status as the ‘Captain’s Lady’ would not appear out of place.

By referring to herself by this name, Mary Ann also enhanced the romantic, mythic status of her fugitive spouse. In the 1860s, white, male bushrangers were not understood as national heroes the way that they are today.<sup>59</sup> These men were described as dastardly villains as well as with admiration. Their networks of harbourers and supporters were challenged by informers and local volunteers who hunted bushrangers down. But even before these criminals achieved wide heroic status, many bushrangers paid attention to their public image. The work of Susan West makes it clear that even among the lower orders of bushrangers—those local, opportunistic desperados with short-lived careers—image mattered. In public statements, many armed robbers claimed that they had never ‘bailed up’ a poor man, used violence or assaulted any of the ‘fairer sex.’ Whether these claims were true was another matter, but they were important because they elevated bushrangers above common criminals to represent alternative

---

<sup>58</sup> The latter, ironic interpretation of the term ‘lady’ would have been in keeping with colonial representations of Indigenous people. Aboriginal elders were often called ‘royals’, ‘kings’ and ‘queens’ in a comic reversal of white cultural norms. Kate Darian-Smith, ‘Breastplates: re-enacting possession in North America and Australia’ in Kate Darian-Smith and Penelope Edmonds (eds.), *Conciliation on Colonial Frontiers: conflict, performance and commemoration in Australia and the Pacific Rim* (London: Routledge, 2015), pp. 54-74; Jakelin Troy, *King Plates: a history of Aboriginal gorgets* (Canberra: Aboriginal Studies Press, 1993).

<sup>59</sup> This is not to say that all Australians see bushrangers as heroes, but today bushrangers are predominately depicted as national legends. See the introduction to this thesis for more information. For an alternative view of bushrangers, see for example Leo Kennedy and Mic Looby, *Black Snake: the real story of Ned Kelly* (Melbourne: Affirm Press, 2018).

forms of justice.<sup>60</sup> ‘Gentlemen of the bush’ such as Ward had apparently not lost their refinement, manners or moral feeling in the pursuit of their criminal ends. They were subversive figures because they blurred moral boundaries and questioned who the *real* criminals were in colonial society. This self-conscious presentation was an appeal for popular support, and Mary Ann’s position as the ‘Captain’s Lady’ enhanced her husband’s status as a gallant ‘man of the road’. Being courteous to all women was one thing, but protecting and cherishing one’s own ‘cher amie’ was quite another.<sup>61</sup> By fashioning their relationship as one of chivalric love, Mary Ann made Thunderbolt appear more constant than his itinerant life might suggest. As a member of the lower classes Ward did not have nobility of blood, but he apparently had nobility of spirit. Just as Robin Hood had Maid Marion to illustrate his tender, gentlemanly side, Thunderbolt had Mary Ann.

\*\*\*\*\*

Back in that courtroom in 1866, however, the image of Mary Ann as demure ‘Mrs Thunderbolt’ came under fire. The arresting officer, Senior Sergeant Kerrigan, had a different tale to tell. Far from a respectable woman who was dependant on her husband,

---

<sup>60</sup> Even though the 1860s was a time before the ‘Outlaw Legend’ or ‘Australian Legend’ discourse that surrounds bushrangers today, many bushrangers were concerned with their popular image. There is evidence that bushrangers of this period claimed to right wrongs and defend the oppressed. How true these claims were is a matter of contention, but they do illustrate a self-conscious appeal to popular support. See for example West, *Bushranging and the Policing of Rural Banditry*, pp. 17-62; John Peisley, ‘To The Editor’, *Bathurst Free Press* (14 September 1861), p. 2; Andy Kaladelfos, ‘Citizens of Mercy: bushrangers, punishment and public opinion in colonial NSW’, State Library of NSW. Accessed 12 January 2014 via: <[http://www.sl.nsw.gov.au/podcasts/videos/ds\\_mitchell\\_memorial\\_fellow\\_2010\\_kaladel.html](http://www.sl.nsw.gov.au/podcasts/videos/ds_mitchell_memorial_fellow_2010_kaladel.html)>. For information on the later tradition of bushrangers as Australian or Outlaw Legends, see Russel Ward, *The Australian Legend* (Melbourne: Oxford University Press, 1958), pp. 135-166; Graham Seal, *The Outlaw Legend: a cultural tradition in Britain, America and Australia* (Cambridge: Cambridge University Press, 1996).

<sup>61</sup> ‘Ward, The Bushranger’, *Maitland Mercury* (3 April 1866), p. 5.

‘the prisoner—I have no doubt has accompanied the man Ward and has assisted him to plunder as she has spoken of several robberies....’ Furthermore, the officer declared that ‘they [meaning Thunderbolt *and* Mary Ann] used to kill...cattle by having a shear blade tied to the end of a pole and hamstringing them...[the prisoner] stated that when the police chased Ward she was dressed in men’s pants.’ It appears that the last two allegations proved too much for Mary Ann. Although her protestations in court were not recorded, Kerrigan’s firm responses to them were. ‘You did say that when the police chased Ward that you had pants on. You did tell me that you lived chiefly on beef.’<sup>62</sup> Kerrigan’s statements were supported by other contemporary sources. For example, only days before Mary Ann’s capture, her Aboriginal midwife told the police that Mary Ann dressed and rode like a man and slaughtered cattle in the way that Kerrigan described.<sup>63</sup> From the evidence it appears that Mary Ann not only engaged in these practices but volunteered that information to the police. It suggests that she decided when her public persona had to be kept and when it could slide, and it also shows that she did not always choose wisely. Mary Ann had tried to style herself as a civilised woman and a loyal, dependant wife, but was convicted nonetheless. Standing before the court, baby in her arms, this young woman was sentenced to six months imprisonment under the *Vagrancy Act*.<sup>64</sup> And from the information we have, it appears that this civilised image was undermined in part by Mary Ann herself.

---

<sup>62</sup> NSWSA: Department of Premier and Cabinet; NRS 905, Main Series of Letters Received [Colonial Secretary], Re: Mary Ann Ward, 1866 [4/573, 66/1844].

<sup>63</sup> ‘Capt. Thunderbolt, Alias Ward, the Bushranger’, *Maitland Mercury* (29 March 1866), p. 2; ‘Stroud correspondent of the *Mercury* writes’, *Armidale Express* (7 April 1866), p. 4. See also ‘New South Wales’, *Mercury* (10 April 1866), p. 3.

<sup>64</sup> NSWSA: Department of Corrective Services; NRS 2318, Maitland Gaol Entry Book 1860-65, 1871-76 [5/755-56, 5/790], reel 2370, entry for ‘Mary Ann Ward’; ‘Local News’, *Maitland Mercury* (3 April 1866), p. 2; ‘Epitome of News’, *Armidale Express* (7 April 1866), p. 3; ‘New South Wales’, *Mercury* (10 April

While Mary Ann actively engaged in the courtroom debate, her appeal to white social norms was not contradicted in this arena alone. The honourable members of the New South Wales Legislative Assembly also had a hand in subverting her construction, apparently for a 'benevolent' purpose. On Thursday the 5<sup>th</sup> of April 1866, David Buchanan, the member for East Macquarie, moved the adjournment of the house. It was his aim to bring to the attention of the Government 'an act of most cruel injustice.' He described how the bench at Stroud had 'convicted an aboriginal woman under the Vagrant [sic] Act', an act from which Aboriginal people were explicitly excluded. One of the proclaimed reasons that the *Vagrancy Act* was created in 1835 was to protect Aboriginal people from the nefarious influence of whites. The legislation made it illegal for 'every person not being a black native or child of any black native...[to be] found lodging or wandering in company with any black natives of this Colony' if they could not prove that they were 'lodging or wandering...for some temporary or lawful occasion.'<sup>65</sup> The Act was ostensibly created to ensure that whites did not incite Aboriginal people to violence, involve them in 'miscegenation', or spread discontent or disease. It was not intended to eliminate bush-dwelling ways of life.<sup>66</sup> With this legal history to support his claims, Buchanan went on to state that had they dragged an honourable member 'from his home, they could not have done a greater wrong than had been done in the case of this poor woman, for the wilderness was her home, and the wide bush the only residence she possessed.'<sup>67</sup> Other members of the house were quick

---

1866), p. 3; NSWSA: Department of Premier and Cabinet; NRS 905, Main Series of Letters Received [Colonial Secretary], Re: Mary Ann Ward, 1866 [4/573, 66/1844].

<sup>65</sup> *Vagrancy Act* 1835 (NSW), 6 Will. IV No. 6, pp. 631-636.

<sup>66</sup> *ibid.*

<sup>67</sup> 'Legislative Assembly', *Sydney Morning Herald* (6 April 1866), p. 3; 'Legislative Assembly', *Maitland Mercury* (10 April 1866), p. 2.



to follow suit. John Dunmore Lang declared it was monstrous that ‘a woman like this...should be treated like a criminal,’ while James Hart believed it was a gross perversion of justice, all done ‘because it was suspected that she was the paramour of the bushranger Ward.’<sup>68</sup>

In their attempt to release Mary Ann from prison, these parliamentarians drew on essentialist arguments about Aboriginal people. As several newspapers reported, ‘the illegality consisted in the dealing with the prisoner as a civilised person.’<sup>69</sup> These men could only conceive of Mary Ann as an Aboriginal woman, ‘living as her ancestors had lived’ and not as the active partner or spouse of a white bushranger, let alone an educated, literate woman who had been ‘brought up in civilised habits.’<sup>70</sup> In truth, Mary Ann was better educated than Ward and many of the rural population in New South Wales as she could read and write.<sup>71</sup> Education was another institution valued by her family, as Mary Ann’s father had paid for her schooling in Sydney when she was a child.<sup>72</sup> These details about Mary Ann’s upbringing were missing from legislative

---

See also ‘Friday, April 6, 1866 [editorial]’, *Sydney Morning Herald* (6 April 1866), p. 4; ‘The Parliament’, *Armidale Express* (14 April 1866), p. 4; ‘Capture of Ward, the Bushranger and the Pursuit of Thunderbolt’, *Brisbane Courier* (12 April 1866), p. 4; ‘Legislative Assembly’, *Empire* (6 April 1866), pp. 2-3.

<sup>68</sup> ‘Legislative Assembly’, *Sydney Morning Herald* (6 April 1866), p. 3; ‘Legislative Assembly’, *Maitland Mercury* (10 April 1866); ‘Legislative Assembly’, *Empire* (6 April 1866), pp. 2-3.

<sup>69</sup> ‘Parliament’, *Sydney Mail* (7 April 1866), p. 4; ‘Parliament’, *Goulburn Herald and Chronicle* (11 April 1866), p. 4; ‘Legislative Assembly’, *Newcastle Chronicle* (11 April 1866), p. 3; ‘Legislative Assembly’, *Tumut and Adelong Times* (12 April 1866), p. 3. See also ‘Sydney Summary’, *Goulburn Herald and Chronicle* (11 April 1866), p. 4; ‘Legislative Assembly’, *Empire* (6 April 1866), pp. 2-3.

<sup>70</sup> ‘Legislative Assembly’, *Sydney Morning Herald* (6 April 1866), p. 3; ‘Legislative Assembly’, *Maitland Mercury* (10 April 1866), p. 2.

<sup>71</sup> According to the *Sydney Morning Herald*, 27.9 per cent of adults and 21.5 per cent of youths (15-21 year olds) could not read and write in 1861. West, *Bushranging*, p. 88. Indeed, in the discourse about the 1860s ‘bushranging crisis’, lack of education and religious instruction among the rural population were two factors meant to have caused the epidemic. See for example, ‘Riviera’, *Sydney Morning Herald* (26 July 1864), p. 2; West, *Bushranging*, pp. 86-91; Ashley Freeman, ‘Bushrangers, Itinerant Teachers and Constructing Educational Policy in 1860s NSW’, *History of Education Review* vol. 48, no. 1 (2019), pp. 15-30.

<sup>72</sup> NSWSA: Department of Premier and Cabinet; NRS 905, Main Series of Letters Received [Colonial Secretary], Re: Mary Ann Ward, 1866 [4/573, 66/1844]; Roberts and Baxter, “Mrs Thunderbolt”, pp. 56-

debate. Depositions claiming her active involvement in Ward's bushranging crimes were never cited. The possibility that she was married to Ward was never even alluded to. In one account, that innovative weapon Mary Ann and Ward used to hamstring cattle became an Aboriginal woman's spear.<sup>73</sup> From an articulate, educated and shrewd woman before the court, Mary Ann was rendered voiceless and described as 'an aboriginal savage of Australia.'<sup>74</sup>

In this way, the members of the New South Wales Assembly cast Mary Ann as the 'native other' and portrayed her as the antithesis of white society and civilisation. As scholars like Penny Russell have written, the notion of civilisation was essential to the imperial project. White colonials were able to justify their invasion of Aboriginal country by casting it as a benign mission to bring enlightenment to the uncivilised world.<sup>75</sup> However, at the heart of this argument lay a paradox. Aboriginal people could not be allowed to achieve the same level of knowledge or culture as Europeans, because this threatened white superiority. Homi Bhabha has shown that Indigenous mimicry of white ways was subversive, because it destabilised the binary distinctions and hierarchies of power upon which colonisation relied.<sup>76</sup> Parliamentary discourse

---

57; Carol Baxter, 'Bushranger Frederick Wordsworth Ward alias Captain Thunderbolt, Biography', Thunderbolt Bushranger. Accessed 12 June 2015 via: <<http://www.thunderboltbushranger.com.au/frederick-ward-biography.html>>; West, *Bushranging*, pp. 87, 289.

<sup>73</sup> 'Legislative Assembly', *Empire* (6 April 1866), pp. 2-3.

<sup>74</sup> *ibid.*

<sup>75</sup> Russell, *Savage or Civilised?*; John Gascoigne, *Encountering the Pacific in the Age of Enlightenment* (Cambridge: Cambridge University Press, 2014); Alan Lester, 'Settler Colonialism, George Grey and the Politics of Ethnography', *Environment and Planning D: society and space* vol. 34, no. 3 (2016), pp. 492-507.

<sup>76</sup> Homi Bhabha, 'Signs Taken for Wonders: questions of ambivalence and authority under a tree outside Delhi, May 1817' in Henry Louis Gates Jr. (ed.), *Race, Writing and Difference* (Chicago: Chicago University Press, 1986), pp. 163-184; Homi Bhabha, *The Location of Culture* (London & New York: Routledge, 1994), pp. 85-92.

mitigated this threat by painting Mary Ann as a subordinate, primitive woman. From a person with agency, Mary Ann became a victim of circumstance. Although she had never claimed to be anything but dependent, as Ward's wife Mary Ann had some status and entitlements. By contrast, the Assembly depicted Mary Ann as a child who needed benevolent white men to speak for her.<sup>77</sup>

However, this legislative debate did not exist in a vacuum. Attorney General James Martin sent for the original court documents so that he could examine the legality of the case. The convicting Magistrate, Thomas Nicholls, provided his reasons for sentencing Mary Ann and the case was reported in newspapers across the colony—where it received a very mixed response.<sup>78</sup> Some papers continued to refer to Mary Ann as a pitiable Aboriginal woman, while others stated that she was an exceptional, dangerous criminal.<sup>79</sup> In one of the more extreme articles, the *Sydney Morning Herald* reported

So far from being the “poor harmless creature,” who “roamed through her native home, the bush,” she was Thunderbolt's chief lieutenant and right hand man...turning her adrift to join him again would be far worse for the country

---

<sup>77</sup> This would have resonated with colonial ideas about race and gender, as Aboriginal women were depicted as the lowest and most helpless of Indigenous Australians. See Conor, *Skin Deep*.

<sup>78</sup> Nicholls knew the Bugg family well, was aware of Mary Ann's education and the fact that she had been brought up ‘in civilised habits’. Nicholls used this knowledge to justify convicting Mary Ann for vagrancy. NSWSA: Department of Premier and Cabinet; NRS 905, Main Series of Letters Received [Colonial Secretary], Re: Mary Ann Ward, 1866 [4/573, 66/1844]; ‘Legislative Assembly’, *Sydney Morning Herald* (6 April 1866), p. 3; ‘Legislative Assembly’, *Maitland Mercury* (10 April 1866), p. 2. See also below.

<sup>79</sup> See for example ‘Legislative Assembly’, *Sydney Morning Herald* (6 April 1866), p. 3; ‘Legislative Assembly’, *Maitland Mercury* (10 April 1866), p. 2; ‘Friday, April 6, 1866 [editorial]’, *Sydney Morning Herald* (6 April 1866), p. 4; ‘The Parliament’, *Armidale Express* (14 April 1866), p. 4; ‘Capture of Ward, the Bushranger and the Pursuit of Thunderbolt’, *Brisbane Courier* (12 April 1866), p. 4; ‘Legislative Assembly’, *Empire* (6 April 1866), pp. 2-3; ‘Parliament’, *Sydney Mail* (7 April 1866), p. 4; ‘Parliament’, *Goulburn Herald and Chronicle* (11 April 1866), p. 4; ‘Legislative Assembly’, *Newcastle Chronicle* (11 April 1866), p. 3; ‘Legislative Assembly’, *Tumut and Adelong Times* (12 April 1866), p. 3; ‘Sydney Summary’, *Goulburn Herald and Chronicle* (11 April 1866), p. 4; ‘To The Editor of the Herald’, *Sydney Morning Herald* (17 April 1866), p. 8; ‘Local News’, *Maitland Mercury* (15 May 1866), p. 3; ‘Original Correspondence: bushranging’, *Maitland Mercury* (28 April 1866), p. 3.

than if half a dozen of the most hardened criminals on Cockatoo were granted permits for his gang.<sup>80</sup>

These disputes reached their height while Mary Ann was held in Maitland Gaol and Thunderbolt remained at large. We cannot know whether she had any idea that these debates were afoot, or that MPs were busily making an appeal on her behalf. We do know that the petition for her release was successful. On the 18<sup>th</sup> of April 1866, Mary Ann made her way through the thick sandstone walls of Maitland goal and walked out of its doors a free woman—but not for the reason one might expect.<sup>81</sup> On reviewing the case, the Attorney General found that Mary Ann Ward *could* be charged under the *Vagrancy Act* as she had been educated, ‘...and acquired civilized [sic] habits.’ It was a legal technicality that led to her release, as the charges against her had not been drawn up properly.<sup>82</sup> Even in the resolution of Mary Ann’s case, public understandings remained at odds with the facts of her situation. As late as four months after her release, the *Empire* was still reporting that Mary Ann ‘may have some black blood in her veins, but she is not darker than many European women who might easily be made amenable to the Vagrant [sic] Act.’<sup>83</sup> The issue of race could not be as easily dismissed as Mary

---

<sup>80</sup> ‘Random Notes by a Wandering Reporter’, *Sydney Morning Herald* (11 May 1866), p. 5. See also, ‘Local News’, *Maitland Mercury* (15 May 1866), p. 3. At this time, Cockatoo Island in Sydney Harbour was a place of confinement and punishment for secondary offenders. Katherine Roscoe, ‘A Natural Hulk: Australia’s Carceral Islands in the Colonial Period, 1788-1901’, *International Review of Social History* vol. 63, no. 26 (2018), pp. 46-47, 55-58; Patrick Fletcher, ‘Cockatoo Island’, *Sydney Journal* vol. 3, no. 2 (2011), pp. 75-83.

<sup>81</sup> NSWSA: Department of Corrective Services; NRS 2318, Maitland Gaol Entry Book 1860-65, 1871-76 [5/755-56, 5/790], reel 2370, entry for ‘Mary Ann Ward.’

<sup>82</sup> NSWSA: Department of Premier and Cabinet; NRS 905, Main Series of Letters Received [Colonial Secretary], Re: Mary Ann Ward, 1866 [4/573, 66/1844].

<sup>83</sup> ‘Sticking Up of the Warialda and Barraba Mail’, *Empire* (30 August 1866), p. 6.

Ann's charges. In public discourse, her release remained an issue of Aboriginality and not a technical problem with the indictment itself.

## Places of Relevance to the Bugg Family in New South Wales, 1835



## 1788—1835. Aboriginal Traditions

Although contemporary commentators defined Mary Ann by her race, they did not consider her actions in relation to Aboriginal traditions or culture. At first glance, her statements do seem to preclude an interpretation that draws on her Aboriginal heritage, as she always positioned herself in relation to white values and norms. However, in the context of the court or the popular press, it made strategic sense to adopt the frame of reference of the colonisers. Frederick Ward's race, gender and comportment aligned his actions with Anglo-Australian ideas of bushranging and highway robbery. But this did not mean that white culture was the only one to shape Mary Ann Bugg. An incident from Mary Ann's family history in 1835 suggests complex webs of Aboriginal resistance, kinship and tradition also influenced her life.

In 1835, Mary Ann was twelve months old.<sup>84</sup> Her father was an overseer of shepherds for the A. A. Co., and the family lived on a Company station at Berrico in apparent tranquillity until the 8<sup>th</sup> of May when James Bugg was attacked. On this day, ten Aboriginal men came to the station asking for provisions and received corn and tobacco from the Company stores. Bugg later deposed that he 'did not expect from their manner that they intended doing any mischief', but this false sense of security nearly proved his undoing.<sup>85</sup> After lingering about the station for several hours, two Aboriginal men took Bugg unawares and struck him senseless with their waddies. Shocked Company shepherds hesitated to come to his aid, apparently afraid that the attackers

---

<sup>84</sup> NSW RBDM, *Mary Ann Bugg, Baptism Certificate*, vol. 23. Registration number 1839/1494.

<sup>85</sup> *R. v Charley* (1835). Published by Macquarie University. Accessed 20 July 2018 via: <<http://www.law.mq.edu.au/scnsw/Correspondence/36.htm>>. Extracted from NSWSA: Supreme Court of New South Wales; NRS 13686, Miscellaneous correspondence relating to Aborigines, [5/1161], *R. v. Charley* (1835) No. 36, pp. 145-157.

had taken possession of Bugg's firearms. While they pondered their next move, it was Mary Ann's mother, Charlotte, who drove the Aboriginal attackers away. She discharged a gun in the direction of the assailants, causing the Aboriginal men to retreat from the scene. Only then did the shepherds overcome their paralysis and join in the station's defence.<sup>86</sup>

Despite Bugg's assertion that the violence was random, this was not an isolated attack. It was one of three such strikes on stations and shepherds' huts in the area in less than a month and not all white men were as lucky as Mary Ann's father. By the 23<sup>rd</sup> of May, James Bugg had recovered enough strength to provide an affidavit to a visiting Justice of the Peace.<sup>87</sup> This was about the same time that newspapers reported that five convicts from a neighbouring station had been killed by Aboriginal men.<sup>88</sup>

It is worth taking the time to unpack these events as they can tell us about Mary Ann's family as well as the tension between Aboriginal resistance and white expectations in the nineteenth century. Although Mary Ann was an infant when this attack took place, there is little doubt that she knew the story well. Such conflicts were often passed down in local legend and social memory. They were first broadcast far and wide as a matter of contemporary panic and concern, as settlers struggled to predict and prepare for further attacks.<sup>89</sup> As the decades progressed, the frontier receded and closer

---

<sup>86</sup> NSWSA: Department of Premier and Cabinet; NRS 905, Main Series of Letters Received [Colonial Secretary], Police Port Stephens [4/2332.2], letters 35/7317, 36/6621, 35/4014; *R. v Charley* (1835); 'Government Gazette', *Sydney Gazette* (30 May 1835), p. 4.

<sup>87</sup> NSWSA: Department of Premier and Cabinet; NRS 905, Main Series of Letters Received [Colonial Secretary], Police Port Stephens [4/2332.2], letter 35/ 4014.

<sup>88</sup> The first newspaper to mention these deaths was the *Australian*. 'No Title', *Australian* (22 May 1835), p. 2. However, the authorities already knew of the murders. NSWSA: Department of Premier and Cabinet; NRS 905, Main Series of Letters Received [Colonial Secretary], Police Port Stephens [4/2332.2].

<sup>89</sup> For the extensive newspaper coverage of these attacks and their impact, see 'No Title', *Australian* (22 May 1835), p. 2; 'Government Gazette', *Sydney Gazette* (30 May 1835), p. 4; 'Domestic Intelligence',



settlement occurred, colonists gained social and cultural capital by sharing these sorts of tales. Such incidents gave white men and women status as some of the first ‘pioneers’ of the area and served as proof of their determination and fortitude in the face of threats from Aboriginal people.<sup>90</sup>

Quite apart from these concerns, Mary Ann’s family had intimate reasons for ensuring that the conflict was remembered. In retrospect, it marked a significant juncture in their family life. Had it not been for her mother’s intervention, Mary Ann may have been left fatherless. If this had happened, her parents would never have married.<sup>91</sup> Mary Ann would not have gone to school. And her seven brothers and sisters would never have been born.<sup>92</sup> Reports of Charlotte’s actions also lived on in official circles. Reverend

---

*Sydney Morning Herald* (1 June 1835), p. 3; ‘Matters Furnished by Our Reporters and Correspondents’, *Sydney Monitor* (3 June 1835), p. 3; ‘The Gleaner’, *Sydney Gazette* (4 June 1835), p. 2; ‘The Andromeda’, *Colonist* (4 June 1835), p. 5; ‘Advance Australia’, *Sydney Gazette* (11 June 1835), p. 2; ‘Untitled’, *Sydney Herald* (11 June 1835), p. 2; ‘Depredations of the Aborigines’, *Colonist* (11 June 1835), p. 4; ‘Untitled’, *Australian* (12 June 1835), p. 2; ‘Domestic and Miscellaneous Intelligence’, *Australian* (12 June 1835), p. 2; ‘Native Blacks’, *Sydney Monitor* (13 June 1835), p. 2; ‘Advance Australia’, *Sydney Gazette* (13 June 1835), p. 2; ‘Monday, June 15, 1835’, *Sydney Herald* (15 June 1835), p. 2; ‘The Sydney Gazette’, *Colonist* (16 June 1835), p. 6; ‘Australian Agricultural Company’, *Sydney Gazette* (27 June 1835), p. 2; ‘To the Editor of the Sydney Gazette’, *Sydney Gazette* (27 June 1835), p. 2; ‘Untitled’, *Sydney Gazette* (27 June 1835), p. 2; ‘The Weather’, *Colonist* (2 July 1835), p. 5; ‘Melancholy Outrages of the Aborigines of New South Wales’, *Hobart Town Courier* (3 July 1835), p. 4; ‘No Title’, *Sydney Morning Herald* (3 August 1835), p. 3; ‘Supreme Court’, *Sydney Monitor* (26 August 1835), p. 4; ‘Tomorrow’, *Sydney Herald* (27 August 1835), p. 3; ‘Domestic and Miscellaneous Intelligence’, *Australian* (28 August 1835), p. 2; ‘Domestic Intelligence’, *Sydney Herald* (3 September 1835), p. 2; ‘Untitled’, *Sydney Gazette* (1 October 1835), p. 2.

<sup>90</sup> John Hirst, ‘The Pioneer Legend’, *Australian Historical Studies* vol. 18, no. 71 (1978), pp. 316-337. Tom Griffiths reminds us that Aboriginal people were some of many threats that settlers perceived themselves as having to overcome. See Tom Griffiths, ‘Past Silences: Aborigines and convicts in our history-making’ in Penny Russell and Richard White (eds.), *Pastiche 1: reflections on nineteenth-century Australia* (Sydney: Allen & Unwin, 1994), pp. 7-23.

<sup>91</sup> NSW RBDM, *James Bugg and Charlotte Bugg*, Marriage Certificate, vol. 78. Registration number 1848/607.

<sup>92</sup> For Mary Ann’s family history see, Baxter and Roberts, ‘Mrs Thunderbolt’, pp. 55-76. This approach to the past is akin to counterfactual history. For counterfactual history, see Martin Bunzl, ‘Counterfactual History: a user’s guide’, *American Historical Review* vol. 109, no. 3 (2004), pp. 845-858; Stuart Macintyre and Sean Scalmer (eds.), *What If? Australian history as it might have been* (Melbourne: Melbourne University Press, 2006).

William Cowper used the Buggs' story to illustrate that loyalty could exist in mixed-race relationships when he gave evidence to the Select Committee into the Aborigines Question in 1838. In Cowper's opinion, James and Charlotte's case was proof that Aboriginal people were 'not insensible to kindness, nor incapable of gratitude and affection.'<sup>93</sup> He countered the opinion of many of his contemporaries by suggesting that Aboriginal people had emotions and sensibilities of their own.

There is a certain symmetry between Mary Ann's depiction in the Thunderbolt myth and Charlotte's place in this official tale of the attack. While Cowper intended to praise the Buggs' union, he still cast their relationship as one of a loyal Aboriginal woman assisting a white man.<sup>94</sup> If our point of reference shifts from James to Charlotte, however, the story can be illustrative of so much more. Charlotte was not only loyal but brave and daring to single-handedly fight off the Aboriginal attackers. She was determined and proactive while the men of the station were initially scared, immobile and unwilling to put themselves in harm's way.<sup>95</sup> When we recognise that Charlotte's actions inverted colonial gendered and racial understandings, we can see why Cowper's story gained traction at the expense of this version of events. Charlotte was neither a delicate, fragile woman, nor an amoral, self-serving 'black' as colonial discourse dictated that she should be at this time.<sup>96</sup> And while this problematised deeply cherished colonial

---

<sup>93</sup> New South Wales Legislative Council, *Report from the Committee on the Aborigines Question, with the Minutes of Evidence* (Sydney: J. Spilsbury, 1838), p. 58.

<sup>94</sup> *ibid.*

<sup>95</sup> NSWSA: Department of Premier and Cabinet; NRS 905, Main Series of Letters Received [Colonial Secretary], Police Port Stephens [4/2332.2], letter 35/ 4014.

<sup>96</sup> For settlers' ideas about Aboriginal women, see Conor, *Skin Deep*.

understandings, Charlotte's actions may have inspired Mary Ann's life with Thunderbolt.

As we have already seen from the evidence provided in Mary Ann's vagrancy case and her encounters with the police, she was an active partner in life and in crime to Frederick Ward. Although (as far as we know) Mary Ann never fired a gun in his defence, she protected and fought for their life together in other ways, often at great personal danger to herself. Moving about the country with a known fugitive may appear to be reason enough for this interpretation, but she also berated and physically assaulted the police, fed the authorities and locals false information, assisted Ward after he was shot and nursed him back to health. All of this was done throughout Mary Ann's three pregnancies and while she provided for their children.<sup>97</sup> It appears that Charlotte and Mary Ann went to great lengths to support their families, and that mother and daughter were both courageous, resilient, and audaciously bold.

While the connections between Mary Ann and her mother are clear, on first inspection they may seem to be more personal and familial than part of any Aboriginal tradition. Not only at the time but in contemporary literature, Charlotte's defence of James Bugg is cast as her choice of the settlers over her own people.<sup>98</sup> In her fictionalised account, Carol Baxter even suggests that when Charlotte fired Bugg's gun she put her and Mary Ann's lives at permanent risk, as her actions declared her allegiance to Bugg

---

<sup>97</sup> As well as the circumstances already described in this chapter, see Baxter and Roberts, "Mrs Thunderbolt", pp. 55-76; Baxter, *Captain Thunderbolt and His Lady*; Oppenheimer, 'Thunderbolt's Mary Ann', pp. 92-107; Carol Baxter, 'Bushranger Thunderbolt and Mary Ann Bugg', *Thunderbolt Bushranger*. Accessed 10 July 2018 via: <[www.thunderboltbushranger.com.au](http://www.thunderboltbushranger.com.au)>

<sup>98</sup> This is how Reverend Cowper framed these events. *Report from the Committee on the Aborigines Question*, p. 58.

over her Aboriginal kin.<sup>99</sup> Viewed with this lens, it seems that Charlotte's use of a white man's weapon to ward off the attackers only compounded her repudiation of Aboriginal ways. Although this might appear to be a logical and compelling narrative, it reflects colonial ideas and contemporary drama more than historical reality.

To begin with, we have no indication that Charlotte fought off her own people as there is no evidence of the Aboriginal clan or band to which she belonged. Contrary to uniform depictions of the 'Aboriginal race' in colonial literature, Aboriginal people were not one homogenous group.<sup>100</sup> There are over 500 recognised Indigenous nations on the Australian continent today and prior to colonisation there may have been even more.<sup>101</sup> We know that Charlotte was from the Worimi language group from where she lived. Worimi lands extend 'from the northern bank of the Hunter to the Manning River and to Tuncurry along the coast; inland to about Glendon Brook and the head of Myall Creek and including the whole of Port Stephens', and Berrico was nestled in this area, to the north near Barrington Tops.<sup>102</sup> However, within this language group there were many smaller groups, called clans, which had beliefs, law, stories, customs and territory of their own.<sup>103</sup> To make matters even more complex, Aboriginal people habitually

---

<sup>99</sup> Baxter, *Captain Thunderbolt and His Lady*, p. 17.

<sup>100</sup> There was occasionally some differentiation between different local groups in newspapers (see page 225 for example), but Aboriginal people were also subsumed beneath pejorative epithets like 'the blacks' or 'the natives'.

<sup>101</sup> 'AIATSIS Map of Indigenous Australia', Australian Institute of Aboriginal and Torres Strait Islander Studies. Accessed 12 July 2018 via: <<https://aiatsis.gov.au/explore/articles/aiatsis-map-Indigenous-australia>>; Lulu Morris, 'Which Indigenous Nation Do You Live In?', *National Geographic Online* (15 March 2017). Accessed 12 July 2018 via: <<http://www.nationalgeographic.com.au/australia/local-Indigenous-history-exposed-in-new-app.aspx>>

<sup>102</sup> Greg Blyton and John Ramsland, 'Mixed Race Unions and Indigenous Demography in the Hunter Valley of New South Wales, 1788-1850', *Journal of the Royal Australian Historical Society* vol. 98, no. 1 (2012), p. 127.

<sup>103</sup> Paul Irish, *Hidden in Plain View: the Aboriginal people of coastal Sydney* (Sydney: New South Press, 2017), pp. 17-19. For the issues involved in understanding Aboriginal nations and group structures, see Kevin Blackburn, 'Mapping Aboriginal Nations: the "nation" concept of late nineteenth century

travelled in 'bands' composed of 'male members of a clan, their wives (married in from other clans) and children, and unmarried female clan members.' The multilingual, multiclan nature of bands gave their members 'connections and rights to much broader areas than single-clan estates.'<sup>104</sup>

From the earliest years of the A. A. Co., company officials recognised that different Aboriginal groups had different rivalries and animosities. As Damaris Bairstow notes, in the district closest to the coast at Port Stephens, the 'Carrington Aborigines feared the northern tribe and took the opportunity to use A. A. Company intervention to settle old scores.'<sup>105</sup> The Karuah people and the Myall to the south east of Port Stephens were also known to have no love for one another, and the hostility of the Myall people towards any outsider (Aboriginal or not) was only exacerbated by the violent incursions of timber cutters into their lands.<sup>106</sup> In settlers' correspondence about the 'outrages' in 1835, similar clan distinctions were made between the Williams River and Manning River groups around the Berrico area. Therefore, it is quite possible that Charlotte was not shooting at her own kin, but rather, her traditional enemies, or strangers.<sup>107</sup>

---

anthropologists in Australia', *Aboriginal History* vol. 26 (2002), pp. 131-158; Peter Sutton, *Native Title in Australia: an ethnographic perspective* (Cambridge: Cambridge University Press, 2003).

<sup>104</sup> Irish, *Hidden in Plain View*, p. 20.

<sup>105</sup> Bairstow, *A Million Pounds*, p. 288.

<sup>106</sup> Damaris Bairstow, "'With the Best Will in the World": some records of early white contact with the Gampignal on the Australian Agricultural Company's estate at Port Stephens', *Aboriginal History* vol. 17 (1993), pp. 5-8.

<sup>107</sup> Colonists' feared that the Williams and Manning River groups had formed together, and that this accounted for the large numbers involved in the attacks, but this was hearsay and there is no evidence to suggest that these groups worked together. NSWSA: Department of Premier and Cabinet; NRS 905, Main Series of Letters Received [Colonial Secretary], Police Port Stephens [4/2332.2], letter 35/ 4014.

This explanation is strengthened by Aboriginal kinship and clan responsibilities. When James Bugg entered into a sexual relationship with Charlotte, he was likely incorporated into her people's world as kin.<sup>108</sup> By 'making a place for strangers', Aboriginal people knitted newcomers into the fabric of their communities, forging a reciprocal relationship between them and the group.<sup>109</sup> From the sources that we possess, it seems that Bugg fulfilled obligations to his Aboriginal kin. On the day of the attack, he provided corn and tobacco to the ten Aboriginal men who asked for supplies. He was also living with and supporting Charlotte and Mary Ann. Materially providing for Aboriginal kin was a major familial responsibility, but it was also essential to the survival of many Aboriginal people after whites had taken their lands and resources.

Refusing Aboriginal demands for food and goods often led to hostility and violence. In her study of the Worimi people around Port Stephens, Bairstow discovered that all Aboriginal attacks on settlers after 1829 'followed a refusal to hand over flour or blankets'.<sup>110</sup> In the 1820s, the early years of the A. A. Co.'s advance into Aboriginal country, it appears that the Company distributed provisions unevenly throughout the clans, privileging some Aboriginal groups at the expense of others.<sup>111</sup> By the 1830s, the Company provided their employees with only enough supplies for their personal use and isolated stations were restricted from sharing their goods with Aboriginal people.<sup>112</sup>

---

<sup>108</sup> Bierens, 'The Captain's Lady', p. 2; Grace Karksens, *The Colony: a history of early Sydney* (Sydney: Allen & Unwin, 2010), p. 419; Ann McGrath, 'The White Man's Looking Glass: Aboriginal-colonial gender relations at Port Jackson', *Australian Historical Studies* vol. 24, no. 95 (1990), p. 193; McGrath, *Illicit Love*, p. 103.

<sup>109</sup> Tony Swain, *A Place for Strangers: towards a history of Australian Aboriginal being* (Cambridge: Cambridge University Press, 1993).

<sup>110</sup> Bairstow, "With the Best Will in the World", p. 13.

<sup>111</sup> *ibid.*; Bairstow, *A Million Pounds*, pp. 291-292.

<sup>112</sup> Bairstow, *A Million Pounds*, p. 292. It needs to be noted that some Aboriginal people were formally in the employ of the A. A. Company. While they were often paid in kind and paid a lot less than white

Bugg was clearly an exception to this rule, as he gave the Aboriginal men provisions. In contrast to many other settlers, the sources suggest that Bugg fulfilled his responsibility to provide for local Aboriginal people, and yet, he was the first white man to be targeted in the 1835 attacks. There must have been other issues at play.

An alternative motive behind the Aboriginal assaults may have had less to do with Bugg's actions than Charlotte's choice of spouse. By the 1830s the numbers of fertile Worimi women were in decline. Many Aboriginal people were not immune to European diseases, and there were very particular issues with venereal disease among A. A. Co. workers and the Aboriginal women they slept with. 'In the first three months of 1828, recorded cases of venereal disease had risen to 51.9%' of workers, with '54 cases of syphilis and 14 of gonorrhoea'. Later that same year the total had increased to 60.7 per cent of Company employees.<sup>113</sup> Both diseases, if left untreated, can lead to infertility, and indeed, in 1828 John Macarthur declared that venereal disease in the A. A. Co. had 'already put a stop to the black population in as much as there is not a single black infant to be seen in the arms of his mother'.<sup>114</sup> Although it is possible that Macarthur's definition of 'black infants' overlooked children of mixed-heritage, his words suggest a marked decline in the number of childbearing Aboriginal women. In response to these observations the Company made some, meagre attempts to separate its workers from Aboriginal women, however, sexual relationships between the two were still common.<sup>115</sup>

---

employees, there were provisions made for these Worimi people. For a study of Aboriginal people working for the A. A. Co., see Mark Hannah, 'Aboriginal Workers in the Australian Agricultural Company, 1824-1857', *Labour History* vol. 82 (2002), pp. 17-33.

<sup>113</sup> Bairstow, "With the Best Will in the World", p. 12.

<sup>114</sup> *ibid.*

<sup>115</sup> *ibid.* It was only later, in 1839, that Sir George Grey threatened to withdraw all A. A. Co. convict workers if any of the workers had sexual relationships with Aboriginal women. Jillian Oppenheimer, 'Colonel Dumaresq, Captain Thunderbolt and Mary Ann Brigg', *Push from the Bush* vol. 16 (1983), pp. 18-19.

In this context, Aboriginal competition with whites for sexual access to Aboriginal women was fierce, and for fertile women like Charlotte, possibly even greater. Whites frequently coerced, lured or convinced Aboriginal women to grant them sexual privilege at Aboriginal men's expense, and Aboriginal men fought back.<sup>116</sup> In contrast to the colonists' attempts to 'completely diffuse the sexuality of Aboriginal men and render him sexually, as well as socially impotent', Aboriginal masculinity was carefully cultivated in the nineteenth century.<sup>117</sup> As Grace Karskens has shown, in some areas of New South Wales Aboriginal cults that encouraged hypermasculine behaviour, rituals and magic developed in response to this sexual imbalance and the theft of women. Extreme attempts were made to reinstate patriarchal authority because gender relations in Aboriginal society were so drastically changing.<sup>118</sup> Charley, an Aboriginal man from the Hunter Valley area and the only person to be convicted for the 1835 attacks, claimed that he murdered a white overseer named Alfred Simmons because he broke gendered law. Simmons apparently showed Charley's 'murai, muari', an Aboriginal amulet, to his female, Aboriginal partner when only men were permitted to view the talisman. According to Aboriginal law of the time, this meant death for both Simmons and his Aboriginal mistress.<sup>119</sup> In this context of heightened masculinity and

---

<sup>116</sup> See notes 48, 51 and 52 for sexual relations between Aboriginal women and white men.

<sup>117</sup> Victoria Haskins and John Maynard, 'Sex, Race and Power: Aboriginal men and white women in Australian History', *Australian Historical Studies* vol. 36, no. 126 (2005), p. 206.

<sup>118</sup> Grace Karskens, *People of the River: lost worlds of early Australia* (Sydney, Allen & Unwin, forthcoming 2020), chapter 15. See also Hilary Carey and David Roberts, 'Smallpox and the Biaime Waganna of Wellington Valley, New South Wales, 1829-1840: the earliest nativist movement in Aboriginal Australia', *Ethnohistory* vol. 49, no. 4 (2002), pp. 821-869.

<sup>119</sup> *R. v Charley* (1835); NSWSA: Supreme Court; NRS 13705, Memoranda selected from Twenty-Four Years of Missionary Engagements in the South Sea Islands and Australia, by Lancelot Edward Threlkeld, Missionary to the Aborigines, New South Wales, 1838 [5/1123]; Niel Gunson (ed.), *Australian Reminiscences and Papers of L. E. Threlkeld: missionary to the Aborigines, 1824-1859* (Canberra: Australian Institute of Aboriginal Studies, 1974), pp. 50-51, 122; 'Untitled', *Sydney Gazette* (27 June 1835), p. 2; 'Untitled', *Sydney Gazette* (27 June 1835), p. 2; 'Supreme Court', *Sydney Monitor* (26 August 1835),



rivalry for Aboriginal women, it is more than possible that Bugg was attacked so that Aboriginal men could reclaim Charlotte as their own.

The *Australian* newspaper also supported the view that white men's treatment of Aboriginal women had led to the 'outrages', but by employing racist stereotypes about Aboriginal people, they were able to quash any sense of white wrongdoing.

It may sound well to talk of the reasonable animosity which is raised by the white men taking their [Aboriginal men's] *gins* from them, and it may be asked with much appearance of truth, whether it is necessary to look for other grievances suffered by the blacks from these parties; those, however, who are at all acquainted with life and manners amongst the aborigines know that this is not felt very deeply by a people who scarcely rate the "fairest jewel of their tribe" at any price whatever, and whose estimation of their partners is some degree below that which they hold their bomrings [sic] and nullah nullahs'.<sup>120</sup>

Conveniently, the notion that Aboriginal men cared nothing for their women saved white colonists from examining how their own conduct may have brought about the murders.<sup>121</sup> Just for good measure, white men did not shield themselves from responsibility by this means alone. They also blamed bushrangers for instigating the attacks, thereby eliminating the possibility that Aboriginal people were responding to legitimate grievances.

---

p. 4; 'Tomorrow', *Sydney Herald* (27 August 1835), p. 3; 'Domestic Intelligence', *Sydney Herald* (3 September 1835), p. 2.

<sup>120</sup> 'Untitled', *Australian* (12 June 1835), p. 2. There was one writer who took issue with the *Australian's* portrayal of the issue and insisted that while the Sydney Aboriginal people were incapable of feeling towards their partners, 'amongst the unsophisticated savages of the interior, a different sentiment is engendered, and their wives (as far as possession goes) are as dear to these, as the relatives of Europeans are to them'. This was, however, a lone voice of dissent. 'To the Editor of the Sydney Gazette', *Sydney Gazette* (27 June 1835), p. 2.

<sup>121</sup> The Governor of NSW, Richard Bourke, however, did pursue the issue when he examined depositions relating to the attacks. NSWSA: Department of Premier and Cabinet; NRS 905, Main Series of Letters Received [Colonial Secretary], Letters from Miscellaneous Persons, Names Starting M [4/2284.1], letter 35/ 4450; Conor, *Skin Deep*.

Here we come to another connection between the events of 1835 and Mary Ann's life: the relationship between bushranging and Aboriginal resistance. In the first few weeks after the attack at Bugg's station and the subsequent murders in the area, seven newspapers reported that Aboriginal people had been directed to commit the crimes by four, white, male bushrangers.<sup>122</sup> Indeed, for the *Sydney Morning Herald*, it was the collusion between Aboriginal people and white bushrangers that made the violence all the more threatening. '[T]he very fact of the existence of this combination, headed and guided by runaway Convicts, is most alarming to the inhabitants, who constantly expect a renewal of the attacks.'<sup>123</sup> Edmund Ebsworth, A. A. Co. accountant and the Justice of the Peace on the hunt for the Aboriginal suspects, was inclined to agree that there was at least some white intervention. In a letter to the Colonial Secretary he disclosed that 'from this systematic organisation [of the Aboriginal attacks] I am induced to place some reliance on the report that a white man may be the instigator thereof'. However, his source of information for this white intervention was an Aboriginal man and according to colonial law, 'the whole information [was] doubtful' as Aboriginal people were not permitted to take an oath.'<sup>124</sup> This Aboriginal source appears to be the only one to claim personal knowledge of a connection between the attacks and white men. While a party

---

<sup>122</sup> 'Domestic Intelligence', *Sydney Morning Herald* (1 June 1835), p. 3; 'Matters Furnished by our Reporters and Correspondents', *Sydney Monitor* (3 June 1835), p. 3; 'The Gleaner', *Sydney Gazette* (4 June 1835), p. 2; 'The Andromeda', *Colonist* (4 June 1835), p. 5; 'Untitled', *Sydney Herald* (11 June 1835), p. 2; 'Depredations of the Aborigines', *Colonist* (11 June 1835), p. 4; 'Domestic and Miscellaneous Intelligence', *Australian* (12 June 1835), p. 2.

<sup>123</sup> 'Domestic Intelligence', *Sydney Morning Herald* (1 June 1835), p. 3.

<sup>124</sup> NSWSA: Department of Premier and Cabinet; NRS 905, Main Series of Letters Received [Colonial Secretary], Police Port Stephens [4/2332.2], letter 35/ 4014.

For the issues surrounding the oaths and testimony of Aboriginal people, see Heather Douglas and Mark Finnane, *Indigenous Crime and Settler Law: white sovereignty after empire* (Basingstoke: Palgrave Macmillan, 2010), pp. 57-59; Gregory D. Woods, *A History of Criminal Law in New South Wales: the colonial period, 1788-1900* (Sydney: Federation Press, 2002), pp. 139-140.

of five, white bushrangers robbed a property on the Upper Hunter on the 31<sup>st</sup> of May, this was never connected to the Aboriginal attacks.<sup>125</sup> One white man named Harvey Henley was imprisoned in Newcastle Gaol on suspicion of his involvement in the Aboriginal crimes, but he was never convicted.<sup>126</sup> Witness testimony at Charley's trial referred to a white man ordering Aboriginal people to kill all the whites and bring him their possessions, but this was only hearsay.<sup>127</sup> This evidence is all that exists to suggest white men's involvement.

This idea of white leaders gained traction because it played into colonists' profound fears about bushranging, Aboriginal people and rebellion at this time.<sup>128</sup> As we saw in Chapter 2, in the 1830s the New South Wales government and the Colonial Office believed that a convict uprising was a real and dangerous possibility.<sup>129</sup> Escaped convicts who took to the bush and survived through the proceeds of crime had decreased since the introduction of the *Bushranging Act* in 1830, however, the sense of insecurity that these people aroused was still palpable. The isolation of many settlers, the numbers of transported felons in their midst and the opportunity for concealment in

---

<sup>125</sup> NSWSA: Department of Premier and Cabinet; NRS 905, Main Series of Letters Received [Colonial Secretary], Letters from Miscellaneous Persons, Names Starting M [4/2284.1], letter 35/ 4270.

<sup>126</sup> NSWSA: Department of Premier and Cabinet; NRS 905, Main Series of Letters Received [Colonial Secretary], Letters from Miscellaneous Persons, Names Starting M [4/2284.1], letter 25/ 4405; NSWSA: Department of Corrective Services; NRS 2514, Entrance Books [Sydney Gaol] 1819-1841 [4/6430-39], roll 136, entry for 'Harvey Henley'. Accessed via ancestry.com.

<sup>127</sup> R. v Charley (1835).

<sup>128</sup> In the 1830s, there were instances of Aboriginal people actively assisting bushrangers. However, these were usually individuals, rather than groups, and there is no connection between these figures and the 1835 'outrages'. See Jan Kociumbas, "'Mary Ann", Joseph Fleming and "Gentleman Dick": Aboriginal-Convict relationships in colonial history', *Journal of Australian Colonial History* vol. 3, no. 1 (2001), pp. 28-54.

<sup>129</sup> This fear was exacerbated by the fact that a convict uprising at Castle Forbes had occurred only 2 years previously. David Andrew Roberts, 'Masters, Magistrates and the Management of Complaint: the 1833 convict revolt at Castle Forbes and the failure of local governance', *Journal of Australian Colonial History* vol. 19 (2017), pp. 57-94.

the bush meant that colonists felt vulnerable to attack.<sup>130</sup> In response to the 1835 assaults, for example, the 17<sup>th</sup> Regiment had to travel over 250 kilometres from their base in Sydney to reach the besieged areas. There was no permanent force stationed in those outlying districts near Berrico and this was a source of anxiety and frustration for many settlers.<sup>131</sup> Combined with the threat of white bushranging, Aboriginal violence exacerbated the danger. The idea that a force of Aboriginal warriors was at the beck and call of ‘incorrigible’ runaway convicts increased the forces working against ‘civilised society’.<sup>132</sup>

While this sense of anxiety should not be underestimated, casting these Aboriginal attacks as the result of white leadership also reinstated colonial racial hierarchies. Ebsworth clearly did not believe that Aboriginal people were capable of such organised and coordinated assaults. They were not considered intelligent enough for such tactics, nor were they thought to have genuine grievances against colonists.<sup>133</sup> The fact that Aboriginal assailants stole from their victims also strengthened the idea that they were working for, or had learnt their skills from, white bushrangers.<sup>134</sup> Two

---

<sup>130</sup> See Chapter 2 on William Douglas.

<sup>131</sup> NSWSA: Department of Premier and Cabinet; NRS 905, Main Series of Letters Received [Colonial Secretary], Police Port Stephens [4/2332.2], no letter bundle, H. Dumaresq to the Colonial Secretary (18 May 1835), letter 35/4014; ‘Advance Australia’, *Sydney Gazette* (11 June 1835), p. 2; ‘Untitled’, *Sydney Herald* (11 June 1835), p. 2; ‘Depredations of the Aborigines’, *Colonist* (11 June 1835), p. 4; ‘Native Blacks’, *Sydney Monitor* (13 June 1835), p. 2; NSWSA: Department of Premier and Cabinet; NRS 905, Main Series of Letters Received [Colonial Secretary], Letters from Miscellaneous Persons, Names Starting M [4/2284.1], letter 35/4270.

<sup>132</sup> This was not the first, nor the last time that there were fears of convicts and Aboriginal people working together. See for example Kociumbas, “‘Mary Ann’”, Joseph Fleming and “Gentleman Dick”, pp. 28-54.

<sup>133</sup> NSWSA: Department of Premier and Cabinet; NRS 905, Main Series of Letters Received [Colonial Secretary], Police Port Stephens [4/2332.2], letter 35/4014.

Historian Stephen Gapps has explicitly challenged this view by approaching the early clashes between Aboriginal people and the British as military history. See Stephen Gapps, *The Sydney Wars: conflict in the early colony, 1788-1817* (Sydney: New South Books, 2018).

<sup>134</sup> *R. v Charley* (1835).

months after Bugg was attacked, Aboriginal people on the Williams River engaged in activity that was described in the same manner as a bushranging hold up.

On Friday last they [Aboriginal people] stopped our dray on its way from Clarence Town, with salt &c.; they knocked down the bullock driver...the only articles the blacks took were a canister of gunpowder, and the shoemaker's box, containing his clothes. They have also robbed another dray of tea, flour &c., and yesterday, a party of them armed with muskets, went to a Settler's station, drove the men from their sheep, and robbed the huts of three muskets and everything portable. Now that the blacks are possessed of firearms, they are of course much more formidable than ever...<sup>135</sup>

Contrary to the idea that this was all done at the behest of white men, these were common resistance strategies for Aboriginal people. Disrupting transports, taking whites' much-needed possessions and otherwise harassing the settlers were tactics to push them out of the area and take back Aboriginal country.<sup>136</sup> Stealing firearms was another effective strategy as Aboriginal people had long witnessed the power of guns in frontier conflict and had learnt to use them too. The A. A. Co. gave local Aboriginal people guns to help them provide food for the Company stores, especially in the organisation's early years.<sup>137</sup> This was not a simple case of Aboriginal people following white men or copying their actions. When we look beyond settler assumptions about their own superiority, it is clear that this activity that appears so akin to bushranging was, in fact, an Aboriginal mode of resistance, and an alternative tradition that could have informed Mary Ann's life with Thunderbolt.

---

<sup>135</sup> 'No Title', *Sydney Morning Herald* (3 August 1835), p. 3.

<sup>136</sup> Reynolds, *The Other Side of the Frontier*, pp. 159-175. As Rachel Standfield suggests, however, we also need to broaden our understanding of resistance from violent, masculine encounters to recognise other forms of Aboriginal agency. Standfield, *Race and Identity*, pp. 16-17. See also Crystal McKinnon, 'Indigenous Music as a Space of Resistance' in Tracy Banivanua Mar and Penelope Edmonds (eds.), *Making Settler Colonial Space: perspectives on race, place and identity* (London: Palgrave Macmillan, 2010), p. 264.

<sup>137</sup> Bairstow, "With the Best Will in the World", p. 14; Bairstow, *A Million Pounds*, p. 288.

It is important to recognise the political stakes involved in bringing this Aboriginal experience to the fore. Calling Mary Ann a bushranger, without reference to bushranging's relationship to Aboriginal resistance, privileges the colonisers' view of the world over that of Aboriginal people. Although the notion that bushrangers could use Aboriginal fighters for their own ends frightened colonial Australians, it was not as disturbing as recognising that Aboriginal people were capable of coordinated violence on their own, or that they were fighting to reassert their sovereignty and extricate their land from white control. As the *Australian* saw it, whites had two options when it came to Aboriginal people: they could either use force to counter Aboriginal resistance or remove themselves from the land. And as the newspaper pithily declared, 'few will be found whose unreflecting philanthropy will recommend the latter.'<sup>138</sup> It was this uncomfortable truth that shaped the narrative of the 1835 attacks, and illustrates the politics involved in disconnecting Mary Ann Bugg from histories of Aboriginal resistance.

Moreover, there were connections between Aboriginal resistance fighters and elite, legendary bushrangers like Frederick Ward. Both were ostensibly fighting for freedom from tyranny. Both represented an alternative system of justice at odds with that of white officials. They were both demonised by outsiders, while their actions resonated with the social groups that they represented.<sup>139</sup> As Deborah Bird Rose's study

---

<sup>138</sup> 'Untitled', *Australian* (12 June 1835), p. 2.

<sup>139</sup> Compare for example, Reynolds, *The Other Side of the Frontier*; J. L. Kohen, 'Pemulwuy (1750–1802)', *Australian Dictionary of Biography*. Accessed 30 July 2018 via: <<http://adb.anu.edu.au/biography/pemulwuy-13147/text23797>>; David Andrew Roberts, 'Windradyne (1800–1829)', *Australian Dictionary of Biography*. Accessed 30 July 2018 via: <<http://adb.anu.edu.au/biography/windradyne-13251/text4471>>; Seal, *The Outlaw Legend*; Graham Seal, *Outlaw Heroes in Myth and History* (Cambridge: Cambridge University Press, 2012); Eric Hobsbawm, *Primitive Rebels: studies in archaic forms of social movement in the 19<sup>th</sup> and 20<sup>th</sup> centuries* (Manchester:

of the Yarralin and Lingara people of the Victoria River District (Northern Territory) suggests, the mythic type of the white bushranger still resonates in some Aboriginal communities today, as they draw strength and meaning from bushrangers' struggle against the authorities.<sup>140</sup> This is not to say that Aboriginal warfare and bushranging were the same, but that their intersections informed Mary Ann's life. Settler-Aboriginal encounters always involved more than colonial domination. For no matter how hard whites struggled to ensure the contrary, their relationships with Aboriginal people were always dialectical; they always worked both ways.<sup>141</sup>

### 1867—1905. Mary Ann Bugg fades from public view

After examining Mary Ann's early life, let us return to 1866 when her conviction for vagrancy was overturned and she was released after nineteen days in Maitland Gaol. Although Mary Ann's family history was shaped by Aboriginal resistance, cross-cultural encounter and exchange, by the 1860s frontier warfare had largely ceased in New South Wales and many Aboriginal people were forced to live within colonial society.<sup>142</sup> Life

---

Manchester University Press, 1959); Eric Hobsbawm, *Bandits* (Harmondsworth: Penguin Books, 1969). Although there are many differences between Hobsbawm's idea of the 'social bandit' and Australian bushrangers or Aboriginal freedom fighters, there are also connections that can be drawn in terms of representing a social group and an alternate form of justice. Jan Kociumbas makes a similar argument in Kociumbas, "Mary Ann", pp. 40-41, 46.

