

Chapter 1

Constables, convicts and corruption

How naturally and easily these three words — 'constable,' 'convict' and 'corruption' — complement each other in the Australian historical consciousness. The phrase comes from a sub-heading in a book that attempts to explain the historical precedents of the hostile public attitude to the police in Australia.¹ While questioning the premise that early nineteenth-century attitudes to the police had permanently tainted relations between them and the public, the authors nevertheless claim that the questionable quality of the men employed during the early colonial period as constables was the 'major defect in the police system'.² Historian Humphrey McQueen was prepared to accept that 'one of the heritage of the convicts has been corrupt police forces'.³ While not attempting to deny the existence of corruption, brutality or cowardice amongst the colonial police, I question why only these characteristics have dominated the discourse up until the present time.

The English system of parish constables, drawn from the higher strata of town and village life and elected by their community to serve for a year in an unpaid position, was initially imported to the colony to deal with law and order. Governor Phillip was empowered to appoint both constables and night watchmen and, two weeks after the arrival of the First Fleet, he appointed a free man, John Smith, as the colony's first constable. In 1789, after the robbery of the stores by the marines, Phillip appointed twelve convicts to form a night watch, 'and the first attempt toward a police in this settlement commenced'.⁴ There is some confusion about the actual number of constables as only ten men can be identified. Of the ten, at least seven were literate and some had good connections.⁵ It seems that the intention, right from the start, was to establish a literate and capable force. This system continued until the arrival of Governor Hunter in 1795. He instigated the election of unpaid constables by the inhabitants of the colony along

¹ D. Chappell, and P.R. Wilson, *The Police and the Public in Australia and New Zealand* (University of Queensland Press, St Lucia, 1969), p. 4. The authors discuss the sentiments expressed in a survey carried out in the late 1960s.

² *Ibid.*, p. 28.

³ H. McQueen, *A New Britannia: An Argument Concerning the Social Origins of Australian Radicalism and Nationalism* (Penguin, Ringwood, 1970), p. 133.

⁴ David Collins quoted in J. King, *The First Settlement: The Convict Village that Founded Australia, 1788-98* (Macmillan, South Melbourne, 1984), p. 136.

⁵ M. Gillen, *The Founders of Australia: A Biographical Dictionary of the First Fleet* (Library of Australian History, Sydney, 1989).

the lines of the English system. Recognising the 'very fatiguing duties of a constable', Hunter offered encouragement in the way of an annual suit of new clothes, a pint of spirits served to each on Saturdays, and the same rations as those given to the military and free people.⁶ In 1796 the election took place in the districts of Sydney, Parramatta, Toongabbie and the Hawkesbury and the subsequent constables were sworn in and issued with a set of printed instructions as to their duty. Elections took place again in July 1797. A General Order issued at the time stated:

The time for the election of constables to serve for the ensuing year being arrived, the governor desires that the inhabitants of the different town and country districts to meet immediately and proceed to the choice of those men whom they are desirous should take upon them that office in their respective districts for the next twelve months.⁷

Although there is no clear definition as to who could take part in the election, the 1798 General Order included an appeal to 'the gentlemen who have the choice of such persons [constables] will be very particular in their selection.'⁸ Obviously only a small proportion of the inhabitants of the town and country districts would fit the title of gentleman.

Despite the care taken in the appointment of local constables, robberies increased and in 1799, Hunter once again appealed to the respectable inhabitants to form committees to examine the most effective means of combating the problem.⁹ Complaints about the negligence of the elected petty constables and watchmen continued, but Hunter persisted with the idea of the local community appointing their own upholders of the law. A return of 1801 reveals that 48 constables and watchmen were appointed to watch over a population of 5547 in the colony. Sydney had 27 constables and there were seven at Parramatta, eight at Toongabbie, and six on the Hawkesbury. However, by 1810 and the arrival of Lachlan Macquarie as governor, the appointment of constables had been taken out of the hands of the inhabitants and become the prerogative of the local magistrates. With the free population increasingly comprising ex-convicts, there may have been the suspicion, in the eyes of the authorities, that the community could no longer be trusted to appoint suitable persons for the role of constable.

An established, traditional system that had been in place in England, however well it had worked for several centuries, wilted when transplanted to the rough, raw environment of the

⁶ Hunter to the Duke of Portland, Enclosure: Encouragement to Constables, 30 April 1796, *HRA*, Vol. I, pp. 566-7.

⁷ Government and General Order, 11 November 1797, *HRNSW*, Vol. III, p. 206.

⁸ Government and General Order, 5 December 1798, *HRNSW*, p. 513.

⁹ Government and General Order, 2 July 1799, *HRNSW*, p. 586.

new penal colony. Although the framework of an English legal system was established from the outset, competing interests, the particular realities of the situation, and the prospect of new possibilities soon left its mark on the imported model.¹⁰ The role of the most interactive element of that model, the constable, became more challenging as he was required to police a seemingly unusual population.

The English principle of the community itself being responsible for maintaining peace and order and appointing its own representatives to police the community rests to a large degree on the general acceptance of the population of its role in upholding the law. The alternative system is the imposition of a rule from above through agents of the state.¹¹ In the very particular society that was colonial New South Wales during the 1820s and 1830s, where the majority of the population had demonstrated, by their lawful convictions, that they did not always agree with accepted community values or had little interest in upholding certain laws, the parish constable system was ill-suited. Nearly 54000 convicts arrived during this time, out of a total of 80000 transported to New South Wales in the fifty-three years from 1788 to 1841.¹² In 1828, only 13 per cent of the population were free immigrants, rising to about 37 per cent by the end of the 1830s. These were also the decades that saw greater than ever numbers of convicts being emancipated and becoming part of the free population.¹³ The policing of a population comprised mostly of convict and ex-convict members entailed a far greater intervention into everyday lives than was the case in Britain under the parish constable system. Even though they were appointed locally, the constables were, in fact, agents of a penal system rather than representatives of their community.

It is the dominance of the penal system in the establishment of Australia that has encouraged a distorted view of many aspects of that early society. Part of the answer to the question posed at the beginning of this chapter lies in the juxtaposition of the words convict, constable and corruption: words that evoke a deeply held conviction in the national consciousness that the beginnings of our society were both unnatural and grotesque. The ongoing narrative of the convict era has constantly emphasised the unnatural aspects of the early

¹⁰ P.J. Byrne, *Criminal Law and Colonial Subject: New South Wales, 1810-1830* (Cambridge University Press, Cambridge, 1993), p.155.

¹¹ A.H. King, 'Some Aspects of Police Administration in New South Wales, 1825-51', *Royal Australian Historical Society, Journal and Proceedings*, Vol. 42, Part 5, 1956, pp. 206-7.

¹² L.L. Robson, *The Convict Settlers of Australia* (Melbourne University Press, Melbourne, 1965), p. 170.

¹³ Rossi Report on the Police to Darling, October 7 1826, *HRA*, Vol. XII, p. 679.

settlement.¹⁴ Despite attempts by historians such as John Hirst, and contributors to the controversial *Convict Workers: Reinterpreting Australia's Past*, to render the colonial experience more normal than has hitherto been imagined,¹⁵ the notion of grotesqueness continues to inform popular debate. The existing narrative is reinforced from time-to-time by the publication of books such as *The Fatal Shore* by Robert Hughes,¹⁶ building on nineteenth-century gothic tales from Marcus Clarke, Price Warung, James Tucker and others. It is no accident that Hughes's book has been one of the most widely-read accounts of the convict era. Nicely situated between popular culture and academia, Hughes's chronicle of the beginnings and early years of settlement accord with a public imagination that has its roots in the convict historical fiction of nineteenth-century writers. The origins of much of this early writing can be found in the views of anti-transportationists who were mainly responsible for the promulgation of the idea that the penal settlement was mired in slavery, excessive brutality and unnatural behaviour.¹⁷ As Richard White demonstrated, attempts to describe Australian society more often 'reflect the hopes, fears and needs of [its] inventor'.¹⁸

Furthermore, Laurie Hergenhan points out that 'convicts have always occupied a vivid, if simplified, place in the Australian popular imagination'.¹⁹ The legend of the convicts as victims of an unjust society struggling against the double alienation of exile and an outcast social position in the new colony, still resonates today despite various attempts to redress the balance. The role of the convict police in this legend occupies a central position as it features another double alienation. Not only did the convicts have to struggle against an unjust system but that system was enforced by members of their own class. Here, indeed, is the stuff of mythology. Hergenhan also comments upon the illusion of historical fiction as portraying the whole of society and, in the case of convict fiction, to take the worst excesses of the convict system and present them as the totality of that society.²⁰ Price Warung, a contributor of short stories to the popular and widely read *Bulletin* magazine during the 1890s, epitomises this approach. His

¹⁴ See for example, Peter N. Grabosky, *Sydney in Ferment: Crime, Dissent and Official Reaction 1788 to 1973* (Australian National University Press, Canberra, 1977), p. 11.

¹⁵ J. B. Hirst, *Convict Society and its Enemies: A History of Early New South Wales* (George Allen and Unwin, North Sydney, 1983); S. Nicholas, (ed.), *Convict Workers: Reinterpreting Australia's Past* (Cambridge University Press, Cambridge, 1988).

¹⁶ R. Hughes, *The Fatal Shore: A History of the Transportation of Convicts to Australia 1787-1868* (Pan Books, London, 1988).

¹⁷ See John Hirst, *op. cit.*, for a discussion on the influence of anti-transportationist writings in contemporary views of penal society.

¹⁸ R. White, *Inventing Australia: Images and Identity 1688-1980* (George Allen and Unwin, Sydney, 1981), p. viii.

¹⁹ L. Hergenhan, *Unnatural Lives: Studies in Australian Fiction about the Convicts from James Tucker to Patrick White* (University of Queensland Press, St. Lucia, 1983), p. 2.

²⁰ *Ibid.*, p.12.

stories are mostly centred upon Macquarie Harbour and Norfolk Island, places of secondary penal punishment and beyond the immediate experience of the vast majority of convicts.²¹

The notion of the colony of New South Wales as unnatural and therefore outside civilised society was held from the beginning.²² Objections to the establishment of such a settlement came well before Governor Phillip sailed from England with his cargo of convicts.²³ Contemporary writers and commentators themselves were influenced by notions of progress and empire building and the idea of populating a new land with the 'sweepings of the old' seemed a perverse and absurd way to begin. The 1838 British Select Committee on Transportation (Molesworth) Report presented the colony as a sink of iniquity consisting of degraded and corrupt individuals.²⁴ Appointed to investigate the transportation system, the chairman of the committee William Molesworth, was an avowed opponent of transportation and his report reflected his prejudices. According to Molesworth, the colony was steeped in drunkenness, licentiousness and dissipation, as a result of transportation. The constables were of the 'worst possible character; willing to take bribes; conniving at the offences of the convict population ... and in short frequently defeating all the efforts of the Government to defeat crime'.²⁵ At other times complaints were made that the force consisted principally of men who were 'idle or incapable from infirmity or old age from performing hard labour'.²⁶ Concerned to demonstrate the moral corruption in the colony, Molesworth did not spare the police. The overall findings of this report were to colour, for over a century, perceptions of the state of the colony. It was not until the 1970s that historians began to seriously question the received account. Close examination by John Ritchie and Norma Townsend, for example, exposed the prejudices and manipulation of evidence that characterised the report.²⁷

Colonial history has often been used to explain present-day attitudes and none more so than popular attitudes towards the police. Thus our supposedly strong anti-authoritarian attitudes

²¹ Price Warung, *Convict Days* (Australasian Book Society, Sydney, 1960).

²² Hirst, *op. cit.*, pp. 189-92.

²³ White, *op. cit.*, pp. 1-15.

²⁴ The Report of the House of Commons Select Committee appointed to inquire into the System of Transportation, its Efficacy as a Punishment, its Influence on the Moral State of Society in the Penal Colonies, and how far it is susceptible to Improvement, 3 August 1838, (Paper No.669), *British Parliamentary Papers*, (hereafter referred to as the Molesworth Report), Vol. xxii, pp. 3-47.

²⁵ Molesworth Report, *op. cit.*, p. xi.

²⁶ Report of the Select Committee on Police and Gaols (Legislative Council, New South Wales, Votes and Proceedings, 1839), p. 185.

²⁷ J. Ritchie, 'Towards Ending an Unclean Thing: The Molesworth Committee and the Abolition of Transportation to New South Wales, 1837-1840', *Historical Studies*, Vol. 17, No. 67, 1976, p. 150; N. Townsend, 'The Molesworth Enquiry: Does the Report Fit the Evidence?', *Journal of Australian Studies*, No. 1, June 1977, pp. 33-51.

and suspicion towards the police are said to stem partly from the resentment engendered during the colonial experience. The ideas of mateship and class solidarity have been vigorously promoted from time to time by certain groups and have always had a grip on the popular imagination. Russel Ward explained the origins of mateship as an ethos arising, in part, from early convict experiences.²⁸ Ward also defined an anti-authoritarian streak in the Australian character, so beloved of writers and commentators, as a lingering echo of convict times. Hostility to the police, as part of the machinery of authority, is also traced to the colonial era.²⁹ While the theory of co-called convict solidarity has been called into question by later historians, notably Humphrey McQueen,³⁰ the seduction of such a theory is hard to resist. The convict legacy has done much to support the idea that the hostility towards the colonial constabulary came from the notion of an egalitarian class solidarity. That a perceived dislike of the police has been a result of different reactions to different circumstances in different eras is overlooked in the quest to define and attribute certain national characteristics to our early beginnings. The convict period has been a continuing source of myth, and re-evaluations of those myths and of contemporary society continue.

The centrality of the Ned Kelly myth to the Australian historical consciousness also helps to explain certain attitudes to the police. As an icon of anti-authoritarianism, Ned Kelly and his exploits have persisted in the popular public imagination. Police corruption and harassment play an essential role in the Kelly legend. Police attempts to arrest Ned's brother Dan, for horse stealing were the trigger for all that subsequently ensued. In the Jerilderie letter, Kelly castigates the police as traitors for co-operating with the existing power structure, as many of the local constables were of Irish descent.³¹ The power of the Kelly legend has been influential in popular attitudes towards police, reinforcing, class-based stereotypes.

Therefore, it is not surprising that the existing story of the colonial constabulary is neatly encapsulated by the three words: constables, convicts and corruption. There are, however, two conflicting stories. The first is that the constables were 'too mixed up with their own kind' to be efficient.³² In this narrative, the constables aided, profited by, or ignored criminal behaviour

²⁸ R. Ward, *The Australian Legend* (Oxford University Press, Melbourne, 1958), pp. 29-31.

²⁹ *Ibid.*, pp. 62-4.

³⁰ McQueen, *op. cit.*

³¹ J. McQuilton, *The Kelly Outbreak, 1878-1880: The Geographical Dimension of Social Banditry* (Melbourne University Press, Melbourne, 1979), p. 188.

³² F.N. Rossi, quoted in B. Fletcher, *Ralph Darling. A Governor Maligned* (Oxford University Press, Melbourne, 1984), p. 179.

among the convicts and ex-convict citizenry. The second, opposing story is that the constables were traitors to their own class. According to Raymond Evans and Bill Thorpe,

Most scourgers, overseers and constables, themselves arising out of convict ranks, had already chosen individual mobility above the collectivism of the disempowered and were strongly committed to and even took pleasure in their enhanced authority and power. Known by the rest of the convicts as rogues or a herd of tyrants, such collaborators needed to be segregated for their own safety from the convict ranks and were often the target of resentment and attack.³³

Just as this view of colonial society now sits rather uncomfortably in an age in which aspiration is lauded, the sentiment expressed here had rather more validity for the secondary places of punishment such as Newcastle or Moreton Bay than to the local constables scattered throughout the colony in villages and towns. The constables and overseers in secondary penal settlements were, in most cases, drawn directly from the prisoner population in that particular institution and were consequently, and quite naturally, seen as collaborators. Constables employed in the wider community had usually served their sentence, and become an integral part of that wider community. On one hand the perception was that 'too close a connection with the inhabitants' led to ineffective policing, while on the other, familiarity with the local district and the inhabitants led to more effective policing. It is interesting that both these contradictory notions have been perpetuated at the same time and without any real dissection as to the truth of either or both assertions.

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Hitherto, historians have relied heavily on the Molesworth inquiry, and evidence and reports of the various inquiries and select committees conducted during the 1820s and thirties into the state of the police in the colony. Commissioner John Thomas Bigge's report on the police and judicial establishments in the colony, published in 1822, was the first serious effort to determine the reasons behind the perceived inefficiency of the police. Significantly, Bigge did not place the blame on the 'quality' of the recruits but suggested that other factors contributed to the difficulties experienced by the police in carrying out their duties. Bigge thought that too few magistrates with no regular communication between each other, an increase in the convict population, and a general relaxation in policing government regulations had led to a decrease in

³³ R. Evans, and B. Thorpe, 'Commanding Men: Masculinities and the Convict System', *Journal of Australian Studies*, No. 56, March 1998, p. 25.

law and order.³⁴ Apart from an examination of Sydney's chief constable, John Redman, no serving policeman gave evidence to the inquiry.

1835 provided another opportunity for an examination of the state of the police when a New South Wales Legislative Council select committee took evidence on the state of the police and gaols in the colony. Only magistrates, both paid and honorary, gave evidence to this inquiry, and their comments on the difficulty of finding suitable men for the position of constable have often been used as evidence of the parlous state of the rural constabulary. While many of the rural magistrates complained of this problem, they did not make any adverse comments about the men they currently employed. Indeed, the tenor of their comments suggested that their constables were overworked and more police were needed to lighten the load.³⁵ By 1835, the rural magistrates were beginning to feel their powerful positions were under attack. Governor Bourke's *Summary Jurisdiction Act* of 1832 had limited their actions in various ways and they saw the introduction of paid, or stipendiary magistrates as a threat to their authority.³⁶ The position of the rural magistracy will be more fully discussed in Chapter Six but it is sufficient to note here that their evidence to both the 1835 and 1839 select committees should be viewed in the light of their own concerns about steadily increasing state encroachment on their power.

The 1839 Legislative Council Select Committee in New South Wales was also charged with inquiring into the state of the police establishment and its expense. The committee took evidence from 'numerous intelligent and respectable persons' who proffered 'local information and opinion' on the inefficient state of the police in their respective districts. Again, only magistrates and superintendents of police were called to give evidence.³⁷ One witness stated that although he seldom attended the court at Goulburn, he was of the opinion that the constables were 'idle and drunken persons' who were known to take bribes'.³⁸ In the end, the problem was too difficult for the committee. After considering, and rejecting, an increase in pay, employing prisoners of the Crown as constables, raising a corps from England or obtaining the services of soldiers, the committee's final recommendation was to supply the constabulary with a uniform

³⁴ J.T. Bigge, *Report on the Judicial Establishment of New South Wales and Van Diemen's Land* [1822] (Libraries Board of South Australia, Adelaide, 1966), p. 60.

³⁵ Minutes of evidence taken before the Select Committee on Police and Gaols (New South Wales Legislative Council, Votes and Proceedings), May 1835, pp. 323-64.

³⁶ D. Neal, *The Rule of Law in a Penal Colony: Law and Power in Early New South Wales* (Cambridge University Press, Cambridge, 1991), pp. 123-4.

³⁷ Report of the Select Committee on Police and Gaols (New South Wales Legislative Council, Votes and Proceedings), 11 June 1839, p. 135.

³⁸ *Ibid.*, p. 279.

which 'would most probably have the same good effects as have been found to result, from the adoption of a Uniform Dress for the Metropolitan Police in London'. Apparently, a uniform would encourage respectability and encourage more efficient men to join the force.³⁹

Further evidence, if needed, of the venal nature of the constabulary is to be found in the pages of the newspapers of the time. All contributed to the negative image, although the *Sydney Monitor* was the most consistent in its criticism. Editor Edward Smith Hall described the police in 1826 as a 'half starved constabulary consisting of, for the most part, of [sic] some of the greatest vagabonds in the colony'. Earlier he had written, 'we ... pronounce the constabulary of this town the worst in the world'.⁴⁰ Hall had his own reasons for denigrating the police, which will be discussed more fully in Chapter Five.

Despite a new understanding of the forces that helped shape perceptions of the colony, evidence for police behaviour and standards continues to rely on the abovementioned sources. Particular phrases, such as the 'poor quality of the constables' and, 'the difficulty of finding suitable men', and the use of the same statistics on dismissals are repeated in nearly all accounts whenever the subject of the police is discussed. Any number of images can be used to illustrate historical points but it is interesting to note that the most extreme examples are often used when discussing the police. Even historian Grace Karskens, who is one of the few to move away from the most formulaic aspects of the discussion, cannot resist an account of a constable found drunk in a yard, his face having been partly eaten by a pig. Karskens uses this story to reinforce her point about the poor character of the constables in her study of The Rocks district of Sydney during the 1820s.⁴¹

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Two early Australian literary works, both written during the colonial era, have been a valuable source of information for their portrayal of colonial society: *Ralph Rashleigh* by James Tucker and *Settlers and Convicts* by Alexander Harris.⁴² Both authors arrived in Sydney in the 1820s and wrote their accounts in the mid 1840s. Harris's autobiographical account of his

³⁹ *Ibid.*, p.189.

⁴⁰ *Sydney Monitor*, 11 August 1826, p. 101; 21 July 1826, p. 78.

⁴¹ G. Karskens, *The Rocks: Life in Early Sydney* (Melbourne University Press, Carlton South, 1997), p. 196.

⁴² J. Tucker, *Ralph Rashleigh* (Angus and Robertson, Sydney, 1952); A. Harris, *Settlers and Convicts or Recollections of Sixteen Years Labour in the Australian Backwoods* [London, 1847] (Melbourne University Press, Melbourne, 1964).

adventures in the colony was published in 1847 but Tucker's novel remained lost until the manuscript was discovered in the 1920s and was fully published only in 1952. Included in the narrative of each work are incidents relating to the role and character of the police. Some modern historians have used these depictions as evidence of the corruptness and incompetence of the colonial police.⁴³ Literary evidence, as is generally acknowledged, must be treated with care and should be regarded as problematic in its representation of the individuals involved. However, the portrayal of the police in both narratives and the subsequent use of such material raises many questions relevant to this thesis. This is especially true with regard to the character and role of the rural constabulary. In both works, the emphasis is on the police in outlying districts.

The author of *Ralph Rashleigh*, James Tucker, arrived in Sydney in 1827 as a convict aboard the ship *Midas*. He spent time at the agricultural establishment at Emu Plains and then in assignment in the Campbelltown area. While his convict experience was representative, to a point, of many in the system at that time, Tucker failed to achieve the freedom that the majority of other convicts obtained. He continually lost his ticket-of-leave for misdemeanours and finally ended up at the penal station at Port Macquarie. It was here, in 1845, that he had the opportunity to write his novel, incorporating much of what he had endured during his eighteen years as a convict in the colony.⁴⁴

While *Ralph Rashleigh* is ostensibly a work of fiction, the themes connected with the portrayal of the police do provide an insight into the contradictions of the police role in colonial society. The novel is interesting, not only for the contradictions but also as an early example of the notion that there was something strange, defective and unnatural about the development of the colony.⁴⁵ Although a convict himself, the hero is unceasing in his criticism of fellow convicts. The emphasis is on personal character. So, while overseer Jack Bunn is 'as good a fellow as ever broke the world's bread' and McGuffin, the constable who displayed courage and fortitude in the face of the bushranger atrocities, is hailed as a hero, other overseers and constables who exceed their duty are labelled as tyrants.⁴⁶ Tucker's intention is to portray the

⁴³ For example, Hughes, *op. cit.*

⁴⁴ C. Roderick, Foreword to Tucker, *op. cit.*, pp.v-xi.

⁴⁵ R. Dixon, 'Ralph Rashleigh: A History of Civil Society in New South Wales', *Southerly*, Vol. 41, No. 3, 1981, pp. 300-16.

⁴⁶ Tucker, *op. cit.*, p. 173.

whole convict and policing system as a corrupting influence with only a few people able to rise above it.

The other account, *Settlers and Convicts*, by Alexander Harris has been widely viewed, like Tucker's, as a semi-autobiographical work detailing his years in the colony. While the author, Alexander Harris, has been traced to Canada where he migrated after his return to London, no record of an Alexander Harris can be found in the colony at the time he purported to be here. It has been concluded that he spent his years in Australia under a pseudonym. In a forward to the 1964 publication of *Settlers and Convicts*, Manning Clark posits that one of the reasons for Harris's extremely negative attitude towards the police was connected to his 'dark secret'. Not only was Harris an army deserter but he had been an alcoholic while living in Australia, as he later revealed in his autobiography. He had lived in fear of being found out and any scrutiny by the police caused him great suffering. Clark writes: 'People who caused him to suffer in this way had to be punished by his pen. And what a punishment he gave them'.⁴⁷ Harris was not a convict and his viewpoint was that of a free settler, distancing himself from the convict class but also sensitive to the brutalities of the convict system. As an evangelical Christian, Harris was opposed in principle to the transportation system and its accompanying evils. It was necessary, in both a literary and moral sense, that the police, who were on one level the enforcers of that system, be portrayed as the worst of the worst.

The two works in question are also interesting because of the paradoxes and contradictions in their portrayal of the convicts, settlers and police. Tucker describes an 'execrable system of tyranny and intolerable oppression perpetrated by convict overseers, constables and watchmen [at] this government farm', when describing conditions at the Emu Plains establishment.⁴⁸ Later, Tucker's protagonist laments their abuse of power while complaining that the constable escorting him to Emu Plains farm would not be bribed to allow him to collect some clothes from his lodgings.⁴⁹ Later, Ralph meets the District Constable at Richmond, who 'never scrupled to overlook any violation of the law, so long as he obtained good and sufficient reasons of sterling weight for doing so'.⁵⁰ His exertions on behalf of the law also extended to the 'minute fry of evil-doers' with the observation that 'laws are like cobwebs,

⁴⁷ Harris, *op. cit.*, p.xii.

⁴⁸ Tucker, *op. cit.*, p. 85.

⁴⁹ *Ibid.*, p. 72.

⁵⁰ *Ibid.*, pp. 179-80. (From my research, this character could have been modelled upon Richard Skulthorpe, who was the District Constable at Richmond from 1826 to 1828 and who was dismissed from his post. He was later convicted of stealing.)

which catch the small flies, but allow the large ones to escape'.⁵¹ On the other hand, Ralph had occasion to seek protection, and receive it, from a District Constable near Campbelltown, when threatened by his master.⁵²

While describing the sly grog shops in the streets around The Rocks and explaining the system of bribes extorted by the police to ensure their continued existence, Harris rightly claimed that in 1828 almost every constable in Sydney and throughout the colony had at one time been a convict. He goes on to say that 'there were two or three old soldiers in the force, but their principles were not a whit superior to those of the convict class'.⁵³ Thus the corrupt actions of the police could be attributed to the habits of their class. On the other hand, the ex-convict settler, according to Harris, exhibited 'a sort of open sturdy manliness about his character which was very agreeable'. They also had fewer problems with their assigned servants, 'founded on respect for their [the settlers'] judgement and fairness'.⁵⁴ Here we have a clear distinction between the ex-convict settlers who, 'by their own efforts', had obtained a certain moral dimension, while the ex-convict constables continued to be mired in the dissolute habits of their class. Tucker, on the other hand, condemns the ex-convict settler for his 'brutal debauchery' and 'acts of petty tyranny and overbearing malice' towards his assigned servants. He claims that many of these settlers had acquired freedom by the 'most tyrannical abuse of power entrusted to them as constables and overseers'.⁵⁵

On one hand, Tucker's novel, *Ralph Rashleigh*, is full of instances where convicts betray each other, notably in the camp at Coal River where they lived in fear of betrayal by their fellow convicts.⁵⁶ On the other hand, Harris's account speaks of solidarity amongst convicts. For Harris, the moral exigency of his tale demanded certain characteristics to be highlighted whereas Tucker's plot required a less consistent approach where not all police were tyrants.

The convict era remains a continuing source of myth for fictional writers from Tucker, through Marcus Clarke's *For the Term of His Natural Life* and on to twentieth-century novelists such as Thomas Kenneally and Patrick White. The theme of men and women leading unnatural

⁵¹ *Ibid.*

⁵² *Ibid.*, p. 145.

⁵³ Harris, *op. cit.*, p. 47.

⁵⁴ *Ibid.*, p. 68.

⁵⁵ Tucker, *op. cit.*, p. 143.

⁵⁶ *Ibid.*, p. 230.

lives outside civil society in the antipodes continues to occupy writers up to our own times.⁵⁷ A very recent and popular novel dealing with the convict era is *The Secret River*, written by Kate Grenville.⁵⁸ While depicting her own convict ancestor, Solomon Wiseman, as an enterprising and decent family man, his neighbours on the Hawkesbury are generally portrayed in stereotypical terms. While not specifically concerned with the police, much of this writing depicts a society on the margins of civilisation, both physically and metaphorically.

The idea of deformity and grotesqueness shapes ideas of all members of that society, including the convict constabulary. Of course, not only the picture of the police has been distorted: the free merchants and ruling class are portrayed as the most greedy and tyrannical, the convicts the most degraded and, in between, the police were the most hated, cowardly and corrupt. This story, in part, emphasises and accords with popular imagination of the evolution of a convict colony into the free, democratic and liberal state. In our efforts to describe the progress from chaos to order in Australian society we have first to demonstrate the darkness from which we have evolved.

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Until recently, a strong deterministic tone coloured the view of the convicts. An example is from Wilson and Chappell, authors of *The Police and the Public*. Citing Russel Ward, they agree that the poor quality of the men available for police work inevitably led to low public respect for the force. 'Poor quality' appears to be code for convict.⁵⁹ A convict or ex-convict must necessarily be of poor quality and unable to command respect whatever the quality of his work. This attitude stems directly from the school of thought that postulates that the convicts came from a criminal class. The problems associated with this deterministic assumption were well documented by Michael Sturma in the 1980s and by the contributors to *Convict Workers: Reinterpreting Australia's Past*. An assumption of the existence of a criminal class, which relied largely on nineteenth-century perceptions obscured by middle-class bias, has determined the way in which some historians have approached the statistical evidence. The work of Manning Clark and Lloyd Robson are two examples of such an approach.⁶⁰

⁵⁷ Hergenhan, *op. cit.*, p. 168.

⁵⁸ K. Grenville, *The Secret River* (Text Publishing, Melbourne, 2005).

⁵⁹ Chappell and Wilson, *op. cit.*, pp. 28-9.

⁶⁰ M. Sturma, *Vice in a Vicious Society: Crime and Convicts in Mid-Nineteenth Century New South Wales* (University of Queensland Press, St. Lucia, 1983), pp. 1-6; S. Nicholas, (ed.), *Convict Workers: Reinterpreting*

Why do particular stories emerge and persist in the public imagination? In the case of the colonial constabulary, a system of social control designed by the upper and middle classes and enforced among the convict class by men drawn from that class is obviously questionable in both intent and execution. In addition, perceptions arising from the early failures of the police to control bushranging; events arising from goldfields unrest including the Eureka uprising at Ballarat in 1854; the publicity surrounding the pursuit and capture of the Kelly Gang; and, in more recent times, corruption issues exposed by Royal Commissions, strongly reinforce the existing story in the public mind.

In keeping with the burgeoning leftist tone of the time, a number of historical accounts published through the 1960s, 1970s and 1980s were highly critical of the colonial police.⁶¹ It is no accident that such trenchant criticism permeates these accounts, given that the events of the day had highlighted the role of police in modern society. Anti-war protesters, green movement supporters, feminist and student activists, had all taken to the streets to publicly demonstrate their anger against what they saw as elements of right-wing authoritarian rule. As agents of the state, the police were in the first line of defence against such activists and as such, received much criticism for their confrontational handling of many of the protests. Maligning the police was the sport of the day and if such attitudes could be traced to society's beginnings then so much the better. It is not that historians deliberately set out to create such a negative tone: it just seemed to fit with a coherent account of cause and result.

Each epoch has its own reasons for promoting or repeating older narratives but the effect of the promotion of the corrupt convict constable story has been to deter, for too long, the consideration of a complementary or even alternative story line. We have been at ease with the existing idea because it fits so comfortably with our perceived notions of the beginnings of our society. Furthermore, as Alan Atkinson points out, the convicts have usually been discussed 'in the categories imposed on them by their rulers'.⁶² As was the case with female convicts, official comments upon the constabulary reflected more upon middle-class expectations than on any

Australia's Past (Cambridge University Press, Melbourne, 1988), pp. 4-6; M. Clark, 'The Origin of the Convicts Transported to Eastern Australia, 1787-1852. Part 1', *Historical Studies Australia and New Zealand*, Vol. 7, No. 26, May 1956, pp. 121-35; L.L. Robson, *The Convict Settlers of Australia: An Inquiry into the Origin and Character of the Convicts Transported to New South Wales and Van Diemen's Land, 1787-1852* (Melbourne University Press, Carlton, 1965).

⁶¹ See, for example, Sturma, *op. cit.*, pp. 163-8.

