

'Harry Grimsby' Reconsidered

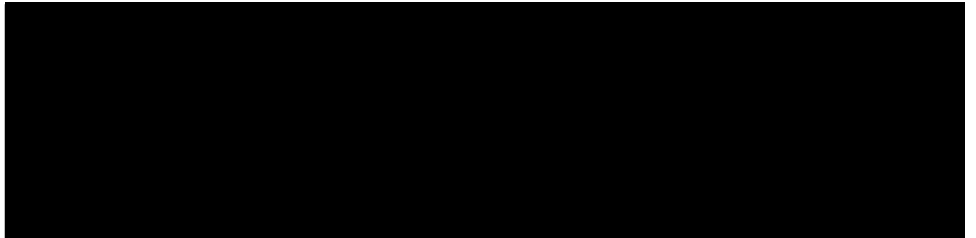
The New South Wales Colonial Constabulary 1825-35

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University of New England**

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I certify that the substance of this thesis has not already been submitted for any degree and is not being currently submitted for any other degree or qualification. I certify that, to the best of my knowledge, any help received in preparing this thesis, and all sources used, have been acknowledged in this thesis.



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ABBREVIATIONS

<i>HRA</i>	<i>Historical Records of Australia</i>
<i>HRNSW</i>	<i>Historical Records of New South Wales</i>
SRNSW	State Records New South Wales

Introduction

Harry Grimsby is the fictional rural constable in Alexander Harris's *The Emigrant Family*, originally published in London in 1849. Harry had been a convict, so he was 'Too Indolent to work and too fond of a debauched life'. He had served as a farm constable during his servitude, proving that he had been prepared to betray his fellow convicts by assisting his master in their suppression. Forty-five years old and 'of good height, bony and broad shouldered', Harry, nonetheless, showed his moral failings by certain physical defects: he only had one eye, 'a colourless hard countenance' and a stupid grin. His face was 'debauched and repulsive'. A drunkard, Harry spent most of the day in the local public house where he was supplied free drinks, 'so he won't be after the customers'. Harry was 'a dirty dog', sneaky, corrupt and violent. The final touch to this completely disreputable character comes when it is revealed that Harry had abandoned his child, 'without a roof over her head'.¹

Harry Grimsby has come to embody, rightly or wrongly, the character of the colonial policeman. Aside from literary sources, reports from various committees and inquiries of the time and newspaper accounts provide plenty of evidence for the existence of a disreputable constabulary. Historians have drawn largely on these sources to support claims of incompetence and veniality in the colonial constabulary and, in the process, the stereotype has remained largely intact. The task of this thesis is to re-examine the existing stereotype by combining a quantitative approach with a strong focus on individuals, personalities and relationships. By investigating the New South Wales constabulary over a ten-year period, both in Sydney and in rural districts on the Cumberland Plain, and by following the lives and careers of many of the men who were employed, I will offer a more balanced and contextualised portrait of the early colonial constable. Statistical evidence alone, while necessary to establish overall patterns, cannot bring an element of humanity to the constable. That will take a far more nuanced interpretation of the official records and a consideration of the social, economic and political milieu in which they operated.

In 1987, Mark Finnane, in the preface to a collection of historical essays on policing in Australia, lamented the fact that no wide or comprehensive studies on policing existed, 'of the

¹ A. Harris, *The Emigrant Family or The Story of an Australian Settler* [London, 1849] (Australian National University Press, Canberra, 1967), pp. 209-18.

sort available in Britain or the United States'.² Given our penal history, it is remarkable that very little attention was paid to policing in some of the landmark Australian histories. Manning Clark, in his voluminous history of Australia published between 1962 and 1987, only dealt with policing from 1850 onwards.³ Volume II, which covers the period 1822 to 1838, failed to make any mention of the police. Robert Hughes's *The Fatal Shore*, (1987) made only several perfunctory comments on the police,⁴ and *The Oxford History of Australia* made no mention at all of their role in colonial Australia,⁵ despite a brief entry in *The Oxford Companion to Australian History* describing them as playing a 'critical role in Australian history'.⁶ There are fleeting references in Alan Atkinson's *Europeans in Australia*, Volumes I and II but overall, a singular neglect of one of the more important aspects of colonial society marks these important works.