<sup>140</sup> As Bird Rose writes, in Aboriginal stories, Ned Kelly '...aligned himself with the moral position of those who were being dispossessed.' Deborah Bird Rose, 'Ned Kelly Died for Our Sins', *Oceania* vol. 65, no. 2 (1994), pp. 175-186. Quotation taken from p. 183. See also Ann McGrath, 'Australia's Occluded Voices: Ned Kelly's History Wars' in Mícheal Ó hAodha and John O'Callaghan (eds.), *Narratives of the Occluded Irish Diaspora: subversive voices* (Oxford & New York: Peter Lang, 2012), pp. 28-30.

<sup>141</sup> See for example Mary Louise Pratt's idea of the 'contact zone' in Mary Louise Pratt, *Imperial Eyes: travel writing and transculturation* (London: Routledge, 2008), p. 8.

<sup>142</sup> Heather Goodall, *Invasion to Embassy: land in Aboriginal politics in New South Wales, 1770-1972* (Sydney: Sydney University Press, 2008), pp. 124-125; Richard Waterhouse, 'Australian Legends: representations of the bush, 1813-1913', *Australian Historical Studies* vol. 31, no. 115 (2000), p. 209. It is

after imprisonment was not easy for Mary Ann. Upon regaining her freedom, she spent at least five months tracking down her fugitive partner. Having left two of her older children with Ward's family, she took her youngest child with her as she moved from town to town hoping to find word of her spouse. By August, Mary Ann appears to have been close to giving up the chase, as in Tamworth she reportedly declared that if Ward did not come for her soon, then 'she would have to look for a fresh situation'.<sup>143</sup> Although she had previously told the court that her 'husband, Frederick Ward kept her', for these months Mary Ann was essentially an abandoned wife and had to rely on her own resources to survive.<sup>144</sup> There was no government welfare for the poor in this era, as the popular conception was that people were affected by poverty due to their own personal failings. Family and charities were often the only safeguards standing between people down on their luck and complete destitution, and even then, charities were largely based in metropolitan areas rather than the outer reaches of the colony.<sup>145</sup> We do not know how Mary Ann managed to survive alone during these months, but sometime between September 1866 and January 1867 it is clear that she found Frederick Ward again. Police found her at his camp on the 6<sup>th</sup> of January. Once again she was arrested, this time for

---

important to note that in the North and West of the country colonisation was late and uneven, and frontier violence continued into the twentieth century.

<sup>143</sup> It appears that Mary Ann spoke to people in Tamworth about her situation, and this is how news of her reached the papers. She may have hoped to use the press to reconnect with Frederick Ward. 'Sticking Up of the Warialda and Barraba Mail', *Maitland Mercury* (28 August 1866), p. 2; 'Sticking Up of the Warialda and Barraba Mail', *Newcastle Chronicle* (29 August 1866), p. 3; 'Sticking Up of the Warialda and Barraba Mail', *Armidale Express* (1 September 1866), p. 3; 'Sticking Up of the Warialda and Barraba Mail', *Kiama Independent* (6 September 1866), p. 2.

<sup>144</sup> 'Local News', *Maitland Mercury* (3 April 1866), p. 2.

<sup>145</sup> Grimshaw et al., *Creating a Nation*, pp. 159-162; Stephen Garton, *Out of Luck: poor Australians and social welfare, 1788-1988* (Sydney: Allen & Unwin, 1990), pp. 43-61; Tanya Evans, *Fractured Families: life on the margins in colonial New South Wales* (Sydney: New South, 2015), pp. 82-107; Marilyn Lake, 'The Politics of Respectability: identifying the masculinist context', *Australian Historical Studies* vol. 22, no. 86 (1982), pp. 123, 125-126.



being in the possession of stolen goods rather than vagrancy. After her conviction on the 24<sup>th</sup> of January and over another month in Maitland Gaol, Mary Ann was eventually released upon proof that her items had been obtained lawfully.<sup>146</sup> And from this time, she fades from public view.

The Thunderbolt legend picks up where the newspaper trail seems to go cold on Mary Ann's life.<sup>147</sup> According to folklore, Mary Ann died that year in 1867, in poignant and dramatic circumstances. After leaving Maitland Gaol for the second time, she apparently re-joined her Captain and they lived together until Mary Ann became desperately ill. Near Muswellbrook, Thunderbolt spent several anxious days tending to her, only leaving her side to visit a Mrs Bradford for much needed supplies. As her condition worsened, Thunderbolt was forced to leave Mary Ann in the care of Mrs Bradford at whose residence, under the alias Louisa Mason (or Yellow Long), she died on the 24<sup>th</sup> of November. And that, so the popular tale goes, was the end of 'Thunderbolt's Lady'.<sup>148</sup>

Two recent findings reveal this to be a fabrication. In 2013 Lorraine Martyn, a resident of the Newcastle area of New South Wales, made a startling discovery about her family history. Her niece had accessed ancestry.com, the online genealogy database,

---

<sup>146</sup> 'Apprehensions', *New South Wales Police Gazette* (23 January 1867), p. 33; NSWSA: Department of Corrective Services; NRS 2329, Maitland Gaol Discharge Books [5/789], entry for 'Mary Ann Ward'; NSWSA: Department of Premier and Cabinet; NRS 905, Main Series of Letters Received [Colonial Secretary], 'Mary Ann Ward', 1867 [4/590, 67/1050].

<sup>147</sup> As Baxter and Roberts have shown, however, information about Mary Ann's life after 1867 was there in the records for those who wanted to find it. Baxter and Roberts, "Mrs Thunderbolt", pp. 64-70.

<sup>148</sup> Baxter and Roberts, "Mrs Thunderbolt", pp. 64-66. See also Charles White, *The History of Australian Bushranging, 1863-1869*, vol. 2 (Sydney: Angus and Robertson, 1901), pp. 180-181; Fitchett, *In the Days of Thunderbolt*; Williams, *A Ghost Called Thunderbolt*, pp. 93, 104-105. Oppenheimer, 'Colonel Dumaresq', p. 22; Blyton and Ramsland, 'Mixed Race Unions', p. 139; Allan Nixon, *100 Australian Bushrangers, 1789-1901* (Adelaide: Rigby, 1982), p. 162.

only to discover that Lorraine was related to Thunderbolt and Mary Ann Bugg.<sup>149</sup> This was a shocking revelation. Until this time, Lorraine had been unaware of any Aboriginal heritage in her family, and her branch of the family tree dispelled once and for all the myth that Mary Ann died in 1867. Lorraine Martyn is descended from Mary Ann and Thunderbolt's son, Frederick Wordsworth Ward (Jr.) who was born in 1868, one year after Mary Ann's supposed demise.<sup>150</sup> In 2013, the same year as Lorraine's discovery, historians David Andrew Roberts and Carol Baxter published an article that also challenged the common account of Mary Ann's death. With forensic attention to detail, Roberts and Baxter proved that the woman who died at Mrs Bradford's that day was, in fact, an Aboriginal woman named Louisa Mason, the wife of Robert Mason, a settler of Rouchel, near Scone, New South Wales. By trawling through birth, death and marriage records, the pair also showed beyond doubt that Mary Ann and Thunderbolt's son was born in 1868.<sup>151</sup> Together, family history and academic research have overturned the narrative of Mary Ann's death that was enshrined in folklore.

The question which naturally follows this new information is why did this tale of Mary Ann's untimely death become a part of the Thunderbolt myth? Why did it gain so much traction when Mary Ann was still very much alive? One answer to this lies in Frederick Ward's position as a bushranging hero. As Graham Seal has shown, outlaw heroes relied on certain emotive tropes to resonate with their followers and guarantee

---

<sup>149</sup> Like many Aboriginal people affected by settler colonialism, Lorraine only came to know about her family story by researching history. For similar cases, see, Bain Attwood, 'Portrait of an Aboriginal as an Artist: Sally Morgan and the construction of Aboriginality', *Aboriginal History* vol. 25, no. 99 (1992), pp. 304-305; Rebe Taylor, '"All I Know Is History": memory and land ownership in the Dudley District, Kangaroo Island', *The UTS Review* vol. 5, no. 1 (1999), pp. 6-35.

<sup>150</sup> Lorraine Martyn, interviewed by Meg Foster. iPhone recording, Newcastle, NSW 15 June 2017.

<sup>151</sup> Baxter and Roberts, "Mrs Thunderbolt", pp. 64-70.

popular support.<sup>152</sup> If Mary Ann's role as Ward's 'lady love' illustrated his romantic, gallant and chivalrous side, then her dramatic and unexpected death accentuated these traits even more. They lent an element of tragedy to the tale of a daring highwayman, adding a more emotional and human side to the bushranger that might arouse pity, compassion or sympathetic understanding from the public. This could have enhanced Ward's appeal as it ensured that like all great outlaw heroes, he had a personal misfortune to spur him on with his criminal efforts. For now, with the loss of his love, Ward apparently had nothing left to lose.<sup>153</sup>

That is one answer, but it pertains only to the bushranging mythos. Another is that this tale of Mary Ann's death was not just helpful, but essential to maintain Ward's public image. Because in reality, Mary Ann's departure was far from romantic, fated or enforced. It was her choice.<sup>154</sup> It appears that after being released from prison in 1867, Mary Ann and Ward had one last, brief encounter when Mary Ann became pregnant with Frederick Ward (Jr.) before they parted for good.<sup>155</sup> Unlike a fragile woman who may have languished away or died of a broken heart, Mary Ann lived a full life after Captain Thunderbolt. Frederick Ward famously died at a shootout in the town of Uralla on the 26<sup>th</sup> of May 1870, and less than two months *prior* to Ward's death, Mary Ann gave birth to Ada Gertrude Burrows, the daughter of John Burrows, a labourer on the

---

<sup>152</sup> Seal, *The Outlaw Legend*. For Seal's comments on Thunderbolt, see pages 142-143.

<sup>153</sup> For a similar tale of lost love turning a man to bushranging crime, see the life of Ben Hall. Roger W. Byard and Damian McDonald, 'The Death of Ben Hall', *Forensic Science Medical Pathology* vol. 14 (2018), p. 268; Seal, *The Outlaw Legend*, p. 132. The Thunderbolt legend focuses on Mary Ann, and Ward's children are scarcely mentioned.

<sup>154</sup> We know from Mary Ann's determined efforts to follow Ward over months that she could have stayed with him, if she desired. This, combined with the context of their parting, makes it appear that it was Mary Ann's choice to leave Frederick Ward.

<sup>155</sup> NSW RBDM, *Frederick Wordsworth Ward, Birth Certificate*. Registration number 1868/0016881; Baxter and Roberts, "Mrs Thunderbolt", pp. 66-70.

Liverpool Plains.<sup>156</sup> Mary Ann lived with Burrows for at least another two decades until he died at some time between 1887 and 1900. In that time, she purchased, improved and sold land, became a nurse and had at least four children. Mary Ann died in Mudgee in 1905 of natural causes at the age of seventy.<sup>157</sup>

However, it was not simply Mary Ann's life after Ward that complicated the narrative of the pair as 'star-crossed' lovers. It was also her life before. Mary Ann had already given birth to six children before she lived with Frederick Ward. Her first child was to her first husband, Edmund Baker, while the next two were to John Burrows. From this information, her relationship with Burrows later in life was a reunion rather than a new partnership.<sup>158</sup> After her first encounter with Burrows she also bore three children to a James McNally and it was only following this that she met Frederick Ward. These aspects of Mary Ann's life were unremarked upon in the press and were never incorporated into Thunderbolt legend. They certainly did not align well with any chivalric narrative.

Because Frederick Ward drew on notions of gentlemanly, honourable behaviour for his public persona, he needed to be seen to abide by these values in his personal life as well. By the mid-nineteenth century, the romantic ideal of gallant, courtly love found expression in companionate marriage between two exclusive partners. As Susie Steinbach has written of England, '...the nineteenth, more than previous centuries, saw

---

<sup>156</sup> For the myth that Thunderbolt survived the shoot-out at Uralla and proof that he did not, see David Andrew Roberts and Carol Baxter, 'Exposing an Exposé: fact versus fiction in the resurrection of Captain Thunderbolt', *Journal of Australian Studies* vol. 36, no. 1 (2012), pp. 1-15.

Carol Baxter, 'Ada Gertrude Burrows: baptism entry 1887', Thunderbolt Bushranger. Accessed 12 July 2018 via: <<http://www.thunderboltbushranger.com.au/ada-gertrude-burrows-baptism-1887.html>>.

<sup>157</sup> Baxter and Roberts, "Mrs Thunderbolt", pp. 66-70; NSW RBDM, *Mary Ann Burrows, Death Certificate*. Registration number, 1905/5831.

<sup>158</sup> Baxter and Roberts, "Mrs Thunderbolt", p. 69.

the rise of affectionate, companionable marriages in which spouses were friends and monogamous lovers as well as household partners.’ Although most couples did not live up to this ambiguous standard, it was an ideal that many strove to reach.<sup>159</sup> Emphasis was placed on the irreplaceability of a truly loving union and constancy as a defining feature of the relationship. According to this schema, Frederick Ward and Mary Ann’s love would lose cultural currency if it was but one relationship of many. And the fact that Mary Ann parted ways with Ward of her own volition and returned to another man compromised her worthiness of such love and devotion.<sup>160</sup> But this was how the couple’s parting stood in relation to the gentlemanly values which informed the Thunderbolt legend.<sup>161</sup> The perspective from the working classes, to which Ward and Mary Ann actually belonged, was very different.

The reality of life for abandoned, impoverished women in New South Wales meant that many could not afford to ascribe to the lofty idea of companionate marriage. In fact, it was not unusual for women to engage in bigamy and adultery.<sup>162</sup> With no guarantee of charity, many women sought to support themselves and their children by

---

<sup>159</sup> Susie Steinbach, *Women in England 1760-1914: a social history* (London: Phoenix, 2005), pp. 118-119. See also; Patricia Grimshaw and Graham Willett, ‘Women’s History and Family History: an exploration of colonial family structure’ in Norma Grieve and Patricia Grimshaw (eds.), *Australian Women: feminist perspectives* (Oxford: Oxford University Press, 1981), p. 136. The term ‘companionate marriage’ has recently come under fire from some historians for its ambiguity, but however complex, values associated with this ideal did affect nineteenth-century relationships. For this critique, see Kate Fisher, ‘Marriage and Companionable Ideals since 1750’ in Kate Fisher and Sarah Toulalan (eds.), *The Routledge History of Sex and the Body: 1500 to the present* (London: Routledge, 2016), pp. 328-347.

<sup>160</sup> It should be noted, however, that Thunderbolt partially destroyed this image himself by having a relationship with Louisa Mason. We do not know whether their relationship was romantic, sexual or platonic, but this ambiguity brought Mary Ann and Thunderbolt’s union into question.

<sup>161</sup> It should be noted that there were times when Thunderbolt undermined his own legend. For example, he occasionally robbed from the poor as well as the rich. Walker, ‘Captain Thunderbolt’, pp. 223-251.

<sup>162</sup> Tanya Evans, ‘Secrets and Lies: the radical potential of family history’, *History Workshop Journal* no. 71 (2011), p. 68; David Kent and Norma Townsend, ‘Some Aspects of Colonial Marriage: a case study of the swing protesters’, *Labour History* no. 74 (1998), pp. 41-43. McGrath, *Illicit Love*, p. 10.

finding a new partner. Women were still in relatively high demand, especially in rural areas in the 1860s, and many who found a willing spouse did not let social or moral niceties get in the way of financial security. This approach to relationships was never celebrated; it never became the stuff of ballads or legends or songs, but it was a practical necessity for many women when survival trumped all else.<sup>163</sup> This did not mean that all such relationships were loveless as it appears that there was a deep affection between Mary Ann and John Burrows. After decades apart, they found each other again, lived as man and wife for over twenty years and had at least six children together. Burrows was Mary Ann's longest partner.<sup>164</sup> Theirs was clearly more than a strategic coupling, however their relationship may have been rekindled by Mary Ann's need.

All of these facts about Mary Ann's life contradicted public expectations for the spouse of an outlaw hero and, from a contemporary perspective, they also appear to undermine the remarkable adventures of Mary Ann herself. Presently, there is a movement to have Mary Ann viewed as a bushranging hero in her own right. Lorraine Martyn would like to see a statue to Mary Ann alongside Thunderbolt at Uralla.<sup>165</sup> ABC's Radio National ran a program in 2016 labelling Mary Ann a 'bushranger and spy' and calling for greater attention to be paid to 'ratbag women.'<sup>166</sup> And in 2018 I was asked to write an obituary for Mary Ann by the Australian Centre of National Biography to

---

<sup>163</sup> Peter McDonald and Patricia Quiggin, 'Lifecourse Transitions in Victoria in the 1880s' in Patricia Grimshaw, Chris McConville and Ellen McEwen (eds.), *Families in Colonial Australia* (Sydney: Allen & Unwin, 1985), p. 75; Karskens, *People of the River*, Chapter 10; Grace Karskens, *The Rocks: life in early Sydney* (Melbourne: Melbourne University Press, 1997), pp. 80-102.

<sup>164</sup> Baxter and Roberts, "Mrs Thunderbolt", p. 69.

<sup>165</sup> Lorraine Martyn, interviewed by Meg Foster.

<sup>166</sup> Miranda Taspell, 'Mary Ann Bugg: Bushranger and Spy', ABC Radio National (4 March 2016). Accessed 12 July 2018 via: <<http://www.abc.net.au/radionational/programs/archived/pocketdocs/mary-ann-bugg-bushranger-and-spy/7160138>>

redress her absence from the nation's past.<sup>167</sup> All of this interest in Mary Ann derives from the four years that she spent with Thunderbolt. While these years are certainly worthy of attention, perhaps Mary Ann's biggest achievement was to survive and live peacefully, in obscurity, after such a turbulent time with Ward. As we have now seen from the archives of William Douglas, Sam Poo and Mary Ann, we only have evidence about these people's lives because of their encounters with the law and the settler state. Although we can supplement this material, appeal to context and read this evidence 'against the grain', criminal sources were created to police and control these historical actors.<sup>168</sup> For Mary Ann to have lived such a high-profile life and then fade from public view does not reflect a fall from grace but rather a level of freedom that she would never have known while in the public eye.<sup>169</sup> Even though it may not immediately appear as worthy of note as her bushranging career, her life away from rhetorical or institutional control was an achievement in itself, especially for an Aboriginal woman in the nineteenth century.<sup>170</sup>

---

<sup>167</sup> Melanie Nolan, Director, Australian National Centre of Biography, *Private Correspondence with the Author* (12 June 2018).

<sup>168</sup> Ann Laura Stoler, *Along the Archival Grain: epistemic anxieties and colonial common sense* (Princeton: Princeton University Press, 2009).

<sup>169</sup> Janet McCalman's study of poverty in the late nineteenth and early twentieth centuries suggests that an individual's family should also be seen as a marker of their success. Socio-economic disadvantage meant that large, healthy families were hard to attain among the working classes. Therefore, when a woman like Mary Ann had 13 children, 9 of whom lived into adulthood, this was a victory. Family provided a network of support and connection that protected individuals and ensured that even without a welfare state, they had a safety net. It also militated against people falling into the historical ether, being forgotten or 'dying without friends.' Janet McCalman, 'To Die Without Friends: solidarities, drifters and failures in a new world society', in Graeme Davison (ed.), *Body and Mind: historical essays in honour of F. B. Smith* (Melbourne: Melbourne University Press, 2009), pp. 173-194.

<sup>170</sup> For the importance of recognising when women deliberately avoided leaving an archival presence, see Kathryn M. Hunter, 'Silence in the Noisy Archives: reflections of Judith Allen's "Evidence and Silence—feminism and the limits of history" (1986) in the era of mass digitisation', *Australian Feminist Studies* vol. 32, no. 91-92 (2017), pp. 209-210.

This departure from public view was not the last time that Mary Ann actively shaped her life story. From her death certificate and from oral histories, we know that she carefully crafted her personal narrative at least once more. In what appears to be a strange turn of events for a woman who was once so renowned for her Aboriginal heritage, Mary Ann's death certificate states that she was born in the Bay of Islands in New Zealand and implies that she had Māori ancestry.<sup>171</sup> Back in the 1860s, well before Mary Ann's death, there was also reference to her having Māori heritage. This strengthens the argument that Mary Ann chose this identity for herself.<sup>172</sup> The myth that Mary Ann had Māori ancestry was passed down in family lore. Lorraine Martyn was raised to believe that her great-great grandmother was Māori, as her father had before her.<sup>173</sup> When placed in historical context, however, the reasons behind this claim become easier to understand. As Rachel Standfield and James Bennett have shown, in the nineteenth and twentieth centuries, Māori held higher status in British eyes than other Indigenous peoples, particularly Aboriginal Australians.<sup>174</sup> The Māori's warlike appearance, agriculture, trade and settled communities were just some of the features that the colonists viewed as signs of their capacity for civilisation and worthiness of respect.<sup>175</sup> Aboriginal people in New South Wales were seen to be dishonourably

---

<sup>171</sup> NSW RBDM, *Mary Ann Burrows, Death Certificate*. Registration number 1905/5831.

<sup>172</sup> 'Untitled', *Empire* (3 July 1865), p. 5.

<sup>173</sup> Lorraine Martyn, interviewed by Meg Foster.

<sup>174</sup> Rachel Standfield, *Race and Identity in the Tasman World, 1769-1840* (London: Pickering and Chatto, 2012); Rachel Standfield, 'The Paramatta Māori Seminary and the Education of Indigenous Peoples in Early Colonial New South Wales', *History of Education Review* vol. 41, no. 2 (2012), pp. 119-128; James Bennett, 'Māori as Honorary Members of the White Tribe', *Journal of Imperial and Commonwealth History* vol. 29 no. 3 (2001), pp. 33-54.

<sup>175</sup> There was an alternative discourse that painted Māori as fearsome cannibals utterly removed from civilisation. However, overall, Māori engendered a degree of respect that was never given to Indigenous Australians. For competing representations of Māori, see for example Anne Salmond, *Between Worlds: early exchanges between Māori and Europeans, 1773-1815* (Honolulu: University of Hawaii Press, 1998);



dispossessed, whereas Māori sovereignty was recognised in the Treaty of Waitangi, and by the twentieth century, they had achieved the position of honorary white men in New Zealand public discourse.<sup>176</sup> Settler Australians supported the idea of the superiority of the ‘noble savages’ of New Zealand and had experiences with Māori themselves as New Zealand chiefs, emissaries and subjects had been travelling to New South Wales from as early as 1793.<sup>177</sup> The relative respect given to Māori people was one element that may have appealed to Mary Ann, as Māori status conferred a greater equality with whites than was known by Aboriginal Australians.

My interview with Lorraine Martyn, however, shines light on more sinister and pressing reasons why Mary Ann and her children may have attempted to ‘pass’ as Māori and why in later generations, her family reinforced this myth. According to Lorraine,

it [Mary Ann’s Aboriginal heritage] was all kept quiet because I was born in the early forties. And then, they was taken off you if you had Aboriginal in you,

---

Standfield, *Race and Identity in the Tasman World*; Rohan Howitt, ‘Poihākena: Māori travellers and workers in New South Wales, 1793-1840’, Honours Thesis (University of Sydney, 2014).

<sup>176</sup> While there are still debates as to whether Māori ceded sovereignty of the land or *kāwanatanga* (governorship) of the land to the British with the Treaty of Waitangi, the fact a treaty was entered into is significant, as the British recognised that Māori had pre-existing rights to the land that needed to be transferred to them. The same was not the case for Indigenous Australians. For treaty scholarship in New Zealand, see Claudia Orange, *Story of a Treaty* (Wellington: Bridget Williams Books, 2002); Claudia Orange, *Illustrated History of the Treaty of Waitangi* (Wellington: Bridget Williams Books, 2004); Lindsay T. Buick, *The Treaty of Waitangi: how New Zealand became a British colony* (New Plymouth: T. Avery & Sons, 1933); Mark Hickford and Carwyn Jones, *Indigenous Peoples and the State: international perspectives on the Treaty of Waitangi* (London: Routledge, 2018).

For Māori as ‘honorary white men’ see Bennett, ‘Māori as Honorary Members of the White Tribe’, pp. 33-54; James Cowan, *The Maoris of New Zealand* (Christchurch: Whitcombe and Tombs, 1910), p. 8.

<sup>177</sup> Standfield, *Race and Identity in the Tasman World, 1769-1840*; Standfield, ‘The Paramatta Māori Seminary’, pp. 119-128; Bennett, ‘Māori as Honorary Members of the White Tribe’, pp. 33-54. See also Patricia Grimshaw, ‘Interracial Marriages and Colonial Regimes in Victoria and Aotearoa/ New Zealand’, *Frontiers* vol. 23, no. 3 (2003), pp. 12-28.

For these early encounters, see Anne Salmond, ‘Kidnapped: Tuki and Huru’s involuntary visit to Norfolk Island in 1793’ in Robin Fisher and Hugh Johnston (eds.), *From Maps to Metaphors: the Pacific World of George Vancouver* (Vancouver: University of British Columbia Press, 1993), pp. 191-226; Anne Salmond, ‘Tuki’s Universe’, *New Zealand Journal of History* vol. 38, no. 2 (2004), pp. 215-232; Howitt, ‘Poihākena’, pp. 17-36; Salmond, *Between Worlds*.

half caste and that and they would be taken away or treated badly so I think that's why they never mentioned it.<sup>178</sup>

The late nineteenth century saw the steady increase of white intervention into Aboriginal people's lives. As the British consolidated their possession of the colony there were fewer possibilities for Aboriginal people to live outside of white society. By 1882 a government report estimated that over half of the Aboriginal population of New South Wales worked 'more or less permanently' for the whites.<sup>179</sup> This meant that when drought, depression and economic uncertainty hit in the 1890s, Aboriginal jobs were the first to go and many had to seek charitable assistance, move to Christian missions or government run reserves to survive.<sup>180</sup> Before 1900, there had already been attempts to remove children from their Aboriginal families, but these were more ad hoc than government ordained.<sup>181</sup> In 1883, the Aboriginal Protection Board (APB) was created ostensibly to 'protect' the 'remnants' of the 'dying race' of Aboriginal people in New South Wales.<sup>182</sup> In its earliest incarnation, the Board had some powers to remove

---

<sup>178</sup> Lorraine Martyn, interviewed by Meg Foster.

<sup>179</sup> Susan Johnston, 'The New South Wales Government Policy Towards Aborigines 1880-1909', Master's Thesis (University of Sydney, 1970), pp. 67-68; Ann Curthoys, 'Good Christians and Useful Workers: Aborigines, church and state in New South Wales, 1870-1883' in Sydney Labour History Group (eds.), *What Rough Beast? The State and social order in Australian History* (Sydney: Allen & Unwin, 1982), p. 33.

<sup>180</sup> Curthoys, 'Good Christians', pp. 31-56; Richard Egan, *Neither Amity Nor Kindness: government policy towards Aboriginal people of New South Wales 1788-1969* (Sydney: R. Egan, 2012), pp. 85-102; Ann McGrath, *Contested Ground: Australian Aborigines under the British Crown* (Sydney: Allen & Unwin, 1996), p. 76.

<sup>181</sup> See for example, Richard Egan, 'Power and Dysfunction: the New South Wales Board for the Protection of Aborigines', PhD Thesis (UNSW, 2019), pp. 105-106; Naomi Parry, '"Such a longing": black and white children in welfare in Tasmania and New South Wales, 1880-1940', PhD Thesis (UNSW, 2007), p. 169.

<sup>182</sup> Egan, *Neither Amity*, pp. 95-98; Goodall, *Invasion to Embassy*, pp. 104-114; Russell McGregor, *Imagined Destinies: Aboriginal Australians and the Doomed Race Theory, 1880-1939* (Melbourne: Melbourne University Press, 1996). For the APB's impact on colonial Sydney, see Irish, *Hidden in Plain View*, pp. 117-139.

Aboriginal children from their families, but only for 'educational purposes.'<sup>183</sup> By 1905 when Mary Ann died, she would have witnessed 'humanitarians' and government officials' increasing influence over Aboriginal people, and perhaps this prompted her to claim Māori heritage: to protect her freedom as well as that of her large family.<sup>184</sup>

After Mary Ann's death, white control over Aboriginal lives only increased in breadth and intensity. As Anna Haebich has written, by the turn of the twentieth century, with the Federation of the Australian colonies and the advent of the White Australia Policy, Aboriginal people

were an anathema to the country's new modernising and nationalising project. There was no place for them in the emerging Australian nation. Instead they were to be swept out of sight into remote 'gulags' or their 'mixed race' children absorbed into the lowest rungs of the colonial workforce or kept permanently in segregated institutions.<sup>185</sup>

In 1909 the *Aborigines Protection Act* gave the APB wide powers to intervene in Aboriginal life, but there were still stipulations about when an Aboriginal child could be removed from their parents.<sup>186</sup> In 1915 this procedure was dispensed with as the Board was given the power to remove any Aboriginal child by virtue of their race.<sup>187</sup> Well into

---

<sup>183</sup> However, in reality, the Board's close connections with the New South Wales police meant that children were removed arbitrarily without legal sanction. See Chapter 5 on Jimmy Governor for more information on police and the APB.

<sup>184</sup> For an overview of this growing interventionist stance, see Egan, *Neither Amity*, pp. 85-109; Anna Haebich, *Broken Circles: fragmenting families, 1800-2000* (Freemantle, WA: Freemantle Arts Centre Press, 2000), pp. 181-186; J. J. Fletcher, *Clean, Clad and Courteous: a history of Aboriginal education in New South Wales* (Sydney: Southwood Press, 1989), pp. 39-107; Peter Read, *The Stolen Generations: the removal of Aboriginal children in New South Wales, 1883-1969* (Sydney: NSW Department of Aboriginal Affairs, 1998).

<sup>185</sup> Haebich, *Broken Circles*, p. 131-132.

<sup>186</sup> *Aboriginal Protection Act* 1909 (NSW); Egan, *Neither Amity*, pp. 110-117; Read, *The Stolen Generations*, p. 9; Goodall, *Invasion to Embassy*, pp. 143-148; Peter Read, *A Hundred Years War: the Wiradjuri people and the state* (Canberra: ANU Press, 1988), pp. 54-56.

<sup>187</sup> *Aborigines Protection Amendment Act* 1915 (NSW); Egan, *Neither Amity*, pp. 117-121; Read, *The Stolen Generations*, p. 10; Read, *A Hundred Years War*, pp. 62-64.

the 1960s this practice of removal continued, as children were forcibly taken from their families in the name of welfare, only for many to suffer physical, psychological and sexual abuse from the institutions in which they were raised.<sup>188</sup> In Australia, these Aboriginal children are now known as the 'Stolen Generation.'<sup>189</sup> If Mary Ann's family hid their Aboriginal heritage in the hope of avoiding racial discrimination and protecting their children, they were not the only ones. If a family looked 'light' enough, they would often try to 'pass' as white. When this option was not available, some families chose the same path as Mary Ann's.<sup>190</sup> By re-configuring her Aboriginality as Māori before

---

<sup>188</sup> This date reflects when state policy was officially changed. It is important to recognise that there are arguments that the Stolen Generations are ongoing as Aboriginal children form a disproportionately large number of the children removed from their families by social services. Nick Evershed and Lorena Allam, 'Indigenous Children's Removal on the Rise 21 Years After *Bringing Them Home*', *Guardian* (25 May 2018). Accessed 30 October 2019 via: <<https://www.theguardian.com/australia-news/2018/may/25/australia-fails-to-curb-childrens-removal-from-indigenous-families-figures-show>>; Grandmothers Against Removals, *Submission to the House of Representatives Standing Committee on Social Policy and Legal Affairs: Inquiry into Adoption* (May 2018), p. 2. Accessed 30 October 2019 via: <<https://www.aph.gov.au/DocumentStore.ashx?id=12d80b1a-daf1-45eb-b064-b9b2e92309ac&subId=566046>>

<sup>189</sup> For literature on the Stolen Generations, see Human Rights and Equal Opportunity Commission, *Bringing Them Home: report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families* [Commissioner: Ronald Wilson] (Sydney: Human Rights and Equal Opportunity Commission, 1997). Accessed 12 November 2018 via: <<http://www.austlii.edu.au/au/special/rsjproject/rsjlibrary/hreoc/stolen/>>; Haebich, *Broken Circles*; Read, *The Stolen Generations*; Robert Manne, 'Aboriginal Child Removal and the Question of Genocide, 1900-1940' in A. Dirk Moses (ed.), *Genocide and Settler Society: frontier violence and stolen Indigenous children in Australian history* (New York: Berghahn Books, 2004), pp. 217-243; Anna Haebich, "'Clearing the Wheat Belt': erasing the Indigenous presence in the southwest of Western Australia" in A. Dirk Moses (ed.), *Genocide and Settler Society: frontier violence and stolen Indigenous children in Australian history* (New York: Berghahn Books, 2004), pp. 267-289; Russell McGregor, 'Governance, not Genocide: Aboriginal assimilation in the post-war era' in A. Dirk Moses (ed.), *Genocide and Settler Society: frontier violence and stolen Indigenous children in Australian history* (New York: Berghahn Books, 2004), pp. 290-311; Robert Van Krieken, 'The Barbarism of Civilisation: cultural genocide and the "Stolen Generations"', *British Journal of Sociology* vol. 50, no. 2 (1999), pp. 297-315.

While there were some instances of Aboriginal parents neglecting or abusing their children, this small number of cases does not negate the overall injustice and cruelty of Aboriginal child removal. Peter Read, 'Clio or Janus? Historians and the Stolen Generations', *Australian Historical Studies* vol. 33, no. 118 (2002), pp. 54-60.

<sup>190</sup> For examples of Aboriginal people claiming different ancestry, see Rebe Taylor, *Unearthed: the Aboriginal Tasmanians of Kangaroo Island* (Kent Town, SA: Wakefield Press, 2002), pp. 220-248; Attwood, 'Sally Morgan', p. 313; Sally Morgan, *My Place* (Freemantle WA.: Freemantle press, 1987); Jean

government policy had fully turned against Aboriginal people, Mary Ann may have saved her family from being broken-up, her sons, daughters and grandchildren from being persecuted and her descendants from being stolen. Until the very end of her life, Mary Ann had a keen awareness of her public persona and the power of popular conceptions. And by once more controlling her narrative and creating her own ancestral myth, Mary Ann was not necessarily repudiating her Aboriginal origins, but likely working to protect her family.

## Conclusion

Mary Ann was clearly more than ‘Thunderbolt’s lady’. While she spent some years of her life trying to cultivate a respectable persona, she never let it hamper her quest for the practical necessities of life. Through Mary Ann’s story we can see the neat binaries of the colonial imagination break down in response to the realities of lived experience. From her life we can see that there were connections between Aboriginal resistance and white bushranging, motherhood and strategy, a denial of heritage and an expression of familial love. Mary Ann’s story brings all of this complexity to the fore. It is an intersectional narrative that encourages us to not only to recognise our historical subjects’ unique experiences, social conditioning and oppression, but also their agency and forms of empowerment. Mary Ann’s story asks us to see these unlikely connections not as peripheral stories, but as the very stuff of history.

---

Boladeras, ‘The Desolate Loneliness of Racial Passing’ in Maureen Perkins (ed.), *Visibly Different: face, place and race in Australia* (Bern: Peter Lang, 2007), pp. 49-63.

Moreover, Mary Ann's chapter encourages us to reconfigure how we view historical success. According to Graham Seal, typical outlaw heroes die extravagantly, in a blaze of glory. They are meant to 'die game', to die fighting. That is how they can best secure a place in the popular imagination.<sup>191</sup> But occasionally, bushranging supporters refuse to believe that their heroes have died. An alternative mythology sometimes emerges, involving official conspiracy and coverups, a clever escape, and an alternative life.<sup>192</sup> Indeed, there is a faction of Thunderbolt fans today who believe that Frederick Ward escaped to Canada and that another man met his death at Uralla. This version of events is false, but tales of bushrangers' cunning survival still have traction today as they alone are seen to match the skill that these men possessed.<sup>193</sup> However, it was Mary Ann who lived longer than the stories allowed. She is the one who assumed a new name, a new life, and who lived in peace until the end of her long days. In settler society, no one expected as much of Mary Ann as they did of Thunderbolt. And ironically, that is what ensured her survival.

In the following chapter we will encounter another Aboriginal character, but this figure never faded from social memory. James 'Jimmy' Governor became notorious on the night of 23<sup>rd</sup> of July 1900 when he murdered two white women and three children in rural New South Wales, and settler Australians have been trying to make sense of his actions ever since. This chapter pushes beyond the horror of those events to uncover the social, political, legal and familial implications of Governor's actions. It is only by uncovering these layers can we begin to understand the significance of this episode of

---

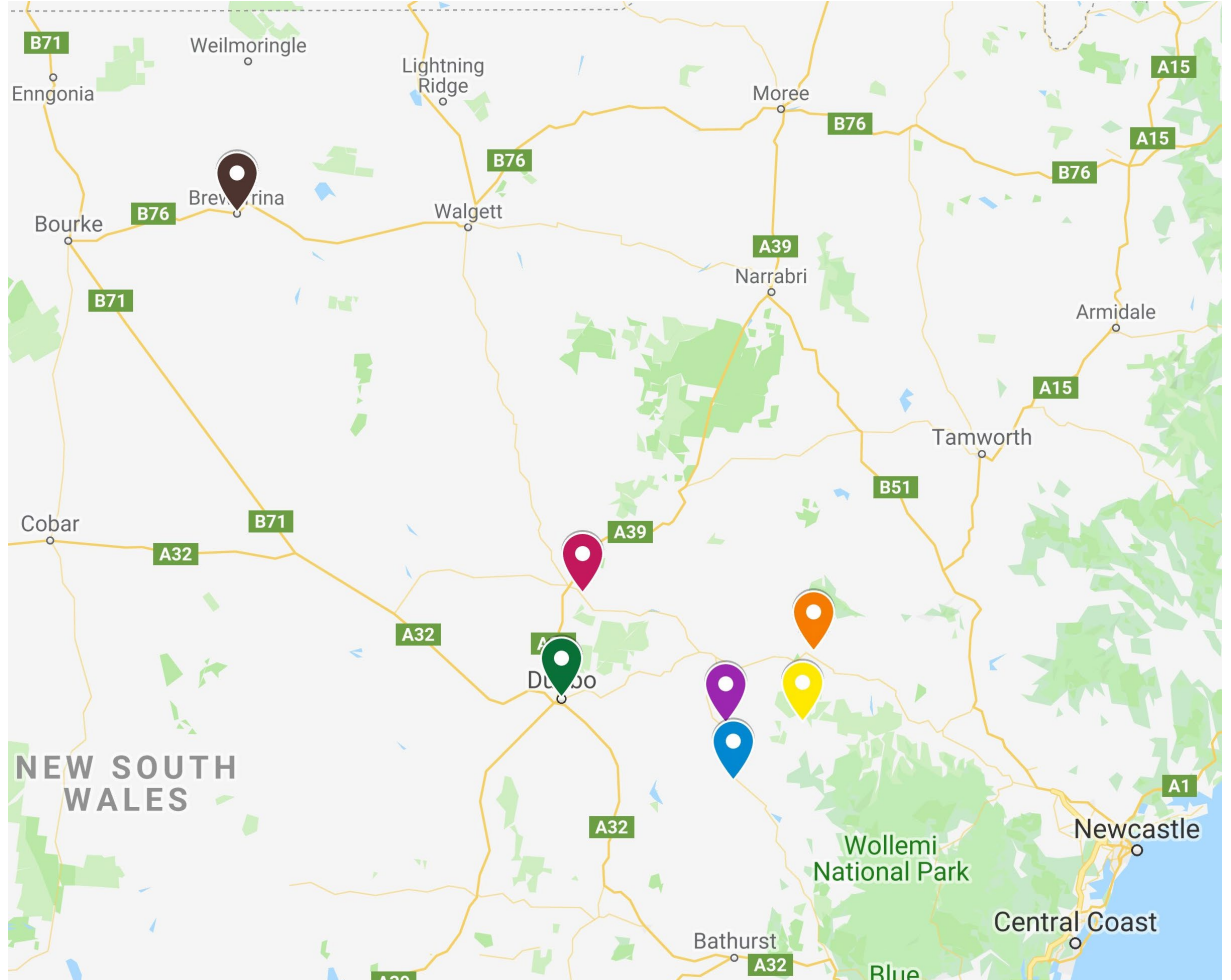
<sup>191</sup> Seal, *The Outlaw Legend*, pp. 9-10.








<sup>192</sup> *ibid.*, pp. 10-12.

<sup>193</sup> Roberts and Baxter, 'Exposing an Exposé', pp. 1-15.

Australian history and the fact that in 1900, white Australia was more precarious than standard history books would have us believe.

## Places of Note in Chapter 5



-  Breelong
-  Gulgong
-  Brewarrina
-  Dubbo
-  Cassilis
-  Wollar
-  Mudgee



## Chapter 5

### Intimacy and Violence in the Case of Jimmy Governor<sup>1</sup>

On Monday the 23<sup>rd</sup> of July 1900, nine-year-old Albert “Bertie” Mawbey was called before an inquest in Breelong, northern New South Wales. At the crime scene that was also his home, the child explained all that he knew of his family’s murder. Three days previously, at about half past eight at night, Bertie had awoken to ‘the voice of a blackfellow singing out, “I will blow your brains out”, and stamping his feet’. He ‘jumped out of bed and came to the door, and saw a blackfellow standing in the middle of the sitting room.’ The black man was ‘belting into’ his brother, Percy, ‘hitting him with a rifle or a stick...he hit Percy 10 or 12 times’. Albert ‘was frightened and ran out over the creek’ and this effectively saved him from the same fate as the rest of his household.<sup>2</sup> There were two Aboriginal men in the Mawbeys’ residence that night, and they attacked everyone who they could find using a tomahawk and an Aboriginal club called a ‘nulla nulla’. As Bertie ran three quarters of a mile to raise the alarm, the screams from the house faded away, and Albert’s mother, live-in schoolteacher, brother and two sisters were either dead or dying.<sup>3</sup>

---

<sup>1</sup> The second half of this chapter forms the basis of my journal article, ‘The Forgotten War of 1900: Jimmy Governor and the Aboriginal People of Wollar’, *Australian Historical Studies* vol. 50, no. 3 (2019), pp. 305-320.

<sup>2</sup> ‘The Breelong Murders: inquest’, *Nepean Times* (28 July 1900), p. 3; Maurie Garland, *Jimmy Governor: blood on the tracks* (Melbourne: Brolga Publishing, 2009), p. 3; ‘The Gilgandra Tragedy: a pathetic story’, *Sydney Morning Herald* (24 July 1900), p. 5.

<sup>3</sup> Garland, *Jimmy Governor*, pp. 3-17; ‘The Gilgandra Tragedy: a pathetic story’, *Sydney Morning Herald* (24 July 1900), p. 5; ‘Jimmy Governor: Thursday’s trial’, *Evening News* (23 November 1900), p. 3; ‘The Black Horror: Jimmy Governor on Trial’, *Mudgee Guardian* (29 November 1900), p. 9.

Although Bertie could not identify his family's murderers at the time, he knew one of the culprits well. Jimmy Governor was an Aboriginal man who worked on the family property at Breelong. He had been employed by Bertie's father to put up a fence on the land, and along with his wife, Ethel, and baby son, Sidney, he had camped on the Mawbeys' property while the work was underway. Jimmy Governor had bought supplies from the Mawbeys' stores, played cricket with the Mawbey boys and then, on the 20<sup>th</sup> of July, Governor and his Aboriginal friend Jacky Underwood murdered five members of Albert Mawbey's family.<sup>4</sup> Jimmy Governor's 'murderous rampage' did not end there. While Underwood was captured soon after the Breelong crimes, Governor's brother Joe joined him on the run. They committed countless robberies, murdered four more white settlers, including a pregnant woman and her young child, and evaded the police for three months. This was despite thousands of volunteers and police giving chase, resulting in what Laurie Moore has described as the 'largest manhunt in Australian history.'<sup>5</sup>

To survive on the run from the law, Jimmy Governor committed bushranging crimes: he and Joe were adept at robbery under arms. While these crimes mark him out as one of the 'other' bushrangers of this thesis, it was Governor's murders that caused a colonial sensation.<sup>6</sup> Almost as soon as they were committed, newspapers from around the Australian colonies circulated intimate details of the 'Horror at Breelong'. The following description of the victims in the *Nepean Times* was not an uncommon one.

---

<sup>4</sup> Laurie Moore and Stephen Williams, *The True Story of Jimmy Governor* (Sydney: Allen & Unwin, 2001); Maurie Garland, *Jimmy Governor: blood on the tracks* (Melbourne: Brolga Publishing, 2009).

<sup>5</sup> Moore and Williams, *The True Story*, vii.

<sup>6</sup> As we have seen in the Chapters 1 and 3 on William Douglas and Sam Poo, it was not uncommon for bushranging crime to be connected with murder.

Hilda Mawbey [11 years old] ...bruise on forehead over left eye; skull broken in behind the ear...Percy Mawbey [14 years old]: Cut through right ear; cut 8in wide across right side of neck, penetrating vertebrae column in neck; skull fractured across right ear, wound on back top part of head; fracture on crown of skull...Mrs Mawbey [44 years old]: Brain matter protruding at back of head; hacked about the head and arms with tomahawk.

The list of injuries and victims went on.<sup>7</sup>

*Figure 12 has been removed due to copyright restrictions.*

**Figure 12: Unknown Photographer, *Jimmy Governor*, c.1900.<sup>8</sup>**

The violence of the crimes, the gender and age of the victims, and the race of the culprits have ensured that the Breelong murders have not been forgotten. Indeed, Jimmy Governor is the most well-known 'other' bushranger in this thesis. Today, Governor is most commonly known from Thomas Keneally's historical fiction *The Chant of Jimmie*

---

<sup>7</sup> 'Horrible Murders: The Black Trouble', *Nepean Times* (28 July 1900), p. 3. The ages of the victims were taken from Laurie Moore and Stephen Williams, *The True Story of Jimmy Governor* (Sydney: Allen & Unwin, 2001), p. 36.

<sup>8</sup> Source: Moore and Williams, *The True Story*.

*Blacksmith*.<sup>9</sup> Published in 1972, the book immediately garnered popular appeal and was transformed into a film in 1978.<sup>10</sup> The novel won the Royal Society of Literature Prize in 1972, and the *Sydney Morning Herald* Literary Competition the following year, and Keneally's story is still the subject of interviews, literary criticism and articles to this day.<sup>11</sup> Yet Keneally's was not the first attempt to bring Jimmy Governor to a popular audience. Frank Clune wrote of his deeds in 1959, while folklore about the Governors' rampage began to spread within a few years of Jimmy Governor's execution in 1901.<sup>12</sup>

Scholars have been no less interested in Jimmy Governor and the Breelong murders. Historian Henry Reynolds first wrote about Governor in 1979 as he attempted to draw a distinction between Jimmy Governor the historical figure and Jimmie Blacksmith of Keneally's novel.<sup>13</sup> Since then, Governor has been the subject of local histories, biographies and academic journal articles. He has been used to explore such

---

<sup>9</sup> While Keneally's work remains the most well-known, popular depiction of Governor's life, a play entitled 'Posts in the Paddock' was produced more recently in 2011. Clare Britton, 'Posts in a Paddock: revisiting the Jimmy Governor tragedy, approaching reconciliation and connecting families through the medium of theatre', *Journal of the European Association for Studies of Australia* vol. 4, no. 1 (2013), pp. 143-157; Jeff Khan (ed.), *Posts in the Paddock: performance space, point 4, exchange* (Sydney: Performance Space Limited, 2011).

<sup>10</sup> Thomas Keneally, *The Chant of Jimmie Blacksmith* (Ringwood, VIC: Penguin Books, 1972); Fred Schepisi, *The Chant of Jimmie Blacksmith (film)* (Melbourne: The Film House, 1978).

<sup>11</sup> 'The Chant of Jimmie Blacksmith, novel, historical fiction', AUSTLIT Database. Accessed 7 August 2017 via: <<https://www.austlit.edu.au/austlit/page/C268065>>

<sup>12</sup> Meg Foster, 'Murder for White Consumption: Jimmy Governor and the Bush Ballad' in Yu-ting Huang and Rebecca Weaver-Hightower (eds.), *Archiving Settler Colonialism: culture, race and space* (London: Routledge, 2018), pp. 173-189; Frank Clune, *Jimmy Governor* (Sydney: Horwitz, 1959); Arthur Noonan, 'The Ballad of the Breelong Blacks' taken from Win McDonald, *Poem and Letter*, 1903, Unpublished correspondence and poem, National Library of Australia, NLA MS 5886; No Attributed Author, *The Ballad of the Breelong Blacks*, c1900, Separately issued ballad narrative of the Jimmy Governor murders of 1900, State Library of New South Wales, Q821.912/12; Arthur Noonan, 'The Ballad of the Breelong Blacks' taken from Moore and Williams, *The True Story of Jimmy Governor*, pp. 199-206; No Attributed Author, 'The Breelong Blacks' in Bill Bowyang (ed.), *"Bill Bowyang's" Bush Recitations*, no. 5 (Brisbane: K. A. Baltzer and Company, 1940), pp. 2-6. For a later rendition of the Governor crimes, see Eric Rolls, *A Million Wild Acres: 200 years of man and an Australian forest* (Melbourne: Thomas Nelson, 1981), pp. 223-244.

<sup>13</sup> Henry Reynolds, 'Jimmy Governor and Jimmie Blacksmith', *Australian Literary Studies* vol. 9, no. 1 (1979), pp. 14-25.

disparate areas as ‘native’ resistance strategies to colonial domination, and how the assimilation of Aboriginal people into white society played out on the ground. Many of these studies make some attempt to understand the cause of the Breelong murders and explain what drove Governor to commit these crimes.<sup>14</sup> The massacre is most commonly depicted as either the result of taunts by the Mawbey women about Governor’s mixed-race marriage, or as Jimmy Governor’s response to a labour dispute, as he believed that he was receiving poor compensation for his work. Despite these theories, there has never been consensus as to the cause of the Breelong murders.<sup>15</sup>

While Jimmy Governor clearly does not need to be rescued from historical obscurity, the impact of the murders on his own family—his white wife, Ethel, and baby son, Sidney, as well as his Aboriginal relatives from the rural town of Wollar—remains on the periphery of historical narratives. Katherine Ellinghaus is the only scholar to have examined Governor’s family. In her book *Taking Assimilation to Heart* Ellinghaus dedicates half a chapter to Jimmy and Ethel Governor’s marriage. Relationships between Aboriginal men and white women were extremely rare in twentieth century Australia,

---

<sup>14</sup> For a literature on Jimmy Governor see Moore and Williams, *The True Story*; Garland, *Jimmy Governor*; Reynolds, ‘Jimmy Governor and Jimmie Blacksmith’, pp. 14-25; Katherine Ellinghaus, *Taking Assimilation to Heart* (Lincoln & London: University of Nebraska Press, 2006), pp. 158-160; Marilyn Wood, ‘The “Breelong Blacks”’ in Gillian Cowlishaw and Barry Morris (eds.), *Race Matters* (Canberra: Aboriginal Studies Press, 1997), pp. 97-120; Katherine Biber, ‘In Jimmy Governor’s Archive’, *Archives and Manuscripts* vol. 42, no. 3 (2014), pp. 270-281; Katherine Biber, ‘Besieged at Home: Jimmy Governor’s Rampage’, *Public Space: the journal of law and social justice* vol. 2 (2008), pp. 1-41; Foster, ‘Murder for White Consumption’, pp. 173-189.

<sup>15</sup> Foster, ‘Murder for White Consumption’, p. 173; Ellinghaus, *Taking Assimilation to Heart*, pp. 157-160; Roy Mendham, *The Dictionary of Australian Bushrangers* (Melbourne: Hawthorn Press, 1975), p. 73. For newspaper articles from the time on the cause of Governor’s ‘rampage’, see ‘The Breelong Tragedy’, *Northern Star* (28 July 1900), p. 5; ‘The Breelong Murders’, *Bathurst Free Press* (25 July 1900), p. 2; ‘New South Wales Tragedies’, *Advertiser* (28 July 1900), p. 8; ‘Awful Tragedy’, *Northern Star* (25 July 1900), p. 5; ‘Jimmy Governor’s Capture’, *Sydney Morning Herald* (31 October 1900), p. 8.

and so Ellinghaus uses their marriage to explore concepts of assimilation and white nationalism.<sup>16</sup> No scholar has examined Governor's Aboriginal family at Wollar.<sup>17</sup>

Initially, there may not appear to be anything problematic about separating the Breelong murders from Jimmy Governor's personal and family life. One story involves a level of violence that still baffles historians today. As there is no consensus on what led Governor to commit these crimes, most contemporary narratives leave a space for our own, visceral reaction to these bloody murders. Jimmy Governor remains incomprehensible, and 'full imaginative engagement' is disabled by the brutality of his crimes.<sup>18</sup> The other story sees Governor as a husband and the head of a family, and this lends him a relatability that appears at odds with his status as a mass murderer. At the time that these events unfolded, however, there was no such stark divide between these two narratives, and it is only in his descendants' family stories that their connection has been remembered.

Aunty Loretta Parsley is a Yuin woman from the south coast of New South Wales and a direct descendant of Jimmy and Ethel Governor. In contrast to scholarly and popular renditions of Governor's story, she has written that

I believe that Jimmy had a strong connection to his country and a great loyalty to his family...Ethel expected that Jimmy would be a loyal husband and a protector of her and their child Sid. Sid and Ethel were to become the most stable and grounding force in the events that led up to Jimmy's capture and consequent hanging in Sydney.<sup>19</sup>

---

<sup>16</sup> Ellinghaus, *Taking Assimilation to Heart*; Ellinghaus, 'Margins of Acceptability', pp. 56-75.

<sup>17</sup> Although Garland, and Moore and Williams do refer to the Aboriginal people of Wollar briefly in their works on Jimmy Governor. Garland, *Blood on the Tracks*, p. 69-70, 185-187, 192-196; Moore and Williams, *The True Story*, pp. 93-95.

<sup>18</sup> Inga Clendinnen, *Reading the Holocaust* (Melbourne: Text Publishing, 2004), p. 12; Tom Griffiths, *The Art of Time Travel: historians and their craft* (Carlton, VIC: Black Books Inc., 2016), pp. 261-263.

<sup>19</sup> Aunty Loretta Parsley, 'Blood on his hands, cleansed in salt water' in Jeff Khan (ed.), *Posts in the Paddock: performance space, point 4, exchange* (Sydney: Performance Space Limited, 2011), p. 15.

Aunty Loretta's statements challenge us to re-examine the colonial material and take seriously the connection that Jimmy Governor had with his family. They also encourage us to recognise that Governor's wife, child, and Aboriginal relatives at Wollar were affected by his crimes, and that they came to the attention of colonial authorities and the popular press for a reason. Governor's relationship with his family exacerbated colonial Australians' anxieties about race, sex, gender, miscegenation, policing and Aboriginal protection on the eve of national Federation. In colonists' eyes, it was not only his violent crimes, but his intimate relationships that made Jimmy Governor a threat.

This chapter consists of two sections. The first examines the impact of Governor's crimes on his white wife, Ethel Governor, while the second section explores how Governor's Aboriginal relatives at Wollar were treated by the local community and the New South Wales authorities in the aftermath of the murders. It does so not only to recover the experiences of these historical actors, but how colonial Australians made sense of the murders. By moving away from Governor himself and looking instead at the impact of his crimes on his family, we can explore the nexus of crime, intimacy, race and settler colonialism at a crucial moment of Australian history.

## **The Family Man**

### ***Love, Marriage and Sex***

In 1900, Jimmy Governor declared that the Mawbey women's inflammatory remarks about his relationship with his wife incited him to violence. He stated that the schoolteacher, Miss Kertz, and the Mawbeys

...were always poking fun and laughing at us [Jimmy, Ethel and Sidney] and Mrs Mawbey was always getting on to my wife for marrying me, my wife told me Mrs Mawbey said that any white women who married a blackfellow was not fit to live, and ought to be dead, this made me very wild, as I always worked hard, and paid for everything the same as a white man, and I reckon I am as good...<sup>20</sup>

These lines are considered pivotal in literature on the 'Governor rampage', as they seem to reveal insights about Jimmy Governor's character. They have been used as evidence that Governor wanted to be a productive member of white society, and that he was indignant when whites refused to treat him as an equal. They have been used to speculate on Governor's pride and sense of self-worth, his work ethic and position as a member of the working classes, but they have never been used to examine Governor's relationship with his wife.<sup>21</sup> The idea that Jimmy Governor intended to protect and defend his partner has been obscured by the violence that ensued.