⁶² A. Atkinson, 'Settlement from Below', *The Push from the Bush*, No. 3, May 1979, pp. 64-9.

realistic judgement of the character and capability of individual police. Furthermore, perceptions of the efficiency of the constables would always be coloured by the middle-class view of the convict class. It is only in the last two decades that the 'view from below' has been promoted as an equally valid narrative and one deserving of attention. However, it is a reminder of the complex role of the constabulary in a society that negative attitudes, albeit for different reasons, came not only from the authorities but also from those being policed. Criticism from the general populace did much to discredit early policing efforts. In this context, it is interesting to note that the enduring story of the mounted police is very different from that of the constabulary. According to that narrative, the mounted police was an efficient and respected force largely because it was made up of soldiers under the orders of their commanding officers and not the magistrates.⁶³ Perhaps a general respect for horsemen on the frontier also contributed to their positive image.

By inserting individual lives into the official story it may be possible to not only broaden our understanding of the organisational challenges but also to give a human dimension to the men employed. As an example, the stories of two men highlight the extremes of the constable experience. James Fullarton, an educated man from County Donegal in Ireland, came to New South Wales in 1823 as a free man. Some months after his arrival, he petitioned the governor for a situation as a constable or an overseer on a farm. He stated that his intention had been to seek a grant of land and become a farmer, but that his 'circumstances had been greatly reduced'. In reply, the colonial secretary stated that a position as a constable would be available to him when he had been properly recommended. Duly receiving the required recommendation and being appointed two months later, Fullarton wrote and thanked the governor for his indulgence. He signed the letter with a flourish: James Fullarton of the Police Establishment, Sydney. However, the real reason for the claimed reduction in his circumstances becomes clear when he was dismissed four months later for drunkenness and neglect of duty. Fullarton had a problem with alcohol. Two years later, in Liverpool, he was appointed to the constabulary in that district but only managed two weeks before being dismissed once again for drunkenness. By 1828 he was working as a labourer at Botany. James Fullarton was clearly unsuited to the position of

⁶³ Hirst, *op. cit.*, p. 147; Neal, *op. cit.*, pp. 150-1.

constable and was quickly removed, in each case, by the authorities.⁶⁴

While Fullarton was typical of many of the men seeking employment as constables, especially in Sydney, his was not the only story. The chief constable in Sydney for many years, George Jilkes, came to the colony as a convict in 1816. Jilkes was transported after his second appearance at the Old Bailey. His first appearance was to answer a charge of theft from the home of Sir Joseph Banks in Soho Square. Although found not guilty on that occasion, it was to be his first tentative link with New South Wales. A 23 year-old London groom at the time of his conviction for another theft, he arrived with a seven-year sentence and by 1821 was married to a convict woman and had been appointed a constable in Sydney. From this unremarkable beginning, he rose quickly through the ranks and within three years was appointed chief constable at Liverpool. After a brief period he moved to the same post at Windsor where he spent two years before being appointed chief constable at Sydney until resigning in 1838. He, his wife and five children lived in Castlereagh Street.⁶⁵

Obviously some individuals possessed qualities that enabled them to carry out their duties in a professional and competent manner, while the inadequacies of others made them unsuited to the position. However, it is not enough to explain their conduct by reference to moral character or civil status alone. To fully understand their conduct, it is necessary to take into account the nature of the society in which they operated, the role they played in society and the conflicting pressures upon them.

⁶⁴ Petition, 29 March 1824, Colonial Secretary's Correspondence, (hereafter referred to as Col. Sec.), SRNSW: Reel 6020, 2/8130, p. 447; Goulburn to Fullarton, 1 May 1824, Col. Sec., SRNSW: Reel 6013, 4/3511, p. 50; Fullarton to Goulburn, 5 July 1824, Col. Sec., SRNSW: Reel 6020, 2/8130, p. 451; List of Sydney Constables, December 1824S, Col. Sec., SRNSW: Reel 6063, 4/1784, p. 314c; *Sydney Gazette*, 2 June 1826, p. 1; M.R. Sainty, and K.A. Johnson, (eds), *Census of New South Wales November 1828* (hereafter referred to as *1828 Census*) (Library of Australian History, Sydney, 1985).

⁶⁵ Old Bailey Sessions Papers, 20 April and 14 September 1814, Proceedings of the Old Bailey, London 1674-1834, www.oldbaileyonline.org/; Convict Indents, SRNSW: Fiche 636, p. 203; Sydney Police Pay Lists, 27 December 1825, Col. Sec., SRNSW: Reel 6029, 4/7016A, pp. 14-216; Victualling List, 8 September 1821, Col. Sec., SRNSW: Reel 6016, 4/5781, p. 63; *Sydney Gazette*, 29 September 1827, p. 1; *1828 Census*.

Chapter 2

Peelers and traps¹

My investigation of the colonial constabulary covers an important ten-year period in the evolution of the force. Significant changes occurred, beginning in the early 1820s with the introduction of recommendations from the Bigge inquiry and culminating with the *Sydney Police Act 1833*, which was greatly influenced by the system introduced in London in 1829.² Any study of the role and status of the colonial constabulary must take account of the changes happening in Britain during the early part of the nineteenth century. In England, the introduction of a new form of policing was taking place, beginning with small changes in the early 1800s and culminating initially in London in 1829 with the formation of the new metropolitan police, and later in the provincial boroughs in 1835. By 1839, the *Rural Constabulary Act* allowed counties to establish professional police forces. Ireland had already undergone a substantial reform of its policing efforts with the establishment of the Royal Irish Constabulary in 1822. The introduction of changes to the colonial constabulary in New South Wales during this period must be looked at in the light of these events.

The public perception of an increase in the incidence of crime during the eighteenth and nineteenth centuries helped lay the foundation for the implementation of a new policing system in Britain, with its emphasis on the prevention of crime. This is not to say that the creation of a new police came about without strong debate about the liberties of the English population. Numerous committees investigated the apparently parlous state of the existing police and their inability to deal with the perceived crime wave.³ However, along with the acknowledgement of problems, the committees expressed wariness about implementing an 'effective system of police' which would retain the 'perfect freedom of action and exemption from interference' enjoyed by English society.⁴ In particular, the notion of a powerful centralised institution appointed by the

¹ Robert Peel's new police in Britain became known as 'peelers'. Trap, the Australian slang word for the police, was in common use by 1823 when Constable Thomas Welsh at Windsor was called a 'bloody trap' by one of the local inhabitants.

² D. Neal, *The Rule of Law in a Penal Colony: Law and Power in Early New South Wales* (Cambridge University Press, Cambridge, 1991), p. 154.

³ R. Reiner, *The Politics of the Police* (Wheatsheaf Books, Sussex, 1985), p. 13.

⁴ H. King, 'Some Aspects of Police Administration in New South Wales, 1825-1851', *Royal Australian Historical Society, Journal and Proceedings*, Vol. 42, Part 5, 1956, p. 208.

government was anathema to many.⁵ The Earl of Dudley expressed a common view at the time when he declared he would 'rather have half-a-dozen people's throats cut in Ratcliffe Highway than be subject to domiciliary visits, spies and all the rest of Fouche's contrivances.'⁶ This reference to the French police system reflected the abhorrence with which such a system was viewed in England.⁷ Despite the objections, Home Secretary Robert Peel managed to pass legislation establishing a centralised, paid and uniformed police force in 1829.⁸ Unpopular at first, the 'new police' or 'peelers' as they became known, took some time to find general acceptance amongst the population.

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Two arguments have dominated discussion on the cause and effect of the changes to policing in Great Britain during the early part of the nineteenth century. Neatly summed up by Robert Reiner as the orthodox 'cop-sided view of history' and the revisionist 'lop-sided view', the debate has, more recently, tried to steer a middle course.⁹ The orthodox view claims that the impetus for a new system of policing and crime detection came from the perceived failure of the old parish constable system to adequately deal with the increasing unrest, crime and disorder resulting from growing urban populations and increasing industrialisation.¹⁰ Opportunities for criminal activity increased alongside commercial and economic growth. Crime was seen as mainly an urban problem with the accompanying threat of social unrest and disorder. The introduction of changes to the police was a natural progression in response to a changing society.

The revisionist view emphasises the rise of capitalism and class conflict as the essential elements in increasing control of working-class populations. Not only was a moral economy being replaced by a market economy, but the labour force was becoming increasingly regulated,

⁵ Neal, *op. cit.*, p. 141; C. Emsley, *Crime and Society in England, 1750-1900* (Longman, London, 1987), p.177; R. D. Storch, 'The Plague of the Blue Locusts: Police Reform and Popular Resistance in Northern England, 1840-57', *International Review of Social History*, No. 20, 1975, pp. 68-9.

⁶ D. Taylor, *The New Police in Nineteenth-Century England* (Manchester University Press, Manchester, 1997), p. 19. The murder of two families on the Ratcliffe Highway in the East End of London in 1811 caused great consternation at the time.

⁷ Neal, *op. cit.*, p. 141; Emsley, *op. cit.*, p. 35.

⁸ Emsley, *op. cit.*, p. 180.

⁹ For the orthodox view see T.A. Critchley, *A History of Police in England and Wales* (Constable, London, 1967). An example of the revisionist view is D. Storch's article, *op. cit.*, pp. 61-90. R. Reiner, *op. cit.* attempts a middle course.

¹⁰ Critchley, *op. cit.*, p. 21; Emsley, *op. cit.*, p. 97.

both at work and during leisure time, to fit the demands of a capitalist society. Far from being a natural progression to law and order, the development of policing reflected the demands of the ruling class and the need for a disciplined orderly population.¹¹ At the core of both views is the acknowledgement that enormous social changes, in part due to the industrial revolution, had a profound effect on English society and necessitated changes to the way that society was policed.

Given that changes to the colonial police force were taking place at exactly the same period it is not unreasonable to ask what forces were driving changes in the colony and to what extent did events and opinions in England impact on decisions made here about the administration and role of the police. The implementation of a centralised, paid and bureaucratised police force in Sydney, beginning in 1825 and culminating in 1833 with the *Sydney Police Act*, four years after the introduction of a similar system in London, suggests that the transplantation of new ideas to the colony was well and truly in place. On the other hand, the exigencies of the convict system allowed experimentation and adaptation in policing and population control that would have been difficult under the English system.¹² An example was the introduction of the so-called, 'Bushranging Act' in 1830, legitimising police activities that violated English law and tradition. A fuller exploration of this important act, and its impact on policing is discussed in Chapter Five.

The concerns of the administrators in New South Wales were essentially the same as those that occupied the mind of the authorities in Britain: that is, the maintenance of discipline and order, and regulation of the transplanted English social and economic system for the benefit of the propertied classes. A concern with 'those identified as dangerous classes, both white and native' throughout the empire characterised both English and colonial policing methods.¹³ The fear of working-class radicalism in England had echoes in the colony with anxieties about possible insurrection by the convict class. There were concerns also that 'the urban social ills of vice, vagrancy, and liquor were as much the enemy of the ruling classes of the colonial world as they were of their counterparts in England'.¹⁴ Despite these similarities, policing in New South Wales, called for quite substantial differences. Labour, in the form of convict assignment, and

¹¹ Reiner, *op. cit.*, p. 31.

¹² P. J. Byrne, *Criminal Law and Colonial Subject New South Wales, 1810-1830* (Cambridge University Press, Cambridge, 1993), p. 168.

¹³ Quoted in D. Taylor, 'Melbourne, Middlesborough and Morality: Policing Victorian 'New Towns' in the Old World and the New', *Social History*, Vol. 31, No. 1, February 2006, p. 16.

¹⁴ *Loc. cit.*

the particular nature of penal discipline in the colony, had to be managed and required an overt coercive element that had no counterpart in Britain.

Communal support for a new system of policing required consent from the general population and an emerging strategy of consent has been identified in the English context. At the heart of this strategy was the promotion of the idea of the law standing alone, disembodied from any political interference, and the constable as an agent of the law and not the state. The image of an impartial system of justice, run by an independent judiciary was, and still is, necessary to achieving compliance from the general population.¹⁵ Another necessary fiction was the promulgation of the idea of the constabulary as nothing more than 'citizens in uniform' who embodied accepted middle-class values and stood as exemplary models for the citizenry. As historian T.A. Critchley stated, the police were to be 'a democratic body in tune with the people, and drawing itself from the people'.¹⁶ In this strategy lies the roots of the emergence of the polite, friendly, English 'bobby' who, according to popular perception, eventually won the hearts of the population and against whom the Australian policeman is often measured and always found wanting.

This simplistic view of the growing popularity of the English policeman with the general public over the course of the nineteenth century has had its critics. Robert Storch has clearly demonstrated that opposition from the working class to the implementation of the new police force in 1829, carried over into the twentieth century.¹⁷ However, Clive Emsley has identified an 'indulgent tradition' whereby the English 'bobby' has been presented as 'the best in the world', and 'superior on points of general efficiency, good conduct and character'.¹⁸ Encompassing a century of a positive cultural portrayal, the English police benefited, in public terms, from this tradition. Films and literature continued to promote this idealised version of the English policeman up until the 1970s.¹⁹ By contrast, no such tradition existed in Australia.

¹⁵ R. S. Hill, *Policing the Colonial Frontier. The Theory and Practice of Coercive Social and Racial Control in New Zealand, 1767-1867* (Historical Publications Branch, Department of Internal Affairs, Wellington, 1986), pp. 12-15.

¹⁶ Quoted in C. B. Klockas, *The Idea of Police* (Sage Publications, Beverly Hills, 1985), p. 41; Hill, *op. cit.*, pp. 15-17.

¹⁷ Storch, *op. cit.*, pp. 84-90.

¹⁸ C. Emsley, 'The English Bobby: An Indulgent Tradition', in R. Porter (ed.), *Myths of the English* (Polity Press, Cambridge, 1992), p. 125.

¹⁹ Emsley, *op. cit.*, pp. 126-30.

Another means of gaining community acceptance was to emphasise the crime prevention aspect of policing as a way to legitimise police work. The notion of preventing crime would always have community support. As has been pointed out, crime prevention was not an end in itself but a means of implementing stronger policing measures. 'The security of the person and property' would result from strict policing of the population.²⁰ While there was initial hostility to the new policing system in England, the overall success of such a strategy is to be seen, once again, in the gradual acceptance of the legitimacy of the British new police throughout the nineteenth and twentieth centuries.

In the penal settlement of New South Wales many such strategic considerations were overruled by the nature of the colony and the necessity to maintain penal discipline. For much of the population, consent to being closely policed was not required. Forty-three percent of the population in 1828 were convicts serving their sentences.²¹ Even when convicts had become free, the authorities still sought to control their movements.²² Along with increasing numbers of convicts being transported, an ever-higher number of convicts became free, leading to concerns such as those expressed by Sydney Police Superintendent Rossi:

They [the freed convicts] remain at Sydney as a place where they can with greater facility commit Robberies and have always at hand some of their old associates and confederates, ready to aid and assist them in carrying into effect their nefarious plans and contrivances.²³

Previously, the emancipist class had been absorbed into the small free population with few problems. However, by 1828 the emancipist class comprised 20 percent of the population.²⁴ Greater numbers posed a dilemma for the authorities who drew increasingly on the services of the constabulary to maintain order. By 1828, the ratio of police to population was 1:96, a very high figure considering the ratio today for Australia is 1:500. In 1836 the ratio was 1:133. By contrast, English police to population ratio at the time was 1:1000.²⁵ Tasmania was a much more heavily policed settlement with a ratio of one policeman for every 88.²⁶ Control of the convict and ex-convict population in the colony was an important priority for the colonial administration.

²⁰ Taylor, *op. cit.*, p. 90.

²¹ Neal, *op. cit.*, Appendix 4.

²² Byrne, *op. cit.*, p. 168.

²³ Rossi Report to Darling, 7 October 1826, *HRA*, Vol. XII, p. 679.

²⁴ Neal, *op. cit.*, Appendix 4.

²⁵ *Ibid.*, p. 155.

²⁶ *Ibid.*, p. 375.

Furthermore, the free immigrant population comprised only 13 percent of the population in 1828.²⁷ Few of these people would have regarded themselves as working class and thus subject to the attentions of the police. Tacit communal consent with regard to policing was only required by those who were to be policed. In the push to strictly police the population, the colonial-born children of convicts was the only group whose legitimate claim to be treated as free persons was often overlooked. In defence of their rights, the colonial youth sometimes exhibited a 'defiance [of] all the constituted authorities', as a Windsor magistrate complained to the Attorney-General.²⁸ A failure on the part of the authorities to pursue a strategy of consent with this section of the population was, in part, to have both short and long-term ramifications for the image of the police in the colony.

The immediate result was a reluctance of the colonial-born to join the police. It is striking how few men of this class became constables. Of those who did, nearly all were sons of ex-convict policemen who had grown up seeing their fathers at work. John Thorne's father, William Thorn, had spent 19 years with the Sydney police before resigning in 1829.²⁹ Edward Fletcher's son took over from his father at Campbelltown in 1828 after his 14 years of service and 19 year-old William Reynolds served alongside his father at Wilberforce on the Hawkesbury River. Richard Reynolds was a district constable for 15 years, so much of William's young life had been spent watching his father at work.³⁰ The long-term result of this lack of participation in the constabulary by the colonial-born can be seen in the scorn and derision directed towards the police in later decades.

Another aspect of the English strategy of consent included the notion of the respectable citizen in uniform embodying accepted moral values. This idea was defeated from the start in the colony by the employment of convict and ex-convict personnel. A paradox of early policing lay in the idea that the constable should embody the morals and values necessary to reform the

²⁷ *Ibid.*, Appendix 4.

²⁸ Byrne, *op. cit.*, p. 195.

²⁹ William Thorn appointment: Government and General Order, 29 December 1810, Col. Sec., SRNSW: Reel 6038, SZ758, pp. 151-2; Resignation, New South Wales Convict Index, No. 1, 1829, J. Williams, Genseck, www.hotkey.net.au/~jwilliams4/scons29c.htm, p.10, accessed 14 May 2004.

³⁰ Edward Fletcher appointment: Government and General Order, 28 September 1816, Col. Sec., SRNSW: Reel 6038, SZ759, p. 262; Dismissal, *Sydney Gazette*, 27 March 1830, p. 1; Richard Reynolds appointment, 1812, Return of Police, 1825, SRNSW: Fiche 3302, 4/7093.1, p. 18; Dismissal, *Sydney Gazette*, 21 April 1827; William Reynolds appointment: Windsor Bench to Goulburn, 20 April 1822, Col. Sec., SRNSW: Reel 6053, 4/1756, pp. 91-91a; *Sydney Gazette*, 24 April 1826.

lower classes, although he was drawn from the same class that supposedly needed reforming. Respectability was a necessary part of the strategy.³¹ The problem was that few of the recruits measured up to the standard required by the authorities in England and even fewer in the colony would have been deemed respectable by the colonial administration and the middle classes.

Finally, the notion of an impartial law administered by an independent judiciary would have been laughable to the convict population, especially to assigned convicts brought before their masters' friends on the local magistrate's bench. The absurdity of the proposition of the impartiality of the law was nicely observed by a French commentator, Anatole France, who noted 'the majestic quality of the French law, [which] forbids both rich and poor alike from sleeping under the bridges of the Seine'.³² For the non-convict population the rudimentary nature of many of the institutions in the colony exposed their underlying *raison d'etre* and it was clear that the law did not stand alone, free from political and legislative interference.

A reluctance on the part of the colonial authorities to vigorously pursue a strategy of consent among the free population had its basis in the nature of the colony as a penal settlement. Governor Darling expressed the view that by settling in a penal colony, although English-born, the inhabitants had forfeited all traditional English rights.³³ Furthermore, the quality of the policeman was not of primary importance when coercion only was required. According to some sources, camp constables at the various penal stations were chosen simply for their willingness to take on the job.³⁴

Another example of the emphasis on coercion as the primary aspect of policing in the colony was the arming of constables outside Sydney. All rural constables, including those at Parramatta, carried arms and used them in the course of their duty, unlike their British counterparts. Naturally there were abuses. One constable at Airs, George Luland, was dismissed for 'unnecessarily firing at a man'.³⁵ The indiscriminate use of firearms led to an editorial in the *Australian* in 1829 after a man had been shot and killed at Parramatta by the police. A letter from an anonymous subscriber outlining the 'facts' of the case had prompted the editor to call for another inquiry into the incident. Two previous inquiries had been unable to

³¹ Hill, *op. cit.*, pp. 15-16; Hardewick quoted in Taylor, *op.cit.* p. 146.

³² Hill, *op. cit.*, pp. 15-16.

³³ Neal, *op. cit.*, p. 27.

³⁴ J. Tucker, *Ralph Rashleigh* (Angus and Robertson, London, 1953), p. 78.

³⁵ *Sydney Gazette*, 28 May 1828, p.1.

establish the guilt or innocence of the constable involved. Although the constable in question had been described as a 'quiet, well-conducted man', the editor suggested that public concern over the incident was such that further inquiries were necessary. According to the editor, 'The Constables were too much in the habit of using firearms indiscreetly'.³⁶ Such overt use of firearms only emphasised the coercive power of the police and created distrust in the minds of the public.

As far as the composition of the wider constabulary was concerned, the colonial authorities paid lip service to the idea of respectability and demanded character references from each potential recruit. The heavy use of the option to dismiss also reflected a concern to present at least a veneer of respectability. Much of the hand wringing over the 'poor quality' of the constables came from the press and other middle-class commentators with other agendas to pursue.

Recruits for Sir Robert Peel's new police force in England in 1829 were required to meet rigorous entry-level standards. Respectable young, working-class men, no older than 35 years, fit, literate and at least five feet nine inches tall, they were also meant to be stoical and self-disciplined. Rural workers were preferred as they were supposedly 'more ready to accept the social hierarchy, and to be more malleable in the hands of the police institution'.³⁷ The reality of the situation, for the British authorities, soon became evident when 90 percent of the first intake was dismissed or resigned in the first year. Of 1780 men employed in September 1829, some 967 had been dismissed and 699 resigned by 1830. Only 72 had been promoted and some 158 had been reappointed.³⁸ Reasons given for dismissal include: drunk for duty; neglect of duty; charged with fraud; insolence; disobedience of orders; repeated misconduct; and improper conduct.

In the penal colony of New South Wales, the authorities did not have the luxury of dictating from which class of society the recruits would come. An editorial in the *Sydney Gazette* lamented the fact that the few respectable men who qualified for the post were 'otherwise more lucratively employed'.³⁹ The same editorial noted the reluctance of many to join

³⁶ *Australian*, 27 February 1829, p. 2.

³⁷ Taylor, *op. cit.*, p. 47; C. Emsley, *The English Police: A Political and Social History* (Longman, London, 1996), pp. 191-92.

³⁸ Public Records Office, Kew, MEOP, 4/31, September 1829-February 1830.

³⁹ *Sydney Gazette*, 19 July 1826, p. 2.

the constabulary on account of the 'degradation which is thought to attach itself to the appellation of a constable'.⁴⁰ Policing was viewed as a poorly paid low-status occupation, especially as much of the job entailed dealing with the convict class in escorting prisoners to and from assignment and court. Policing the convict and criminal population was not a job for the respectable. Some in polite society had their own views about who was best situated to take on the role of policeman. A correspondent to the *Sydney Gazette* had no difficulty with appointing members of the convict class to the position of constable, as they 'had a greater facility for tracing out the haunts of marauders among their own class than could well be expected from free constables'.⁴¹ The opposite view was that, in a given situation, the constables would collude with their own class. Colonial administrators never quite reconciled these two views although the collusion theory seemed to be the most favoured, and underpinned much of the struggle for a 'respectable' force.

In 1825, with the arrival of Governor Darling and the appointment of a new, full-time Superintendent of Police, Captain Francis N. Rossi, efforts to centralise police forces in the colony were given a new impetus. The constabulary were being paid a cash wage by this time with Governor Brisbane implementing some recommendations from the Bigge Inquiry.⁴² Commissioner Bigge's criticisms of the police centred upon his concerns over the perceived unruliness and disorder amongst the convict and ex-convict classes in the larger towns. Although reflecting similar concerns being expressed about the lower orders in England, Bigge was especially disturbed by the apparent lack of discipline in a place supposedly designated a penal settlement.⁴³

Rossi, in his first report on the police to Governor Darling in 1826, also emphasised the lack of moral virtues among the emancipist population and the effect it had on society. Describing the convicts coming to Sydney to collect their certificates of freedom as being of 'a desperate description of character, abandoned to idleness and the profligacy', he advocated the introduction of a vagrancy act and 'a strong and active Police' to deal with them.⁴⁴ Appointed by the Secretary of State Earl Bathurst to the position of Principal Superintendent of Police at New South Wales, Rossi represented the new face of police control. Given the fact that New South

⁴⁰ *Loc. cit.*

⁴¹ *Sydney Gazette*, 23 June 1831, p. 3.

⁴² Neal, *op. cit.*, p. 149.

⁴³ J.T. Bigge, *Report of the Commissioner of Inquiry in the State of the Colony of New South Wales*, I, pp. 106-107.

⁴⁴ Rossi Report to Darling, 7 October 1826, *HRA*, Vol. XII, p. 679.

Wales was designated a penal settlement, the lack of democratic institutions meant that fewer objections to the implementation of the means for stronger social control were heard. The one key exception was the free press, instituted by Governor Brisbane.

Edward Smith Hall, editor and owner of the *Sydney Monitor*, was the most vocal amongst the press. His complaints echoed the sentiment in England regarding potential limits to liberties traditionally enjoyed by British subjects. He saw the implementation of a paid professional police force as an instrument of central authority engaged in repression and persecution of the population. He wrote, 'We have often affirmed, that many of the constabulary of this country, are mere informers and spies and terrify people with threats of apprehension'.⁴⁵ The appointment of Corsican-born Rossi seemed to confirm Hall's suspicions that a continental-style police force was being introduced. 'A foreigner by birth, education and society', Rossi was rumoured to have been a spy and his appointment and arrival in the colony to take up the position as head of the police, led to a 'general burst of indignation', according to Hall. Hall's fears were somewhat allayed by Rossi's conduct while in office although a healthy scepticism remained.⁴⁶

Much of the evidence for the poor reputation of the force comes from Superintendent Rossi who reported to both Brisbane and Darling on the state of the police in the colony. Rossi's generally negative assessment of the constabulary must be judged in the light of his own rather tenuous position at the head of the force. He arrived in the colony from Mauritius where he had been the head of the convict department.⁴⁷ Even Lord Bathurst, who had appointed him, was uncertain as to his suitability and authorised Darling to move him to another post if necessary. Despite allegations of malpractice as a magistrate in 1826, which were not proved but which left suspicions of corrupt behaviour, Rossi forged ahead with his plans to reform the police.⁴⁸ He wanted to appoint paid magistrates to rural areas, higher wages for the constabulary and a centralised force of which he would be the head.

⁴⁵ *Sydney Monitor*, 11 August 1826, p. 101.

⁴⁶ *Ibid.*, 7 July 1826, pp. 59-60.

⁴⁷ B. Fletcher, *Ralph Darling. A Governor Maligned* (Oxford University Press, Melbourne, 1984), p. 86.

⁴⁸ *Sydney Gazette*, 12 August 1826, p. 3. Rossi was charged with attempting to bribe a woman not to press charges against another young woman accused of theft. After hearing the charges against Mary Ann Cole, Rossi, as magistrate, took her into his parlour and offered to pay the value of the stolen property, and then allowed her to go free.

Surrounded from the outset by discreditable rumours, and regarded with great suspicion by the local press, Rossi was at pains to present his task of establishing a new policing regime as one of great difficulty in order to protect his own position. Without 'fit and proper persons to fill the situation of constable', Rossi declared his task 'will never be accomplished'. Placing the blame for any deficiencies in the system on the constables exempted Rossi from disapprobation. So eager was he to distance himself from any responsibility, he declared that if his plan was not approved, he hoped he would be 'absolved from censure should the public complain that the duties of the Sydney police are imperfectly performed'.⁴⁹ His inclusion, in his report to Darling, of an abstract of dismissals and resignations from the force for a period from 1825 to 1826, which was added to lend weight to his request for higher salaries, also augmented his claim of deficiency within the constabulary.⁵⁰ Notably, this particular piece of evidence has always been central to the argument that the colonial police were a shiftless and disreputable lot. Despite Rossi's efforts, he only became head of the Sydney police, leaving rural areas to the ministrations of the local magistrates.

The continuance of a decentralised system of policing in New South Wales rural areas until 1851 reflects the dominance of a particularly colonial power base: the rural, landed gentry, justices of the peace who formed the core of the social control mechanism within their own domains. In these areas, the old ways of policing remained. The landed gentry were not about to cede their magisterial power to a central authority, so Rossi had to tread very carefully when issues of rural policing arose. In his report to Governor Darling, he complimented the magistrates on their work while at the same time, suggesting the more widespread use of government-paid police magistrates in rural areas.⁵¹ Nothing could have alarmed many of the magistrates more as they viewed any government intervention into their fiefdoms as an erosion of their power. Concerns about possible insurrection by their convict labourers and the increasing problem of bushranging in the outlying settlements notwithstanding, they successfully rejected calls to centralise their forces until 1851. While their calls for more police to be employed reflected their increasing anxieties, the magistrates wanted to retain control over their own forces.⁵² The relationship between the rural magistrates and their constabulary is investigated further in Chapter Five.

⁴⁹ Governor's Despatches, Rossi to Darling, 7 October 1826, Mitchell Library, CY Reel 540, p. 520-22.

⁵⁰ Rossi Report to Darling, *HRA* Vol. XII, p. 684.

⁵¹ *Ibid.*, pp. 679-680.

⁵² Neal, *op. cit.*, Chapter 5.

Some attempt to exert a measure of oversight by the central authorities was implemented in the early 1820s with the decision to have the governor approve all appointments to the police and to have the names officially gazetted.⁵³ The governor also formulated the police regulations and required detailed reports from the rural magistrates on an annual basis. Paid, or stipendiary, magistrates began to make an appearance in the larger towns as the decade went on, with the first paid or police magistrate appointed in 1825. Twenty-nine of the 238 magistrates in New South Wales were paid magistrates by 1834.⁵⁴ Each magistrate appointed a chief constable to oversee the subordinate constables who, in the larger settlements, were mainly concentrated in the town. One district constable was usually appointed for each outlying district within the designated police district. The Sydney police were controlled by a full-time paid superintendent of police who was also the police magistrate, and the chief constable, both appointed by the governor. In 1833, two stipendiary magistrates were appointed who then had the responsibility for appointment and dismissal of constables. They also framed police regulations.⁵⁵

The chief constable was an integral part of the structure of authority over the petty constables. He received his commands from the local magistrates, saw to it that they were carried out by his subordinate constables and duly reported back to the magistrates. The returning magistrate of the Liverpool 1825 police return succinctly described the role of the chief constable: 'To keep the Town in Good Order and see all subordinate constables do their duty'.⁵⁶ He was also to report all runaways and absconders to the principal superintendent of convicts and oversee all corporal punishments handed out by the court. Required to execute all warrants and summonses, he was also to 'strictly observe the demeanour of the inhabitants, free labourers, ticket-of-leave men and prisoners in the settlement and convey his information and opinion to the magistrates'.⁵⁷ Another of his duties was to inspect all cattle before slaughter. Quite often the chief constable was also the pound keeper for his district. His was a position of some responsibility and required a certain level of literacy.

⁵³ Circular to Magistrates, 20 April 1820, Colonial Secretary's Correspondence (hereafter referred to as Col. Sec.), SRNSW: Reel 6049, 4/1744, p. 261-63.

⁵⁴ See Neal, *op. cit.*, Chapter 5, for a discussion on paid magistrates.

⁵⁵ *Ibid.*, p. 155.

⁵⁶ Liverpool Police Return 1825, Col. Sec., SRNSW: Fiche 3302, 4/7419.1, p. 5.

⁵⁷ Police Return, 1825, Col. Sec., SRNSW: Reel 6062, 4/1783, p. 62a.

In 1825, of the seven chief constables in the colony, three were ex-convict, three had come to the colony as free men, and one was colonial-born of convict parents.⁵⁸ By 1835, the status of the chief constables was roughly the same: three were ex-convict, two came free and two were born in the colony.⁵⁹ The occupations of some of the ex-convict men before transportation included a seaman, a groom and a shoemaker. The chief constables were the longest serving men in the police establishment. In Sydney, George Jilkes remained chief constable from 1828 until 1838. Two of the chief constables, Robert Burke at Airs and John Thorne at Parramatta, served without break throughout the period of this study. At Windsor, John Howe resigned in 1826 to be replaced by Benjamin Hodghon who served until after 1837. John Proctor, a ticket-of-leave man who had been appointed to Penrith in 1819, served firstly as gaoler and then chief constable from 1832 until after 1837. At Liverpool, Frederick Meredith Jnr, appointed in 1826, was still chief constable in 1835. Edward Farley served as chief constable at Camden from 1827 until at least 1836. During the period of this study, the combined service of these men totalled 65 years. The experience and quality of policing these men brought to their districts was important to the stability of the force.

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While the popular perception of the recruits to the new English police as being agricultural labourers has recently been questioned,⁶⁰ little has been done to address the assumption that the colonial constabulary was made up of 'the least employable in the community' or the 'dregs of society'.⁶¹ It is not clear whether these labels refer to the men's skills, their morality, or both. Morality being a subjective quality, it is difficult to ascertain just where the constabulary fitted on any colonial moral scale. However, labour skills are more easily identified. I have drawn on information from the convict indents which provide details of trade or occupation of each convict before his conviction. While the accuracy of this source has been contested, it remains the single most useful guide to the working life of many men before their conviction and subsequent transportation to the colony. In addition, details from the *1828 New South Wales Census* provide extra information on the employment history of many of the men after their job as a constable ceases.