Hazel King's pioneering work in the 1950s, 'Some Aspects of Police Administration in New South Wales, 1825-1851', a largely unpublished MA thesis, was the first major investigation into the administration and organisation of the force. In a clear and concise account of the establishment of a police force, which was to be modelled upon similar lines to that being proposed in Britain, King establishes the bare bones of police administration and organisation during the second quarter of the nineteenth century. She also outlines the early difficulties of policing such a diverse and widespread settlement. While blaming the poor leadership of chief superintendents, she also attributes many of the early difficulties to the 'large ex-convict element in the force'.⁷ Taking her evidence from various reports and inquiries into the police, King reports that higher pay would have attracted a 'better type'.⁸ These two strands mark King's assessment of the difficulties faced by the police: the preoccupation of the administration with expense and the quality of the recruits.

The 1950s also saw the publication of the next major work to incorporate some discussion of the colonial police. Russel Ward's stinging attack on the constabulary in *The*

²M. Finnane, (ed.), *Policing in Australia: Historical Perspectives* (New South Wales University Press, Kensington, 1987), p. viiii.

³C.M.H. Clark, *A History of Australia*, Vols, I,II, III, IV (Melbourne University Press, Carlton, 1962 - 1978).

⁴R. Hughes, *The Fatal Shore: A History of Transportation of Convicts to Australia 1787-1868* (Pan Books, London, 1987).

⁵J. Kociumbas, *The Oxford History of Australia: Possessions 1770-1860*, Vol. 2 (Oxford University Press, Melbourne, 1992).

⁶*The Oxford Companion to Australian History* (Oxford University Press, Melbourne, 1998). p. 509.

⁷H. King, 'Some Aspects of Police Administration in New South Wales, 1825-1851', *Royal Australian Historical Society, Journal and Proceedings*, Vol. 42, Part 5, 1956, pp. 205-30.

⁸*Ibid.*, p. 218.

Australian Legend helped bolster his arguments concerning Australia's anti-authoritarian heritage. 'Corrupt, besotted, cowardly, brutal and inefficient' are just some of the nineteenth-century terms of abuse he relates. According to Ward, the colonial-born children were particularly averse to joining the force.⁹ Ward relies heavily on the writings of Alexander Harris for his descriptions of the attitude of the general population to the police. For Russel Ward, Harry Grimsby embodies the morally dissolute character attributed to all who joined the force. Because of his need to establish the anti-authoritarian credentials of convicts and the native born, Ward's portrayal of the police does not allow for any variation and is consequently stereotyped and over-simplified.

Ward's general tone was to influence later historians wherever they approached the subject of the colonial police. John Hirst is one of many historians who have relied upon the received idea that it was the constables' convict background that made them inferior. He states that 'Given the composition of the colony it was inevitable that constables should be ex-convicts but higher wages might have attracted a better type'. 'The quality of the men remained dismally low'.¹⁰ Michael Sturma is equally dismissive of the men who made up the police force. They were 'drawn from the least employable in the community'. Sturma focuses also on the reported animosity of the general public to the police. He draws on Russel Ward's notion of an anti-authoritarian convict and native-born population and asserts that low recruitment standards contributed to the hostility towards police.¹¹ While Sturma was one of the first historians to study the social dimensions of convictism and to question the exaggeration and misunderstanding surrounding the depiction of convict society, he continues to promote a partial view of the colonial police.

Since then, more has been written about the early beginnings and subsequent organisation of the colonial police force. A study of crime and society by historian Peter Grabosky during the 1970s takes a closer look at the colonial influences on crime. As one of the tiers of the legal system, policing comes under some scrutiny within this work. However, the administration and organisation of the force continue to occupy Grabosky's mind. He does not question the notion of the 'poor quality' of the force, relying, as he does, on official sources and

⁹ R. Ward, *The Australian Legend* (Oxford University Press, Melbourne, 1958), p. 63.

¹⁰ J.B. Hirst, *Convict Society and its Enemies: A History of Early New South Wales* (George Allen & Unwin, North Sydney, 1983), pp. 145-6.