But from the evidence, it is clear that a strong and complex bond existed between Jimmy and Ethel Governor. Ethel Mary Jane Page, aged sixteen, married James Governor, twenty-three, at the rectory of the Church of England in Gulgong on the 10<sup>th</sup> of November 1898. To look at the wedding certificate itself, nothing appears to have been particularly remarkable about this marriage. Although Ethel was young and needed her parents' permission to wed Jimmy, this was not unheard of at the turn of the twentieth

---

<sup>20</sup> New South Wales State Archives (NSWSA): Supreme Court of New South Wales; NRS 880, Papers and Depositions of the Supreme Court [9/7003]—papers relating to the trial of Jimmy Governor. Governor made this statement to the New South Wales Supreme Court in November 1900, after he had been arrested. Details of Governor's capture and arrest can be found on pages 291-292, later in this chapter.

<sup>21</sup> Henry Reynolds, *With the White People: the crucial role of Aborigines in the exploration and development of Australia* (Sydney: Penguin Books, 1990), p. 114; Ellinghaus, 'Margins of Acceptability', p. 67; Ellinghaus, *Taking Assimilation to Heart*, pp. 157-158; Tracy Spencer, "'Woman Lives as a Lubra in Native Camp': representations of shared space", *Journal of Australian Studies* vol. 28, no. 82 (2004), p. 63.



century.<sup>22</sup> The couple's fathers were both described on the certificate as labourers, and so in class terms, it appears to have been a suitable match. This legal document had no space to write the race of the consenting parties. The only hint that there was anything amiss is that the ceremony took place in the rectory as opposed to the church in Gulgong.<sup>23</sup> While some historians have used this as evidence of early racial prejudice that the couple faced, there was also another explanation for the unusual venue. Ethel was already five months pregnant when she became Mrs James Governor.<sup>24</sup>

This piece of information did not just drop from the lips of gossiping locals, but was broadcast in the press almost as soon as the events at Breelong unfolded. It was six days after the murders had been committed, five days since Ethel and her eleven month old son Sidney had been captured by police and three days since the inquest into the Breelong murders had begun when the local papers turned their attention to Ethel's sex life. In an article entitled 'The Mysterious White Woman', the *Singleton Argus* presented an exclusive interview with Mrs Governor, but laced her statements with local rumour and personal condemnation.

I have just interviewed Mrs Governor...She tells me she was married to Jimmy, who is undoubtedly the instigator of this awful deed, at Gulgong some 18 months ago by Rev. F. T. Haviland, Church of England. He only consented, it is said, to perform the ceremony at the earnest solicitations of the girl's mother, who, for reasons which may be understood, wished to save her daughter's reputation. One naturally wonders what manner of woman the mother

---

<sup>22</sup> In the 1903 Inquiry into the decline of the birth rate in New South Wales, for example, the earliest age that women were married was 14. T. A. Coghlan, *The Decline of the Birth-Rate of New South Wales and Other Phenomena of Child-birth* (Sydney: William Applegate Gullick, 1903).

<sup>23</sup> Ethel and Jimmy's marriage certificate was reproduced in Ellinghaus, *Taking Assimilation to Heart*, p. 155.

<sup>24</sup> Garland, *Jimmy Governor*, p. 118; Ellinghaus, *Taking Assimilation to Heart*, p. 153; Moore and Williams, *The True Story of Jimmy Governor*, p. 18; 'Gulgong', Anglican Diocese of Bathurst. Accessed 19 February 2016 via: <<http://www.bathurstanglican.org.au/Parishes/Gulgong.html>>

was...The fate of this girl and her offspring seems more awful, if that may be, than the victims of her husband's murderous rage.<sup>25</sup>

In a similar tone, the *Mudgee Guardian* reporter declared

The idea of marrying this white child...“to save her name” is really very, very funny, and...more or less blasphemous....it would have been far better to leave her free to go and sin no more than to perpetuate her prostitution by cementing it with the sacrament of marriage.<sup>26</sup>

Despite these vehement statements, Ethel was not a ‘prostitute’.<sup>27</sup> She may have had sex with Jimmy Governor before they were married, but this situation was still a relatively common one in colonial Australia. As Frank Bongiorno has written, ‘in the late nineteenth century, around a third of children born in wedlock had been conceived out of it.’ The spiritual and moral sins of premarital sex were commonly forgotten if the couple were married before the birth of the child.<sup>28</sup> The baby would not be a ‘bastard’ but entitled to the same rights to their father’s name and property as any child conceived in wedlock.<sup>29</sup> The comments of these newspapers were inconsistent with broader public opinion about working-class respectability and sex before marriage, and this is what makes them significant. From these sources, it is clear that Ethel’s choice of husband was considered so disruptive to colonial society that normal standards could not be applied.

---

<sup>25</sup> ‘The Mysterious White Woman’, *Singleton Argus* (26 July 1900), p. 2.

<sup>26</sup> ‘Occasional Pars’, *Mudgee Guardian* (9 August 1900), p. 3.

<sup>27</sup> *ibid.*

<sup>28</sup> Frank Bongiorno, *The Sex Lives of Australians* (Melbourne: Black Inc., 2012), p. 100.

<sup>29</sup> Coghlan, *The Decline of the Birth-Rate*. In the 1903 Inquiry into the decline of the birthrate in New South Wales for example, illegitimacy was defined as the birth of a child outside of marriage, as opposed to ante-nuptial conception.



Figure 13: Unknown Photographer, *Ethel Governor*, c.1900.<sup>30</sup>

### *A Dutiful Wife and a Woman's Choice*

It would be easy to dismiss these articles as an obvious response to the Breelong murders. Of course Ethel's marriage was ridiculed—what pretensions could she have to respectability when she was married to an Aboriginal man, now a violent murderer? But the reality was not so simple. In Jimmy and Ethel's lives, patriarchal and racial

---

<sup>30</sup> Source: University of Newcastle, John Turner Collection, C917-0414. Accessed 12 February 2016 via: <https://www.flickr.com/photos/uon/7966949784> >

hierarchies intertwined. In one respect, Ethel was a wife and a woman beholden to her husband. Although the *Married Women's Property Act* had been amended in 1893 to give married women greater legal power in their own right, Prue Vines has illustrated that these reforms were implemented differently on the ground. Married women largely remained legally and economically dependent on their husbands into the twentieth century.<sup>31</sup> Quite apart from these practical grounds, there were also emotional and symbolic ties between Ethel and Jimmy. She and her son bore Governor's name. Even though Ethel publicly condemned her husband's murderous actions, when it came to their personal affairs, she was unswervingly loyal. When asked by a reporter whether it 'would have been better to remain single rather than marry an aboriginal' Ethel responded, "You might think so, but I was very fond of Jimmy... I don't want to give him up...He was very good to me, he was."<sup>32</sup> In court, when Ethel believed she was being asked whether taunts about her marriage affected her relationship with Governor, she was apparently indignant and bluntly replied "No...not a bit."<sup>33</sup> Even after the horrors described in the trial, after the judge donned his black cap and passed the

---

<sup>31</sup> *Married Women's Property Act* 1893 (NSW) 56 Vict. No. 11, pp. 13-19; Prue Vines, 'Annie Ludford, Postmistress: the *Married Women's Property Acts* and public service employment in 1890s NSW', *Law and History* vol. 2 (2015), pp. 146-176. See also Frank Bates, 'To Have but Not to Hold by Henry Finlay. Book Review', *UNSW Law Journal* vol. 29, no. 2 (2006), p. 278.

Although some women were productive members of the workforce in their own right, they were the exceptions and not the rule. For working women, see Catherine Bishop, *Minding Her Own Business: colonial businesswomen in Sydney* (Sydney: New South Press, 2015); Margo Beasley, 'Sarah Dawes and the Coal Lumpers: absence and presence on Sydney waterfront, 1900-1917', PhD Thesis (University of Wollongong, 2004).

<sup>32</sup> 'The Woman's Sad Story', *Singleton Argus* (26 July 1900), pp. 2-3.

<sup>33</sup> 'Jimmy Governor: Thursday's Trial', *Evening News* (23 November 1900), p. 3.

sentence of death, Ethel still visited Jimmy Governor in prison until he was taken away and hanged.<sup>34</sup>

In response to these apparent contradictions, newspapers described Ethel as an aberrant female, 'past comprehension.'<sup>35</sup> Public responses dismissed her as a 'misled slatternly slut' and fixated on the apparent 'depravity of her nature.'<sup>36</sup> White Australians were 'astounded and horrified' but neither they nor contemporary historians have made any real attempt to *understand* Ethel Governor.<sup>37</sup> When we look at the historical traces of her life, however, Ethel's motivations for remaining loyal to Jimmy Governor appear complex, but not beyond comprehension.

Although no newspaper entertained this idea, Ethel genuinely wanted to be Jimmy's wife. Even after the murders, she unashamedly told *Singleton Argus* that 'a lot of girls wanted to have' Jimmy when they lived in Gulgong. Ethel even went as far as to declare that Jimmy had been forced to leave his job as a tracker with the Cassilis police because a 'man threatened to shoot him if he did not marry his daughter.'<sup>38</sup> Decades later in 1960, a witness who knew the Governors was still supporting this view. In the *Coonabarabran Times*, Sam Ellis recalled that 'Jimmy's wife told me the history of their courtship and of how many white girls she beat to him and what a heroine she thought

---

<sup>34</sup> NSWSA: Darlinghurst Gaol; NRS 2166, Diary of Officer Doing Duty Over Jimmy Governor, 1900-1901 [6/1029]; NSWSA: Darlinghurst Gaol; NRS 2163, Condemned Prisoners' Daily Record, 1900-1901 [5/1739], pp. 42-43.

<sup>35</sup> 'The Woman's Sad Story', *Singleton Argus* (26 July 1900), pp. 2-3.

<sup>36</sup> 'The Brutal Breelong Blacks', *Truth* (28 October 1900), p. 3; 'The Woman's Sad Story', *Singleton Argus* (26 July 1900), pp. 2-3.

<sup>37</sup> 'The Woman's Sad Story', *Singleton Argus* (26 July 1900), pp. 2-3.

<sup>38</sup> *ibid.*

herself when she became legally married to him...'<sup>39</sup> Ethel was proud that she had won the affection of such a desirable man.

More than dutiful, wifely loyalty, desire or pride, Ethel was also connected to Jimmy through their children. Ethel became pregnant with their second child only weeks before the murders at Breelong.<sup>40</sup> This is a fact that no newspaper and very few history books make note of, but it could be a fierce motivator of her actions.<sup>41</sup> When Ethel gave evidence against her husband at his murder trial, and when she visited him on death row, she was between four and five months pregnant.

One pressing question for Ethel was how she and her children were to survive without the support of her husband. Four days after the Breelong murders, Ethel herself was arrested by the police and imprisoned in Dubbo Gaol. She remained there for sixty-nine days without charge as the Attorney General and Crown Prosecutor deliberated what was to be done with her.<sup>42</sup> There is no record of what happened to Sidney while Ethel was incarcerated.<sup>43</sup> When she was released from gaol on the 1<sup>st</sup> of October, Jimmy was still on the run from the police and on the 23<sup>rd</sup> he was also declared an outlaw.<sup>44</sup> As such, all of his possessions and money were confiscated by the state, and Ethel was

---

<sup>39</sup> Sam Ellis' reminiscence is quoted in Roy Cameron, 'Breelong Tragedy' in Kathielyn Job (ed.), *Around the Black Stump* (Coolah: Council Shire of Coolah, 1993), p. 88.

<sup>40</sup> NSW RBDM, *Thelma H. R. Governor, Baptism Certificate*. Registration number 18315/1901.

<sup>41</sup> Maurie Garland is the only historian to bring Ethel's pregnancy to bear on her actions or integrate it into the history of Jimmy Governor's court trial. See Garland, *Jimmy Governor*, p. 273.

<sup>42</sup> 'Dubbo Circuit Court', *Dubbo Liberal* (3 October 1900), p. 3; Moore and Williams, *The True Story*, p. 47.

<sup>43</sup> It is possible that Sidney was living with Ethel's parents in Dubbo. 'Dubbo Circuit Court', *Dubbo Liberal* (3 October 1900), p. 3; Moore and Williams, *The True Story*, pp. 25, 27; Garland, *Blood on the Tracks*, p. 27.

<sup>44</sup> 'Proclamation', *Mudgee Guardian* (25 October 1900), p. 13.

left destitute.<sup>45</sup> Although there had been a brief flourishing of government sponsored welfare institutions in New South Wales in the 1890s depression, by 1900 these had largely disappeared. The main support came from the old charity organisations that relied on the goodwill of individuals to provide basic assistance for the ‘deserving poor’.<sup>46</sup> Ethel moved to Sydney while the hunt for her husband escalated, and in November she was found by reporters to be living in one of these charitable institutions while she awaited details of Jimmy’s whereabouts.<sup>47</sup>

Ethel had many good reasons to try to mend colonial opinion of her and to publicly condemn her husband’s crimes. Quite apart from any revulsion she may have felt towards the murders, she now relied on white public opinion and goodwill to support her growing family. There is no evidence that Ethel interacted with any of Jimmy’s Aboriginal relatives, except for three who stayed with the couple for a short time at their Breelong camp.<sup>48</sup> Despite the *Mudgee Guardian*’s hysterical claims that Ethel had ‘consented to live a black gin’s life’, she did not turn to Aboriginal people, but white society for help.<sup>49</sup> And with her Aboriginal, murderous husband and ‘mixed race’ offspring, the odds of white society supporting her were not in Ethel’s favour.

---

<sup>45</sup> ‘The Breelong Tragedy: trial of the Aboriginal Jimmy Governor’, *Sydney Morning Herald* (23 November 1900), p. 7; *Felon’s Apprehension Act* 1899 (NSW) 63 Vict. No. 26, pp. 233-236.

<sup>46</sup> Brian Dickey, *No Charity There: a short history of social welfare in Australia* (Sydney: Allen & Unwin, 1980), pp. 72-108; Stephen Garton, *Out of Luck: poor Australians and social welfare* (Sydney: Allen & Unwin, 1990), pp. 74-83.

<sup>47</sup> ‘Ethel Governor told of her husband’s arrest’, *Evening News* (1 November 1900), p. 6.

It seems likely that Ethel moved from Dubbo to Sydney after she was released from prison in an attempt to avoid the scandal that she and her husband had created in rural New South Wales.

<sup>48</sup> Moore and Williams, *The True Story*, p. 55; ‘Interview with one of the Mawbey Family’, *Sydney Morning Herald* (23 July 1900), p. 8; ‘The Breelong Tragedy’, *Northern Star* (28 July 1900), p. 5; ‘The Breelong Murders’, *Bathurst Free Press* (25 July 1900), p. 2.

<sup>49</sup> ‘About Aboriginals’, *Mudgee Guardian* (16 August 1900), p. 20.

### *Race, Law and Re-establishing Order*

These complex layers of Ethel's life could not be accommodated in the press or the everyday gossip that circulated around Breelong. In colonial discourse, patriarchal authority, personal attachment, material survival and female agency were at odds with understandings about race. Relationships between Aboriginal men and white women were almost unheard of in the 1900s, and a reassuring paradigm was established to justify the absence of white women in relationships with Aboriginal men.<sup>50</sup> As Victoria Haskins and John Maynard describe, 'in Australia there was from the outset an attempt to completely diffuse the sexuality of Aboriginal men and render him sexually, as well as socially impotent.'<sup>51</sup> Aboriginal men were deemed to be undesirable to white women: it was absurd that such men could threaten whites in the sexual or marital stakes. Jackie Huggins and Thom Blake take this argument even further. They observe that had the tables been reversed and Ethel was Aboriginal while Jimmy was white, the couple would have had to apply to the New South Wales Aboriginal Protection Board (hereafter APB) for permission to marry. There were no restrictions governing who Aboriginal men could marry because 'it was inconceivable that a white woman would consent to marry an Aboriginal man.'<sup>52</sup> And yet, Ethel not only remained steadfast in her attachment to Jimmy but boasted that she had *won* her husband. She did not appear to be alone in finding Jimmy desirable. There were other white women as well. Jimmy and Ethel Governor's relationship undermined colonial understandings about race, sex and

---

<sup>50</sup> Ellinghaus, *Taking Assimilation to Heart*; Ellinghaus, 'Margins of Acceptability', pp. 56-75.

<sup>51</sup> Victoria Haskins and John Maynard, 'Sex, Race and Power: Aboriginal men and white women in Australian History', *Australian Historical Studies* vol. 26, no. 126 (2005), p. 206.

<sup>52</sup> Jackie Huggins and Thom Blake, 'Protection or Persecution? Gender relations in the era of racial segregation' in Kay Saunders and Raymond Evans (eds.), *Gender Relations in Australia: domination and negotiation* (Sydney: Harcourt Brace, 1994), p. 49; Wood, 'The "Breelong Blacks"', p. 113.



gender. It could not be accepted by settler Australians because it fundamentally challenged their beliefs about the world.

Colonists' repudiation of Ethel and Jimmy's relationship is not only reflected in their depiction of Ethel as a prostitute, but by the inconsistent application of the law. Although, in theory, the law is a self-referential system determined by legislation and precedent, legal scholars recognise that social and cultural ideas affect how the law is interpreted. Some laws may be overlooked, while others are enforced to align legal rulings with the cultural values of the society they represent.<sup>53</sup> Ethel stood before three separate hearings and gave evidence about the Breelong murders.<sup>54</sup> This was despite the fact that precedents in England as well as legislation in New South Wales viewed a wife giving evidence against her husband as inherently problematic. In British law, a wife was never to give evidence against her spouse. As Montague Lush wrote in *The Law of Husband and Wife*, in 'common law, on account of their having the same "affections and interests," neither husband nor wife could give evidence for or against each other.'<sup>55</sup> According to these doctrines, Ethel should not have been included in any of the trials because a husband and wife were 'considered in law as one person, and are presumed

---

<sup>53</sup> See for example Mark Finnane, 'Settler Justice and Aboriginal Homicide in Late Colonial Australia', *Australian Historical Studies* vol. 42, no. 2 (June 2011), pp. 244-259; Lisa Ford, *Settler Sovereignty: jurisdiction and Indigenous peoples in America and Australia, 1788-1836* (Cambridge, Mass.: Harvard University Press, 2010); Chris Cunneen, *Conflict, Politics and Crime: Aboriginal communities and the police* (Sydney: Allen & Unwin, 2014), pp. 46-79; Mark Finnane and Heather Douglas, *Indigenous Crime and Settler Law: white sovereignty after empire* (Basingstoke: Palgrave Macmillan, 2012).

<sup>54</sup> See for example, Ethel at the original inquest into the Mawbey murders, at the trial of Jacky Underwood and then the trial of her husband. 'The Breelong Murders: the inquest', *Mudgee Guardian* (23 July 1900), 5; 'The Gilgandra Tragedy', *Sydney Morning Herald* (24 July 1900), 5; 'Dubbo Circuit Court', *Dubbo Liberal* (3 October 1900), 3; 'Jimmy Governor: Thursday's trial', *Evening News* (23 November 1900), p. 3.

<sup>55</sup> Montague Lush, *The Law of Husband and Wife* (London: Stevens and Soms Limited, 1896), pp. 473.

to have but one will.’<sup>56</sup> If one spouse testified against the other it amounted to self-incrimination, as they were one legal entity.<sup>57</sup>

In New South Wales, these British principles were amended and applied in the *Criminal Law and Evidence Amendment Act* of 1891. This was the basis upon which Ethel’s role in court should have been decided, but it too was largely overlooked.<sup>58</sup> According to section 6, the husband or wife of someone charged with an indictable offence should ‘be competent, but not compellable, to give evidence...’ at their spouse’s hearing.<sup>59</sup> At Jimmy Governor’s murder trial, the issue of whether Ethel understood that she could not be forced to give any evidence against her husband remained unresolved.<sup>60</sup> Facing a court full of journalists who avidly documented her every movement, lawyers who cross examined her testimony, hundreds of eager onlookers in the public galleries and a husband who ‘never took his eyes off his wife’s face’, Ethel gave evidence in a highly-charged environment.<sup>61</sup> She was well into her testimony before Jimmy Governor’s

---

<sup>56</sup> John William Edwards, *The Law of Husband and Wife* (London: Butterworths, 1883), p. 48.

<sup>57</sup> Wendy Harris, ‘Spousal Competence and Compellability in Criminal Trials in the Twenty First Century’, *Queensland University of Technology Law and Justice Journal* vol. 3, no. 2 (2003), pp. 2-3.

<sup>58</sup> While New South Wales gained a great deal of legislative power with responsible government, it still did not have complete freedom to create any law the parliament wished. New South Wales could not create laws that were ‘repugnant to Imperial legislation extending to the colonies, and colonial parliaments could only amend their constitutions in accordance with the manner and form laid down by existing law.’ ‘Australia’s Constitutional Milestones’, Parliament of Australia. Accessed 12 April 2016 via: <[http://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/Publications\\_Archive/online/Milestones](http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/Publications_Archive/online/Milestones)>. See also Angela Woollacott, *Settler Society in the Australian Colonies: self-government and imperial culture* (Oxford: Oxford University Press, 2015), 98-122; Anna Doukakis, *Aboriginal People, Parliament and ‘Protection’ in New South Wales, 1856-1916* (Sydney: The Federation Press, 2006), xiv-xv.

<sup>59</sup> *Criminal Law and Evidence Amendment Act* 1891 (NSW) 55 Vict. No. 5, pp. 7-12; Gregory D. Woods, *A History of Criminal Law in New South Wales; the colonial period, 1788-1900* (Sydney: The Federation Press, 2002), pp. 367-368.

<sup>60</sup> ‘The Breelong Tragedy’, *Sydney Morning Herald* (23 November 1900), p. 7; ‘Jimmy Governor: Thursday’s Trial’, *Evening News* (23 November 1900), p. 3. The issue of whether Ethel’s evidence was admissible was also raised in Jacky Underwood’s trial. ‘Dubbo Circuit Court’, *Dubbo Liberal* (3 October 1900), p. 3.

<sup>61</sup> ‘Jimmy Governor. Thursday’s trial’, *Evening News* (23 November 1900), p. 3.

barrister questioned whether she knew that she could not be made to testify. Despite two previous hearings where she had given evidence, Ethel initially declared that she was 'not well enough educated to understand' her rights in the matter. It was only after the judge drew attention to Ethel's ignorance and addressed the subject in open court that she changed her mind and agreed to continue her statement.<sup>62</sup>

Although the 'laws of husband and wife' were deeply embedded in British and colonial consciousness, in Ethel's case the specific legislation was ambiguously applied. It appears therefore, that even the law was complicit in invalidating Ethel and Jimmy's marriage. According to a courtroom of learned white men, there was no need to view Ethel as an extension of her husband, or the couple's interests and affections as bound together through matrimony. There was apparently no loyalty, mutual affection or respect between the two. Issues of race, gender and morality converged in the large interior of the Central Criminal Court in Sydney. And in the eyes of the law, Ethel and Jimmy's relationship was found wanting.

It is difficult to reconcile the image of a Jimmy Governor as husband and father with that of a murderer who killed women and children. There is an uncomfortable symmetry between Governor's pregnant wife and young son, and the pregnant Mrs O'Brien and her fifteen-month-old son whom Jimmy and Joe killed three days after the Mawbey murders.<sup>63</sup> While Jimmy Governor's 'rampage' is constantly cast as beyond the realm of human reason, the brutality of his crimes should not silence his relationship

---

<sup>62</sup> *ibid.*; 'The Breelong Tragedy', *Sydney Morning Herald* (23 November 1900), p. 7. See also Terry Threadgold, 'Black Man, White Woman, Irresistible Impulse: media, law and literature making the black murderer' in Pheng Cheah, David Fraser and Judith Grbich (eds.), *Thinking Through the Body of the Law* (New York: New York University Press, 1996), p. 183.

<sup>63</sup> 'The Merriwa Murders', *Sydney Morning Herald* (27 July 1900), p. 8.

with his family. By enlarging our frame of reference, we can see that in 1900, these apparently contradictory images of Jimmy Governor existed side by side, and the strength of Jimmy and Ethel's relationship rendered it a threat to colonial society. Its erasure is a contemporary development that does not reflect the historical reality of which it was a part. And its absence from histories about Jimmy Governor and the Breelong murders is anything but benign.

## **The Aboriginal People of Wollar**

This is not to say that developments in research on Jimmy Governor have not been made. After the 'Great Australian Silence' about white Australia's Aboriginal past began to break in the 1970s, historians and writers changed their approach to the 'Breelong tragedy.' While Governor's actions were still condemned, it was now commonly recognised that 'The murders that Jimmy Governor committed took place against a backdrop of [Aboriginal] dispossession, displacement, oppression and in many cases, the murder of now nameless Aboriginal people.'<sup>64</sup> The death of white people at the hands of Aboriginal men was noteworthy because it inverted the colonial power dynamic. While white colonists had been killed by Aboriginal people after 1788, and sometimes large groups were massacred, the number of Aboriginal victims surpassed the number of whites by tens of thousands.<sup>65</sup> In 1900, four decades after frontier warfare

---

<sup>64</sup> Clare Britton, 'Posts in a Paddock: revisiting the Jimmy Governor tragedy, approaching reconciliation and connecting families through the medium of theatre', *Journal of the European Association for Studies of Australia* vol. 4, no. 1 (2013), p. 156. For other examples that recognise this colonial legacy, see note 14.

<sup>65</sup> Although there was debate in Australia during the 2000s about the number of Aboriginal casualties, it is widely accepted by historians that their deaths ranged in the tens of thousands. For statistics, see Henry Reynolds, *The Other Side of the Frontier: Aboriginal resistance to the European invasion of Australia* (Sydney: UNSW Press, 2006), pp. 9-11, 125-131; Henry Reynolds, *Forgotten War* (Sydney: New South,

ended in New South Wales, the tables turned and three black men slaughtered whites.<sup>66</sup> This perspective is crucial for understanding the significance of the Governor murders, but it should not distract us from the fact that Aboriginal people were also affected by Jimmy Governor's actions. This was never a simple story of a black man threatening white power. By moving from the experiences of Jimmy Governor's nuclear family to those of his extended, Aboriginal family at Wollar, we can not only access the Aboriginal impact of the 'Governor rampage', but explore how white settlers reacted when they were confronted with Aboriginal violence once more.

### ***Wollar At War***

Wollar is a country village about forty-eight kilometres from Mudgee, New South Wales.<sup>67</sup> In the 1900s, it was described as 'an eccentric little place, which looks as if it fell into its present position on the flats...and has been too languid ever since to climb out'.<sup>68</sup>

From the Mudgee side ingress is made through the Wollar Gap, a narrow, winding pass...coming down this road one almost stumbles on the village as, 200 yards further back, the traveller would not suspect it was so near...Wild as the country is on the Mudgee side that on towards Merriwa beggars description. For 13 miles to the Goulbourn River the country is probably the wildest of any in Australia.<sup>69</sup>

---

2013). For references to the debate over frontier warfare, see for example Robert Manne (ed.), *Whitewash: on Keith Windschuttle's fabrication of Aboriginal history* (Melbourne: Black Books Inc, 2003).

<sup>66</sup> Heather Goodall, *Invasion to Embassy: land in Aboriginal politics in New South Wales, 1770-1972* (Sydney: Sydney University Press, 2008), pp. 124-125; Richard Waterhouse, 'Australian Legends: representations of the bush, 1813-1913', *Australian Historical Studies* vol. 31, no. 115 (2000), p. 209. It is important to note that in the north and west of the country colonisation was late and uneven, and frontier violence continued into the twentieth century.

<sup>67</sup> 'Country About Wollar', *Singleton Argus* (31 July 1900), p. 2.

<sup>68</sup> 'The Breelong Blacks', *Daily Telegraph* (30 July 1900), p. 7.

<sup>69</sup> 'Country About Wollar', *Singleton Argus* (31 July 1900), p. 2.

In the 1890s, journalist Harold MacKenzie reported that it was rare to see a group of Aboriginal people, 'as most have long since died out in these parts' although at 'Wollar there are still a small number, who have cosy quarters on the creek bank, living peaceably and happily enough, and at times doing little jobs in the shape of "ringing," burning off, and other things'.<sup>70</sup> At the turn of the century Wollar had a population of only one hundred white residents and the *Daily Telegraph* bestowed it with the dubious honour of being 'one of the deadest [most uneventful] places in the colony' at ordinary times.<sup>71</sup> But in July 1900, 'the sleepy village' awoke to become a 'theatre of frenzied excitement'.<sup>72</sup>

Almost as soon as the authorities received word of the events at Breelong, it was believed that the murderers were making for Wollar and so police and civilians flocked to the town. Less than two weeks later, the *Dubbo Dispatch* declared that 'Wollar resembles a regular camp in time of war. Sentries are posted all round the town, and no one is allowed to pass without the password "Bobs." Men are constantly galloping in for or with instructions'.<sup>73</sup> Newspapers estimated that fifty police officers and over three hundred bushmen had descended upon the village, more than tripling its previous

---

<sup>70</sup> Harold M. MacKenzie, 'Among the Pastoralists and Producers', *Maitland Mercury* (1 August 1896), p. 13.

<sup>71</sup> 'The Aboriginal Murderers', *Evening News* (31 July 1900), p. 8; 'The Breelong Blacks', *Daily Telegraph* (30 July 1900), p. 7.

<sup>72</sup> No attributed author, *Wollar, 1885–1985: the sleeping village* (Wollar: Wollar Centenary Publishing Committee, 1985); 'The Black Murderers', *Age* (31 July 1900), taken from NSWSA: [Police] Special Bundles; NRS 10923, Papers re-Joe and Jimmy Governor [4/8581] Doc 79. This source from the NSWSA refers to three boxes containing all of the police documents kept on the Jimmy Governor case, from telegrams, to memoranda, to letters from civilians and more.

<sup>73</sup> 'The Breelong Blackfellows', *Dubbo Dispatch* (1 August 1900), p. 2.

population.<sup>74</sup> Despite the swelling number of people, newspaper correspondents were quick to discover that communication was anything but easy. No telegraph lines reached this remote place, and so news of the Governors' whereabouts was often late and hard to distribute. One reporter even brought his own carrier pigeons to obviate this difficulty, however difficulties persisted.<sup>75</sup> Not only did search parties often return to find that the Governors had been spotted in a different area, but there was little by way of comfort in the town itself.<sup>76</sup> After a fifty mile ride through the scrub, the *Daily Telegraph* correspondent was upset to find that 'every available place [in the town was] crammed with humanity' and that he would have to camp on the floor. All dwellings were initially barred to him as no one had told him the password. And, to add insult to injury, the reporter discovered that the 'local supply of whisky had given out'.<sup>77</sup> These were trying times indeed.

Circumstances were worse for the Aboriginal community at Wollar. Extraordinary steps were taken in the name of protection. Quite apart from fortifying the town, one of the first measures that police and residents took was to relocate the town's small Aboriginal population. The women, children and elderly were taken from the creek into the town centre where they were locked in the local hall after 7pm each night. This arrangement was maintained from the 23<sup>rd</sup> of July until the 22<sup>nd</sup> of August 1900. The young and able-bodied Aboriginal men were separated from the rest of the

---

<sup>74</sup> 'Murders by Blacks', *Sydney Morning Herald* (1 August 1900), p. 11; 'The Breelong Blackfellows', *Dubbo Dispatch* (1 August 1900), p. 2.

<sup>75</sup> 'Aboriginal Murderers', *Cootamundra Herald* (1 August 1900), p. 2. For the lack of communication, see also 'The Murders by the Blacks', *Sydney Morning Herald* (28 July 1900), p. 12; 'The Breelong Blacks', *Daily Telegraph* (30 July 1900), p. 7.

<sup>76</sup> 'Murders by Blacks', *Sydney Morning Herald* (1 August 1900), p. 11.

<sup>77</sup> 'The Breelong Blacks', *Daily Telegraph* (30 July 1900), p. 7.

group and placed in the town's lockup.<sup>78</sup> From the records, it is impossible to discern the exact identities of all the Aboriginal people at Wollar, but a significant number were either Jimmy Governor's acquaintances or relatives. Nevertheless, the day after the Breelong murders, stories began to circulate that Governor intended to harm some of 'the Wollar Blacks'. News reporters and police had difficulty naming Jimmy Governor's intended targets and they were variously described as: 'Jimmy Coombes', three people who killed his father, 'all the blackfellows', 'Jimmy's brothers and sisters and cousins', 'all the blackfellows save...[Jimmy's] mother and uncle'.<sup>79</sup> Despite their inconsistencies, these reports unanimously declared Wollar's Aboriginal people to be in danger.

These sources depict the incarceration of the Aboriginal population of Wollar as a benevolent attempt to protect them from their blood-crazed brethren, and this appears to align neatly with contemporary beliefs about Aboriginal people.<sup>80</sup> At the turn of the twentieth century, many believed that Aboriginal people would soon disappear from Australia. Colonists often remarked that 'in the South [of the country] the blacks ha[d already] practically disappeared' while old settlers remembered a time when Aboriginal people were an inescapable part of the colonial experience and declared how dramatically times had changed.<sup>81</sup> In the wake of Charles Darwin's bestselling work on

---

<sup>78</sup> NSWSA, Papers re-Joe and Jimmy Governor.

<sup>79</sup> *ibid.* 'The Breelong Tragedy', *Sydney Morning Herald* (28 July 1900), p. 2; 'General Particulars', *Maitland Mercury* (4 August 1900), p. 7; 'The Breelong Blacks', *Daily Telegraph* (23 August 1900), p. 6.

<sup>80</sup> The concept of 'Aboriginal protection', however, has always been an ambiguous one. For early examples, see Amanda Nettelbeck, 'Creating the Aboriginal "Vagrant"', *Pacific Historical Review* vol. 78, no. 1 (2018), pp. 79-100; Amanda Nettelbeck, "'A Halo of Protection': colonial protectors and the concept of Aboriginal protection through punishment', *Australian Historical Studies* vol. 43, no. 3 (2012), pp. 396-411; Elizabeth Elbourne, 'The Sin of the Settler: the 1835-36 Select Committee on Aborigines and Debates over Virtue and Conquest in the Early Nineteenth-century White Settler Empire', *Journal of Colonialism and Colonial History* vol. 4, no. 3 (2003).

<sup>81</sup> St Michel-Podmore, *Rambles and Adventures* (London: L. Upcott Gill, 1909), p. 49; Waterhouse, 'Australian Legends', p. 209; Richard Waterhouse, *The Vision Splendid* (Fremantle: Curtin University Press, 2005), p. 170.



evolution, it was easy to imagine the disappearance of Aboriginal Australians as a natural and inevitable outcome of violence, dispossession and contact with Europeans.<sup>82</sup> As a 'dying race' it appeared that Aboriginal people were in need of settlers' protection.

The problem with this notion of disappearance was that it depended on a narrow view of who counted as an Aboriginal person. As Paul Irish has written of coastal Sydney, to some Europeans 'local Aboriginal culture was represented by a shrinking group of tribal celebrities with deep links to the local area'.<sup>83</sup> The generations of Aboriginal people who were born into a post-contact world were perceived to be less Aboriginal than their ancestors. 'In the myopic logic of the time, the direct descendants and contemporaries of tribal celebrities were not considered to retain any knowledge or authenticity, especially if they also had European ancestry'.<sup>84</sup> While there may have been a decline in the number of so-called 'real' Aboriginal people by the turn of the century, there was an increase in the number of Aboriginal people of mixed parentage, who were pejoratively labelled 'half-castes'. Indeed, colonial Australians were increasingly aware of this population, as many claimed colonial assistance in the wake of the 1890s depression, and anxiety about the 'half-caste problem' was exacerbated by concerns about the declining birth rate among white settlers.<sup>85</sup> Although some colonists saw

---

<sup>82</sup> Russell McGregor, *Imagined Destinies: Aboriginal Australians and the Doomed Race Theory, 1880-1939* (Melbourne: Melbourne University Press, 1997), pp. 29-59; Charles Darwin, *The Origin of the Species* (London: John Murray, 1859); Phillipa Levine, 'Anthropology, Colonialism, and Eugenics' in Alison Bashford and Phillipa Levine (eds.), *The Oxford Handbook of the History of Eugenics* (Oxford: Oxford University Press, 2010), pp. 43-61; Richard White, *Inventing Australia: Images and Identity, 1688-1980* (Sydney: Allen & Unwin, 1981), pp. 66-72.

<sup>83</sup> Paul Irish, *Hidden in Plain View: the Aboriginal people of Coastal Sydney* (Sydney: New South Publishing, 2017), p. 103.

<sup>84</sup> *ibid.*, p. 91.

<sup>85</sup> Richard Egan, *Neither Amity nor Kindness: government policy towards Aboriginal people of New South Wales 1788-1969* (Sydney: Richard Egan, 2012), pp. 85-102; J. J. Fletcher, *Clean, Clad and Courteous: a history of Aboriginal education in New South Wales* (Sydney: Southwood Press, 1989), pp. 31-96; Doukakis, *The Aboriginal People*, pp. 48-94; Heather Goodall, 'New South Wales' in Ann McGrath (ed.),

Aboriginal people as part of a vulnerable, vanishing race, others feared the growth of the mixed-race Aboriginal population of which Jimmy Governor was a part. Colonial ideas about race could make menaces as well as victims of the Aboriginal people of Wollar.

### *An Ambiguous Case of "Protection"*

Incorporation into the white community (albeit on unequal terms) appeared to be one solution to the rising number of mixed-race Aboriginal people, however, Jimmy Governor challenged this approach. His life before his crimes appeared to be a perfect example of successful assimilation. Governor attended various public schools until he was able to start working. He was an expert sportsman, and 'old Wollar residents recalled that "Jimmy was quick and intelligent and learned to read and write well" ...[he was]... "well liked, handsome, strong, agile, sober, hardworking, honest and trustworthy"''.<sup>86</sup> Governor never seems to have aspired to transcend his class, but he took pride in his work and appealed to working-class notions of respectability.<sup>87</sup> After the massacre at Breelong, it was Jimmy Governor's use of white norms that worried his Anglo contemporaries. 'It seems dreadful to contemplate that two men [Jimmy and Joe Governor], who have moved in the midst of civilisation from their cradle, yet are not

---

*Contested Ground: Australian Aborigines under the British Crown* (Sydney: Allen & Unwin, 1996), pp. 73-80.

<sup>86</sup> Moore and Williams, *The True Story*, pp. 8-20.

<sup>87</sup> See for example Reynolds, 'Jimmy Governor and Jimmie Blacksmith', pp. 14-25. Moore and Williams even contend that Mr Mawbey deliberately hired Jimmy after he had seen the merit of his work. Moore and Williams, *The True Story*, p. 20.

civilised, can continue to go on to such desperate end' an *Evening News* reporter declared.<sup>88</sup>

To white observers, Jimmy Governor's actions seemed to prove that Aboriginal people were incapable of accepting the 'gift of civilisation'. Despite the appearance that Governor had assumed white ways, he turned his back on that life at the same time as destroying the lives of others. This had serious ramifications for the Aboriginal people of Wollar who lived in similar circumstances. While Governor's family was demonised in the press as 'loafers', many of his Wollar relatives also worked on local properties and had the same educational opportunities.<sup>89</sup> There appeared to be nothing to stop Jimmy Governor's 'tribe' from following in his footsteps. It was only a small number of metropolitan newspapers that painted the Wollar Aboriginal people as victims in need of support. The more powerful narrative, especially in regional Australia, was that the 'Wollar blacks' were dangerous, and it was actually white people who needed protection. There was a strong argument that if left to their own devices, 'the other blacks...would be too eager to join the desperadoes in their ghoulish deeds'.<sup>90</sup>

The idea of confinement as 'benevolent necessity' breaks down even further when we examine the experiences of the five Aboriginal men who were imprisoned in the Wollar lockup. For approximately twenty-seven days these men were contained in a log cell ten feet squared in size. They remained in this 'building' for all but four hours during the day when they were allowed out for exercise. They were never charged for

---

<sup>88</sup> 'The Aboriginal Murderers', *Evening News* (31 August 1900), p. 8.

<sup>89</sup> 'A Problem of the Future', *Mudgee Guardian* (16 August 1900), p. 3; NSWSA, Papers re-Joe and Jimmy Governor.

<sup>90</sup> 'The Black Horror', *Scone Advocate* (3 August 1900), p. 4.

any offence during their incarceration.<sup>91</sup> While this arrangement must have been known to all within the small town, only the *Mudgee Guardian* and *Evening News* reporters felt inclined to mention the matter to their readers, and they did not condemn the situation.<sup>92</sup> Although the *Evening News* reporter conceded that the 'blacks' had always been law abiding members of 'the local camp' and were now '...under lock and key, padlocked in a dungeon', he thought this was for the best. The correspondent believed that they were 'better where they then were...[and] that they would only get into mischief if Jimmy and Joe Governor palled in with them'.<sup>93</sup> The *Mudgee Guardian* reporter agreed.<sup>94</sup>

Far from questioning the legality of these measures, residents pushed to get the Aboriginal men sent even further away. Senior Sergeant D'Arcy supported the move, not only because the men complained of their cramped condition in Wollar, but because, by removing them, two dangers might be averted. Holding the Aboriginal men in a more secure facility would thwart their supposed desire to 'emulate the exploits of the brothers Governor'. Furthermore, the move might protect the Aboriginal men themselves as 'the feeling of the residents is so intensely hostile to the Aborigines that in their own interests they should be sent away from here'.<sup>95</sup> Superintendent Thomas Garvin deferred to D'Arcy's request and on the 18<sup>th</sup> of August 1900 five warrants were issued for the men's arrest. On the 19<sup>th</sup> of August they were shackled with leg irons and chained to one another as they entered Mudgee and proceeded to the town's gaol. The five Aboriginal men were then remanded for eight days although they had not been

---

<sup>91</sup> NSWSA, Papers re-Joe and Jimmy Governor.

<sup>92</sup> 'The Aboriginal Murderers', *Evening News* (7 August 1900), p. 5; 'A Problem of the Future', *Mudgee Guardian* (16 August 1900), p. 3.

<sup>93</sup> 'The Aboriginal Murderers', *Evening News* (7 August 1900), p. 5.

<sup>94</sup> 'A Problem of the Future', *Mudgee Guardian* (16 August 1900), p. 3.

<sup>95</sup> NSWSA, Papers re-Joe and Jimmy Governor.

charged with any crime.<sup>96</sup> It was only at this point that the treatment of these men began to gain people's attention and divide public sympathies.

On Thursday the 23<sup>rd</sup> of August, Legislative Council Member George Cox stood before the House and asked 'by what authority the blacks had been taken in charge and put in confinement at Mudgee, in view of the fact that no charge had been made against them'.<sup>97</sup> In Parliament there was, for the first time, official intercession on their behalf, but interest in the matter was short-lived. While official inquiries were made, the press largely dismissed the issue. Most voiced the opinion that while 'the legality of this step has been questioned...the general feeling is that, under the circumstances, the step is a judicious one'.<sup>98</sup> The last public comment made on the matter was that of W. H. Suttor who on the 24<sup>th</sup> of August retorted that while 'due inquiries would be made...he wished to say that there was nothing unusual about blacks being arrested for having no visible means of support'.<sup>99</sup> He was, of course, correct in this appraisal. As we know from Mary Ann Bugg's experience in Chapter 4, as early as the 1860s Aboriginal peoples' exemption from the *Vagrancy Act* was being eroded. As time progressed, the Act became a useful tool for authorities to move unwanted Aboriginal people and criminalise any nomadic way of life.<sup>100</sup> However, these Aboriginal men were never charged with vagrancy or any

---

<sup>96</sup> *ibid.*

<sup>97</sup> 'The Arrest of the Wollar Aboriginals', *Bathurst Free Press* (24 August 1900), p. 2. On George Cox, see Ruth Teale, 'Cox, George Henry, (1824-1901)', Australian Dictionary of National Biography Online. Accessed 11 June 2019 via: <<http://adb.anu.edu.au/biography/cox-george-henry-3280>>; 'Mr George Henry Cox (1824-1901)', Parliament of New South Wales. Accessed 11 June 2019 via: <<https://www.parliament.nsw.gov.au/members/Pages/member-details.aspx?pk=546>>

<sup>98</sup> 'Wholesale Arrest of Aboriginals', *Bathurst Free Press* (21 August 1900), p. 2. See also 'The Gilgandra Blacks', *Barrier Miner* (21 August 1900), p. 2; 'Arrest of Aboriginals', *Evening News* (22 August 1900), p. 3; 'The Black Murderers', *National Advocate* (22 August 1900), p. 3. Only one letter to the editor of the *Daily Telegraph* outright condemned these actions as shameful and illegal. 'The Breelong Blacks: Jacky Underwood before the court', *Daily Telegraph* (23 August 1900), p. 6.

<sup>99</sup> 'The Arrest of the Wollar Aboriginals', *Bathurst Free Press* (24 August 1900), p. 2.

<sup>100</sup> Nettelbeck, 'Creating the Aboriginal "Vagrant"', pp. 79-100.

other crime. And regular vagrants were not transported thirty miles in leg irons and handcuffed to one other. These arrests clearly did more than confine 'idle and disorderly persons'.<sup>101</sup>

One of the problems faced by the Aboriginal people of Wollar was the conflation of Aboriginal protection and colonial policing in New South Wales, and this was made painfully apparent on the 30<sup>th</sup> of August when Edmund Fosbery, the Inspector General of Police and Chairman of the APB, was asked about the chaining. The APB was a government-sponsored body responsible for Aboriginal welfare and, during one of its meetings, board member J. M. Chanter asked Fosbery whether there was any truth in the claims that some of the 'Wollar blacks' were chained. 'The chairman [Fosbery] said that he did not think that the statements could be true' to which Chanter expressed his relief as 'it would be a very extreme step to put those people in chains'. On hearing this, it appears that Fosbery felt the need to qualify and he rejoined by saying 'that he would not absolutely say that it was wrong to do so, as...it was just possible that for a short period the police might have to chain the prisoners'.<sup>102</sup>

This exchange demonstrates two competing approaches to the situation in northern New South Wales. Chanter was the member for the Murray district in the Legislative Assembly, and although a pastoralist, his interests lay to the south of the colony and safely out of harm's way from the Governors.<sup>103</sup> His criticism of chains invoked the widespread, progressive view that they had no place in civilised colonies

---

<sup>101</sup> *Vagrancy Act* 1851 (NSW) 15 Vict. No. 9, pp. 2427–2433.

<sup>102</sup> 'Chaining Aboriginal Prisoners', *Evening News* (31 August 1900), p. 2.

<sup>103</sup> Joan Rydon, 'Chanter, John Moore', *Australian Dictionary of Biography Online*. Accessed 18 July 2017 via: <<http://adb.anu.edu.au/biography/chanter-john-moore-5553>>

such as New South Wales on the eve of Federation.<sup>104</sup> While it is important to note that in the North and West of Australia, frontier warfare continued into the twentieth century, in New South Wales, it had largely ceased by the 1860s and '[a]fter nationhood in 1901, Australian histories became clothed in the rhetoric of peaceful settlement'.<sup>105</sup> In this context, chains were associated with slavery, barbarity and backwardness.<sup>106</sup> The history of convict chain gangs gave them an unwelcome familiarity, and they appeared a shameful relic of a past that was better left buried.<sup>107</sup> By contrast, Fosbery positioned himself as a pragmatist. While he recognised that the use of chains was undesirable, he refused to say that it was unnecessary. Fosbery and Superintendent Garvin coordinated the efforts to catch Jimmy and Joe Governor.<sup>108</sup> Under Fosbery's watch, four more people had been killed since the Breelong murders.<sup>109</sup> With police efforts criticised by the public and the press, the strains on his department's budget and the body count rising, Fosbery could not completely prioritise progressive symbolism over public safety. The word

---

<sup>104</sup> Ann McGrath, 'Playing Colonials: cowgirls, cowboys, and Indians in Australia and North America', *Journal of Colonialism and Colonial History* vol. 2, no. 1 (2001); Heather Goodall, *Invasion to Embassy: Land in Aboriginal Politics in New South Wales, 1770–1972* (Sydney: Sydney University Press, 2008), pp. 124–125; Waterhouse, 'Australian Legends', p. 209.

<sup>105</sup> McGrath, 'Playing Colonials'. For work on 'Northern Revisionism' and the distinct experiences of colonisation in each of the Australian colonies, see Henry Reynolds, *North of Capricorn: the Untold Story of Australia's North* (Sydney: Allen and Unwin, 2004); Claire Lowrie, *Masters and Servants: Cultures of empire in the tropics* (Manchester: Manchester University Press, 2016); Julia Martínez and Adrian Vickers, *The Pearl Frontier: Indonesian Labor and Indigenous Encounters in Australia's Northern Trading Network* (Honolulu: University of Hawai'i Press, 2015); Regina Ganter (ed.), *Mixed Relations: Asian-Aboriginal contact in North Australia* (Perth: University of Western Australia Press, 2006).

<sup>106</sup> For a discussion of Aboriginal people in chains later in the twentieth century, see Jane Lydon, 'Bullets, Teeth and Photographs: recognising Indigenous Australians between the wars', *History of Photography* vol. 36, no. 3 (2012), pp. 275–287; Jane Lydon, *The Flash of Recognition: photography and the emergence of Indigenous rights* (Sydney: New South Books, 2012).

<sup>107</sup> Tom Griffiths, *Hunters and Collectors: the Antiquarian Imagination in Australia* (Cambridge: Cambridge University Press, 1996), pp. 115–118; Babette Smith, *Australia's Birthstain: the startling legacy of the convict era* (Sydney: Allen & Unwin, 2008).

<sup>108</sup> NSWSA, Papers re-Joe and Jimmy Governor; Moore and Williams, *The True Story*.

<sup>109</sup> These people were: Alexander McKay (23 July), Elizabeth O'Brien and her young son James (24 July) as well as Kieran Fitzpatrick (27 July).

'completely' is important here. Fosbery was well aware of public perceptions, and we know this because at the APB meeting, he lied. He knew that the Wollar men had been chained. He knew this not only from the press or the eyewitnesses, but because his superintendent had ordered it.<sup>110</sup>



Figure 14: A. C. Jackson, *The Hunt for the Governor Gang of Bushrangers. A posse of mounted police, Aboriginal trackers and district volunteers, 1900.*<sup>111</sup>

### *The Revival of the Old Frontier*

Fosbery truly believed that the colony was in a state of crisis and that unpalatable measures needed to be taken to restore order. In the Governor rampage, he saw reverberations of the past and glimpses of an apocalyptic future. Five days after the

---

<sup>110</sup> NSWSA, Papers re-Joe and Jimmy Governor.

<sup>111</sup> Source: State Library of New South Wales, Graphic Materials, BCP 03906.



Mawbey murders the APB saw fit to comment on the attack. While the general consensus was that this was an isolated incident that stood in contrast to 'the generally peaceful character of the aborigines of the colony', Fosbery disagreed.

Mr Fosbery...could speak from personal experience of a time when the Aborigines in many districts were dangerous to white people. He recalled a period between thirty and forty years ago when the blacks on the River Murray had become so aggressive, attacking white people and spearing them, that a mounted party, of which he was one, had to be organised in order to put down the trouble.<sup>112</sup>

The Inspector General of Police and the Chairman of the APB had firsthand experience of frontier warfare, and he was not the only one to let memories of the past colour his vision of the present. Although the vast majority of newspapers depicted Jimmy Governor's mother, Annie, as a harmless woman and concerned mother, the *Singleton Argus* and *Northern Star* conjured up a monster. According to these papers, it was Mrs Governor who encouraged 'her sons to do acts of violence, as she states the Government took the poor blacks' country, giving them nothing in return'.<sup>113</sup>

In 1900, the colonists of New South Wales had not forgotten the violence of the frontier. There were many like Fosbery who had firsthand experience of the frontier warfare, while others were privy to stories through word of mouth or popular culture.<sup>114</sup> Confident that Aboriginal people were disappearing, some colonists even felt comfortable enough to make admissions about the immorality of colonisation. As

---

<sup>112</sup> 'The Governor Family', *Evening News* (27 July 1900), p. 3; NSWSA: Board for the Protection of Aborigines; NRS 2, Minute Books (Aborigines Welfare Board), 1890-1901 [4/7108-15]. Board Minutes for 26 July 1900. (Files accessed at Family Records Service, NSW Education and Aboriginal Affairs, Bridge Street, Sydney).

<sup>113</sup> 'The Governor Family', *Singleton Argus* (4 September 1900), p. 1. See also 'The Outlawed Blacks' Family', *Northern Star* (5 September 1900), p. 6.

<sup>114</sup> David Andrew Roberts, 'Bells Falls Massacre and Bathurst's History of Violence: local tradition and Australian Historiography', *Australian Historical Studies* vol. 26, no. 105 (1995), pp. 615-633.

Richard Waterhouse has written, 'It was even acknowledged, easy now that it was a fait accompli, that "there was more might than right about their dispossession"'.<sup>115</sup> But as Jimmy and Joe Governor traversed the country, evading police and murdering white colonists, acknowledgements of dispossession could not be made so freely. Significantly, the *Singleton Argus* and *Northern Star* were the only newspapers to make explicit reference to Aboriginal dispossession in their coverage of the Governor case. They demonstrate that at least some white New South Welshmen saw the Governors' actions as revenge for colonisation, and because of this, a combination of fear and guilt infused their words.

Inspector General Fosbery, however, felt no such compunction. Whether 'full blood' or 'half-caste', there were certainly enough Aboriginal Australians for him to fear an Aboriginal uprising in 1900.

I am certain had police not taken the steps they did and matters had turned out as supposed there would have been a rising from one end of the country to the other...I am quite aware that perhaps the police went further in this matter than they were legally justified in doing but there cannot be any doubt that it was far better that such a course be pursued than have further serious crime if not murder committed.<sup>116</sup>

Senior Sergeant D'Arcy at Wollar shared the Inspector General's opinion. Before the Wollar Aboriginal men were moved to Mudgee, D'Arcy wrote to his superior that 'sooner or later the Aborigines will have to be shifted from here otherwise the growing males are likely to cause a recurrence of the present trouble'.<sup>117</sup> The *Mudgee Guardian* and

---

<sup>115</sup> Waterhouse, 'Australian Legends', pp. 208-209. For settlers who felt 'disquiet and disgust' at the destruction of colonisation, see Henry Reynolds, *The Whispering in Our Hearts, Revisited* (Sydney: New South Books, 2018).

<sup>116</sup> NSWSA, Papers re-Joe and Jimmy Governor.

<sup>117</sup> *ibid.*

residents of Wollar took this one step further again. Residents lobbied Fosbery to move the remainder of the 'tribe' at Wollar while the *Guardian* labelled these people 'the problem of the future'.<sup>118</sup> With a frenzy of questions, the paper asked

What is going to be done with all these people? Is society, unmindful of the lessons of the past, going to permit the younger members of the Wollar tribe to grow up in the same surroundings and the same life led by Jimmy and Joe? Who is going to take up this question, and see it forced to an issue, free from the sentimental twaddle which some people are already talking about the rights of these people?<sup>119</sup>

At the turn of the century there was a pervasive fear that New South Wales had regressed to the warfare of the past, and that Aboriginal people were a threat to the burgeoning Australian nation. But alongside the panic and anxiety about public safety, the Breelong murders also presented a unique opportunity. As early as the 1880s, there was nostalgia for the glory days of the Australian bush in the south-eastern colonies. The nomadic bushman was being revived as a national icon at the same time that these people were disappearing from the landscape. Advances in transportation, communication and the mechanisation of agriculture eroded the need for rugged men trained in the arts of the bush, and the ex-convicts who had been bushmen of necessity were growing old and dying. Progress and urbanisation bred nostalgia for a rougher but more honest bush culture; the pioneers were gone and contemporary colonials cherished their memory.<sup>120</sup> Or so it seemed until 1900. Jimmy Governor's crimes offered white men

---

<sup>118</sup> 'The Governor Family', *Evening News* (1 September 1900), p. 6; 'The Governor Family', *Mudgee Guardian* (3 September 1900), p. 2; 'A Problem of the Future', *Mudgee Guardian* (16 August 1900), p. 3.

<sup>119</sup> 'A Problem of the Future', *Mudgee Guardian* (16 August 1900), p. 3.

<sup>120</sup> Waterhouse, 'Australian Legends', pp. 201-221; Waterhouse, *The Vision Splendid*, pp. 163-193; John Hirst, 'The Pioneer Legend', *Australian Historical Studies* vol. 18, no. 71 (1978), pp. 316-337. For the gendered impact of this idealisation, see Marilyn Lake, 'The Politics of Respectability: Identifying the Masculinist Context', *Australian Historical Studies* vol. 22, no. 86 (1986), pp. 116-131.

a chance to relive the danger and glory of the past. The frontier was a reality once more, and its challenges allowed Australian men to position themselves as the inheritors of the bush tradition at the same time as proving their manly mettle.

Letters flooded into the Inspector General's office from men seeking to assist in the capture of the 'Breelong Blacks'. There was correspondence from North Sydney, Neutral Bay, Paddington, Newtown, Darlinghurst, Redfern and myriad other metropolitan police stations from officers asking to be transferred to the case. Civilians from all over the country showed no less interest. They wrote to the Inspector General in their hundreds and their original letters are held by the State Archives and Records Authority of New South Wales. It is possible to get a sense of the vastly different backgrounds, wealth and education of their writers from the different quality and size of the paper, the clarity of their spelling and expression, and the legibility of their hand. To recommend their services, these men claimed to have various qualifications. Some had apparently grown up in the bush and had an intimate knowledge of the Governors' beat. Others claimed to 'know as much about the darkies ... as any one [sic] in Australia' and thought that they could put this knowledge to good use by tracking the Governors down. Despite their disparate situations, there were two claims that dominated all others; that the volunteers were good shots, and excellent bushmen.<sup>121</sup>

Although many of these men wrote from suburban areas, they did not necessarily fabricate their bush skills. At a time when railway lines and improved roads facilitated greater movement between the city and the bush, the jobs once taken by rural swagmen

---

<sup>121</sup> NSWSA, Papers re-Joe and Jimmy Governor.