⁵⁸ Police Returns, 1825, Col. Sec., SRNSW: Fiche 3302, 4/7419.1.

⁵⁹ Police Returns, 1835, SRNSW: Reel 1720, 4/7387.

⁶⁰ Taylor, *op. cit.*, p. 49.

⁶¹ M. Sturma, *Vice in a Vicious Society. Crime and Convicts in Mid-Nineteenth Century New South Wales* (University of Queensland Press, St. Lucia, 1983), p. 164; J. B. Hirst, *Convict Society and its Enemies. A History of Early New South Wales* (George Allen and Unwin, Sydney, 1983) p. 145.

Outside Sydney, opportunities for employment were generally limited to agricultural pursuits. While wages were good, the work was seasonal and uncertain. For married men with wives and children to maintain, a steady, albeit lower, wage would likely have been preferred. Unlike their English counterparts who were invariably single, a majority of the colonial constables were married with children (see Tables 34, 35, 36). Even for men who owned or leased some land a steady cash income would have been welcome. The category of men listed as farmers in the following table is not taken from the convict indents but has been compiled from information in the *1822 General Muster*, *1828 New South Wales Census* and from other archival sources. The table, listing previous occupations of the rural constabulary in 1825, also demonstrates another difference between English and colonial recruits. A substantial majority of English recruits were labourers of one sort or another while labourers made up only 21 percent of the 1825 rural constabulary in the colony.

Table 1.
Previous occupation of constables in rural districts: 1825

Farmers	27
Traditional tradesmen	26
Labourers	23
Soldiers/seamen	19
Servants	7
Clerks	4
Grooms/coachmen/carters	5
Unknown	28
Total	140

Details from the *1828 New South Wales Census* give the occupations of those men who left the constabulary either by resignation or dismissal between 1826 and 1828. Those who can be traced took on a variety of occupations including overseer, herdsman, publican, dealer, gardener, cook, labourer and servant. Some continued with their original occupations. Robert Wellan, constable at Parramatta, alternated between working as a constable and his occupation as a tapster. Stephen Bryant, listed as a stable-keeper on his convict indent, became a groom in Sydney after resigning from the constabulary at Windsor. Others took the opportunities gained through their police work to establish themselves independently. William Wells, originally a hosier in his native county of Derby, became a publican at Parramatta after his resignation from the force. His colleague, Hugh Taylor, also made the most of his connections to establish himself as an agent at Parramatta after being dismissed. On the other hand, some constables

made a complete change once they left the force. James Attwood, a constable at Liverpool was dismissed in 1826 for repeated misconduct. His previous trade as a plasterer should have meant plenty of work in the growing township of Liverpool. However, he was working as a labourer in 1828. Similarly, Constable William Bowman, originally a coach trimmer, worked as a cook in Sydney after he resigned from the Liverpool police.

Information on the previous occupation of the Sydney constables is harder to ascertain. Many of the constables were older men who had arrived as convicts in an era when the indents contained little information. A large proportion of the Sydney police were ex-military men who, on the face of it, had the necessary skills required by the constabulary. Disciplined, and familiar with the idea of shift work and patrols, they seemed the ideal recruits. Many were initially attracted to the job but few stayed and their dismissal rates were as high as any other recruit. Three Sydney constables are to be found working as a brickmaker, tidewaiter and a weaver after their employment with the police ended, while still others worked as servants, clerks and labourers.⁶² After 1825, a greater proportion of the men employed as constables in Sydney were Irish labourers while ex-military men continued to be recruited.⁶³ Neither group could be classed as skilled although labouring could demand high wages when available. For some men police work was a temporary measure to tide them over until other work came along. Thomas Beddows had been a member of the Row Boat Guard since its inception in 1820 until 1825 when he was appointed a constable in Sydney.⁶⁴ He spent a year as a constable and after being dismissed, worked as a tailor in George Street.⁶⁵ Emancipist Christopher McGuire had been an overseer of the labourers at the Lumber Yard in Sydney for three years before setting up the colony's first calico-printing establishment. Apparently the enterprise failed as he joined the constabulary the following year in 1824. He spent two years with the Sydney police before resigning in 1826.⁶⁶

The assumption that the police recruits were the least employable of the colonial population does not seem to be borne out by the facts, at least in terms of their previous skills.

⁶² M. Sainty and K. Johnson (eds), *Census of New South Wales November 1828* (hereafter referred as *1828 Census*), (Library of Australian History, Sydney, 1985).

⁶³ In 1825, just over half of the Sydney constables were Irish Catholic whereas by 1828 they outnumbered Protestants.

⁶⁴ The Row Boat Guard had been established in 1820 to prevent smuggling on the harbour, and any unofficial contact with the convict transports before unloading prisoners.

⁶⁵ *1828 Census*.

⁶⁶ Memorial, 20 July 1820, Col. Sec., SRNSW: Fiche 3027, 4/1825A, No. 554, pp. 185-88; McGuire to Goulburn, 17 December 1823, Col. Sec., SRNSW: Reel 6056, 4/1765, p. 226; *Sydney Gazette*, 11 February 1826, p. 1.

However, some men who had worked in specific industries in Britain found it hard to find equivalent work and turned to the constabulary as a source of income. John Shutt, a ribbon weaver from London was appointed a constable at Liverpool after he received his ticket-of-leave. On being dismissed some months later he then found work in Liverpool as a groom.⁶⁷ Although only 14 years of age, Constantine Molloy stated his occupation as a mineral-water maker when transported in 1821. He was employed as a constable while still a convict at Windsor in 1823 and subsequently made a career in the police force, both at Windsor and later in Sydney.⁶⁸

Many differing paths led to the constabulary. Some men were overseers or watchmen before their appointment. Francis Sutland, a Norfolk farmer transported in 1816 was an overseer in 1821 before joining the constabulary in Sydney in 1822. Apart from a six-month break in 1828, Sutland was a constable for eleven years before resigning in 1833.⁶⁹ Similarly, Israel Chapman, appointed Principal Overseer at the Prisoners' Barracks on his arrival in 1818, later had charge of the Lumber Yard while still serving his sentence. After receiving a pardon in 1821 he established himself as a dealer in Sydney before his appointment as a constable in 1824. Chapman was Jewish and rose quickly through the ranks to become Sydney's first detective. His career lasted twelve years before being dismissed in 1836. In 1834 an incident resulted in his demotion for being drunk, neglecting his duty and insulting the First Police Magistrate.⁷⁰

In rural areas some constables had also been overseers before joining the police. William Crockett, Peter Byrne, Timothy Guerin and William Webber had all held overseer positions on various large estates owned by Throsby, Hassall, Macarthur and Redfern. Others had been government overseers in charge of bridge and road parties or clearing gangs. Owen Meehan, overseer of a road gang in the Liverpool area which had also been employed to reap wheat on farms in the Campbelltown area in 1823, was appointed a constable at Liverpool in 1828.

⁶⁷ Convict Indent, SRNSW: Fiche 644, p. 165; *Sydney Gazette*, 23 August 1828, p. 1; *1828 Census*.

⁶⁸ Convict Indent, SRNSW: Fiche 642, p. 381; 1825 Police Return, Col. Sec., SRNSW: Fiche 3302, 4/7419.1, p. 18; *New South Wales Government Gazette*, 5 May 1834.

⁶⁹ Convict Indent, SRNSW: Fiche 636, p.135; Victualling List, 8 September 1821, Col. Sec., SRNSW: Reel 6016, 4/5781, p. 66; Sydney Police Pay Lists, 1824-25, Col. Sec., SRNSW: Reel 6029, 4/7016A, pp. 15-215; *Sydney Gazette*, 6 November 1833.

⁷⁰ Wentworth to Campbell, 19 May 1820, Col. Sec., SRNSW: Reel 6050, 4/1747, p. 25; Goulburn to Wentworth, 29 November 1823, Col. Sec., SRNSW: Reel 6011, 4/3509, p. 631; C.J. Baxter, (ed.), *General Muster and Land and Stock Muster of New South Wales 1822*, (ABGR in association with the Society of Australian Genealogists, Sydney, 1987), H. King, *op. cit.*, p. 218; *New South Wales Government Gazette*, 26 May 1834, 19 January 1836.

However, he was not happy in the position and resigned some months later to take up a position as an overseer with Robert Armstrong in the Bathurst district.⁷¹

For a number of other men, the 'lottery' of assignment seemed to determine their future employment as constable. Many chief constables, especially those with land, had assigned servants and busy magistrates would have taken into account their recommendations on the character of individual assigned servants who were suitable for appointment. Frederick Williams, assigned to constable George James at Windsor, was later appointed a constable in that district. At Penrith, John Walker had been assigned to John Proctor, gaoler and later chief constable, where he was appointed some months later as constable and deputy gaoler. Thomas Thorpe, appointed constable at Evan in 1834 was the assigned servant of William Parsons, constable at Evan in 1828.⁷²

As an occupation, the job of constable might have been regarded with disdain by polite society but for many men with families to support, the work provided a steady income in times of need. Other men saw it as an extension of a job they were already familiar with, that of overseer. A few made a satisfactory career in the constabulary and still others came and went according to their own particular circumstances. To label them all as the 'dregs of society' is an overgeneralisation that this thesis is trying to address. In the next chapter, a statistical look at both Sydney and the rural districts will provide a better understanding of the profile of the colonial constable.

⁷¹ Reddall to Goulburn, 17 April 1823, Col. Sec., SRNSW: Reel 6058, 4/1769, p. 159c; *New South Wales Government Gazette*, 10 March 1828; *Sydney Gazette*, 28 May, 1828; *1828 Census*.

⁷² Convict Indent, SRNSW: Fiche 4011, p. 69; Convict Index No. 1, J. Williams, Genseek, www.hotkey.net.au/~jwilliams4/scons29c.htm, accessed 14 May 2004; Return of Convicts, 1 June 1825, Col. Sec., SRNSW: Reel 6063, 4/1786, p. 101a; Government and General Order, 24 August 1825, Col. Sec., SRNSW: Reel 6039, 4/424, p. 399; *New South Wales Government Gazette*, 5 May 1834; *1828 Census*.

Chapter 3

The colonial constable:

'Sergeant Trapstick, Jack Taketip and Samuel Smellrum'

The fictitious constables mentioned in the title above feature in a satirical publication of the 1840s.¹ By then, the sentiments expressed appear to have won general approbation. By further investigating the real constables, the authenticity of this representation can be tested. An important aspect of this thesis is a study of the individuals who made up the police force during the 1820s and 1830s, both in Sydney and the outlying settlements in the counties of Cumberland and Camden. In part, as an explanation of the status of the constabulary and the consequent objections to its actions, the historical focus has hitherto largely concentrated on its convict beginnings. Furthermore, the emphasis in many of the existing studies has been on the administration of the police force in general. This thesis seeks to examine the constabulary from the point of view of the men involved. By identifying the background of individuals within the constabulary, following their employment record and, as far as possible, their private lives, we can build a more useful profile of the colonial constable. This, in turn, offers an alternative path to understanding the composition and role of the police in colonial society.

A compilation of records of over 1000 men who were employed as constables in the period 1825 to 1835 shows there were many who washed in and out of the system. One hundred and eighty-five constables were employed in 1825, decreasing to 172 in 1831 with the new police regulations that saw many positions discontinued. A total of 196 constables, including chief constables, worked in Sydney and the police districts of Cumberland and Camden by 1835. Over a period of ten years, and divided between seven police districts, the total figure of more than 1000 constables, while great, may not seem an excessive turnover. However, the numbers are somewhat distorted as Sydney's turnover was much greater than that of most rural police districts.

The 1825 police returns from rural police districts are the starting point for my survey, listing as they do, the numbers and names of constables employed. Each district magistrate was

¹ W. Baker, (ed.), *Heads of the People. An Illustrated Journal of Literature, Whims and Oddities*, Vol. 2 (n.p. Sydney, 1847-48), p. 63.

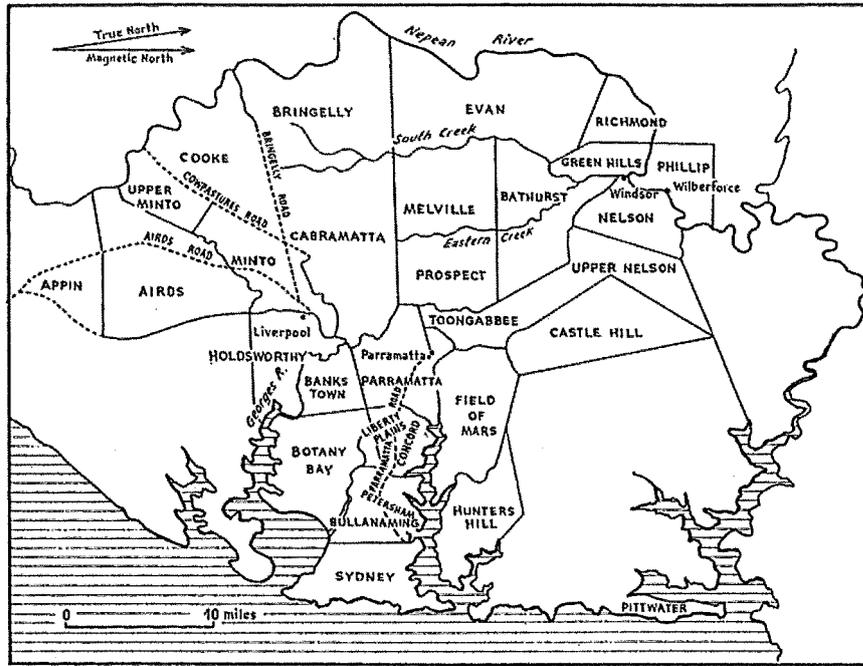
required to furnish details of the civil status of each constable, his age, date of appointment, salary, his marital status and whether he had children. A short comment on each constable's abilities was also included. Civil status, on the returns, was categorised as 'came free', 'free by servitude', 'pardoned', 'free-born', 'ticket-of-leave' and 'convict'. Character descriptions were brief and included such comments as: 'a good officer'; 'fit for duty'; 'active and efficient'; 'never been found fault with'; 'tolerable'; and 'inefficient'. It is notable that very few comments were unfavourable, although Henry Sutton, magistrate from Evan, commented disparagingly on his return that 'the above characters are as efficient as the description of persons from which they are selected.'²

The geographic composition of police districts such as Windsor, Parramatta and Liverpool are obvious but the composition of three other districts in this study requires some explanation. The Airs police district, with its centre at Campbelltown, included the two districts on either side, Upper Minto and Appin. Nearby, the police district of Camden, although outside the County of Cumberland, shared some overlap with Upper Minto. In 1825 the southern limit of the Camden police district was Bargo, although later it reached as far south as Sutton Forrest. Returns for the police districts of Cooke and Evan, which were reorganised after 1825, have been combined as the district of Penrith for ease of calculation. There was not a strict division between the districts and there was some overlap, even in 1825, with a few constables being recorded as belonging to two different districts simultaneously.

In May 1825, the Sydney police comprised 66 men.³ By 1835 the number had increased to 103. At the mid-point of this study, in 1830, the chief constable George Jilkes and his assistant, John Skinner, headed a team of ten wardsmen, twelve conductors, 54 patrolmen and four district constables. A closer look at the individuals who made up the Sydney police in 1825 gives a profile that can be measured against the men from the rural areas.

² Police Returns 1825, Colonial Secretary's Correspondence (hereafter referred to as Col. Sec.), SRNSW: Fiche 3302, 4/7419.1, pp. 2-18.

³ Sydney Police Pay Lists, 14-21 May 1825, Col. Sec., SRNSW: Reel 6030, 4/7016, pp. 225-7. All tables and charts using statistics for the 1825 Sydney police are based on this list.



County of Cumberland, 1822⁴

Table 2: Sydney 1825: Status

Came free	Colonial-born	Pardoned	Emancipist	Unknown	Total
16	1	6	30	13	66

Table 3: Sydney 1825: Age

20 years +	30 years +	40 years +	50 years +	Unknown	Total
2	12	20	10	22	66

Table 4: Sydney 1825: Religion

Protestant	Catholic	Other (Jewish)	Unknown	Total
28	18	1	19	66

Table 5: Sydney 1825: Marriage

Married	Single	Unknown	Total
48	18	0	66

⁴ From J. Waldersee, *Catholic Society in New South Wales* (Sydney University Press, Sydney, 1974), p. 87.

Most of the 'came free' category were ex-military men who had arrived with the various regiments. Joseph Craddock, a member of the Governor's Light Horse, arrived in 1816 but was not appointed a constable until 1825. He had returned to England with his regiment in 1817 but by 1821 was back in the colony and had obtained a grant of land.⁵ Joseph Pilling, Bernard West, William Maybury, and John Skinner arrived with the 48th Regiment in 1817. They also joined the Sydney constabulary between 1825 and 1826.⁶ Thomas Tynning, who arrived in 1792 with the New South Wales Corps, was well into his fifties before being appointed a constable in 1821.⁷

As an increasing number of men who had arrived in the colony with the military joined the police force, the statistics on age and religion are harder to find, giving rise to a larger than usual number in the 'unknown' category. The percentage of Irish Catholics in the force also increased after 1825. Notable numbers of Irishmen had joined the constabulary as early as 1808.⁸ During the intervening period to 1825, the chief constables John Redmond and Thomas Dunne had been Irish and had possibly influenced the choice of constables. By 1828, just over half the men employed in Sydney were Irish Catholics.⁹ It has been suggested that restrictions on individual autonomy rather than specific brutality, rankled most with Irish convicts and led large numbers of Irish men to take up positions as constables and overseers.¹⁰

Another reason put forward to explain the preponderance of the Irish was that by taking on the role of constable they could regulate and protect their own communities.¹¹ Michael Dwyer, the Wicklow Chieftain and leader of the United Irishmen transported to the colony in 1806, was offered a position as constable at Bankstown in 1810 and given a cottage.¹² Worried by the aggregation of Irish in this settlement and the possibilities for rebellion, the authorities sought to impose control by employing Irish to police Irish. Although there is no evidence of the Sydney constables performing this role within their community, a degree of control could

⁵ List of Persons Holding Civil and Military Employment, 1 January 1816, Col. Sec., SRNSW: Reel 6045, 4/1734, p. 11; Passenger List, 4 April 1817, Col. Sec., SRNSW: Reel 6046, 4/1737, pp. 274-6; Return of land Grants, 1811-1825, Col. Sec., SRNSW: Fiche 3266, 9/2652, p. 62; Sydney Police Pay Lists, 17 February 1825, Col. Sec., SRNSW: Reel 6030, 4/7016D, p. 79.

⁶ The 48th Regiment arrived in the *Martha* in 1817; Sydney Police Pay Lists, 1824-25, Col. Sec., SRNSW: Reel 6029, 4/7016A-D, p.145, 351, 339; *Sydney Gazette*, 11 February 1826, p. 1.

⁷ Victualling List, 8 September 1821, Col. Sec., SRNSW: Reel 6016, 4/5781, p. 59.

⁸ A.M. Whitaker, *Unfinished Revolution: United Irishmen in New South Wales, 1800-1810* (Crossing Press, Sydney, 1994), p.192.

⁹ The numbers had doubled from 27 percent in 1825 to 54 percent in 1828.

¹⁰ Whitaker, *op. cit.*, p. 192.

¹¹ *Ibid.*

¹² Sydney Howard Sheedy Papers, Mitchell Library: CY MSS 1337/1, pp. 95-7.

have existed. There is evidence that certain Sydney police intervened on behalf of family members who suffered ill-treatment at the hands of their masters. Michael Sheedy, a conductor with the Sydney police, successfully brought a master at Sutton Forest to account for badly treating female convict servants in 1834.¹³ Although not immediate members of his family, they were related to Sheedy.

What is particularly noticeable is the degree of interrelationship amongst the Irish in the Sydney police. Many were friends of, or related to, the original United Irishmen transported between 1800 and 1806. James Dwyer, who had arrived with his convict mother, was assistant chief constable in the Sydney police until his resignation in 1835. He was a nephew of Michael Dwyer, leader of the United Irishmen.¹⁴ The Sheedy, Dwyer and Devlin family members feature prominently in the colonial police and it is probable that their influence contributed to the appointment of many of the Irish during the 1820s and 1830s.

Another factor in the appointment of so many Irish was the greater numbers of Irish convicts who were becoming free as a result of increased transportation from Ireland in the decade before 1828. From 1803 until 1818, barely 1000 convicts arrived from Ireland. By contrast, nearly 8000 arrived between 1818 and 1829.¹⁵ Most Irish convicts had sentences of seven years so within a comparatively short time they had to support themselves. A serious economic depression and a long drought that beset the colony from 1826 through to 1830 meant there were fewer opportunities for employment in country areas for the Irish who, before their conviction, had largely been agricultural workers, and many freed convicts flocked to Sydney in search of work.¹⁶ The underskilled Irish may have found steady jobs in the police force very attractive. Agricultural labourers were the preferred class of men for appointment to the constabulary in England, so the Irish emancipists should have made ideal recruits.¹⁷

A summary of the profile of the Sydney constables in 1825 shows that a large proportion were married. Forty-eight of the 66 men employed in May 1825 had wives (73 percent) and 34

¹³ *Ibid.*, pp. 170-6.

¹⁴ *Ibid.*, p. 13.

¹⁵ Compiled from A.G.L. Shaw, *Convicts and Colonies: A Study of Penal Transportation from Great Britain and Ireland to Australia and Other Parts of the Empire* (Faber and Faber, London, 1971), pp. 363-6.

¹⁶ B.H. Fletcher, *Ralph Darling: A Governor Maligned* (Oxford University Press, Melbourne, 1984), pp.166-7; Rossi Report to Darling, 7 October 1826, Sydney, 1914, *HRA*, Vol. XII, p. 679.

¹⁷ D. Taylor, *The New Police in Nineteenth-Century England: Crime, Conflict and Control* (Manchester University Press, Manchester, 1997), p. 47.

(71 percent) of these marriages had one child or more. The authorities may have preferred married men as recruits, given the relative stability marriage and children provided. With families depending on their income, married men may also have been less likely to jeopardise their positions by misbehaving. Many of the constables had been employed for long periods (see Table 31) and the majority were aged in their forties and fifties. The average length of time spent in the colony before being appointed to the constabulary was twelve years. All Sydney constables were appointed after their sentences had expired or were in receipt of pardons.

On leaving Sydney for Parramatta, the next district in the survey, a traveller at the time commented on the 'pretty little white circular buildings at intervals along the road'. Outside each building hung a sign, 'A Constable Here', giving the traveller 'assurance of safe travelling'.¹⁸ Parramatta, the oldest and largest of the towns in the study area was the site of the first farming experiment at Rose Hill in 1789. By 1794 many ex-convicts had been successfully settled on small farms in the area around the growing township and they were supplying enough produce to maintain the whole settlement.¹⁹ When Francois Peron visited Parramatta in 1802 it was already a large town with 180 houses and a population of about 1500, including 300 troops garrisoned at the Military Barracks. According to Peron, who was very approving of the industrious settlers, the population was 'almost all engaged in the cultivation of the land, the care of flocks and the practice of a small number of mechanical arts'.²⁰ Parramatta became an important administrative centre and the site of many government institutions and by 1824 boasted a population of 4500, of whom 1700 were convicts.²¹ When Peter Cunningham visited Parramatta in 1826, he found a well-laid out town with streets 'neither paved nor lighted but patrolled by a regular watch'.²²

Chief Constable John Thorne was at the head of a force of 34 men at Parramatta in August 1825.²³ He was the colonial-born son of William Thorne, a convict who had arrived in 1790 and who had been appointed a constable in Sydney in 1810.²⁴ Deputy chief constable at Parramatta was William Wells, who held a conditional pardon granted for his part in capturing

¹⁸ Anonymous, 'A Ride to Bathurst, 1827: Six Letters', in G. Mackaness (ed.), *Fourteen Journeys Over the Blue Mountains of New South Wales 1813-1841* (Horwitz and Grahame, Sydney, 1965), p. 170.

¹⁹ T.M. Perry, *Australia's First Frontier* (Melbourne University Press, Melbourne, 1963), p. 20.

²⁰ F. Peron, *Voyage of Discovery to the Southern Lands* (Friends of the State Library, Adelaide, 2006), p. 304.

²¹ 1824 Muster, Col. Sec., SRNSW: Reel 6060, 4/1755, p. 140a.

²² P. Cunningham, *Two Years in New South Wales [1827]* (Angus and Robertson, Sydney, 1966), p.54.

²³ Parramatta Police Pay Lists, 7 August 1825, Col. Sec., SRNSW: Reel 6030, 4/7017B, p. 261.

²⁴ William Thorne was still serving with the Sydney Police in 1825.

bushrangers in the Parramatta area in 1822.²⁵ Eight district constables were situated in the outlying areas of Parramatta at Prospect, Pennant Hills, Field of Mars, Castle Hill, Seven Hills, at the Northern Boundary, and on the Sydney Road. The remainder of the constables were stationed in Parramatta and were employed in conveying prisoners to and from Liverpool and Emu Plains and patrolling the town and district both during the day and throughout the night. They were also responsible for delivering correspondence to the various government establishments at Liverpool and Emu Plains. A lock-up keeper, a court messenger and a scourger completed the contingent of police at Parramatta.

A statistical breakdown of the police at Parramatta in 1825 gives a clear picture of the civil status, marital status, religion and age of the men employed. Only one had come to the colony as a free man: Lewis Campbell arrived with the 48th Regiment in 1817, and was appointed a constable in April 1825. Most of the rest were emancipists while ten were prisoners, five having tickets-of-leave. One of the ticket-of-leave constables was William Bragge who had previously been employed as an apothecary at the hospital at Parramatta.²⁶ Bragge, who had arrived in 1819 with a 14-year sentence, was appointed in 1825 and continued to work as a petty constable until 1836. He was then appointed district constable at Ryde, where he stayed for many years until his retirement. He died in 1861, aged 72 years.²⁷ The interest in Bragge lies not only in his long career as a policeman, but also in his marriage. He married Ann Rumsby, who was the female convict at the centre of a scandal at Parramatta in 1822 involving a number of high profile men, including magistrate Dr Henry Grattan Douglass, Dr James Hall, and the Reverend Samuel Marsden. In the middle of the uproar, and with numerous suitors claiming her hand, Ann's master, Douglass had singled out William Bragge as the most suitable claimant and banns had been announced in the church. Ann supposedly claimed that marrying Bragge 'would be her ruin'.²⁸ However she did marry him and they went on to have eight children during a 30-year marriage.²⁹

²⁵ Government and General Order, 1 August 1822, Col. Sec., SRNSW: Reel 6039, 4/424, p. 90.

²⁶ C.J. Baxter, (ed.), *General Muster and Land and Stock Muster of New South Wales 1822* (hereafter referred to as *1822 Muster*) (ABGR in association with the Society of Australian Genealogists, Sydney, 1987).

²⁷ M.R. Sainty and Johnson, K.A., (eds), *Census of New South Wales November 1828* (hereafter referred to as *1828 Census*) (Library of Australian History, Sydney, 1985); *Government Gazette*, 1836; *History of the Bragge Family, 1797-1972* (Weewak and Wiru Press, Port Moresby, 1973), p. 108.

²⁸ For a full explanation of the circumstances of the case see, C.H. Currey, *Sir Francis Forbes: The First Chief Justice of the Supreme Court of New South Wales* (Angus and Robertson, Sydney, 1968), pp. 51-68.

²⁹ *History of the Bragge Family, 1797-1972*, *op. cit.*, p. 108.

Table 6: Parramatta 1825: Status

Came free	Colonial-born	Pardoned	Emancipist	Ticket-of-leave	Convict	Total
1	4	8	11	5	5	34

Table 7: Parramatta 1825: Religion

Protestant	Catholic	Total
25	9	34

Table 8: Parramatta 1825: Age

20s	30s	40s	50s	60s	Unknown	Total
2	11	9	8	2	2	34

Table 9 Parramatta 1825: Marriage

Married	Single	Unknown	Total
20	14	0	34

Twenty (59 percent) of the men were married or had de facto partners and fourteen of those relationships had one or more children. The percentage of married men at Parramatta is slightly lower than at Sydney. Records from the Parramatta police in 1825 provide some evidence of literacy amongst the constabulary. At the end of each week the men signed the pay list and from this we can see that fourteen (41 percent) of the constables could sign their names. Whether their literacy levels extended any further is unknown but the handwriting of most indicates a degree of education.³⁰ These Parramatta police records provide the only hints regarding literacy amongst the constabulary, as the literacy level of each constable was not recorded on appointment or in any subsequent police return. Although there are some pay records for the Sydney police from the 1820s, none features signatures. In other areas, no equivalent records survive so it is impossible to compare the literacy levels.

It is interesting to note that all eight of the district constables were Protestant, married, and had children. At least six of the district constables owned or leased some land. Two district constables were born in the colony and one came free, while five of them were emancipists. It would appear that, while civil status was not a determining factor in their appointment, stability in their personal lives and a vested interest in, and knowledge of, their district played a large

³⁰ Parramatta Police Pay Lists, 23-29 April 1825, Col. Sec., SRNW: Reel 6030, 47017A, p. 151.

part in their admission to senior positions. Two of the district constables were young, colonial-born men with land, whose first appointment was to the position of district constable, while the rest were older emancipist settlers who had been in the force for many years.³¹ That they were all Protestant could be a result of the greater number of Protestant, as opposed to Catholic, men marrying.³² There is no evidence of a deliberate policy by the government to exclude Catholic men from promotion within the police force. The ratio of Catholic (27 percent) to Protestant (73 percent) constables at Parramatta remained the same from 1825 until at least 1830. This figure reflects almost exactly the ratio of Catholics to Protestants in Parramatta, as revealed in the 1828 Census where the total of recorded Catholics was 27.7 percent of the population.³³ The mix of religious affiliation in the constabulary was certainly not an issue in Parramatta, unlike Sydney.

Ages of the Parramatta constables ranged from 20 years to 66 years, although the majority of men were in their thirties and forties. Only the colonial-born men were in the twenty-to-thirty age group. On average, the Parramatta constables were younger and had spent less time (seven years) in the colony than the Sydney men. Comparing the age of constables in Sydney and Parramatta to the main age demographic of the colony, it becomes clear that constables in these districts were somewhat older than the average. According to 1828 statistics, the twenty-to-thirty age group formed the bulk of the male population colony-wide, whereas the constables were clustered in the thirty-to-forty age band.³⁴ Although there was no stated regulation, transported men had first to serve their sentences or earn conditional pardons before they were employed as constables in Sydney and Parramatta, thus delaying the age of appointment. Ex-military men who joined the constabulary were also older, having served some years before their regiments were disbanded and they were allowed to settle in the colony.

The Windsor police district, incorporating the townships of Windsor, Wilberforce and Richmond and outlying areas along the Hawkesbury River, was first settled in 1794 with the establishment of small farms granted to the ex-military and ex-convict classes. Although periodic flooding meant some variation in population, by 1825 it was an established, productive

³¹ For example, Thomas Bates, who had arrived on the *Hillsborough* in 1799 was first appointed a road constable in 1810, and district constable some ten years later. Memorial, January 1810, Col. Sec., SRNSW: Fiche 3001, 4/1821 No. 13; Douglass to Goulburn, 30 July 1822, Col. Sec., SRNSW: Reel 6053, 4/1756, p. 47.

³² M.J. Belcher, 'The Child in New South Wales Society: 1820-1837', PhD, University of New England, Armidale, 1982, p. 158. Protestant families comprised 69 percent of the population compared to 27 percent for Catholic.

³³ J. Waldersee, *Catholic Society in New South Wales 1788-1860* (Sydney University Press, Sydney, 1974), Table 20, p. 278.

³⁴ Belcher, *op. cit.*, p. 126.

settlement. Convicts were sent to Windsor to be distributed, either as assigned farm labourers or to road and clearing parties. However, in 1824 convicts made up only 30 percent of the population of over 5000 in the Windsor, Wilberforce and Richmond area, the lowest percentage of all districts in this study. Another distinctive feature of the region was the large number of colonial-born children in the area — 22 percent of the population in 1824.³⁵ The Hawkesbury was a region of small farming families, and boasted the highest population in the colony outside Sydney. The township of Windsor was the administrative centre of the region and contained a gaol, court-house, military and convict barracks. Nearby, the hamlet of Richmond boasted 'many ornamental cottages' and numerous small allotments along the river.³⁶

The police force at Windsor in 1825 consisted of Chief Constable John Howe, a free settler, and 17 town constables. Nine district constables and six ordinary constables, appointed to the outer areas of Richmond, North Richmond, Pitt Town, Lower Pitt Town, Cornwallis, Wilberforce, Lower Wilberforce, Lower Branch and Portland Head, completed the police presence on the Hawkesbury. The Windsor town watch was employed in guard duties and the escort of prisoners to and from their masters and to the courts at Parramatta, Penrith and Wiseman's Ferry. Not only were half the men on patrol each night in the township, they also had to patrol and scour the bush for runaways.³⁷ Unlike Parramatta and Sydney, many more of the constables were classed as prisoners, despite the relatively low number of convicts in the region's population. From a total of 33 men employed at Windsor and surrounding districts in 1825, thirteen were designated prisoner and three had tickets-of-leave, while 14 were free.