¹¹ M. Sturma, *Vice in a Vicious society: Crime and Convicts in Mid-Nineteenth Century New South Wales* (University of Queensland Press, Brisbane, 1983), pp. 163-8.

press accounts. Grabosky claims that the quality of the Sydney police, by 1850, had 'descended to its lowest point'. He draws his evidence from official reports into the police, and quotes from a proposed new system of policing put forward by C.G.N. Lockhart, a Cooma magistrate. According to Lockhart, the Sydney police were 'such confirmed drunkards that they could not be trusted out of surveillance'. Furthermore, they were 'infirm old men or petty tyrants with itching palms'.¹²

Other works that investigate policing in the colony have been more concerned with crime, the problems of implementing the rule of law in a penal colony, or the power play between various levels of society. In recent years, legal historians have contributed to our greater understanding of the issues surrounding law and order. David Neal's comprehensive account of the role the law played in changing New South Wales from a penal colony to a free society was published in 1991. The primary focus of attention in his discussion of policing is the relationship of the police to other levels of society, and their role in the exercise of power in the colony. Neal refrains from a colourful depiction of the police force but he notes that 'Quality of personnel was an endemic problem throughout the period'.¹³

Paula Byrne's valuable contribution to the law and order debate, *Criminal Law and Colonial Subject New South Wales: 1810-1830*, deals with the criminal justice system. As the enforcing arm of that system, policing comes under some scrutiny. Her focus is both on policing and the use of the law by the ordinary population, rather than on the police themselves. Her use of court records and a statistical analysis of the types of offences and the police response represent a new perspective on the role of the police in the Cumberland Plain up until 1830, and is refreshingly free from the old stereotypes and moral judgements.¹⁴ Building on her limited investigation of policing outside Sydney, I intend to more fully examine police personnel, their activities and community reaction in all the rural police districts on the Cumberland Plain.

Grace Karskens' account of the constabulary up until the 1830s is the first attempt to identify the police as individuals within a community.¹⁵ The tensions and ambiguities

¹² P.N. Grabosky, *Sydney in Ferment. Crime, Dissent and Official Reaction 1788 to 1973* (Australian National University Press, Canberra, 1977), p. 76.

¹³ D. Neal, *The Rule of Law in a Penal Colony: Law and Power in Early New South Wales* (Cambridge University Press, Cambridge, 1991), p. 148.

¹⁴ P. J. Byrne, *Criminal Law and Colonial Subject: NSW 1810-1830* (Cambridge University Press, Cambridge, 1993).

¹⁵ G. Karskens, *The Rocks: Life in Early Sydney* (Melbourne University Press, Carlton, 1997).

surrounding their role and the problems associated with the blurring of public and private identities are well documented. The scope of her work, however, is confined to The Rocks area of Sydney and only documents the constables operating under the traditional parish constable system up to the mid-twenties. Nevertheless, her study in miniature is an outstanding example of the type of historical investigation I intend to undertake in this study.

More recently, historians such as Robin Walker have tended to focus on the new police establishment arising from the Police Regulation act of 1862. His work covers the period from 1861 until 1900 and studies the composition of the new police, their working conditions and various administrative matters.¹⁶ Likewise, Susan West traces the new system's inability to cope with bushranging in the 1860s and continues the debate about the quality and suitability of recruits.¹⁷ Her even-handed approach towards the police and the difficulties they faced is refreshing. She deals directly with the central question that informs this thesis: whether the perceived inefficiency and failure of the police to deal with difficulties encountered in the pursuit of their duty, can be blamed on the calibre and suitability of the personnel. However, the colony of the 1860s was a vastly different place from that of the 1820s and much of the convict element that characterised the old force was long gone, making direct comparisons problematic. While these recent works have looked at the style and structure of later policing, their focus, like other studies, has not been on the individuals who made up that force. Apart from studies of organisational and administrative developments, there has been very little detailed investigation of the institution and the individuals who worked within it.¹⁸ An exception is a recent study of William Augustus Miles, covering his time as Superintendent of Police in Sydney during the 1840s.¹⁹

Generally, historians have used a top-down approach to their topic. Apart from the works of Karskens and Byrne, the constables are consistently mentioned collectively and invariably in stereotype. Using evidence given to the various inquiries into the police, press accounts and official reports, historians have concluded that, to some extent, the problems associated with the early police force could have been avoided by the recruitment of a better

¹⁶ Robin Walker, 'The New South Wales Police Force, 1862-1900', *Journal of Australian Studies*, Vol. 15, November 1984, pp. 25-38.

¹⁷ 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.

¹⁸ See, for example, B. Swanton, *The Police of Sydney 1788-1862* (Australian Institute of Criminology, Canberra, 1984).