Hunting was also very much a part of Australian masculine culture by this time. See Beverley Kingston, *The Oxford History of Australia*, vol. 3 (Melbourne: Oxford University Press, 1988), pp. 190-193, 304.

were increasingly picked up by the urban unemployed who fled cities in search of work. Even though these men were not romanticised like the nomadic workers of old, they did have practical experience in the wilds of New South Wales.<sup>122</sup> Many policemen in search of the Governors also had years in the bush to recommend them, however, there was some distinction drawn between the two groups. While the civilians depicted themselves as the true heirs of an illustrious bush tradition, the police were often relegated to the position of outsiders. They were part of an organised, modern force that appeared to stand in contrast to the individual prowess and instinct of the expert bushman. Sometimes civilians joined police parties and they worked together to find the Governors, but in general there was antagonism and rivalry between them.<sup>123</sup>

In reality, both parties could be as bad as each other. Superintendent Garvin complained that the civilians were 'doing mischief and working without system running over one another'. He went as far as to declare that 'I believe had the pursuit been left to police from the start offenders would have been captured before this—they [the volunteers] are far too noisy and many of them absolutely useless to us'.<sup>124</sup> False reports of the Governors' whereabouts swept the country and the public was often blamed for misinforming the authorities. At the same time, the police were not beyond reproach. They roamed around in impractically large groups, left towns completely undefended to follow unsubstantiated leads, and in at least one instance, they were so poorly coordinated that two search parties nearly shot each other by mistake in the dark.<sup>125</sup> In spite of the fact that both the authorities and the volunteers were far from ideal trackers,

---

<sup>122</sup> Waterhouse, 'Australian Legends', pp. 201-221.

<sup>123</sup> See for example NSWSA, Papers re-Joe and Jimmy Governor.

<sup>124</sup> *ibid.*

<sup>125</sup> *ibid.*

there was very little reference to the civilians' failings in the press. Internal police correspondence and the odd police press release were the only platforms used to complain about the volunteers, and so public condemnation centred almost exclusively on the police.<sup>126</sup>

More than simply denigrating the authorities, the widespread reportage of police ineptitude strengthened many volunteers' resolve to track down the Breelong murderers as well as solidifying their own sense of belonging and purpose. It is often said that nationalism is forged through war and that identity is articulated most clearly in the face of an enemy. In Australian history, the country's involvement in the First World War is usually depicted as the 'birth of the nation', but there were other instances of war before this.<sup>127</sup> While the search for Jimmy and Joe Governor was underway, thousands of Australian troops were fighting for the British in the Boer War.<sup>128</sup> Some servicemen returned from the frontline to join the hunt for the 'Breelong Blacks', and this search was itself a bloody national awakening.<sup>129</sup> In New South Wales, for the first time since frontier violence ended in that colony in the 1860s, there was a profound fear of uprising. While the frontier wars were tainted by the moral ambiguity of dispossession, in the chase for the Governors, men mobilised to defend women, children and the elderly who were the brothers' victims. And so, with righteousness on their side, hundreds of men sought to

---

<sup>126</sup> *ibid.*

<sup>127</sup> Griffiths, *Hunters and Collectors*, pp. 117-118; Charles E. W. Bean, *Official History of Australia in the Great War* (Sydney: Angus and Robertson, 1935); Australia's involvement in the Sudanese War preceded the Boer War.

<sup>128</sup> Craig Wilcox, *Australia's Boer War: the war in South Africa, 1899-1902* (Melbourne: Oxford University Press, 2002); Henry Reynolds, *Unnecessary Wars* (Sydney: New South Press, 2016).

<sup>129</sup> NSWSA, Papers re-Joe and Jimmy Governor.

protect their communities, display their aptitude as bushmen, and continue a noble bush tradition.

It was with great satisfaction to the volunteers then, that civilians were the ones to bring the Governors' criminal careers to an end. On Saturday 27<sup>th</sup> of October, a party of seven local men had captured Jimmy Governor at Bobin.<sup>130</sup> A few days later on Wednesday 31<sup>st</sup> of October 1900, a grazier named John Wilkinson shot Joe Governor as he was roused from sleep near St Clair.<sup>131</sup> The end of the Governor brothers' 'reign of terror' quickly entered the popular imagination. In 1903, a bush ballad was created to commemorate the 'Breelong Rampage'. Entitled, the *Ballad of the Breelong Blacks*, the poem cast the hunt for Jimmy Governor as a victory for the white volunteers. After more than sixty stanzas describing the murders at Breelong, the ballad recounted the capture of the killers.

It was the civilians who brought them [Jimmy and Joe] to justice,  
And not the troopers, I vow,  
For had they been left to the Johns,  
I think they would be out there now.<sup>132</sup>

---

<sup>130</sup> 'Black Outlaws', *Evening News* (27 October 1900), p. 5; 'Jimmy Governor Captured', *Sydney Morning Herald* (29 October 1900), p. 7; 'The Black Horror', *Mudgee Guardian* (29 October 1900), p. 2; Moore and Williams, *The True Story*, pp. 119-120.

<sup>131</sup> 'Death of Joe Governor', *Maitland Mercury* (1 November 1900), p. 3; 'Joe Governor', *Evening News* (1 November 1900), p. 5; 'The Black Outlaws', *Daily Telegraph* (1 November 1900), p. 5; Moore and Williams, *The True Story*, p. 126.

<sup>132</sup> Mike Noonan, interviewed by John Meredith, 15 August 1984. John Meredith Folklore Collection, National Library of Australia, Canberra. Accessed 15 April 2013 via: <<http://www.nla.gov.au/amad/nla.oh-yn544947?searchTerm=ballad+of+the+breelong+blacks>>; Noonan, 'The Ballad of the Breelong Blacks', taken from McDonald, *Poem and Letter*; No Attributed Author, *The Ballad of the Breelong Blacks*; Noonan, 'The Ballad of the Breelong Blacks', taken from Moore and Williams, *The True Story*, pp. 199-206; No Attributed Author, 'The Breelong Blacks', pp. 2-6.

Thus, ordinary white men had proven their mettle by putting a stop to the Governors' depredations. The men of the new Australian nation had been tested and were not found wanting.<sup>133</sup> But significantly, there was no mention of those months of anxiety when the Governors were on the run. The ballad spun the illusion that the Governors' crimes only affected white society and the 'Breelong Blacks' themselves.<sup>134</sup> The reality was not so simple.

While Jimmy and Joe were at large, the lives of the Aboriginal people at Wollar continued to change. After their arrival at Mudgee Gaol, the five Aboriginal men from Wollar were held in prison without charge for twenty-four days. This arrangement only ended because the presiding magistrate became frustrated with the Inspector General's insistence that the men remain indefinitely on remand. The police magistrate declared that 'if the Government intended that the men should remain in gaol until the Governors were caught, he thought they would remain there all their lives'. He recommended they be moved to Brewarrina Aboriginal mission instead.<sup>135</sup> After hasty consideration, Fosbery sent the five men and the remnants of the group at Wollar to the mission. Technically, the APB did not have the legal power to move Aboriginal people until 1909, but with Fosbery in charge of the police, there was a force ready and willing to remove these people from their home.<sup>136</sup> All but four of the Aboriginal men, women and children

---

<sup>133</sup> Although the poem makes no reference to the Australian nation per se, the poem's context supports this interpretation.

<sup>134</sup> Foster, 'Murder for White Consumption?', pp. 173-189.

<sup>135</sup> 'Before the Court: a further remand', *Mudgee Guardian* (17 September 1900), p. 2.

<sup>136</sup> Irish, *Hidden in Plain View*, p. 137; Goodall, 'New South Wales', pp. 73-80; Doukakis, *Aboriginal People*, p. 94; Egan, *Neither Amity nor Kindness*, pp. 100-125; Fletcher, *Clean, Clad and Courteous*, pp. 57-58.



of Wollar were moved to Brewarrina Aboriginal Mission on the 23<sup>rd</sup> of September 1900.<sup>137</sup> Here, they were denied rations and clothing until at least mid-October.<sup>138</sup> The group were labelled 'indolent' by mission authorities and punished for refusing to work.<sup>139</sup> Jacky Governor escaped, and it appears that months later, at least some of the group found their way back to Wollar.<sup>140</sup> But the evidence here is too thin for their story to be told any further.

## Conclusion

Jimmy Governor's white murder victims were not the only ones to be affected by his crimes. The lives of Governor's wife, Ethel, and his Aboriginal family at Wollar were also irrevocably changed by the murders. Each had their freedom curtailed by the settler state and became the objects of slander, speculation, fear, local gossip and colonial condemnation in response to Governor's 'rampage'.

However, settler colonial ideas about race and gender ensured that Ethel was not treated in the same manner as Governor's Aboriginal relatives at Wollar. Although both were imprisoned illegally, the extent of state intervention into their lives was different. Ethel was portrayed as unintelligent, promiscuous and degraded by circumstance

---

<sup>137</sup> 'The Wollar Blacks', *Mudgee Guardian* (24 September 1900), p. 2; 'The Wollar Blacks', *Armidale Express* (25 September 1900), p. 5; 'The Wollar Aborigines Released', *Manaro Mercury* (24 September 1900), p. 2; 'The Aboriginal Murderers', *Riverine Herald* (25 September 1900), p. 2; 'The Wollar Blacks Again', *Evening News* (8 March 1901), p. 7; 'A Petition From Wollar', *Albury Banner* (15 March 1901), p. 28; NSWSA, Minute Books (Aborigines Welfare Board).

<sup>138</sup> 'The Wollar Blacks', *Evening News* (12 October 1900), p. 8; 'Divided Authority', *Evening News* (12 October 1900), p. 4; NSWSA, Minute Books (Aborigines Welfare Board).

<sup>139</sup> 'Those Wollar Blacks', *Evening News* (1 December 1900), p. 7. See also 'Those Wollar Blacks', *Mudgee Guardian* (13 December 1900), p. 18.

<sup>140</sup> 'The Movements of Jacky Governor', *Mudgee Guardian* (22 October 1900), p. 2.

(having married an Aboriginal man and a mass murderer) rather than by nature, and this hastened her release from prison. Although there had been whispers that Ethel Governor was present at the Breelong massacre, this evidence was never substantiated, and Ethel was released without charge after serving sixty-nine days in Dubbo Gaol.<sup>141</sup> Ethel's alleged role in the murders was nowhere near as widely broadcast as the other depictions of her that have been presented in this chapter. The closest that newspaper articles came to branding Ethel a criminal was to repeat Jimmy's claims that his 'bushranging deeds' had been 'inspired by his missis'.<sup>142</sup> Ethel Governor was condemned by colonial society, but as a traitor to her race, rather than a criminal.

By contrast, the Aboriginal people of Wollar were deemed to be savage and criminal by nature, and settler intervention into their lives continued long after Governor was executed in 1901. Colonial Australians used Governor's crimes to argue that even a relatively 'civilised' Aboriginal person could not deny their true nature and would leap at the opportunity to shed blood.<sup>143</sup> Jimmy Governor's actions tarred his Aboriginal relatives at Wollar by association as they resonated with settlers' memories of frontier violence and their understandings about the immutability of race.

Together, the histories of Ethel Governor and the Aboriginal people of Wollar illustrate the intimate impact of Governor's crimes. They show that colonial Australians did not view Jimmy Governor in isolation, as his actions tapped into settlers' deep-seated

---

<sup>141</sup> Jimmy and Jacky Underwood's defence lawyers tried to make Ethel admit that she was at the scene of the crime under cross examination, and in her dying declaration, Mrs Mawbey had stated that she heard a woman's voice outside the house on that bloody night in July. 'Dubbo Circuit Court', *Dubbo Liberal* (3 October 1900), p. 3; 'Dubbo Circuit Court,' *Dubbo Liberal* (6 October 1900), p. 4.

<sup>142</sup> 'The Governor Brothers: Jimmy's Story of His Bushranging Deeds: Inspired by his Missis', *Clarence and Richmond Examiner* (3 November 1900), p. 2. Chapter 6 investigates Governor's bushranging claims.

<sup>143</sup> 'The Breelong Tragedy', *Sydney Morning Herald* (24 November 1900), p. 11; Reynolds, 'Jimmy Governor and Jimmie Blacksmith', pp. 14-25; Ellinghaus, 'Margins of Acceptability', p. 67.

anxieties about Aboriginal violence, miscegenation, and racial and gendered order on the eve of national Federation. They show the nexus of settler colonialism and Aboriginal protection at a crucial moment of Australian history. And they force us to recognise not only the violence of Governor's murders, but of the settler state as colonial Australians struggled to mitigate the damage of Jimmy Governor's crimes.

Jimmy Governor's actions sent reverberations through his family and colonial society alike, but the shock waves did not end there. In the next chapter, we will see what happened when the Governor case was taken out of the Australian bush, and into Western popular culture, and the Supreme Court of New South Wales.

This is a detailed historical map of the New South Wales railway network. The map shows a dense web of railway lines connecting various towns and regions across the state. Major cities and towns labeled include Sydney, Newcastle, Melbourne, and many others. The map also depicts geographical features such as rivers, mountains, and the coastline. A scale bar at the bottom indicates distances in miles, and a compass rose is present in the upper left corner.

296

## Chapter 6

### Bushrangers, Outlaws and Jimmy Governor

On Wednesday the 8<sup>th</sup> of August 1900, Jimmy Governor and his brother Joe robbed the camp of an opossum trapper named Byrnes at Rockgidgiel.<sup>1</sup> This was by no means the first time that the pair had stolen from unsuspecting settlers. It was then nineteen days since the Breelong murders, and either by stealth or by force, the brothers took everything that they could to survive on the run from the law. Unlike white bushrangers like Captain Thunderbolt who came before them, the Governors did not have access to a 'bush telegraph' of supporters for information, or local harbourers to provide them with shelter and sustenance. Murdering white women, children and the elderly did nothing to endear them to colonial Australians, and their Aboriginal heritage only served to position them further beyond the bounds of 'civilised' society. While it was not unusual for Jimmy and Joe Governor to steal, in this instance Jimmy Governor left something in exchange for the food, ammunition, cheque book, blue serge suit and boots that he and Joe had taken.<sup>2</sup> About a mile from the camp, Governor left a letter addressed to the Inspector General of Police.<sup>3</sup> In this, he described himself as a bushranger, and provided a short list of grievances that had led to his turn to crime.<sup>4</sup>

---

<sup>1</sup> 'The Breelong Blacks', *Maitland Mercury* (11 August 1900), p. 3; 'The Breelong Blacks', *Wingham Chronicle* (15 August 1900), p. 3.

<sup>2</sup> 'The Murderers Near Coolah', *Mudgee Guardian* (9 August 1900), p. 10; 'The Breelong Blacks', *Wingham Chronicle* (15 August 1900), p. 3.

<sup>3</sup> *ibid.*

<sup>4</sup> 'The Breelong Blacks', *Maitland Mercury* (18 August 1900), p. 7; 'Notes of the Week', *Sydney Mail* (25 August 1900), p. 423; 'The Breelong Blacks', *Maitland Mercury* (11 August 1900), p. 3; 'The Breelong Blacks', *Maitland Mercury* (18 August 1900), p. 7; 'Jimmy Governor's Letter', *Walcha Witness* (18 August 1900), p. 4; 'The Aboriginal Murderers', *Manaro Mercury* (10 August 1900), p. 2; 'The Breelong Blacks',

Although Governor identified as a bushranger and committed ‘robbery under arms’, the typical bushranging crime, this was not enough to make him a bushranger in the eyes of colonial Australians. As white bushranging men were increasingly mythologised and celebrated as part of a distinct national type at the turn of the twentieth century, the inclusivity of the term ‘bushranger’ declined. The brutality of Governor’s crimes precluded him from receiving such a label. No one wanted a black murderer in the pantheon of emergent national heroes. This chapter is the first to take seriously Jimmy Governor’s repeated claims that he was, in fact, a bushranger.<sup>5</sup> It explores the meaning of bushranging at the turn of the twentieth century, the forms of popular culture and public discourse that brought bushrangers into the emergent national imaginary, and examines how Jimmy Governor related to this narrative. In the first section of the chapter special attention is also paid to the relationship between Governor’s actions and words and those of the famous Kelly Gang of bushrangers. These Irish-Australian men were not only the closest to Governor in time, having operated between 1878 and 1880, but were quickly declared the quintessential, and the last, of the bushrangers.<sup>6</sup> By the time that Governor roved around New South Wales in 1900,

---

*Wingham Chronicle* (15 August 1900), p. 3; ‘General News’, *Scone Advocate* (14 August 1900), p. 4; ‘The Murderers Near Coolah’, *Mudgee Guardian* (9 August 1900), p. 10.

<sup>5</sup> The only other, brief, mention of Jimmy Governor and bushranging comes from Henry Reynolds, ‘Jimmy Governor and Jimmie Blacksmith’, *Australian Literary Studies* vol. 9 (1979), pp. 19-21.

<sup>6</sup> Graham Seal, *“Tell ‘Em I Died Game”: the legend of Ned Kelly* (Flemington, Vic: Hyland House Publishing, 2002); John V. Barry, ‘Kelly, Edward (Ned) 1855-1880’, Australian Dictionary of Biography Online. Accessed 18 July 2017 via: <<http://adb.anu.edu.au/biography/kelly-edward-ned-3933>>; Seal, *The Outlaw Legend*, pp. 147-179; Graham Seal, ‘Ned Kelly: the genesis of a national hero’, *History Today* vol. 30, no. 11 (1980), pp. 9-15; Graham Huggan, ‘Cultural Memory in Postcolonial Fiction: the uses and abuses of Ned Kelly’, *Australian Literary Studies* vol. 20, no. 3 (2002), pp. 142-154; Bruce Tranter and Jed Donoghue, ‘Bushrangers in the Sydney Morning Herald: Ned Kelly and Australian identity’, *TASA 2006 Conference Proceedings*, University of Western Australia, WA (4-7 December 2006), pp. 1-12; John Ryan, ‘Ned Kelly: the flight of the Legend’, *Australian Literary Studies* vol. 3, no. 2 (1967), pp. 98-115; Anne Marsh, ‘Ned Kelly By Any Other Name’, *Journal of Visual Culture* vol. 1, no. 1 (2002), pp. 57-65; Russel Ward, *The Australian Legend* (Melbourne: Oxford University Press, 1958), p. 148; Ann McGrath, ‘Australia’s Occluded Voices: Ned Kelly’s History Wars’ in Mícheal Ó hAodha and John O’Callaghan

bushrangers were perceived to be more folklore than reality, more romantic than any real, viable threat. As we saw in Chapter 5, Governor's actions shattered this sense of security and challenged the narrative of progress that characterised the push towards Federation. But they also showed how potent bushranging discourse remained, as Governor claimed that he was inspired to commit his crimes by reading bushranging escapades.<sup>7</sup> Popular culture could be appropriated and used to ends never envisaged by its creators.<sup>8</sup> Colonial representations of white, male bushrangers clearly did not just inspire their intended audience of white boys and men.

Colonial Australians were similarly uncomfortable when the term 'outlaw' was applied to Jimmy Governor. By October 1900, Jimmy and Joe Governor were still at large. Since the first massacre at Breelong, the brothers had committed four more murders, robbed stations and settlers as far as Wee Waa and Bobin, and evaded hundreds of police and civilian volunteers. The country was in uproar, and so the New South Wales judiciary determined to act.<sup>9</sup> On the 20<sup>th</sup> of October Jimmy and Joe Governor were declared outlaws.<sup>10</sup> According to New South Wales legislation, if a person was outlawed then 'any of Her Majesty's subjects, whether a constable or not' could lawfully shoot the outlaw on sight.<sup>11</sup> Far from merely a descriptive label or

---

(eds.), *Narratives of the Occluded Irish Diaspora: subversive voices* (Oxford & New York: Peter Lang, 2012), pp. 7-36.

It is interesting to note that another Aboriginal bushranger, Johnny Campbell, was executed in 1880, the same year as Ned Kelly, although he has never achieved Kelly's fame, nor Governor's infamy. Malcom Prentis, 'The Life and Death of Johnny Campbell', *Aboriginal History* vol. 15 (1991), pp. 138-152.

<sup>7</sup> See pages 320-324 for details.

<sup>8</sup> Stuart Hall, 'Encoding/ Decoding' in Meenakshi Gigi Durham and Douglas M. Keller (eds.), *Media and Cultural Studies: keywords* (Malden, MA: Blackwell Publishing, 2006), pp. 163-173.

<sup>9</sup> 'The Governors' Crimes', *Maitland Mercury* (3 November 1900), p. 13.

<sup>10</sup> 'The Governor's Outlawed', *Wingham Chronicle* (27 October 1900), p. 7; 'Declaration', *Daily Telegraph* (24 October 1900), p. 2; 'Proclamation', *Sydney Morning Herald* (24 October 1900), p. 10.

<sup>11</sup> In fact, the act was consolidated in 1899, only the year before Jimmy Governor became infamous. *Felon's Apprehension Act*, 1899 (NSW) 63 Vict. No. 26, pp. 233-236.

personality type, in law, outlawry was a designation that stripped an individual of their legal rights. Without a jury of their peers or the transparency of a public trial, the accused could be killed, and this compromised the enlightened, civilised status of white society as well as the perceived justice of the law. By examining Jimmy Governor's court trial, the final section of this chapter will illustrate that drama and theatricality were not confined to bushranging popular culture. At Governor's trial, the tables turned as it was colonial law, not Governor himself, that was accused of being savage. In this context, the judges of the New South Wales Supreme Court were tasked not only with interpreting the law, but performing colonial justice to restore the public's faith in their office.

Although the terms 'bushranger' and 'outlaw' are used synonymously in contemporary historical literature, in 1900 each had a particular meaning when it was applied to Jimmy Governor.<sup>12</sup> By examining the contours of these terms, this chapter will explore the interface of race, culture, law and bushranging at a crucial moment of Australian history.

---

<sup>12</sup> See for example the use of the terms 'bushranger' and 'outlaw' in Seal, *The Outlaw Legend*; Susan West, 'The Thieftom': bushrangers supporters and social banditry in 1860s New South Wales', *Journal of the Royal Australian Historical Society* vol. 101, no. 2 (2015), p. 135; Bruce Tranter and Jed Donoghue, 'Bushrangers: Ned Kelly and Australian identity', *Journal of Sociology* vol. 44, no. 4 (2008), pp. 373-390; Penny Crofts and David Planter, 'Bushrangers, the Exercise of Mercy, and the "Last Penalty of the Law" in NSW and Tasmania, 1824-1856', *University of Tasmania Law Review* vol. 32, no. 2 (2013), pp. 311-312; Yohanes Hartadi, 'Reading the Historical Phenomenon of Australian Bushrangers', *Lingua Cultura* vol. 3, no. 1 (2009), pp. 20-33; National Museum of Australia, *Outlawed: investigating legend and reality* (Canberra: National Museum of Australia, 2003); Michael Eburn, 'Outlawry in Colonial Australia: the Felons Apprehension Acts 1865-1899', *ANZHL E-Journal* (2005), pp. 91-92.



## Jimmy Governor the Bushranger

### *Bushranging in Fact and Legend*

Allusions connecting Jimmy Governor and bushranging appeared only seventy-two hours after the murders at Breelong, and they came from two, unlikely sources. The first was hearsay testimony from two members of the Mawbey family, including Percy Mawbey, one of the murder victims.<sup>13</sup> At the inquest undertaken on the 24<sup>th</sup> of July at the remnants of the Mawbeys' homestead, John Mawbey declared that his sons 'Percy and Reggie had heard Jimmy Governor say that he would like to be a bushranger as no police could ever catch him.'<sup>14</sup> In all probability the Mawbey boys thought that the statement was mere bravado, but this was not the first time that Jimmy Governor showed an inclination towards bushranging. We know this from our second source of information, Ethel Governor. At the same inquiry, at the scene of her husband's crimes, Ethel told reporters that two months after she married Jimmy in 1898 'he said "I will be a bushranger before long"' and that Jimmy had been reading about bushrangers when he was still a tracker in the Cassilis police, back in 1896.<sup>15</sup> Ethel Governor's words were also the first to explicitly connect Jimmy's desire to be a bushranger with the Breelong

---

<sup>13</sup> Jimmy Governor's accomplice in the Breelong crimes was his friend, Jacky Underwood. Joe Governor apparently only joined Jimmy on the run. Jacky Underwood was captured soon after the Mawbey attacks and convicted for Percy Mawbey's murder. 'Underwood Condemned to Death', *Mudgee Guardian* (4 October 1900), p. 12; Laurie Moore and Stephan Williams, *The True Story of Jimmy Governor* (Sydney: Allen & Unwin, 2001), pp. 46-47.

<sup>14</sup> 'The Gilgandra Tragedy', *Sydney Morning Herald* (24 July 1900), p. 6; 'The Breelong Tragedy', *Evening News* (24 July 1900), p. 4; 'The Breelong Tragedy', *Daily Telegraph* (24 July 1900), p. 7.

<sup>15</sup> 'Further Sensational Murders', *Sydney Morning Herald* (25 July 1900), p. 8; 'Remarkable Evidence', *Clarence and Richmond Examiner* (28 July 1900), p. 5; 'Jimmy Governor's Wife Gives Sensational Evidence', *Mudgee Guardian* (23 July 1900), p. 5; 'The Black Outlaws', *Evening News* (1 September 1900), p. 5; Moore and Williams, *The True Story*, pp. 14-16.

Aboriginal trackers and 'Native Police' had a particularly ambiguous position in colonial society. See Henry Reynolds, *With the White People: the crucial role of Aborigines in the exploration and development of Australia* (Sydney: Penguin Books, 1990), pp. 41-84.

crimes. She told the inquiry that when the men came back from the Mawbeys' house on the night of the attacks, Jimmy declared 'we are bushrangers now.'<sup>16</sup> From this point on, allusions to Jimmy Governor and bushranging flitted in and out of public discourse. On the rare occasion that newspapers did refer to bushranging, they were usually reporting statements that Jimmy or Ethel Governor had provided the press.<sup>17</sup>

The *Clarence and Richmond Examiner* proffered cowardice as the reason that Governor could not be likened to a bushranger or enjoy public appeal. Their reporter declared that

...if he had been a bushranger who had stuck up coaches in a dramatic manner, or if in the commission of his crimes he had displayed great courage, the court would have been rushed to see him at the dock. But there was nothing heroic or picturesque about the man. On the contrary, he was the most cowardly murderer that has ever been tried in this country. He attacked people when they were defenceless and his scheme of murder embraced women and children as well as men.<sup>18</sup>

As we saw in the case of Mary Ann and Frederick Ward, to garner support, bushrangers needed to adhere to a certain code of conduct. They needed to publicly uphold the key, cultural values of colonial society, and this included deference towards women, and the protection of the weak and vulnerable.<sup>19</sup> Adherence to this code ensured that even as they operated outside of the law, these bushrangers appealed to a higher,

---

<sup>16</sup> 'Gilgandra Murders', *Australian Star* (24 July 1900), p. 5; 'The Breelong Tragedy', *Evening News* (24 July 1900), p. 4; 'The Inquest', *Daily Telegraph* (24 July 1900), p. 7.

<sup>17</sup> Some exceptions to this norm include, 'The Black Outlaws', *Richmond River Herald* (2 November 1900), p. 4; 'Jimmy Governor', *Evening News* (29 October 1900), p. 4; 'The Breelong Blacks', *Daily Telegraph* (6 August 1900), p. 7. In the latter article, the reporter has Jimmy reading and rereading *The Life of Ned Kelly* 'until he knew it by heart'. However, there is no evidence to support this claim.

<sup>18</sup> 'Jimmy Governor', *Clarence and Richmond Examiner* (27 November 1900), p. 4.

<sup>19</sup> Seal, *The Outlaw Legend*. This also aligned with British, nineteenth century ideas about 'Christian Masculinity' more generally. See Catherine Hall, *Civilizing Subjects: metropole and colony in the English imagination, 1830-1867* (Polity: Cambridge, 2002), p. 27.

moral understanding with which their supporters could identify. Bravery and daring were also characteristics that were prized in this heroic tradition as they showed that these men possessed both skill and the resolve to fight for what they believed in.<sup>20</sup> Jimmy Governor appeared to completely disregard these rules. He targeted women, children and the elderly, the three groups that were in most need of protecting.<sup>21</sup> There was no prowess required to cut down people perceived as 'innocents'. According to this schema, Governor could never be a bushranger as his actions were too dishonourable to be associated with a term that often elicited praise and admiration from the public.

However, the reality was never as clear-cut as the *Clarence and Richmond Examiner* suggested.<sup>22</sup> The most celebrated Australian bushrangers of all time, the Kelly gang, plotted a similar attack that targeted civilians as well as the authorities. Although at the time these men were not depicted unanimously as heroes, they had a groundswell of support that the Governors did not possess.<sup>23</sup> In 1880 after two years at large, Ned Kelly and his gang attempted to derail a special police train. The group forced railway labourers to tear up a stretch of track, hoping to wreck the train as it journeyed to the town of Glenrowan in rural Victoria.<sup>24</sup> While the train contained police officers and trackers who were intent on the gang's demise, it also contained 'innocents': train staff, journalists, photographers, and at least two female civilians. In the end, the bushrangers'

---

<sup>20</sup> Seal, *The Outlaw Legend*, pp. 8-10; Bill Wannan, *The Australian: yarns, ballads, legends, traditions of the Australian people* (London: Angus and Robertson, 1964), pp. 9-10, 13-29.

<sup>21</sup> See Chapter 5 for details.

<sup>22</sup> 'Jimmy Governor', *Clarence and Richmond Examiner* (27 November 1900), p. 4.

<sup>23</sup> See note 6 for examples. Doug Morrissey argues that the Kelly gang often coerced their 'supporters' into assisting them. Doug Morrissey, 'Ned Kelly and Horse and Cattle Stealing', *Victorian Historical Journal* vol. 66, no. 1 (1995), pp. 29-48.

<sup>24</sup> Seal, *Tell 'Em I Died Game*, p. 94.

plan never came to pass as rail operators stopped the train before the broken tracks, however, this did not detract from the gang's murderous intent.<sup>25</sup>



**Figure 15: James Waltham Curtis, *A Strange Apparition*—Ned Kelly's fight and capture, 1880.<sup>26</sup>**

<sup>25</sup> *ibid.*; 'The Last Stand of Ned Kelly, Sites in Glenrowan: the railway line', Culture Victoria. Accessed 17 September 2018 via: <<https://cv.vic.gov.au/stories/a-diverse-state/the-last-stand-of-the-kelly-gang-sites-in-glenrowan/the-railway-line/>>; Barry, 'Kelly, Edward (Ned)'.

<sup>26</sup> Source: 'A Strange Apparition', Culture Victoria. Accessed 7 September 2019 via: <<https://cv.vic.gov.au/stories/a-diverse-state/ned-kelly/a-strange-apparition-ned-kellys-fight-and-capture/>>

Moreover this was not the first time that the leader of the gang, Ned Kelly, had gotten blood on his hands. In 1878, he murdered Constable Lonigan and Sergeant Kennedy at Stringy Bark Creek. Kelly later claimed that he had first shot Kennedy in self-defence and then as an act of mercy as the officer was mortally wounded, however, new evidence suggests that his death was a deliberate execution.<sup>27</sup> The most famous and beloved bushranging gang in Australian history committed murder and intended to kill many more, including women and civilians. Clearly, murder itself was not enough to preclude criminals from becoming recognised as bushrangers, let alone bushranging heroes.

Murder and cowardice are not the most compelling reasons why Jimmy Governor was rarely called a bushranger. More significant was the fact that times had changed between the bushranging decade of the 1860s and Governor's exploits in 1900. When white, male bushrangers operated in the 1860s, they had a distinct base of supporters. These men appealed to lower, working-class, Australian 'natives' who felt disenfranchised, exploited and forgotten by the 'well-to-do' classes in society, especially the well-heeled British immigrants who disdained them.<sup>28</sup> By the time that the Kelly gang operated in late 1870s Victoria, bushranging was largely a thing of the past.<sup>29</sup> Ned

---

<sup>27</sup> PROV, VA 2825 Attorney General's Department (previously known as the Law Department), VPRS 4966/P0 Kelly Historical Collection: Part 2: Crown Law Department, Unit 1, Item 3, Edward Kelly: Gives statement of his murders of Sgt. Kennedy and others; and makes other threats (Euroa Letter) 80/T12640, 1880, pp. 9-12; Michael Davie and Steve Westh, 'Ned Kelly', *Lawless: the real bushrangers*, season 1, episode 1; Leo Kennedy and Mic Looby, *Black Snake: the real story of Ned Kelly* (Melbourne: Affirm Press, 2018). For recent academic histories that question the heroic myth of Ned Kelly, see Doug Morrissey, *Ned Kelly: a lawless life* (Redland Bay, QLD: Connor Court Publishing, 2015); Doug Morrissey, *Ned Kelly: selectors, squatters and stock thieves* (Redland Bay, QLD: Connor Court Publishing, 2018).

<sup>28</sup> Susan West, *Bushranging and the Policing of Rural Banditry in New South Wales, 1860-1880* (Melbourne: Australian Scholarly Publishing, 2009), pp. 121-158.

<sup>29</sup> Although there were still bushrangers in 1870s, their numbers decreased significantly from 1868. For statistics relating to New South Wales, see appendix 7 in West, *Bushranging*, pp. 306-307.

Kelly and his men were stragglers, almost a generation too late to be a part of bushranging's 1860s golden age.<sup>30</sup> After Ned Kelly was hanged in 1880, another two decades elapsed before the exploits of Jimmy Governor.<sup>31</sup> Popular interest in bushrangers had grown in this time because these figures receded into myth. The bush skills that were prized by colonists were exemplified by bushrangers who could evade police and survive in the bush.<sup>32</sup> And although these bushrangers were on the run from the law, the distressing details of their crimes faded from public discourse.<sup>33</sup>

In Dan Barry's play, *The Kelly Gang*, for example, the notion of honourable bushrangers fighting against an unjust police force was unambiguous. In this 1898 performance Kelly revealed his ardent belief that killing was wrong unless in self-defence when he *stopped* the execution of Sergeant Kennedy. With the passing of time, problematic details (like the fact that Kelly actually did kill Kennedy) could easily be forgotten.<sup>34</sup> In this play, as well as other forms of late nineteenth-century popular culture, bushrangers were forced into their criminal situation by an unjust society, while their actions were informed by an unimpeachable standard of ethics that excused any recourse to crime. Many of these bushrangers' original supporters believed this at the

---

<sup>30</sup> West, *Bushranging*; Waterhouse, *The Vision Splendid*, p. 69.

<sup>31</sup> PROV, VA 862 Office of the Registrar-General and the Office of Titles, VPRS 24/P0000 Inquest Deposition Files, Unit 411, 1880/938, Inquest of Edward Kelly (digitised copy, viewed online 9 October 2018).

<sup>32</sup> Ward, *The Australian Legend*, pp. 152-153.

<sup>33</sup> See note 6 that explores changing depictions of Ned Kelly. See also Gabrielle Wolf, 'Innocent Convicts and Respectable Bushrangers: history and the nation in Melbourne melodrama, 1890-1914', *Journal of Australian Studies* vol. 28, no. 81 (2004), pp. 73-81; Robert Dixon, *Writing the Colonial Adventure: race, gender and nation in Anglo-Australian popular fiction, 1875-1914* (Cambridge: Cambridge University Press, 1995), pp. 30-44; Melissa Bellanta, 'Leary Kin: Australian larrikins and the blackface minstrel dandy', *Journal of Social History* vol. 42, no. 3 (2009), pp. 677-695. Anton Blok believes that the passing of time, and strategic forgetting are necessary for many bandits to become known as heroes. Anton Blok, 'The Peasant and the Brigand: social banditry reconsidered', *Comparative Studies in Society and Culture* vol. 14, no. 4 (1972), p. 501.

<sup>34</sup> See Waterhouse, *The Vision Splendid*, p. 186.

time that they operated, but by the turn of the century this view was so widely disseminated that it gained support from all manner of society.<sup>35</sup> This 'cult of forgetfulness' allowed bushrangers to inform the ideal national type and provide an inheritance that the incipient Australian nation could gladly receive.<sup>36</sup> It was at the same time that bushrangers were being recast as romantic rebels fighting for justice that Jimmy Governor tried to claim the title as his own. From this perspective, Governor's exclusion from the bushranging tradition is easily explained: the threat that he posed to colonial Australians was too real and pressing to be similarly repurposed or forgotten.

Jimmy Governor's race was another issue that placed him outside the emergent bushranging mythos. As we have already seen, Aboriginality and 'blackness' were closely associated with memories of frontier warfare at the turn of the century, and

---

<sup>35</sup> Compare for example respectable, theatrical plays about bushrangers, in Gabrielle Wolf's work, and low brow, 'black face' performances featured in Melissa Bellanta's study. Wolf, 'Innocent Convicts and Respectable Bushrangers', pp. 73-81; Rege Rede, *The Kelly Gang Play Script*, c1898, State Library of New South Wales, MLMSS 1412/8, Item 100; Ambrose Pratt and A. S. Joseph, *Thunderbolt Play Script*, date unknown, State Library of New South Wales, William Anderson Collection, MLMSS 1412; Bellanta, 'Leary Kin', pp. 677-795.

For outlaw heroes in literature, see Alana Piper, 'Book Thieves: theft and literary culture in nineteenth and twentieth-century Australia', *Cultural and Social History* vol. 14, no. 2 (2017), p. 262; Martyn Lyons, 'Reading Practices in Australia' in Martyn Lyons et al. (eds.), *A History of the Book in Australia 1891-1945: a national culture in a colonised market* (St Lucia: University of Queensland Press, 2001), p. 345; Tanya Dalziel, 'No Place for a Book? Fiction in Australia to 1890' in Peter Pierce (ed.), *The Cambridge History of Australian Literature* (Cambridge: Cambridge University Press, 2009), p. 94.

It is also significant that Australia's first major motion picture, produced in 1906, was about the bushranger Ned Kelly. *The Story of the Kelly Gang* (Charles Tait, 1906); Leigh Boucher and Sarah Pinto, 'Fighting for Legitimacy: masculinity, political voice and Ned Kelly', *Journal of Interdisciplinary Gender Studies* vol. 10, no. 1 (2006), p. 1. For bushrangers in high art, see Sean Loughrey and Robyn Sloggett, 'Revisiting History: William Strutt's *Bushrangers*, Victoria, Australia, 1852', *Melbourne Journal of Technical Studies in Art* vol. 2 (2005), p. 36.

<sup>36</sup> Russel Ward explores the role of bushrangers in Australian identity formation in Russel Ward, *The Australian Legend* (Melbourne: Oxford University Press, 1958), pp. 135-166.

The term 'cult of forgetfulness' was famously coined by anthropologist W. E. H. Stanner in his 1968 Boyer Lectures on Australia's Aboriginal history. He described this form of forgetting as 'a structural matter, a view from a window that has been carefully placed to exclude a whole quadrant of the landscape.' W. E. H. Stanner, *White Man Got No Dreaming: essays, 1938-1973* (Canberra: ANU Press, 1979), p. 214. It is interesting to note that similar historical silences exist today, as bushrangers like Ned Kelly are mobilised for contemporary purposes. See for example, Boucher and Pinto, 'Fighting for Legitimacy', pp. 1-29.

settler Australians were quick to revive these ready-made signifiers to refer to Jimmy Governor and his brother Joe. The pair were referred to as 'blacks murderers', 'the black fiends', 'the Breelong Blacks', and 'the black terror'.<sup>37</sup> Their barbaric actions became synonymous with the colour of their skin, and this stood in contrast to the white, masculinist tradition of Australian bushranging. The racial threat that the Governors posed to colonial society—the way that they flagrantly undermined the security and racial purity of the emergent nation—made the 'terror' that they caused all the more extreme. And while the issue of insurgent, black men terrified colonial Australians, attributing their crimes to their inherently savage nature allowed colonial society to deny them the status of rational men, acting in response to genuine grievances.

### *A List of Grievances*

In some ways, historians have followed a similar trajectory by failing to explore Jimmy Governor's claims to the bushranging tradition. Only Henry Reynolds has noted Governor's fascination with bushrangers, and his investigation is relegated to two short pages in a journal article.<sup>38</sup> There is more in the source material to explore. To begin with, Jimmy Governor left notes and letters for the police when he was on the run, and this particular mode of communication would have been well recognised by settlers in 1900 as it echoed the infamous Kellys. In 1879 Ned Kelly dictated a fifty-six page letter at the

---

<sup>37</sup> 'The Black Murderers', *Newcastle Morning Herald* (30 July 1900), p. 4; 'The Black Murderers', *Corowa Free Press* (30 October 1900), p. 3; 'Further Murders by the Blacks', *Mudgee Guardian* (23 July 1900), p. 5; 'The Black Fiends', *Glen Innes Examiner* (31 July 1900), p. 2; 'The Breelong Blacks', *Clarence River Advocate* (30 October 1900), p. 3; 'The Breelong Blacks', *Daily Telegraph* (31 July 1900), p. 7; 'The Black Horror', *Dungog Chronicle* (27 July 1900), p. 3; 'The Black Horror', *Scone Advocate* (3 August 1900), p. 4; 'The Black Horror', *Mudgee Guardian* (29 November 1900), pp. 7, 9.

<sup>38</sup> Reynolds, 'Jimmy Governor and Jimmie Blacksmith', pp. 17, 20.



town of Jerilderie in which he outlined his grievances against the authorities and justified his resort to crime. At over 8,000 words, it was a long statement but it touched on well-worn bushranging themes: the need for the rich to share their wealth with the poor, the corruption of the police and the persecution that Kelly and his family faced from the criminal justice system.<sup>39</sup> Denis Shephard from the National Museum of Australia believes that 'Ned Kelly is the only bushranger known to have left a detailed written justification of his actions', and to a certain extent he is right.<sup>40</sup> Governor's letters are much less elaborate, the longest being only a couple of paragraphs.<sup>41</sup> On first inspection, they bear little resemblance to a 'justification for his actions.' In the first letter that Governor left for his detractors, for example, he wrote

I bushranger now; they would not register my dog or let me ride in the train free, and they all have a set on me at Dubbo. This is my horse now. I bushranger now...Put this in the *Sydney Mail* so they can all see it—Jim Governor.'<sup>42</sup>

Unsurprisingly, colonial Australians did not view these as very compelling reasons for mass murder. On reading this declaration, 'The Vagrant' penned a letter to the *Mudgee Guardian* remarking that although 'sentimentalists' might offer excuses for Jimmy Governor's actions, Governor's own words proved that it 'did not take much to

---

<sup>39</sup> National Museum of Australia, 'Jerilderie Letter, digitised online'. Accessed 12 September 2018 via: <[http://www.nma.gov.au/collections/collection\\_interactives/jerilderie\\_letter](http://www.nma.gov.au/collections/collection_interactives/jerilderie_letter) >; McGrath, 'Australia's Occluded Voices', pp. 20-23; Alex McDermott (ed.), *The Jerilderie Letter* (Melbourne: Melbourne Text Publishing, 2001); Alex McDermott, 'Who said the Kelly letters?: the question of authorship and the nature of wild language in the Cameron and Jerilderie letters', *Australian Historical Studies* vol. 33, no. 118 (2002), pp. 255-272.

<sup>40</sup> Denis Shephard, 'Jerilderie Letter Essay: a widow's son'. Accessed 16 September 2018 via: <[http://www.nma.gov.au/collections/collection\\_interactives/jerilderie\\_letter/page\\_5](http://www.nma.gov.au/collections/collection_interactives/jerilderie_letter/page_5)>

<sup>41</sup> 'Letters from Jimmy Governor', *Maitland Mercury* (4 September 1900), p. 3; 'The Black Outlaws', *Singleton Argus* (6 September 1900), p. 3.

<sup>42</sup> 'The Breelong Blacks', *Maitland Mercury* (18 August 1900), p. 7.

drive him to adopt a career of murderer....'<sup>43</sup> Or did it? If we place Jimmy Governor's words in context, then a more complex picture quickly comes into view.

Let us first unpack Governor's claim that 'they would not register my dog...' In 1898, the appropriately named *Dog and Goat Act* was passed to consolidate acts relating to dogs and goats in New South Wales. This legislation required that all dogs within the boundary of any 'city, town, or police district' for more than fourteen days be registered with the authorities. A fee was required for registration, and the onus was on the owner to prove that their animal had been recorded. This Act posed many problems for men like Jimmy Governor. For one thing, itinerant workers such as himself would have to register their dogs in multiple areas, incurring large costs and great inconvenience. Registration only lasted for one year, and so to keep dogs resulted in ongoing fees. If the animals were not registered, the consequences could be dire. Not only were the owners fined, but if an unregistered dog was found by the authorities and unclaimed for 24 hours, it was killed. If a dog was 'at large', with no collar and not in the 'immediate custody' of their owner, then anyone was authorised to kill the animal. Indeed, they were encouraged to do so. Police were fined for not reporting unregistered dogs, while rewards were offered to civilians who killed such dogs. Provided that the executioner brought the dog's tail to a police magistrate or judge as proof, they would be paid for their trouble.<sup>44</sup> This left many dogs' welfare up to individuals, as unaccompanied or lost

---

<sup>43</sup> The Vagrant, 'Letter to the Editor', *Mudgee Guardian* (16 August 1900), p. 3.

<sup>44</sup> *Dog and Goat Act* 1898 (NSW) No. 44.

Ironically enough, an aspiring poet warned readers in the *South Coast Times* to ensure that they registered their dogs, lest the police, disillusioned from failing to catch the Governors, should bring the force of the law down hard upon their unregistered canines instead. While whimsical, this poem illustrates an awareness of this law, and that the *Dog and Goat Act* was policed. The Colonel, 'Nutshells', *South Coast Times* (29 September 1900), p. 12.

dogs without collars could be killed on sight. Such wide discretionary provisions also meant that this law was open to abuse should anyone want to harass a particular person. Any of these situations could have occurred in Jimmy Governor's case, and even if his dog had not yet been killed, being denied registration would put its welfare at constant risk.

Governor's dog was evidently of great importance to him. The strong connection between Aboriginal people and dogs has long been recognised, with even conservative estimates indicating that Aboriginal people's relationships dingoes (native dogs) reaches back around four thousand years.<sup>45</sup> Deborah Bird Rose has noted the importance of the dingo to Aboriginal culture and spiritual belief, while domesticated dogs were also prized by Aboriginal people as soon as they were introduced by Europeans.<sup>46</sup> In 1900, dogs were still important to Aboriginal people and served a range of purposes. They were often beloved companions as well as 'bed warmers' on cold nights camping out.<sup>47</sup> Dogs could also assist with hunting, helping to supplement expensive provisions and provide a staple diet.<sup>48</sup> Any threat to his dog would have been keenly felt by Jimmy Governor.

---

<sup>45</sup> Bradley P. Smith and Carla A. Litchfield, 'A Review of the Relationship Between Indigenous Australians, Dingoes (*Canis Dingo*) and Domestic Dogs (*Canis Familiaris*)', *Anthrozoos* vol. 22, no. 2 (2009), pp. 111-128.

<sup>46</sup> Deborah Bird Rose, *Dingo Makes Us Human: life and land in an Australian Aboriginal culture* (Cambridge: Cambridge University Press, 2000); Deborah Bird Rose, *Wild Dog Dreaming: love and extinction* (Charlottesville and London: University of Virginia Press, 2011); Deborah Bird Rose, 'Jesus and the Dingo' in Deborah Bird Rose and Tony Swain (eds.), *Aboriginal Australians and Christian Missions: ethnographic and historical studies* (Bedford Park, South Australia: Australian Association for the Study of Religions, 1988), pp. 361-375; Smith and Litchfield, 'A Review', pp. 111-128.

<sup>47</sup> Smith and Litchfield, 'A Review', p. 123.

<sup>48</sup> *ibid.*, pp. 119-121.

Governor's second point about being refused free train travel also carries a particular meaning when it is viewed in context. As Paul Irish's work has shown, Aboriginal people quickly adopted train, tram and steamship travel and used these new technologies to connect with other Aboriginal groups around New South Wales. Some would move to reconnect with kin, others to attend ceremonies and use these novel methods to travel routes that their ancestors had before them. While Irish's work concentrates on Aboriginal people who lived on the east coast of New South Wales and Jimmy Governor's people lived further inland, it is very likely that Governor and his Aboriginal family used train travel for similar purposes.<sup>49</sup> Moreover, for a seasonal worker like Governor who moved from job to job, the mobility that trains provided enhanced his ability to find work.

While train travel in New South Wales was never officially free for Aboriginal people, there is evidence that it was common practice for rail authorities to let them ride without a ticket. Indeed, in 1900 two members of the Aboriginal Protection Board (hereafter APB) raised this issue, E. M. Clark of St Leonards declaring that 'the general public was under the impression that an Aborigine could jump on a train...without any charge being made', while J. M. Chanter of Deniliquin acknowledged that 'some years ago the aborigines had the right to step on to a...train when they thought proper and travel about.'<sup>50</sup> However, the Board soon discovered that Aboriginal people 'were travelling all over the colony...to the great annoyance of everybody else' and so active

---

<sup>49</sup> Paul Irish, *Hidden in Plain View: the Aboriginal people of Coastal Sydney* (Sydney: New South Publishing, 2017). Jimmy Governor's family were Wiradjuri, from the central west of New South Wales. Garland, Jimmy Governor, p. 107.

<sup>50</sup> New South Wales Legislative Assembly, *New South Wales Legislative Assembly Minutes* (11 October 1900). (Sydney: Government Printer, 1900), p. 3891. Accessed 12 October 2018 via: <<https://www.parliament.nsw.gov.au/hansard/pages/home.aspx?s=1>>

steps were taken to prevent train travel from the 1890s. APB minutes reflect their increasing restriction of Aboriginal people's movement. New South Wales government railways were informed of the Board's wish to prevent Aboriginal people from using their services in 1892 and 'rail passes' were brought in to regulate their travel in 1890. From this time, Aboriginal people had to apply to the Board for a pass to use the trains, but the APB would not approve this request until a police magistrate had determined whether the journey was a 'legitimate' one.<sup>51</sup>

After having free train travel, to be forced to pay, or prove your business was worthy of travel to the APB, curtailed the liberty of many Aboriginal people. Paying for such services affected poorer families who could not afford the expense, while needing the APB to sign off on such travel took freedom of movement out of some Aboriginal people's hands. Given this momentous shift regarding train travel at the time that Governor was writing, it seems that he spoke for many Aboriginal people when he labelled the end of free train travel a specific grievance.

The final issue that Jimmy Governor remarked upon in his letter to the police was that 'they all have a set on me at Dubbo'.<sup>52</sup> Both Ethel and Jimmy had strong connections to this town. Jimmy Governor would likely have frequented Dubbo as it had the closest train station to where he was working in Breelong.<sup>53</sup> Ethel went back and

---

<sup>51</sup> *ibid.*, pp. 3891-3892. See also, NSWSA: Board for the Protection of Aborigines; NRS 2, Minute Books [Aborigines Welfare Board], 1890-1901 [4/7113], minutes for 25/9/1890, 2/6/1882, 18/8/1892, 29/9/1892, 26/4/1894, 3/5/1894, 31/5/1894, 25/10/1894. Many thanks to Paul Irish for bringing these sources to my attention.

<sup>52</sup> 'The Breelong Blacks', *Maitland Mercury* (18 August 1900), p. 7.

<sup>53</sup> 'Dubbo Railway Station and Yard Group', NSW Office for Environment and Heritage. Accessed 15 October 2018 via: <<https://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?ID=5011998>>; 'The Breelong Tragedy', *Evening News* (24 July 1900), p. 3.

forward to Dubbo as she originally left her son, Sidney, there with her parents while she and Jimmy set up their Breelong camp.<sup>54</sup> Ethel's parents had only moved to Dubbo after she and Jimmy wed, and Maurie Garland believes that the move was necessary to avoid the scandal caused by Ethel and Jimmy's marriage in their old home of Gulgong.<sup>55</sup> These pre-existing connections between the Governors and Dubbo are important. Given their presence in the town, the scandal surrounding Ethel and Jimmy's interracial marriage and the vocal disapproval that they received (from the Mawbey women before the murders and in the press afterwards), it is possible that the pair were well known and slighted in Dubbo too.<sup>56</sup> If that was the case, then Governor's remark that 'they all have a set on me at Dubbo' could mean that the town's inhabitants were 'set against' him for trying to reach above his station and presuming to marry a white girl.<sup>57</sup>

### *Honour and Reputation*

The idea that Jimmy Governor fought to defend his and Ethel's good name is a recurring theme that pervades material about his case. Indeed, this was Governor's official defence to the charge of murder. In his court testimony, Jimmy Governor declared that on the night of the murders

I says to my wife, "We'll go up and see Mrs Mawbey about these words she's been talking about us." I says to my wife, "I'll make her mind what she's talking about." I says to my wife, "I'll put her through the court if she doesn't watch herself." So I went up to the house. So I says, "Did you tell my wife that a white

---

<sup>54</sup> Moore and Williams, *The True Story*, pp. 25, 27.

<sup>55</sup> Garland, *Jimmy Governor*, p. 121.

<sup>56</sup> See pages 259-273 in the previous chapter for details.

<sup>57</sup> 'The Breelong Blacks', *Maitland Mercury* (18 August 1900), p. 7.

The people of Dubbo were particularly affected by Governor's crimes as one of his murder victims, the Mawbey's live-in school teacher, Miss Kertz, was originally from Dubbo and was well known to its inhabitants. 'Fearful Murders at Breelong', *Dubbo Dispatch* (25 July 1900), p. 2.

woman who married a-----blackfellow ought to be shot?" I said, "Did you ask her what kind of nature did I have; black or white, or what colour was it? [Presumably his penis.] And with that Mrs Mawbey and Miss Kerz wheeled around and laughed at me like that, with a sneering laugh. (Prisoner imitated the posture he was describing.) And before I had the words out of my mouth, as I put it to the court, I struck Mrs Mawbey on the head with this nullah-nullah. (Prisoner dramatically went through the movement of striking.) And Miss Kerz says, "Pooh, you black rubbish, you want shooting for marrying a white woman." And with that I hit her with my hand. It was on the jaw and I knocked her down. Then I got angry and lost my temper, and everything, and I did not know anything after that.<sup>58</sup>

For Governor's words to be accepted as a mitigation to murder, colonial Australians had to be convinced that he held similar values to those of respectable white men. Governor could only have been provoked by Miss Kerz and Mrs Mawbey if he believed that the things they said were offensive in the extreme. In white terms, having aspersions cast upon your character, your intimate relations ridiculed, your wife insulted, and your honour challenged would have been considered more than enough to incite a man to violence. If anything, it was a white man's duty to react to such a gross insult and disregard for propriety.<sup>59</sup> Although murder would have still been condemned, the reason for the crime would have been recognisable. However, as we have already seen, Governor was not depicted as equal to a white man. As Penny Russell and Nigel Worden suggest, 'indigenous Australians who...survived [colonisation]...were judged to live a debased and degraded existence, without claim to

---

<sup>58</sup> 'Jimmy Governor: trial at Darlinghurst', *Australian Star* (23 November 1900), p. 5.

<sup>59</sup> Kirsten McKenzie, 'Defining and Defending Honour in Law' in Penny Russell and Nigel Worden (eds.), *Honourable Intentions? Violence and virtue in Australian and Cape colonies, c1750 to 1850* (London: Routledge, 2016), pp. 17-30; Penny Russell, 'Honour, Morality and Sexuality in Nineteenth-Century Sydney' in Penny Russell and Nigel Worden (eds.), *Honourable Intentions? Violence and virtue in Australian and Cape colonies, c1750 to 1850* (London: Routledge, 2016), pp. 202-217.

honour.’<sup>60</sup> The brutal, bloody nature of Jimmy Governor’s crimes further militated against him being viewed as anything but savage.

Although whites refused to recognise Governor’s claims to be defending his honour, it is clear from other instances in his life that he set great store by his public reputation. Jimmy Governor proudly remarked to police that was not a ‘loafer’.<sup>61</sup> He did not live on public funds as other Aboriginal people were denigrated for doing, and before the murders, he was well liked and hard-working.<sup>62</sup> In his account of the Breelong murders, Governor initially wanted to use the court to stop Mrs Mawbey’s slanderous remarks, and there is evidence that he used similar, non-violent means to address a grievance like this in the past.<sup>63</sup> After receiving offensive comments from a woman at the Gulgong Show in 1899, Governor demanded an apology. On her refusal, he went to the police and the woman was made to publish a public apology in the Gulgong newspaper.<sup>64</sup> It appears the Mawbey women could not be similarly persuaded to apologise for their behaviour. By refusing to retract their statements or show contrition for their actions, they made a mockery of Jimmy Governor’s claim to respect. It was only after Governor’s negotiations with the Mawbey women had failed that he resorted to violence.<sup>65</sup>

---

<sup>60</sup> Penny Russell and Nigel Worden, ‘Introduction’ in Penny Russell and Nigel Worden (eds.), *Honourable Intentions? Violence and virtue in Australian and Cape colonies, c1750 to 1850* (London: Routledge, 2016), p. 9.

<sup>61</sup> ‘Evidence’, *Sydney Morning Herald* (23 November 1900), p. 7.