Nearly all the convict constables were employed on the town watch where they could be supervised more closely by some of the old hands who were free. James Bullock, a discharged soldier, had charge of the town watch and was described as a steady, correct man.³⁸ James Feather and James Tester, both with conditional pardons, had 18 years' experience as town constables, and Thomas Donnelly, freed by servitude, had been a constable for ten years. These men were all in their forties and fifties and they patrolled alongside young convict men in their twenties who, in the main, had been employed for two years or less. Two old discharged soldiers had also recently been attached to the town watch. At 59 and 69 years of age, their

³⁵ 1824 Muster, Col. Sec., SRNSW: Reel 6060, 4/1755, p. 140a.

³⁶ J. Raymond, *The New South Wales Calendar and General Post Office Directory 1832* [1832] (The Trustees of the Public Library of New South Wales, Sydney, 1966), p. 67.

³⁷ Windsor Police Return, 8 November 1830, Col. Sec., SRNSW: Reel 2282, 4/1103.2, p. 34-5.

³⁸ *Loc. cit.*

appointments seem odd and cannot be explained unless their ages were incorrectly recorded or they were appointed to some sort of stationary duties, perhaps within the watch-house.

Table 10: Windsor 1825: Status

Came free	Colonial-born	Pardoned	Emancipist	Ticket-of-leave	Convict	Total
4	4	3	6	3	13	33

Table 11: Windsor 1825: Age

20s	30s	40s	50s	60s	Unknown	Total
15	4	9	3	1	1	33

Table 12: Windsor 1825: Religion

Protestant	Catholic	Unknown	Total
22	6	5	33

Table 13: Windsor 1825: Marriage

Married	Single	Unknown	Total
18	14	1	33

Because of the higher number of younger convict men employed, fewer of the men at Windsor were married. Fifty-five percent of constables were married compared to 59 percent for Parramatta and 73 percent for Sydney. Another difference in the profile of the Windsor men is age. On average, the men at Windsor were much younger, with over half of them in their twenties and thirties, again, because of the higher proportion of convict prisoners in the complement. The religious affiliation remains roughly the same as at Parramatta with 22 Protestant and six Catholic, although the status of five men is unknown. As with the case at Parramatta, all district constables were Protestant, and all but three were married with children and had some land.

The police district of Liverpool centred on the township of that name but also included the neighbouring district of Lower Minto. Liverpool, one of the four principal towns in the colony, was situated on the Great South Road, and had been established by Governor Macquarie in 1810. By 1825, the substantial military and convict establishments were being reduced in size, although it was still a large distribution centre for convicts being assigned further south to the more outlying districts, as well as a depot for all the road gangs operating south from

Parramatta to the Cowpastures.³⁹ Some five miles before the town of Liverpool was the area known as Irishtown where many small grants had been made to emancipists. Many of the settlers lived in bark huts but there were some houses.⁴⁰ Liverpool itself was described by a traveller in 1834, as 'One of the few places in the Colony where a traveller may fancy himself in some parts of Europe, surrounded as he is by drays, teams, persons on horseback and in vehicles, combining the appearance of active agriculture and thriving village life'.⁴¹ With a population of over 800 convicts employed on government building projects, road and clearing gangs, the number of runaways, and the consequent rise in bushranging activities in the area, meant the Liverpool police were kept busy. Sixty-six percent of the constables at Liverpool were convict prisoners and ticket-of-leave men, reflecting the composition of the population where those two categories made up 57 percent of the regional population in 1825.

William Ikin was the chief constable in charge of 14 men, eight of whom were town constables and one road constable. Two more were based at Lower Minto, while Holdsworthy, Cabramatta and Botany each had one constable apiece. In some ways, the profile of the typical constable at Liverpool bears some similarity to those employed at Windsor. Although the majority of the constables were either ticket-of-leave or freed by servitude, there was a substantial number who were still convicts under sentence. All the town constables except one, were convict or ticket-of-leave, as was the case at Windsor. The district constable at Cabramatta was John Attwood, also a convict, while long-term, land-holding emancipists James Moss and Michael Aherne held the post of district constable at Botany and Holdsworthy respectively.⁴² As far as I can tell, John Attwood was the only serving convict appointed to the position of district constable. A plasterer by trade, he was convicted, together with his older brother James at Southampton, and sentenced to transportation for life. They arrived in 1818, and three years later both were appointed constables at Liverpool. Unusually, as he was unable to read or write, John was appointed district constable and poundkeeper at Cabramatta in 1823 when he was 27-years old. Married to a colonial-born woman, Mary Bell, he continued in his position until he

³⁹ C.J. Keating, *On the Frontier: A Social History of Liverpool* (Hale and Iremonger, Sydney, 1996), p. 48.

⁴⁰ Raymond, *op. cit.*, p. 52.

⁴¹ J. Lhotsky, *A Journey from Sydney to the Australian Alps* [1834] (Blubber Head Press, Hobart, 1979), p. 70.

⁴² John Moss had arrived in the colony as a twelve-year old in 1791 and Aherne, now with a conditional pardon, had arrived in 1802. Both owned land and had joined the police in 1822 and 1824 respectively. Convict Indents, SRNSW: Fiche 616, p. 337; *1828 Census; 1822 Muster; Liverpool Police Return 1825*, Col. Sec., SRNSW: Fiche 3302, 4/7419.1, p. 14.

died unexpectedly, in 1828.⁴³ Although described as a 'good character' on the 1825 police return, there are no other indications in the records that might account for his promotion.

Table 14: Liverpool 1825: Status

Came free	Colonial-born	Pardoned	Emancipist	Ticket-of-leave	Convict	Total
2	0	0	3	4	6	15

Table 15: Liverpool 1825: Age

20s	30s	40s	50s	Total
5	6	4	0	15

Table 16: Liverpool 1825: Religion

Protestant	Catholic	Unknown	Total
8	2	5	15

Table 17: Liverpool 1825: Marriage

Married	Single	Unknown	Total
9	6	0	15

The next districts to be considered are those of Bringelly, Cooke and Evan, which lay at the foot of the Blue Mountains, west of Parramatta and Liverpool. Bringelly, Cooke and Evan are combined under the title of Penrith. Sparsely populated in 1825, with no village or township yet established, Cooke and Bringelly consisted mostly of large estates granted to the established graziers and pastoralists from 1811 through to 1821. John Blaxland received nearly 7000 acres at Bringelly in 1813. Other recipients of large grants were Surveyor General John Oxley, William Wentworth and Alexander Riley.⁴⁴ Government policy dictated that after 1822 no large grants be made to emancipist settlers and the nature of the land meant small grants would be unviable. Consequently, very few small grants were made, so the number of emancipist settlers in these areas was relatively small.⁴⁵

Sir John Jamison, a notable character in colonial society, was one of the largest landholders with 19500 acres scattered throughout the colony. In 1828 he had 1800 cattle on his

⁴³ Convict Indents, SRNSW: Fiche 639, p. 31.

⁴⁴ Macquarie to Goulburn, Enclosure: List of Land Grants, 24 November 1821, *HRA*, Vol. X, p. 560-5.

⁴⁵ Perry, *op. cit.*, p. 24.

property at Evan where he lived and entertained lavishly at his palatial home, Regentville. Jamison opposed Governor Macquarie's 'levelling measures' aimed at elevating emancipists to the higher strata of colonial society. He was also a member of the Bench of Magistrates at Penrith and gave evidence to the 1835 inquiry into police and gaols, stating that it was difficult to find 'qualified and trustworthy men to fill the office of constable'.⁴⁶ Evan was not a district where exclusives and emancipists mingled easily or often.

In 1825, Robert Lowe was an honorary magistrate at Cooke and the court assembled at his property, Birling, where two constables were stationed. The other constables were widely separated and stationed on various estates. Emancipist George Hambridge, 'a trusty and efficient constable' held the title of Principal Constable at Cooke and was stationed at Rowland Hassell's farm.⁴⁷ Ex-convict Robert Smith was district constable at Bringelly, later promoted to chief constable at Penrith in 1830. A servant in Bristol at the time of his conviction, 22 year-old Smith arrived on the *Sir William Bensley* in 1817. At the end of his seven-year sentence, he was appointed a constable at Bringelly where he had been assigned on his arrival in the colony.⁴⁸

In 1825, a separate police return was lodged for Evan, which covered the area around Penrith. The village at the time consisted of a courthouse and lock-up, a blacksmith shop and an inn. As a staging post for stock travelling to and from the western districts, Penrith was, in 1825, a frontier outpost.⁴⁹ John Purcell held the position of chief constable at Evan. Lieutenant Purcell had arrived in the colony in 1810 with the 73rd Regiment and was appointed commandant of the penal settlement at Newcastle. A year later, he was relieved of his command and left Newcastle under a cloud in 1811. Questions were raised about the disappearance of many of the government cattle at Newcastle while Purcell's private herd had increased dramatically at the same time. The Governor's displeasure was made known to Purcell and he was replaced. In 1812 he was granted 600 acres in the district of Cooke and later appointed chief constable for

⁴⁶ *1828 Census*; D. Pike, (ed.), *Australian Dictionary of Biography*, Vol. 2 (Melbourne University Press, London, 1967), pp. 10-12; Select Committee on Police and Gaols (New South Wales Legislative Council, V & P), 1835, p. 336.

⁴⁷ Bringelly Police Return 1825, Col. Sec., SRNSW: Fiche 3302, 4/7419.1, p. 14; *1828 Census*.

⁴⁸ Convict Indent, SRNSW: Fiche 637, p. 283; List of Convicts Forwarded to Bringelly, 21 March 1817, Col. Sec., SRNSW: Reel 6005, 4/3496, p. 78; Government and General Order, 4 February 1824, Col. Sec., SRNSW: Reel 6039, 4/424, p. 218; Return of Constables at Bringelly and Cooke 1830, Col. Sec., SRNSW: Reel 2282, 4/1103.2, p. 29.

⁴⁹ *Penrith 1871-1971* (Centenary of Local Government, Penrith City Council, 1971), p. 21.

the district of Evan in 1823.⁵⁰ The contingent of police at Evan consisted of a chief constable and five constables stationed at Penrith, one constable at Castlereagh, one at Emu Plains, one at South Creek and another on the northern boundary of the district.

The combined force of 15 men in Cooke, Bringelly and Evan policed an area of some 450 square miles. Parts of this area were notorious for bushranging, in particular the Bringelly district where help had to be sought on occasions. In 1830, several constables were sent from Camden for three weeks to help apprehend bushrangers.⁵¹ While this was not a common occurrence, it does point to the difficulties faced by the constables in policing such a large area. The profile of the constables is similar to those at Liverpool with a greater concentration of convict and ticket-of-leave men employed than in the more populous areas where magistrates had more choice in the types of people appointed. Furthermore, an early government decision not to make small land grants to emancipists in these areas meant that Penrith stands out as the only district where emancipist constables were in a minority. Penrith also included the Emu Plains convict establishment where a steady supply of ticket-of-leave and convict overseers and watchmen from that establishment was available for appointment to constable.

Table 18: Penrith 1825: Status

Came free	Colonial-born	Pardoned	Emancipist	Ticket-of-leave	Convict	Total
1	0	1	4	2	7	15

Table 19: Penrith 1825: Age

20s	30s	40s	Unknown	Total
2	7	5	1	15

Table 20: Penrith 1825: Religion

Protestant	Catholic	Total
10	5	15

Table 21: Penrith 1825: Marriage

Married	Single	Unknown	Total
7	7	1	15

⁵⁰ Macquarie to Castlereagh, Enclosure No. 31, List of Persons Holding Civil and Military Employment, 30 April 1810, *HRA*, Vol. VII, p. 328; Col. Sec., Campbell to Purcell, 23 August 1811, Col. Sec., SRNSW: Reel 6003, 4/3492, pp. 55-7; Campbell to Purcell, 31 October 1811, Col. Sec., SRNSW: Reel 6002, 4/3491, pp. 114-16; Macquarie to Goulburn, Enclosure, List of Land Grants, 24 November 1821, *HRA*, Vol. X, p. 564.

⁵¹ Bench of Magistrates, Stonequarry, Letters Sent, 29 March 1830, SRNSW: Reel 2723, 4/7574, n.p.

The proportion of married constables in these districts is the lowest of all the areas, at 47 per cent, reflecting not only the high convict component of the force but the scarcity of marriageable women in the area. Only 54 female convicts resided in the districts of Bringelly and Evan in 1824 out of a total population of 2377. Numbers of colonial-born women were also very low — a total of 84 for both police districts.⁵² The constables were mostly aged in their thirties and forties with only two in their twenties. As is the case with all other rural areas, with the exception of Airds, the majority of men were Protestant with only five Catholics employed. The fact that all magistrates and all chief constables, except Malachy Ryan at Appin in the Airds district, were Protestant may have had some bearing on the disproportionate numbers of Protestants and Catholics employed in rural districts.

Airds is the next police district to be considered, situated at the southern end of the County of Cumberland and incorporating the districts of Appin to the east and Upper Minto to the west. Campbelltown was the largest settlement and nominal administrative centre for the area. First settled around 1810 by the larger landholders searching for newer pastures, by 1813 there was a number of smaller settlers living around the larger estates belonging to Charles Throsby, John Oxley, William Redfern, Robert Townson and William Browne. In 1825 the population had grown to such an extent that the resident magistrate at Campbelltown requested the building of a gaol and courthouse as:

The surrounding country being so thickly populated and [from] other causes there is generally each week a concourse of more than one hundred people in attendance at Campbell Town Court.⁵³

The area was suitable for wheat and maize crops and the settlers were soon supplying the government with cereals. Two hundred-and-sixteen people lived around the small settlement of Campbelltown in 1824, about half of whom were unskilled labourers. Another quarter worked on the land and the remainder were tradespeople. The population of all the districts was 1973 in 1824 of whom 1003 were assigned convicts and a further 509 were emancipists.⁵⁴ A particular feature of the Airds district was the number of small settlers of Irish origin. A few of the early settlers, encouraged to take up land by their compatriot, Deputy Surveyor James Meehan, were political prisoners, Irish rebels transported for their part in the 1798 uprising. By 1825, marriage,

⁵² 1824 Muster, Col. Sec., SRNSW: Reel 6060, 4/1775, p. 140a.

⁵³ Airds Magistrates to Goulburn, 9 February 1825, Col. Sec., SRNSW: Reel 6062, 4/1783, pp. 29-29a.

⁵⁴ C. Liston, *Campbelltown: The Bicentennial History* (Allen and Unwin, Sydney, 1988), p. 49.

bonds of association, and kinship ties had expanded to give the population of the area a distinctive Irish flavour.⁵⁵

Campbelltown, at the junction of the Great South and Illawarra roads, was the site of the local court and the few existing records reflect the preoccupation of the court with runaways, bushrangers and control of assigned servants. A chief constable and three ordinary constables were stationed at Campbelltown alongside a corporal and two troopers from the mounted police. Another district constable and two ordinary constables policed the Upper Minto area, while in Appin, Chief Constable Malachy Ryan had charge of two men and one other based in the Illawarra. Robert Burke, chief constable at Campbelltown in 1825, was newly appointed to the position and would remain in his post until resigning in 1836. He had arrived in the colony in 1818 with a 14-year sentence and was first appointed a constable at Liverpool in 1821. Just 26 years-old, and holding a ticket-of-leave, he was recommended by local magistrate, Thomas Reddall, for the position of chief constable. Reddall described him as 'A well-qualified young man – having been a long time one of the most active officers I have known – his moral conduct is likewise good.'⁵⁶ He had charge of three ordinary constables, all men older than himself.

Table 22: Airds 1825: Status

Came free	Colonial-born	Pardoned	Emancipist	Ticket-of-leave	Convict	Total
0	2	2	4	5	0	13

Table 23: Airds 1825: Age

20s	30s	40s	Total
4	6	3	13

Table 24: Airds 1825: Religion

Protestant	Catholic	Total
6	7	13

Table 25: Airds 1825: Marriage

Married	Single	Total
11	2	13

⁵⁵ Waldersee, *op. cit.*, pp. 123-9. The movement of Irish into the Airds district and beyond is well documented in this study.

⁵⁶ Reddall to Brisbane, 9 February 1825, Col. Sec., SRNSW: Reel 6062, 4/1783, p. 31

The profile of the constables in Airds, Appin and Upper Minto districts in 1825 is substantially different from that of other rural districts. Thirteen men were employed, only five of whom had a ticket-of-leave. Two were born in the colony of convict parents. The rest were emancipists or had conditional pardons. Only two men were single; the other eleven were married and seven had families. The religious affiliations of the constables were also very different from other districts, reflecting the population profile of the area, with just over half the constables being Irish Catholics. With just 31 percent of the population being assigned convicts, Airds was one of the few districts with a large settled emancipist component from which constables could be drawn.

The last 1825 police return to be considered in this study came from Camden, some 60 kilometres southwest of Sydney. Originally known as the Cowpastures, the area had been the home of a large herd of wild cattle, descendants of the original animals that had escaped from the first settlement in 1788. However, with the grant of a large area of land on the southern side of the Nepean River to John Macarthur in 1805, settlement slowly expanded, and by 1825 several large estates and numerous smaller farms dotted the landscape. Unlike the other police districts, there was no village: the village of Camden itself was not established until 1836.⁵⁷ Assigned convicts on the five large estates made up the majority of the population with a scattering of ex-convict settlers on the northern side of the river.⁵⁸

Camden differed from the other police districts in that 70 percent of the population were convicts serving their sentence. As a percentage of the population, this number was far larger than for other areas. The emancipist category was also the smallest for all police districts with only ten percent fitting that description.⁵⁹ Given the limited choice for appointment of free men to the constabulary at Camden, it is notable that no convict prisoner, and only one man with a ticket-of-leave appear on the 1825 return. Four men held conditional pardons, one was born in the colony and the other was free by servitude. This anomaly perhaps demonstrates the close attention and involvement of the magistrates in Camden, especially the Macarthurs, in the choice and appointment of their constables. John Robinson, the only ticket-of-leave man, had been a servant to John Macarthur, who testified that Robinson was a 'sober, honest and industrious

⁵⁷ A. Atkinson, *Camden* (Oxford University Press, Melbourne, 1988) p. 35.

⁵⁸ *Ibid.*, p. 20.

⁵⁹ 1824 Muster, Col. Sec., SRNSW: Reel, 6060, 4/1755, p. 140a.

character'.⁶⁰ Colonial-born John Higgins had also worked for the Macarthurs before his appointment to the Camden constabulary. Higgins had grown up on his father's small holding on the north side of the Nepean. Higgins's father had been a member of the New South Wales Corp before being granted land on the Nepean, marrying a convict woman and settling on his 50 acres. John, his father, and sister Sarah, worked for the Macarthurs on their Camden estate.⁶¹

With the owners of the large estates beginning to reside more or less permanently on their properties, the beginnings of law and order had arrived in this outpost of settlement in 1825. Cawdor, about four kilometres south of the Cowpastures Bridge, was the site of the Court of Petty Sessions and the 1825 Police Return listed the police contingent as consisting of one district constable and six ordinary constables, one of whom was an Aboriginal tracker named Bundal. The Macarthurs had tried to have Bundal and another young Aboriginal man appointed as constables and had included them on the police return; however their appointment was refused by Governor Brisbane.⁶² Another constable was stationed further south at Bargo. District constable and gaoler Edward Fletcher, and William Scott, constable at Bargo, both long-time policemen, held conditional pardons. It was not until 1828 that any more ticket-of-leave men were appointed constables and no serving convicts were appointed until 1832. Another major difference from other areas is the young age of the constables in the 1825 return. This could be also because of the close oversight of the magistrates in the choice of men to be appointed. Younger men were fitter, more active and more able to undertake the onerous duties of constable.

Table 26: Camden 1825: Status

Came free	Colonial-born	Pardoned	Emancipist	Ticket-of-leave	Convict	Total
0	1	4	1	1	0	7

Table 27: Camden 1825: Age

20s	30s	40s	Total
5	1	1	7

⁶⁰ Macarthur Testimony, 18 September 1824, Col. Sec., SRNSW: Reel 6027, 4/1716.1, pp. 170-1.

⁶¹ Australia's Red Coat Settlers, <http://freepages.history.rootsweb.com>

⁶² Atkinson, *op. cit.*, p. 229.

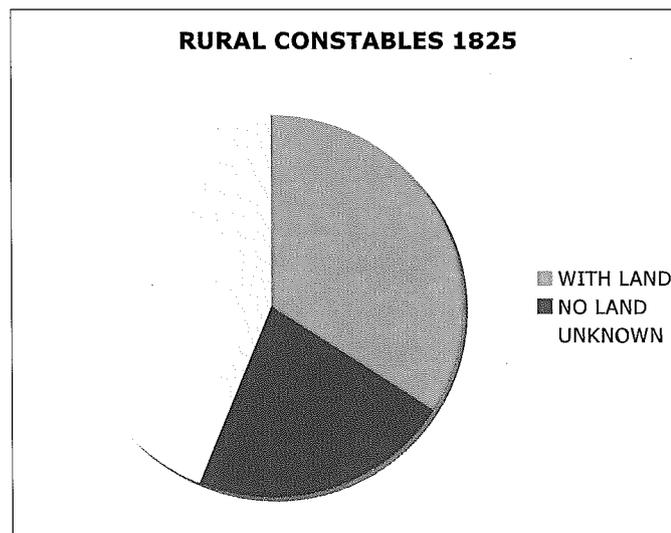
Table 28: Camden 1825: Religion

Protestant	Catholic	Total
5	2	7

Table 29: Camden 1825: Marriage

Married	Single	Total
4	3	7

In many rural areas it was often the ex-convict settler who applied for and was appointed to the position of constable in his local area. In the district of Airds, for example, seven of the 13 men who were employed as constables in 1825 worked the land either on clearing leases or on their own grants.⁶³ In 1830, eight of the Windsor constables owned or rented small areas of land. At Camden, apart from John Blake who held a clearing lease, and Edward Fletcher who owned 40 acres, the other constables only had small blocks of land attached to their residences.⁶⁴ Even with a paucity of information for other districts, the proportion of landowners or renters at Camden was considerable. The following chart combines the figures for the districts of Airds, Liverpool, Windsor, Camden and Penrith in 1825.

Chart 1: Constables with Land, 1825

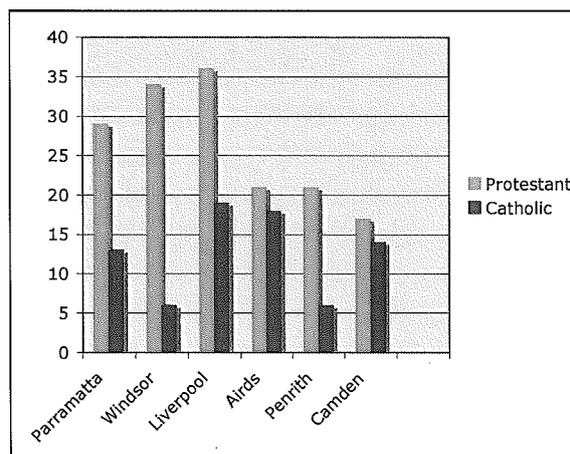
⁶³ Land could be leased at a nominal rate from larger landowners in return for clearing a stated amount of the lease each year.

⁶⁴ Bench of Magistrates, Stonequarry, Letters Sent, 16 November 1830, SRNSW: Reel 2723, 4/7574, n.p.

Although there were broad trends over all districts, and over the ten-year period, regional differences are reflected in the composition of each local force. Most noticeable is the difference between Sydney and the rural areas. In religion, age and civil status, Sydney constables were more likely to be Catholic, aged between 40 and 50 years, with a considerable proportion of ex-military men. Emancipists made up the majority of men appointed to the Sydney constabulary. By contrast, the ages of the rural constables were considerably younger; they were far more likely to be Protestant and a high proportion were convict or ticket-of-leave men. The age of rural constables more closely fitted the age demographic for the colony as a whole, whereas in Sydney they tended to be older than the average.

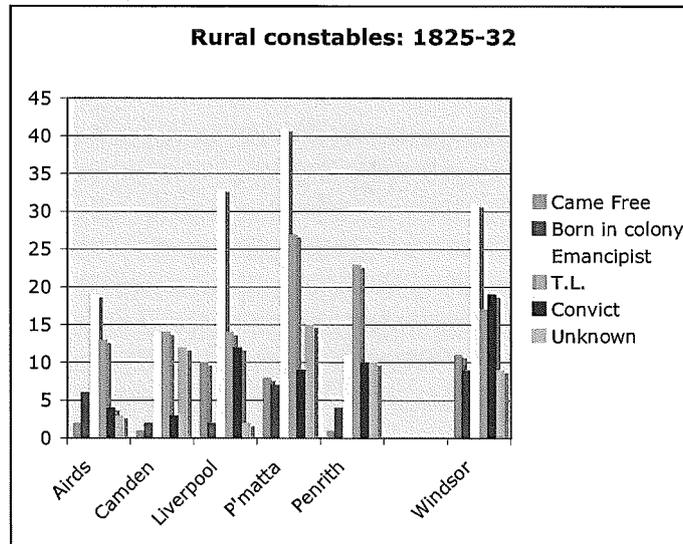
The differences in civil status reflect the limited choice open to local magistrates, especially in areas with high convict numbers. Penrith, Camden and Liverpool all had convict populations in excess of 50 percent and relatively low numbers of emancipists.⁶⁵ Colonial-born men and those who had come to the colony as free men were also in short supply in these areas. The appointment of convict or ticket-of-leave men also affected the average age of constables in these regions. Much younger men were drawn from convict ranks compared to older men appointed after they were freed. In the matter of religion, Protestant constables outnumbered Irish Catholic by two to one in the rural areas.

Chart 2: Rural Constables : Religion 1825-35:



⁶⁵ 1824 Muster, Col. Sec., SRNSW: Reel 6060, 4/1755, p. 140a. Fifty-five percent of Penrith's population was convict and only twelve percent emancipist. Liverpool's convicts made up 50 percent of the population and twelve percent were emancipist. Camden had an even higher ratio with 70 percent convict and ten percent emancipist.

Chart 3: Rural Constables: Status 1825-32:



The trends observed in the 1825 police returns continued, with one exception, until 1835. The civil status of 322 constables employed in the Sydney Police Office from 1825 to 1832 was fairly evenly divided between those who had arrived in the colony as free men and those who were emancipated. No prisoners, and only a handful of ticket-of-leave men, were appointed to the Sydney police between 1825 and 1835. A large population of freed men were available and the authorities had no need to go looking amongst convict ranks for suitable recruits. The appointment of serving prisoners also dwindled in rural areas with magistrates preferring to appoint ticket-of-leave men, as stated in their evidence to the various inquiries into the police.⁶⁶ In fact, only 27 men classed as prisoners were appointed anywhere in the districts under review after 1825. The preference for ticket-of-leave men was, in large part, based on the magistrates' control over their conduct. Another, unstated, reason could have been that generally these men had merited their ticket-of-leave because of good conduct, and were, in fact, a well-behaved and competent group. They were also likely to have had more experience in the wider colonial society than recently arrived prisoners. However, while ticket-of-leave men replaced the prisoner component, emancipists remained the recruits of choice throughout the period.

The seven police districts included in this study differed considerably in the size, civil status, and religious composition of their populations, and these differences are reflected in the

⁶⁶ Minutes of Evidence taken before the Select Committee on Police and Gaols, 1835, *op. cit.*, pp. 324-47.

numbers and make up of each local police force. Furthermore, Sydney's constabulary had markedly different characteristics from those of the rural districts and continued to remain so over the period under review. A statistical analysis can lay out the bare bones of the constabulary but to glimpse the real men behind the numbers it is necessary to look at other aspects of their work and life before any real conclusions can be drawn. The following chapters set out to explore the gap between perceptions and the reality of a constable's work through closer inspection of individual characters and specific circumstances.

Chapter 4

Sugar plums, bobs and tip winks¹

This chapter takes a closer look at some of the charges levelled against the colonial constabulary and investigates accusations of corruption, drunkenness and neglect of duty. My intention is to offer a different perspective, less encased in moral judgements. Appointment, resignation and dismissal of members of the police force in the whole colony appeared weekly in the *Sydney Gazette*, and later in the *Government Gazette*. Known as the 'mutation list', reasons for dismissal were not always given, but when they were, drunkenness, improper conduct and neglect of duty featured highly. By 1832, Governor Bourke was complaining of the turnover. He said: 'There has been a constant inconvenient and discreditable change of Peace Officers [constables] to be noticed in almost every Gazette that has been published since I came into the Colony'.² Described by Russel Ward as 'laconic',³ these mutation lists have become part of the evidence upon which the reputation of the constables rests.

One need only glance at the published lists to conclude that the police were indeed in a sorry state. However, on deeper investigation, some interesting detail comes to light. Most dismissals and resignations occurred within the first twelve months of employment. Outside the Sydney police area, a total of 368 dismissals and resignations can be definitively dated in the ten-year study period. Of these, 192 or just over 50 percent occurred within one year of appointment. In the Sydney Police, 58 of the 92 new entrants (53 percent) resigned or were dismissed in a 16-month period.⁴ Any analysis of these figures needs to take into account the rudimentary selection process and lack of training received by the recruits. Given the minimum skills requirement, of course many unsuitable applicants were employed. Appointment may have been haphazard but the weeding-out process was fairly precise. Just as other categories of convict found it difficult to adjust to a particular situation, such as assignment, many constables

¹ The use of the term 'sugar plums' for a sop or bribe can be traced back as far as 1684. 'Stopping the Constables mouth with sugar-plummes', J.A.Simpson and E.S.C. Weiner, *The Oxford English Dictionary*, 2nd edn, Vol. XVII (Clarendon Press, Oxford, 1989), p.141. 'Tipwinks' and 'bobs' were also nineteenth-century English terms for bribing the police.

² Bourke to Goderich, 3 November 1832, *HRA*, Vol. XVI, p. 789-90.

³ Russel Ward, *The Australian Legend* (Oxford University Press, Melbourne, 1958), p. 146.

⁴ Darling to Bathurst, Enclosure No. 2, Extract from Minute No. 21 of the Executive Council, 1 November 1826, *HRA*, Vol. XII, p. 684.

failed in the first instance.⁵ While the mutation lists tell us a lot about the men who were not successful, it is questionable whether they can be used to describe the force in general.

It would also appear that most of the turnover took place at the petty constable or patrolman level. A core of higher-level personnel remained in both urban and rural districts, giving a degree of stability to the force. Outside Sydney all but one of the chief constables and most of the district constables were among the longest-serving men in the force. This stability would, in part, be because many higher-ranking members of the constabulary were married and owned or rented land in the area to which they were appointed. In the Airs district, Chief Constable Robert Burke remained at his post for 14 years until his resignation in 1836.⁶ Likewise, in Parramatta, John Thorne was a member of the police from 1821 until his resignation in 1836.⁷ At Camden, district constable Edward McQuade served from 1816 until his position was discontinued in 1831.⁸ Frederick Meredith served as chief constable for at least nine years at Liverpool.⁹ Most chief or district constables spent their entire career in the area from which they were appointed. Familiar with the people and geography of their districts they provided a valuable foundation for the implementation of the law in rural areas. It is their subordinate constables who mostly came and went within a short space of time.

Even amongst the lower ranks, the rural constables showed a propensity for lengthy service. Of those appointed before or in 1825, thirty-six constables served for three years or less compared with 78 men staying four years or more. The following table shows the length of service of those men employed before or during 1825. Their subsequent resignation or dismissal in that year or during the following years appeared in the mutation lists of the *Sydney Gazette*.

⁵ K. McCabe, 'Assignment of Female Convicts on the Hunter River, 1831-1840', *Australian Historical Studies*, Vol. 30, No. 113, October 1999, p. 295.

⁶ Burke appointment, Airs Police Return 1825, Col. Sec., SRNSW: Fiche 3302, 4/7419.1, p. 2, Resignation, February 1836, *New South Wales Government Gazette*.

⁷ Thorne appointment, Parramatta Police Return, 1830-31, SRNSW: Reel 2282, 4/1103.2, p. 51; Resignation, 1 November 1836, *New South Wales Government Gazette*.

⁸ McQuade appointment, Camden Police Return 1825, Col. Sec., SRNSW: Fiche 3302, 4/7419.1, p. 8, Resignation, 31 March 1831, *Sydney Gazette*, p. 1.

⁹ Meredith appointment, 18 March 1826, *Sydney Gazette*, p. 1; 1835 Police Return, SRNSW: Reel 1720, 4/7387. n.p.

Table 30: Length of Service 1825: Rural

	-1yr	2yrs	3yrs	4yrs	5yrs	6yrs	7yrs	8yr	9yrs	10yrs+	Unknown
AIRDS	4	2			2		2			3	
CAMDEN	1		2			1		1		1	1
LIVERPOOL	4	3		2	1	1	1	1		1	1
PARRAMATTA	1	5	1	3	4	4		1	2	13	
PENRITH	2	2	2	1		1	2	2		2	1
WINDSOR	1	5	1	3	3	4		1	2	13	
Total	13	17	6	9	10	11	5	6	4	33	3

The high turnover in the Sydney police has always been quoted when discussing the character of the constables, and the rates were certainly high. However, by following the career of the 66 constables working in Sydney in a particular week, the pattern of dismissal becomes clear. Twenty-three men came and went within three years, eleven of them within one year, whereas 30 stayed four years or longer with a large proportion of those spending ten years or more in the force. The high turnover was almost always limited to the newest recruits, leaving a body of permanent constables at any one time in the force.