¹⁹ D. Phillips, *William Augustus Miles 1796-85: Crime, Policing and Moral Entrepreneurship in England and Australia* (University of Melbourne Press, Melbourne, 2001).

class of constable. Thus, it is the question of the moral character of the individuals within the force that continues to colour the historical judgement of the efficiency or otherwise of the police. They continue to emphasise the poor character of the constables and their superiors to explain some of the problems encountered by the early constabulary.

The second important feature of the constable stereotype relates to public attitudes to the police. It is generally assumed that hostility expressed towards them, in the form of assaults and abuse, stemmed from the fact that they were recruited from the ex-convict population and, were therefore traitors to their class. This is seen as being especially true of the Irish constables. The other assumption is that hostility was the key aspect of their relationship with the broader community. The very act of watching over the actions of their own class, making judgements, apprehending and presenting for prosecution seems, on the face of it, to breach so-called convict solidarity.²⁰ Once again, the assumption is that any difficulties associated with the organisation and style of early policing could be attributed to the character and origins of the constabulary. Given that the police and their role are inextricably entwined, it will be the task of this thesis to investigate the inherent nature of the role of the police in colonial society and how it affected public attitudes towards them.

Historians continue to wrestle with old assumptions concerning convictism. The convict taint not only coloured the judgement of their contemporaries but also seems to have permeated historical writing right up until recently. Just as convict women struggled to emerge from their designated role, the constables seem equally unable to escape their stereotype. Our convict beginnings have understandably coloured the lens through which Australian historians peer at the past. In recent decades convict women have been successfully restored to a more balanced role in colonial society. Similarly, the reputation of the colonial constabulary deserves investigation despite the seemingly overwhelming evidence from contemporaries. To some colonial commentators notably the press, 'convict' equated to dissolute, idle and morally degenerate. This study is about moving the debate from general perceptions of the moral character of the police to a more specific account, by examining the role and career of the individual constable within his society.

The core of my research is a biographical database of over 1,000 constables appointed to the New South Wales constabulary during the period 1825-1835 in Sydney and outlying towns

and villages. I have limited my study to the police districts within the Counties of Cumberland and Camden, where the majority of police were employed, as recorded in the 1825 returns. Eight-five percent of the population in 1825 resided in these two counties.²¹ My study does not include the mounted police, regular infantry, border police and native police, as the focus is on the role of the constables in the more centralised towns and small villages. One of my aims is to identify differences and variations in the composition of the force in the various districts within this region.

A statistical analysis forms the basis of a discussion of the differences between the Sydney police and the rural constabulary, including differences between the various rural districts. Details about marital status, number of children, movement within the colony, length of service and individual career paths, help us better understand the men in this study. Until we know the details of the colonial constables and their activities, we will not be able to form a complete picture of the nature of their work or the role they played in the early formation of Australian society. The database is compiled from the *Sydney Gazette* where the appointments and dismissals of police appeared under a Government Notice from the Colonial Secretary's Office. This notice, commonly referred to as the mutation list, generally appeared weekly or fortnightly throughout the period under review. From 1832 onwards, the names come from the *Government Gazette*. Returns of police from the various districts, pay lists, the *1822 General Muster* and the *1828 New South Wales Census* were also valuable sources of information.

It is fortunate for researchers that the status (whether came free, ticket of leave, or convict) of the newly appointed constable, and the ship by which he arrived, was often listed in the early years. The majority of these men had been convicts under sentence and were therefore subject to a state regime that recorded their biographical details and kept track of their movements. These details were omitted as the period wore on and by 1833 it becomes very difficult to identify the origins of the constables as many more had become free in the intervening years and passed out of the system. In addition, many more free men were arriving in the colony with no systemic markers of identification. The lack of information about an individual's status on appointment after 1833 meant these men were harder to identify in later records. Where statistical analysis depended upon such corroboration, I have had to limit my data to an eight-year period.

²⁰ Ward, *op. cit.* pp. 155-6.