<sup>62</sup> Moore and Williams, *The True Story*, p. 20.

<sup>63</sup> ‘Jimmy Governor: trial at Darlinghurst’, *Australian Star* (23 November 1900), p. 5.

<sup>64</sup> Moore and Williams, *The True Story*, pp. 19-20.

<sup>65</sup> According to A. Blok, violence “underwrites reputation”, winning a respect based on fear, and in this sense it functions as a strategy of defending honour, status and the right to survive.’ Anton Blok taken from Russell and Worden, *Honourable Intentions*, p. 4. See also Anton Blok, *Honour and Violence* (Cambridge: Polity Press, 2001), pp. 103-114.



This exploration of Governor's grievances does not excuse his actions. He massacred women, children and old people. He killed them brutally, violently, and apparently without remorse.<sup>66</sup> Rather, unpacking Governor's words is important because they indicate how white social norms shaped his worldview and sense of self. By pushing beyond the shorthand of 'savage' we can interrogate the way that he challenged colonial culture by using its standards to defend his criminal actions.<sup>67</sup> This is where things get messy, as Governor appealed to notions of honour and manhood attributed to bushrangers that were celebrated by the white community. In defending his wife's honour, Governor tapped into the elite bushrangers' respect towards and protection of women.<sup>68</sup> That he murdered other white women to mount this defence was problematic, but did not negate that original impulse. In another letter that Governor left for the police, he apparently stated that 'had it not been for her [Ethel] the murders would not have been committed.'<sup>69</sup> The papers automatically assumed that Governor made 'this accusation out of a spirit of revenge' against Ethel to punish her for providing evidence at the Breelong inquest.<sup>70</sup> However, this too can be interpreted differently. Had Ethel not come to Jimmy, upset and aggrieved by the Mawbey women's taunts, then he may not have confronted them. If Jimmy Governor had not needed to come to his wife's aid, then the murders may never have taken place.

---

<sup>66</sup> On death row, however, female missionary Retta Dixon claimed that Governor repented and atoned for his sins. 'Jimmy Governor as the Chief of Sinners', *Goulburn Penny Post*, 29 Sept. 1904, p. 2.

<sup>67</sup> Jimmy Governor may also have been influenced by Indigenous traditions of resistance or warfare, however, an examination of these connections still needs to be made. This section solely examines Governor's very vocal claims to be a bushranger.

<sup>68</sup> See for example Wannan, *The Australian*, p. 10; Bill Beatty, *A Treasury of Australian Folk Tales and Traditions* (London: Edward Ward Publishers, 1960), pp. 123-127; Seal, *The Outlaw Legend*, pp. 7-8.

<sup>69</sup> 'Jimmy Governor Blames his Wife for the Murders', *National Advocate* (24 August 1900), p. 2; 'The Black Outlaws', *Evening News* (24 August 1900), p. 6.

<sup>70</sup> *ibid.*

It was not only the Mawbey family who encouraged Jimmy Governor's turn to crime, but his own. In an extensive interview given to reporters upon his capture, Governor stated that most nights after work, he, Ethel, Jacky Underwood and his brother Joe would talk about bushranging.

I told them if I was a bushranger I suppose I would take some catching...My missus, Jacky Underwood and Joe laughed at the idea of bushranging. They said to me "you are not game to go". I said, "That is forcing me to go".<sup>71</sup>

From this statement, it seems that Governor's family did not believe that he had the bravery or capacity to become a bushranger. There is a clear causal connection in Jimmy Governor's words between this doubt in his ability and his decision to engage in bushranging crime. Indeed, these aspersions were 'forcing' him to go, to prove his family wrong, and to raise his position to one of esteem in their eyes.

Governor was well aware that daring feats were required for him to enter the bushranging tradition, even if he did not follow through with them in action. On the 24<sup>th</sup> of August, for example, the *Singleton Argus* reported that a third letter had been discovered from Jimmy Governor

...who states that before long he will ride through the streets of Coonabarabran in broad daylight. He adds that the police will have a rare picnic before they catch him.<sup>72</sup>

Now, most evidence suggests that the Governors travelled on foot rather than riding horses. Horses made a great deal of noise in the bush and left tracks that were easily followed. By contrast, the Governors went to great measures to avoid being traced.

---

<sup>71</sup> 'Interview with Jimmy Governor', *Goulbourn Evening Penny Post* (30 October 1900), p. 4.

<sup>72</sup> 'A Threat by the Outlaws', *Singleton Argus* (25 August 1900), p. 2.

The *Dubbo Dispatch* declared that the pair must have doubled back and ‘walked along a fence for some distance’ to avoid leaving tracks and evade the dogs and men pursuing them.<sup>73</sup> The typical image of the bushranger, however, was a man riding his horse, and it is this stereotype that Governor drew on in his letter.<sup>74</sup> His threat was reminiscent of ‘elite’ bushrangers who brazenly entered towns and held their inhabitants as (well treated) hostages. In these instances, the police were made to appear bumbling fools as they were usually too far away or underprepared to stop such a direct encroachment onto their territory.<sup>75</sup> Although Jimmy Governor never did ride into Coonabarabran in broad daylight, he made clear allusions to this ‘elite’ bushranging tradition. It just appears that he valued his safety more than carrying out this boast.

Popular culture was clearly never the sole preserve of the white community as Governor showed a keen awareness of the emergent bushranging type. Oral histories, ballads and folklore circulated about bushrangers even in their own times, and these tales were commonly shared among itinerant bushmen. Governor moved about the same country frequented by these legendary figures and it is unlikely that their tales would have escaped his notice.<sup>76</sup> Jimmy Governor could also read and write, having

---

<sup>73</sup> ‘The Breelong Blacks’, *Dubbo Dispatch* (12 September 1900), p. 2. Later, this tactic was also recalled in settlers’ reminiscences. See for example ‘Everyday and Everybody’, *Labour Daily* (9 October 1935), p. 4; ‘Mainly About People: Breelong Blacks’, *Cessnock Eagle* (6 July 1948), p. 3; ‘Recollections of the Breelong Blacks’, *Scone Advocate* (6 August 1948), p. 4; ‘Recollections of the Breelong Blacks’, *Wingham Chronicle* (23 July 1948), p. 4.

<sup>74</sup> Ward, *The Australian Legend*, p. 141. Compare to West, *Bushranging and the Policing of Rural Banditry*, pp. 47, 85.

<sup>75</sup> John Hirst, *The Strange Birth of Colonial Democracy: New South Wales, 1848-1884* (Sydney: Allen & Unwin, 1988), pp. 218-240.

For readings on these bushrangers’ careers, see Charles White, *The History of Australian Bushranging, 1863-1869*, vol. 2 (Sydney: Angus and Robertson, 1901); Carol Baxter, *Captain Thunderbolt and His Lady* (Sydney: Allen & Unwin, 2011); Waterhouse, *The Vision Splendid*, p. 69.

<sup>76</sup> Laurie Moore and Stephan Williams note that on the run, Governor travelled some of the same route that the Aboriginal murderers known as the ‘Dora Dora Blacks’ had travelled before him, and that he may have also looked to them for inspiration for his crimes. Moore and Williams, *The True Story*, pp. 97, 157-159.

attended public school in rural New South Wales, and from his and Ethel's testimony, it appears that Governor had been reading about bushrangers before the murders.<sup>77</sup> It may not have been a coincidence that Governor requested that his first letter be published in the *Sydney Mail*, the newspaper that published the famous bushranging serial, *Robbery Under Arms* by Rolf Boldrewood in 1882-1883.<sup>78</sup> Moreover, although Governor was only 5 years old when the Kellys were caught, the *Mudgee Guardian* published a series of articles on the gang's exploits in 1899, one year before the attacks.<sup>79</sup> We know from Jimmy Governor's taunts to the police that he was reading the *Guardian* in 1900 and he may have done so recreationally before he used the paper to ascertain the authorities' plans.<sup>80</sup>

In October 1900 Governor stated to reporters that he had never read 'any of Deadwood Dick's novels or any other books about bushranging until we came out that night [the night of the murders].'<sup>81</sup> What is interesting here is that Governor referred to an American influence in his conception of bushranging, as *Deadwood Dick* 'dime-novels'

---

<sup>77</sup> *ibid.*, pp. 9, 11, 177; 'Further Sensational Murders', *Sydney Morning Herald* (25 July 1900), p. 8; 'Remarkable Evidence', *Clarence and Richmond Examiner* (28 July 1900), p. 5; 'Jimmy Governor's Wife Gives Sensational Evidence', *Mudgee Guardian* (23 July 1900), p. 5; 'Interview with Jimmy Governor', *Goulbourn Evening Penny Post* (30 October 1900), p. 4.

<sup>78</sup> 'Robbery Under Arms', AUSTLIT Database. Accessed 12 September 2018 via: <<https://www.austlit.edu.au/austlit/page/C252884>>; 'Robbery Under Arms', *Sydney Mail* (1 July 1882-11 August 1883).

<sup>79</sup> 'In the Bad Old Days: Knights of the Road: the Kelly Gang', *Mudgee Guardian* (20 January 1899; 27 January 1899; 3 February 1899; 10 February 1899, 17 February 1899, 24 February 1899; 10 March 1899; 17 March 1899, 24 March 1899), p. 5. Jimmy Governor was only 25 at the time on his capture in 1900. NSWGA: Darlinghurst Gaol; NRS 2137, Entrance and Description Books [Darlinghurst Gaol], 1900 [5/1947-53].

<sup>80</sup> 'Murderers Near Coolah', *Mudgee Guardian* (9 August 1900), p. 10; The Vagrant, 'Letter to the Editor', *Mudgee Guardian* (16 August 1900), p. 3.

<sup>81</sup> 'Interview with Jimmy Governor', *Goulbourn Evening Penny Post* (30 October 1900), p. 4. As this is Governor's only reference to Deadwood Dick novels, it appears that he did not continue to read these books on the run. It is also unclear how he sourced this publication.

were about American cowboys.<sup>82</sup> Although he denied reading this literature for long, Governor was not alone in his conflation of bushranging and the life of an American cowboy. The *Evening News* declared that '[t]he little native camp at Breelong seems to have owed, at least, in part, some of its demoralisation to reading "Deadwood Dick" tales of highwaymen and bushrangers', and there were certainly connections between the two.<sup>83</sup> Bushrangers and cowboys operated on sprawling frontiers, often beyond the reach of established civil society. In popular culture, they walked a precarious line between representing crime and disorder, and their own higher form of justice.<sup>84</sup> Indeed, Daryl E. Jones describes the character of Deadwood Dick as a 'delightful rogue' as his bravery and survival in harsh country endeared him to his audience.<sup>85</sup>

Although Governor may have wanted to identify with Deadwood Dick, the cowboy and protagonist of these novels, the Native Americans in these stories may have struck a greater chord with him. As Michelle Abate notes

[f]rontier figures like...Deadwood Dick...spend most of their time fighting indigenous tribal peoples. Frequently in these novels, the current villain or longstanding enemy of the white Western hero is either a solitary American Indian or an entire tribe.<sup>86</sup>

---

<sup>82</sup> Andrew Urban, 'Legends of Deadwood', *Journal of American History* vol. 94, no. 1 (2007), p. 225. Note that Governor stated he had not read any 'bushranging books' before that night. This suggests that he may have still read about bushrangers in other mediums, such as newspapers.

<sup>83</sup> 'Jimmy Governor', *Evening News* (29 October 1900), p. 4. Eight boys from Sydney who left to pursue the Governors were also influenced by *Deadwood Dick* novels, and this led the *Windsor Gazette* to call for the books to be suppressed by the government to stop them from influencing impressionable minds. 'News of the Day', *Windsor Gazette* (1 September 1900), p. 1. See also 'About Town and Elsewhere', *The Newsletter* (8 December 1900), p. 10.

<sup>84</sup> Ann McGrath, 'Playing Colonial: cowgirls, cowboys, and Indians in Australia and North America', *Journal of Colonialism and Colonial History* vol. 2, no. 1 (2001).

<sup>85</sup> Daryl E. Jones, 'Blood'n Thunder: virgins, villains and violence in the dime novel Western', *Journal of Popular Culture* vol. 4, no. 2 (1970), p. 7.

<sup>86</sup> Michelle Ann Abate, "'Bury My Heart on Recent History": Mark Twain's "Hellfire Hotchkiss", the massacre at Wounded Knee, and the dime novel Western', *American Literary Realism* vol. 42, no. 2 (2010), p. 122.

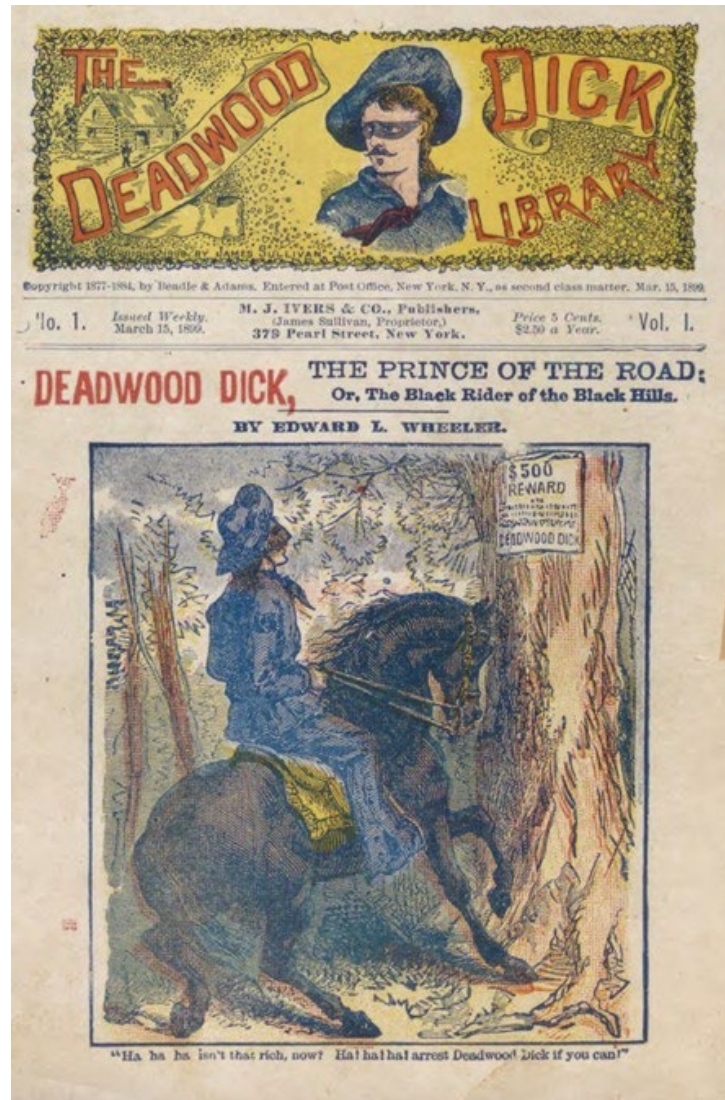


Figure 16: Edward L. Wheeler, *Deadwood Dick, the prince of the road*, 1899.<sup>87</sup>

This emphasis on pitting cowboys against 'Indians' stood in stark contrast to the Australian bushranging legend, where Aboriginal people were on the periphery of circulated narratives, and bushrangers were predominately fighting wealthy squatters or corrupt authorities.<sup>88</sup> It is hard to believe that this dichotomy between white heroes and Indigenous villains would have been lost on Jimmy Governor, and it is telling that

<sup>87</sup> Source: Edward L. Wheeler, 'Deadwood Dick, the prince of the road', *Deadwood Dick Library* vol. 1, no. 1 (1899), pp. 1-31.

<sup>88</sup> McGrath, 'Playing Colonial'.

Governor was reading these tales the night before he committed the murders. For a man who already felt persecuted, ridiculed and disrespected by colonial society, this fictive representation may have compounded his feelings of frustration and isolation.

After one hundred days at large, Jimmy Governor was captured by civilians on the 27<sup>th</sup> of October 1900. By his own admission, the last days on the run had been hard ones. Far from the glamorous life of a legendary bushranger, Governor had spent the fourteen days before his capture living on nothing but wild honey and water, and was emaciated when the roving party caught up with him. At his trial the following month, Jimmy Governor made a startling about-face, and disavowed his interest in bushranging. To the court he declared that

All this bushranging business that we was talking about—that's a lie....We made all that up...[we said that] so that they'd know that I was the main man. But all that was not true, it was only to be said.<sup>89</sup>

Jimmy Governor may have fabricated his interest in bushranging to divert attention from his family, but the timing is suspicious. Governor made this denial just before his lawyer argued that the Mawbey women's taunts incited him to violence.<sup>90</sup> In law, provocation relied on a lack of premeditation: for this mitigation to be successful, Governor could not have planned, let alone revelled in, his turn to crime.<sup>91</sup>

---

<sup>89</sup> 'Jimmy Governor: trial for murder', *Evening News* (23 November 1900), p. 4; 'Motive for the Crimes', *Bathurst Free Press*, (26 July 1900), p. 3.

<sup>90</sup> 'Jimmy Governor: trial for murder', *Evening News* (23 November 1900), p. 4.

<sup>91</sup> Governor's lawyer tried to use the defence of provocation, arguing that the Mawbey women had acted in such a way as to make Governor lose control and react with violence. 'The Breelong Tragedy: trial of Jimmy Governor', *Sydney Morning Herald* (24 November 1900), p. 11. For similar accounts, see 'The Breelong Tragedy: trial of Jimmy Governor', *Sydney Morning Herald* (24 November 1900), p. 11; 'Jimmy Governor', *Cumberland Argus* (28 November 1900), p. 2; 'Commencing the Case', *Wingham Chronicle* (28 November 1900), p. 3.

Before Governor had access to a lawyer, he spoke willingly to the press about his bushranging exploits. According to the *Singleton Argus*, Governor

...did not seem at all anxious to hide a single detail of his doings during the period in which his name was a terror to thousands, but rather gloried in many of his performances, principally those which brought his bush craft into prominence, or exhibited his powers of cunning in outwitting the police and the others who were engaged in his pursuit.<sup>92</sup>

Jimmy Governor emphasised skills and escapades typical of bushranging heroes throughout his crime spree in New South Wales. Although he became renowned as a mass murderer, and his claims to bushranging were either obviated or denied by colonial society, there are clear connections between Jimmy Governor and the emergent bushranging mythos. Despite settlers' attempts to ensure the contrary, the Australian bushranging tradition was never the exclusive preserve of white men.

### **Jimmy Governor the Outlaw**

The legal designation of outlawry was similarly inclusive, as it was not only applied to white, male bushrangers like the Kellys, but to Jimmy and Joe Governor.<sup>93</sup> However, this legal tradition is unlikely one that Jimmy Governor strove to be a part of. In law, an outlaw could be killed by anyone on sight. This suspension of legal safeguards, such as a fair trial, was justified on the grounds that these figures posed such an extreme threat to colonial society that extraordinary means needed to be taken to apprehend them. Legal opinion differed, however, on what entitlements an outlaw had

---

<sup>92</sup> 'Jimmy Governor', *Singleton Argus* (8 November 1900), p. 4.

<sup>93</sup> Although the Kelly gang were outlawed in Victoria, not in New South Wales. Eburn, 'Outlawry in Colonial Australia', p. 85.



if they were caught alive. The following section explores how the law of outlawry was applied to Jimmy Governor. At his trial, Governor frequently faded from public attention as the New South Wales judiciary became the object of scrutiny. As proceedings progressed, settlers were forced to question the justice of colonial law as the neat binary of Aboriginal savagery and white civilisation began to break down. It would not be an exaggeration to view this trial as Governor's second assault on colonial Australia—although in this instance, it was not Governor wielding weapons, but his lawyers, using law, that challenged the settler state.



Figures 17 (left) and 18 (right): Unknown Artist, *Jimmy Governor as He Appeared in Court Today*, 1900; Unknown Artist, *Jimmy Governor*, 1900.<sup>94</sup>

<sup>94</sup> Source (figure 17): 'Jimmy Governor: Thursday's Trial', *Evening News* (23 November 1900), p. 3.

Source (figure 18): 'The Breelong Blacks', *Truth* (25 November 1900), p. 8.

Jimmy Governor's trial opened on the 22<sup>nd</sup> of November 1900 at the Supreme Court of New South Wales in Sydney, and almost as soon as the proceedings began, confusion seemed to grip the courtroom. Francis Stewart Boyce was the barrister appointed by the Crown for Jimmy Governor's defence. With only three years at the bar to recommend him, Boyce opened by reciting an 'ingenious plea for acquittal.'<sup>95</sup> In close to three hundred words, Boyce declared that Jimmy Governor could not face trial. He contended that outlawry was tantamount to a conviction, and therefore Governor could not be tried again for the same offence.<sup>96</sup> Referencing various legal authorities from England, Boyce held that an outlaw was outside the law in all respects and therefore could not take advantage of any of its protections.<sup>97</sup> Watching intently from the public galleries, the *Evening News* reporter gave this matter every attention, and quoted verbatim the exchange between Boyce and Owen.

[**Mr Boyce**] contended that, until the writ of outlawry had been reversed, the accused was not able to plead and defend himself against any charge.

**His Honor:** And what of the crime the outlaw has committed—does he go scot free?

**Mr Boyce:** Under the law I am bound to say that the sheriff could take him into custody and execute him, but I am not going into that view of the case now. All I am concerned about is the prisoner's position before this court.

---

<sup>95</sup> Martha Rutledge, 'Boyce, Francis Stewart (1872-1940)', Australian Dictionary of Biography Online. Accessed 18 July 2017 via: <<http://adb.anu.edu.au/biography/boyce-francis-stewart-5320>>; 'The Breelong Tragedy: Jimmy Governor on Trial', *Daily Telegraph* (23 November 1900), p. 6.

<sup>96</sup> 'Jimmy Governor: trial for murder', *Evening News* (22 November 1900), p. 4; 'The Black Horror: Jimmy Governor on trial', *Mudgee Guardian* (29 November 1900), p. 7.

This plea of *autrefois convict* has its foundation in the doctrine of double jeopardy. Charles Parkinson, 'Double Jeopardy Reform: the new evidence exception for acquittals', *UNSW Law Journal* vol. 6, no. 3 (2003), pp. 605-606; William Blackstone, *Commentaries on the Laws of England: book the fourth* (London: T. Cadell, 1825), p. 335.

<sup>97</sup> 'The Black Horror: Jimmy Governor on trial', *Mudgee Guardian* (29 November 1900), p. 7.

**His Honor:** Then in that case the outlaw is in a worse position than an ordinary felon because, on affidavit before a single judge, the protection of the law could be taken from him, and he could be executed without any trial?

**Mr Boyce:** That is the position...<sup>98</sup>

According to the *Daily Telegraph*, Owen was so moved as to declare that it would 'be a monstrous thing if a person could not take his trial because he had, upon *ex parte* proceeding, been outlawed.'<sup>99</sup> The suggestion that Governor could be executed without trial was unexpected. While this had been the fate of his brother only weeks before, there was apparently a difference between shooting a fugitive who was at large in the bush and escorting an untried prisoner to the hangman's noose. As Joanna Bourke observes, there is a social distinction made between unlawful and lawful killing. The latter 'is sanctioned blood-letting, legislated for by the highest civil authorities and obtaining the consent of the vast majority of the population.'<sup>100</sup> There is a value placed on human life. The law can only extinguish it if certain standards are met, procedures observed, and justifications made. The most transparent site of this process is a criminal trial. At the opening of *Regina v Jimmy Governor* then, public expectations were confounded.

### *A History of Law in New South Wales*

When viewed in relation to the legal history of New South Wales, the suggestion that Governor could be executed without trial is confronting. British law was deemed to

---

<sup>98</sup> 'Jimmy Governor: trial for murder', *Evening News* (22 November 1900), p. 4.

<sup>99</sup> 'The Breelong Tragedy: Jimmy Governor on trial', *Daily Telegraph* (23 November 1900), p. 6. The italics are my own. In this case, *ex parte* referred to a one-sided proceeding.

<sup>100</sup> Joanna Bourke, *An Intimate History of Killing: face-to-face killing in twentieth century warfare* (London: Granta Books, 1999), p. 1.

be every Briton's birthright.<sup>101</sup> Colonists inherited '[a]ll laws and statutes in force within the realm of England...so far as the same can be applied within the...colonies' when they arrived on Sydney's shores.<sup>102</sup> In colonial legal thought, Aboriginal people were not considered to have sovereignty over the land and so they were declared subjects of Empire and also beholden to British law.<sup>103</sup> In the first few decades of the colony Aboriginal customary law continued and had been recognised, but in 1836 the notion of dual jurisdiction ended—officially at least.<sup>104</sup> Ironically, an act that is now viewed as a destructive form of dispossession was perceived by colonists as evidence of their benevolent generosity. The British saw their justice system as a gift to Aboriginal people because they were (formally) entitled to the law's protections. To many settlers, the colonisation of New South Wales was a noble quest to establish British justice to a foreign land.<sup>105</sup>

However, colonial law was not solely inherited from the United Kingdom. The imperial government recognised the unique circumstances of the colonies and after 1824, it allowed New South Wales to pass its own legislation so long as it was not 'repugnant

---

<sup>101</sup> David Neal, *The Rule of Law in a Penal Colony: law and power in early New South Wales* (Cambridge: Cambridge University Press, 1991); Alex Castles, *An Australian Legal History* (Sydney: Law Book Company Limited, 1982); Gregory D. Woods, *A History of Criminal Law in New South Wales: the colonial period, 1788-1900* (Sydney: Federation Press, 2002); Paula Byrne, *Criminal Law and the Colonial Subject: New South Wales, 1810-1830* (Cambridge: Cambridge University Press, 1993).

<sup>102</sup> Although this legal inheritance was largely assumed before 1828, it became formalised in the *Australian Courts Act*, 1828 (NSW) 9 Geo. IV, c. 83, section 24.

<sup>103</sup> See also British House of Commons, *Report of the Parliamentary Select Committee on Aboriginal Tribes (British settlements)* (London: W. Ball, 1837).

<sup>104</sup> In practice, Aboriginal customary law continued in Aboriginal and frontier zones well into the nineteenth century. *R. v. Murrell and Bummaree* (1836) 1 Legge 72; [1836] NSW SupC 35; Heather Douglas and Mark Finnane, *Indigenous Crime and Settler Law: white sovereignty after empire* (Basingstoke: Palgrave Macmillan, 2012), pp. 35-64; Bruce Kercher, *Unruly Child: a history of law in Australia* (Sydney: Allen & Unwin, 1995), pp. 3-12; Lisa Ford, *Settler Sovereignty: jurisdiction and Indigenous people in America and Australia, 1788-1836* (Cambridge, MA: Harvard University Press, 2011), pp. 196-203.

<sup>105</sup> Grace Karskens, *The Colony: a history of early Sydney* (Sydney: Allen & Unwin, 2009), p. 354.

to the laws of England'.<sup>106</sup> In times of perceived crisis, it was not uncommon for colonial Acts to curtail the rights of subjects in an attempt to maintain order.<sup>107</sup> It was in this vein that the legislation under which Governor was outlawed, the *Felons Apprehension Act*, was originally framed in 1865.<sup>108</sup> According to Chief Justice Alfred Stephen, in 1865 the colony was in turmoil because bushrangers were common and their harbourers many. To restore order and even the odds of capture, extreme measures needed to be taken. While the law of outlawry was not repugnant to those of England (being well established in both common and statute law from the time of Edward the First), it did necessitate suspending the legal rights of outlaws in order to protect law-abiding citizens.<sup>109</sup> Being able to shoot an outlaw on sight protected colonial subjects on two counts. First, they did not have to risk their lives by declaring themselves to the outlaw and potentially receiving a bullet in exchange for the courtesy.<sup>110</sup> And second, it protected them from being charged with murder for apprehending the criminal.<sup>111</sup> In this time of unrest, Stephen declared that

---

<sup>106</sup> Alex Castles, 'The Reception and Status of English Laws in Australia', *Adelaide Law Review* vol. 2, no. 1 (1963), pp. 1-32; *Colonial Laws Validity Act*, 1865 (Imperial) 28 & 29 Vict. c. 63; Kercher, *An Unruly Child*, pp. 98-101; Mark Finnane, 'Law and Regulation' in Alison Bashford and Stuart Macintyre (eds.), *The Cambridge History of Australia*, vol. 1 (Cambridge: Cambridge University Press, 2013), p. 396.

<sup>107</sup> As Amanda Nettelbeck and Robert Foster write of South Australia, 'the ideal of the rule of law held only until there was a moment of crisis, and security became more important than principle.' Amanda Nettelbeck and Robert Foster, 'Reading the Elusive Letter of the Law: policing the South Australian Frontier', *Australian Historical Studies* vol. 38, no. 130 (2007), p. 303.

Ian Holloway, Simon Bronitt and John Williams suggest that colonial New South Wales inherited 'English legal culture', rather than English law, and that this allowed the law to be open and flexible in the colonial context. Ian Holloway, Simon Bronitt and John Williams, 'Rhetoric, Reason and the Rule of Law in Early Colonial New South Wales' in Hamar Foster, Benjamin L. Berger and A. R. Buck (eds.), *Grand Experiment: law and legal culture in British settler colonies* (Vancouver and Toronto: UBC Press, 2008), pp. 79-80.

<sup>108</sup> *Felons Apprehension Act*, 1865 (NSW) 28 Vict. No. 2.

<sup>109</sup> Alfred Stephen, *State of Crime: the Felons Apprehension Act* (1865) 4 SCR Appendix, p. 4.

<sup>110</sup> *ibid.*, p. 2.

<sup>111</sup> *ibid.*, p. 2. See also Eburn, 'Outlawry in Colonial Australia', p. 82.

The most humane will hardly contend, that the life of the honest man and good subject should be more liable to sacrifice than that of an accused and notorious practiced robber...who has set the law at defiance.<sup>112</sup>

What made Jimmy Governor's case different to that of the 1860s, however, was the context. The *Felons Apprehension Act* was created in a time when bushranging posed the greatest threat in Australian history. In 1865, settlement was often dispersed and uneven, and while the bush was a place of concealment for 'native born' robbers, it was largely an unknown wilderness to the freshly-minted men of the New South Wales police force. Popular support for bushranging crime was at its peak and commonly decried in polite circles as a colonial scandal.<sup>113</sup> The Act was originally in force for one year as an emergency measure, but after this time it was re-enacted and extended.<sup>114</sup>

By 1900 the colonies were on the brink of Federation, and progress, youth, innocence, egalitarianism and whiteness, not crime, were the narratives of the day. The frontier had apparently been conquered, Aboriginal people either vanquished or fading away, and the colonies on the cutting edge of history.<sup>115</sup> By the time Jimmy Governor reached the Supreme Court in November 1900, he had already challenged this triumphant narrative with his murderous actions. Now he did so again, through his barrister, with law. Francis Boyce asked Justice Owen to agree that Jimmy Governor could not face trial. By doing so he challenged colonists' identity as civilised subjects,

---

<sup>112</sup> Stephen, *State of Crime*, p. 2.

<sup>113</sup> See Chapters 3 and 4 for more details.

<sup>114</sup> *R. v. Jimmy Governor* (1900) 21 LR (NSW), p. 287.

<sup>115</sup> See Chapter 5 for more information.

and called into question the progress of the nascent Australian nation. Legal execution without trial was a degenerate practice, no matter how institutionalised the barbarity.<sup>116</sup>

### *The Courtroom as an Emotional Arena*

It is not immediately clear what Boyce hoped to achieve by making this argument on his client's behalf. It was obviously not in Governor's interests to be executed, either with or without a trial. Perhaps Boyce sought to use the perceived injustice of execution without trial to his advantage. Although Governor had been outlawed, it was still in the judge's power commute his sentence to life imprisonment. This provided a far more palatable alternative to execution without trial. If Boyce intended to force the judge's hand on this matter, however, his plan was frustrated. Jimmy Governor's trial for murder proceeded, and he was found guilty. Fortunately for Governor, the matter of outlawry (and consequently, whether the trial was valid) was reserved for deliberation.<sup>117</sup> An appeal was made on these grounds, and on the 28<sup>th</sup> of November, the legal saga continued.<sup>118</sup>

Justices Stephen, Simpson and Cohen presided over the appeal. Although Boyce had performed 'admirably' as Jimmy Governor's representative at his criminal trial, it

---

<sup>116</sup> It is important to note that execution without trial was a common aspect of frontier warfare and that the rule of law was regularly suspended in settlers' conflicts with Aboriginal people in the early decades of colonisation. See for example Robert Foster and Amanda Nettelbeck, 'The Rule of Law on the South Australian Frontier', *Legal History* vol. 13 (2009), pp. 209-227.

<sup>117</sup> 'Details of the Trial', *Daily Telegraph* (24 December 1900), p. 10; 'Jimmy Governor's Appeal', *Evening News* (28 November 1900), p. 5; 'Trial of Jimmy Governor: sentenced to death', *Clarence River Advocate* (27 November 1900), p. 2.

<sup>118</sup> 'Law Report: Wednesday, November 28', *Sydney Morning Herald* (29 November 1900), p. 3; 'Jimmy Governor's Appeal', *Evening News* (28 November 1900), p. 5; 'Jimmy Governor', *Dubbo Liberal* (1 December 1900), p. 2.

was Richard Edward O'Connor, Queen's Counsel, who represented his interests now.<sup>119</sup> Tall, with an 'upright, well-set, deep-chested, vigorous frame' and 24 years at the bar, O'Connor was a well-known fixture of Sydney's legal landscape. He was also a strident supporter of Federation and well known for his promotion of the Constitution Bill.<sup>120</sup> However, it was not by close attention to colonial statute but English common law that O'Connor opened Jimmy Governor's defence. He contended that

Outlawry was a condition that was well known to English common law, and that law was brought, amongst others, into this colony when it was occupied by British colonists. It was always open to the Supreme Court to...[declare] an outlaw, but, inasmuch as that procedure was cumbersome in the English law, and difficult to carry out in this colony, a statute was passed to make it more simple; but it did not affect the consequences of outlawry at all. The legal effect of the outlawry was that the Government might execute the prisoner at any time, though it be contrary to modern custom...<sup>121</sup>

With these words, O'Connor attempted to bring the colonial *Felons Apprehension Act* in line with English common law. His argument was that the statute did not constitute a new interpretation of outlawry, but merely clarified the process by which it was achieved. Unless the outlawry was reversed, Jimmy Governor's fate was apparently sealed. He might legally be killed at any time, or, at the judge's discretion, his sentence could be commuted to life imprisonment. But he should not have received a trial.<sup>122</sup>

After this grave introduction, Justice Stephen added some levity to the proceedings. Apparently seeking to understand O'Connor's argument, he rejoined

---

<sup>119</sup> Justice Owen explicitly remarked upon Boyce's 'admirably' conducted defence. 'Details of the Trial', *Daily Telegraph* (24 November 1900), p. 10.

<sup>120</sup> Martha Rutledge, 'O'Connor, Richard Edward (Dick) (1851-1912)', Australian Dictionary of Biography Online. Accessed 18 July 2017 via: <<http://adb.anu.edu.au/biography/oconnor-richard-edward-dick-1102>>

<sup>121</sup> 'Jimmy Governor: autrefois convict', *Evening News* (29 November 1900), p. 3.

<sup>122</sup> *ibid.*; 'Law Report: Thursday, November 29', *Sydney Morning Herald* (30 November 1900), p. 7; *R. v. Jimmy Governor* (1900) 21 LR (NSW), pp. 280-284.



According to your contention then, the Act amending the Common Law on Outlawry gives power to shoot the outlaw on sight, and also, as a sort of compensating advantage, gives him also the privilege of being executed without a trial.<sup>123</sup>

At these words, laughter reverberated around the courtroom.<sup>124</sup> It was the apparent absurdity of Stephen's remarks that warranted such a response. To a population well versed in their legal rights, regarding execution without trial as a 'privilege' was ridiculous.<sup>125</sup> Court cases have often been recognised as a form of entertainment for nineteenth-century spectators, but the purpose of these lines was more than humour alone.<sup>126</sup> As Amy Milka and David Lemmings observe, part of a judge's role was to be aware of the emotional climate of the courtroom. While their first duty was to interpret the law, they were also responsible for representing the justice and the majesty of the law to the general public.<sup>127</sup> In making his witty remarks, Justice Stephen appealed to the common sensibility of the courtroom and recognised normative ideas of justice. This both reinforced these standards and made the judge more relatable to the public.<sup>128</sup>

---

<sup>123</sup> 'Conviction of Jimmy Governor: appeal to full court', *Daily Telegraph* (29 November 1900), p. 8; 'The Black Horror: conviction of Jimmy Governor', *Mudgee Guardian* (29 November 1900), p. 2.

<sup>124</sup> *ibid.*

<sup>125</sup> See pages 327-331.

<sup>126</sup> Linda Mulcahy, 'Watching Women: what illustrations of courtroom scenes tell us about women and public space in the nineteenth century', *Journal of Law and Society* vol. 42, no. 1 (2015), p. 59.

<sup>127</sup> Amy Milka and David Lemmings, 'Narratives of Feeling and Majesty: emotions in the eighteenth-century criminal courtroom', *Journal of Legal History* vol. 38, no. 2 (2017), pp. 155-178.

<sup>128</sup> Milka and Lemmings, 'Narratives of Feeling', p. 156. The way that the public perceive that 'justice is done' has changed over time. See Clare Graham, *Ordering Law: the architectural and social history of the English law court to 1914* (Aldershot: Ashgate, 2003); Clare Graham, 'The History of Law Court Architecture in England and Wales: the institutionalisation of the law', in *Silence in the Court: the future of the UK's historic law courts* (London: Save Britain's Heritage, 2004), pp. 36-47; Mulcahy, 'Watching Women', pp. 53-73; Linda Mulcahy, 'I'm Not Watching, I'm Waiting: the construction of visual codes about women's role as spectators in the trial in nineteenth century England', *Legal Information Management* vol. 14 (2014), pp. 23-24; Linda Mulcahy, 'Architects of Justice: the politics of courtroom design', *Social and Legal Studies* vol. 16, no. 3 (2007), pp. 383-403.

Humour also lightened the atmosphere and momentarily distracted the court from the fact that O'Connor made a compelling case. There was no doubt that in British law, outlawry 'amounts to a conviction...as much as if the offender had been found guilty by a jury'.<sup>129</sup> The process by which a person could be outlawed became more involved with the introduction of the *Felons Apprehension Act* in New South Wales, yet O'Connor argued that the effect remained the same.<sup>130</sup> In British law, there was 'an exception to the fundamental principle that no man can be treated as guilty until convicted, and that is the process of outlawry...'<sup>131</sup>

Colonial Australians' proud inheritance of British law appeared to be compromised by outlawry, and the force of this challenge meant that it could not be addressed by humour alone. While Stephen's joking aside was erased from the official court reports on the matter, emotion and sentiment were formally appealed to in legal arguments on the case. C. G. Wade, the Crown Prosecutor and O'Connor's adversary, declared that the purpose of the *Felons Apprehension Act* was to apprehend criminals so that they could be brought to trial. To justify his argument, he proposed that there was a temporal and jurisdictional boundary between the English common law of outlawry and the statute law of New South Wales. The common law to which O'Connor referred 'was what had existed in the barbarous days of criminal jurisprudence in England.' While it was technically still on the record, Wade maintained that the common law was

---

<sup>129</sup> John Archbold, *Archbold's Pleading, Evidence and Practice in Criminal Cases* (London: William Feilden et al., 1900), p. 98.

<sup>130</sup> *Felon's Apprehension Act*, 1899 (NSW) 63 Vict. No. 26, pp. 233-236; Letter from the Crown Solicitor to the Inspector General of Police, 20 August 1900. Taken from NSWSA: [Police] Special Bundles; NRS 10923, Papers re-Joe and Jimmy Governor [4/8581] Doc 79.

<sup>131</sup> *R. v. Jimmy Governor* (1900) 21 LR (NSW), p. 281.

obsolete.<sup>132</sup> According to the Crown Prosecutor, the New South Wales legislature had only brought outlawry to the colony with the *Felons Apprehension Act*, and consequently redefined its terms. Far from the brutal punishment of old, the statute facilitated the speedy capture of the felon in order to bring them to trial, therefore promoting, not undermining, the rule of law.<sup>133</sup>

This was certainly a more generous interpretation of outlawry, as it recast the colony from a barbarous settlement to an enlightened one, however, more than legal argument held sway in this courtroom of learned men.

Mr Wade submitted that the court must deal with the matter in the light of public opinion of the present day, and not give meaning to the Felons' Apprehension Act that was repellent to the minds of humane people.<sup>134</sup>

The court cannot lose sight of the monstrous consequences that must ensue if Mr O'Connor's contention is correct...it is argued that we have re-enacted the barbarous process of convicting a man without trial.<sup>135</sup>

At this point of the debate, Wade changed tack. From claiming that the law's purpose was a felon's speedy apprehension, he then asked the judges to contemplate what would happen if they agreed with O'Connor's argument. In the courtroom, the balance of power shifted, and it was now the law, and not Jimmy Governor, that was accused of being uncivilised and barbarous. These were highly emotive, pejorative claims that elicited strong responses from the judges. Justice Stephen declared that if he

---

<sup>132</sup> *ibid.*, p. 285; 'Conviction of Jimmy Governor: appeal to the full court', *Daily Telegraph* (29 November 1900), p. 8.

<sup>133</sup> *R. v. Jimmy Governor* (1900) 21 LR (NSW), pp. 278-290; 'Law Report: Friday, November 30', *Sydney Morning Herald* (1 December 1900), p. 11; 'Conviction of Jimmy Governor: appeal to the full court', *Daily Telegraph* (29 November 1900), p. 8; 'Jimmy Governor: autrefois convict', *Evening News* (29 November 1900), p. 3; 'Conviction of Jimmy Governor', *Daily Telegraph* (30 November 1900), p. 8.

<sup>134</sup> 'Conviction of Jimmy Governor', *Daily Telegraph* (30 November 1900), p. 8.

<sup>135</sup> *R. v. Jimmy Governor* (1900) 21 LR (NSW), pp. 282-283.

‘had to decide in favour of the prisoner it would be with great humiliation’.<sup>136</sup> If the court agreed with the defence, it would mean institutionalising the ‘monstrous’ practice of conviction without trial, undermining a foundational principle of British law and recognising that Jimmy Governor’s trial had been a farce. Far from the case of one criminal, it now appeared that the moral legitimacy of law was at stake.

In his rich voice, O’Connor responded to his ‘learned friend’ by assuming the role of dispassionate informant of the law.<sup>137</sup> Although he admitted that the court must look at the consequences of construing a statute, he argued that

Here the Court has only to say what is the law, and if in this particular case it results in something abhorrent to the modern method of dealing with criminals, that was brought about by the Crown putting this old engine of outlawry into force. It might be a monstrous thing that a man should be hanged without a trial, but the answer is that is the law, no matter what is the effect. [Being judged an outlaw and being guilty of the offence are] the same thing...[The outlaw] has been put in jeopardy just as much as if he had been put on trial.<sup>138</sup>

O’Connor’s stance tapped into deep seated understandings about the formal authority of the law. If the law was a self-referential system, closed to the ‘damaging effects’ of subjectivity and visceral emotion, then his argument was sound. As Douglas Hay has written,

...the criminal law, to be effective, must be...determinate, instead of capricious and obscure...The punctilious attention to forms, the dispassionate and legalistic exchange between counsel and the judge, argued that those administering and using the law submitted to its rules.<sup>139</sup>

---

<sup>136</sup> ‘Conviction of Jimmy Governor: appeal to the full court’, *Daily Telegraph* (29 November 1900), p. 8.

<sup>137</sup> Rutledge, ‘O’Connor’.

<sup>138</sup> *R. v. Jimmy Governor* (1900) 21 LR (NSW), p. 284.

<sup>139</sup> Douglas Hay, ‘Property, Authority and the Criminal Law’ in Douglas Hay et al. (eds.), *Albion’s Fatal Tree: crime and society in eighteenth century England* (London: Penguin Books, 1977), p. 33.

In other words, 'The law['s]...absurd formalism was part of its strength as an ideology.'<sup>140</sup> Viewed in this light, appealing to common sensibilities and predicting the future effects of a new precedent were beyond the law's parameters. Its role was to deal with facts and evidence, not engage in fortune telling. This Queen's Counsel depicted the court's authority as contingent upon recognising the law 'as a power with its own claims, higher than those of prosecutor, lawyers, and even the great [judges themselves]. To them...the law was The Law.'<sup>141</sup> Any concerns about the consequences of outlawry should have been voiced before it was put into force. But now that it had, O'Connor declared that the law must to be followed, and that the justices' hands were tied.<sup>142</sup>

### *The Public Face of Justice*

How then, did this legal conflict close? Historians who have discussed Jimmy Governor's case merely state that his appeal lost, if they refer to it at all.<sup>143</sup> However, the judges' verdict was in no way inevitable, and it was only after extensive deliberation that the three judges came to a decision. Stephen gave the longest speech and largely served as spokesperson for his brother judges. He maintained that outlawry was not a conviction for an indictable offence, but rather a 'punishment for contumacy or rebellion, so to speak, of the subject not coming forward and delivering himself up to justice when certain proceedings were taken against him.' He agreed with the prosecution that outlawry had not entered colonial law until the *Felons Apprehension Act* of 1865, and that

---

<sup>140</sup> *ibid.*

<sup>141</sup> *ibid.*

<sup>142</sup> 'Conviction of Jimmy Governor', *Daily Telegraph* (29 November 1900), p. 8.

<sup>143</sup> Marie Garland is the only one to mention the appeal. Maurie Garland, *Jimmy Governor: blood on the tracks* (Melbourne: Brolga Publishing, 2009), p. 282.

the legislation was a departure from the common law in Britain. After a close reading of the legislation, Stephen decided that the Act's purpose was the outlaw's apprehension so that they could receive a fair trial. What is remarkable about Stephen's address is not the ruling itself.<sup>144</sup> Rather it is the fact that, once again, he did not appeal to the law alone.

Justice Stephen saw fit to repeat the Crown Prosecutor's emotive argument, almost verbatim, in his decision. This was despite the fact that, of his own admission, it should not have played a role in his determination. Stephen declared

It was of course absolutely clear that the judges had no right to regard consequences at all, but if they might do so he should like to know what would be the consequences in the case if Mr. O'Connor's argument were to hold weight. They would have absolutely to ignore the guiding principle of the British law which had been in existence for ages, that no man could be punished except after trial and conviction by his peers. They were asked to set trial by jury at naught...He confessed that one was to a certain extent inclined to struggle against such an interpretation of the Act, and to endeavour to find in it an expression of opinion by Legislature that the Act should not embrace all these incidents and consequences he mentioned.<sup>145</sup>

This statement was erased from the official law report on the matter, but included in the law report in the press.<sup>146</sup> We can see here the disjuncture between formal legal process and the role of individuals in making legal decisions. The 'disembodied justice of the law' was an illusion.<sup>147</sup> In reality, legal decisions have always been human decisions.<sup>148</sup> Stephen already had a reputation for the 'the fearlessness with which he expressed himself on matters which he conceived to be for the public welfare', and now

---

<sup>144</sup> *R. v. Jimmy Governor* (1900) 21 LR (NSW), pp. 278-290; 'Law Report: Friday, November 30', *Sydney Morning Herald* (1 December 1900), p. 11.

<sup>145</sup> 'Law Report: Friday, November 30', *Sydney Morning Herald* (1 December 1900), p. 11.

<sup>146</sup> *R. v. Jimmy Governor* (1900) 21 LR (NSW), pp. 278-290; 'Law Report: Friday, November 30', *Sydney Morning Herald* (1 December 1900), p. 11.

<sup>147</sup> Hay, 'Property, Authority and the Criminal Law', p. 33.

<sup>148</sup> Merridee L. Bailey and Kimberley-Joy Knight, 'Writing Histories of Law and Emotion', *Journal of Legal History* vol. 38, no. 2 (2017), p. 121.

he voiced his opinion in no uncertain terms.<sup>149</sup> While the judge recognised that it was not appropriate to appeal to potential consequences in his deliberation, he did so none the less. Indeed, he actually admitted that they influenced his decision, as he felt 'inclined to struggle against' an interpretation of the *Felons Apprehension Act* that placed the rule of law in jeopardy.<sup>150</sup>

In one respect, by acknowledging Stephen's thought process, the press provided a more transparent view of the law. While it was a judge's formal duty to regard the law as the highest authority, his interpretation of the law relied on particular ideas of justice. For hundreds of years there had been a space in British jurisprudence for affect as well as reason.<sup>151</sup> As Milka and Lemmings describe, the 'grand narrative of English criminal justice was inherently emotional, activating patriotism and love of liberty, but also fear of punishment.'<sup>152</sup> Judges engaged in emotional labour to represent the justice, mercy, and majesty of the law. Harsh sentences could be applied with circumspection to illustrate that the law was magnanimous, or liberally to depict its power to deter and avenge. There was a long tradition of judges using their speeches to school the public on social standards and convince them of the righteousness of proceedings. Judges never appealed to the law alone, but took the time to illustrate its significance to the public by whatever means they saw fit.<sup>153</sup> In this instance, Stephen once again used contemporary sensibilities and the idea that trial by jury was a subject's right to enhance the legitimacy

---

<sup>149</sup> Martha Rutledge, 'Stephen, Sir Matthew Henry (1818-1920)', Australian Dictionary of Biography Online. Accessed 18 June 2017 via: <<http://adb.anu.edu.au/biography/stephen-sir-matthew-henry-1301>>

<sup>150</sup> 'Law Report: Friday, November 30', *Sydney Morning Herald* (1 December 1900), p. 11.

<sup>151</sup> Hay, 'Property, Authority and the Criminal Law', pp. 17-63; Milka and Lemmings, 'Narratives of Feeling and Majesty', pp. 155-178; Mulcahy, 'Architects of Justice', pp. 383-403; Graham, *Ordering Law*.

<sup>152</sup> Milka and Lemmings, 'Narratives of Feeling and Majesty', p. 156.

<sup>153</sup> Milka and Lemmings, 'Narratives of Feeling and Majesty', pp. 155-178; Hay, 'Property, Authority and the Criminal Law', pp. 16-63; Finnane, 'Law and Regulation', pp. 398-399.

of his decision. As the defence had led a case that threatened the civilised standards of colonial law, Stephen framed his decision in these terms. O'Connor may have had legal technicality on his side, but he overlooked the discretionary power of judges as well as the weight of hundreds of years of legal tradition.

Although foundational principles like the right to trial by jury had been disregarded in times of emergency, the Justices of the Supreme Court refused to admit that there *was* an emergency in 1900. Indeed, Judge Simpson explicitly stated that he believed

this is an Act that should not be put in force expect for the most urgent and cogent reasons. When the Act was passed such reasons existed, but they no longer exist...<sup>154</sup>

As we know from the previous chapter, this stands in direct contrast to the threat of robbery, murder and uprising posed by Jimmy Governor. In 1900 he instilled fear that the colony had returned to the brutal days of the frontier, and that settlement was in danger once more. Hundreds of men from across the country bore arms to hunt the Governor brothers down.<sup>155</sup> Entire towns were deserted, schools unattended, and livestock uncared for because the risk of attack was perceived to be too great.<sup>156</sup> There were even reports of women learning to use guns and carrying rifles about the house in case the Governors dropped in unannounced.<sup>157</sup> Thousands of newspaper articles

---

<sup>154</sup> *R. v. Jimmy Governor* (1900) 21 LR (NSW), p. 288.

<sup>155</sup> NSWSA: [Police] Special Bundles; NRS 10923, Papers re-Joe and Jimmy Governor [4/8581] Doc 79; Moore and Williams, *The True Story*.

<sup>156</sup> 'The Breelong Blacks', *Daily Telegraph* (30 July 1900), p. 7; 'Cassilis to Gulgong', *Sydney Morning Herald* (30 July 1900), p. 8.

<sup>157</sup> 'Alarm in Outlying Districts: women practicing with revolvers', *Evening News* (31 July 1900), p. 3; Paddy O'Brien interviewed by John Meredith, 13 September 1984. John Meredith Folklore Collection, National Library of Australia. Accessed 14 July 2013 via: <http://www.nla.gov.au/amad/nla.ohvn2050603?searchTerm=folklore+jimmy+governor>



reported the intimate details of killings, robberies and repeated failures to catch the two men.<sup>158</sup> Military allusions abounded, and for nearly three months, no one knew when the carnage would cease.<sup>159</sup> The sense of emergency was real.

And so, what was the purpose of the justices' denial? Why did they maintain that a state of emergency did not exist? One answer can be found in the law's capacity to provide redress for public wrongs, make sense of disruptive events and restore social order.<sup>160</sup> In anthropologist Victor Turner's terms, the law is a site of 'social drama', a stage that society uses to re-establish certainty after times of crisis.<sup>161</sup> By declaring that the Governors' 'rampage' did not constitute the same threat that bushranging had in the 1860s, the judges drew a reassuring distinction between the past and the present. Now that the Governors were apprehended, one shot dead and the other safely under lock and key, Justices Stephen, Simpson and Cohen could minimise the damage that they had done.

Moreover, the authority of the court proved that Jimmy Governor was manageable. He was not uncontrollable, ungovernable or beyond the reach of law. He could be dealt with in a 'civilised' manner and brought to heel by the power of the courts. He was convicted and sentenced under them, his outlawry notwithstanding. This

---

<sup>158</sup> Searching for 'Jimmy Governor' in Trove (the National Library of Australia's online database) between July 1900 and January 1901 retrieves 6,096 newspaper reports. Even allowing for some irrelevant articles, it appears the newspaper count is in the thousands. Accessed 7 September 2017 via: <http://trove.nla.gov.au/newspaper/result?q=jimmy+governor&exactPhrase=&anyWords=&notWords=&requestHandler=&dateFrom=1900-07-01&dateTo=1901-01-30&sortBy=> >

<sup>159</sup> See pages 272-293 in Chapter 5.

<sup>160</sup> There was, of course, a numerical distinction between hundreds of men committing bushranging offences in the 1860s, and two Aboriginal men at large in 1900. But this was not enough to deny a time of crisis when the effect that the Governors had on colonial society was so great.

<sup>161</sup> Victor Turner, 'Social Dramas and Stories about Them', *Critical Inquiry* vol. 7, no. 1 (1980), pp. 141-168.

showed that the law had not been tainted by the Governor brothers' brutality or by an outdated emergency law, but that the courts had legitimate power over them both.

## **Conclusion**

In Federation Australia, bushrangers became potent national icons. Although the popular, bushranging elite was composed of white men, these figures had an appeal that transcended race. Jimmy Governor identified with bushrangers. Bushranging allowed him to articulate his own grievances through a mode that colonial Australians knew well. He appealed to notions of honour, reputation and frontier masculinity that these figures relied upon. The fact that settler Australians refused to accept him as bushranger should not detract from the evidence that Governor sought to make bushranging his own. This material not only provides us with insights into Governor's sense of self, but the unstable, disruptive potential of national symbols. Colonial Australians could not control how the bushranging mythos was used, or by whom. It was turned against the society that ostensibly created it, and used by Governor to justify his attacks on unsuspecting colonists, as well as the settler colonial state of which his victims were a part.

Interestingly, at the same time that settler Australians strove to develop a distinct national mythos, the Supreme Court of New South Wales relied heavily on English common law to understand colonial statute and the law of outlawry. However, Jimmy Governor's appeal was never just a matter of law, but what the law represented. New South Wales' British legal inheritance was intertwined with colonial understandings of civilisation and the righteousness of colonisation. This not only explains why British law

featured so heavily in Governor's case, but why the justices of the Supreme Court also used emotion to combat allegations of legal barbarism. In Jimmy Governor's appeal, colonial understandings about British justice and the rule of law were ultimately placed above the 'letter of the law' as it stood in colonial statute. Jimmy Governor's appeal was not a debate about the death sentence so much as the power of legal process, and the notions of civility and savagery that were contingent upon it.<sup>162</sup>

In the end, Jimmy and Joe Governors' fates were the same. Both were killed for their offences. Joe was shot on the run in the bush as a fugitive from justice, while on the 18<sup>th</sup> of January 1901 Jimmy was escorted from his cell in Darlinghurst Gaol to the hangman's noose.<sup>163</sup> However, the anxiety that Jimmy Governor caused colonial Australians did not end with his death. Fears that Governor's actions would incite other Aboriginal people to commit acts of violence continued into the twentieth century. They were exacerbated by the fact that in March 1901, an Aboriginal man named Fred Locke kidnapped a 13-year-old white girl because he wanted to be a 'second Jimmy Governor'.<sup>164</sup> Fears of a return to violence permeated social memory, folklore, religious

---

<sup>162</sup> Ironically, outlawing Jimmy Governor also tacitly recognised him as a bushranger, as the *Felons Apprehension Act* was created and used to suppress bushranging crime.

<sup>163</sup> 'Death of Joe Governor', *Maitland Mercury* (1 November 1900), p. 3; 'Joe Governor: how he was shot', *Evening News* (1 November 1900), p. 5; 'The Black Outlaws: Joe Governor shot dead', *Daily Telegraph* (1 November 1900), p. 5; Moore and Williams, *The True Story*, p. 126; 'Black Outlaws: Jimmy Governor captured at last', *Evening News* (27 October 1900), p. 5; 'Jimmy Governor Captured: surprised and surrounded', *Sydney Morning Herald* (29 October 1900), p. 7; 'The Black Horror: Jimmy Governor shot and captured', *Mudgee Guardian* (29 October 1900), p. 2; Moore and Williams, *The True Story*, 119-120.