Table 31: Sydney 1825: Length of service

- 1yr	2 yrs	3 yrs	4yrs	5yrs	6yrs	7yrs	8yrs	9yrs	10+	Unknown	Total
11	4	8	7	5	1	2	0	1	14	13	66

One constable, William Hubbard, had been among the original members of the nightwatch established by Governor Phillip in 1790. He then disappears from the force until re-appointed in 1820, aged 58 years. Some of the long-serving constables appointed in 1810 and still serving in 1825, were William Thorn, Joseph Welch, Robin McAlister, Frederick Meredith, John Lyster and the chief constable, Thomas Dunn. Two other long-serving constables were Thomas Kinsella, appointed in 1821, who resigned from ill health fourteen years later, and Bernard Fitzpatrick, employed for eleven years. First Fleeter John Small, appointed district constable and pound-keeper at Kissing Point on the outskirts of Sydney in 1813, was still in his position in 1825. As the figures show, most of the turnover took place at the entry margin of the force, which would not seem unusual for any large organisation.

Satisfactory conduct and long service amongst the Campbelltown constabulary in the 1840s earned praise from the local magistrates, and one historian has suggested this police

district was the exception rather than the rule.¹⁰ However, Campbelltown was not so unusual. Length of service was certainly evident amongst the 1825 men, as Table 30 shows. Two of the longest serving men each spent 14 years in the job. However, in all rural districts in 1825 only 19 percent of the constables were employed for one year or less. Campbelltown, far from being an exception for the longevity of its constables, was about average. The only rural district to record any significant difference was Liverpool, where more men left after one year than stayed for ten years. The average length of service of the constables at Liverpool was about half that of the Airs district (eight years). However, apart from the two longest-serving constables, the average span of employment was still nearly four years. Frederick Meredith served 26 years, and his son, Frederick junior, was employed for 13 years by the end of the survey period.

Of the 15 constables who were employed at Liverpool at the time of the 1825 Police Return, the employment history of 14 can be traced. Of these, six resigned and five were dismissed. Three of the resignations took place within one year while none of the dismissals after 1825, occurred until after at least two years service. One constable died and two were still employed in 1835. One of the dismissed convict constables, Henry Bridget, was employed for two years before being convicted of theft and sentenced to three years at Moreton Bay.¹¹ Another constable, Thomas White, had his ticket-of-leave cancelled as a result of his dismissal, although the exact reason is unknown. Another was dismissed for unspecified misconduct after working for five years. The number of dismissals in the first or second year increased substantially for new recruits from 1826 onwards. Of a total of 78 entrants during the ten-year period, 25 resigned and 40 were dismissed. It is worth noting that 35 of those dismissals took place during the first and second year of employment, meaning that once a recruit had survived this initial period he was less likely to be dismissed.

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Leaving aside, for the moment, the charge of low quality of the recruits, let us examine what other factors might have influenced such a high turnover in the first and second years of employment. An important element to take into account when discussing the conduct of the constables is the lack of experience of most of the recruits. Policing was not a profession in

¹⁰ M. Sturma, *Vice in a Vicious Society: Crime and Convicts in Mid-Nineteenth Century New South Wales* (University of Queensland Press, St. Lucia, 1983), p. 165.

¹¹ Col. Sec., In Letters, 10 September 1830, SRNSW: Reel 1043, 4/3667, p. 272.

which many of the ex-convict personnel had any expertise. It could, in fact, be said that their proficiency was on the other side of the law. A lack of familiarity with the rules and regulations surrounding the position, combined with a certain cavalier attitude towards them, could well have contributed to many a petty constable's downfall. The example of John Bradley, a young constable at Newcastle in 1825, illustrates the point. He was first appointed in 1823 then dismissed a year later for neglect of duty. Reinstated in 1825, he was regarded as being 'now steady and attentive' by Major Owens, the Commissariat at Newcastle.¹² Thomas Kinsella, a long-time constable in Sydney, was first appointed in 1819 but dismissed soon after for 'suffering a burglary on the house of Justice Field'. He was reappointed in 1821 and continued as a constable until he resigned in 1834.¹³ Dismissal in the first instance was not necessarily an indicator of lack of ability in the long term.

Low wages certainly contributed to the problem of constant mutation. Rossi's report to Darling in 1826 cited numbers of men who had resigned 'on the plea of the inadequacy of the pay'.¹⁴ In Sydney, the wardsman who was responsible for overseeing his ward or district received four shillings per day in 1827. He had two conductors or station sergeants each receiving three shillings and threepence per day and the petty constables two shillings and tenpence per day. Country constables received two shillings and threepence per day.¹⁵ Most contemporary observers and later historians point to the problem of low pay as a particularly colonial phenomenon. However, low police wages were not confined to the colony. The Sydney constable's pay was nearly equal to the wages received by the members of the London Metropolitan police in the same years. In 1829, London sergeants received three shillings and sixpence per day while ordinary constables were paid three shillings but with some deductions, bringing their salary into line with the Sydney police.¹⁶ Low pay was also a source of discontent within the new London police. One ex-constable complained about the working conditions 'for the pay of a bricklayer's laborer'.¹⁷ Superintendent of Police Rossi submitted a report to the Executive Council in 1826 lamenting the 'inadequacy of the present rate of Pay to the

¹² Police Return for Northumberland and Durham 1825, Col. Sec., SRNSW: Fiche 3302, 4/7419.1, p. 16.

¹³ *Sydney Gazette* 6 January 1827, p.1; Government and General Order, 6 March 1819, Col. Sec., SRNSW: Reel 6038; SZ1044, p. 19; *Government Gazette*, 25 November 1834.

¹⁴ Rossi Report on the Police to Darling, 7 October 1826, *HRA*, Vol XII, p. 681.

¹⁵ Bruce Swanton, *The Police of Sydney 1788-1862* (Australian Institute of Criminology, Canberra, 1984), p. 27.

¹⁶ Letter to John Wray, Receiver for payment of salaries, wages and allowances, from Home Office, Whitehall, 20 July 1829, Public Records Office, Kew, MEPO 5/1/1.

¹⁷ Cited in C. Emsley, 'The English Bobby: An Indulgent Tradition', in R. Porter, *Myths of the English* (Polity Press, Cambridge, 1992), p. 116.

Subordinate Officers and the Constabulary'.¹⁸ However, a higher salary would not necessarily have attracted a better quality recruit without the introduction of a more rigorous entry-level standard. Indeed, it might only have encouraged more unsuitable men without the right qualifications to take advantage of a well-paid position.

It is noteworthy that complaints about the quality of the personnel and the high turnover of police became more evident after the introduction of a cash wage. In 1819, Superintendent Wentworth, in evidence to Commissioner Bigge, was of the view that all police should receive a cash wage. District constables around Sydney received rations and were supposed to receive a clothing allowance of 20 pounds, although Commissioner Bigge was concerned to find that the allowance was seldom paid.¹⁹ Petty constables only received rations and clothing for themselves, their wives and two children.²⁰ Constables in Sydney had threatened to resign unless they received some cash benefit.²¹ Commissioner Bigge recommended that police receive an annual salary instead of rations and by 1825 all police in the colony were paid a cash wage. Bigge's reasons for recommending cash payment rather than rations stemmed from evidence of the constables selling or bartering part of their issue of higher rations. By paying cash, he also noted that men could be fined part of their salary for misdemeanours rather than being dismissed as had previously been the case. Bigge stressed the need for the annual clothing allowance to be paid immediately to improve the appearance of the constabulary.²² By 1825, Brisbane had implemented Bigge's recommendations on payment of salaries for the constables and Chief Constables in the rural districts were paid 20 pounds a year plus a clothing allowance of a further 20 pounds, while ordinary constables received ten pounds a year, also with an extra clothing allowance of 20 pounds.

The Superintendent of Police at the time, D'Arcy Wentworth, giving evidence to the Bigge Commission in 1819, stated that he had not received many complaints about the police and he made no mention of high dismissal rates.²³ The weekly mutations of police personnel published in the *Sydney Gazette* during the early 1820s indicate a fairly low turnover. In

¹⁸ Rossi Report on Police to Darling, 15 November 1826, *HRA*, Vol. XII, pp. 679-84.

¹⁹ J.T. Bigge, *Report on the Judicial Establishment of New South Wales*, Vol. 2 (Libraries Board of South Australia, Adelaide, 1966), p. 85.

²⁰ Rations: 7 lbs beef, 5 lbs flour, 5lbs maize meal. 8 ½ lbs sugar; Parramatta Police Pay Lists, 1824, Col. Sec., SRNSW: Reel 6030, 4/7016 A-D, p. 69.

²¹ *Ibid.*, p. 23.

²² Bigge, *op. cit.*, pp. 61, 85.

²³ Swanton, *op. cit.*, p. 24.

Sydney, between 1 October and 31 December 1824, seven men were dismissed, one was promoted and two resigned from a force of 68.²⁴ Pay lists for the police at Parramatta in 1824 are remarkable for the consistency of the names.²⁵ It was in the following years that the turnover of men soared. Of 92 men who entered the Sydney Police from May 1825, fifty-eight had resigned or were dismissed by October 1826.²⁶ In the Airds district, the 1825 police return recorded six men who had been appointed before 1824. All these men continued in their employment for many years. Of the seven men appointed in 1824 and 1825, only two continued their employment beyond one year. As the table below shows, dismissals and resignations doubled in many rural areas between 1825 and 1827. It could perhaps be concluded that the payment of a cash wage encouraged many to try their hand at a job for which they were patently unsuited. The change is particularly noticeable in the Liverpool and Parramatta districts where there was a large population of ex-convict men.

Table 32: Rural Dismissals 1825-1835

	Airds	Camden	Liverpool	Parramatta	Penrith	Windsor	Total
1825	1		1	4	2	5	13
1826	2	3	10	11	1	5	31
1827	1	4	4	12		4	25
1828	1	1	11	1	4	5	23
1829	2		2	1		3	8
1830	3	5	5	10	4	3	31
1831	3	1	1	2	1	1	9
1832	3		4	1	4	1	13
1833	5	1	3	1	1	1	12
1834	3		4	1	7		15
1835	2	5	1		6	2	16
Total	26	20	46	44	31	29	196

²⁴ List of Sydney Constables, December 1824, Col. Sec., SRNSW: Reel 6063, 4/1784, p. 314c.

²⁵ Parramatta Police Pay Lists, 1824-25, Col. Sec., SRNSW: Reel 6030 4/7016 A-D, p.69, pp. 27-215.

²⁶ Darling to Bathurst, Enclosure No. 1, 15 November 1826, *HRA*, Vol. XII, pp. 684-5.

Table 32a: Rural Resignations: 1825-1835

	Airds	Camden	Liverpool	Parramatta	Penrith	Windsor	Total
1825	1		4	3	2	5	15
1826	2	1	3	1		9	16
1827	1	1		1	5	6	14
1828	1	4	2	3	3	4	17
1829	4	1	2	2		3	12
1830	2	1	3	4	2	7	19
1831	1	5		5	3	3	17
1832	1	3	5	3	2	2	16
1833	1		3	1	1	3	9
1834	1	2		3	2	1	9
1835	4	5	2	2	2	1	16
Total	19	23	24	28	22	44	160

Another consequence of the low pay for constables was the temptation to supplement their wages by whatever means. Rural constables had the opportunity to make extra money by capturing runaways or bushrangers, for which action they received a reward. The reward system, designed to encourage greater efforts on the part of the police in recapturing convicts escaping from the road gangs, had an unfortunate side-effect: police tended to pursue this more profitable activity to the detriment of their other duties.

Rewards were an integral part of the system of policing in the colony from the beginning. Remission of sentence was the first reward held out to the men willing to act as constables in the first body of police established in 1789.²⁷ In 1796, with the reorganisation of the police, the rewards included other benefits to encourage participation. An extra suit of clothing provided annually, extra rations and a weekly serving of a pint of spirits were added enticements introduced by Governor Hunter.²⁸ When Lachlan Macquarie arrived as governor in 1810 he felt further encouragement was needed and introduced a reward system for the chief constable based on payment of a percentage of fines collected for certain offences. This was also the beginning of rewards for the petty constables in that they were to receive a percentage of the reward for the chief constable for assisting in the apprehension of riotous, disorderly or deserting sailors. The chief constable also received a reward for seizure of stills and for serving

²⁷ Swanton, *op. cit.*, p. 5

²⁸ *Ibid.*, p. 6.

summonses for debts. Macquarie also introduced a system of fines for traffic offences including leaving a cart unattended in a Sydney street or driving a cart rather than leading it through the streets.²⁹

In 1831, the pay for rural constables rose from one shilling and ninepence per day to two shillings and threepence per day.³⁰ In Sydney, an ordinary constable received two shillings and tenpence per day in 1827. This basic salary could be supplemented by the addition of cash rewards to an energetic constable. Payment of a percentage of fines levied against offenders was designed to encourage the police to greater exertions. Supplementing a meagre wage could also have tempted the Sydney police to engage in many forms of bribery and extortion. The problem was recognised by the authorities. Captain Rossi, the police magistrate, in defence of a higher wage, had stated in 1826, that 'Constables should be placed above want and should then be above temptation'.³¹ Although only two cases of dismissal for expressly taking a bribe and one for extortion appear in the records during the survey period, many men were fired for improper conduct as Table 33 indicates. Clearly the designation 'misconduct', 'improper conduct' and 'gross improper conduct' covered a wide variety of offences including many forms of petty corruption.

The records concerning the reasons for dismissal in rural areas are inconsistent but an overall pattern can be discerned. By far the most common reason was for 'improper conduct'. The second most common reason was 'drunkenness', followed by 'neglect of duty'. Given the temptations and the low remuneration, it is not surprising that many petty constables engaged in a little extortion. What the high rate of dismissals for the offence tells us is that not only was it a common practice but also the offenders must have been routinely detected and reported by their colleagues or superiors. The power to dismiss any man not performing to standard was an essential tool in the maintenance of a functioning police force and the authorities used that power with some zeal.

The arduous nature of the work could also have been a factor in the high turnover of men. In the Sydney police, patrolmen worked six-hour alternating shifts throughout the night and day. They were required to walk at a pace of two-and-one-half miles an hour, without

²⁹ *Ibid.*, p. 22.

³⁰ 17 December 1831, Col. Sec., SRNSW: Reel 1044, 4/3672, p. 257.

³¹ P.J. Byrne, *Criminal Law and Colonial Subject New South Wales, 1810-1830* (Cambridge University Press, Cambridge, 1993), p. 157.

stopping, making a total of 15 miles walked each shift. Two six-hour shifts in a 24-hour period meant they could walk 30 miles each day. Fifteen miles of walking without refreshment or rest in each shift was certainly hard, without the added responsibility of keeping a sharp lookout for miscreants. By 1835, some modifications had been made to this system whereby the men were relieved every two hours, although they still had 'only one night out of three in their beds'.³² Evidence to the 1835 Committee on Police also noted that 'the duty is very severe upon the men'.³³ They had to undertake their duties even in the most extreme weather and even if there had been facilities for drying their clothes on their time off, 'they must sacrifice their sleeping time if they would dry their clothes'.³⁴ Police magistrate, Colonel Wilson commented that men of character suitable for the position of constable could easily find other work where they were able to 'earn large salaries and sleep in their beds every night'.³⁵

In rural areas, the constables also had to carry out their duties on foot, or in some areas by boat. Given the large areas they had to cover, a high level of fitness was needed. Evidence to the 1835 Parliamentary Committee on Police acknowledged the 'duty [of constables] to be performed is also more onerous and irksome than is required from them in private service'.³⁶ Men were away from their homes for days at a time in trying circumstances. District Constable Richard Woodbury at Lower Hawkesbury spent four days rowing a large boat up and down the creeks of Broken Bay in a fruitless search for runaways from Port Macquarie. When he finally returned home he set off again on foot the next day to try to locate them.³⁷ Woodbury was also often required to attend the court at Windsor, which was a 45-mile boat trip from his farm at First Branch.³⁸ The demanding nature of the job would certainly not have suited many men. Dealing with the drunk and disorderly also required a level of stamina, as the following account shows.

Giving evidence in a court case at Camden, one constable told of his night's activities. Passing a hut at 9 o'clock in the evening during his rounds, he saw a number of people playing cards. When he passed again at the end of his shift at 3 o'clock in the morning he heard noises

³² Evidence from Colonel Wilson, the First Police Magistrate in Sydney to Select Committee on Police and Gaols, 1835 (New South Wales Legislative Council, Votes and Proceedings), p. 342.

³³ *Ibid.*, p. 323.

³⁴ *Ibid.*, p. 35.

³⁵ *Ibid.*, p. 36.

³⁶ Evidence of W. Dutton, Magistrate, to Select Committee on Police and Goals 1835, *op. cit.* p. 335.

³⁷ Valerie Ross, *A Hawkesbury Story* (Library of Australian History, Sydney, 1989), pp. 26-7.

³⁸ *Loc. cit.*

and ran to the hut to find a man drunk and threatening, and another injured. After dressing the head wound of the injured man, Constable Higgins went to his own home, 'supposing they would now be quiet'. However, as Higgins recounted, there were more disturbances. One man wandered around until daylight making threats and wanting to fight, obviously keeping Constable Higgins on alert.³⁹

Although not actually stated in the records, it is possible that a number of resignations and dismissals could have been because of low fitness levels. This was possibly the case with one constable, 35-year old John Fisher at Airs. The 1825 police return noted that he had recently been appointed and that 'his fitness is at present giving trouble'.⁴⁰ Fisher was dismissed after three weeks' employment with no official reason given. The importance of physical robustness is obvious from the 1825 police returns from the rural districts, where particular mention is made of the efficiency and fitness of each constable.

As shown in the table below, the next highest reason for dismissal was drunkenness. Police Magistrate H.C. Wilson, in his evidence to the 1835 Committee on Police and Gaols, despaired that nine out of ten men who offered themselves for the position of constable 'are drunkards, yet all bring high testimonials of character'.⁴¹ There is no doubt that drinking was a problem, not only amongst the constabulary but also throughout colonial society. The use of alcohol as an integral part of colonial society began with the first settlement. The government paid the convicts in rum in the early days of the colony. The government emphasis on the discovery and prosecution of illegal stills pointed to a widespread problem with alcohol in the community. A study into the relationship between violence and alcohol in New South Wales between 1824 and 1838 by Peter Hammond has revealed changing attitudes towards drunkenness in the population. A certain amount of laxity regarding drunkenness had prevailed in colonial society and it was not until 1825 that 'a fine of five shillings for drunkenness was introduced in an attempt to discourage the practice'. Mildly patronising or amused accounts of drunkenness characterising the articles appearing in the press during the 1820s changed to a far more censorious and moralising tone by the 1830s. The colony was transforming itself from a gaol to a place of economic opportunity – encouraging immigrants and nurturing capital.

³⁹ Cawdor Bench Book, 31 May 1825, Col. Sec., SRNSW: Reel 665, 4/7567, n.p.

⁴⁰ Police Return for District of Airs 1825, Col. Sec., SRNSW: Fiche 3302, 4/7419, p. 2.

⁴¹ Appendix to the Minutes of Evidence Taken Before the Select Committee on Police and Gaols, 1835, *op. cit.*, p. 361.

Attitudes to drunkenness amongst the upper classes changed although Hammond perceived no change amongst the general population.⁴²

A certain tolerance by the authorities towards drunkenness amongst the police in the 1820s is also evident from the records. Thomas Walsh had spent over ten years as a constable at both Parramatta and Windsor when he was finally dismissed for repeated drunkenness while on duty, in 1831.⁴³ At Parramatta, Constable Patrick Duffy had also been employed for two years before being dismissed for repeated drunkenness in 1830. Samuel Foster at Liverpool managed 18 months of repeated episodes before being dismissed. By contrast, during the 1830s drunkenness was being tolerated less often and by 1834, men employed in the Sydney Police were being dismissed within weeks or months of their appointment for drunkenness.⁴⁴ This changing attitude resulted, of course, in increasingly longer lists of dismissals for drunkenness appearing weekly in the *Government Gazette*, helping to promote the view of the police as declining in moral fibre.

Figures for dismissals of rural constables are more difficult to obtain, as the reason for dismissal is not always given. Where figures are available, the rate of dismissal seems to have remained the same throughout the period in question. From a total of 183 dismissals in the years 1825 to 1834, thirty-nine men were dismissed specifically for drunkenness. Another 56 were dismissed without a stated reason, however we could suspect that drink may have played some part in at least a proportion of those dismissals.

Table 33: Reasons for Dismissal - Rural: 1825-34

	Improper		Allow					Total
	conduct	Neglect	Theft	escape	Other	Drunk	Unknown	
AIRDS	6	2	3	2	4	4	5	26
LIVERPOOL	12	5	2		2	9	15	45
CAMDEN	3	2		1	2		8	16
P/MATTA	13	3	1		2	12	13	44
PENRITH	6	3			2	6	8	25
WINDSOR	7	3	1	1		8	7	27
Total	47	18	7	4	12	39	56	183

⁴² P. Hammond, 'Murder, Manslaughter and Workplace Relations in Convict New South Wales 1824-1838', BA (Hons) Thesis, University of New England, Armidale, 2003, p. 35-37.

⁴³ *Sydney Gazette*, 22 February 1831, p. 1.

⁴⁴ Mutation lists in *Sydney Gazette*, 1834.

Peter Hammond, citing Carolyn Conley, has made a link between the single status of men and a heavy use of alcohol.⁴⁵ Conley found that a high proportion of single men in a society is conducive to irresponsible behaviour. The sexual imbalance in early colonial Australia and the resulting large numbers of single men meant many had no family obligations. Hammond concludes the imbalance of sexes and high number of single young males in the colony contributed to heavy alcohol use.⁴⁶ The problem had already been recognised at the time. The 1839 *Report of the Committee on Police and Gaols* suggested that 'the temptations to drinking and other sources of dissipation, become great in proportion to the want of those consolations of home and society.'⁴⁷ Although the ratio of men to women in the rural areas was greater than that of Sydney, the majority of constables in the rural areas were married. Of 155 men employed in 1825, ninety-three were married, 45 were single and the status of 17 unknown. Correspondingly, dismissals for drunkenness in rural areas in 1825 were very low. Only two men were dismissed for drunkenness and they were both single men at Windsor. The findings from the Airds, Appin and Minto areas relating to the low number of dismissals for drunkenness in the early years of the study reinforce this, as most of those constables were family men. In later years, the marital status of constables is harder to ascertain and with fewer reasons given for dismissal, no meaningful correlation can be drawn. It would appear that increasingly fewer married men were appointed as constables during the later years of this study. The period 1826-35 saw an increasing number of single men employed as constables leading to greater number of dismissals for drunkenness. In Sydney, in 1825, forty-eight of the 66 men employed were married whereas by 1828, only 18 were married out of a force of 50 constables.⁴⁸

Another aspect of drinking behaviour in the colonial era that is particularly relevant to the constabulary is the lack of a strict definition between working hours and recreation hours. Hammond found a blurring of lines that can be traced to the early years of the colony when the custom of supplying alcohol to workers was established.⁴⁹ The early practice of providing constables with a weekly allowance of spirits to encourage them to join the police no doubt also contributed to a drinking culture within the force.⁵⁰ Furthermore, in rural areas, the police were

⁴⁵ C. Conley, 'The Agreeable Recreation of Fighting', *Journal of Social History*, Vol 33, No 1, Fall, 1999, p. 59.

⁴⁶ Hammond, *op. cit.*, p. 34.

⁴⁷ Report of the Select Committee on Police and Goals, 1839, (New South Wales Legislative Council, Votes and Proceedings), p. 136.

⁴⁸ M. R. Sainty, and K.A. Johnson, (eds), *Census of New South Wales November 1828* (hereafter referred to as *1828 Census*) (Library of Australian History, Sydney, 1985).

⁴⁹ Hammond, *op. cit.*, pp. 38-9.

⁵⁰ Swanton, *op. cit.*, p. 6.

never really off duty. They were constantly on call both day and night whenever they were needed. As there was no distinction between on and off duty, the consumption of alcohol became an inherent feature of their working life.

The more genteel sections of colonial society held the notion that the perceived drunken behaviour of colonial policemen was in some way related to their convict or ex-convict status. However, the over-consumption of alcohol was also a problem for the English authorities. An 1834 Select Committee on the Police found that drunkenness was the reason for four out of five dismissals in the London force. In fact, the problem was seen as the most serious threat to discipline in the force throughout the nineteenth century.⁵¹ Generally, dismissal for the offence was not always the first punishment. Reduction in rank, fines and cautions were usually employed in the first instance, according to the general character of the offender. This pragmatic approach was almost certainly taken by the authorities in the colony, particularly in the rural areas, given the scarcity of steady, reliable men willing to take up the position of constable. This strategy also extended to other misdemeanours committed by the police. In the district of Appin, Constable Patrick Callaghan and District Constable Malachy Ryan were both fined for neglect of duty and the money deducted from their pay.⁵² Ryan was subsequently dismissed for neglect of duty some four years later.⁵³

Malachy Ryan, was, like many of the district constables, an emancipist settler at Appin. He had a grant of 50 acres of land, most of it cleared and cultivated and, although he had assigned servants to help, his farm took up much of the time which should have been devoted to his duties. Dismissals for neglect of duty in rural areas were far fewer than those for improper conduct or drunkenness. As we can see from the table above, only 17 men were specifically charged with neglect of duty in the ten-year period. The offence probably covered many different behaviours but it is reasonable to assume that competing interests played a large part in the dismissals. Certainly, many men managed to combine the running of properties or businesses with the duties of constable, not without difficulty, but apparently avoiding censure. In the early years of the study, many of the constables were emancipists with small land grants. Chief Constable Howe in Windsor described his district constables as settlers or old inhabitants

⁵¹ C. Elmsley, *The English Police: A Political and Social History* (Longman, London, 1996), p. 239.

⁵² Return of Appin Court, 1823, Col. Sec., SRNSW: Reel 6023, 4/6671, p. 1.

⁵³ *Sydney Gazette*, 27 July 1827, p. 1.

who were free and possessed property.⁵⁴ Richard Woodbury, District Constable at the Lower Hawkesbury, combined the running of a farm on which he grew wheat with his police duties as well as running a store on his property.⁵⁵ While there were many complaints against him, no action was taken and he resigned in 1829 after nine years' service.⁵⁶ In the Airs district, in 1825, nine out of the thirteen constables had some land; likewise in Camden, where four out of the seven constables were tenants or leased farms.

In discussing possible reasons for the high turnover of men employed as constables, I have focused on the three most common reasons for dismissal. However, the number of resignations during the ten-year period is also very high. In rural areas, of the men for whom records are complete, 196 were fired while 152 left of their own accord. In the districts of Windsor and Camden, the resignations outnumber the dismissals (see table 32). Figures for the Sydney police in 1825 show that 28 men were dismissed, 21 resigned, while the records of a further 13 men are incomplete. Reasons for leaving, of course, can only be deduced but it is very possible the onerous nature of the work combined with the low pay contributed to many a resignation. In other cases, perhaps better opportunities presented themselves for money. The proportion of dismissals to resignations increased in Sydney in later years. For example, in 1834, there were 62 dismissals and only twelve resignations.

We cannot know the true character of the men who served as constables; we can only look at the charges against them and then look at the circumstances in which they operated, in order to draw some conclusions. The overall impression of the police force, conveyed by the derogatory nature of the depiction of constables in, for example, the satirical journal, *The Heads of the People*, is one of depravity and incompetence, but police returns from the various districts from 1825 onwards invariably describe the constables as active and efficient. The police magistrate at Windsor described his force as 'young and active men, fully competent to the performance of their various duties'.⁵⁷ Individuals have been lost in the general opprobrium attached to the constabulary but there are numerous instances of men of character serving in the force. Three Justices of the Peace describe John Fancourt as 'an active and useful constable' in his petition for emancipation.⁵⁸ Magistrates Reddall and Brooks from Airs, praised Constable

⁵⁴ Darling to Murray, 7 August 1830, *HRA*, Series I, Vol. XVI, p. 705.

⁵⁵ Ross, *op. cit.*, p. 36.

⁵⁶ *Ibid.*, pp. 32-3.

⁵⁷ North to Macleay, 9 November 1830, Col. Sec., SRNSW: Reel 2282, 4/1103.2, p. 33.

⁵⁸ Petitions 1825-1826, SRNSW: Reel 619, 4/1873-6, p.73.

George Luland as 'honest, prudent and industrious' and 'useful and attentive in his situation'.⁵⁹ Sydney constable Constantine Molloy received high praise from Chief Constable George Mitchell: 'A man of great respectability in his class of life'.⁶⁰

Finally, the case of Constable Benjamin Ratty of the Parramatta police, who was accidentally shot by his fellow constables while apprehending bushrangers in 1826, illustrates the complexities surrounding the public view of the police. While the *Sydney Monitor* ridiculed the incident as an example of police ineptitude, the *Sydney Gazette* published an article from a Parramatta correspondent with a very different view of the tragedy. Apparently Ratty was in debt and his salary 'was required to pay his creditors leaving nothing to bury him'. Subscriptions were called for and within two days, 20 pounds had been raised. According to the correspondent, 'This fact shows the feeling which the people of Parramatta entertain towards their constables'.⁶¹ Ratty's rather grand headstone can still be seen in the cemetery at St. John's church in Parramatta. In a beautiful copperplate hand, the memorial reads,

To the Memory of Benjamin Ratty
Who departed this life 7 October 1826 age 30 years
The deceased was a Constable in the Town of Parramatta
During seven years and this Stone was erected by its Inhabitants
As a Mark of their Esteem for his services on various occasions
In apprehending Bushrangers and particularly for his Intrepid
Behaviour which will be remembered in the night of 23 September
When he received the Wound which caused his Death from a pistol shot
and which Conduct led to the immediate apprehension
of a part of the Banditti.

⁵⁹ *Ibid.*, p. 133.

⁶⁰ Col. Sec., SRNSW: Reel 2573, 42/8497, 14 November 1842.

⁶¹ *Sydney Monitor*, 13 October 1826, p. 178; *Sydney Gazette*, 14 October, 1826, p. 3.

Chapter 5

Pressures from above: 'They shall watch narrowly all prisoners and suspected persons'.¹

District Constable Edward Fletcher was dismissed from his post after five prisoners escaped from his gaol at Upper Minto in 1831. They were being escorted to Sydney Goal from the court at Inverary and, according to the constable escorting them, had been determined to escape. He had already discovered a key with which they intended to unlock their handcuffs. The escort, Constable Thomas Jones, delivered them to the care of Fletcher and warned him to 'keep a sharp look-out after them'.² The gaol at Upper Minto had been built by Fletcher on his own land at his own expense and he received no assistance from the government for maintenance.³ Long recognised by the superintendent of police at Campbelltown as 'imperfectly secured and badly situated for prisoners determined to escape', the gaol was no match for the determined prisoners.⁴

In his defence, Fletcher stated he had received word that two bushrangers were camped nearby and he had dispatched his constable to apprehend them. The constable did not return in time to escort the men in the lock-up to their next destination and during the evening they forced a slab in the floor and escaped.⁵ Although the poor state of lock-ups and goals throughout the colony was well-known and the local police superintendent described Fletcher as zealous and active, he was temporarily dismissed.⁶ Edward Fletcher was colonial-born, the son of a convict, and it seems the authorities were ever alert to the possibility of police collusion with the convict population. They believed the constabulary, especially in rural areas, was not to be trusted.⁷

From the moment of his appointment, a constable was under suspicion by the authorities. H.C. Wilson, Superintendent of the Sydney police, stated that 'As soon as they are sworn, every temptation is open to them for the gratification of their tastes free of expense – liquor, women,

¹ Macquarie to Bathurst, 3 November 1810, *HRA, Series 2*, Vol. VII, p. 479.

² Col. Sec., 24 August 1831, SRNSW: Reel 2282, 4/1103.2, pp. 97-8.

³ Howe to Goulburn, 17 July 1827, Col. Sec., SRNSW: Reel 6058, 4/1769, p. 126.

⁴ Meyrick to Macleay, 2 September 1831, Col. Sec., SRNSW: Reel 2282, 4/1103.2, pp. 113-15.

⁵ *Ibid.*, pp. 117-19.

⁶ Airds Magistrates to Goulburn, 9 February 1825, Col. Sec., SRNSW: Reel 6062, 4/1783, pp. 29-29a; Meyrick to Macleay, 2 September 1831, Col. Sec., SRNSW: Reel 2282, 4/1103.2, p. 114.

⁷ B. Fletcher, *A Governor Maligned* (Oxford University Press, Melbourne, 1984), p. 179.

and bribes are employed to corrupt them and many are corrupted'.⁸ Wilson did not regard the applicants as being 'respectable, well-behaved persons' who might be considered to rise above the temptations that came with the job.⁹ The constable, therefore, laboured under a presumption that he would fail because of his convict origins. The high level of virtue and integrity demanded of the petty constable obviously did not extend to the ranks of those in charge, and the hypocrisy of Wilson's position was exposed a few years later when he himself was dismissed on various charges of corruption and misuse of police personnel.¹⁰ Despite his impeccable upper-class credentials, the temptations of office proved too much for Wilson. However, this would have been little comfort to those ex-convict constables working in an atmosphere of suspicion and mistrust.