Archival records such as births, deaths and marriage registers; bench books; newspapers; police returns; ticket-of-leave butts; the *1828 Census*; *1822 Muster*; and the Colonial Secretary's correspondence, provided invaluable information and details, all of which enabled me to build a useful profile of a majority of the men under review. Here, I am drawing on the tools and techniques of genealogy, which is increasingly being brought to bear on academic scholarship.²² The whole question of 'quarrying' archival sources has become problematic. Historians have rightly recognised that a 'naïve use of official documentation' can lead to too narrow a view of colonial history, reducing the people involved to a few dry words on an official record.²³ However, the problems associated with these sources should not preclude their use on these grounds alone. Official records are, by their nature, the record of the rulers, so I am aware of the possibilities of being 'taken aside by Mr Pitt' rather than talking to the people themselves.²⁴ However, given the broad scope of the survey and the wide mix of sources for my biographies, it is possible to reconstruct the movements and circumstances of enough individual constables to be able to discern patterns outside the received story and thus draw some useful conclusions.

Few personal accounts from the police themselves are available on the public record. Unfortunately, diaries or accounts from men who belonged to the constabulary in the period under review are yet to emerge. A personal voice is only glimpsed through the formal letters and petitions to the administration and the depositions and statements in relation to matters before the courts. So we are left to rely mostly on the official records, nineteenth-century fiction and newspaper stories of the time. By approaching this material with a different emphasis, a more complete picture of the colonial constabulary can emerge. The challenge is to look beyond the printed word to discern underlying agendas and, in the case of archival records, to understand that any official entry was not the sum of an individual. Restoring humanity to the constables, represented largely by their official record, is no easy task. However, aware of the 'brutal impersonality of formal record-keeping', and the multitude of meanings that can be attached to

²¹ T.M. Perry, *Australia's First Frontier: The Spread of Settlement in New South Wales 1788-1829* (Melbourne University Press, Carlton, 1965), p. 130.

²² B. Smith, *Australia's Birthstain: The Startling Legacy of the Convict Era* (Allen and Unwin, Sydney, 2008). Smith has employed family history research techniques to good effect in tracing individual stories for her study of the convict legacy, also B. Smith, *A Cargo of Women: Susannah Watson and the Convicts of the Princess Royal* (University of Sydney Press, Kensington, N.S.W, 1988) which is the consummate example of good family history.

²³ H. Maxwell-Stewart, 'The search for the invisible man', in L. Frost and H. Maxwell-Stewart, (eds), *Chain Letters. Narrating Convict Lives* (Melbourne University Press, Melbourne, 2001), p. 49.

²⁴ A. Atkinson, 'Settlement from Below', *Push from the Bush*, No. 3, May 1979, p. 68.

any narrative, fictional or otherwise, my approach has been to keep in mind the essential humanity of the constables.²⁵

Therefore, a study of individuals who made up the force and their relationship to, and interaction with each other and with the community, should provide a wide perspective. Placing the constables within their community, rather than as a detached and reviled section on the margins of society, offers greater scope for understanding their role. Given the historical emphasis placed on the poor quality of the force, biographical detail can be valuable in establishing the level of skills, age and rate of literacy among the police force during the period under study. However, conclusions based on patterns emerging from a statistical study will not necessarily be enough to account for the constables' widely accepted reputation. A wider perspective on colonial society is needed. Statistics alone will also not answer, for example, the question as to why the constabulary continued to enjoy so doubtful a reputation well into the 1860s.

Chapter One takes a more detailed look at the most commonly used sources for the continued promulgation of the poor reputation of the police force. Questions relating to the contemporary view of the constabulary, including evidence arising from various inquiries are addressed. What I aim to establish is that contemporary stereotypes have often been perpetuated because they tend to suit the agenda of many writers, and because much of the evidence has not been subjected to a detailed interrogation. The importance of literary influences on the reputation of the police and why that reputation continues to be espoused today are also canvassed in this chapter.

No account of the evolution of the colonial constabulary can be undertaken without regard to events taking place in Britain during the period of this study. The comparatively limited debate in the colony, during the 1820s, over the implementation of the new system of policing as opposed to the traditional parish constable method, has led historians to see the changes as a natural progression in the sphere of law and order in the colony. The extent to which police reforms in the home country, and the particular nature of colonial society, had an

²⁵ T. Picton Phillips, 'These are but items in the sad ledger of despair', in Frost and Maxwell-Stewart, (eds), *op. cit.*, p. 136.

impact on the organisation of the colonial force is investigated in Chapter Two. In addition there are questions concerning the circumstances and conditions that led ticket-of-leave or ex-convict men to join the fledgling police force. Incentives for taking on a job that, on the surface, seemed to offer little in the way of status or privilege, would seem to be few. According to some contemporary sources the 'nobler boon of liberty' was inducement enough.²⁶ However, most of the constabulary had already obtained a measure of freedom before they joined. Perhaps the applicants had no skills with which they could obtain other employment. It seems that other than being fit and active, becoming a constable required no other qualification. These matters and a brief exploration of the similarities and differences between the profiles of the English and colonial constables are also dealt with in Chapter Two.