<sup>164</sup> 'Flying from Justice', *Nepean Times* (30 March 1901), p. 6; 'Outrage at Riverstone', *Dungog Chronicle* (29 March 1901), p. 2; 'Another Jimmy Governor', *Corowa Free Press* (29 March 1901), p. 2; 'A Second Jimmy Governor', *Wagga Wagga Advertiser* (28 March 1901), p. 4; 'Abduction by an Aboriginal', *Armidale Chronicle* (30 March 1901), p. 2; 'An Abduction Case', *Albury Banner* (7 June 1901), p. 29; 'The Sensational Abduction', *Freeman's Journal* (6 April 1901), p. 29; 'Abduction by a Black', *Riverina Times* (3 June 1901), p. 4; 'The Marsden Park Sensation', *Daily Telegraph* (12 April 1901), p. 5; 'The Rooty Hill Abduction Case', *Cumberland Argus* (3 April 1901), p. 3.

instruction, and continued to influence the law.<sup>165</sup> Despite the Supreme Court judges' assurances that the bushranging crisis was over, the legislature did not repeal the *Felons Apprehension Act* and the Act remained in force until 1979.<sup>166</sup> The triumphant narrative of progress that surrounded national Federation in 1901 is challenged by the fact that legislators in New South Wales were not confident that the violence was over. The *Felons Apprehension Act* might be needed once more.

---

<sup>165</sup> Meg Foster, 'Murder for White Consumption? Jimmy Governor and the bush ballad' in Yu-ting Huang and Rebecca Weaver Hightower (eds.), *Archiving Settler Colonialism: culture, race and space* (London: Routledge, 2018), pp. 173-189.

The missionary for the New South Wales Aborigines' Mission, Retta Dixon, explicitly made connections between Jimmy Governor's lack of religious instruction and his turn to crime. She argued that Aboriginal people needed to be educated about the gospel in order to prevent further outrages. 'Jimmy Governor as the Chief of Sinners', *Goulburn Evening Penny Post* (29 September 1904), p. 2; 'Lecture on Jimmy Governor', *Mudgee Guardian* (6 October 1904), p. 7; 'An Address on Jimmy Governor', *Singleton Argus* (18 April 1903), p. 4; 'A Prisoner's Plea for Punishment', *Macleay Argus* (6 June 1903), p. 5; 'Items', *Wingham Chronicle* (22 October 1904), p. 9; 'Country Items', *Sydney Mail* (5 October 1904), p. 852.

<sup>166</sup> Eburn, 'Outlawry in Colonial Australia', p. 85.

## Conclusion

Today, the Australian bushranging mythos, and Australian bushranging history are the preserves of white men. With the passing of time, 'other' bushrangers like Jimmy Governor, Mary Ann Bugg, Sam Poo and 'Black Douglas' faded from colonial consciousness, while white bushranging men only increased in fame. The temporal distance between white, male bushrangers and twentieth-century Australia allowed their lives to enter the realm of myth, and 'elite' bushrangers became Australian legends. Bushrangers pervaded twentieth-century Australian popular culture, from bush ballads and folklore to plays and films and songs, however, their influence did not end there.<sup>1</sup> It continued into the twenty-first century, as white bushranging men remain national heroes.

As recently as 2000, bushrangers were part of Australia's performance of its identity to the world. Olympic Games opening ceremonies are renowned for displaying a carefully crafted image of the host country to an international audience, and the Sydney 2000 Olympic Games ceremony was no exception.<sup>2</sup> As part of the program 'dozens of Kelly figures, dressed in the armour made familiar by Nolan's abstract paintings, rushed into the Stadium with rifles blazing fireworks'.<sup>3</sup>

---

<sup>1</sup> See pages 301-325 in Chapter 6.

<sup>2</sup> Jackie Hogan, 'Staging the Nation: gendered and ethnicized discourses of national identity in Olympic opening ceremonies', *Journal of Sport and Social Issues* vol. 27, no. 2 (2003), pp. 100-123.

<sup>3</sup> Anne Marsh, 'Ned Kelly by any other name', *Journal of Visual Culture* vol. 1, no. 1 (2002), p. 61.

*Figure 19 has been removed due to copyright restrictions.*

**Figure 19: Unknown Photographer, *Ned Kellys at the Sydney Olympic Games, 2000.*<sup>4</sup>**

Although bushrangers are often celebrated as anti-establishment underdogs, their association with Australian national culture has, to a certain extent at least, been institutionalised. Bushrangers are also protagonists in award winning films. They form a staple of the tourist trail in rural New South Wales and Victoria.<sup>5</sup> The relationship between bushrangers, culture and society is so marked that there are sociological studies investigating the place of bushrangers in contemporary Australian life.<sup>6</sup> Some

---

<sup>4</sup> Source: Peter Fitzsimons, '15 Years Ago Today, the World Watched in Awe as the Sydney 2000 Olympic Games Began', *Sydney Morning Herald* (15 September 2015). Accessed 7 September 2019 via: <<https://www.smh.com.au/national/nsw/15-years-ago-today-the-world-watched-in-awe-as-the-sydney-2000-games-began-20150915-gjmx7p.html>>

<sup>5</sup> Bruce Tranter and Jed Donoghue, 'Bushrangers: Ned Kelly and Australian identity', *Journal of Sociology* vol. 44, no. 4 (2008), pp. 373-390; Andrew James Couzens, *A Cultural History of the Bushranger Legend in Theatres and Cinemas, 1828-2017* (London: Anthem Press, 2019); Warwick Frost, 'Braveheart-ed Ned Kelly: historic films, heritage tourism and destination image', *Tourism Management* vol. 27, no. 2 (2006), pp. 247-254; Sue Beeton, 'Rural Tourism in Australia—has the gaze altered? Tracking rural images through film and tourism promotion', *International Journal of Tourism Research* vol. 6, no. 3 (2004), pp. 125-135.

<sup>6</sup> See for example Tranter and Donoghue, 'Bushrangers', pp. 373-390; Bruce Tranter and Jed Donoghue, 'Ned Kelly: armoured icon', *The Journal of Sociology* vol. 46, no. 2 (2010), pp. 187-205; Bruce Tranter and Jed Donoghue, 'Bushrangers in the Sydney Morning Herald', *TASA 2006 Conference Proceedings*, pp.

Australians identify so strongly with these figures that they are willing to mark their bodies with bushrangers' images, as tattoos serve as a constant, physical reminder of their heroes.<sup>7</sup> While there have been instances of local or familial commemoration for 'other' bushrangers, they remain outside of the national imaginary.<sup>8</sup> The Australian bushranging mythos is composed exclusively of white men, and bushranging history mirrors this tradition.

The obfuscation of 'other' bushrangers also conceals the scandal, outrage and anxiety that they engendered in their own times. By pushing beyond contemporary mythology and restoring to the past 'its own present, with all the possibilities of the future still in it, with all its uncertainties', this thesis has demonstrated the profound impact that 'other' bushrangers had on settler colonial society.<sup>9</sup> In a physical sense, 'other' bushrangers threatened colonists' lives, livelihoods and property. Jimmy Governor not only robbed people in their homes and on the road throughout New South

---

1-12. Accessed 17 December 2018 via: [https://www.researchgate.net/publication/228486067\\_Bushrangers\\_in\\_the\\_Sydney\\_Morning\\_Herald\\_Ned\\_Kelly\\_and\\_Australian\\_Identity](https://www.researchgate.net/publication/228486067_Bushrangers_in_the_Sydney_Morning_Herald_Ned_Kelly_and_Australian_Identity)

<sup>7</sup> Miles Kemp, 'Why A Ned Kelly Tattoo is Dangerous', *The Advertiser* (16 June 2011). Accessed 17 December 2018 via: <https://www.adelaidenow.com.au/news/why-a-ned-kelly-tattoo-is-dangerous/news-story/cc0ff2abb1c63f50c7c6a978d0fb390b>

<sup>8</sup> For local and familial commemoration of 'other' bushrangers, see for example Clare Britton, 'Posts in a Paddock: revisiting the Jimmy Governor tragedy, approaching reconciliation and connecting families through the medium of theatre', *Journal of the European Association for Studies of Australia* vol. 4, no. 1 (2013), pp. 143-157; Jeff Khan (ed.), *Posts in the Paddock: performance space, point 4, exchange* (Sydney: Performance Space Limited, 2011); Meg Foster and Jason Phu, 'The Artist, the Historian and the Case of the Chinese Bushranger', Museum of Contemporary Art (8 November 2018). Accessed 2 February 2019 via: <https://www.mca.com.au/stories-and-ideas/artist-historian-and-case-chinese-bushranger/>; Jason Phu, *The Ballad of The Widely Loved and Revered Aussie Bushranger Sammy "Pooey" Pu: The Successful Great Revolt Against the Southern Crossers by L.H.C., The Shooting Death of S.C.J.W. by a Chinaman, The Great Chase and Final Showdown at Barney's Reef, The Trial of The Mute, The Execution by Hanging of Sam Poo*, 2015, ink, texta, coloured pencil on Chinese paper, 1050 x 60cm. Featured in the show 'From Old Ground', Bathurst Regional Gallery, curated by Joanna Bayndrian, 2015.

<sup>9</sup> Greg Denning, 'Empowering Imaginations', *The Contemporary Pacific* vol. 9, no. 2 (1997), p. 423.

Wales, but murdered white women, children and the elderly.<sup>10</sup> Mary Ann Bugg assisted Frederick Ward in his bushranging escapades and was reported to have engaged in violence herself, leaping off a horse and ripping the arresting officer's shirt to ribbons.<sup>11</sup> However, physical and economic danger were not the only threats posed by 'other' bushrangers. If they had been, there would have been nothing to prevent these figures from also becoming national heroes. After all, famous white bushranging men like the Kellys engaged in murder and bushranging crime.<sup>12</sup>

'Other' bushrangers are not a part of the Australian bushranging mythos because they could not provide colonists with a 'usable' past.<sup>13</sup> 'Other' bushrangers challenged colonists' ideas about racial and gendered hierarchies as well as the parameters of law, order and colonial governance. They threatened the white, masculinist framework that Australian national identity relied upon and challenged settlers' sense of their place in the world. What kind of society produced an Aboriginal mass murderer, an Aboriginal vagrant, a black and a Chinese bushranger? How stable was a society where interracial relationships blurred the boundaries of whiteness? How civilised was a society that was beset by 'other' bushrangers? In colonial Australia, 'self' and 'other' were mutually constitutive. One was meant to be what the other was not, and so the disruption caused by 'other' bushrangers challenged settler colonial identity, and placed 'other'

---

<sup>10</sup> See Chapters 5 and 6.

<sup>11</sup> See Chapter 4.

<sup>12</sup> See Chapter 6.

<sup>13</sup> Bernard Eric Jensen, 'Usable Pasts: comparing approaches to popular and public history' in Paul Ashton and Hilda Kean (eds.), *People and Their Pasts* (London: Palgrave Macmillan, 2009), pp. 42-56; Keith S. Brown and Yannis Hamilakis, 'A Cupboard of the Yesterdays: critical perspectives on the usable past' in Keith S. Brown and Yannis Hamilakis (eds.), *The Usable Past: Greek metahistories* (Lanham: Lexington Books, 2003), pp. 1-22.



bushrangers outside of any nascent bushranging legend.<sup>14</sup> ‘Other’ bushrangers’ absence from Australian national history and bushranging mythology reflects settlers’ attempts to distance these individuals from colonial society. It illustrates history’s complicity in re-inscribing colonial power relations, and it demonstrates that Australia’s contemporary heroes are the product of its settler colonial past.



*Figure 21 has been removed due to copyright restrictions.*

**Figures 20 (left) and 21 (right): Ned Kelly as portrayed by James Curtis, 1880; Jason Phu as Sam Poo, 2018.<sup>15</sup>**

<sup>14</sup> Edward Said, *Orientalism* (London: Penguin, 1991). See also Adel Iskandar and Hakem Rustom (eds.), *Edward Said: a legacy of emancipation and representation* (Berkeley: University of California Press, 2010).

<sup>15</sup> Source (figure 20): ‘A Strange Apparition’, Culture Victoria. Accessed 7 September 2019 via: <https://cv.vic.gov.au/stories/a-diverse-state/ned-kelly/a-strange-apparition-ned-kellys-fight-and-capture/>. Source (figure 21): Meg Foster and Jason Phu, ‘The Artist, the Historian and the Case of the Chinese Bushranger’, Museum of Contemporary Art (8 November 2018). Accessed 2 February 2019 via: <https://www.mca.com.au/stories-and-ideas/artist-historian-and-case-chinese-bushranger/>

This is not to say that there have been no attempts to recognise ‘other’ bushrangers in Australian popular culture. Several recent projects have aimed to add ‘other’ bushrangers to the pantheon of bushranging heroes. Since 2015, I have been collaborating with Chinese-Australian artist, Jason Phu, to produce artworks on Sam Poo. In his art, Phu wants to challenge the national preoccupation with white men by using Sam Poo as an alternative source of identity and inspiration.<sup>16</sup> Put simply, Phu believes that ‘if we’re gonna celebrate Ned Kelly, then we might as well celebrate Sam Poo.’<sup>17</sup> Comedians Hannah and Elizah Reilly have similarly engaged with Mary Ann Bugg’s history in their webseries ‘Sheilas: badass women from Australian history’. Their show explicitly positions women like Mary Ann as alternative heroes to the ‘bossy old white dudes’ who dominate in Australian social memory.<sup>18</sup> On a more personal level, descendants of Jimmy Governor, and the O’Brien family (who were among Governor’s murder victims) staged a play about their ancestors in 2015, while Lorraine Martyn, Mary Ann Bugg and Captain Thunderbolt’s descendant, believes that there should be a public statue to Mary Ann.<sup>19</sup> Although these are only a few examples, the creation of art,

---

<sup>16</sup> For examples of Phu’s art on Sam Poo, see Jason Phu, *The Ballad of The Widely Loved and Revered Aussie Bushranger Sammy "Pooey" Pu: The Successful Great Revolt Against the Southern Crossers by L.H.C., The Shooting Death of S.C.J.W. by a Chinaman, The Great Chase and Final Showdown at Barney's Reef, The Trial of The Mute, The Execution by Hanging of Sam Poo*, 2015, ink, texta, coloured pencil on Chinese paper, 1050 x 60cm. Featured in the show ‘From Old Ground’, Bathurst Regional Gallery, curated by Joanna Bayndrian, 2015; Jason Phu, *The 5th Reincarnation of Sam Poo, Infamous Bushranger and the Mustard Horde: The Last Stand*, 2018. Art Installation. Featured in the ‘Primavera’ exhibition at the Museum of Contemporary Art, Sydney, curated by Megan Robson, 2018.

<sup>17</sup> Foster and Phu, ‘The Artist, the Historian and the Case of the Chinese Bushranger’.

<sup>18</sup> Hannah Reilly and Elizah Reilly, ‘Sheilas: badass women from Australian history’, Sheilas TV. Accessed 22 August 2019 via: <<https://sheilas.tv/>>

<sup>19</sup> Britton, ‘Posts in a Paddock’, pp. 143-157; Khan (ed.), *Posts in the Paddock*; Lorraine Martyn, interviewed by Meg Foster.

entertainment, and material culture to celebrate 'other' bushrangers signifies a resurgence of interest of these figures: a new 'season of memory' has begun.<sup>20</sup>

This 'season' is largely triumphant in tone. With the exception of Jimmy Governor, these instances of public commemoration explicitly celebrate 'other' bushrangers and seek to add these figures to the existing bushranging mythos. 'Other' bushrangers are used to illustrate Australia's diverse history and to ensure that different ethnicities and genders are represented in the 'Australian legend'. Although this thesis has aimed to recover 'other' bushrangers from historical obscurity, it does not share this goal. To simply add 'other' bushrangers to the Australian bushranging mythos would erase the fact that they were 'othered' by colonial Australians: that racial and gendered difference shaped the contours of their lives.<sup>21</sup> The creation of heroes requires strategic forgetting. 'Other' bushrangers' lived experience is just as easily lost when they are termed heroes, as when they are labelled villains.<sup>22</sup>

By contrast, this thesis has demonstrated that 'other' bushrangers' relationship with bushranging was complex, diverse and dynamic. While Jimmy Governor identified with the white bushranging mythos and strove to be a part of this tradition, other, 'other' bushrangers saw their actions in a different light.<sup>23</sup> Mary Ann Bugg used chivalric notions of highway robbery to frame her public persona as Ward's 'lady love', although

---

<sup>20</sup> Tom Griffiths, *Hunters and Collectors: the antiquarian imagination in Australia* (Cambridge: Cambridge University Press, 1996), pp. 195-218.

<sup>21</sup> For issues with the hero/ villain binary in Australian history see Jan Kociumbas, "'Mary Ann", Joseph Fleming and "Gentleman Dick": Aboriginal-convict relationships in colonial history', *Journal of Australian Colonial History* vol. 3, no. 1 (2001), pp. 37-38.

<sup>22</sup> Pierre Nora similarly argues that public commemoration does not guarantee social memory. Monuments can be a symptom of forgetting, rather than remembering the past. Pierre Nora, 'Between Memory and History: les lieux de mémoire', *Representations* no. 26 (1989), pp. 7-24.

<sup>23</sup> See Chapter 6.

her actions suggest an alternative source of inspiration: from her Worimi mother, and her family's history with frontier violence.<sup>24</sup> If Sam Poo was a bushranger, he was more likely to have seen his actions in relation to the Chinese folk tradition of outlawry or the banditry that plagued the Fujian province, than any white bushranging tradition.<sup>25</sup> While William Douglas' attempt at bushranging in 1840s New South Wales was emblematic of convict bushranging at that time, his view of this crime would also have been shaped by his past experiences as a free black man in Philadelphia, a sailor and a convicted criminal in Rye as well as a black convict. Douglas was faced with prejudice, coercion, opportunity and liberty before he reached Australian shores, and this would have shaped his perception of bushranging in later life.<sup>26</sup> 'Other' bushrangers had a complicated relationship with bushranging. To even call these figures 'other' bushrangers risks privileging colonial ideas, as they are connected by their deviation from the white bushranging norm.<sup>27</sup>

However, regarding these figures together brings new vistas into view that complicate the dominant bushranging paradigm. On the one hand, this history of 'other' bushrangers has demonstrated that bushranging was influenced by people and cultures that originated beyond the settler colonies. 'Other' bushrangers illustrate that this 'national' tradition was created transnationally.<sup>28</sup> On the other hand, this thesis decentres

---

<sup>24</sup> See Chapter 4.

<sup>25</sup> See Chapter 3.

<sup>26</sup> See Chapter 2.

<sup>27</sup> Kate Fullagar and Michael McDonnell make a similar argument in Kate Fullagar and Michael McDonnell (eds.), *Facing Empire: Indigenous experiences in a revolutionary age* (Baltimore: Johns Hopkins University Press, 2018), p. 6.

<sup>28</sup> Indeed, as Ian Tyrrell writes, 'the nation itself is produced transnationally.' Ian Tyrrell, *Transnational Nation: the United States in global history since 1789* (Basingstoke: Palgrave Macmillan, 2007), p. 3. See also David Lambert and Alan Lester, *Colonial Lives Across the British Empire* (Cambridge: Cambridge University Press, 2006), pp. 9-10.

bushranging by illustrating that it was not the central narrative in ‘other’ bushrangers’ lives: it was but one of many strands that formed their experiences. In this thesis, I have written across bushranging history, legal history, race and gender history, crime history, and histories of nationalism to reflect the fact that they converged in ‘other’ bushrangers’ lives. This intersectional approach not only challenges any one dominant historical narrative, but also illustrates how bushranging, law, race, gender, crime and nationalism were fluid and unstable categories.<sup>29</sup> They were shaped and changed in their interactions with ‘other’ bushrangers as well as with each other. ‘Other’ bushrangers articulated fears about the instability and porousness of colonial boundaries.<sup>30</sup> Their entanglement with colonial society is what gave ‘other’ bushrangers their power, and allows this thesis to challenge and expand our understanding of Australian history and mythology.

---

<sup>29</sup> This intersectional approach to history draws on feminist theory as well as work in New Imperial Histories. See for example Patricia Hill Collins and Sirma Bilge, *Intersectionality* (Cambridge: Polity Press, 2016); Kimberlé Crenshaw, ‘Demarginalizing the Intersections of Race and Sex: a black feminist critique of antidiscrimination doctrine, feminist theory and antiracial politics’, *University of Chicago Law Journal* vol. 1 (1989), pp. 139-167; Devon Carbado, Kimberlé Crenshaw, Vickie Mays and Barbara Tomlinson, ‘Intersectionality: mapping movements of a theory’, *Du Bois Review* vol. 10, no. 2 (2013), pp. 303-312; Kirsten McKenzie, *Swindler’s Progress: nobles and convicts in the age of liberty* (Harvard: Harvard University Press, 2010); Zoë Laidlaw, ‘Breaking Britannia’s Bounds? Law, settlers and space in Britain’s imperial historiography’, *The Historical Journal* vol. 55, no. 3 (2012), pp. 807-830; Ann Laura Stoler, *Carnal Knowledge and Imperial Power: race and the intimate in colonial rule* (Berkeley: University of California Press, 2002).

After demonstrating how I approach source material in the chapters, I cite intersectionality in the conclusion to tie these methodological strands together. As an historical method, intersectionality is undertheorised, and I believe strongly that its contribution to the thesis can be best made by articulating something I have shown.

<sup>30</sup> Subaltern scholar Homi Bhabha would call this ‘hybridity’, the ability for designated ‘others’ to collapse categories by being ‘neither one nor the other, thereby contesting the terms and territories of both.’ Homi Bhabha, ‘The Commitment to Theory’, *New Formations* no. 5 (1998), p. 13. See also Homi Bhabha, ‘Signs taken for Wonders: questions of ambivalence and authority under a tree outside Delhi, May 1817’ in Henry Louis Gates Jr (ed.), *Race, Writing and Difference* (Chicago: Chicago University Press, 1986), pp. 163-184; Homi Bhabha, *The Location of Culture* (London & New York: Routledge, 1994), pp. 85-92.

# Bibliography

## *Primary Sources*

### **Archival Sources (Australia)**

#### *National Gallery of Australia*

Gill, S. T., *Sly Grog Shop*, 1852. National Gallery of Australia, NGA 86.634.

#### *National Library of Australia*

Gill, S. T., *Road in Black Forest*, 1852, National Library of Australia, PIC Volume 181 #S133.

———, *Zealous Gold Diggers*, 1852. National Library of Australia PIC Volume 200 #U1034 NK586/10.

Noonan, Arthur, 'The Ballad of the Breelong Blacks' taken from Win McDonald, *Poem and Letter*, 1903, unpublished correspondence and poem, National Library of Australia, NLA MS 5886.

Unknown Artist, *Portrait of Frederick Ward, alias Thunderbolt*, 1870. National Library of Australia, PIC Row 60/2 #PIC/14662.

#### *New South Wales Registry of Births, Deaths and Marriages*

NSW RBDM, *Edmund Baker and Mary A. Bugg*, Marriage Certificate. Registration number 1848/518.

NSW RBDM, *Frederick Wordsworth Ward*, Birth Certificate. Registration number 1868/0016881.

NSW RBDM, *Maria Emily Ward*, Birth Certificate. Registration number 1861/7193.

NSW RBDM, *Mary Ann Bugg*, Baptism Certificate, vol. 23. Registration number 1839/1494.

NSW RBDM, *Mary Ann Burrows*, Death Certificate. Registration number 1905/5831.

NSW RBDM, *Sam Poo*, Death Certificate. Registration number 2742/1865.

NSW RBDM, *Thelma H. R. Governor*, Baptism Certificate. Registration number 18315/1901.

*New South Wales State Archives*

- NSWSA: Board for the Protection of Aborigines; NRS 2, Minute Books [Aborigines Welfare Board], 1890-1901 [4/7108-15].
- NSWSA: Board for the Protection of Aborigines; NRS 2, Minute Books [Aborigines Welfare Board], 1890-1901 [4/7113].
- NSWSA: Clerk of the Peace; NRS 847, Registers of Criminal Cases Tried at Sydney Quarter Sessions, 1839-1845 [5/2917], reel 2431.
- NSWSA: Clerk of the Peace; NRS 880, Papers and Depositions of the Supreme Court on Circuit, 1865 [9/6474, 9/6475].
- NSWSA: Colonial Secretary Special Bundles; NRS 906, Particulars of Deaths and Bodily injuries sustained by the Police from Bushrangers from the time of Peisley's depredations March 1862 to 7th June 1870 [4/1880; 67/4659].
- NSWSA: Darlinghurst Gaol; NRS 2137, Entrance and Description Books [Darlinghurst Gaol], 1900 [5/1947-53].
- NSWSA: Darlinghurst Gaol; NRS 2163, Condemned Prisoners' Daily Record, 1900-1901 [5/1739].
- NSWSA: Darlinghurst Gaol; NRS 2166, Diary of Officer Doing Duty Over Jimmy Governor, 1900-1901 [6/1029].
- NSWSA: Department of Corrective Services; NRS 1993, Bathurst Gaol Entrance Book, 1865 [4/8492], reel 2321, entry for 'Sam Poo'.
- NSWSA: Department of Corrective Services; NRS 2318, Maitland Gaol Entry Book 1860-65, 1871-76 [5/755-56, 5/790], reel 2370, entry for 'Mary Ann Ward'.
- NSWSA: Department of Corrective Services; NRS 2318, Maitland Gaol Entry Book, 1866-1867, [5/747-50], reel 2368, entry for 'Mary Ann Ward'.
- NSWSA: Department of Corrective Services; NRS 2329, Maitland Gaol Discharge Books [5/789], entry for 'Mary Ann Ward'.
- NSWSA: Department of Corrective Services; NRS 2514, Entrance Books [Sydney Gaol] 1819-1841 [4/6430-39], reel 136, entry for 'Harvey Henley'.
- NSWSA: Department of Premier and Cabinet; NRS 905, Main Series of Letters Received [Colonial Secretary], Letters from Miscellaneous Persons, Names Starting M [4/2284.1].
- NSWSA: Department of Premier and Cabinet; NRS 905, Main Series of Letters Received [Colonial Secretary], Police Port Stephens [4/2332.2].
- NSWSA: Department of Premier and Cabinet; NRS 905, Main Series of Letters Received [Colonial Secretary], Re: Mary Ann Ward, 1866 [4/573, 66/1844].
- NSWSA: Department of Premier and Cabinet; NRS 905, Main Series of Letters Received [Colonial Secretary], 'Mary Ann Ward', 1867 [4/590, 67/1050].

NSWSA: Secretary to the Governor; NRS 1155, Musters and Papers Relating to Convict Ships, 1812-1840 [2/8269], reel 2425.

NSWSA: Superintendent of Convicts; NRS 12188, Convict Administration, Indents, 1830-42, [4/4019], reel 906.

NSWSA: Supreme Court of New South Wales; NRS 880, Papers and Depositions of the Supreme Court [9/7003]—papers relating to the trial of Jimmy Governor.

NSWSA: Supreme Court; NRS 6034, Justice Hargrave's Notebook, 1865 [2/4469].

NSWSA: Supreme Court; NRS 13492, Register of Criminal Indictment, 1865 [9/2630], reel 1860, entry for 'Sam Poo'.

NSWSA: Supreme Court; NRS 13705, Memoranda selected from Twenty-Four Years of Missionary Engagements in the South Sea Islands and Australia, by Lancelot Edward Threlkeld, Missionary to the Aborigines, New South Wales, 1838 [5/1123].

NSWSA: Sydney and Darlinghurst Gaol; NRS 2519, Entrance Books [Sydney Gaol and Darlinghurst Gaol], [4/6440-41], reel 854.

*Public Record Office of Victoria*

PROV, VA 473 Superintendent Port Phillip District, VPRS 1226/P0 Supplementary Inward Correspondence, Unit 92, 1850-1851 Commandant of Native Police, Half Yearly Reports.

PROV, VA 475 Chief Secretary's Department, VPRS 515/P0001 Central Register of Male Prisoners; Alexander Douglas, Unit 4, 1855.

PROV, VA 724 Victorian Police, VPRS 937/P0000 Inward Registered Correspondence; Avoca District, Unit 6, 1855.

PROV, VA 724 Victorian Police, VPRS 937/P0004 Inward Registered Correspondence; Miscellaneous Correspondence, 1855.

PROV, VA 862 Office of the Registrar-General and the Office of Titles, VPRS 24/P0000 Inquest Deposition Files, Unit 411, 1880/938, Inquest of Edward Kelly.

PROV, VA 1464 Penal and Gaols Branch, Chief Secretary's Department, VPRS 515/P0001 Central Register of Male Prisoners; Charles Douglas, Unit 38, 1886 and 1888.

PROV, VA 1464 Penal and Gaols Branch, Chief Secretary's Department, VPRS 515/P0001 Central Register of Male Prisoners; Charles Russell, Unit 44, 1892.

PROV, VA 2825 Attorney General's Department (previously known as the Law Department), VPRS 4966/P0 Kelly Historical Collection: Part 2: Crown Law Department, Unit 1, Item 3, Edward Kelly: Gives statement of his murders of Sgt. Kennedy and others; and makes other threats (Euroa Letter) 80/T12640, 1880.



PROV, VA 2889 Registrar-General's Department, VPRS 24/P0001 Inquests into Deaths (deposition files, 1840-1985), Unit 596, 1892.

*Royal Historical Society of Victoria*

Royal Historical Society of Victoria, *Linda Webb Burge—memoirs re parental and maternal ancestors*, Box 24/2, MS 000055.

*State Library of New South Wales*

Jackson, A.C., *The Hunt for the Governor Gang of Bushrangers. A posse of mounted police, Aboriginal trackers and district volunteers*, 1900, State Library of New South Wales, Graphic Materials, BCP 03906.

No Attributed Author, *The Ballad of the Breealong Blacks*, c1900, separately issued ballad narrative of the Jimmy Governor murders of 1900, State Library of New South Wales, Q821.912/12.

Pratt, Ambrose and A. S. Joseph, *Thunderbolt Play Script*, date unknown, State Library of New South Wales, William Anderson Collection, MLMSS 1412.

Rede, Rege, *The Kelly Gang Play Script*, c1898, State Library of New South Wales, MLMSS 1412/8, Item 100.

Stephen, Alfred, *A Legal Opinion: crimes committed by bushrangers* (25 June 1840), State Library of New South Wales, MLMSS 7086.

*State Library of Victoria*

Campbell, Oswald, *Ben Hall, John Gilbert and John Dunn hold up the mail at Black Springs, New South Wales*, 1865. State Library of Victoria Pictures Collection, 49368311.

Nawton, William, *Diaries, 1852-53*, unpublished manuscript, State Library of Victoria, MS 10251.

Strutt, William, *Cohunguim (on the left) and Munight (right), two members of the Victorian Native Police*, 1851. State Library of Victoria Pictures Collection, H88.21/112

———, *Native Police Escorting a Prisoner from Ballarat to Melbourne*, 1859. State Library of Victoria. Accessed 12 November 2019 via: <<http://ergo.slv.vic.gov.au/image/native-police-escorting-prisoner-ballarat-melbourne>>

Unknown Artist, *Morgan Sticking Up the Navvies, Burning their Tents and Shooting the Chinaman*, 1865. State Library of Victoria Pictures Collection, IMP25/01/65/9.

*Victorian Register of Births, Deaths and Marriages*

Death: Charles Russell, Victorian Register of Births, Deaths and Marriages 1892/5199.

*Tasmanian Archives and Heritage Office*

TAHO: Convict Department (TA60); Conduct Registers of Male Convicts, CON35/1/1.

TAHO: George Town Police (TA1862); Returns of Crew and Passengers on Ships Departing from Launceston, POL220/1/1.

*University of Newcastle*

Unknown Photographer, *Ethel Governor*, c1900. Taken from University of Newcastle, John Turner Collection, C917-0414. Accessed 12 February 2016 via:  
<<https://www.flickr.com/photos/uon/7966949784>>

**Archival Sources (Online)**

*Ancestry.com*

Ancestry.com. *England, Select Births and Christenings, 1538-1975* [database on-line]. Provo, UT, USA: Ancestry.com Operations, Inc., 2014. FHL film number: 1473701 (David Taylor) and 1473701 (Charles Taylor).

Ancestry.com, Pigot, *Pigot's Sussex Directory* (Place of Publication Unknown: Pigot & Co, 1832).

**Archival Sources (United Kingdom)**

*East Sussex Records Office*

ESRO, Criminal Indictments, RYE 8/134.

ESRO, Diary for Thomas Chester Daws for 1834, HMU/1/4/3/11.

*The National Archives of the United Kingdom*

TNA, ADM101/50/10.

TNA, HO8/43.

TNA, HO10/33.

TNA, HO10/41.

TNA, HO13/66.

TNA, HO27/50.

TNA, HO107/1109.

TNA, HO107/1634.

TNA, PROB11/1912.

### **Australian Court Records**

*R. v Charley* (1835). Published by Macquarie University. Accessed 20 July 2018 via: <<http://www.law.mq.edu.au/scnsw/Correspondence/36.htm>>. Taken from NSWSA: Supreme Court of New South Wales; NRS 13686, Miscellaneous correspondence relating to Aborigines, [5/1161], *R. v. Charley* (1835) No. 36.

*R. v Connolly and Fairless* (1826). Published by Macquarie University. Accessed 8 January 2019 via: <[http://www.law.mq.edu.au/research/colonial\\_case\\_law/nsw/cases/case\\_index/1826/r\\_v\\_connolly\\_and\\_fairless/](http://www.law.mq.edu.au/research/colonial_case_law/nsw/cases/case_index/1826/r_v_connolly_and_fairless/)>. Taken from NSWSA: Supreme Court of New South Wales; NRS 13681, Chief Justice's Letterbooks, [4/6651], *R. v. Connolly and Fairless* (1826) No. 41.

*R. v. Jimmy Governor* (1900) 21 LR (NSW).

*R. v. Murrell and Bummaree* (1836) 1 Legge 72; [1836] NSW SupC 35.

### **Films**

*The Story of the Kelly Gang* (Charles Tait, 1906).

### **Government Reports**

British House of Commons, *Report from the Select Committee on Transportation, with Minutes of Evidence* (London: House of Commons, 1838).

British House of Commons, *Parliamentary Papers*, vol. 42 (London: H. M. Stationary Office, 1938).

British House of Commons, 'Report of the Commissioner of Enquiry into the State of the Colony in New South Wales', *Parliamentary Papers* 1822 (156) (Bigge Report).

British House of Commons, *Report of the Parliamentary Select Committee on Aboriginal Tribes (British settlements)* (London: W. Ball, 1837).

British House of Commons, 'Report from the Select Committee on Transportation together with minutes of evidence, appendix and index', *Parliamentary Papers* 1837 (518) XIX.

Great Britain, Commission for Inquiring into the State of the Several Municipal Corporations in England and Wales, *Introductory Report on the Cinque Ports* (England, 1834).

New South Wales Legislative Assembly, *New South Wales Legislative Assembly Minutes* (11 October 1900). (Sydney: Government Printer, 1900), p. 3891. Accessed 12 October 2018 via: <<https://www.parliament.nsw.gov.au/hansard/pages/home.aspx?s=1>>

New South Wales Legislative Council, *Report from the Committee on the Aborigines Question, with the Minutes of Evidence* (Sydney: J. Spilsbury, 1838).

Victorian Legislative Council, *Report of the Select Committee of the Legislative Council on the Aborigines* (Melbourne: John Ferres, 1859).

Victorian Legislative Council, *Report from the Select Committee on Police* (Melbourne: John Ferres, 1852).

Victorian Legislative Council, *Report of the Select Committee of the Legislative Council on the Gold Fields* (Melbourne: John Ferres, 1853).

Victorian Legislative Council, *Return Respecting the Goldfields* (Melbourne: John Ferres, 1851).

## Legislation

*Aboriginal Protection Act* 1909 (NSW).

*Aborigines Protection Amendment Act* 1915 (NSW).

*An Act for the Better Regulation of Negroes in this Province* 1725-1726 (Pennsylvania). Taken from James T. Mitchell and Henry Flanders (eds.), *The Statutes at Large of Pennsylvania from 1682-1801*, volume 4 (Philadelphia: Clarence M. Busch, 1897), pp. 62-63.

*An Act for the Gradual Abolition of Slavery* 1780 (Pennsylvania). Accessed 12 February 2018 via: <[http://avalon.law.yale.edu/18th\\_century/pennst01.asp](http://avalon.law.yale.edu/18th_century/pennst01.asp)>

*Australian Courts Act* 1828 (NSW), 9 Geo. IV c. 83.

*Bushranging Act* 1830 (NSW), 11 Geo. IV No. 10.

*Dog and Goat Act* 1898 (NSW), No. 44.

*Chinese Immigration Restriction Act* 1861 (NSW), 25 Vict. No. 3.

*Colonial Laws Validity Act*, 1865 (Imperial), 28 & 29 Vict. c. 63.

*Criminal Law and Evidence Amendment Act* 1891 (NSW), 55 Vict. No. 5.

*Felons Apprehension Act* 1865 (NSW), 28 Vict. No. 2.

*Felon's Apprehension Act*, 1899 (NSW), 63 Vict. No. 26.

*Fugitive Slave Act 1850 (USA).*

*Immigration Restriction Act 1901 (Cth).*

*Marriages Act 1855 (NSW), 19 Vict. No. 30.*

*Married Women's Property Act 1893 (NSW), 56 Vict. No. 11.*

*Minors Marriages Act 1838 (NSW), 2 Vict. No. 13.*

*Slavery Abolition Act 1833 (United Kingdom), 3 & 4 Will. IV.*

*Vagrancy Act 1835 (NSW), 6 Will. IV No. 6.*

*Vagrancy Act 1851 (NSW), 15 Vict. No. 9.*

### **Newspapers and Government Circulars**

*Age (Melbourne, VIC)*

*Albury Banner (NSW)*

*Argus (Melbourne, VIC)*

*Armidale Chronicle (NSW)*

*Armidale Express (NSW)*

*Australian (Sydney)*

*Australian News for Home Readers (Melbourne, VIC)*

*Australian Star (Sydney, NSW)*

*Barrier Miner (Broken Hill, NSW)*

*Bathurst Free Press (NSW)*

*Bell's Life in Sydney and Sporting Reviewer (NSW)*

*Bell's Life in Victoria and Sporting Reviewer (Melbourne, VIC)*

*Bendigo Advertiser (VIC)*

*Brisbane Courier (QLD)*

*Cessnock Eagle (NSW)*

*Clarence River Advocate (NSW)*

*Clarence River and Richmond Examiner (Grafton, NSW)*

*Colonist (Sydney, NSW)*

*Cootamundra Herald (NSW)*

*Cornwall Chronicle (Launceston, TAS)*

*Corowa Free Press (NSW)*  
*Courier (Hobart, TAS)*  
*Cumberland Argus (Parramatta, NSW)*  
*Daily Telegraph (Sydney, NSW)*  
*Dubbo Dispatch (NSW)*  
*Dubbo Liberal (NSW)*  
*Dungog Chronicle (NSW)*  
*Empire (Sydney, NSW)*  
*Evening News (Sydney, NSW)*  
*Freeman's Journal (Sydney, NSW)*  
*Geelong Adviser (VIC)*  
*Geelong Advertiser (VIC)*  
*Glen Innes Examiner (NSW)*  
*Goulbourn Evening Penny Post (NSW)*  
*Goulburn Herald and Chronicle (NSW)*  
*Goulburn Penny Post (NSW)*  
*Hobart Town Courier (TAS)*  
*Illawarra Mercury (Wollongong, NSW)*  
*Illustrated Sydney News (NSW)*  
*Independent (Footscray, VIC)*  
*Kiama Independent (NSW)*  
*Labour Daily (Sydney, NSW)*  
*Launceston Examiner (TAS)*  
*Macleay Argus (Kempsey, NSW)*  
*Maitland Mercury (NSW)*  
*Manaro Mercury (NSW)*  
*Melbourne Punch (VIC)*  
*Mercury (Hobart, TAS)*  
*Monitor (Sydney, NSW)*  
*Mount Alexander Mail (VIC)*  
*Mudgee Guardian (NSW)*  
*National Advocate (Bathurst, NSW)*

*Nepean Times (Penrith, NSW)*  
*Newcastle Chronicle (NSW)*  
*Newcastle Morning Herald (NSW)*  
*New South Wales Police Gazette (NSW)*  
*Northern Star (Lismore, NSW)*  
*Queanbeyan Age (NSW)*  
*Richmond River Herald (NSW)*  
*Riverine Herald (Echuca, VIC)*  
*Riverina Times (Hay, NSW)*  
*Scone Advocate (NSW)*  
*Singleton Argus (NSW)*  
*South Coast Times (Wollongong, NSW)*  
*Sydney Gazette (NSW)*  
*Sydney Herald (NSW)*  
*Sydney Mail (NSW)*  
*Sydney Monitor (NSW)*  
*Sydney Morning Herald (NSW)*  
*Tasmanian Colonist (Hobart Town, TAS)*  
*Tasmanian Town Colonist (Hobart Town, TAS)*  
*The Newsletter (Sydney, NSW)*  
*Truth (Sydney, NSW)*  
*Tumut and Adelong Times (NSW)*  
*Victorian Government Gazette (Melbourne, VIC)*  
*Victorian Police Gazette (Melbourne, VIC)*  
*Wagga Wagga Advertiser (NSW)*  
*Walcha Witness (NSW)*  
*Wallaroo Times (SA)*  
*Western Post (Newcastle, NSW)*  
*Windsor Gazette (NSW)*  
*Wingham Chronicle (NSW)*

## Oral Histories

Martyn, Lorraine, interviewed by Meg Foster. iPhone recording, Newcastle, NSW 15 June 2017.

Noonan, Mike, interviewed by John Meredith, 15 August 1984. John Meredith Folklore Collection, National Library of Australia, Canberra. Accessed 15 April 2013 via: <http://www.nla.gov.au/amad/nla.oh-vn544947?searchTerm=ballad+of+the+breealong+blacks>

O'Brien, Paddy, interviewed by John Meredith, 13 September 1984. John Meredith Folklore Collection, National Library of Australia. Accessed 14 July 2013 via: <http://www.nla.gov.au/amad/nla.ohvn2050603?searchTerm=folklore+jimmy+governor>

## Published

Archbold, John, *Archbold's Pleading, Evidence and Practice in Criminal Cases* (London: William Feilden et al., 1900).

Bailliere, F. F. and Robert P. Whithworth, *Bailliere's NSW Gazetteer, LO-Z* (Sydney: F. F. Bailliere, 1866).

Barnard, James, 'Observations on the statistics of Van Diemen's Land for 1849: compiled from official records in the Colonial Secretary's Office', *Papers and Proceedings of the Royal Society of Tasmania* vol. 2, no. 1 (1852), pp. 1-33.

Bentham, Jeremy, 'Third Letter to Lord Pelham (1803)' in Tim Causer and Philip Schofield (eds.), *Writings on Australia v. Third Letter to Lord Pelham* (London: The Bentham Project, 2018), pp. 1-7.

Blackstone, William, *Commentaries on the Laws of England: book the fourth* (London: T. Cadell, 1825).

———, *Commentaries on the Laws of England in Four Books* (Philadelphia: J.B. Lippincott Co., 1893).

Clacy, Ellen, *A Lady's Visit to the Gold Diggings of Australia, 1852-53* (Sydney: Sydney University Press, 2004, c1853).

Clacy, Mrs Charles, *A Lady's Visit to the Gold Diggings of Australia in 1852-53* (Melbourne: Lansdowne Press, 1963, c1853).

Coghlan, T. A., *The Decline of the Birth-Rate of New South Wales and Other Phenomena of Child-birth* (Sydney: William Applegate Gullick, 1903).

Coghlan, T. A., *The Wealth and Progress of New South Wales, 1898-1899* (Sydney: William Applegate Gullick, 1900).

Craig, William, *My Adventures on the Australian Goldfields* (Melbourne: Cassell and Company, 1903).

Darwin, Charles, *The Origin of the Species* (London: John Murray, 1859).



- Edwards, John William, *The Law of Husband and Wife* (London: Butterworths, 1883).
- Ellery, R. L. J. et al., *Victoria and Its Metropolis, Past and Present. Volume 11A: The Colony and Its People in 1888* (Melbourne: McCarron, Bird & Co. Publishers, 1888).
- , *Victoria and Its Metropolis, Past and Present. Volume 11B: The Colony and Its People in 1888* (Melbourne: McCarron, Bird & Co. Publishers, 1888).
- Fauchery, Antoine, *Letters from a Miner in Australia* (Melbourne: Georgian House, 1965, c1858).
- Giles, Herbert, *Glossary of Reference on Subjects Connected with the Far East* (Shanghai: Kelly & Walsh, 1900).
- Hassall, James S., *In Old Australia: records and reminiscences from 1794* (Brisbane: R. S. Hews & Co., 1902).
- Historical Records of Australia* (Canberra: Library Committee of the Commonwealth Parliament, 1923).
- Historical Records of New South Wales* ((Sydney: Government Publisher, 1890-1901).
- Horsfield, Thomas, *The History, Antiquities and Topography of the County of Sussex* (Lewes, UK: Sussex Press, 1835).
- Jenkins, Joseph with William Evans (ed.), *Diary of a Welsh Swagman, 1869-1898* (Melbourne: Macmillan, 1975).
- Lewis, Samuel, *A Topographical Dictionary of England* (London: S. Lewis and Co., 1831).
- Lush, Montague, *The Law of Husband and Wife* (London: Stevens and Soms Limited, 1896).
- Melville, Henry, *The History of the Island of Van Diemen's Land, from the year 1824 to 1835 inclusive* (Cambridge: Cambridge University Press, c1835, 2012).
- No Attributed Author, 'The Breelong Blacks' in Bill Bowyang (ed.), "*Bill Bowyang's*" *Bush Recitations*, no. 5 (Brisbane: K. A. Baltzer and Company, 1940), pp. 2-6.
- Parry, J. D., *An Historical and Descriptive Account of the Coast of Sussex* (London: E & W Books Ltd., 1970, c1833).
- Plunkett, John Hubert, *The Australian Magistrate* (Sydney: J. J. Moore, 1866).
- Records of the Castlemaine Pioneers* (Melbourne: Rigby Limited, 1972).
- Ryan, James Tobias, *Reminiscences of Australia: containing 70 years of his knowledge and 35 years of his ancestors* (Sydney: George Robinson, 1894).
- Stephen, Alfred, *State of Crime: the Felons Apprehension Act* (1865) 4 SCR Appendix.
- St Michel-Podmore, *Rambles and Adventures* (London: L. Upcott Gill, 1909).

Timins, Octavious Frederick, *Station Dangerous and Other Tales for the Young* (London: James Nisbet, 1867).

Therry, Roger, *Reminiscences of Thirty Years' Residence in New South Wales and Victoria* (London: Sampson Low Son & Co., 1863).

Tucker, James, *The Adventures of Ralph Rashleigh: a penal exile in Australia, 1825-1844* (London: Jonathan Cape, 1929, c1845).

United Kingdom Poll Books, *East Sussex Election: list of the registered electors, with the votes of those who actually polled* (Lewes: R. W. Lower, 1837).

Wells, Thomas, *Michael Howe: the last and worst of the bushrangers of Van Diemen's Land* (Hobart Town: Andrew Bent, 1818).

West, John, *The History of Tasmania* (Cambridge: Cambridge University Press, 2011, c1852).

Wheeler, Edward L., 'Deadwood Dick, the prince of the road', *Deadwood Dick Library* vol. 1, no. 1 (1899), pp. 1-31.

White, Charles, *Australian Bushranging: John Vane, bushranger* (NSW Bookstall Co. Ltd.: Sydney, 1921).

White, Charles, *Short Lived Bushrangers* (Sydney: NSW Bookstall, 1909).

## **Treaties**

*Treaty of Nanjing* 1842 (Nanking). Taken from UCLA International Institute: Asia Pacific Centre, 2016. Accessed 12 December 2016 via:

<<http://www.international.ucla.edu/asia/article/18421>>

## **Secondary Sources**

### **Films**

Schepisi, Fred, *The Chant of Jimmie Blacksmith (film)* (Melbourne: The Film House, 1978).

### **Government Reports**

Human Rights and Equal Opportunity Commission, *Bringing Them Home: report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families* [Commissioner: Ronald Wilson] (Sydney: Human Rights and Equal Opportunity Commission, 1997). Accessed 12 November 2018 via:

< <http://www.austlii.edu.au/au/special/rsjproject/rsjlibrary/hreoc/stolen/> >

## Journal Articles

- Abate, Michelle Ann, “‘Bury My Heart on Recent History’: Mark Twain’s ‘Hellfire Hotchkiss’, the massacre at Wounded Knee, and the dime novel Western”, *American Literary Realism* vol. 42, no. 2 (2010), pp. 114-128.
- Anderson, Clare, ‘Multiple Border Crossings: “convicts and other persons escaped from Botany Bay and residing in Calcutta”’, *Journal of Australian Colonial History* vol. 3, no. 2 (2001), pp. 1-22.
- , ‘Transnational Histories of Penal Transportation: punishment, labour and governance in the British imperial world, 1788-1939’, *Australian Historical Studies* vol. 47, no. 3 (2016), pp. 381-397.
- Antony, Robert J., ‘Peasants, Heroes and Brigands: the problems of social banditry in early nineteenth-century South China’, *Modern China* vol. 15, no. 2 (1989), pp. 123-148.
- Arnold-Lourie, Christine, “‘A Madman’s Deed—A Maniac’s Hand’: gender and justice in three Maryland lynchings”, *Journal of Social History* vol. 41, no. 4 (2008), pp. 1031-1045.
- Atkinson, Alan, ‘Pioneers who left early’, *The Push* no. 29 (1991), pp. 110-116.
- Attwood, ‘Portrait of an Aboriginal as an Artist: Sally Morgan and the construction of Aboriginality’, *Aboriginal History* vol. 25, no. 99 (1992), pp. 302-318.
- Aveling, Marian, ‘Imagining New South Wales as a Gendered Society, 1783-1821’, *Australian Historical Studies* vol. 25, no. 98 (1992), pp. 1-12.
- Bacon, Jaqueline and Glen McClish, ‘Reinventing the Master’s Tools: nineteenth-century African-American literary societies of Philadelphia and rhetorical education’, *Rhetoric Society Quarterly* vol. 30, no. 4 (2000), pp. 19-47.
- Bagnall, Kate, ‘Rewriting the History of Chinese Families in Nineteenth-Century Australia’, *Australian Historical Studies* vol. 42, no. 1 (2011), pp. 62-77.
- Bailey, Merridee and Kimberley-Joy Knight, ‘Writing Histories of Law and Emotion’, *Journal of Legal History* vol. 38, no. 2 (2017), pp. 117-129.
- Bairstow, Damaris, “‘With the Best Will in the World’: some records of early white contact with the Gampignal on the Australian Agricultural Company’s estate at Port Stephens”, *Aboriginal History* vol. 17 (1993), pp. 4-16.
- Balkelis, Tomas, ‘Social Banditry and Nation Making: the myth of a Lithuanian robber’, *Past and Present* vol. 198 (2008), pp. 111-145.
- Ballantyne, Tony, ‘Mobility, Empire, Colonisation’, *History Australia* vol. 11, no. 2 (2014), pp. 7-37.
- Banivanua Mar, Tracey, ‘Shadowing Imperial Networks: Indigenous mobility and Australia’s Pacific past’, *Australian Historical Studies* vol. 46, no. 3 (2015), pp. 340-355.
- and Nadia Rhook, ‘Counter Networks of Empires: reading unexpected people in unexpected places’, *Journal of Colonialism and Colonial History* vol. 19, no. 2 (2018).

- Bates, Frank, 'To Have but Not to Hold by Henry Finlay. Book Review', *UNSW Law Journal* vol. 29, no. 2 (2006), pp. 276-286.
- Baxter, Carol and David Andrew Roberts, "'Mrs Thunderbolt': setting the record straight on the life and times of Mary Ann Bugg", *Journal of Australian Studies* vol. 99, no. 1 (2013), pp. 55-76.
- Beeton, Sue, 'Rural Tourism in Australia—has the gaze altered? Tracking rural images through film and tourism promotion', *International Journal of Tourism Research* vol. 6, no. 3 (2004), pp. 125-135.
- Behrendt, Larissa, 'Consent in a (Neo) Colonial Society: Aboriginal women as sexual and legal "other"', *Australian Feminist Studies* vol. 15, no. 33 (2000), pp. 353-367.
- Bellanta, Melissa, 'Leary Kin: Australian larrikins and the blackface minstrel dandy', *Journal of Social History* vol. 42, no. 3 (2009), pp. 677-695.
- Bennett, James, 'Māori as Honorary Members of the White Tribe', *Journal of Imperial and Commonwealth History* vol. 29 no. 3 (2001), pp. 33-54.
- Bennett, J. M., 'The Day of Retribution: Bigge's inquiries in colonial New South Wales', *The American Journal of Legal History* vol. 15, no. 2 (1971), pp. 85-106.
- Bhabha, Homi, 'The Commitment to Theory', *New Formations* no. 5 (1998), pp. 5-23.
- Biber, Katherine, 'Besieged at Home: Jimmy Governor's Rampage', *Public Space: the journal of law and social justice* vol. 2 (2008), pp. 1-41.
- , 'In Jimmy Governor's Archive', *Archives and Manuscripts* vol. 42, no. 3 (2014), pp. 270-281.
- Bird Rose, Deborah, 'Ned Kelly Died for Our Sins', *Oceania* vol. 65, no. 2 (1994), pp. 175-186.
- Blackburn, Kevin, 'Mapping Aboriginal Nations: the "nation" concept of late nineteenth century anthropologists in Australia', *Aboriginal History* vol. 26 (2002), pp. 131-158.
- Blainey, Geoffrey, 'The Gold Rushes: the year of decision', *Australian Historical Studies* vol. 10, no. 38 (1962), pp. 129-140.
- Blok, Anton, 'The Peasant and the Brigand: social banditry reconsidered', *Comparative Studies in Society and History* vol. 14, no. 4 (1972), pp. 494-503.
- Block, Sharon, 'Lines of Color, Sex and Service: exploring comparative sexual coercion in the Early Republic', *Institute of Early American History and Culture Colloquium* (21 January 1997).
- Blyton, Greg and John Ramsland, 'Mixed Race Unions and Indigenous Demography in the Hunter Valley of New South Wales, 1788-1850', *Journal of the Royal Australian Historical Society* vol. 98, no. 1 (2012), pp. 125-148.
- Boehme, Kate, Peter Mitchell and Alan Lester, 'Reforming Everywhere and All at Once: transition to free labor across the British empire, 1837-1838', *Comparative Studies in Society and History* vol. 60, no. 3 (2018), pp. 688-718.

- Boisen, Camilla, 'The Changing Moral Justification of Empire: from the right to colonise to the obligation to civilise', *History of European Ideas* vol. 39, no. 3 (2013), pp. 335-353.
- Boucher, Leigh and Sarah Pinto, 'Fighting for Legitimacy: masculinity, political voice and Ned Kelly', *Journal of Interdisciplinary Gender Studies* vol. 10, no. 1 (2006), pp. 1-29.
- Britton, Clare, 'Posts in a Paddock: revisiting the Jimmy Governor tragedy, approaching reconciliation and connecting families through the medium of theatre', *Journal of the European Association for Studies of Australia* vol. 4, no. 1 (2013), pp. 143-157.
- Bunzl, Martin, 'Counterfactual History: a user's guide', *American Historical Review* vol. 109, no. 3 (2004), pp. 845-858.
- Burr Margadant, Jo, 'Introduction: the new biography in historical practice', *French Historical Studies* vol. 19, no. 4 (1996), pp. 1045-1058.
- Byard, Roger W. and Damian McDonald, 'The Death of Ben Hall', *Forensic Science Medical Pathology* vol. 14 (2018), pp. 268-271.
- Cahir, Fred and Ian Clark, "'why should they pay money to the Queen?": Aboriginal miners and land claims', *Journal of Australian Colonial History* vol. 10, no. 1 (2008), pp. 115-128.
- Campbell, John, 'The First Decade of the Australian Agricultural Company, 1824-1834', *Journal of the Royal Australian Historical Society* vol. 9, no. 3 (1923), pp. 113-161.
- Carbado, Devon, Kimberlé Crenshaw, Vickie Mays and Barbara Tomlinson, 'Intersectionality: mapping movements of a theory', *Du Bois Review* vol. 10, no. 2 (2013), pp. 303-312.
- Carey, Hilary and David Roberts, 'Smallpox and the Biaime Waganna of Wellington Valley, New South Wales, 1829-1840: the earliest nativist movement in Aboriginal Australia', *Ethnohistory* vol. 49, no. 4 (2002), pp. 821-869.
- Castles, Alex, 'The Reception and Status of English Laws in Australia', *Adelaide Law Review* vol. 2, no. 1 (1963), pp. 1-32.
- Chakrabarty, Dipesh, 'Postcoloniality and the Artifice of History: who speaks for "Indian" pasts?' *Representations* no. 37 (Winter 1992), pp. 1-26.
- Clark, Anna, 'Ordinary People's History', *History Australia* vol. 9, no. 1 (2012), pp. 201-216.
- Clendinnen, Inga, 'Spearing the Governor', *Australian Historical Studies* vol. 33, no. 118 (2002), pp. 157-174.
- Coleborne, Catharine, 'Mobility Stopped in its Tracks: institutional narratives and the mobile in the Australian and New Zealand colonial world, 1870s-1900s', *Transfers* vol. 5, no. 3 (2015), pp. 87-103.
- Collins, Patricia and Sirma Bilge, *Intersectionality* (Cambridge: Polity Press, 2016).
- Conor, Liz, *Skin Deep: settler impressions of Aboriginal women* (Crawley, WA: UWA Press, 2016).