While this lack of trust made the job more difficult, other more powerful forces in society combined to exert pressures on the police. I investigate here three sources of that pressure: the role of the magistracy in the structure of authority over the constables; the consequences of demands for greater regulation of the population, and the part played by the colonial press in forming contemporary opinions of the police. This chapter considers the extent to which each of these powerful influences contributed to and complicated the role of the colonial constabulary.

Constables were totally responsible to their superiors who held the power of appointment and dismissal. Before 1833, and the widespread introduction of paid police magistrates, the responsibility of appointments and dismissals lay with the honorary magistrates, although the ultimate approval of each appointment rested with the Governor. In practice, this was a rubber stamp, leaving the magistrates free to appoint and dismiss whomever they wished. Some magistrates took their duties very seriously. Magistrate William Browne at Appin wrestled over the appointment of Malachy Ryan as district constable in 1823. Despite Ryan being the longest serving constable and in line for promotion, Browne considered him 'insufficiently vigilant'.¹¹ Despite Browne's misgivings, Ryan was later appointed pound-keeper and then chief constable some months later. Daily supervision of the constables was in the

⁸ Report from the First Police Magistrate of Sydney in Appendix to Minutes of Evidence Taken Before the Select Committee on Police and Gaols, 1 May 1835, (New South Wales Legislative Council, Votes and Proceedings), p. 361.

⁹ *Loc. cit.*

¹⁰ J. Bradley and C. Pybus, 'From Slavery to Servitude: The Australian Exile of Elizabeth and Constance', *Journal of Australian Colonial History*, Vol. 9, 2007, p. 42.

¹¹ Browne to Goulburn, 26 April, 1823, Col. Sec., SRNSW: Reel 6058, 4/1769, p. 100.

hands of the chief constable of each district, but ultimate responsibility lay with the local magistrates. The level of supervision was capricious in that much depended upon the level of involvement by the local magistrate in upholding the law within his own district. On the Cumberland Plain, the honorary magistrates, although having varying degrees of involvement in the day-to-day management of their constables, mostly resided in their respective districts, unlike some of the more remote areas of the colony.

In some rural districts with a smaller police contingent, the magistrates would have been intimately involved in the appointment of their constables. For instance, as shown in Chapter Three, the Macarthurs appointed constables from amongst their own workforce at Camden. Similarly, Thomas Reddall, magistrate at Campbelltown, took a personal interest in some of his constables. (See Chapter Seven). For those constables dependent upon the local magistracy for their appointment, promotion and dismissal, a good working relationship was necessary.

For magistrates in the more established towns, the choice of recruits for the constabulary would have been left in the hands of the chief constable in the early part of the decade, and later to the police magistrate, as their appointments became more numerous. In some cases, the recruits answered advertisements placed in the *Sydney Gazette*.

To Free Men or Men Holding Ticket-of-Leave under the late regulations.
Wanted a few active constables for the Town of Parramatta. Applications
to be made at the Court House.¹²

Many honorary justices of the peace were often pioneering landholders themselves with little time for the onerous duties of magistrate, including supervision of their constables. Complaints about lack of attention to their duties were not uncommon.¹³ In a letter to Governor Darling, the newly-appointed Superintendent of Police at Sydney, F.N. Rossi complained of instances of rural magistrates not turning up to court and having a conflict of interest.¹⁴ Instances of police misconduct could be overlooked if the justice of the peace was not fully acquainted with the day-to-day activities of his constables. It was not until the mid 1830s that the influence of the paid police magistrate was felt in rural NSW with the potential for greater

¹² *Sydney Gazette*, 17 April 1823, p. 3.

¹³ D. Neal, *The Rule of Law in a Penal Society. Law and Power in Early New South Wales* (Cambridge University Press, Cambridge, 1991), p. 118.

¹⁴ Rossi to Darling, 7 October 1826, Mitchell Library: Reel CY 540, p. 677.

control of the police.¹⁵ The first paid, or stipendiary magistrate, was appointed to Parramatta in 1825, with another appointment following soon after to the Windsor bench.

Of course, the introduction of paid police magistrates in rural areas brought its own problems as the honorary JPs, fearing a reduction in their influence and power, fought against the implementation of the policy. Because the stipendiary magistrates were often ex-military officers already receiving some remuneration from the government, they were seen as agents of the state and instruments of central control. The power struggle between the honorary magistrates and the paid police magistrates is a subject that has been dealt with in some detail by historian, David Neal.¹⁶ My concern here is with the ramifications of this struggle on the constabulary. The constables and their reputation were caught up in the conflict, as evidence to the 1839 Committee on Police reveals. Charges of police incompetency could be used as a cover for other agendas. A history of conflict between the paid police magistrate at Queanbeyan and one of the local honorary magistrates led to charges that local constables allowed prisoners to escape. An investigation of the incident not only revealed the difficulties under which police laboured in their efforts to escort prisoners great distances, but also established that all the escapees had been quickly recaptured. The task of escorting prisoners 64 miles to the court at Goulburn fell to the constables. With insufficient escort numbers and no secure lock-ups in which to house the prisoners overnight, the police faced a difficult task.¹⁷ In this case, the claimed inefficiency of the constabulary was used to denigrate the police magistrate. Not only do the details of this incident reveal the competing interests of the various authorities but they also point to problems surrounding some claims of police incompetence.

The justices of the peace had no formal legal training. Although of the highest class and status in the colony, many honorary magistrates might have failed to be considered for such a position in the English justice system.¹⁸ Successive governors had difficulty finding the right men to appoint to the position, which was one of the reasons for the elevation of some emancipists in the early years, causing a huge outcry from some of the free settlers. The controversy over the elevation of emancipists Simeon Lord and Andrew Thompson to the ranks of the magistracy in 1810 had incensed some of the colonial 'Exclusives', including Samuel

¹⁵ Neal, *op. cit.*, p. 158.

¹⁶ *Ibid.*, see Chapter 5.

¹⁷ *Ibid.*, p. 159.

¹⁸ *Ibid.*, p. 116.

Marsden, who accused the governor of trying to bring the 'bond and free to a common level'.¹⁹ With the subsequent exclusion of any emancipist from the magistracy, the pool of suitable appointees was limited. Consequently, the quality and integrity of rural magistrates was very uneven. A magistrate might appoint men to the constabulary in his district whom he knew he could control and direct in ways that benefited himself, rather than the community. Complete control over the constabulary meant that the magistrates could deploy men in their own interests, including impounding cattle belonging to others.²⁰ Constable John Whaley from the Camden police was ordered by local magistrate, Charles Throsby, to assist in the removal of Edward Smith Hall's cattle from John Oxley's property in 1821. Hall was accused of illegally appropriating a part of Oxley's property to water and feed his cattle and Throsby had entered the dispute on Oxley's side. Although Hall complained to the colonial secretary that the 'Judges' were against him, there was little he could do.²¹ Having a body of police at their disposal greatly enhanced the power of the rural magistracy, and they were not about to lightly hand over control of the police to a state appointed, and paid, magistrate.

Another instance of the vulnerability of the constables came to light when a feud broke out in 1831 between the magistrates of Bringelly and Cooke over the distribution of constables. Magistrates Cox and Savage accused fellow magistrate at Bringelly, Robert Lowe, of an 'unfair distribution' of constables by retaining the chief constable and three of the four ordinary constables on his estate. Lowe responded by claiming that they were necessary because the court was held nearby. The dispute escalated when Lowe then summoned one of the constables stationed at magistrate Savage's estate before the bench for neglect of duty in not attending court. According to Lowe, the constable replied, 'That he had two houses and a garden of Mr Savage's to mind and he did not know whether he should attend [court] again.' In defending himself of the charge of employing constables for his own interests, Lowe sought to demonstrate the exploitation of constables by other magistrates. In the end, Robert Lowe was dismayed by the attacks of the other magistrates and tendered his resignation.²² The Government then adopted recommendations by Magistrates Savage and Cox to abolish the bench at Bringelly and include Cooke into Campbelltown court and Bringelly in the Penrith court.

¹⁹ M.H. Ellis, *Lachlan Macquarie: His Life. Adventures and Time*, 2nd edn (Angus and Robertson, Sydney, 1952), pp. 227-9.

²⁰ *Ibid.*, p. 115.

²¹ Throsby to Goulburn, 10 August 1821, Col. Sec., SRNSW: Reel 6034, 9/2743, p. 211; Throsby to Goulburn, 10 August 1821, SRNSW: Reel 6016, 4/5781, pp. 31-41.

²² Col. Sec., SRNSW: Reel 2282, 4/1103.2, 17 September 1831, pp. 77-80; 10 August 1831, pp. 65-6; 23 August 1831, pp. 73-5; 17 September 1831, pp. 77-80.

It is difficult to ascertain the truth of claim and counter-claim in this case, but what is quite clear is the manipulation of the constabulary in the interests of the magistrates. There appears to have been little oversight in how the magistrates deployed their constables and for what purpose. In 1829, Governor Darling informed the Home Office of 'the unsatisfactory manner in which the Constables have been employed in some Districts'. He wanted to appoint Justices of the Peace 'who have no interest in the number and distribution of constables'.²³ Rossi had already recognised the problem in 1826 when, in his proposal for changes to the police force, he stated that 'magistrates were not to employ constables [on] their own concerns'.²⁴

Because of the terms of their employment, the pressures on the constables to do the bidding of the magistrate were strong. Magistrates had the power of dismissal or of imposing fines on constables for misconduct. One constable at Camden was fined a month's pay for neglecting his duty and the magistrate ordered the money be sent to the Benevolent Society.²⁵ A reduction in rank was another means of discipline at the disposal of the magistrates, although this measure was mostly used for the Sydney police where a hierarchical system of wardsmen, conductors and patrolmen was in place. In rural areas, the district constables were the only men who could be demoted, although this rarely happened as they were usually dismissed if charged with any serious misconduct.

Magistrates, it seems, were generally satisfied with the performance of their chief constables, but where they were not, they had no difficulty in dismissing them.²⁶ Responsible for the activities of the men underneath them, the chief constables would hardly have tolerated any threat to their position from subordinate constables not performing their duty. In fact, it was the chief constable who often brought his subordinate constables to court for misdemeanours. Chief Constable John Thorn at Parramatta, for example, charged one of his constables for being drunk and abusive in 1826.²⁷ In another case, the chief constable at Camden charged Constable McQuade for being too drunk to muster ticket-of-leave men at the church.²⁸

²³ Governor's Despatches, 6 August 1829, Mitchell Library: Reel A1205, p. 283.

²⁴ Rossi to Darling, 7 October 1826, Mitchell Library: Reel CY 540, p. 697.

²⁵ Stonequarry Bench Book, 17 May 1830, SRNSW: Vol. 671, 4/7572, n.p.

²⁶ Only two chief constables were dismissed during the study period. Malachy Ryan was dismissed from Appin in 1827 for neglect of duty and William Ikin dismissed in 1826 for selling spirits without a licence. Ben Hodgson, chief constable at Windsor was also dismissed later in 1837. He was convicted of stealing and sent to Newcastle.

²⁷ *Sydney Monitor*, 11 August 1826, p. 101.

²⁸ Stonequarry Bench Book, 27 September 1830, SRNSW: Vol. 671, 4/7572, n.p.

Despite having these disciplinary powers, magistrates sought even further controls over their constabulary. As many of the country magistrates testified before the 1835 Committee on Police, they preferred ticket-of-leave men as their choice of constable because of their 'being under greater control'.²⁹ The threat of having a ticket-of-leave cancelled because of misconduct hung very heavily over a constable and might indeed induce compliance. Records show some evidence that ticket-of-leave men were less likely to be dismissed than either prisoners or emancipists. None of the ticket-of-leave constables employed at Windsor and Liverpool, for example, had been dismissed, although they had resigned and been re-employed several times.

Between 1825 and 1835 only 25 percent of constables employed in rural areas were ticket-of-leave men. The Sydney establishment employed only four men in that category between 1825 and 1833 and no prisoners at all. (See Table 1) Limited as it was, the threat to those holding a ticket-of-leave was real and exploited by the authorities. In 1831, the government devised a scheme whereby ticket-of-leave constables had to choose between accepting a daily pay rate of one shilling and ninepence with the promise of a pardon, or a daily pay rate of two shillings and threepence without the promise of a pardon. All five ticket-of-leave constables employed at Liverpool in that year opted for the lower pay rate, which meant a considerable short-term sacrifice but one they were obviously willing to make for their long-term freedom.³⁰ On the other hand, the nine ticket-of-leave constables at Windsor preferred the higher pay to promises of a pardon. Eight of these nine constables at Windsor were long-term employees who had made a career for themselves in the police and did not see the job as a stepping-stone to freedom or the possibility of a better salary elsewhere. Even though most had life sentences, they obviously did not feel too constrained by their civil status, at least not enough to give up the short-term benefits of a higher wage.

Pressure to comply with the authorities came not only with the threat of punishment and dismissal but also in the form of rewards. Zeal was rewarded with promotion, cash rewards and in some cases, land for those constables who were free. A laudatory front-page notice in the *Sydney Gazette* marked the capture of the notorious bushranger Dalton in 1830. Praising the activities of the Parramatta police, especially chief constable John Thorn, wardsman Samuel Horne and ordinary constable Anthony Flinn, the colonial secretary advised that the Governor

²⁹ Minutes of Evidence, Select Committee on Police and Gaols, 1835, *op. cit.*

³⁰ Col. Sec., SRNSW: Reel 1044, 4/3672, 17 December 1831, p. 257.

had granted the chief constable 'one square mile of land, free of Quit Rent for ever'. Horne and Flinn were granted 'half a square mile' under the same conditions with Horne also receiving an Absolute Pardon. The chief constable at Liverpool, Frederick Meredith, also received a grant of land for services rendered. Using the publication of the rewards to promote a greater participation by the colonial-born in the police, the colonial secretary noted that two of the recipients had been born in the colony, and urged others of the same class to serve their country in the knowledge that 'the Government will foster them as its Children'.³¹

Such pardons and grants of land were enticing rewards for men who had much to gain by aligning themselves with magistrates. Constable Robert Burke at Campbelltown was a ticket-of-leave man when first appointed as a constable in 1821. His subsequent career and acquisition of wealth owed much to his relationship with Campbelltown magistrate, Thomas Reddall. Burke's first piece of land was a clearing lease on Thomas Reddall's estate, acquired in 1824. Reddall then appointed him chief constable and pound-keeper in 1825. Burke then applied for a portion of land on the Airs common ground. Magistrate Reddall wrote to support his memorial and recommended Burke for his 'general prudent habits...and [is] a valuable officer in the Police'. He also supported Burke's claim by stating that he 'is in circumstances to cultivate additional land.' By 1843 Burke was still living in Campbelltown although he had retired from the police in 1836. He had seen his fortunes rise and was wealthy enough to be eligible to vote in the first elections for representative government (only men who owned land worth 200 pounds could vote). Burke's vote was eventually disallowed on a technical detail as he had mortgaged his land. For a seaman from Bristol who had arrived with a 14-year sentence in 1818, Burke had made the most of the opportunities afforded by establishing a good relationship with the local magistrate.³²

The role of the magistrates was pivotal, therefore, in determining, not only the subsequent careers of many constables, but also contributed to the direction and emphasis of much of the policing in each district. Although constables on occasions, exercised their power improperly, they operated, in most cases, within the constraints imposed upon them by the

³¹ *Sydney Gazette*, 1 July 1830, p. 1.

³² Memorial, 4 September 1824, Col. Sec., SRNSW: Fiche 3081: 4/1836B, No. 142, pp. 651-4; Appointment, 16 February 1825, Col. Sec., SRNSW: Reel 6039, 4/424, pp. 313; Memorial, 17 October 1825, Col. Sec., SRNSW: Fiche 3122, 4/1840C, No. 96, pp. 539-42; C. Liston, *Campbelltown: The Bicentennial History* (Allen and Unwin, Sydney, 1988), p. 94.

magistracy. The quality of the magistracy was often a factor in determining the actions of the constables and, therefore, directly affected the role of the police.

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Perhaps the greatest pressures faced by constables in policing their communities resulted from the increasing regulation being imposed on the population by the authorities. From 1825, increasing severity of regulations concerned with the social control of both convict and free meant that the constable was increasingly involved in policing an increasingly resentful population. The wealthy classes, who had traditionally taken on this task in a voluntary capacity, now looked to the police to play this role. Having an organisation, comprised mostly from the convict class responsible for enforcing their laws enabled the gentry to deflect some of the hostility arising from their implementation.

The clearest manifestation of a policy of increasing social control was the introduction of various acts during the tenures of Governors Brisbane and Darling. One such act, '*An Act To Prevent the Harboursing of Runaway Convicts and the encouragement of Convicts Tippling and Gambling*' (1825), was designed to tighten convict discipline, making it an offence to receive convicts in a house for the purpose of drinking or gambling.³³ Punishable by a fine, with increased penalties for offences committed on a Sunday, the arresting constable received, as a reward, part of the money collected by the Bench. Economic self-interest naturally led to greater surveillance of ex-convict homes in the hopes of supplementing the constables' meagre wages. One Sunday morning, in Parramatta, Chief Constable John Thorn and Constable William Wells raided the house of ex-convict James Kerton after seeing six convicts and three free men enter the house. Suspicious about the number of people visiting a private dwelling, they charged the occupants with drinking, despite collecting little evidence. The owner of the house wrote a long letter to the *Sydney Monitor*, complaining of the intrusion and over-zealousness of the constables. While the editor, E.S. Hall, did not comment on the details of the case, he did use the letter to rail against the imposition of fines on the population.³⁴ The publicity surrounding the case did nothing to endear the constabulary to the general population.

³³ P.N. Grabosky, *Sydney in Ferment. Crime, Dissent and Official Reaction 1788-1973* (Australian National University Press, Canberra, 1977), p. 61.

³⁴ *Sydney Monitor*, July 7 1826, p. 61.

Other regulations imposed by Darling made the constables' job even more onerous. In 1828, Darling increased the severity of an existing act regarding theft. Punishment for property theft became more severe, including items that formerly were regarded lightly such as stealing vegetables or from oyster beds.³⁵ Hitherto, the constable might have ignored such activities as being of little consequence, but now these offences were regarded as serious breaches of the law. In 1828 another act to regulate the activities of free workers — the *Masters and Servants Act* — was introduced, with severe punishments for servants neglecting their work or absenting themselves.³⁶ Police were required, on occasion, to make judgements about such matters when they were brought to court. As will be demonstrated in the following chapter, the constables took that role seriously despite the potential for conflict.

The most serious impact on colonial policing came with the introduction of the controversial *Bushranging Act* of 1830, (11 Geo. IV, No. 10) which expanded police powers of search and detention to the point where it, according to some, violated traditional rights and liberties.³⁷ Furthermore, greater discretion was being given to the police at this time to make judgements about the activities of the public, with the police taking the blame for enforcing an especially onerous piece of legislation.³⁸ The Act having been introduced to combat the increasing incidence of housebreaking and bushranging, one of the requirements of the police was to rigorously interrogate all suspected persons as to their status, with the onus being on the accused to provide proof of identity. Constables were also granted search warrants by the magistrates to 'break, enter and search, by day or night' any house suspected of harbouring bushrangers or runaways.³⁹

Four years earlier, three Sydney constables were charged with forcibly entering a house on the Parramatta road at about ten o'clock at night when searching for a bushranger. It did not help their cause that they assaulted the accused in the process. The judge declared that nothing could justify so violent an outrage and ordered the three to stand trial.⁴⁰ With the introduction of the *Bushranging Act*, forcible entry of homes by the police was now legal. So widespread was

³⁵ Grabosky, *op. cit.*, p. 62.

³⁶ *Ibid.*, pp. 62-3.

³⁷ *Loc. cit.*

³⁸ P.J. Byrne, *Criminal Law and Colonial Subject: New South Wales, 1810-1830* (Cambridge University Press, Cambridge, 1993), pp. 157-64.

³⁹ C.H. Currey, *Sir Francis Forbes. First Chief Justice of the Supreme Court of New South Wales* (Angus and Robertson, Sydney, 1968), p. 417.

⁴⁰ *Sydney Gazette*, 19 July 1826, p. 3.

community disquiet over the regulations that stories began to circulate of well-known men being arrested on suspicion of being bushrangers. It was alleged that a young constable questioned the Chief Justice of New South Wales as to his identity while he was out walking one evening near his property at Emu Plains.⁴¹

While there was disquiet in some quarters, notably from Governor Richard Bourke about provisions in the *Bushranging Act* that he felt were 'contrary to the spirit of English law', the rural magistrates, both honorary and paid, were almost unanimous in their support for the measures and the act was renewed in 1834.⁴² As the application of the legislation fell mainly to the rural constabulary, the impact on policing was substantial. The police were now given the power to interrogate and detain any person on the vaguest suspicion, forcibly enter homes and seize firearms and other property suspected of being stolen. Given the scope of the act, it is noteworthy that, according to the Forbes Committee, which recommended the continuation of the act in 1834, no case of abuse or injustice was recorded.⁴³ While the committee may not have been able to point to any recorded case of abuse, excesses could occur. One man who was apprehended under the act in Sydney, was later found to have been free.⁴⁴ Much of the criticism of the colonial constabulary in Alexander Harris's account of colonial life stemmed from the actions of police in relation to this piece of legislation.

During the 1830s, further measures to control the population of New South Wales were added. New regulations in the *Sydney Police Act* of 1833 added to the responsibilities of the police and allowed more opportunities for bad feeling between the constabulary and the general population. Increased surveillance of convicts meant policing the convict pass system while further regulation of the free population included licensing of carters, porters and small vendors within Sydney.⁴⁵ These regulations necessitated police intrusion into more and more everyday activities of the population.

The introduction of the *1835 Vagrancy Act* (3 Geo. IV, c. 40) was also the culmination of years of anxiety on the part of the authorities over the public activities of members of the

⁴¹ Currey, *op. cit.*, p. 417.

⁴² *Ibid.*, p. 418.

⁴³ *Loc. cit.*

⁴⁴ E. Ihde, *A Manifesto for New South Wales: Edward Smith Hall and the Sydney Monitor* (Australian Scholarly, Melbourne, 2004), p. 105.

⁴⁵ Neal, *op. cit.*, p. 155.

'lower orders'.⁴⁶ Disorderly persons, vagabonds and those loitering with intent, repeated drunkenness, public betting and numerous other activities, became offences punishable by imprisonment.⁴⁷ Even before the introduction of the act the police had been required to intervene when mobs had formed in public places. Public fistfights had been popular entertainment, both in Sydney and rural areas, attracting large crowds. Constable Dowd, along with other constables, was ordered to break up a mob gathered for a fistfight at Millers Point in 1831. The *Sydney Gazette* praised their 'prompt and spirited exertions' in dispersing the mob and arresting the fighters.⁴⁸

The colonial press was not always so complimentary. In fact, one newspaper, the *Sydney Monitor*, conducted a campaign of ridicule and scorn towards the police. Hostility to the police came not only from the convict ranks. A great deal of animosity towards the constables, as part of the machinery of the policing system, also came from the more gentrified class. The complaints of Hannibal Macarthur over the 'detestable system of police' and the conduct of the 'convict constables' in Parramatta in 1823 had more to do with his feud with the local magistrate, H.C. Douglass, than the quality of the constables in question.⁴⁹ Besides, the appellation 'convict' was not altogether accurate as most of the constables in Parramatta at that time were free men who had served their sentence. Still, the tag served to denigrate the machinery of the police. As Neal points out, the Exclusivist class desired 'to control the means of coercion, not be controlled by them'.⁵⁰ Macarthur was protesting police procedures in Parramatta in relation to identity checks for strangers and general surveillance of the movements of the local population.

The newspapers also reflected the concerns of genteel society. While street policing of the lower orders was acceptable to the colonial gentry, they were mightily offended if one of their own became involved. An outraged witness to a street arrest in Sydney described how, on hearing cries, he discovered a young woman he knew well, 'entangled in the rude grasp of a ruffian constable'. The woman having been charged by a gentleman with the robbery of sixteen dollars, the constable had attempted to take her to the watch house. The witness remonstrated with him but as the constable said, 'he must do his duty'. Before the bench next day, it was discovered that the accuser had made a mistake and the girl was freed. 'Such an outrage requires

⁴⁶ Byrne, *op. cit.*, p. 163.

⁴⁷ Grabosky, *op. cit.*, p. 63.

⁴⁸ *Sydney Gazette*, 14 June 1831, p. 3.

⁴⁹ Neal, *op. cit.*, p. 141.

⁵⁰ *Ibid.*, p.142.

no comment – it speaks for itself', wrote the witness. 'No well-disposed person can consider themselves safe'.⁵¹ Such class-based prejudice not only made the job of the ordinary constable more difficult but the publication of such accounts in the colonial press did nothing to enhance the reputation of the police among the middle classes.

One of the leading critics of the day was Edward Smith Hall, editor and owner of the *Sydney Monitor*. Because much of the perception of the efficiency or otherwise of the constabulary arose from sources such as the newspapers of the day, it is important to examine Hall's influence, especially since his publication covers the period of this study. Begun in 1826 and published until 1841, the paper offered a platform for Hall who was a trenchant critic of public administration, to express his views. The columns of his paper, he declared in 1828, were to be 'a perpetual commission of inquiry'.⁵² Combined with Hall's strong belief in, and his promotion of, the civil rights of Englishmen, the pages of the *Monitor* resound with contempt for a state operated police system. His dislike of the system of paid police echoes that of the gentry in England with their disapproval of the French system of 'domiciliary visits and spies'.⁵³ Hall wasted no time, thundering against fines, and informers and bribes and '*L'Espionage*', in an early edition of the newspaper.⁵⁴

Hall's target in 1826 was the constabulary, particularly those operating in the Parramatta area. Just why he chose to concentrate his bile on the Parramatta police is a matter for conjecture, since the Sydney constables provided plenty of evidence of corruption. An inquiry into the practices of the Parramatta magistrates was taking place at the same time over allegations of illegal sentences being handed down by the Bench so it is conceivable that any attack on the constabulary would reflect badly on the magistrates.⁵⁵ Paula Byrne has also identified a particular style of policing in the Parramatta area that was more aggressive and intrusive than in Sydney.⁵⁶ Hall's concerns were generally with the down-trodden and the helpless and he saw police actions to enforce regulations concerning alcohol, among other things, as morally unjust. Because of the regulations, poor men were 'forced to visit a low house by stealth in search of that recreation which the descendants of the immortal Hampden ... who liked ale on Sundays, have a right to enjoy', he complained in an article about recent police

⁵¹ *Sydney Monitor*, 29 September 1826, p. 165.

⁵² Ihde, *op. cit.*, p. 2.

⁵³ Neal, *op. cit.*, p. 141.

⁵⁴ *Sydney Monitor*, 11 August 1826, p. 101.

⁵⁵ Neal, *op. cit.*, p. 121.

⁵⁶ Byrne, *op. cit.*, p. 182.

activities at Parramatta.⁵⁷ While individual constables may not have deserved respect, the singular lack of respect for the institution itself is notable in his newspaper.

Hall's influence was pervasive: his newspaper, also known as the 'convict's journal' was widely read and discussed throughout the colony.⁵⁸ His readers would have absorbed the opinions expressed and, in the matter of the police, found many an instance of their own which accorded with Hall's view. A letter to the editor published in 1832 demonstrates the extent of his influence. Hall was personally called upon to intervene on behalf of the residents of the Illawarra district who had a complaint about their constable's conduct in relation to his duties as bailiff. After portraying himself for so many years as the champion of the people against the pernicious police, it must have come as a surprise to the correspondent to read Hall's response to this particular letter. In reply, he stated that the letter-writer had no grounds for complaint about the execution of the law or who had executed it: only about the instance of extortion for which he blamed the Court of Requests.⁵⁹ In Erin Ihde's recent study of Hall, many surprising contradictions and changes of opinion have been documented. In spite of the contradictions displayed by Hall in this episode, the case remains that his influence was widespread and his contempt for the system of police certainly added to the pressures experienced by police in carrying out their duties.

Other Sydney newspapers of the time, the *Sydney Gazette* and the *Australian*, were much more restrained in their views. While still critical of individual police and their actions, the comments were tinged with a certain respect for the institution. The *Sydney Gazette*, being the only newspaper in circulation before 1824, had published all government notices and, despite Governor Brisbane's granting freedom of the press, appears to have been subject to some official control over matters that appeared in the paper. According to the Chief Justice, Sir Francis Forbes, 'the printer of the *Gazette* used to forward his proof sheets to the colonial secretary, to see if there were any matter contained in them, which might not meet the views of government.'⁶⁰ Anxious to promote an impression of authority and control, the government would have been reluctant to allow too much criticism of its means of coercion. Indeed, one of Governor Darling's accusations, levelled against the *Sydney Monitor*, was that the publication

⁵⁷ *Sydney Monitor*, 14 July 1826, p. 65.

⁵⁸ Ihde, *op. cit.*, pp. 29-35.

⁵⁹ *Sydney Monitor*, 22 February 1832, p. 2.

⁶⁰ Currey, *op. cit.*, p. 85.

was 'exciting a spirit of discontent' amongst the convicts, and Darling barred its circulation from public works sites.⁶¹

Nevertheless, some criticism still appeared in the pages of the *Sydney Gazette*. Three runaways had escaped from their escorting constable on the way to the Parramatta Bench from Liverpool in 1825. The editor, receiving a detailed account of the matter from 'a respectable source', queried the sanity of the police, despite the 'usual caution so characteristic of the Liverpool police', in providing only one constable as escort. Recognising the power of such comment, the chief constable at Liverpool wrote a tart reply in his own defence. He felt it his duty, on behalf of himself and the 'police generally of this town' to reply to the 'malevolent information (however respectable the source you had it from) inserted in your Paper.' Detailing the increasing workload, the chief constable declared that the outcome of this particular incident 'did not result from any act of insanity on my part, but from the real want of more constables'. While he dealt with the matter in question, he also recognised the underlying tenor of the article: 'much is apparently intended to be conveyed to the Public in general by the 'tale' you publish'.⁶² Ever conscious of their unpopular role, the police were sometimes forced to defend themselves publicly.

John Thorn, chief constable at Parramatta, also had occasion to publicly refute charges, again through unsubstantiated rumour and gossip disseminated by the newspapers. The *Australian*, on publishing an anonymous letter charging impropriety on the part of the chief constable, recommended an inquiry into the affair.⁶³ Thorn vigorously defended his actions in a refutation published in the *Sydney Gazette* a few days later.⁶⁴ He was most offended by the preparedness of the newspaper to seriously accept the claims of someone not prepared to put a name to the letter. Vigilance on the matter of public perception of the force was just as important as vigilance on the streets.

While appearing to uphold a veneer of support for the institution necessary for maintaining civil order and justice, the *Sydney Gazette* seems inherently suspicious of police operations. This attitude echoes similar sentiments expressed in Britain where there was great

⁶¹ Ihde, *op. cit.*, p. 152; D. Roberts. 2006. 'The valley of the swells': 'Special' or 'educated' convicts on the Wellington Valley Settlement, 1827-1830', *History Australia* 3 (1). pp. 11.1-11.21. DOI: 10.2104/ha060011.

⁶² *Sydney Gazette*, 13 January 1825, p. 3.

⁶³ *Australian*, 29 September 1825, p. 4.

⁶⁴ *Sydney Gazette*, 3 October 1825, p. 3

distrust of the new policing system.⁶⁵ It is possible that the colonial newspapers saw themselves as pursuing a policy of oversight as far as the local police were concerned. Concerns about over-reaching power and authority exercised by the administration, through the police, had already been expressed by Hannibal Macarthur, in connection with the police at Parramatta. The colonial newspapers took on their self-appointed role with varying degrees of zeal. Sitting precariously between a suspicious populace and an administration that did not entirely trust them, the constabulary was forced to defend itself as best it could on both fronts. As difficult as this challenge was, the chief constables who found themselves under attack were stout in their own defence.

Negative press oversight of police activities was just one of the factors contributing to the pressures experienced by the constables in the course of their duty. Tighter controls upon the general population in the name of law and order, added to the difficulties of policing such a robust population. The structure of authority over the constabulary also added to the pressure under which they operated. Magistrates held the power of appointment and dismissal and expected constables to do their bidding, whether appropriate or not. Under increasing pressure to conform to certain middle-class expectations, many police were found wanting and the opprobrium attached to their failure extended to the whole of the constabulary. Continuing the examination of various pressures exerted upon the constabulary, the next chapter investigates the interaction of the police with their local community.

⁶⁵ C. Elmsley, *Crime and Society in England, 1750-1900* (Longman, London, 1987), pp. 171-2.