While the constable stereotype is undoubtedly factual in many respects, it leaves room for further investigation as to the motives, tensions, obligations and circumstances of the men involved. A history of the colonial constabulary that does not take account of the stories of the individuals who made up the force, would necessarily be an incomplete portrait of that institution. Chapter Three begins this process with a statistical look at the police districts under consideration in this study and the individuals who worked in them. Bare statistics can help establish the particular nature of each district and provide the broad brush strokes of the make-up of its police contingent, offering a palette on which individual stories can be presented. The character of rural police districts varied considerably according to the structure of authority, composition of the population, the level of settlement and distance from Sydney. These factors, in turn, influenced the role and character of the police in each district, deepening and challenging the simplistic overviews offered by previous historians. Furthermore, the distinction between the role and character of the Sydney police and those in rural areas again defies any generalisations of the constabulary.

Any discussion on the colonial constabulary invariably raises the issue of dismissal rates. Certainly, there was a high turnover of personnel and the figures quoted seem inordinately high. Furthermore, the turnover has almost always been ascribed to the quality of the men and that quality is seen as connected to their convict background. Chapter Four discusses the employment conditions of the men appointed to the constabulary in both rural and urban areas and advances reasons for the high dismissal and resignation rates. This chapter takes one of the

²⁶ *Sydney Gazette*, 23 June 1831, p.3.

most-quoted sources for the high turnover of police, the mutation lists, and examines in some detail the movement of men in and out of the force.

Chapters Five and Six explore the pressures experienced by colonial police in the course of their duty. These two chapters investigate the changing nature of colonial society, combined with the introduction of greater regulation, to explain how popular perceptions of the constabulary came to be entrenched. The colonial constabulary faced combined pressures from both government legislation and their immediate superiors, the rural magistracy, which affected their role. Chapter Five discusses the ramifications of these pressures upon the police. Newspapers of the time also played a part in public perception and contributed to the pressures experienced by the constables. This chapter details some of the attitudes expressed by the press and their influence on public opinion. Continuing the theme of the pressures under which the constabulary operated, Chapter Six interrogates further the differences between the popular perceptions of the police and the realities of their situation. By examining the role of the rural police in their local community, some of the pressures can be exposed. This chapter also explores some of the issues surrounding the precarious position of the constables in policing a population of which they were a part.

The human face of the colonial constabulary is easily lost in the wider debate over its character and administration. Chapter Seven brings the discussion to a more personal level with the examination of individual relationships. An exploration of marriage, friendships and relations between colleagues can reveal unknown dynamics and further enhance our knowledge of the men who were charged with policing the colonial population. By comparing the constables to other groups in colonial society it should be possible to discern to what extent the men exhibited the characteristics of the general colonial population.

Hitherto, much discussion of the colonial era has centred upon questions of the criminality or otherwise of the convict population. The analysis of police and policing in colonial New South Wales has been conducted within the context of this wider debate. In Britain studies on the subject of police and policing have been more ideologically driven, and centred around issues of interpretation of the establishment and evolution of police forces, resulting in a large volume of historical and sociological research. Police as agents of social control, crime fighters or heroic defenders of the weak are all positions argued and defended in

the course of a long historical debate.²⁷ In Australia this discussion is just beginning, impeded as it has been by assumptions and prejudices about the convict beginnings of the constabulary.

The past vilification of the colonial police deserves further investigation. A fresh study is required, first to better understand the forces that were at work in colonial society, and secondly to examine the stereotyping of the colonial constable in the light of those forces. My intention is not to rescue the constabulary from charges of incompetence, corruption and bribery but to broaden the perspective a little and examine some of the pressures the constable might have experienced in light of the social, economic and political situation existing in the colony. Another benefit of a comprehensive study of the police during the 1820s and 1830s is that it can serve to deepen our understanding of a pivotal period in colonial history.

²⁷ See R. Reiner, *The Politics of the Police* (Wheatsheaf Books, Sussex, 1985), for a comprehensive summary of both conservative and radical approaches to police history in Britain.