- Crenshaw, Kimberlé, 'Demarginalizing the Intersections of Race and Sex: a black feminist critique of antidiscrimination doctrine, feminist theory and antiracial politics', *University of Chicago Law Journal* vol. 1 (1989), pp. 139-167.
- Crofts, Penny and David Planter, 'Bushrangers, the Exercise of Mercy, and the "Last Penalty of the Law" in NSW and Tasmania, 1824-1856', *University of Tasmania Law Review* vol. 32, no. 2 (2013), pp. 295-343.
- Darnell, Maxine, 'Responses and Reactions to the Importation of Indentured Chinese Labourers', *Working Paper Series in Economic History UNE* no. 99/2 (1999), pp. 2-24.
- Davies, Peter and Susan Lawrence, 'A "Mere Thread of Land": water races, gold mining and water law in colonial Victoria', *Journal of Australian Colonial History* vol. 16 (2014), pp. 168-187.
- , Susan Lawrence and Jodi Turnbull, 'Harvesting Water on a Victorian Goldfield', *Australasian Historical Archaeology* vol. 29 (2011), pp. 24-32.
- Davison, Graeme, 'Rethinking the Australian Legend', *Australian Historical Studies* vol. 43, no. 3 (2012), pp. 429-451.
- , 'Sydney and the Bush: an urban context for *The Australian Legend*', *Australian Historical Studies* vol. 18 (1978), pp. 191-209.
- Deacon, Desley, 'Political Arithmetic: the nineteenth century Australian census and the construction of the dependent woman', *Signs: Journal of Women in Culture and Society* vol. 11, no. 1 (1985), pp. 27-47.
- Denholm, Decie, 'Port Arthur: the men and the myth', *Australian Historical Studies* vol. 14, no. 55 (1970), pp. 406-423.
- Dening, Greg, 'Empowering Imaginations', *The Contemporary Pacific* vol. 9, no. 2 (1997), pp. 419-429.
- Dingle, A. E., "'A Truly Magnificent Thirst": an historical survey of Australian drinking habits', *Australian Historical Studies* vol. 19, no. 75 (1980), pp. 229-249.
- Duffield, Ian, 'From Slave Colonies to Penal Colonies: the West Indian convict transportees to Australia', *Slavery and Abolition* vol. 7, no. 1 (1986), pp. 25-45.
- , 'Skilled Workers or Marginalised Poor? The African population of the United Kingdom, 1812-52', *Immigrants and Minorities* vol. 12, no. 3 (1993), pp. 49-87.
- , 'The Life and Death of "Black" John Goff: aspects of the black convict contribution to resistance patterns during the transportation era in Eastern Australia', *Australian Journal of Politics* vol. 33, no. 1 (1987), pp. 30-44.
- Eburn, Michael, 'Outlawry in Colonial Australia: Felons Apprehension Acts, 1865-1899', *Australia and New Zealand Law and History E-Journal* (2005). Accessed 12 June 2019 via: [www.anzlhsejournal.auckland.ac.nz/pdfs\\_2005/Eburn.pdf](http://www.anzlhsejournal.auckland.ac.nz/pdfs_2005/Eburn.pdf) >

- Eichhorn, Kate, 'DIY Collectors, Archiving Scholars and Activist Librarians: legitimising feminist knowledge and cultural production since 1990', *Women's Studies* vol. 39, no. 6 (2010), pp. 622-646.
- Elbourne, Elizabeth, 'The Sin of the Settler: the 1835-36 Select Committee on Aborigines and debates over virtue and conquest in the early nineteenth century British white settler Empire', *Journal of Colonialism and Colonial History* vol. 4, no. 3 (2003).
- Ellinghaus, Katherine, 'Margins of Acceptability: class, education and interracial marriage in Australia and North America', *Frontiers* vol. 23, no. 3 (2002), pp. 55-75.
- Evans, Raymond and Bill Thorpe, 'Commanding Men: masculinities and the convict system', *Journal of Australian Studies* vol. 22, no. 56 (1998), pp. 17-34.
- and William Thorpe, 'Power, Punishment and Penal Labour: *Convict Workers* and Moreton Bay', *Australian Historical Studies* vol. 25, no. 98 (1992), pp. 90-111.
- Evans, Tanya, 'Secrets and Lies: the radical potential of family history', *History Workshop Journal* no. 71 (2011), pp. 49-73.
- Fairweather, Leslie, 'Prison Architecture in England', *British Journal of Criminology* vol. 1, no. 4 (1961), pp. 339-361.
- Featherstone, Lisa and Alexander George Winn, 'Marital Rape and the Marital Rapist: the 1976 South Australian Rape Law Reforms', *Feminist Legal Studies* vol. 27 (2019), pp. 57-78.
- Finnane, Mark, 'Settler Justice and Aboriginal Homicide in Late Colonial Australia', *Australian Historical Studies* vol. 42, no. 2 (June 2011), pp. 244-259.
- Forbes, Morris, 'A Reconsideration of Edward Davies: the Jewboy bushranger and his family', *Australian Jewish Historical Society* vol. 18, no. 3 (2007), pp. 302-329.
- Ford, Lisa and David Andrew Roberts, 'New South Wales Penal Settlements and the Transportation of Secondary Punishment in the Nineteenth-Century British Empire', *Journal of Colonialism and Colonial History* vol. 15, no. 3 (2014).
- Foster, Robert and Amanda Nettelbeck, 'The Rule of Law on the South Australian Frontier', *Legal History* vol. 13 (2009), pp. 34-52.
- Freeman, Ashley Thomas, 'Bushrangers, Itinerant Teachers and Constructing Educational Policy in 1860s NSW', *History of Education Review* vol. 48, no. 1 (2019), pp. 15-30.
- Frost, Warwick, 'Braveheart-ed Ned Kelly: historic films, heritage tourism and destination image', *Tourism Management* vol. 27, no. 2 (2006), pp. 247-254.
- Foxhall, Katherine, 'From Convicts to Colonists: the health of prisoners and the voyage to Australia, 1823-1853', *Journal of Imperial and Commonwealth History* vol. 39, no. 1 (2011), pp. 1-19.
- Garton, Stephen, 'The Convict Origins Debate: historians and the problem of the "criminal class"', *Australia and New Zealand Journal of Criminology* vol. 24 (1991), pp. 66-82.

- Ghosh, Anjan, 'The Role of Rumour in History Writing', *History Compass* vol. 6, no. 5 (2008), pp. 1235-1236.
- Gilchrist, Catie, "'A Victim of His Own Temerity'? Silence, scandal and the recall of Sir John Eardley-Wilmot", *Journal of Australian Studies* vol. 28, no. 84 (2005), pp. 151-161.
- "“This Relic of the Cities of Pain”: penal flogging, convict morality and the colonial imagination", *Journal of the Royal Australian Historical Society* vol. 9 (2007), pp. 1-28.
- Goodall, Heather, 'Land in Our Own Country: the Aboriginal land rights movement in South-Eastern Australia, 1860-1914', *Aboriginal History* vol. 14, no. 1/2 (1990), pp. 1-24.
- Goodman, David, 'Gold Fields/ Golden Fields: the language of agrarianism and the Victorian gold rush' *Australian Historical Studies* vol. 23, no. 90 (1988), pp. 19-41.
- Goodrich, Peter, 'Specula Laws: image, aesthetic and common law', *Law and Critique* vol. 2, no. 2 (1991), pp. 233-254.
- Griffen-Foley, Bridget, 'Digging Up the Past: Frank Clune, Australian historian and media personality', *History Australia* vol. 8, no. 1 (2011), pp. 127-152.
- Grimshaw, Patricia, 'Interracial Marriages and Colonial Regimes in Victoria and Aotearoa/ New Zealand', *Frontiers* vol. 23, no. 3 (2003), pp. 12-28.
- Hannah, Mark, 'Aboriginal Workers in the Australian Agricultural Company, 1824-1857', *Labour History* vol. 82 (2002), pp. 17-33.
- Harman, Kristyn, "'The Same Measure of Justice": Aboriginal convicts in the Australian penal colonies', *Australian Studies* vol. 1, no. 2 (2009), pp. 1-20.
- Harris, Wendy, 'Spousal Competence and Compellability in Criminal Trials in the Twenty First Century', *Queensland University of Technology Law and Justice Journal* vol. 3, no. 2 (2003), pp. 274-296.
- Hartadi, Yohanes, 'Reading the Historical Phenomenon of Australian Bushrangers', *Lingua Cultura* vol. 3, no. 1 (2009), pp. 20-33.
- Haskins, Victoria and John Maynard, 'Sex, Race and Power: Aboriginal men and white women in Australian history', *Australian Historical Studies* vol. 36, no. 126 (2005), pp. 191-216.
- Henriques, U. R. Q., 'The Rise and Fall of the Separate System of Prison Discipline', *Past & Present* vol. 54 (1972), pp. 61-93.
- Hirsch, Alison Duncan, 'Uncovering the "Hidden History of Mestizo America" in Elizabeth Drinker's Diary': interracial relationships in late eighteenth century Philadelphia', *Pennsylvania History: a journal of mid-Atlantic studies* vol. 68, no. 4 (2001), pp. 483-506.
- Hirst, John, 'The Pioneer Legend', *Australian Historical Studies* vol. 18, no. 71 (1978), pp. 316-337.



- Hobsbawm, Eric, 'Social Bandits: reply', *Comparative Studies in Society and History* vol. 14, no. 4 (1972), pp. 503-505.
- Hogan, Jackie, 'Staging the Nation: gendered and ethnicized discourses of national identity in Olympic opening ceremonies', *Journal of Sport and Social Issues* vol. 27, no. 2 (2003), pp. 100-123.
- Huggan, Graham, 'Cultural Memory in Postcolonial Fiction: the uses and abuses of Ned Kelly', *Australian Literary Studies* vol. 20, no. 3 (2002), pp. 142-154.
- Hunter, Kathryn M., 'Silence in the Noisy Archives: reflections of Judith Allen's "Evidence and Silence—feminism and the limits of history" (1986) in the era of mass digitisation', *Australian Feminist Studies* vol. 32, no. 91-92 (2017), pp. 202-212.
- Isaac, Rhys, 'On Explanation, Text, and Terrifying Power in Ethnographic History', *Yale Journal of Criticism* vol. 6, no. 1 (1993), pp. 217-236.
- Jackson, R. V., 'Jeremy Bentham and the New South Wales Convicts', *International Journal of Social Economics* vol. 25, no. 2-4 (1998), pp. 370-379.
- Jennings, Thelma, "'Us Colored Women Had to Go Through a Plenty": sexual exploitation of African-American Slave Women', *Journal of Women's History* vol. 1, no. 3 (1990), pp. 45-74.
- Jones, Daryn E., 'Blood'n Thunder: virgins, villains and violence in the dime novel Western', *Journal of Popular Culture* vol. 4, no. 2 (1970), pp. 507-517.
- Karskens, Grace, "'This Spirit of Emigration": the nature and meanings of escape in early New South Wales', *Journal of Australian Colonial History* vol. 7 (2005), pp. 1-34.
- Kent, David, 'Decorative Bodies: the significance of convicts' tattoos', *Journal of Australian Studies* vol. 21, no. 53 (1997), pp. 78-88.
- and Norma Townsend, 'Some Aspects of Colonial Marriage: a case study of the swing protesters', *Labour History* no. 74 (1998), pp. 40-53.
- Kellerman, M. H., 'Interesting Account of the Travels of Abraham Abrahamsohn', *Australian Jewish Historical Society* vol. 7 (1974), pp. 478-494.
- Kercher, Bruce, 'Homer in the Australian Alps: attitudes to law since 1788', *Australian Journal of Legal History* no. 1 (1995), pp. 1-6.
- Kimber, Julie, "'A Nuisance to the Community": policing the vagrant woman', *Journal of Australian Studies* vol. 34, no. 3 (2010), pp. 275-293.
- , 'Poor Laws: a historiography of vagrancy in Australia', *History Compass* vol. 11, no. 8 (2013), pp. 537-550.
- Kneale, James, "'A Problem of Supervision": moral geographies of the nineteenth century British public house', *Journal of Historical Geography* vol. 25, no. 3 (1999), pp. 333-348.

- Kociumbas, Jan, “‘Mary Ann’, Joseph Fleming and ‘Gentleman Dick’: Aboriginal-Convict relationships in colonial history”, *Journal of Australian Colonial History* vol. 3, no. 1 (2001), pp. 28-54.
- Konishi, Shino, ‘First Nations Scholars, Settler Colonial Studies and Indigenous History’, *Australian Historical Studies* vol. 50, no. 3 (2019), pp. 1-16.
- Laidlaw, Zoë, ‘Breaking Britannia’s Bounds: law, settlers and space in Britain’s imperial historiography’, *The Historical Journal* vol. 55, no. 3 (2012), pp. 807-830.
- Lake, Marilyn, ‘The Politics of Respectability: identifying the masculinist context’, *Australian Historical Studies* vol. 22, no. 86 (1986), pp. 116-131.
- , ‘White Man’s Country: the transnational history of a national project’, *Australian Historical Studies* vol. 34, no. 112 (2003), pp. 346-363.
- Lamley, Harry J., ‘Hsieh-Tau: the pathology of violence in south-eastern China’, *Ch’ing-shih wen-t’i* vol. 3, no. 7 (November 1977), pp. 1-39.
- Lawrence, Bonita and Enakshi Dua, ‘Decolonizing Antiracism’, *Social Justice* vol. 32, no. 4 (2005), pp. 120-143.
- Lester, Alan, ‘Imperial Circuits and Networks: geographies of the British empire’, *History Compass* vol. 4, no. 1 (2006), pp. 124-142.
- , ‘Settler Colonialism, George Grey and the Politics of Ethnography’, *Environment and Planning D: Society and Space* vol. 34, no. 3 (2016), pp. 492-507.
- Loughrey, Sean and Robyn Sloggett, ‘Revisiting History: William Strutt’s *Bushrangers, Victoria, Australia, 1852*’, *Melbourne Journal of Technical Studies in Art* vol. 2 (2005), pp. 35-47.
- Lydon, Jane, ‘Bullets, Teeth and Photographs: recognising Indigenous Australians between the wars’, *History of Photography* vol. 36, no. 3 (2012), pp. 275-287.
- Macnab, Ken and Russel Ward, ‘The Nature and Nurture of the First Generation of Native-Born Australians’, *Australian Historical Studies* vol. 10, no. 39 (1962), pp. 289-308.
- Maddock, Rodney and Ian McLean, ‘Supply-Side Shocks: the case of Australian gold’, *The Journal of Economic History* vol. 44, no. 4 (1984), pp. 1047-1067.
- Mann, Susan, ‘The Male Bond in Chinese History and Culture’, *American Historical Review* vol. 105, no. 5 (2000), pp. 1600-1614.
- Marsh, Anne, ‘Ned Kelly by any other name’, *Journal of Visual Culture* vol. 1, no. 1 (2002), pp. 57-65.
- Martin, A. W., ‘Drink and Deviance in Sydney: investigating intemperance, 1854-5’, *Australian Historical Studies* vol. 17, no. 68 (1977), pp. 342-360.
- Maxwell-Stewart, Hamish, ‘The Search for the Convict Voice’, *Tasmanian Historical Studies* vol. 6, no. 1 (1998), pp. 75-89.

- , 'The Rise and Fall of John Longworth: work and punishment in early Port Arthur', *Tasmanian Historical Studies* vol. 6, no. 2 (1999), pp. 96-114.
- McCall, Leslie, 'The Complexity of Intersectionality', *Signs* vol. 30, no. 3 (2005), pp. 1771-1800.
- McDermott, Alex, 'Who said the Kelly letters?: the question of authorship and the nature of wild language in the Cameron and Jerilderie letters', *Australian Historical Studies* vol. 33, no. 118 (2002), pp. 255-272.
- McDonald, Barry, 'Thunderbolt, Folksong, and the Legend of the "Noble Robber"', *Australian Folklore* no. 8 (1993), pp. 40-47.
- McGowan, Barry, 'Reconsidering Race: the Chinese experience on the goldfields of southern NSW', *Australian Historical Studies* vol. 36, no. 124 (2004), pp. 312-331.
- McGrath, Ann, 'Playing Colonials: cowgirls, cowboys, and Indians in Australia and North America', *Journal of Colonialism and Colonial History* vol. 2, no. 1 (2001).
- , 'The White Man's Looking Glass: Aboriginal-colonial gender relations at Port Jackson', *Australian Historical Studies* vol. 24, no. 95 (1990), pp. 189-206.
- McQuilton, John, 'Australian Bushranging and Social Banditry with Special Reference to the Kelly Outbreak', *Proceedings of the Royal Geographical Society of Australasia* vol. 80 (1979), pp. 48-63.
- Meaney, Neville, 'Britishness and Australian Identity: the problem of nationalism in Australian history and historiography', *Australian Historical Studies* vol. 32, no. 116 (2001), pp. 76-90.
- Meredith, David and Deborah Oxley, 'Contracting Convicts: the convict labour market in Van Diemen's Land', *Australian Economic History Review* vol. 45, no. 1 (2005), pp. 45-72.
- Milka, Amy and David Lemmings, 'Narratives of Feeling and Majesty: emotions in the eighteenth century criminal courtroom', *Journal of Legal History* vol. 38, no. 2 (2017), pp. 155-178.
- Morrissey, Doug, 'Ned Kelly and Horse and Cattle Stealing', *Victorian Historical Journal* vol. 66, no. 1 (1995), pp. 29-48.
- Mulcahy, Linda, 'Architects of Justice: the politics of courtroom design', *Social and Legal Studies* vol. 16, no. 3 (2007), pp. 383-403.
- , 'I'm Not Watching, I'm Waiting: the construction of visual codes about women's role as spectators in the trial in nineteenth century England', *Legal Information Management* vol. 14 (2014), pp. 22-26.
- , 'Watching Women: what illustrations of courtroom scenes tell us about women and the public sphere in the nineteenth century', *Journal of Law and Society* vol. 42, no. 1 (2015), pp. 53-73.

- Munn, Christopher, 'The Transportation of Chinese Convicts from Hong Kong, 1844-1858', *Journal of the Canadian Historical Association / Revue de la Société historique du Canada* vol. 8, no. 1 (1997), pp. 113-145.
- Nettelbeck, Amanda, "'A Halo of Protection': colonial protectors and the concept of Aboriginal protection through punishment', *Australian Historical Studies* vol. 43, no. 3 (2012), pp. 396-411.
- and Robert Foster, 'Reading the Elusive Letter of the Law: policing the South Australian Frontier', *Australian Historical Studies* vol. 38, no. 130 (2007), pp. 296-311.
- and Lyndall Ryan, 'Salutary Lessons: native police and the "civilising" role of legalised violence in colonial Australia', *Journal of Imperial and Commonwealth History* vol. 46, no. 1 (2018), pp. 47-68.
- , 'Creating the Aboriginal Vagrant: protective governance and Indigenous mobility in colonial Australia', *Pacific Historical Review* vol. 87, no. 1 (2018), pp. 79-100.
- , "'We Are Sure of Your Sympathy': Indigenous uses of protection in nineteenth century Australia and Canada', *Journal of Colonialism and Colonial History* vol. 17, no. 1 (2016).
- Newman, Richard S., "'Lucky to be born in Pennsylvania": free soil, fugitive slaves, and the making of Pennsylvania's anti-slavery borderland', *Slavery and Abolition* vol. 32, no. 3, (2011), pp. 413-430.
- Ngai, Mae, 'Chinese Miners, Headmen and Protectors on the Victorian Goldfields, 1853-1863', *Australian Historical Studies* vol. 42, no. 1 (2011), pp. 10-24.
- Noonan, Rodney, 'Chinese Bushrangers in Australian History and Literature', *Journal of Australian Studies* vol. 24, no. 65 (2000), pp. 127-135.
- Nora, Pierre, 'Between Memory and History: les lieux de mémoire', *Representations* no. 26 (1989), pp. 7-24.
- Okur, Nilgun Anadolu, 'Underground Railroad in Philadelphia, 1830-1860', *Journal of Black Studies* vol. 25, no. 5 (1995), pp. 537-557.
- O'Malley, Pat, 'Class Conflict, Land and Social Banditry: bushranging in nineteenth century Australia', *Social Issues* vol. 26, no. 3 (1979), pp. 271-283.
- , 'Social Bandits, Modern Capitalism and the Traditional Peasantry: a critique of Hobsbawm', *Journal of Peasant Studies* vol. 6, no. 4 (1979), pp. 489-501.
- Oppenheimer, Jillian, 'Colonel Dumaresq, Captain Thunderbolt and Mary Ann Brigg', *Push from the Bush* vol. 16 (1983), pp. 18-23.
- , 'Thunderbolt's Mary Ann—an Aboriginal bushranger', *Journal of the Royal Australian Historical Society* vol. 78, no. 3-4 (1992) pp. 92-107.
- Parkinson, Charles, 'Double Jeopardy Reform: the new evidence exception for acquittals', *UNSW Law Journal* vol. 6, no. 3 (2003), pp. 603-621.

- Parry, Naomi, "Many Deeds of Terror": Windschuttle and Musquito', *Labour History* vol. 85 (2003), pp. 207-212.
- Paton, Diana, "'An Injurious Population': Caribbean-Australian penal transportation and imperial racial politics', *Cultural and Social History* vol. 5, no. 4 (2008), pp. 449-464.
- Pennington, Kenneth, 'Innocent Until Proven Guilty: the origins of a legal maxim', *The Jurist* vol. 63 (2003), pp. 106-124.
- Petrow, Stefan, 'Policing in a Penal Colony: Governor Arthur's police system in Van Diemen's Land', *Law and History Review* vol. 18, no. 2 (2000), pp. 351-395.
- Piper, Alana, 'Book Thieves: theft and literary culture in nineteenth and twentieth-century Australia', *Cultural and Social History* vol. 14, no. 2 (2017), pp. 257-273.
- Porter, Roy, 'The Drinking Man's Disease: the "pre-history" of alcoholism in Georgian Britain', *British Journal of Addiction* vol. 80 (1985), pp. 385-396.
- Poskett, James, 'Phrenology, Correspondence and the Global Politics of Reform, 1815-1848', *The Historical Journal* vol. 60, no. 2 (2017), pp. 409-442.
- Prakash, Gyan, 'Subaltern Studies as Postcolonial Criticism', *American Historical Review* vol. 99, no. 5 (1994), pp. 1475-1490.
- Prentis, Malcolm, 'The Life and Death of Johnny Campbell', *Aboriginal History* vol. 15, no. 1/2 (1991), pp. 138-152.
- Pybus, Cassandra, 'Black Caesar', *Arena Magazine* vol. 57 (February–March 2002), pp. 30-34.
- , 'Black Caesar and Billy Blue: subversive African performance in early colonial Sydney', *Arts: the journal of the Sydney University Arts Association* vol. 31 (2009), pp. 73-91.
- Quirk, Kate, 'The Colonial Goldfields: visions and revisions', *Australasian Historical Archaeology* vol. 26 (2008), pp. 13-20.
- Reeves, Keir, 'Goldfields Settler or Frontier Rogue?: the trial of James Acoy and the Chinese on the Mount Alexander Diggings', *Provenance: the journal of the public record office of Victoria* vol. 5 (2006).
- Reynolds, Henry, 'Jimmy Governor and Jimmie Blacksmith', *Australian Literary Studies* vol. 9, no. 1 (1979), pp. 14-25.
- , 'Racial Thought in Early Colonial Australia', *Australian Journal of Politics and History* vol. 20, no. 1 (1974), pp. 45-53.
- Robert, Hannah, 'Disciplining the Female Aboriginal Body: inter-racial sex and the pretence of separation', *Australian Feminist Studies* vol. 16, no. 34 (2001), pp. 69-81.
- Roberts, David Andrew, 'Bells Falls Massacre and Bathurst's History of Violence: local tradition and Australian Historiography', *Australian Historical Studies* vol. 26, no. 105 (1995), pp. 615-633.

- and Carol Baxter, 'Exposing an Exposé: fact versus fiction in the resurrection of Captain Thunderbolt', *Journal of Australian Studies* vol. 36, no. 1 (2012), pp. 1-15.
- , 'Masters, Magistrates and the Management of Complaint: the 1833 convict revolt at Castle Forbes and the failure of local governance', *Journal of Australian Colonial History* vol. 19 (2017), pp. 57-94.
- Roediger, David, 'Critical Studies of Whiteness, USA: origins and arguments', *Theoria* vol. 48, no. 98 (December 2001): 74-76.
- Rowse, Tim, 'Indigenous Heterogeneity', *Australian Historical Studies* vol. 45, no. 3 (2014), pp. 297-310.
- Ryan, John, 'Ned Kelly: the flight of the Legend', *Australian Literary Studies* vol. 3, no. 2 (1967), pp. 98-115.
- Sabbioni, Jennifer, 'Aboriginal Women's Narratives: reconstructing identities', *Australian Historical Studies* vol. 27, no. 106 (1996), pp. 72-78.
- Salmond, Anne, 'Tuki's Universe', *New Zealand Journal of History* vol. 38, no. 2 (2004), pp. 215-232.
- Saranillio, Dean, 'Why Asian Settler Colonialism Matters: a thought piece on critiques, debates, and Indigenous difference', *Settler Colonial Studies* vol. 3, no. 3-4 (2013), pp. 280-294.
- Saunders, Kay, 'The Study of Domestic Violence in Colonial Queensland: sources and problems', *Australian Historical Studies* vol. 21, no. 82 (1984), pp. 68-84.
- Seal, Graham, 'Ned Kelly: the genesis of a national hero', *History Today* vol. 30, no. 11 (1980), pp. 9-15.
- Sharma, Nandita and Cynthia Wright, 'Decolonizing Resistance, Challenging Colonial States', *Social Justice* vol. 35, no. 3 (2008-9), pp. 120-138.
- Shaw, A. G. L., 'Separation and Federation: the relationship of Port Phillip with the government of New South Wales', *Victorian Historical Journal* vol. 68, no. 1 (1997), pp. 4-15.
- , 'The Origins of the Probation System in Van Diemen's Land', *Australian Historical Studies* vol. 6, no. 21 (1953), pp. 16-28.
- , 'Violent Protest in Australian History', *Australian Historical Studies* vol. 15, no. 60 (1973), pp. 545-561.
- Shields, Stephanie, 'Gender: an intersectionality perspective', *Social Roles* vol. 59, no. 5 (2008), pp. 301-311.
- Smith, Bradley P. and Carla A. Litchfield, 'A Review of the Relationship Between Indigenous Australians, Dingoes (*Canis Dingo*) and Domestic Dogs (*Canis Familiaris*)', *Anthrozoos* vol. 22, no. 2 (2009), pp. 111-128.
- Smith, Eric L., 'The End of Black Voting Rights in Pennsylvania: African Americans and the Pennsylvania constitution', *Pennsylvania History* vol. 65 (1998), pp. 279-299.

- Spencer, Tracy, ““Woman Lives as a Lubra in Native Camp”: representations of shared space’, *Journal of Australian Studies* vol. 28, no. 82 (2004), pp. 61-74.
- Stafford, Robert, ‘Preventing the “Curse of California”: advice for English emigrants to the Australian goldfields’, *Historical Records of Australian Science* vol. 7, no. 3 (1987), pp. 215-230.
- Standfield, Rachel, ‘The Paramatta Māori Seminary and the Education of Indigenous Peoples in Early Colonial New South Wales’, *History of Education Review* vol. 41, no. 2 (2012), pp. 119-128.
- Stoler, Ann Laura, ‘Tense and Tender Ties: the politics of comparison in North American history and (post) colonial studies’, *Journal of American History* vol. 88, no. 3 (2001), pp. 829-865.
- Stone, Lawrence, ‘Prosopography’, *Daedalus* vol. 100, no. 1 (1971), pp. 46-79.
- Straw, Leigh, ““The Worst Female Character”: criminal underclass women in Perth and Fremantle, 1900-1939’, *Journal of Australian Studies* vol. 37, no. 2 (2013), pp. 208-224.
- Taylor, Rebe, ““All I Know Is History”: memory and land ownership in the Dudley District, Kangaroo Island’, *The UTS Review* vol. 5, no. 1 (1999), pp. 6-35.
- *Unearthed: the Aboriginal Tasmanians of Kangaroo Island* (Kent Town, SA: Wakefield Press, 2002).
- Tranter, Bruce and Jed Donoghue, ‘Bushrangers in the Sydney Morning Herald’, *TASA 2006 Conference Proceedings*, pp. 1-12.
- and Jed Donoghue, ‘Bushrangers: Ned Kelly and Australian Identity’, *The Journal of Sociology* vol. 44, no. 4 (2008), pp. 373-390.
- and Jed Donoghue, ‘Ned Kelly: armoured icon’, *The Journal of Sociology* vol. 46, no. 2 (2010), pp. 187-205.
- Turner, Victor, ‘Social Dramas and Stories About Them’, *Critical Inquiry* vol. 7, no. 1 (1980), pp. 141-168.
- Twomey, Christina, ‘Gender, Welfare and the Colonial State: Victoria’s 1864 Neglected and Criminal Children’s Act’, *Labour History* vol. 73 (1997), pp. 169-186.
- , ‘Without Natural Protectors: responses to wife desertion in Gold Rush Victoria’, *Australian Historical Studies* vol. 27, no. 108 (1997), pp. 22-46.
- Urban, Andrew, ‘Legends of Deadwood’, *Journal of American History* vol. 94, no. 1 (2007), pp. 224-231.
- Van Krieken, Robert, ‘The Barbarism of Civilisation: cultural genocide and the “Stolen Generations”’, *British Journal of Sociology* vol. 50, no. 2 (1999), pp. 297-315.
- Veracini, Lorenzo, ‘On Settleriness’, *Borderlands* vol. 10, no. 1 (2011), pp. 1-17.

- Vines, Prue, 'Annie Ludford, Postmistress: the *Married Women's Property Acts* and public service employment in 1890s NSW', *Law and History* vol. 2 (2015), pp. 146-176.
- Wagner, Kim, 'Thuggee and Social Banditry Reconsidered', *The Historical Journal* vol. 50, no. 2 (2007), pp. 353-376.
- Walker, R. B., 'Bushrangers in Fact and Legend', *Australian Historical Studies* vol. 11, no. 42 (1964), pp. 206-221.
- , 'Captain Thunderbolt, Bushranger', *Journal of the Royal Australian Historical Society* vol. 43, no. 5 (1957), pp. 223-251.
- Walker, Robin, 'The New South Wales Police Force, 1862-1900', *Journal of Australian Studies* vol. 8, no. 15 (1984), pp. 25-38.
- Waterhouse, Richard, 'Australian Legends: representations of the bush, 1813-1913', *Australian Historical Studies* vol. 31, no. 115 (2000), pp. 201-221.
- , 'Bare Knuckle Prize Fighting, Masculinity and Nineteenth Century Australian Culture', *Journal of Australian Studies* vol. 26, no. 73 (2002), pp. 101-110.
- West, Susan, "'Spiders in the Centre of their Webs': the NSW police and bushranging in the 1860s", *Journal of Australian Colonial History* vol. 8 (2006), pp. 1-22.
- , 'The Role of the "Bush" in 1860s bushranging', *Journal of the Royal Australian Historical Society* vol. 91, no. 2 (2005), pp. 133-147.
- , "'The Thieftom': bushrangers, supporters and social banditry in 1860s New South Wales", *Journal of the Royal Australian Historical Society* vol. 101, no. 2 (2015), pp. 134-155.
- White, Richard, 'Outlaw Gangs of the Middle Border: American social bandits', *Western Historical Quarterly* vol. 12, no. 4 (1981), pp. 387-408.
- Williams, Michael, 'Chinese Australia—the view from the village', *Locality* (Autumn 2003), pp. 17-22.
- Wilkie, Douglas, 'Earth, Wind, Fire, Water—Gold: bushfires and the origins of the Victorian gold rush', *History Australia* vol. 10, no. 2 (2013), pp. 95-113.
- Wolf, Gabrielle, 'Innocent Convicts and Respectable Bushrangers: history and the nation in Melbourne melodrama, 1890-1914', *Journal of Australian Studies* vol. 28, no. 81 (2004), pp. 73-81.
- Wolfe, Patrick, 'Settler Colonialism and the Elimination of the Native', *Journal of Genocide Research* vol. 8, no. 4 (2006), pp. 387-409.
- Woollacott, Angela, 'Frontier Violence and Settler Manhood', *History Australia* vol. 6, no. 1 (2009), p. 11.1-11.15.
- Youwei, Xu and Philip Billingsley, 'When Worlds Collide: Chinese bandits and their "foreign tickets"', *Modern China* vol. 26, no. 1 (2000), pp. 38-78.



## Monographs and Edited Collections

- Alden, John R., *A History of the American Revolution: Britain and the loss of the thirteen colonies* (London: Macdonald, 1969).
- Alexander, Alison and David Young, 'Boxing' in Alison Alexander (ed.), *The Companion to Tasmanian History* (Hobart: Centre for Tasmanian Historical Studies, 2005), p. 52.
- Allen, Matthew, 'Australia and New Zealand' in Scott C. Martin (ed.), *The Sage Encyclopaedia of Alcohol: social, cultural and historical perspectives*, vol. 1 (Los Angeles: Sage Reference, 2015), pp. 195-197.
- Anderson, Benedict, *Imagined Community: reflections on the origin and spread of nationalism* (London: Verso, 1983).
- Anderson, Clare, *Legible Bodies: race, criminality and colonialism in South Asia* (Oxford: Berg, 2004).
- , *Subaltern Lives: biographies of colonialism in the Indian Ocean world, 1790-1920* (Cambridge: Cambridge University Press, 2012).
- Anderson, Margaret, 'Mrs Charles Clacy, Lola Montez and Poll the Grog Seller: glimpses of women on the early Victorian goldfields' in Iain McCalman, Alexander Cook and Andrew Rees (eds.), *Gold: forgotten histories and lost objects of Australia* (Cambridge: Cambridge University Press, 2001), pp. 225-249.
- Anderson, Warwick, *The Cultivation of Whiteness: science, health and racial destiny in Australia* (Melbourne: Melbourne University Press, 2002).
- Annear, Robyn, *Nothing But Gold: the diggers of 1852* (Melbourne: Text Publishing, 1999).
- Arneil, Barbara, *John Locke and America: the defence of English colonialism* (Oxford: Oxford University Press, 1996).
- Atkinson, Alan, *The Europeans in Australia*, vol. 2 (Oxford: Oxford University Press, 2004).
- Attwood, Bain, *Telling the Truth about Aboriginal History* (Sydney: Allen & Unwin, 2005).
- , *The Making of the Aborigines* (Sydney: Allen & Unwin, 1989).
- Aveling, Marian, 'Bending the Bars: convict women and the state' in Kay Saunders and Raymond Evans (eds.), *Gender Relations in Australia: domination and negotiation* (Sydney: Harcourt Brace Jovanovich, 1992), pp. 144-157.
- Bagnall, Kate, "'To His Home at Jembaicumbene': women's cross-cultural encounters on a colonial goldfield" in Jacqueline Lackie, Angela McCarthy and Angela Wanhalla (eds.), *Migrant Cross Cultural Encounters in Asia and the Pacific* (London: Routledge, 2017), pp. 56-75.
- Bailyn, Bernard, *The Ideological Origins of the American Revolution* (Cambridge, Massachusetts: Belknap Press, 2017).

- Bairstow, Darmaris, *A Million Pounds, A Million Acres: the pioneer settlement of the Australian Agricultural Company* (Sydney: D. Bairstow, 2003).
- Baker, Pascale, *Revolutionaries, Rebels and Robbers: the golden age of banditry in Mexico, Latin America and the Chicano American Southwest, 1850-1950* (Cardiff: University of Wales Press, 2015).
- Ballantyne, Tony and Antoinette Burton (eds.), *Bodies in Contact: rethinking colonial encounters in world history* (Durham: Duke University Press, 2005).
- Ballantyne, Tony, *Entanglements of Empire: missionaries, Maori and the questions of the body* (Durham: Duke University Press, 2014).
- , *Webs of Empire: locating New Zealand's colonial past* (Vancouver, BC: University of British Columbia Press, 2014).
- Banivanua Mar, Tracey, *Decolonisation and the Pacific: Indigenous globalisation and the ends of Empire* (Cambridge: Cambridge University Press, 2016).
- Barczewski, Stephanie L., *Myth and National Identity in Nineteenth Century Britain: the legends of King Arthur and Robin Hood* (Oxford: Oxford University Press, 2000).
- Bate, Weston, *Victorian Gold Rushes* (Ballarat, VIC: Sovereign Hill Museums Association, 1999).
- Bateson, Charles, *The Convict Ships, 1787-1868* (Glasgow: Brown, Son & Ferguson Ltd., 1959).
- Baxter, Carol, *Captain Thunderbolt and His Lady: the true story of bushrangers Frederick Ward and Mary Ann Bugg* (Sydney: Allen & Unwin, 2011).
- Bean, Charles E. W., *Official History of Australia in the Great War* (Sydney: Angus and Robertson, 1935).
- Beatty, Bill, *A Treasury of Australian Folk Tales and Traditions* (London: Edmund Ward Publishers, 1960).
- Beier, A. L. and Pail Ocobock (eds.), *Cast Out: vagrancy and homelessness in global and historical perspective* (Athens: University of Ohio Press, 2014).
- Belich, James, *Replenishing the Earth: the settler revolution and the rise of the Anglo-world, 1783-1939* (Oxford: Oxford University Press, 2009).
- Benton, Lauren and Lisa Ford, *Rage for Order: the British Empire and the origins of international law, 1800-1850* (Harvard: Harvard University Press, 2016).
- Berlin, Ira, 'Slavery, Freedom, and Philadelphia's Struggle for Brotherly Love, 1685 to 1861' in Richard Newman and James Mueller (eds.), *Antislavery and Abolition in Philadelphia: emancipation and the long struggle for racial justice in the city of brotherly love* (Baton Rouge: Louisiana State University Press, 2011), pp. 19-44.

- Bhabha, Homi, 'Signs taken for Wonders: questions of ambivalence and authority under a tree outside Delhi, May 1817' in Henry Louis Gates Jnr (ed.), *Race, Writing and Difference* (Chicago: Chicago University Press, 1986), pp. 163-184.
- Bhabha, Homi, *The Location of Culture* (London & New York: Routledge, 1994).
- Billingsley, Phil, *Bandits in Republican China* (Stanford: Stanford University Press, 1988).
- Bishop, Catherine, *Minding Her Own Business: colonial businesswomen in Sydney* (Sydney: New South Books, 2015).
- Blainey, Geoffrey, *A History of Victoria* (Cambridge: Cambridge University Press, 2006).
- Bleszynski, Nick, "You'll Never Take Me Alive": *the life and death of bushranger Ben Hall* (Sydney: Random House Australia, 2011).
- Blok, Anton, *Honour and Violence* (Cambridge: Polity Press, 2001).
- Boladeras, Jean, 'The Desolate Loneliness of Racial Passing' in Maureen Perkins (ed.), *Visibly Different: face, place and race in Australia* (Bern: Peter Lang, 2007), pp. 49-63.
- Bolster, W. Jeffrey, *Black Jacks: African American seamen in the age of sail* (London: Harvard University Press, 1997).
- Bongiorno, Frank, *The Sex Lives of Australians* (Melbourne: Black Inc., 2012).
- Bonnett, Alistair, *White Identities: historical and international perspectives* (Harlow/New York: Prentice Hall, 2000).
- Boucher Leigh, Jane Carey and Katherine Ellinghaus (eds.), *Historicising Whiteness: transnational perspectives on the construction of an identity* (Melbourne: RMIT Press, 2007).
- and Lynette Russell, 'Colonial History, Postcolonial Theory and the "Aboriginal Problem" in Colonial Victoria' in Leigh Boucher and Lynette Russell (eds.), *Settler Colonial Governance in Nineteenth Century Victoria* (Canberra: ANU Press, 2015), pp. 1-25.
- Bourke, Joanna, *An Intimate History of Killing: face-to-face killing in twentieth century warfare* (London: Granta Books, 1999).
- Boxall, George E., *The Story of the Australian Bushrangers* (London: Swann Sonnenschien, 1899).
- Boyce, James, *1835: the founding of Melbourne and the conquest of Australia* (Melbourne: Black Inc, 2012).
- , *Van Diemen's Land* (Melbourne: Black Inc Books, 2009).
- Bradshaw, Jack, *The True Story of the Australian Bushrangers* (Sydney: W. J. Anderson & Co., 1924).

- Brailsford, Dennis, *Bareknuckles: a social history of prize-fighting* (Cambridge: Lutterworth Press, 1988).
- Brand, Ian, *The Convict Probation System: Van Diemen's Land, 1839-1854* (Hobart: Blubber Head Press, 1990).
- Brown, Christopher L., *Moral Capital: foundations of British Abolitionism* (Chapel Hill: University of North Carolina Press, 2006).
- Brown, Keith S. and Yannis Hamilakis, 'A Cupboard of the Yesterdays: critical perspectives on the usable past' in Keith S. Brown and Yannis Hamilakis (eds.), *The Usable Past: Greek metahistories* (Lanham: Lexington Books, 2003), pp. 1-22.
- Brunvand, Jan Harold, *Encyclopedia of Urban Legends* (Santa Barbara, Calif.: ABC-CLIO, 2001).
- Buick, Lindsay T., *The Treaty of Waitangi: how New Zealand became a British colony* (New Plymouth: T. Avery & Sons, 1933).
- Burchall, Michael J., *Sussex Convicts Transported to Australia 1789-1867* (Hampshire, Parish Register Transcription Society, 2011).
- Burr Margadant, Jo, *The New Biography: performing femininity in nineteenth century France* (Berkeley: University of California Press, 2000).
- Bushman, Richard, *The Refinement of America: persons, houses, cities* (New York: Vintage Books, 1992).
- Byrd, Jodi, *The Transit of Empire: Indigenous critiques of colonialism* (Minneapolis, MN: University of Minnesota Press, 2011).
- Byrne, Paula, *Criminal Law and Colonial Subject: New South Wales, 1810-1830* (Cambridge: Cambridge University Press, 1993).
- Cahir, Fred, *Black Gold: Aboriginal people on the goldfields of Victoria, 1850-1870* (Canberra: ANU Press, 2012).
- Caldwell, J. C., 'Population' in Wray Vamplew (ed.), *Australians: historical statistics* (Sydney: Fairfax, Syme & Weldon Associates, 1987), pp. 23-41.
- Cameron, Roy, 'Breelong Tragedy' in Kathielyn Job (ed.), *Around the Black Stump* (Coolah: Council Shire of Coolah, 1993), pp. 87-102.
- Carey, Jane and Jane Lydon (eds.), *Indigenous Networks: mobility, connections and exchange* (London: Routledge, 2014).
- Carpenter, Lloyd, 'Finding "Te Wherro in Otakou": Otago Maori and the gold rush', in Lloyd Carpenter and Lyndon Fraser (eds.), *Rushing for Gold: life and commerce on the goldfields of New Zealand and Australia* (Dunedin: Otago University Press, 2016), pp. 87-100.
- Carrodus, Geraldine, *Gold, Gamblers and Sly Grog: life on the goldfields, 1851-1900* (Oxford: Oxford University Press, 1981).

- Castles, Alex, *An Australian Legal History* (Sydney: Law Book Company Limited, 1982).
- Catton, Bruce, *The Centennial History of the Civil War* (New York: Washington Square Press, 1967).
- Chadban, John, *Stroud and the A. A. Co.* (Stroud, NSW: Stroud Shire Council, 1970).
- Chakrabarty, Dipesh, *Provincializing Europe: postcolonial thought and historical difference* (Princeton: Princeton University Press, 2009).
- Chan, Henry, Ann Curthoys and Nora Chiang (eds.), *The Overseas Chinese in Australasia: history, settlement and interactions* (Taipei: Interdisciplinary Group for Australasian Studies and the Centre for the Study of the Chinese Diaspora, 2001).
- Chee-Beng, Tan, 'Introduction' in Tan Chee-Beng (ed.), *The Routledge Handbook of the Chinese Diaspora* (Oxford: Routledge, 2012), pp. 1-12.
- Ching-Hwang, Yen, *Coolies and Mandarins: China's protection of overseas Chinese during the late Ch'ing period (1851-1911)* (Singapore: Singapore University Press, 1985).
- Clark, Anna, *History's Children: history wars in the classroom* (Sydney: UNSW Press, 2008).
- Clendinnen, Inga, *Dancing with Strangers: Europeans and Australians at first contact* (Melbourne: Text Publishing, 2003).
- , *Reading the Holocaust* (Melbourne: Text Publishing, 2004).
- Clune, Frank, *Ben Hall: the bushranger* (Sydney: Angus & Robertson, 1947).
- , *Dark Outlaw: the story of gunman Gardiner* (Sydney: Angus & Robertson, 1945).
- , *Jimmy Governor* (Sydney: Horwitz, 1959).
- , *Martin Cash: the last of Tasmanian Bushrangers* (Sydney: Angus & Robertson, 1956).
- , *The Kelly Hunters* (Sydney: Angus & Robertson, 1954).
- , *Wild Colonial Boys* (Sydney: Angus & Robertson, 1948).
- Coates, Ian, 'Gold Reflections: artists, entrepreneurs and Aborigines on the north-west Australian goldfields' in Iain McCalman, Alexander Cook and Andrew Reeves (eds.), *Gold: forgotten histories and lost objects of Australia* (Cambridge: Cambridge University Press, 2001), pp. 164-178.
- Comrie, Bernard, Stephen Matthews and Marina Polinsky (eds.), *The Atlas of Languages: the origin and development of languages throughout the world* (London and New York: Facts on File, 1996).
- Connors, Libby, 'Uncovering the Shameful: sexual violence on an Australian colonial frontier' in Robert Mason (ed.), *Legacies of Violence: rendering the unspeakable past in modern Australia* (New York: Berghahn Books, 2017) pp. 33-52.

- Costello, Tim and Royce Millar, *Wanna Bet? Winners and losers in gambling's luck myth* (Sydney: Allen & Unwin, 2000).
- Couzens, Andrew James, *A Cultural History of the Bushranger Legend in Theatres and Cinemas, 1828-2017* (London: Anthem Press, 2019).
- Cowan, James, *The Maoris of New Zealand* (Christchurch: Whitcombe and Tombs, 1910).
- Cryle, Denis, *The Press in Colonial Queensland: a social and cultural history, 1845-1875* (St. Lucia: University of Queensland Press, 1989).
- Cunneen, Chris, *Conflict, Crime and Politics: Aboriginal communities and the police* (Sydney: Allen & Unwin, 2001).
- Currey, C. H., *Sir Francis Forbes: the first chief justice of the Supreme Court of New South Wales* (Sydney: Angus and Robertson, 1968).
- Curthoys, Ann, 'An Uneasy Conversation: the multicultural and the Indigenous' in John Docker and Gerhardt Fisher (eds.), *Race, Colour and Identity in Australia and New Zealand* (Sydney: UNSW Press, 2000), pp. 21-36.
- , 'Good Christians and Useful Workers: Aborigines, church and state in New South Wales, 1870-1883' in Sydney Labour History Group (eds.), *What Rough Beast? The State and social order in Australian History* (Sydney: Allen & Unwin, 1982), pp. 31-56.
- , "'Men of All Nations, Except Chinamen": Europeans and Chinese on the goldfields of New South Wales' in Iain McCalman, Alexander Cook and Andrew Reeves (eds.), *Gold: forgotten histories and lost objects of Australia* (Cambridge: Cambridge University Press, 2001), pp. 103-123.
- and Jessie Mitchell, *Taking Liberty: Indigenous rights and settler self-government in colonial Australia* (Cambridge: Cambridge University Press, 2018).
- and Jessie Mitchell, 'The Advent of Self Government, 1840s-1890s' in Alison Bashford and Stuart Macintyre (eds.), *The Cambridge History of Australia*, vol. 1 (Cambridge: Cambridge University Press, 2017), pp. 149-169.
- Dalziell, Tanya, 'No Place for a Book? Fiction in Australia to 1890' in Peter Pierce (ed.), *The Cambridge History of Australian Literature* (Cambridge: Cambridge University Press, 2009), pp. 93-117.
- Darian-Smith, Kate, 'Breastplates: re-enacting possession in North America and Australia' in Kate Darian-Smith and Penelope Edmonds (eds.), *Conciliation on Colonial Frontiers: conflict, performance and commemoration in Australia and the Pacific Rim* (London: Routledge, 2015), pp. 54-74.
- Darnell, Maxine, 'Master and Servant, Squatter and Shepherd: the regulation of indentured Chinese labourers to NSW, 1847-1853' in Henry Chan, Ann Curthoys and Nora Chiang (eds.), *The Overseas Chinese in Australasia: history, settlement and interactions* (Taipei and Canberra: Interdisciplinary Group for Australasian Studies and the Centre for the Study of the Chinese Southern Diaspora, 2001), pp. 44-53.

- Darnton, Robert, *The Great Cat Massacre and Other Episodes in French Cultural History* (London: Allen Lane, 1984).
- Davey, Gwenda and Graham Seal, 'Bushrangers' in Gwenda Davey and Graham Seal (eds.), *Oxford Companion to Australian Folklore* (Oxford: Oxford University Press, 1993), pp. 58-61.
- Davies, Suzanne, "'Rugged, Dirty...Infamous and Obscene": the 'vagrant' in late nineteenth century Melbourne' in David Phillips and Suzanne Davies (eds.), *A Nation of Rogues? Law, crime and punishment in colonial Australia* (Melbourne: Melbourne University Press, 1994), pp. 141-165.
- Davis, Richard, 'Exile' in Alison Alexander (ed.), *The Companion to Tasmanian History* (Hobart: Centre for Tasmanian Historical Studies, 2005), pp. 432-437.
- Delap, Lucy, 'The "Woman Question" and the Origins of Feminism' in Gareth Stedman Jones and Gregory Claeys (eds.), *The Cambridge History of Nineteenth Century Political Thought* (Cambridge: Cambridge University Press, 2011), pp. 319-348.
- Denning, Greg, *Mr Bligh's Bad Language: passion, power and theatre on the Bounty* (Cambridge: Cambridge University Press, 1992).
- Dickey, Brian, *No Charity There: a short history of social welfare in Australia* (Sydney: Allen & Unwin, 1980).
- Dixon, Robert, *Writing the Colonial Adventure: race, gender and nation in Anglo-Australian popular fiction, 1875-1914* (Cambridge: Cambridge University Press, 1995).
- Douglas, Heather and Mark Finnane, *Indigenous Crime and Settler Law: white sovereignty after empire* (Basingstoke: Palgrave Macmillan, 2012).
- Doukakis, Anna, *Aboriginal People, Parliament and 'Protection' in New South Wales, 1856-1916* (Sydney: The Federation Press, 2006).
- Drescher, Seymour, *The Mighty Experiment: free labour versus slavery in British Emancipation* (Oxford: Oxford University Press, 2002).
- Duffield, Ian and Hamish Maxwell-Stewart, 'Skin Deep Devotions: religious tattoos and convict transportation to Australia' in Jane Caplan (ed.), *Written on the Body: the tattoo in European and American history* (London: Reaktion, 2000), pp. 118-135.
- Edmonds, Penelope, "'I Followed England Round the World": the rise of trans-imperial Anglo-Saxon exceptionalism and the spatial narratives of nineteenth-century British settler colonies of the Pacific Rim' in Leigh Boucher, Jane Carey and Katherine Ellinghaus (eds.), *Re-Orientating Whiteness* (New York: Palgrave Macmillan, 2009), pp. 99-115.
- Elbourne, Elizabeth, 'Domesticity and Dispossession: British ideologies of "home" and the "primitive" at work in the early nineteenth-century Cape' in Wendy Woodward, Patricia Hayes and Gary Minkley (eds.), *Deep histories: gender and colonialism in Southern Africa* (Amsterdam: Rodopi, 2002), pp. 27-54.

- Elder, Catriona, Cath Ellis and Angela Pratt, 'Whiteness in Constructions of Australian Nationhood' in Aileen Moreton-Robinson (ed.), *Whitening Race* (Canberra: Aboriginal Studies Press, 2004), pp. 208-221.
- Ellinghaus, Katherine, *Taking Assimilation to Heart: marriages of white women and Indigenous men in the United States and Australia, 1887-1937* (Lincoln, Nebraska: University of Nebraska Press, 2006).
- Egan, Richard, *Neither Amity Nor Kindness: government policy towards Aboriginal people of New South Wales 1788-1969* (Sydney: R. Egan, 2012).
- Evans, Raymond, "'A King of Brutes': stereotyping the vanquished' in Raymond Evans, Kay Saunders and Kathryn Cronin (eds.), *Exclusion, Exploitation and Extermination: race relations in colonial Queensland* (Sydney: Australia and New Zealand Book Company, 1975), pp. 67-84.
- Evans, Robin, *The Fabrication of Virtue: English prison architecture, 1750-1840* (Cambridge: Cambridge University Press, 1982).
- Evans, Tanya, *Fractured Families: life on the margins in colonial New South Wales* (Sydney: New South, 2015).
- Fels, Marie, *Good Men and True: Aboriginal police of the Port Phillip District, 1837-1853* (Melbourne: Melbourne University Press, 1988).
- Finnane, Mark, 'Law and Regulation' in Alison Bashford and Stuart Macintyre (eds.), *The Cambridge History of Australia*, vol. 1 (Cambridge: Cambridge University Press, 2013), pp. 391-413.
- , *Police and Government: histories of policing in Australia* (Melbourne: Oxford University Press, 1994).
- Fisher, Kate, 'Marriage and Companionable Ideals since 1750' in Kate Fisher and Sarah Toulalan (eds.), *The Routledge History of Sex and the Body: 1500 to the present* (London: Routledge, 2016), pp. 328-347.
- Fitchett, W. H., *In the Days of Thunderbolt and Moonlite: the dramatic story of the second generation of bushrangers* (Melbourne: Fitchett Brothers Pty. Ltd., 1938).
- Fitzgerald, Ross and Trevor L. Jordan, *Under the Influence: a history of alcohol in Australia* (Sydney: Harper Collins, 2009).
- Fitzmaurice, Andrew, 'The Genealogy of *Terra Nullius*', *Australian Historical Studies* vol. 38, no. 129 (2007), pp. 1-15.
- FitzSimons, Peter, *Ned Kelly: the thrilling true story of Australia's most notorious outlaw* (Sydney: Random House Australia, 2014).
- Fletcher, J. J., *Clean, Clad and Courteous: a history of Aboriginal education in New South Wales* (Sydney: Southwood Press, 1989).
- Flett, James, *Dunolly: story of an old gold diggings* (Melbourne: Hawthorn Press, 1974).



- , *Maryborough Victoria: goldfields history* (Glen Waverly: Poppet Head Press, 1975).
- Ford, Lisa, 'Introduction' in Lisa Ford and Tim Rowse (eds.), *Between Indigenous and Settler Governance* (Abingdon, Oxon: Routledge, 2013), pp. 1-11.
- , 'Locating Indigenous Self-Determination in the Margins of Settler Sovereignty' in Lisa Ford and Tim Rowse (eds.), *Between Indigenous and Settler Governance* (London: Routledge, 2012), pp. 1-11.
- , *Settler Sovereignty: jurisdiction and Indigenous people in America and Australia, 1788-1836* (Cambridge, MA: Harvard University Press, 2010).
- Foster, Meg, 'Murder for White Consumption: Jimmy Governor and the Bush Ballad' in Yuting Huang and Rebecca Weaver-Hightower (eds.), *Archiving Settler Colonialism: culture, race and space* (London: Routledge, 2018), pp. 173-189.
- Foucault, Michel, *Discipline and Punish: the birth of the prison* (New York: Vintage Books, 1979).
- , *The Archaeology of Knowledge* (London: Routledge, 2002).
- , *The History of Sexuality*, vol. 1 (London: Penguin 1992).
- Fox-Genovese, Elizabeth, *Within the Plantation Household: black and white women of the old South* (London: University of North Carolina Press, 1988).
- Frankenberg, Ruth (ed.), *Displacing Whiteness: essays in social and cultural criticism* (Durham: Duke University Press, 1997).
- Frankenberg, Ruth, *White Women, Race Matters: the social construction of whiteness* (Minneapolis: University of Minnesota Press, 1993).
- Fujikane, Candace and Jonathan Y Okamura (eds.), *Asian Settler Colonialism: from local governance to the habits of everyday life in Hawai'i* (Honolulu: University of Hawai'i Press, 2008).
- Fullagar, Kate and Mike McDonnell (eds.), *Facing Empire: Indigenous experiences in a revolutionary age* (Baltimore: John Hopkins University Press, 2018).
- Jalland, Pat, *Australian Ways of Death: a social and cultural history 1840-1918* (Oxford: Oxford University Press, 2002).
- Gammage, Bill, *The Biggest Estate on Earth: how Aborigines made Australia* (Sydney: Allen & Unwin, 2011).
- Ganter, Regina, (ed.), *Mixed Relations: Asian-Aboriginal contact in North Australia* (Crawley: University of Western Australia Press, 2006).
- , 'The View from the North' in Martin Lyons and Penny Russell (eds.), *Australia's History: themes and debates* (Sydney: UNSW Press, 2005), pp. 41-62.
- Garland, Maurie, *Jimmy Governor: blood on the tracks* (Melbourne: Brolga Press, 2009).