Chapter 6

Pressures from below: 'A constable who doth his duty must at times have enemies'

The above quote comes from a letter written by District Constable Richard Woodbury to the Reverend Hassell, explaining the circumstances of a missed appointment with the churchman on the Hawkesbury in 1825.¹ Woodbury blamed his neighbour, Solomon Wiseman, for giving him the wrong instructions, saying that Wiseman was his enemy. Why there was bad blood between them is unclear but Woodbury felt he had been deliberately misled in order to put him in a bad light. Constable Woodbury's troubled relationship with his influential neighbour and fellow ex-convict, Wiseman, highlights many pressures facing rural constables in the execution of their duty. These pressures came from above and below. The duality of their role as agents of the state in keeping law and order on one hand while at the same time being members of the community they were policing, was recognised as a problem under the English parish constable system.² Generally elected by the local inhabitants for a fixed term of office, the English constable had to juggle communal relationships with their official obligations. Richard Woodbury's wry observation on the role of the constable above echoes that of a seventeenth-century constable in rural Surrey.

'The Justices will set us by the heels,
If we do not as we should
Which if we perform, the towns men will storm,
Some of them hang's if they could.'³

The pressures sustained by the constables in England by the duality of their role in the English system, have been discussed elsewhere.⁴ In the colony, an extra layer of tension existed because of the constables' convict origins. The contemporary view, as expressed by mostly middle-class commentators, veered from thinking that they 'were so mixed up with their own kind' that they could not perform their duty,⁵ to believing that they would seize the opportunity

¹ Letter from Richard Woodbury to Reverend Hassall, 4 September 1825, Mitchell Library, Hassall Correspondence, A1677-3, pp. 1595-7.

² J. Kent, *The English Village Constable 1580-1642: A Social and Administrative Study* (Clarendon Press, Oxford, 1986), pp. 222-3.

³ *Ibid.*, p. 222.

⁴ *Ibid.*, pp. 222-81; K. Wrightson, 'Two Concepts of Order: Justices, Constables and Jurymen in Seventeenth-Century England', in J. Brewer and J. Styles, (eds), *An Ungovernable People: The English and their Law in the Seventeenth and Eighteenth Centuries* (Hutchinson, London, 1983), pp. 21-46.

⁵ B.H. Fletcher, *Ralph Darling: A Governor Maligned* (Oxford University Press, Melbourne, 1984), p. 179.

to rise above their station.⁶ Neither belief, of course, accounted for individual attitude or behaviour. As has been demonstrated in the previous chapter, pressure exerted from above added to the difficulties experienced by the constables in carrying out their duty. This chapter examines the tensions within the local community in which the constables operated and to what extent pressures from below influenced their actions.

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Richard Woodbury was a district constable on the Lower Hawkesbury, a part of the Windsor police district. Aged 44 in 1825, he had been a brewer who arrived in the colony in 1806, transported for stealing six gallons of brandy. By 1810 he was free, married to the colonial-born daughter of another ex-convict, and living in Windsor where he owned a brewery and a substantial dwelling. However, he was heavily in debt and by 1820 he had lost an 80-acre property and two houses. It was around this time that he moved, with his family, to a grant of land on the Lower Hawkesbury. Perhaps it was the necessity to earn some money that made him apply for the position of constable. However, at the same time, he paid one guinea to join the local chapter of the Bible Committee, so his decision to join the police was not necessarily a matter of economic desperation. Within a few days of being appointed a constable in his area he was designated pound keeper and district constable and for the next nine years he was an active and respected constable before resigning in 1829.⁷

Windsor, like that of the Airs police district, had a significant proportion of small settlers holding the office of constable. Eleven of the 33 constables listed in the 1825 police return were landholders. In common with the Airs district, the constables were generally employed for lengthy periods. Only two constables served fewer than two years, with six staying for more than ten years. In a well-established population like that of Windsor during the 1820s and 1830s, memories were long and old animosities lingered. Although Windsor court records are patchy, there is evidence that the local residents could, and did, easily lodge complaints against neighbours.⁸ The local population was also very involved in the process of the law, as the list of fines from the court indicates. As an example, many informants received

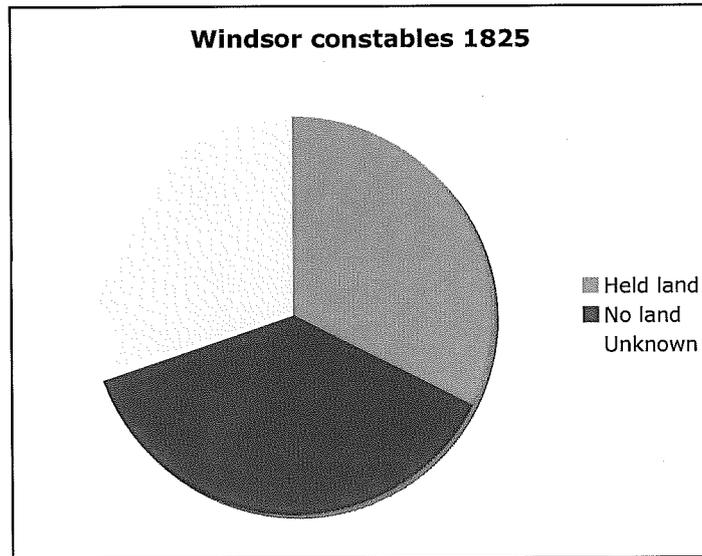
⁶ *Sydney Gazette*, Letter to the Editor, 23 June 1831, p. 3.

⁷ V. Ross, *A Hawkesbury Story*, (Library of Australian History, Sydney, 1989), pp. 19-29; Convict Indents: SRNSW: Fiche 632, p. 219; 1825 Windsor Police Return, Col. Sec., SRNSW: Fiche 3302, 4/7419.1, p. 18; *The Australian*, 6 January 1829, pp. 2-3.

⁸ P. Byrne, *Criminal Law and Colonial Subject: New South Wales, 1810-1830* (Cambridge University Press, Cambridge, 1993), p.190.

rewards for reporting misdemeanours such as travelling on the Sabbath.⁹ Operating within this culture of informing and spying on neighbours would have presented difficulties for the local constables, as we have seen from Richard Woodbury's situation.

Chart 4: Windsor Constables: Land 1825



Another complication, especially for the constables policing the streets of Parramatta and Sydney, was the drive towards increasing regulation of the population, both free and convict, after the arrival of Governor Darling and the appointment of Francis Rossi as the superintendent of police in Sydney in 1825. A heavier emphasis on controlling drunkenness, vagrancy and petty dealers led to greater surveillance and a subsequent rise in arrests.¹⁰ As was demonstrated in the previous chapter, the implementation of various acts had consequences for the reputation of the police. Increasing numbers of freed convicts during the 1820s also posed a problem for the authorities concerned at the disorderly and unruly behaviour in the streets. The move towards enforcing tighter standards of control over urban populations had already begun in England in the early 1820s.¹¹ The colony of New South Wales offered an excellent opportunity for the implementation of a style of policing that sought to extend the regulation of the convict to the social and economic activities of the ex-convict population.

⁹ *Ibid.*, p. 192.

¹⁰ *Ibid.*, p. 160.

¹¹ *Ibid.*, p. 163.

Reaction to this new style of policing from the free and ex-convict population was considerable. In England, working class activists had feared the imposition of a state-run police force would 'destroy the last vestiges of the liberties of the working men of the kingdom'.¹² Freedom from surveillance and regulation was the inalienable right of an Englishman according to custom and tradition.¹³ The freed convicts in New South Wales expected that once they had served their sentence they would not be unduly harassed by the authorities. 'They were free men, and would do as they pleased,' was the response of one early group of emancipists on the Hawkesbury to government attempts at curbing their freedom.¹⁴ A common response to the efforts of a constable performing his duty was that the offender claimed to be a free man and was, unlike the convict, beyond the close attention of the authorities. A direct result of the new policy was the increasing number of assaults upon constables.

Outright hostility and aggression towards the constables is a feature of the Sydney police area, where some 62 cases were recorded between 1825 and 1830. With the exception of the Windsor district, the cases of assaulting a constable in the rural areas were much lower. Between 1824 and 1830 there were 13 instances of assaults upon constables doing their duty that came before the Quarter Sessions at Windsor.¹⁵ It is possible that the large population of freed ex-convicts living in the area dictated the response to attempts of greater regulation. There was also a culture among the young colonial-born youth of defiance towards any type of authority, arising partly from the convict regulation of their parents and partly from the imposition of a form of policing they felt was intrusive. They, too, saw the close attention of the authorities on their social and economic activities as an attack on their freedom. A popular entertainment among the local youth was organised fistfights to which they flocked in large numbers. The Kables were one such clan of young men who 'under the erroneous notion [of] being born free, they are subject to no control or legal obligation', had no respect for the constabulary of the magistracy. This behaviour, of course, inflamed the anxieties of the authorities who saw in these rowdy mobs the seeds of insurrection. The constables, sent in to break up the boxing matches, sometimes found themselves being assaulted and abused. Constable Parry, while attempting to break up a fight between two youths at a large gathering at

¹² P. Bussey, quoted in R.D. Storch, 'The Plague of the Blue Locusts: Police Reform and Popular Resistance in Northern England, 1840-57', *International Review of Social History*, Vol. XX, 1975, p. 68.

¹³ E.P. Thompson, *The Making of the English Working Class* (Penguin, London, 1991), pp. 84-110.

¹⁴ A. Atkinson, *The Europeans in Australia: A History*, Vol. 1 (Oxford University Press, Melbourne, 1997), p. 171.

¹⁵ Byrne, *op. cit.*, p. 191.

Pitt Town in 1826, was told 'I don't give a damn what you can do'.¹⁶ Vigorous in their defence of the right to popular entertainment colonial-born youths resented interference by the constables in their sport.

In contrast, the number of recorded assaults upon constables in the Parramatta, Liverpool, Airs and Camden areas was very low. This does not necessarily mean that tensions such as those existing between Constable Woodbury and Solomon Wiseman on the Hawkesbury did not occur in other areas. At Camden, the settlers were seething about the constables' relentless surveillance of their activity on the Sabbath. Governor Thomas Brisbane had reissued a government regulation in 1822 that forbade any kind of commercial activity or 'any worldly labour' on a Sunday.¹⁷ As the constables were entitled to a share of the rather hefty fine of 20 shillings, they were assiduous in their pursuit of miscreants.

The Stonequarry and Cawdor bench books are full of reports of activity on the Sabbath and many summonses were issued. By 1829 the settlers were refusing to pay the fines and, in one case, returned the summons with a contemptuous note on the back.¹⁸ Another settler, William Kleinsdorffe, had ignored the summons and refused to attend the court.¹⁹ The final straw came when a dray belonging to a Mr Rose was reported as travelling on the Sabbath. Answering the summons, Mr Rose said he was responsible for provisioning the gangs and he needed to travel on a Sunday because the roads were so bad the round trip took too long. The case was referred to the Colonial Secretary.²⁰ Earlier, Magistrate H.C. Antill had sought guidance from the Attorney General about the situation, stating that, 'If a summons is to be treated with this contempt there will be an end to all justice'.²¹

It was not only the small settlers who were targeted by the police: some of the larger landholders also faced summonses for having their wagons or herds driven on a Sunday. Mr Andrew Allen Esquire of Bayley Park who refused to attend court or pay the fine, was threatened by Magistrate Antill who thundered, 'unless you immediately settle the transaction, I shall be obliged to proceed against you according to the Law'.²² While the summonses were

¹⁶ *Ibid.*, p. 196.

¹⁷ Government Order, 1822, Col. Sec., SRNSW: Reel 6063, 4/424, pp. 22-5.

¹⁸ Bench of Magistrates, Stonequarry, Letter, 29 June 1829, SRNSW: Reel 2723, 4/7574, n.p.

¹⁹ *Ibid.*, 17 August 1829, n.p.

²⁰ Stonequarry Bench Book, 7 June 1830, SRNSW: Vol. 671, 4/7572, p. 5.

²¹ Bench of Magistrates, Stonequarry, Letters Sent, 17 August 1829, SRNSW: Reel 2723, 4/7574, n.p.

²² *Ibid.*, 19 July 1830, n.p.

certainly lawful, and the constables were only enforcing the regulations, some from a higher level of society liked to believe that one law existed for them and another for the rest of the population. Resentful of certain regulations being policed by ex-convict constables, they created a situation that placed the constables under a certain amount of pressure.

Tensions within the community can be seen from the following case. Some years earlier, William Kleindorffe, a free settler had reported on another ex-convict settler, James Kierl, for working his assigned servants on his property on a Sunday and allowing a bullock to 'get amongst his heifers'.²³ The case had been dismissed but in 1829, when James Kierl was appointed a constable, Kleindorffe found himself being summonsed for transgressions against the Sabbath.²⁴ Long-standing disputes such as between these two men were not uncommon, as the court records reveal.

Literary evidence of tensions between ex-convict settlers and the police also exist. In James Tucker's *Ralph Rashleigh*, a character, based on an actual well-known settler in the Campbelltown district, mistreats his assigned servant, Ralph who walks eight miles to the residence of the district constable and 'begs protection' from the constable. When the constable hears that the offending master is Arlack, he is immediately sympathetic to Ralph but decides that judgement in the case belongs to the court. However, he pays a visit to the settler and tells Arlack what he thinks of his behaviour. Arlack threatens to get the constable dismissed whereby the constable accuses him of threatening him in the execution of his duty and warns the settler that he will 'find a shop for you, as free as you are'.²⁵

This purportedly-fictional incident has echoes in a real case before the Stonequarry Bench in 1830. Constable Woodhouse reported that a prisoner arrived at his house in the middle of the night complaining that his master and mistress had wrongfully accused him of robbery and had threatened to shoot him. Woodhouse must have then visited the couple, as he later testified in court that Mr Booth, the master had been drunk. Woodhouse then held the man until the court convened. Unlike Tucker's hero, Ralph, the prisoner in the real-life case was sentenced to two years at a penal settlement despite Woodhouse's testimony against the master.²⁶ These

²³ Cawdor Bench Books, 25 July 1825, SRNSW: Reel 665, 4/7567, pp. 170-1.

²⁴ Bench of Magistrates, Stonequarry, Letter, 17 August 1829, SRNSW: Reel 2723, 4/7574, , n. p.

²⁵ J. Tucker, *Ralph Rashleigh* (Angus and Robertson, London, 1953), pp. 145-6.

²⁶ Stonequarry Bench Book, 8 March 1830, SRNSW: Vol. 671, 4/7572, n.p.

examples illustrate the power wielded by the constables, and the potential for conflict in their community if that power was abused.

Another source of potential tension in rural areas was the authority of constables to intervene in work-related disputes. Liverpool magistrates ordered constables to assess work done by convicts brought before the court on charges of neglect.²⁷ In 1825, Constable John Robinson was directed by the Bench at Cawdor to measure the work done by convict servants in a dispute with an overseer. He found that the prisoners had actually done an acre more than they had been allotted. Upon receiving his advice, the overseer acknowledged the extra acre and the case was dismissed.²⁸ Another constable, William Woodhouse, gave evidence in defence of an assigned convict servant who was charged with refusing to work. He stated that the cattle the man was ordered to round up were so wild that it would have been impossible for one man to complete the task. Despite Woodhouse's assessment, the man was given 25 lashes.²⁹ Both Robinson and Woodhouse had been farmers' men in their native Yorkshire before being transported, and their skills were obviously recognised and being put to use. Their previous occupation was not the only thing they had in common, as will become clear in the next chapter.

In a pay dispute, involving the quality of work performed by a gang of free men, Constable Kierl was directed to examine straw that had been threshed and stated that 'he would have been perfectly satisfied if the wheat had been his'.³⁰ The role of the constable in such matters is partly an acknowledgement by the magistrates of their knowledge and skills, and suggests a certain confidence in their judgements. Also, in the absence of any other mechanism for adjudicating such disputes, the use of the constables also helped reinforce their authority in the eyes of the public. On the other hand, such tasks had the potential to create tensions within the community if it was perceived that the constable was not being even-handed.

Another area of possible conflict concerned the policing of alcohol-related offences in the community, including the illegal sale and distillation of spirits. To encourage some rigour among the police for this task, a system of rewards was introduced whereby the arresting constable could claim half of the fine levied by the Bench and receive rewards for discovering stills. Constable Robert Burke of Campbelltown successfully prosecuted Patrick Lavery for

²⁷ Byrne, *op. cit.*, p.185.

²⁸ Cawdor Bench Book, 31 October 1825, SRNSW: Reel 667, Vol, 2696, p. 10.

²⁹ Stonequarry Bench Book, 30 August 1830, SRNSW: Reel 671, 4/7572, p. 3.

³⁰ *Ibid.*, 31 May 1830, p. 4.

'illicit distillation' and claimed a remission of sentence for so doing.³¹ For the majority of constables, there was a fundamental tension implicit in their role of policing certain activities, to which, in many cases, they themselves participated.

In general, community standards differed from that of the authorities. Moralists and legislators subscribed to different concepts of order, especially concerning the consumption of alcohol. An incident, reported in the *Sydney Monitor* in 1826, detailed how a constable escorting a female convict from the Female Factory at Parramatta to her new master delivered her in such a state of intoxication that she was returned to the Factory immediately. Accounting for her state, the constable described 'the progress of her tipping while she was descending the river in his charge'.³² The *Monitor* fulminated on the disgraceful conduct of the constable regarding his inaction as a gross neglect of duty for which he should have been dismissed. The constable appeared to have thought it not his duty to prevent the woman from drinking. It is also entirely possible that the constable had provided the liquor in question. Given that most constables were ex-convict or ticket-of-leave men, their class-based notions of morality would have been little different from those of the convict women. As historian Michael Sturma points out, middle-class observers with their own ideals of conduct, viewed the behaviour of convict women with a biased eye.³³ This same partiality extended to the constabulary, and was especially strong given the desire from middle-class society for a 'respectable' police force.

For some police, the regulations concerning the sale of alcohol presented an opportunity to turn the system to their own advantage. William Ikin, Chief Constable at Liverpool, had some problems concerning the sale of spirits. As owner of the Ship Inn he had been questioned by the bench in 1824 as to 'any direct or indirect interest arising out of the grant of a licence' to sell spirits and the 'one hundred pounds rent he receives per annum'.³⁴ Ikin's policing in Liverpool was concentrated on the public houses of his competitors. In 1826, a summons was taken out against Ikin for retailing spirits without a licence. He was found guilty, fined 100 pounds plus costs and was dismissed from his post as chief constable. With the installation of his successor, Frederick Meredith, the focus of policing changed in the Liverpool area.

³¹ Goulburn to Howe, 12 August 1822, Col Sec., SRNSW: Reel 6009, 4/3506, p. 168.

³² *Ibid.*, 9 June 1826, p. 26.

³³ M. Sturma, 'The Eye of the Beholder: The Stereotype of Women Convicts, 1788-1852', *Labour History*, no. 34, May 1978, pp. 3-10.

³⁴ Liverpool Bench Book, 19 February 1824, Mitchell Library, CY366, A1449, p. 9.

Meredith was far more concerned with regulating convict behaviour within the town confines.³⁵ Differences in the focus of policing between these two men is not only an indication of the degree of autonomy enjoyed by chief constables but also a measure of their motivation. Frederick Meredith was the colonial-born son of long-time policeman and First Fleeter, Frederick Meredith, and Sarah Mason, a convict woman. Meredith senior, who had arrived as a steward on the *Scarborough*, was first appointed to the constabulary in 1810 and was still a constable at Liverpool until his death in 1836. His son, Frederick junior, followed his father's footsteps by joining the police at the age of 21 and turning it into a career. He took over from Ikin as chief constable at Liverpool in 1826 and was still in the post in 1835.³⁶ Whereas Ikin had been a military man, relatively new to policing, and with commercial interests, Meredith was first and foremost a policeman with his father's example to guide him.

Further south, in the district of Airds, the policing of alcohol offences also had repercussions. Constable John Whaley of Myrtle Creek gave evidence in court against Alexander Still for selling spirits without a licence in 1825.³⁷ Policing of the regulations concerning alcohol seemed, in this case, to be largely predicated upon economic considerations, as only one year later Whaley along with the Chief Constable at Appin, John Molony and Constable Higgins of Bargo, were convicted of exactly the same offence. They were all dismissed from their posts and fined 25 pounds each.³⁸

In Upper Minto, District Constable Edward Fletcher was particularly vigilant in his pursuit of illegal drinking. In April 1825 he was awarded 50 pounds from a 100 pound fine levied upon a settler named William Christford for allowing convict servants to congregate and drink on his premises.³⁹ Given that Fletcher's annual salary as district constable was only 20 pounds, the incentive was considerable. A month later, Fletcher and another constable lay in wait, hiding behind a fence in the bush, near Christford's house from one p.m. until sunset because they suspected a repetition of the drinking. Their efforts were once again rewarded, although the drinkers became threatening and abusive when Fletcher refused to let them go. What his cut, if any, of the fine was this time is not recorded. In the first instance, Christford was only given ten days to pay the fine or his goods and effects were to be sold. For a small

³⁵ Byrne, *op. cit.*, p. 185.

³⁶ M. Gillen, *The Founders of Australia. A Biographical Dictionary of the First Fleet* (Library of Australian History, Sydney, 1989), pp. 243-4.

³⁷ Cawdor Bench Proceedings, 1 August 1825, Col. Sec., SRNSW: Reel 6064, 4/1787, pp. 59-60.

³⁸ *Sydney Monitor*, 16 June 1826, p. 37.

³⁹ Cawdor Bench Book, 15 March 1825, Col. Sec., SRNSW: Reel 665, 4/7567, pp. 1-9.

settler, the fine was substantial and potentially ruinous. Given the harshness of the consequences, it is understandable there would be resentment of the police and their activities.

Constables were also responsible for prosecuting drunkenness in both free and convict populations. A wonderful irony is revealed by two cases before the Stonequarry Bench. On 27 September 1830, Constable Blake charged a ticket-of-leave man with being drunk and not attending church. On the same day he ordered another constable, Edward McQuade, to attend the church to muster the ticket-of-leave men but, as he stated to the bench, 'McQuade was in liquor and unable to do so'. Both the constable and the ticket-of-leave man were fined five shillings.⁴⁰ Such inconsistencies would have not contributed to an overall impression of professionalism in the force, making their job even harder.

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In rural areas the highly localised nature of the constabulary had both benefits and shortcomings for policing. As part of the community, the constables had a good knowledge of all the inhabitants and their situations. In addition, they would have been very familiar with the terrain of their district giving them an advantage when searching for runaways or noting suspicious behaviour. Strangers in the area would have been noticed and carefully watched. Indeed, this type of surveillance was part of the job description.⁴¹ In the police district of Camden, Constable McQuade saw a man acting suspiciously, making his way along Stonequarry Creek. The constable followed him and found him with a bundle of stolen clothing. Upon being questioned the man confessed, and duly faced the Stonequarry court.⁴² As Sue West has noted, an intimate knowledge of the local community and local area was lost when the new police force of 1862 was implemented, with the subsequent loss of many of the experienced chief constables.⁴³

However, an intimate knowledge of the area could also lead to friction. Difficult relations with neighbours could be an unfortunate fact of life for the country constable. Even after leaving the post, old animosities could resurface. Constable John Whaley had a conditional

⁴⁰ Stonequarry Bench Book, 27 September 1830, SRNSW: Vol. 671, 4/7572, n.p.

⁴¹ Macquarie to Bathurst, 3 November 1810, *HRA*, Vol. VII, p. 479.

⁴² Stonequarry Bench Book, 8 March 1830, SRNSW: Vol. 671, 4/7572, n.p.

⁴³ S. West, 'Spiders at the Centre of their Webs': the NSW Police and Bushranging in the 1860s, *Journal of Australian Colonial History*, Vol. 8, 2006, p. 4.

pardon and had been an active and efficient constable in the Camden area since 1818 where he farmed 100 acres of land. He had been dismissed for selling spirits without a licence in 1826, was reinstated as a district constable at Sutton Forest in 1827, but dismissed again in 1828. In 1830 he was in court complaining that some men had stolen his corn.⁴⁴ A year later he was in court asking for a warrant to be issued against his neighbour, a Mrs Trueman, who, he claimed, had beaten his 13-year-old son. In defence, Mrs Trueman stated that 'Whaley's boy was in the habit of pimping'. Apparently he had given information about some stolen shingles. She said that he had beaten him and would do so again if he did not stay away from her house. She added that 'he was always pimping'.⁴⁵ Perhaps fearing even more strained relations with his neighbour, Whaley withdrew his case.

One of the consequences identified as a direct result of living and working in the community is the practice of discretionary policing.⁴⁶ Citing Keith Wrightson's identification of the practice in the English setting, Sue West raises the possibility of discretionary policing being an issue in New South Wales. She suggests that the lack of respect for the office, low pay and a shortage of constables might have led to an environment where, fearing alienation from their community, the police were judicious in their policing. The discretionary policing of seventeenth-century English villages and towns related to respecting local customary norms and the fears of upsetting a long-established equilibrium.⁴⁷ In the seventeenth-century English setting, the constables were mostly unpaid and only served a one-year term either by election or rotation. Their stint as constable was therefore very temporary and much more reliant on the concurrence of their community.

While the rough, raw frontier settlements of the Australian bush had no such long-standing traditions, there were still basic community standards and expectations that policing would not intrude upon accepted norms. It is difficult to ascertain to what extent police discretionary decisions could be influenced by their connections to the convict class. Given the mainly ex-convict composition of the colonial police, it could be assumed that a greater than usual identification with the local population would have existed in the colony and therefore the willingness to 'turn a blind eye' would be more manifest. For the emancipist constable, a shared experience of convictism might have led to a greater empathy with the population he was

⁴⁴ Stonequarry Bench Book, 7 June 1830, SRNSW: Vol 671, 4/7572, n.p.

⁴⁵ Stonequarry Bench Book, 7 November 1831, SRNSW: Reel 672, 4/7573, n.p.

⁴⁶ Wrightson, *op. cit.*, pp. 21-46.

⁴⁷ *Ibid.*, p.25.

expected to police. On the other hand, loyalties could just as likely been forged on religious grounds, sharing a place of origin, family ties or, simply based on personal relationships.

Literary sources provide some evidence of discretionary policing. Tucker's *Ralph Rashleigh* includes one incident where the chief constable 'in a distant part of the Nepean settlement' arrives at the Emu Plains government farm with the landlord of an inn to extract payment owed for board and lodgings. Local settlers had requested that a troupe of actors from Emu Plains come and stage a play for their amusement and the troupe had stayed at a local inn. The chief constable investigated claims and counter claims and concluded that the landlord had overcharged for food and drink and dismissed his complaint. In passing, the chief constable reminded the landlord there was a fine for serving convicts alcohol. The convicts could have been flogged for drinking in a public place and the landlord could have been fined for serving them if the constable had pressed charges. That he did not indicates the degree of autonomy enjoyed by the chief constable.⁴⁸

Measuring the extent of actual discretionary policing in the colony is difficult. The records contain only matters that were prosecuted. However, examining the level of policing in different areas might reveal attitudes the constables brought towards their work. In Windsor throughout the 1820s, the court records indicate that hostility towards the constables was, in Byrne's words, a result of their 'initiating policing activity themselves instead of remaining the servants of the magistrates or the populace'.⁴⁹ Byrne also found that the constables in the Liverpool area had a great deal of freedom in pursuing arrests, not all of which, however, were successful before the magistrates, suggesting a certain zeal for their work.⁵⁰ Court records also reveal a high level of quite aggressive policing in Parramatta during the decade. One incident in 1826 gives the flavour of police activity. Three constables raided a public house on suspicion that one of the men drinking there was a prisoner. On questioning the man, who was actually free, the other patrons started a confrontation with the constables resulting in a fight.⁵¹ A traveller to Parramatta in the 1830s observed that the 'police keep a sharper lookout than in Sydney'. The same traveller commented upon the custom of designating the constables' houses

⁴⁸ Tucker, *op. cit.*, pp. 108-14. Although *Ralph Rashleigh* is purportedly fictional account, it has a wealth of detail and description of colonial life that seems incidental to the story. The description of the existence of a theatre troupe at Emu Plains, and their excursion, plays no pivotal part in the plot and is just one of many interesting details in the novel that give the work a semblance of truth.

⁴⁹ Byrne, *op. cit.*, p. 195.

⁵⁰ *Ibid.*, p. 185.

⁵¹ *Ibid.*, p. 180.

by painting the word 'Constable' above the door.⁵² Such close policing suggests that some constables were undeterred by fears of upsetting their community members, even though they lived and worked amongst them.

Discretionary policing could well have manifested itself in the form of allowing prisoners to escape. While only four cases of prisoner escapes resulted in dismissal in the rural areas during the period under review, there may have been others not documented. A complicating factor in prisoner escapes was the necessity of long journeys to bring the miscreant to justice and the inadequacy of many of the buildings used as lock-ups along the way. Constables escorting prisoners from the Illawarra to the court at Campbelltown, for example, had no secure place to house them overnight. The Superintendent of Police at Campbelltown wrote to the Colonial Secretary requesting the government purchase a slab hut for the purpose, 'Campbelltown [being] at too great a distance from Wollongong for prisoners to walk in one day.'⁵³ The escorting constable also walked and during the two-day trip one can imagine many opportunities for escape arising. The superintendent was mostly concerned at the risk of escape from the overnight stop, a very insecure hut in which the lone constable at Appin lodged, having no residence of his own. Given these circumstances, it is a wonder any prisoners with a mind to escape, arrived for their court appearance at Campbelltown at all.

Sympathy for runaways or bushrangers could have resulted in less than full enthusiasm for the chase. One case before the Stonequarry court in 1830 certainly raises suspicions. Michael Gorman, a ticket-of-leave constable, was accused of delaying the delivery of a letter regarding the presence of bushrangers in the area, which had allowed the bushrangers to escape. His defence was that 'he did not know the letter was of consequence' and he had given it to another person going that way to deliver, as it was dark when he had been given his instructions.⁵⁴ However, Gorman's behaviour smacks more of laziness than of connivance. Even if his sympathies lay with his fellow convicts and his inaction was a deliberate ploy, his punishment of loss of pay for one month might have given him pause the next time he felt any class solidarity with his fellow convicts. Amongst all the charges made against the colonial constable, few have been made of sympathy for runaways or bushrangers. Indeed, the charge has been the

⁵² O. Ruhen, *Parramatta Sketch Book* (Rigby, Adelaide, 1971), p. 46.

⁵³ Col. Sec., 1 September 1831, SRNSW: Reel 2282, 4/1103.2, pp. 105-6.

⁵⁴ Stonequarry Bench Book, 17 May 1830, SRNSW: Reel 671, 4/7572, n.p.

opposite: that the pursuit of such miscreants was evidence of their treachery towards their fellow convicts.⁵⁵

Discretionary policing, or selective enforcement, has always been an essential and sometimes necessary part of policing.⁵⁶ In choosing when and where to enforce certain laws the colonial constable seems to have been driven more by economic considerations than by any notions of class solidarity on the one hand, or the preservation of law and order on the other. So, illegal activities which attracted some sort of reward or moiety of fines for the prosecuting constable were much favoured by the police. As previously mentioned, Constable Fletcher's vigilance in monitoring William Christford's house had presumably more to do with his expected financial return than any concern over the sale of illegal spirits. Likewise, the emphasis on bringing to court those charged with travelling or working on the Sabbath was motivated by monetary gain.

Living and working, as they did, amongst their own class created pressures that could affect the constables' efficiency. On the other hand, in the colonial environment, pecuniary interests and social aspiration might have over-ridden such fears. The constable on the Hawkesbury, mentioned at the beginning of this chapter, was resigned to the reality of his situation. Staunch in his own defence and undeterred by Wiseman's attempts to sully his reputation, Constable Richard Woodbury continued to perform his duty. His membership of a group that performed charitable works and distributed bibles to the poor also indicates a certain attitude towards his community. Certainly, Woodbury's fearless execution of his duty and his active participation in the religious life of his community speak of a man not beholden to his convict origins. However, the dangers associated with his job were ever-present and in 1828 three runaways from a nearby Road Party happened upon his farm and assaulted him in his own home. Badly beaten with bludgeons and a broken bottle, he was saved by his young son who shot one of the intruders.⁵⁷ Mindful of the safety of his family, Woodbury resigned his position some months later. Whatever else that might be said of him, the job of a constable in the rural areas of the colony was not for the faint-hearted.

⁵⁵ Sturma, *Vice in a Vicious Society: Crime and Convicts in Mid-Nineteenth Century New South Wales* (University of Queensland Press, St. Lucia, 1983), pp. 100-1.

⁵⁶ C. Klockas, *The Idea of Police*, Vol. 3 (Sage Publications, Beverley Hills, 1985), pp. 92-119.

⁵⁷ *Australian*, 6 January 1829, pp. 2-3.

In outlining some of the pressures on the constabulary arising from their activities within their communities, it can be seen that there were many areas of potential conflict. Balancing the expectations of the community and the demands of the authorities was a challenge that required judgement and fortitude. That many constables succeeded in doing their duty while continuing to live amongst their own class indicates a certain strength of character: an attribute not usually allowed them in popular perceptions.

Chapter 7

Relationships

'He has decoyed my wife from me' ¹

The editor of the *Sydney Monitor* claimed in 1826 that while the 'partition wall between emigrants and emancipists had in great measure broken down' there was a certain 'faction' which would never 'consent to give up their 'oligarchic' claims and mingle with the community'.² A community it may have been, and the 'partition wall' beginning to disappear, but there was still a divide between so-called respectable society untainted by convictism, and the rest of the population. Sitting within this divide were the constables, most of who came from the emancipist class; a class that would seldom, in the eyes of polite society, attain respectability no matter how successful they became. This chapter explores the very particular situation of the constables by examining their marriages, relationships with their superiors, and amongst themselves.