- Garton, Stephen, *Out of Luck: poor Australians and social welfare, 1788-1988* (Sydney: Allen & Unwin, 1990).
- Gascoigne, John, *Encountering the Pacific in the Age of Enlightenment* (Cambridge: Cambridge University Press, 2014).
- Geertz, Clifford, *The Interpretation of Cultures* (New York: Basic Books, 1973).
- Gerzina, Gretchen, *Black London: life before emancipation* (New Brunswick: Rutgers University Press, 1995).
- Gigantino, James, 'Slavery and the Slave Trade' in *The Encyclopaedia of Greater Philadelphia* (New Brunswick: Rutgers University, 2012). Accessed 1 March 2018 via: <http://philadelphiaencyclopedia.org/archive/slavery-and-the-slave-trade/>
- Gillen, Mollie, *Founders of Australia: a biographical dictionary of the First Fleet* (Sydney: Library of Australian History, 1989).
- Golder, Hilary, *Politics, Patronage and Public Works: the administration of New South Wales* vol. 1, 1842-1900 (Sydney: UNSW Press, 2005).
- Goodall, Heather, *Invasion to Embassy: land in Aboriginal politics in New South Wales, 1770-1972* (Sydney: Sydney University Press, 1996, 2008).
- , 'New South Wales' in Ann McGrath (ed.), *Contested Ground: Australian Aborigines under the British Crown* (Sydney: Allen & Unwin, 1996), pp. 55-120.
- Goodman, David, 'Gold and the Public in the Nineteenth Century Gold Rushes', in Benjamin Mountford and Stephen Tuffnell (eds.), *A Global History of Gold Rushes* (Oakland, California: University of California Press, 2018), pp. 65-87.
- , *Gold Seeking: Victoria and California in the 1850s* (Sydney: Allen & Unwin, 1994).
- , 'Making an Edgier History of Gold' in Iain McCalman, Alexander Cook and Andrew Rees (eds.), *Gold: forgotten histories and lost objects of Australia* (Cambridge: Cambridge University Press, 2001), pp. 23-37.
- , 'The Gold Rushes of the 1850s' in Alison Bashford and Stuart Macintyre (eds.), *The Cambridge History of Australia*, vol. 1 (Cambridge: Cambridge University Press, 2013), pp. 170-188.
- Gunson, Niel (ed.), *Australian Reminiscences and Papers of L. E. Threlkeld: missionary to the Aborigines, 1824-1859* (Canberra: Australian Institute of Aboriginal Studies, 1974).
- Guotu, Zhuang, 'China's Policies on Chinese Overseas' in Tan Chee-Beng (ed.), *The Routledge Handbook of the Chinese Diaspora* (Oxford: Routledge, 2012), pp. 31-41.
- Graham, Clare, *Ordering Law: the architectural and social history of the English law court to 1914* (Aldershot: Ashgate, 2003).
- , 'The History of Law Court Architecture in England and Wales: the institutionalisation of the law' in Richard Pollard (ed.), *Silence in the Court: the future of the UK's historic law courts* (London: Save Britain's Heritage, 2004), pp. 36-47.

- Gregson, Jesse, *The Australian Agricultural Company, 1824-1875* (Sydney: Angus & Robertson, 1907).
- Greene, Jack P. (ed.), *The American Revolution: its character and limits* (New York: New York University Press, 1987).
- Griffiths, Tom, *Hunters and Collectors: the antiquarian imagination in Australia* (Cambridge: Cambridge University Press, 1996).
- , 'Past Silences: Aborigines and convicts in our history-making' in Penny Russell and Richard White (eds.), *Pastiche 1: reflections on nineteenth-century Australia* (Sydney: Allen & Unwin, 1994), pp. 7-23.
- , *The Art of Time Travel: historians and their craft* (Carlton, VIC: Black Books Inc., 2016).
- Grimshaw, Patricia, et al., *Creating a Nation, 1788-1990* (Ringwood, Victoria: Penguin Books, 1996).
- and Graham Willett, 'Women's History and Family History: an exploration of colonial family structure' in Norma Grieve and Patricia Grimshaw (eds.), *Australian Women: feminist perspectives* (Oxford: Oxford University Press, 1981), pp. 134-155.
- Haebich, Anna, *Broken Circles: fragmenting families, 1800-2000* (Freemantle, WA: Freemantle Arts Centre Press, 2000).
- , "'Clearing the Wheat Belt': erasing the Indigenous presence in the southwest of Western Australia' in A. Dirk Moses (ed.), *Genocide and Settler Society: frontier violence and stolen Indigenous children in Australian history* (New York: Berghahn Books, 2004), pp. 267-289.
- , 'The Battlefields of Aboriginal History' in Martyn Lyons and Penny Russell (eds.), *Australia's History: themes and debates* (Sydney: University of New South Wales Press, 2005), pp. 1-9.
- Hage, Ghassan, *White Nation: fantasies of white supremacy in a multicultural society* (Sydney: Pluto Press, 1998).
- Haldane, Robert, *The People's Force: a history of the Victorian police* (Melbourne: Melbourne University Press, 1986).
- Hall, Catherine, *Civilizing Subjects: metropole and colony in the English imagination, 1830-1867* (Polity: Cambridge, 2002).
- Hall, Stuart, 'Encoding/ Decoding' in Meenakshi Gigi Durham and Douglas M. Keller (eds.), *Media and Cultural Studies: keywords* (Malden, MA: Blackwell Publishing, 2006), pp. 163-173.
- Harman, Kristyn, *Aboriginal Convicts: Australian, Khoisan and Maori exiles* (Sydney: New South Books, 2012).
- Hay, Douglas, et al. (eds.), *Albion's Fatal Tree: crime and society in eighteenth century England* (New York: Pantheon, 1975).

- , 'Property, Authority and the Criminal Law', in Douglas Hay et al. (eds.), *Albion's Fatal Tree: crime and society in eighteenth century England* (London: Penguin Books, 1977), pp. 17-64.
- Hiatt, L. R., *Arguments About Aborigines: Australia and the evolution of social anthropology* (Cambridge: Cambridge University Press, 1996).
- Hickford, Mark and Carwyn Jones, *Indigenous Peoples and the State: international perspectives on the Treaty of Waitangi* (London: Routledge, 2018).
- Hirst, John, *Convict Society and Its Enemies: a history of early Sydney* (Sydney: Allen & Unwin, 1983).
- , *Freedom on the Fatal Shore: Australia's first colony* (Melbourne: Black Inc., 2008).
- , *The Strange Birth of Colonial Democracy: New South Wales, 1848-1884* (Sydney: Allen & Unwin, 1998).
- Hobsbawm, Eric, *Bandits* (Harmondsworth: Penguin Books, 1969).
- , *Primitive Rebels: studies in archaic forms of social movement in the nineteenth and twentieth centuries* (Manchester: Manchester University Press, 1959).
- , 'Social Banditry' in Henry A. Landsberger (ed.), *Rural Protest: peasant movements and social change* (London: Palgrave Macmillan, 1974), pp. 142-157.
- Holcombe, Lee, *Wives and Property: reform of the married women's property law in nineteenth century England* (Toronto: University of Toronto Press, 1983).
- Holloway, Ian, Simon Bronitt and John Williams, 'Rhetoric, Reason and the Rule of Law in Early Colonial New South Wales' in Hamar Foster, Benjamin L. Berger and A. R. Buck (eds.), *Grand Experiment: law and legal culture in British settler colonies* (Vancouver and Toronto: UBC Press, 2008), pp. 79-100.
- Houghton, Walter, *The Victorian Frame of Mind, 1830-1870* (New Haven: Yale University Press, 1957).
- Huggins, Jackie and Thom Blake, 'Protection or Persecution? Gender relations in the era of racial segregation' in Kay Saunders and Raymond Evans (eds.), *Gender Relations in Australia: domination and negotiation* (Sydney: Harcourt Brace, 1994), pp. 42-58.
- Ignatieff, Michael, *A Just Measure of Pain: the penitentiary in the Industrial Revolution, 1750-1850* (New York: Columbia University Press, 1978).
- Irish, Paul, *Hidden in Plain View: the Aboriginal people of coastal Sydney* (Sydney: New South Press, 2017).
- Iskandar, Adel and Hakem Rustom (eds.), *Edward Said: a legacy of emancipation and representation* (Berkley: University of California Press, 2010).
- Jebb, Mary Anne and Anna Haebich, 'Across the Great Divide: gender relations on Australian frontiers' in Kay Saunders and Raymond Evans (eds.), *Gender Relations in Australia:*

*domination and negotiation* (Sydney: Harcourt, Brace, Jovanovich, Publishers, 1992), pp. 20-41.

Jensen, Bernard Eric, 'Usable Pasts: comparing approaches to popular and public history' in Paul Ashton and Hilda Kean (eds.), *People and Their Pasts* (London: Palgrave Macmillan, 2009), pp. 42-56.

Joy, William and Tom Prior, *The Bushrangers* (Sydney: Shakespeare Head press, 1963).

Karskens, Grace, *The Colony: a history of early Sydney* (Sydney: Allen & Unwin, 2010).

———, *People of the River* (Sydney: Allen & Unwin, in press).

Keneally, Thomas, *The Chant of Jimmie Blacksmith* (Ringwood, VIC: Penguin Books, 1972).

Kennedy, Leo and Mic Looby, *Black Snake: the real story of Ned Kelly* (Melbourne: Affirm Press, 2018).

Kercher, Bruce, *Unruly Child: a history of law in Australia* (Sydney: Allen & Unwin, 1995).

Khan, Jeff (ed.), *Posts in the Paddock: performance space, point 4, exchange* (Sydney: Performance Space Limited, 2011).

Kingston, Beverley, *The Oxford History of Australia*, vol. 3 (Melbourne: Oxford University Press, 1988).

Knapman, Claudia, *White Women in Fiji, 1835-1930: the ruin of Empire?* (Sydney: Allen & Unwin, 1986).

Laidlaw, Zoë, *Colonial Connections 1815-1845: patronage, the information revolution and colonial government* (Manchester: Manchester University Press, 2005).

——— and Alan Lester (eds.), *Indigenous Communities and Settler Colonialism: landholding, loss and survival in an interconnected world* (Basingstoke: Palgrave Macmillan, 2015).

Lake, Marilyn and Henry Reynolds, *Drawing the Global Colour Line: white men's country and the question of racial equality* (Cambridge: Cambridge University Press, 2012).

Lambert, David and Alan Lester, *Colonial Lives Across the British Empire* (Cambridge: Cambridge University Press, 2006).

Lawrence, Susan, 'After the Gold Rush: material culture and settlement on Victoria's central goldfields' in Iain McCalman, Alexander Cook and Andrew Rees (eds.), *Gold: forgotten histories and lost objects of Australia* (Cambridge: Cambridge University Press, 2001), pp. 250-266.

———, *Dolly's Creek: an archaeology of a Victorian goldfields community* (Melbourne: Melbourne University Press, 2000).

Lecaudey, Helene, 'Behind the Mask: ex-slave women and interracial sexual relations' in Patricia Morton (ed.), *Discovering the Women in Slavery: emancipating perspectives on the American Past* (Athens: University of Georgia Press, 1996), pp. 260-277.

- Lester, Alan, 'Indigenous Entanglements' in Jane Carey and Jane Lydon (eds.), *Indigenous Networks: mobility, connections and exchange* (London: Routledge, 2014), pp. 50-74.
- , *Imperial Networks: creating identities in nineteenth-century South Africa and Britain* (London: Routledge, 2001).
- and Zoë Laidlaw (eds.), *Indigenous Sites and Mobilities: connected struggles in the long nineteenth century* (London: Palgrave Macmillan, 2015).
- Levine, Phillipa, 'Anthropology, Colonialism, and Eugenics' in Alison Bashford and Phillipa Levine (eds.), *The Oxford Handbook of the History of Eugenics* (Oxford: Oxford University Press, 2010), pp. 43-61.
- Linebaugh, Peter and Marcus Rediker, *The Many Headed Hydra: sailors, commoners and the hidden history of the Revolutionary Atlantic* (Boston: Beacon Press, 2000).
- Livingstone, David, *Adam's Ancestors: race, religion and the politics of human origin* (Baltimore: John Hopkins University Press, 2008).
- Longley, R. A., *Rye Street Directory 1822/3* (St Leonards-On-Sea: R. A. and K. J. Longley, 2006).
- Lowrie, Claire, *Masters and Servants: cultures of empire in the tropics* (Manchester: Manchester University Press, 2016).
- Lydon, Jane, *The Flash of Recognition: photography and the emergence of Indigenous rights* (Sydney: New South Books, 2012).
- Lyons, Martyn, 'Reading Practices in Australia' in Martyn Lyons et al. (eds.), *A History of the Book in Australia 1891-1945: a national culture in a colonised market* (St Lucia: University of Queensland Press, 2001), pp. 335-353.
- Macintyre, Stuart, *A Concise History of Australia* (Cambridge: Cambridge University Press, 2009).
- and Anna Clark, *The History Wars* (Melbourne: Melbourne University Press, 2003).
- Macleod, A. R., *The Transformation of Manillae: a history of Manilla* (Sydney: Halstead Press, 1949).
- Magarey, Susan, *Passions of the First Wave Feminists* (Sydney: UNSW Press, 2001).
- Mani, Lata, 'Contentious Traditions: the debate on Sati in colonial India' in Kumkum Sangari and Sudesh Vaid (eds.), *Recasting Women: essays in Indian colonial history* (New Brunswick, NJ: Rutgers University Press, 1990), pp. 88-125.
- Manne, Robert, 'Aboriginal Child Removal and the Question of Genocide, 1900-1940' in A. Dirk Moses (ed.), *Genocide and Settler Society: frontier violence and stolen Indigenous children in Australian history* (New York: Berghahn Books, 2004), pp. 217-243.
- (ed.), *Whitewash: On Keith Windschuttle's Fabrication of Aboriginal History* (Melbourne: Black Inc, 2003).

- Marable, Manning, *How Capitalism Underdeveloped Black America: problems in race, political economy and society* (Boston, MA.: South End Press, 1983).
- Marki, Mary and Christopher Clayton Smith, 'Vigilantism During the Gold Rush' in Gordon Morris Bakken (ed.), *Invitation to an Execution: a history of the death penalty in the United States* (Albuquerque: University of New Mexico Press, 2010), pp. 403-411.
- Martínez, Julia and Adrian Vickers, *The Pearl Frontier: Indonesian labor and Indigenous encounters in Australia's Northern trading network* (Honolulu: University of Hawai'i Press, 2015).
- Matthews, Stephen and Virginia Yip, *Cantonese: a comprehensive grammar* (London: Routledge, 1994).
- Maxwell-Stewart, Hamish and Lucy Frost (eds.), *Chain Letters: narrating convict lives* (Melbourne: Melbourne University Press, 2001).
- and James Bradley, 'Embodied Explorations: investigating convict tattoos and the transportation system' in Ian Duffield and James Bradley (eds.), *Representing Convicts: new perspectives on convict forced labour migration* (London: Leicester University Press, 1997), pp. 183-203.
- Macintyre, Stuart and Sean Scalmer (eds.), *What If? Australian history as it might have been* (Melbourne: Melbourne University Press, 2006).
- Malcolm, Elizabeth and Dianne Hall, *A New History of the Irish in Australia* (Sydney: New South Publishing, 2018).
- McCalman, Janet, 'To Die Without Friends: solidarities, drifters and failures in a new world society', in Graeme Davison (ed.), *Body and Mind: historical essays in honour of F. B. Smith* (Melbourne: Melbourne University Press, 2009), pp. 173-194.
- McDermott, Alex, (ed.), *The Jerilderie Letter* (Melbourne: Melbourne Text Publishing, 2001).
- McDonald, Peter and Patricia Quiggin, 'Lifecourse Transitions in Victoria in the 1880s' in Patricia Grimshaw, Chris McConville and Ellen McEwen (eds.), *Families in Colonial Australia* (Sydney: Allen & Unwin, 1985), pp. 64-82.
- McGowan, Barry, 'Mullock Heaps and Tailing Mounds: environmental effects of alluvial goldmining' in Iain McCalman, Alexander Cook and Andrew Rees (eds.), *Gold: forgotten histories and lost objects of Australia* (Cambridge: Cambridge University Press, 2001), pp. 85-100.
- McGrath, Ann, 'Australia's Occluded Voices: Ned Kelly's History Wars' in Mícheal Ó hAodha and John O'Callaghan (eds.), *Narratives of the Occluded Irish Diaspora: subversive voices* (Oxford & New York: Peter Lang, 2012), pp. 7-36.
- , *Contested Ground: Australian Aborigines under the British Crown* (Sydney: Allen & Unwin, 1996).
- , *Illicit Love: interracial sex and marriage in the United States and Australia* (Lincoln, Nebraska: University of Nebraska Press, 2015).

- McGregor, Russell, 'Governance, not Genocide: Aboriginal assimilation in the post-war era' in A. Dirk Moses (ed.), *Genocide and Settler Society: frontier violence and stolen Indigenous children in Australian history* (New York: Berghahn Books, 2004), pp. 290-311.
- , *Imagined Destinies: Aboriginal Australians and the Doomed Race Theory 1880-1939* (Melbourne: Melbourne University Press, 1997).
- McKay, Belinda (ed.), *Unmasking Whiteness: race relations and reconciliation* (Brisbane: The Queensland Studies Centre, Griffith University, 1999).
- McKenzie, Kirsten, *A Swindler's Progress: nobles and convicts in the Age of Liberty* (Harvard: Harvard University Press, 2010).
- , 'Defining and Defending Honour in Law' in Penny Russell and Nigel Worden (eds.), *Honourable Intentions? Violence and virtue in Australian and Cape colonies, c1750 to 1850* (London: Routledge, 2016), pp. 17-30.
- , *Imperial Underworld: an escaped convict and the transformation of the British colonial order* (Cambridge: Cambridge University Press, 2016).
- , *Scandal in the Colonies: Sydney and Cape Town, 1820-1850* (Melbourne: Melbourne University Press, 2004).
- McKinnon, Crystal, 'Indigenous Music as a Space of Resistance' in Tracey Banivanua Mar and Penelope Edmonds (eds.), *Making Settler Colonial Space: perspectives on race, place and identity* (London: Palgrave Macmillan, 2010), pp. 255-272.
- McLynn, Frank, *Crime and Punishment in Eighteenth Century England* (London: Routledge, 2002).
- McGowen, Randall, 'The Well-Ordered Prison: England, 1780-1865' in Norval Morris and David J. Rothman (eds.), *The Oxford History of the Prison: the practice of punishment in western society* (Oxford: Oxford University Press, 1995), pp. 79-110.
- McPherson, James M., *The Battle Cry of Freedom: the Civil War era* (New York: Oxford University Press, 2011).
- and James K. Hogue, *Ordeal by Fire: the Civil War and Reconstruction* (Boston: McGraw-Hill Higher Education, 2010).
- McQueen, Humphrey, *A New Britannia* (St Lucia, QLD: Queensland University Press, 2004, c1970).
- Mendham, Roy, *The Dictionary of Australian Bushrangers* (Melbourne: Hawthorn Press, 1975).
- Middlekauff, Robert, *The Glorious Cause: the American Revolution, 1763-1789* (Oxford: Oxford University Press, 2007).
- Molony, John, *Eureka* (Melbourne: Melbourne University Press, 2001).
- , *Ned Kelly* (Melbourne: Melbourne University Press, 2001).



- , *The Native-Born: the first white Australians* (Melbourne: Melbourne University Press, 2000).
- Monaghan, E. Jennifer, *Reading for the Enslaved, Writing for the Free? Reflections on liberty and literacy* (Worcester, Mass.: American Antiquarian Society, 2000),
- Monaghan, Jan, *Australians and the Gold Rush: California and Down-Under, 1849-1854* (Berkeley: University of California Press, 1966).
- Moore, Bruce, *Gold! Gold! Gold! The language of the nineteenth-century Australian gold rushes* (Oxford: Oxford University Press, 2000).
- Moore, Laurie and Stephan Williams, *The True Story of Jimmy Governor* (Sydney: Allen & Unwin, 2001).
- Moreton-Robinson, Aileen, 'I Still Call Australia Home: Indigenous belonging and place in a white postcolonizing society' in Sara Ahmed et al. (eds.), *Uprootings/Regroundings: questions of home and migration* (New York: Berg Publishers, 2003), pp. 23-40.
- Morgan, Sally, *My Place* (Freemantle WA.; Freemantle press, 1987).
- Morrison, Alec, *Frank Gardiner: bushranger to businessman 1830-1904* (Milton, QLD: John Wiley & Sons, 2003).
- Morrison, Toni, *Playing in the Dark: whiteness and the literary imagination* (New York: Vintage: Random House, 1992).
- Morrissey, Doug, *Ned Kelly: a lawless life* (Redland Bay, QLD: Connor Court Publishing, 2015).
- , *Ned Kelly: selectors, squatters and stock thieves* (Redland Bay, QLD: Connor Court Publishing, 2018).
- Moses, A. Dirk (ed.), *Genocide and Settler Society: frontier violence and stolen Indigenous children in Australian history* (New York: Berghahn Books, 2004).
- Mountford, Benjamin, 'The Pacific Gold Rushes and the Struggle for Order' in Benjamin Mountford and Stephen Tuffnell (eds.), *A Global History of Gold Rushes* (Oakland, California: University of California Press, 2018), pp. 88-108.
- Nai'an, Shi and Lou Guanzhong, *Outlaws of the Marsh* (Hong Kong: The Commercial Press, 1991).
- Nash, Gary and Jean Soderlund, *Freedom By Degrees: emancipation in Pennsylvania and its aftermath* (Oxford: Oxford University Press, 1991).
- National Museum of Australia, *Outlawed: investigating legend and reality* (Canberra: National Museum of Australia, 2003).
- Neal, David, *The Rule of Law in a Penal Colony: law and power in early NSW* (Cambridge: Cambridge University Press, 1991).
- Nettelbeck, Amanda, 'Intimate Violence in the Pastoral Economy: Aboriginal women's labour and protective governance' in Penelope Edmonds and Amanda Nettelbeck (eds.),

*Intimacies of Violence in the Settler Colony: economies of dispossession around the Pacific Rim* (London: Palgrave Macmillan, 2018), pp. 67-87.

Nevins, Allan, *The War for the Union* (New York: Scribner, 1959-1971).

Newman, Richard and James Mueller, 'Introduction' in Richard Newman and James Mueller (eds.), *Antislavery and Abolition in Philadelphia* (Louisiana: Louisiana University Press, 2011), pp. 1-18.

Ngai, Mae M., 'The Chinese Question: the gold rushes and global politics, 1849-1910' in Benjamin Mountford and Stephen Tuffnell (eds.), *A Global History of Gold Rushes* (Oakland, California: University of California Press, 2018), pp. 109-136.

Nicholas, Stephen, 'The Care and Feeding of Convicts' in Stephen Nicholas (ed.), *Convict Workers: reinterpreting Australia's past* (Cambridge: Cambridge University Press, 1998), pp. 180-198.

Nixon, Allan, *100 Australian Bushrangers, 1789-1901* (Adelaide: Rigby, 1982).

No Attributed Author, *Wollar, 1885-1985: the sleeping village* (Wollar: Wollar Centenary Publishing Committee, 1985).

Oakes, James, *Freedom National: the destruction of slavery in the United States, 1861-1865* (New York: W. W. Norton and Company, 2013).

O'Brien, Anne, *Philanthropy and Settler Colonialism* (Basingstoke: Palgrave Macmillan, 2015).

Ogborn, Miles, *Global Lives: Britain and the World, 1550-1800* (Cambridge: Cambridge University Press, 2008).

Orange, Claudia, *Illustrated History of the Treaty of Waitangi* (Wellington: Bridget Williams Books, 2004).

———, *Story of a Treaty* (Wellington: Bridget Williams Books, 2002).

Osborn, Betty and Trenear DuBourg, *Maryborough: a social history, 1854-1904* (Maryborough: Maryborough City Council, 1985).

Oxley, Deborah, *Convict Maids: the forced migration of women to Australia* (Cambridge: Cambridge University Press, 1996).

———, 'Peopling the Pacific with Prisoners: the transportation of women to Australia' in Katarina Ferro and Margot Wallner (eds.), *Migration Happens: reasons, effects and opportunities of migration in the South Pacific* (London: Transaction Publishers, 2005), pp. 167-186.

Palmgren, Jennifer A. and Lorretta M. Holloway (eds.), *Beyond Arthurian Romances: the reach of Victorian medievalism* (New York: Palgrave Macmillan, 2005).

Parry, Naomi, "'Hanging no good for blackfellow": looking into the life of Musquito,' in Ingereth Macfarlane and Mark Hannah (eds.), *Transgressions: critical Australian Indigenous histories* (Canberra: ANU E Press, 2007), pp. 153-176.

- Parsley, Auntie Loretta, 'Blood on his hands, cleansed in salt water' in Jeff Khan (ed.), *Posts in the Paddock: performance space, point 4, exchange* (Sydney: Performance Space Limited, 2011), pp. 15-18.
- Pascoe, Bruce, *Dark Emu: Black Seeds: agriculture or accident?* (Melbourne: Scribe, 2014).
- Penzig, Edgar, *Troopers, Villains, Vipers and Vixens: an illustrated history of police and colonial crime 1850-1915* (Katoomba: Tranter Enterprises, 1995).
- Pfeifer, Michael, *Rough Justice: lynching and American society, 1874-1947* (Urbana and Chicago: Illinois University Press, 2004).
- Poskett, James, *Materials of the Mind: phrenology, race, and the global history of science, 1815-1920* (Chicago: University of Chicago Press, 2019).
- Pratt, Mary Louise, *Imperial Eyes: travel writing and transculturation* (London: Routledge, 2008).
- Purcell, Fernando, "'Too Many Foreigners for My Taste': law, race and ethnicity in California, 1848-1852" in John Parry (ed.), *Evil, Law and the State: perspectives on state power and violence* (Amsterdam: Rodopi, 2006), pp. 17-30.
- Pybus, Cassandra, *Black Founders: the unknown story of Australia's first black settlers* (Sydney: UNSW Press, 2006).
- , 'From "Black Caesar" to Mudrooro: the African diaspora in Australia' in Annalisa Oboe (ed.), *Mongrel Signatures: the work of Mudrooro* (Amsterdam: Rodopi, 2003), pp. 25-41.
- Read, Read, *A Hundred Years War: the Wiradjuri people and the state* (Canberra: ANU Press, 1988).
- , *The Stolen Generations: the removal of Aboriginal children in New South Wales, 1883-1969* (Sydney: NSW Department of Aboriginal Affairs, 1998).
- Reece, R. H. W., *Aborigines and Colonists: Aborigines and colonial society in New South Wales in the 1830s and 40s* (Sydney: Sydney University Press, 1974).
- Reynolds, Henry, *Forgotten War* (Sydney: New South, 2013).
- , *Frontier: Aborigines, settlers, land* (Sydney: Allen & Unwin, 1987).
- , *North of Capricorn: the untold story of Australia's north* (Sydney: Allen & Unwin, 2004).
- , *The Other Side of the Frontier: Aboriginal resistance to the European invasion of Australia* (Sydney: UNSW Press, 2006).
- , *The Whispering in Our Hearts, Revisited* (Sydney: New South Books, 2018).
- , *Unnecessary Wars* (Sydney: New South Press, 2016).

- , *Why Weren't We Told? A personal search for the truth about our history* (Ringwood, Vic.: Penguin, 2000).
- , *With the White People: the crucial role of Aborigines in the exploration and development of Australia* (Sydney: Penguin Books, 1990).
- Richards, Jonathan, *The Secret War: a true history of Queensland's Native Police* (St. Lucia: University of Queensland Press, 2008).
- Richardson, David, 'Consuming Goods, Consuming People: reflections on the transatlantic slave trade' in Philip Misevich and Kristin Mann (eds.), *The Rise and Demise of Slavery and the Slave Trade in the Atlantic World* (Rochester, NY: Rochester University Press, 2016), pp. 31-63.
- Ritchie, John Douglas, *Punishment and Profit: the reports of Commissioner John Bigge on the colonies of New South Wales and Van Diemen's Land, 1822-1823, their origins, nature and significance* (Melbourne: Heinemann, 1970).
- Rixon, A., *Captain Thunderbolt* (Sydney: Annie Rixon, 1951).
- Rixon, Annie, *The Truth About Thunderbolt: Australia's Robbin Hood* (Sydney: George M. Dash, 1940).
- Rodger, N. A. M., *The Wooden World: an anatomy of the Georgian navy* (London: Collins, 1986).
- Rodriguez, Junius P., *Slavery in the United States: a social, political and historical encyclopaedia* (Santa Barbara, California: ABC-CLIO, Inc., 2007).
- Roediger, David, *The Wages of Whiteness: race and the making of the American working class* (London/New York: Verso, 1991).
- Rolls, Eric, *A Million Wild Acres: 200 years of man and an Australian forest* (Melbourne: Thomas Nelson, 1981).
- Rose, Deborah Bird, *Dingo Makes Us Human: life and land in an Australian Aboriginal culture* (Cambridge: Cambridge University Press, 2000).
- , 'Jesus and the Dingo' in Deborah Bird Rose and Tony Swain (eds.), *Aboriginal Australians and Christian Missions: ethnographic and historical studies* (Bedford Park, South Australia: Australian Association for the Study of Religions, 1988), pp. 361-375.
- , *Wild Dog Dreaming: love and extinction* (Charlottesville and London: University of Virginia Press, 2011).
- Ross, Richard J., *Legal Pluralism and Empires, 1500-1850* (New York: New York University Press, 2013).
- Rouse, Joseph, 'Power/Knowledge' in Gary Gutting (ed.), *The Cambridge Companion to Foucault* (Cambridge: Cambridge University Press, 2006), pp. 95-122.
- Russell, Lynette, *Roving Mariners: Australian Aboriginal whalers and sealers in the southern oceans, 1790-1870* (Albany: State University of New York Press, 2012).

- Russell, Penny and Nigel Worden, 'Introduction' in Penny Russell and Nigel Worden (eds.), *Honourable Intentions? Violence and virtue in Australian and Cape colonies, c1750 to 1850* (London: Routledge, 2016), pp. 13-28.
- , 'Honour, Morality and Sexuality in Nineteenth-Century Sydney' in Penny Russell and Nigel Worden (eds.), *Honourable Intentions? Violence and virtue in Australian and Cape colonies, c1750 to 1850* (London: Routledge, 2016), pp. 202-217.
- , *Savage or Civilised? Manners in colonial Australia* (Sydney: New South, 2010).
- Said, Edward, *Orientalism* (London: Penguin, 1991).
- Salmond, Anne, *Between Worlds: early exchanges between Māori and Europeans, 1773-1815* (Honolulu: University of Hawaii Press, 1998).
- , 'Kidnapped: Tuki and Huru's involuntary visit to Norfolk Island in 1793' in Robin Fisher and Hugh Johnston (eds.), *From Maps to Metaphors: the Pacific World of George Vancouver* (Vancouver: University of British Columbia Press, 1993), pp. 191-226.
- Sangari, Kumkum and Sudesh Vaid (eds.), *Recasting Women: essays in Indian colonial history* (New Brunswick, NJ: Rutgers University Press, 1990).
- Sayers, Andrew, *Sidney Nolan: the Ned Kelly story* (New York: Metropolitan Museum of Art, 1994).
- Seal, Graham, *Hidden Culture: folklore in Australian society* (Melbourne & Oxford: Oxford University Press, 1989).
- , *Outlaw Heroes in Myth and History* (London: Anthem Press, 2011).
- , *"Tell 'Em I Died Game": the legend of Ned Kelly* (Flemington, Vic: Hyland House Publishing, 2002).
- , *The Outlaw Legend: a cultural tradition in Britain, America and Australia* (Cambridge: Cambridge University Press, 1996).
- , 'The Wild Colonial Boy Rides Again and Again: an Australian Legend Abroad' in Ian Craven, Martin Gray and Geraldine Stoneham (eds.), *Australian Popular Culture* (Cambridge: Cambridge University Press, 1994), pp. 161-172.
- and Gwenda Davey, 'Introduction' in Graham Seal and Gwenda Davey (eds.), *The Oxford Companion to Australian Folklore* (Melbourne: Oxford University Press, 1993), pp. ix-xvii.
- Serle, Geoffrey, *Golden Age: a history of the colony of Victoria, 1851-1861* (Melbourne: Melbourne University Press, 1963).
- Sharma, Rajendra Kumar, *Fundamentals of Sociology* (New Delhi: Atlantic Publishers, 2007).
- Shellam, Tiffany, *Shaking Hands at the Fringe: negotiating the Aboriginal world at King George's Sound* (Perth: University of Western Australia Press, 2009).

- Shen, Huifen, *China's Left Behind Wives: families of migrants from Fujian to Southeast Asia, 1930s-1950s* (Honolulu: University of Hawaii Press, 2012).
- Simmons, Clare A., *Popular Medievalism in Romantic-era Britain* (New York: Palgrave Macmillan, 2011).
- Slocomb, Margaret, *Among Australia's Pioneers: Chinese indentured pastoral workers on the Northern Frontier 1848-c1880* (Bloomington, IN: Balboa Press, 2014).
- Smith, Babette, *Australia's Birthstain: the startling legacy of the convict era* (Sydney: Allen & Unwin, 2008).
- Smith, Peter C., *The Clarke Gang: outlawed, outcast and forgotten* (Kenthurst, NSW: Rosenberg Publishing, 2015).
- Soderlund, Jean R., *Quakers and Slavery: a divided spirit* (Princeton, NJ: Princeton University Press, 1985).
- Sproud, Michael, 'The Probation System' in Alison Alexander (ed.), *The Companion to Tasmanian History* (Hobart: Centre for Tasmanian Historical Studies, 2005).
- Standfield, Rachel, *Race and Identity in the Tasman World, 1769-1840* (London: Pickering and Chatto, 2012).
- Stanner, W. E. H., *After the Dreaming* (Sydney: Australian Broadcasting Commission, 1972).
- , *White Man Got No Dreaming: essays, 1938-1973* (Canberra: ANU Press, 1979).
- Steinbach, Susie, *Women in England 1760-1914: a social history* (London: Phoenix, 2005).
- Stoler, Ann Laura, *Along the Archival Grain: epistemic anxieties and colonial common sense* (Princeton: Princeton University Press, 2008).
- , *Carnal Knowledge and Imperial Power: race and the intimate in colonial rule* (Berkeley: University of California Press, 2002).
- Sutton, Peter, *Native Title in Australia: an ethnographic perspective* (Cambridge: Cambridge University Press, 2003).
- Swain, Tony, *A Place for Strangers: towards a history of Australian Aboriginal being* (Cambridge: Cambridge University Press, 1993).
- Teo, Hsu-Ming, 'Multiculturalism and the Problem of Multi-Cultural Histories: an overview of ethnic historiography' in Hsu-Ming Teo and Richard White (eds.), *Cultural History in Australia* (Sydney: UNSW Press, 2003), pp. 142-155.
- Terry, Paul, *In Search of Captain Moonlite: the strange life and death of the notorious bushranger* (Sydney: Allen & Unwin, 2013).
- Threadgold, Terry, 'Black Man, White Woman, Irresistible Impulse: media, law and literature making the black murderer' in Pheng Cheah, David Fraser and Judith Grbich (eds.), *Thinking Through the Body of the Law* (New York: New York University Press, 1996), pp. 163-187.

- Toledano, Ehud, *As If Silent and Absent: bonds of enslavement in the Islamic Middle East* (New Haven: Yale University Press, 2007).
- Tosh, John (ed.), *Historians on History* (London: Routledge, 2014).
- Travers, Robert, *Rogues' March: a chronicle of colonial crime in Australia* (Richmond, VIC: Hutchinson Group, 1973).
- Troy, Jakelin, *King Plates: a history of Aboriginal gorgets* (Canberra: Aboriginal Studies Press, 1993).
- Turner, Edward, *The Negro in Pennsylvania: slavery, servitude, freedom* (Washington: American Historical Association, 1911).
- Tyrrell, Ian, *Transnational Nation: the United States in global history since 1789* (Basingstoke: Palgrave Macmillan, 2007).
- Veracini, Lorenzo, *Settler Colonialism: a theoretical overview* (London: Palgrave Macmillan, 2009).
- Vidler, Leopold Amon, *A New History of Rye* (Hove, Sussex: Combridges, 1934).
- Waldrep, Christopher, *The Many Faces of Judge Lynch: extralegal violence and punishment in America* (New York: Palgrave Macmillan, 2002).
- Wang, Sing-wu, *The Organisation of Chinese Emigration, 1848-1888: with special reference to Chinese emigration to Australia* (San Francisco: Chinese Materials Centre Inc., 1978).
- Wannan, Bill, *The Australian: yarns, ballads, legends, traditions of the Australian people* (London & Sydney: Angus & Robertson, 1964).
- Ward, Russel, *The Australian Legend* (Melbourne: Oxford University Press, 1958).
- Waterhouse, Richard, *Private Pleasures, Public Leisure: a history of Australian popular culture since 1788* (Sydney: Longman, 1995).
- , *The Vision Splendid: a social and cultural history of rural Australia* (Freemantle, WA: Curtin University Press, 2005).
- West, Susan, *Bushranging and the Policing of Rural Banditry in NSW, 1860-1880* (Melbourne: Australian Scholarly Publishing, 2009).
- West, Traci C., 'African Americans' in Merril D. Smith (ed.), *Encyclopedia of Rape* (Greenwood Press: Westport, Connecticut, 2004), pp. 5-7.
- White, Charles, *Short Lived Australian Bushrangers* (Sydney: NSW Bookstall Co., 1909).
- , *The History of Australian Bushranging* (Sydney: Angus and Robertson, 1900).
- , *The History of Australian Bushranging, 1863-1869, vol. 2* (Sydney: Angus and Robertson, 1901).

- White, Richard, *Inventing Australia: images and identity, 1688-1980* (Sydney: Allen & Unwin, 1981).
- Wickham, Dorothy, *Deaths at Eureka* (Ballarat: Wickham, 1996).
- , *Women of the Diggings, Ballarat 1854* (Ballarat: Ballarat Heritage Publishing, 2009).
- Wilcox, Craig, *Australia's Boer War: the war in South Africa, 1899-1902* (Melbourne: Oxford University Press, 2002).
- Williams, Michael, *Chinese Settlement in NSW: a thematic history* (Sydney: NSW Heritage Office, 1999).
- Williams, Stephan, *A Ghost Called Thunderbolt: the career and legend of Frederick Ward, bushranger throughout northern NSW* (Woden, ACT: Popinjay Publications, 1987).
- , *Sam Poo: the Chinese bushranger* (Woden, ACT: Popinjay Press, 1987).
- Williamson, Joel, *New People: miscegenation and mulattoes in the United States* (New York: The Free Press, 1980).
- Wood, Marilyn, 'The "Breelong Blacks"' in Gillian Cowlishaw and Barry Morris (eds.), *Race Matters: Indigenous Australians and "our" society* (Canberra: Aboriginal Studies Press, 1997), pp. 97-120.
- Woods, Gregory D., *A History of Criminal Law in New South Wales: the colonial period, 1788-1900* (Sydney: The Federation Press, 2002).
- Woollocott, Angela, *Settler Society in the Australian Colonies: self-government and Imperial culture* (Oxford: Oxford University Press, 2015).
- Wray, Matt, *Not Quite White: white trash and the boundaries of whiteness* (Durham/London: Duke University Press, 2006).
- Wright, Clare, *The Forgotten Rebels of Eureka* (Melbourne: Text Publishing, 2013).
- Young, Robert, *Colonial Desire: hybridity in theory, culture and race* (London & New York: Routledge, 1995).
- Zilversmit, Arthur, *The First Emancipation: the abolition of slavery in the North* (Chicago: University of Chicago Press, 1967).

## Newspapers and Magazines

*Advertiser* (Adelaide, SA)

*Australian* (Sydney, NSW)

*Australian Geographic* (Sydney, NSW)

*Daily Liberal* (Mudgee, NSW)



*National Geographic (Washington, USA)*

*Rye's Own Magazine (Sussex, UK)*

*Sydney Morning Herald (NSW)*

*Queenslander (Brisbane, QLD)*

## **Private Correspondence**

Finch, Ely, *Private Correspondence with the Author* (5 January 2017).

Nolan, Melanie, Director, Australian National Centre of Biography, *Private Correspondence with the Author* (12 June 2018).

## **Public Lectures**

Kaladelfos, Andy, 'Citizens of Mercy: bushrangers, punishment and public opinion in colonial NSW', David Scott Mitchell Memorial Lecture (Sydney: State Library of NSW, 2010). Accessed 12 January 2014 via: <  
[http://www.sl.nsw.gov.au/podcasts/videos/ds\\_mitchell\\_memorial\\_fellow\\_2010\\_kaladel.html](http://www.sl.nsw.gov.au/podcasts/videos/ds_mitchell_memorial_fellow_2010_kaladel.html)>

## **Television**

Davie, Michael and Steve Westh, 'Ned Kelly', *Lawless: the real bushrangers*, season 1, episode 1.

Reilly, Hannah and Elizah Reilly, 'Sheilas: badass women from Australian history', *Sheilas TV*. Accessed 22 August 2019 via: <<https://sheilas.tv/>>

## **Theses**

Allen, Matthew, 'The Temperance Shift: drunkenness, responsibility and the regulation of New South Wales', PhD Thesis (University of Sydney, 2013).

Bairstow, Damaris, 'The Australian Agricultural Company at Port Stephens: an archaeological contribution to history', PhD Thesis (University of Sydney, 1985).

Beasley, Margo, 'Sarah Dawes and the Coal Lumpers: absence and presence on Sydney waterfront, 1900-1917', PhD Thesis (University of Wollongong, 2004).

Bierens, Kali, 'The Captain's Lady: Mary Ann Bugg', Honours Thesis (University of Tasmania, 2008).

- Canteri, Carlo, 'The Origins of Australian Social Banditry: bushranging in Van Diemen's Land, 1805-1818', B. Litt Thesis (University of Oxford, 1975).
- Carrington, Derek, 'The Gold Rushes of New South Wales, 1851-1874', Master's Thesis (Australian National University, 1960).
- Curthoys, Ann, 'Race and Ethnicity: a study of the response of British colonists to Aborigines, Chinese and non-British Europeans in New South Wales', PhD Thesis (Macquarie University, 1973).
- Darnell, Maxine, 'The Chinese Labour Trade to NSW 1783-1853', PhD Thesis (University of New England, 1997).
- Davies, Suzanne, 'Vagrancy and the Victorians: the social construction of the vagrant in Melbourne, 1880-1907', PhD Thesis (University of Melbourne, 1990).
- Egan, Richard, 'Power and Dysfunction: the New South Wales Board for the Protection of Aborigines', PhD Thesis (UNSW, 2019).
- Foster, Meg, '"Black Bushrangers": A Colonial Paradox. Representations of Aboriginal Bushrangers in Australian Popular Culture, 1864-1903', Honours Thesis (University of Sydney, 2013).
- Howitt, Rohan, 'Poihākēna: Māori travellers and workers in New South Wales, 1793-1840', Honours Thesis (University of Sydney, 2014).
- Johnston, Susan, 'The New South Wales Government Policy Towards Aborigines 1880-1909', Master's Thesis (University of Sydney, 1970).
- Maxwell-Stewart, Hamish, 'Bushrangers and the Convict System of Van Diemen's Land', PhD Thesis (University of Edinburgh, 1990).
- McKinnon, Jennifer, 'Convict Bushrangers in New South Wales, 1824-1834', Master's Thesis (LaTrobe University, 1979).
- Miller, Teagan, 'Ruffians and Criminals: an exploration of bushrangers in South Australia', Master's Thesis (Flinders University, 2011).
- Parry, Naomi, '"Such a longing": black and white children in welfare in Tasmania and New South Wales, 1880-1940', PhD Thesis (UNSW, 2007).
- Roginski, Alexandra, 'A Touch of Power: popular phrenology in the Tasman World', PhD Thesis (ANU, 2018).
- Wang, Sing-wu, 'The Organisation of Chinese Emigration, 1848-1888: with special reference to Chinese emigration to Australia', Master's Thesis (ANU, 1969).
- Wickham, Dorothy, 'Women in Ballarat 1851-1871: a case study in agency', PhD Thesis (University of Ballarat, 2008).
- Zhang, Ye, 'The Marsh and the Bush: outlaw hero traditions in China and the West', PhD Thesis (Curtin University of Technology, 1998).

## Visual Art

Phu, Jason, *The 5th Reincarnation of Sam Poo, Infamous Bushranger and the Mustard Horde: The Last Stand*, 2018. Art Installation. Featured in the 'Primavera' exhibition at the Museum of Contemporary Art, Sydney, curated by Megan Robson, 2018.

———, *The Ballad of The Widely Loved and Revered Aussie Bushranger Sammy "Pooey" Pu: The Successful Great Revolt Against the Southern Crossers by L.H.C., The Shooting Death of S.C.J.W. by a Chinaman, The Great Chase and Final Showdown at Barney's Reef, The Trial of The Mute, The Execution by Hanging of Sam Poo*, 2015, ink, texta, coloured pencil on Chinese paper, 1050 x 60cm. Featured in the show 'From Old Ground', Bathurst Regional Gallery, curated by Joanna Bayndrian, 2015.

## Websites

'AIATSIS Map of Indigenous Australia', Australian Institute of Aboriginal and Torres Strait Islander Studies. Accessed 9 January 2019 via:  
<<https://aiatsis.gov.au/explore/articles/aiatsis-map-indigenous-australia>>

'Alma', Victorian Places: Monash University and The University of Queensland. Accessed 17 January 2017 via: <<http://www.victorianplaces.com.au/alma>>

'A Strange Apparition', Culture Victoria. Accessed 7 September 2019 via:  
<<https://cv.vic.gov.au/stories/a-diverse-state/ned-kelly/a-strange-apparition-ned-kellys-fight-and-capture/>>

'Australia's Constitutional Milestones', Parliament of Australia. Accessed 12 April 2016 via:  
<[http://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/Publications\\_Archive/online/Milestones](http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/Publications_Archive/online/Milestones)>

Barker, Theo, 'White, Charles (1845-1922)', Australian Dictionary of National Biography Online. Accessed 9 January 2019 via: <<http://adb.anu.edu.au/biography/white-charles-4834>>

Barry, John V., 'Kelly, Edward (Ned) 1855-1880', Australian Dictionary of Biography Online. Accessed 18 July 2017 via: <<http://adb.anu.edu.au/biography/kelly-edward-ned-3933>>

Baxter, Carol, 'Ada Gertrude Burrows: baptism entry 1887', Thunderbolt Bushranger. Accessed 12 July 2018 via: <<http://www.thunderboltbushranger.com.au/ada-gertrude-burrows-baptism-1887.html>>

———, 'Bushranger Frederick Wordsworth Ward alias Captain Thunderbolt, Biography', Thunderbolt Bushranger. Accessed 12 June 2015 via:  
<<http://www.thunderboltbushranger.com.au/frederick-ward-biography.html>>

———, 'Bushranger Thunderbolt and Mary Ann Bugg', Thunderbolt Bushranger. Accessed 10 July 2018 via: <[www.thunderboltbushranger.com.au](http://www.thunderboltbushranger.com.au)>

———, 'Mary Ann Bugg Biography', Thunderbolt Bushranger. Accessed 13 June 2015 via:  
<<http://www.thunderboltbushranger.com.au/mary-ann-bugg-biography.html>>

- , ‘Mary Ann Bugg and her husband Edmund Baker’, Thunderbolt Bushranger. Accessed 5 May 2015 via: < <http://www.thunderboltbushranger.com.au/mary-ann-bugg-and-edmund-baker.html> >
- , ‘Timeline: James and Charlotte Bugg and Family’, Thunderbolt Bushranger. Accessed 5 May 2015 via: < <http://www.thunderboltbushranger.com.au/timeline-bugg-family.html> >
- Bergman, G. F. P., ‘Davies, Edward, 1816-1841’, Australian Dictionary of National Biography. Accessed 1 May 2018 via: < <http://adb.anu.edu.au/biography/davis-edward-1964> >
- ‘Bushranger’, Cambridge English Dictionary Online. Accessed 18 December 2018 via: <<https://dictionary.cambridge.org/dictionary/english/bushranger>>
- ‘Bushranger (n.)’, Australian National Dictionary Online. Accessed 8 January 2019 via: <<http://www.australiannationaldictionary.com.au/oupnewindex1.php>>
- ‘Bushrangers by William Strutt’, University of Melbourne. Accessed 10 November 2019 via: <<https://library.unimelb.edu.au/teachingobjects/objects/bushrangers-by-william-strutt>>
- ‘Colonial Discourse Theory’, Oxford Reference Online. Accessed 9 January 2019 via: <<http://www.oxfordreference.com/view/10.1093/oi/authority.20110803095625148>>
- ‘Convict Facts’, Convict Records (in association with ancestry.com). Accessed 12 January 2018 via: <<https://convictrecords.com.au/facts>>
- Crittenden, Victor, ‘Ward, Frederick (Fred), 1835-1870’, Australian Dictionary of National Biography Online. Accessed 15 July 2018 via: <<http://adb.anu.edu.au/biography/ward-frederick-fred-4801>>
- Cunneen, Chris and Mollie Gillen, ‘Caesar, John Black, (1763-1796)’, Australian Dictionary of National Biography Online. Accessed 12 December 2018 via: <<http://adb.anu.edu.au/biography/caesar-john-black-12829>>
- ‘Dubbo Railway Station and Yard Group’, NSW Office for Environment and Heritage. Accessed 15 October 2018 via: <<https://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?ID=5011998>>
- ‘Early Australian Bushrangers’, Australian Government. Accessed 20 July 2015 via: <<http://www.australia.gov.au/about-australia/australian-story/early-austn-bushrangers>>
- ‘Eureka Stockade’, State Library of Victoria. Accessed 9 November 2018 via: <<http://ergo.slv.vic.gov.au/explore-history/golden-victoria/impact-society/eureka-stockade>>
- Fitzgerald, Shirley, ‘Chinese’, Dictionary of Sydney. Accessed 24 June 2015 via: <<http://dictionaryofsydney.org/entry/chinese>>
- Foster, Meg and Jason Phu, ‘The Artist, the Historian and the Case of the Chinese Bushranger’, Museum of Contemporary Art (8 November 2018). Accessed 2 February 2019 via: <<https://www.mca.com.au/stories-and-ideas/artist-historian-and-case-chinese-bushranger/> >

- ‘Give a Dog a Bad Name and Hang Him’, Oxford Reference Online (taken from the *Oxford Dictionary of Proverbs*, 2009). Accessed 27 November 2018 via:  
<<http://www.oxfordreference.com/view/10.1093/acref/9780199539536.001.0001/acref-9780199539536-e-574>>
- ‘Gulgong’, Anglican Diocese of Bathurst. Accessed 19 February 2016 via:  
<<http://www.bathurstanglican.org.au/Parishes/Gulgong.html>>
- ‘Historical Currency Converter’, The National Archives (UK). Accessed 23 January 2018 via:  
<<http://www.nationalarchives.gov.uk/currency/>>
- ‘Honour Role’, NSW Police Force. Accessed 14 October 2016 via:  
<[http://www.police.nsw.gov.au/about\\_us/proud\\_traditions](http://www.police.nsw.gov.au/about_us/proud_traditions)>
- ‘Jolly Sailor’, Hasting’s Pub History. Accessed 12 March 2018 via:  
<<https://www.hastingspubhistory.com/page20.html>>
- Jones, Katherine, Joya Misra and K. McCurley, ‘Intersectionality in Sociology’, Sociologists for Women in Society. Accessed 12 December 2016 via:  
<[http://www.socwomen.org/wpcontent/uploads/swsfactsheet\\_intersectionality.pdf](http://www.socwomen.org/wpcontent/uploads/swsfactsheet_intersectionality.pdf)>
- Kohen, J. L., ‘Pemulwuy (1750–1802)’, Australian Dictionary of Biography Online. Accessed 30 July 2018 via: <<http://adb.anu.edu.au/biography/pemulwuy-13147/text23797>>
- ‘Lady, n.’, Oxford English Dictionary Online. Accessed 15 June 2015 via:  
<<http://www.oed.com.ezproxy1.library.usyd.edu.au/view/Entry/105011?rskey=EDB6fQ&result=1&isAdvanced=false#eid>>
- ‘Lambing Flat Riots’, National Museum of Australia. Accessed 14 March 2015 via:  
<[http://www.nma.gov.au/collections/collection\\_interactives/endurance\\_scroll/harvest\\_of\\_endurance\\_html\\_version/explore\\_the\\_scroll/lambing\\_flat\\_riots](http://www.nma.gov.au/collections/collection_interactives/endurance_scroll/harvest_of_endurance_html_version/explore_the_scroll/lambing_flat_riots)>
- Mahar, Caitlin, ‘Bushrangers’, eGold: the electronic encyclopaedia of Gold in Australia. Accessed 26 January 2016 via: <<http://www.egold.net.au/biogs/EG00180b.htm>>
- ‘Mr George Henry Cox (1824-1901)’, Parliament of New South Wales. Accessed 11 June 2019 via: <<https://www.parliament.nsw.gov.au/members/Pages/member-details.aspx?pk=546>>
- National Museum of Australia, ‘Jerilderie Letter, digitised online’. Accessed 12 September 2018 via: <[http://www.nma.gov.au/collections/collection\\_interactives/jerilderie\\_letter](http://www.nma.gov.au/collections/collection_interactives/jerilderie_letter)>
- Oxley, Deborah, ‘Convict Indents’, Digital Panopticon. Accessed 26 January 2018 via:  
<[https://www.digitalpanopticon.org/Convict\\_Indents\\_\(Ship\\_and\\_Arrival\\_Registers\)\\_1788-1868](https://www.digitalpanopticon.org/Convict_Indents_(Ship_and_Arrival_Registers)_1788-1868)>
- ‘Phrenology’, Cambridge English Dictionary. Accessed 5 June 2019 via:  
<<https://dictionary.cambridge.org/dictionary/english/phrenology>>
- ‘Robbery Under Arms’, AUSTLIT Database. Accessed 12 September 2018 via:  
<<https://www.austlit.edu.au/austlit/page/C252884>>

- Roberts, David Andrew, 'Windradyne (1800–1829)', Australian Dictionary of Biography Online. Accessed 30 July 2018 via: <<http://adb.anu.edu.au/biography/windradyne-13251/text4471>>
- Roscoe, Katherine, 'Tasmania: Van Diemen's Land, 1804-1853', Convict Voyages: a global history of convicts and penal colonies, University of Leicester. Accessed 12 April 2018 via: <<http://convictvoyages.org/expert-essays/tasmania>>
- Rutledge, Martha, 'Boyce, Francis Stewart (1872-1940)', Australian Dictionary of Biography Online. Accessed 18 July 2017 via: <<http://adb.anu.edu.au/biography/boyce-francis-stewart-5320>>
- , 'O'Connor, Richard Edward (Dick) (1851-1912)', Australian Dictionary of Biography Online. Accessed 18 July 2017 via: <<http://adb.anu.edu.au/biography/oconnor-richard-edward-dick-1102>>
- , 'Stephen, Sir Matthew Henry (1818-1920)', Australian Dictionary of Biography Online. Accessed 18 June 2017 via: <<http://adb.anu.edu.au/biography/stephen-sir-matthew-henry-1301>>
- Rydon, Joan, 'Chanter, John Moore', Australian Dictionary of Biography Online. Accessed 18 July 2017 via: <<http://adb.anu.edu.au/biography/chanter-john-moore-5553>>
- Shephard, Denis, 'Jerilderie Letter Essay: a widow's son'. Accessed 16 September 2018 via: <[http://www.nma.gov.au/collections/collection\\_interactives/jerilderie\\_letter/page\\_5](http://www.nma.gov.au/collections/collection_interactives/jerilderie_letter/page_5)>
- Smit, Lauren, 'Australia's Most Notorious Bushrangers', Australian Geographic Online (23 October 2014). Accessed 12 October 2018 via: <<https://www.australiangeographic.com.au/topics/history-culture/2014/10/australias-most-notorious-bushrangers/>>
- 'Stroud House', NSW Government Office of Environment and Heritage. Accessed 1 June 2018 via: <<http://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?ID=5060873>>
- Taspell, Miranda, 'Mary Ann Bugg: Bushranger and Spy', ABC Radio National (4 March 2016). Accessed 12 July 2018 via: <<http://www.abc.net.au/radionational/programs/archived/pocketdocs/mary-ann-bugg-bushranger-and-spy/7160138>>
- Teale, Ruth, 'Cox, George Henry, (1824-1901)', Australian Dictionary of National Biography Online. Accessed 11 June 2019 via: <<http://adb.anu.edu.au/biography/cox-george-henry-3280>>
- '*The Chant of Jimmie Blacksmith*, novel, historical fiction', AUSTLIT Database. Accessed 7 August 2017 via: <<https://www.austlit.edu.au/austlit/page/C268065>>
- 'The Last Stand of Ned Kelly, Sites in Glenrowan: the railway line', Culture Victoria. Accessed 17 September 2018 via: <<https://cv.vic.gov.au/stories/a-diverse-state/the-last-stand-of-the-kelly-gang-sites-in-glenrowan/the-railway-line/>>

Ward, Richard, 'Transportation Under the Microscope', The Digital Panopticon. Accessed 26 April 2019 via: <<https://blog.digitalpanopticon.org/transportation-under-the-macroscopic/>>

Ward, Russel, 'Donohoe, John (Jack) (1806-1830)', Australian Dictionary of National Biography Online. Accessed 8 February 2019 via:  
<<http://adb.anu.edu.au/biography/donohoe-john-jack-1985>>

Wilson, Jane, 'Bushrangers in the Australian Dictionary of Biography', Australian Dictionary of National Biography Online. Accessed 8 January 2019 via:  
<<http://adb.anu.edu.au/essay/12>>