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The number of people in the colony without convict origins was very small. Over 75 percent of the population in 1828 belonged to the convict and emancipist class.³ This gulf sharpened the perceived differences between the behaviour of the lower classes and that of the educated elite who were in much closer contact with them than they had been in Britain. Working class mores, customs and traditions were very much on show in the colony. In addition, within the lower classes the emancipists and the children of convicts, as well as the lower-class free settlers who saw the colony as their own, differentiated themselves from the convicts.⁴

By the 1820s the more successful emancipists, and some less wealthy free settlers, had formed the backbone of a middle class in the colony. Men such as Edward Eager, an emancipist

¹ Browne to Goulburn, 3 June 1824, Col. Sec., SRNSW: Reel 6061, 4/1779, p. 118.

² *Sydney Monitor*, 20 October 1826, p. 179.

³ M.J. Belcher, 'The Child in New South Wales Society: 1820-1837', PhD, University of New England, Armidale, 1982, p. 121.

⁴ D. Neal, *The Rule of Law in a Penal Colony: Law and Power in Early New South Wales* (Cambridge University Press, Cambridge, 1991), p. 44.

lawyer; Simeon Lord the wealthy merchant; and surgeon William Redfern, emerged in opposition to the wealth and power of the Exclusive or 'oligarchic' faction. A petition to London for confirmation of emancipist legal status in the colony in 1820 was signed by 1367 emancipists.⁵ Although constituting the beginnings of a colonial middle class, their numbers were small compared to the mass of convicts and poorer emancipists below them.

In rural communities where the numbers of educated elite were extremely small, the gulf was even wider and they were at pains to establish the differences between them and the rest of the convict and ex-convict population.⁶ John Macarthur's comment to Commissioner Bigge in 1820 encapsulates the attitude of the elites: 'I seldom go into the Town and I avoid all unnecessary intercourse with the inhabitants. The lower classes are reported to be disorderly – and they were always so.'⁷ The irony in this statement is that Macarthur himself rose from working-class stock. However, the attitude expressed above illustrates the immense divide between those of convict origin and the rest of the population. Attempts by the elites to impose certain moral values upon the mass of convict and emancipist classes took the form of regulating certain behaviours by law. The constabulary were intimately involved in policing the laws which then brought them into conflict with the general population. It has been shown how difficult the role of the constable became in attempting to enforce regulations embodying such values, not least because many of the police generally shared the same moral and social ethic as those they were policing.

However, relationships are never as simple as we would imagine. As emigrants and large landowners, the magistrates naturally considered themselves among the ruling class, unwilling to 'mingle with the community'. When the wife of magistrate William Browne of Appin ran away with an ordinary constable from Parramatta, a dimension of class relationships not always visible was exposed. In June 1824, Browne's wife, Sophia, left her husband and went to Parramatta to live with Constable Edward White. She took two of her children with her and stayed with White despite her husband's pleas for her to return. Browne then scrawled a despairing letter to the Colonial Secretary complaining about Constable White and declaring that White had decoyed his wife away from him and was determined to keep her 'in spite of me

⁵ Neal, *op. cit.*, p. 179.

⁶ A. Atkinson, *Camden* (Oxford University Press, Melbourne, 1988), pp. 22-23; Neal, *op. cit.*, p. 98.

⁷ T. Kass, C. Liston, J. McLymont, *Parramatta: A Past Revealed* (Parramatta City Council, Parramatta, 1996), p. 119.

or any other Magistrate'.⁸ Edward White, a watchmaker from London before being convicted and transported, had arrived in 1817 and was appointed a constable at Parramatta in 1823. While there is no record of any official reprimand for his dalliance with Browne's wife, he temporarily resigned his position some months later.⁹ Two weeks later he was re-appointed to the Parramatta constabulary. By 1828, Mrs Browne was once again with her husband at Appin.¹⁰

William 'Merchant' Browne would have considered himself at the apex of colonial society. He had arrived in the colony in his own ship, the *Mary*, from India, complete with a bevy of Indian servants. Apparently he arrived with 20000 pounds and was immediately given the largest land grant in New South Wales. His two eldest sons meanwhile were on a grand tour of Europe after completing their education in England.¹¹ One can only speculate on just how Mrs Browne met and conducted her affair with Constable White before taking the step of running away with him. The daughter of a Colonel in the Honourable East India Company, she left her 62 year-old husband to stay at White's house in Parramatta where the differences in class would have been very obvious. White himself may not have been from the working class but his civil status as an ex-convict and a constable would have normally precluded him from any association with a woman of Sophia Browne's class. While this was an isolated and unusual incident, it does illuminate the complexities of relationships between classes.

Ructions over the appointment of Malachy Ryan to the position of chief constable at Appin in 1826 not only expose divisions between the magistrates and other respectable inhabitants of the area, but also reveal their attitude towards emancipists. A letter to the editor of the *Sydney Monitor* questions Ryan's appointment on the grounds of his supposed involvement with the escape of a prisoner, his drinking habits and the circumstances of his marriage. Signed by 'A few of your subscribers', the letter combines hearsay, rumour, gossip and general scuttlebutt to present Ryan in a bad light.¹² The magistrates concerned were apparently not amused by the anonymous group's intervention in their magisterial responsibilities, and 'a few of

⁸ Browne to Goulburn, 3 June 1824, Col. Sec. SRNSW: Reel 6061, 4/1779, p. 118.

⁹ Convict Indents, SRNSW: Fiche 637, p. 268; Government and General Order, 15 October 1823, Col. Sec., SRNSW: Reel 6039, 4/424, p. 194; Parramatta Police Pay Lists, 25 September 1824, Col. Sec., SRNSW: Reel 6030, 4/7017A, p. 173.

¹⁰ Parramatta Police Pay Lists, Col. Sec., SRNSW: Reel 6030, 4/7017B, p. 181; M. Sainty and K. Johnson (eds), *Census of New South Wales November 1828* (hereafter referred to as *1828 Census*) (Library of Australian History, Sydney, 1985), p. 67.

¹¹ J.F.R. Browne, *A History of William 'Merchant' Browne* (self-published, 1974); Campbell to Browne, 27 April 1816, Col. Sec., SRNSW: Reel 6004, 4/3494, p. 473; Campbell to Brown, 19 November 1816, SRNSW: Reel 6005, 4/3495, p. 285.

¹² *Sydney Monitor*, 18 August 1826, p. 107.

your subscribers' had to publish another letter assuring them that it was not their intention to question any decisions made by the Bench.¹³

In the meantime, Ryan had responded publicly to the 'false, malicious and inflammatory' accusations in a letter to the *Sydney Gazette*.¹⁴ Literate, and the longest serving constable in the area, Ryan was the most obvious choice given that the magistrate 'was desirous of giving encouragement to the constables by appointing the oldest.'¹⁵ The fact that Ryan was one of the United Irish Rebels transported to New South Wales aboard the *Tellicherry* in 1807 could also have coloured the view of the local landholders. Granted land and a conditional pardon, Ryan had settled in the Appin area. However, suspicions of insurrection and conspiracy lingered long after the ex-rebels had become absorbed into colonial society.¹⁶ Despite the magistrate's recommendation that Ryan was to be appointed chief constable, some in the community were obviously unhappy about the choice.¹⁷

One of the charges against Malachy Ryan was that he was alleged to have a wife in Ireland while being married to a woman in the colony. After being in the colony for 13 years, he married a convict woman, Mary Ryan, in 1819, who it was said also had a husband in England.¹⁸ While the authorities attempted to forbid married convicts from entering into new marriages in the colony, many such marriages took place once the parties did not have to seek the Governor's permission to marry or, alternatively, the couples lived together outside marriage.¹⁹ Malachy Ryan had another problem with marriage in the colony as, officially, all the Irish rebels exiled to New South Wales were apparently forbidden to marry or to have their wives and children join them.²⁰ Given the particular circumstances of Ryan's situation, his marriage seems acceptable and not grounds for excluding him from being appointed chief constable. At least the magistrates did not consider it a problem.

¹³ *Ibid.*, 3 November 1826, p. 197.

¹⁴ *Sydney Gazette*, 27 September 1826, p. 4.

¹⁵ Browne to Goulburn, 26 April 1823, Col. Sec., SRNSW: Reel, 6058, 4/1769, p. 100.

¹⁶ A. Whittaker, *Unfinished Revolution: United Irishmen in New South Wales, 1800-1810* (Crossing Press, Sydney, 1994), pp. 145-62.

¹⁷ Browne to Goulburn, 26 April 1823, Col. Sec., SRNSW: Reel 6058, 4/1769, p. 100.

¹⁸ Mitchell Library, SAG92, C. of E. Marriages, St Lukes, Liverpool, 20 September 1819.

¹⁹ A. Atkinson, 'Convicts and Courtship', in P. Grimshaw, C. McConville and E. McEwen, (eds), *Families in Colonial Australia* (George Allen and Unwin, Sydney, 1985), pp. 19-31.

²⁰ S. H. Sheedy, *History of the Sheedy Family 1800-1946: Including a History of the Society of United Irishmen 1791-1863*, Mitchell Library, MSS 1337/1, p. 36.

As Ryan's enemies point out in their letter, objections to some of the other candidates for the position of chief constable were made 'for living with women unmarried'.²¹ The position of chief constable was considered highly important and the applicant had to be above reproach in all respects. All but one of the 13 men, who held the position at various times during the period of this survey, were married. The exception, John Proctor, chief constable first at Bringelly then at Penrith, was listed as an ordinary ticket-of-leave constable and single on the 1825 police return.²² He may have been married in England as he was already 37-years old when he arrived in the colony. No marriage or births are recorded in subsequent years under his name. Given the objections to de facto wives, it is unlikely he was living with a woman when he was appointed chief constable in 1832 at the age of 50.

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Marriage was one of the more important relationships in the constables' lives. Statistics on marriage for the police population over the ten-year period of this study are patchy. The clearest picture of police marriages is provided in 1825. The police returns of that year listed the name and marital status of all the constables. In 1830, the returns from some country areas named individual constables and from that information, marriage status is easily obtained. By 1835 police returns did not list individual names, making it very difficult to establish just who was employed at that time and what their marital status might be. However, figures compiled from the police returns of 1825, the 1828 Census and the 1830 police returns, provide a good guide to marriage amongst the constabulary for at least half the study period.

In Sydney and the rural areas covered by this study, 185 men were employed as constables at the time of the police return in 1825. Sixty-four percent of these men were married, 35 percent were single and the status of one percent is unknown. (See Table 34). The pay list in Sydney for the week 14 May to 21 May 1825, for example, lists 66 men of whom 48 (72 per cent) claimed allowance for a wife. Only 22 claimed for children.²³ In Parramatta for the same period in May 1825, 19 men (56 per cent) claimed for wives out of a total of 34 employed.

²¹ *Sydney Monitor*, 18 August 1826, p. 107.

²² Police Return for District of Evan, 1825, Col. Sec., SRNSW: Fiche 3302, 4/7419.1, p. 12.

²³ Sydney Police Pay Lists, 14-21 May 1825, Col. Sec., SRNSW: Reel 6030, 4/7016A-D, pp. 215-17.

Eleven claimed for children.²⁴ Despite the difficult working conditions and low pay, it seems many families depended on this employment.

By 1828, according to the New South Wales Census, 172 men were employed as constables in the areas covered by this study. (See Table 35). The percentage of married men employed in 1828 had dropped to 52 percent. No marriages could be found for 38 percent of the men, indicating either a greater number of de facto relationships, or that fewer married men were applying for the position of constable. Ten percent of the constables were single.

By 1830, figures for Sydney and Liverpool are not available but in the other areas the figures had risen again to 1825 levels. Sixty-four percent of men were married, eleven percent were single and 25 percent were unknown. The high total of unknowns throughout the study period makes any analysis problematic but what is clear is that more than half the constables, during the period 1825 to 1830 were married men. Of the roughly one-third of constables whose marital status is unknown over the period, it could be assumed that at least some of them were living in either temporary or long-lasting de facto relationships.

The figures shown above are taken over all the districts and do not show the variations between different areas. The following tables indicate the range of marriage patterns. Parramatta, for example, showed a consistently high rate of marriage amongst its constables, perhaps reflecting the presence of the female factory and the corresponding numbers of available females. On the other hand, the district of Airs also had a higher-than-average rate of marriage and women were certainly not numerous in that distant region.

Table 34: Marriage 1825

	Married	Single	Unknown	Total	Percentage
Airds	11	2		13	85%
Camden	4	3		7	57%
Liverpool	9	6		15	60%
Parramatta	20	14		34	59%
Penrith	7	7	1	15	47%
Sydney	48	18		66	73%
Windsor	18	14	1	33	55%

²⁴ Parramatta Police Pay Lists, 14-21 May 1825, Col. Sec., SRNSW: Reel 6030, 4/7017B, p. 173.

Table 35: Marriage 1828

	Married	Single	Unknown	Total	Percentage
Airds	9	2	1	12	75%
Camden	3	2	3	8	38%
Liverpool	8	5	4	17	47%
Parramatta	24	6	5	35	68%
Penrith	6	4	3	13	46%
Sydney	24	4	26	54	44%
Windsor	16	6	10	32	50%

Table 36: Marriage: 1830

	Married	Single	Unknown	Total	Percentage
Airds	6	1	2	9	66%
Camden	4	1	5	10	40%
Liverpool	-	-	-	-	-
Parramatta	26	6	3	35	74%
Penrith	6		5	11	55%
Sydney	-	-	-	-	-
Windsor	19	2	9	30	63%

Marriage in itself is no indicator of a stable relationship and some of the marriages contracted by the constables seem to have had some problems. William Bowman, a constable at Liverpool in 1825, married convict woman Apsey Dam in 1824 but by 1828 she was a dairywoman at Bathurst and he was living in Sydney.²⁵ Benjamin Ratty's convict wife was in the Parramatta Female Factory when he was shot dead apprehending bushrangers. Lewis Campbell, who had come to the colony with the 48th Regiment in 1817 and was appointed a constable at Parramatta in 1825, was no longer living with his wife by 1828.²⁶

A de facto relationship, on the other hand, could be long lasting, as was the case with ex-convict, Hugh Taylor and Elizabeth Brown at Parramatta. Taylor, appointed a constable in 1819, did not claim colonial-born Elizabeth as his wife on pay returns in 1825, although he did claim for two children.²⁷ The *1828 Census* lists Hugh as having three children but no wife, while

²⁵ Liverpool Police Return 1825, Col. Sec., SRNSW: Fiche 3302, 4/7419.1, p. 14; BDM, SRNSW: Vol. 3, No. 3328, C. of E. marriages, St. Peter's, Campbelltown, 12 April 1824; *1828 Census*.

²⁶ *1828 Census*.

²⁷ Parramatta Police Pay Lists, 25 September 1825, Col. Sec., SRNSW: Reel 6030, 4/7017A, p. 253.

Elizabeth Brown appears as housekeeper to Hugh Taylor. The couple went on to have five more children, the last born in 1838.²⁸

M.J. Belcher's work on families in colonial Australia, based on the *1828 Census*, shows that only 14 percent of the total males in the colony were married, cohabiting, widowed or separated.²⁹ As a group, the constables' marriage rate of over 50 percent shows their prospects for marriage were much better than the average. This accords with Belcher's findings of a cluster of marriages around the lower levels of the civil and police establishment, which offered many female convicts the 'best basis for a normal family life'.³⁰ As one would expect, given that the majority of constables came from the ex-convict class, most of the women they married were, or had been convicts also.

Table 37: Civil Status of Wives 1825-32

	Came Free	Born in Colony	Convict	Unknown	Total
Airds	2	6	18	-	26
Camden	3	2	4	2	11
Liverpool	1	8	14	-	23
Parramatta	9	15	53	9	86
Penrith	3	4	12	3	22
Sydney	8	5	38	16	67
Windsor	9	16	23	5	53
Total	35	56	162	35	288

Belcher also identified an exclusivity factor in the marriages of emigrant and colonial-born males in that they shunned the convict class as partners.³¹ Marriage for the chief constables closely echoes Belcher's findings. Of the twelve marriages, only one took place between an ex-convict man and a colonial-born woman.³² The other marriages held rigidly to class lines. For the ordinary constables, there was a similar alignment. Only twelve emigrant or colonial-born men married freed or convict women (five percent). However, freeborn women were more likely to marry convict or ex-convict men, as Belcher discovered.³³ A number of convict

²⁸ BDM, SRNSW: Vol. 23, No. 665, Births 1838.

²⁹ Belcher, *op. cit.*, p. 123.

³⁰ *Ibid.*, p.147.

³¹ Belcher, *op. cit.*, p. 152.

³² Robert Burke, chief constable at Airds, married Margaret Keegram, a free woman in Sydney in 1825. No record of Margaret Keegram can be found, although two colonial-born young men named Keighran are listed in the 1828 Census as living in the district of Airds. It is possible she may have been a sister, although no birth records can be found.

³³ Belcher, *op. cit.*, p. 153

constables in this study married women who had arrived free or had been born in the colony. Five colonial-born constables and one who had come free to the colony married convict women

One such marriage took place at Windsor in 1818 when 30-year-old Dennis Benjamin Kirwan, convict, married Jessica Turnbull who had come free to the colony. He had been transported to New South Wales from Fort William, Bengal, where he was court-martialled and sentenced to death. However, the sentence was commuted to life and he was sent under military guard with eleven other men, arriving in 1816 on the *Hayeston*. At first he was employed by the government, possibly as a carpenter, as that was his trade listed on the indent. Later that year, he petitioned the governor for mitigation of his sentence on the grounds of ill health. Accompanying his memorial are references from 'persons who know his character'. Unfortunately these accounts have not survived and only a scribbled note on the cover of his petition tells us that 'the prisoner is an orderly man'. It is highly possible that Kirwan was then assigned privately in the Windsor area and may have been one of the four convicts assigned to Jessica's father, John Turnbull, in 1817.³⁴

John Turnbull and his family were one of ten staunch Presbyterian families who arrived in the colony as free settlers in 1802 aboard the *Coromandel*. On their promised grants of one hundred acres on the Hawkesbury, they established farms, raised their children and built a community, at the centre of which was their church at Ebenezer. Jessica was only 18 years old and already pregnant at the time of her marriage to Dennis Kirwan. Their son Hiram would be born five months after the wedding. Any shame that might have been attached to this union seems to have been overcome and by 1828, the Kirwans were renting 30 acres at Portland Head on which they ran 38 cattle and two horses. By this time Kirwan had a ticket-of-leave and he and Jessica had seven children.³⁵ They would go on to have 13 children altogether, most of whom would marry into other Hawkesbury families.

After receiving a pardon, Dennis was appointed district constable at Portland Head around 1830 and continued in this position until at least 1834, with a short stint in Windsor in 1831. His embrace of the religious life of his community is evident in an 1837 memorial, signed jointly with his three brothers-in-law, for a resident Wesleyan minister to be appointed to the

³⁴ BDM: SRNSW: Vol. 3, No. 2283, C. of E. marriage St. Mathews, Windsor, 16 November 1818; Convict Indent, SRNSW: Fiche 4/4003, p. 106; Memorial of Dennis Kirwan, 1816, Col. Sec., SRNSW: Fiche 3173, 4/1849, p. 57; Campbell to Ricketts, 10 May 1815, Col. Sec., SRNSW: Reel 6018, 4/3521, p. 67.

³⁵ 1828 *Census*.

area. Dennis Kirwan died in 1851, aged 56 years.³⁶ As a convict and as a member of the colonial constabulary, Kirwan does not conform to the stereotypical images of either group. His story belongs to the other, less well-known, more complicated version of the colonial narrative that this thesis is endeavouring to reveal.

Although many of the men in this study were married before their appointments as constables, those who were not had many opportunities to meet a range of women during the course of their duties. In rural areas, where women were not so numerous, there were still many occasions on which constables could interact with prospective partners: escorting female servants to and from their places of assignment; attending court where many assigned servants were brought to answer charges of misconduct; in the course of visiting farms and residences as part of their duties; and amongst the friends and relations of married colleagues. Constables were generally taller than average, fit, well-built men, imbued with an air of authority that would have been very attractive to many young women.³⁷

The fact that the men were more likely to be eight to ten years older than their brides was not seen as a disadvantage. In his study on family and marriage, Belcher identifies elements of instrumental marriage at work in the colony where convict men had first to complete their sentences and then establish themselves financially before considering marriage.³⁸ While the wage of a constable was not very high, the money came regularly and could be supplemented by rewards and portions of fines. Of 58 marriages involving men who were, or would become, constables outside Sydney, between 1826 and 1833, only 13 men were designated prisoner. Most of these marriages took place before any appointment as constable. Another 22 men held tickets-of-leave enabling them to earn their own living, while a further 18 were free. The average age of emancipist constables at marriage was 33 years, compared to 21 years for the colonial-born constables. Similarly, the average age at marriage for wives reflected one of the consequences of convictism: just 19 years for colonial-born girls, and 26 years for convict women.³⁹

³⁶ V. Ross, *A Hawkesbury Story* (Library of Australian History, Sydney, 1989), pp. 19, 82, 193, 252; R.M. Arndell, *Pioneers of Portland Head*, 2nd edn., self-published, 1984, pp. 19, 23, 252, 259.

³⁷ Although there were no physical requirements, apart from fitness, for applicants during the study period, a selected sample of the constables reveal heights ranging from 5 feet 6 inches to over 6 feet, with very few at under 5 feet 6 inches. A certain degree of bulk would have been required to enable them to exert their authority.

³⁸ Belcher, *op. cit.*, pp. 159-61.

³⁹ Figures compiled from constables' applications to marry in Register of Convicts Applications to Marry, 1826-1833, SRNSW: Fiche 780, 4/4508 and cross-checked with marriages in BDM.

For many convict women, assignment was a path to marriage. John Walton, a 33-year old constable and Mary Ryan, a twenty-five year-old convict, met when she was sent to Campbelltown as an assigned servant.⁴⁰ John and Mary, both literate, were witnesses to the wedding, some years later, of fellow constable James Booth.⁴¹ John Blake, chief constable at Camden for a period, met and married his wife in 1826 at Stonequarry where she was an assigned servant, the year after he was appointed a constable. One of the witnesses to their wedding was Daniel Toole, who was to be appointed a constable in Camden in 1828.⁴²

Henry Bradley, constable at Upper Minto in the Airs police district, had originally been assigned to William Howe of Minto on his arrival in the colony in 1820. Appointed a constable in 1822, he retired after being assaulted when only a month in the job and returned to Howe.⁴³ Also assigned to Howe in 1824 was Maria Harvey, after arriving on the *Almorah* in 1824. Early in 1825 Bradley was reappointed a constable and six months later he and Maria applied for permission to marry.⁴⁴ Bradley resigned in 1829. In that same year he and his wife Maria were witnesses to the marriage of Joseph Giles and Mary Ann Taylor who were also assigned servants of William Howe. Joseph would be appointed a constable at Minto in 1835.⁴⁵ Assignment for both male and female convicts, particularly in rural areas, offered not only opportunities to find suitable marriage partners but also to develop friendships and provide possibilities for later employment once bonded service was over.

Working alongside other constables also offered opportunities for finding marriage partners. A young convict, Noel Chapman, assigned to Windsor on his arrival in 1826, was appointed a constable there in 1830. A year after his appointment he married Rebecca Armfield, the colonial born daughter of ex-convict, Constable Edward Armfield who had been in the force since 1827. Rebecca was eighteen years old and Noel, who had a ticket-of-leave, just 22 when

⁴⁰ BDM, C. of E. marriages, SRNSW: Vol. 15, No. 1112, St Peter's, Campbelltown, 7 November 1831.

⁴¹ BDM, C. of E., marriages, SRNSW:, Vol. 23, No. 331, St., Peter's, Campbelltown, 1839.

⁴² BDM, C. of E. marriages, SRNSW: Vol. 10, No. 240, St Peter's, Campbelltown, 1 September 1826; *Sydney Gazette*, 13 November 1828, p. 1.

⁴³ List of Convicts Distributed to Parramatta and Liverpool, 11 January 1821, Col. Sec., SRNSW: Reel 6007, 4/3503, p. 38; Government and General Order, 11 July 1822, Col. Sec., SRNSW: Reel 6039, 4/424, p. 84; SRNSW: Reel 6023, X820, 23 September 1822, p. 65; List of Convicts Employed By William Howe, 9 June 1824, Col. Sec., SRNSW: Fiche 3093, 4/1837B No. 475, p. 823.

⁴⁴ Redall to Goulburn, 25 July 1825, Col. Sec., SRNSW: Reel 6064, 4/7187, p. 50.

⁴⁵ *1828 Census*; BDM, C. of E. marriages, SRNSW: Vol. 13, No. 829, St. Peter's, Campbelltown, 14 December 1829; *Sydney Gazette*, 23 June 1835, p. 1.

they married in 1831.⁴⁶ Chapman later joined the Sydney police where his brother, Israel, had been working since 1824.⁴⁷ Chapman possibly met Rebecca while he was working alongside her father. Armfield, father of a large family, might have encouraged the match, knowing the character of the young policeman after working with him for a year.

The circle of connections and relationships is most obvious in rural areas where the majority of assigned servants were clustered amongst the few large landholders in each district. Quite often these landowners were magistrates for their district and, naturally, appointed competent men from amongst their own servants to the constabulary. Many constables from the Airds and Camden districts, for example, were previously in the employ of Macarthur, Howe or Throsby. George Nutting, a butcher employed by Charles Throsby on his estate, Glenfield in Lower Minto, was appointed a constable in 1830. Nutting also met his wife, Sarah Racey, when she was assigned as a housemaid to Throsby in 1828.⁴⁸ Reverend Thomas Reddall, magistrate at Campbelltown, also appointed his employees as constables. Constable Patrick Keogh of Campbelltown met his wife, Ann Cowell, when she was assigned to Reddall and they married in 1825.⁴⁹ Keogh resigned in 1827 to work for Reddall before being reappointed a constable in 1831.

Convict Edmund Bath had a stroke of luck when he was assigned as a servant to George Hambridge, the principal constable of the County of Cooke. Not only did Hambridge attest to his good character on application for a ticket-of-leave in 1823, he also had a hand in recommending him for the position of constable at Cooke, where he was duly appointed shortly afterwards. Hambridge owned 200 acres of land and was a well-established settler. In addition, he had a 16-year-old daughter Elizabeth, whom Bath applied to marry in 1826.⁵⁰ However, there is no record of any marriage and in 1828, Elizabeth was still with her family.⁵¹

Many of the marriages produced children. In 1825, in the areas covered by this study, 111 (60 percent) constables were married, with 82 (44 percent) families having one or more

⁴⁶ *Sydney Gazette*, 2 January 1830, p.1; Register of Convicts Applications to Marry, 1826-33, SRNSW: Fiche 780, 4/4508, 1831; BDM, C. of E. marriages, SRNSW: Vol. 3, No. 5138, Richmond, 14 February 1831.

⁴⁷ Israel Chapman was the first detective to be appointed in New South Wales.

⁴⁸ Sainty and Johnson, *op. cit.*

⁴⁹ Register of Convict Applications to Marry, SRNSW: Reel 6014, 4/3514, p. 224.; BDM, C. of E. marriage, SRNSW: Vol 3, No. 3568, St Peter's Campbelltown, 15 May 1825.

⁵⁰ Lowe to Goulburn, 1823, Col. Sec., SRNSW: Reel 6026, 4/1715, p. 625; Government and General Order, 4 June 1823, Col. Sec., SRNSW: Reel 6039, 4/424, p.169; 1828 *Census*.

⁵¹ 1828 *Census*.

children. Most of the ordinary constables had small families, sometimes only one or two children but the higher the status of the constables the greater the number of children.⁵² District constables, in particular, had larger-than-usual families. A combination of land ownership and regular police work seemed to provide a stable economic base for raising large families. In the Parramatta district, William Fishburne, district constable at Castle Hill, had six children; John Martin, holding the same position on the northern boundary, had seven children; and district constable, Joseph Eyles, stationed at Field of Mars, also had six children. At Windsor district constables John Ezzey, Richard Woodbury and John Cobcroft raised a total of 22 children.⁵³

Overall, the trend in this study was for colonial-born constables to have larger families, but that can be partly explained by the earlier age at marriage of these men and their partners. As indicated above, convict women were, on average, seven years older at marriage than their colonial-born counterparts, thus limiting the childbearing years. The number of children born is also an indication of the length and stability of many of the marriages within the constabulary. In his study of children and families in colonial New South Wales, Michael Belcher grouped the police in the lower echelon of the civil establishment. According to his study, the civil establishment accounted for ten percent of the colony's children in 1828.⁵⁴ However, this figure is complicated by the fact that chief constables and district constables were, in the main, small landholders who, according to Belcher's study, accounted for the largest percentage of children in all categories (18 percent). Taking this into account, the police, as an occupation category, had about twelve or thirteen percent of the children in the colony, which was on a level with mechanics and labourers. By comparison, shopkeepers and innkeepers had only five percent and overseers only three percent of the total number of children in the colony in 1828.⁵⁵ Low status and low wages notwithstanding, nearly half the constables were family men.

It is difficult to ascertain the degree of male social relationships amongst the police. As colleagues, many of the men had much in common. Originally convicts but now members of the emancipist class, the constables shared similar characteristics: age, length of time spent in the colony, marriage and families, resourcefulness and a shared knowledge of the difficulties of their occupation. However, the temporary nature of much of their employment militated against close friendships. An indication of some level of social relationship can be found in the marriage

⁵² Belcher, *op. cit.*, p. 147.

⁵³ *1828 Census*.

⁵⁴ Belcher, *op. cit.*, p. 147-8.

⁵⁵ *Loc. cit.*

records. Although he was a Catholic, Michael McNamara, constable at Liverpool, witnessed the Church of England marriages of colleagues James Winwood and George Nutting on the same day in 1829.⁵⁶ Another constable, John Walton, appointed in 1830, and his wife were witnesses to the second marriage of colleague James Booth in 1839.⁵⁷ At Campbelltown, constable John Robinson appears as witness to the marriage of fellow constable William Charker and Harriet Scott, daughter of Campbelltown publican Joseph Scott.⁵⁸ Charker continued as constable and in 1835 was appointed chief constable at Bong Bong, deep in the heart of County Camden. Robinson, however, resigned in 1828 and moved to Kissing Point, near Sydney where he took a position as a gardener.⁵⁹ It would have been difficult for Robinson and Charker to maintain a social relationship over such a long distance.

John Robinson, in moving to Kissing Point, was also severing another long-term and important relationship with his fellow constable at Camden, William Woodhouse. Both young men arrived in the colony on board the *Earl St. Vincent* in 1819. They had been convicted on the same day at the York Assizes and sentenced to seven years transportation. Listed next to each other on the indent, and with the same occupation as farmers' men, they were sent to Parramatta for distribution. Robinson was assigned to John Macarthur at Camden and Woodhouse to Mr Norton at Liverpool. At Camden, Macarthur testified to Robinson's application for a ticket-of-leave and appointed him a constable in April 1825. Woodhouse, meanwhile, waited until he was free before being appointed to the Camden police a year later in 1826. By what means Woodhouse was able to join his friend in the constabulary is not known, but obviously Robinson, although only a subordinate constable, had some say in his appointment. They worked together for two years before Robinson's resignation in 1828. Woodhouse also took over the position of pound-keeper that Robinson had vacated on his resignation.⁶⁰ Whatever crime they had committed back in Yorkshire very possibly involved them both and they were able, with some luck and manipulation of the system, to maintain their friendship in the face of seemingly insurmountable odds.

⁵⁶ George Nutting and Sarah Racey, Mitchell Library, SAG 92, C. of E. marriage, St Luke's, Liverpool, 29 August 1829; James Woodward and Brigid Shelton, BDM, SRNSW: Vol. 13, No. 745, C. of E. marriage, St Luke's Liverpool, 29 August 1829.

⁵⁷ BDM, SRNSW: Vol. 23, No. 331, C. of E. marriage, St Peter's Campbelltown, 18 March 1839.

⁵⁸ BDM, SRNSW: Vol. 10, No. 245, C. of E. marriage, St Peter's Campbelltown, 19 November 1826.

⁵⁹ *1828 Census*.

⁶⁰ Compiled from the following sources: Convict Indent, SRNSW: Fiche 644, p. 175; Macarthur Testimony, 8 September 1824, Col. Sec., SRNSW: Reel 6027, 4/1716.1, pp. 170-1; Government and General Order, 20 April 1825, Col. Sec., SRNSW: Reel 6039, 4/424, p. 339; C.J. Baxter (ed.), *General Muster and Land and Stock Muster of New South Wales 1822* (ABGR in association with the Society of Australian Genealogists, Sydney, 1987); *Sydney Gazette*, 3 November 1826, p. 1; 6 February 1828, p. 1; 11 June 1828, p.1.

Another possible friendship was that of Robert Welling and Samuel Foster, both convict constables at Liverpool. Welling was appointed a constable in 1824 and resigned in 1826 while Foster was appointed in 1826 and was dismissed for repeated drunkenness in 1827. Robert and Eliza Welling were witnesses to the marriage of Samuel Foster and his wife Johanna in 1825. Johanna Foster was unable to have her husband assigned to her after he was dismissed from the constabulary and in 1828 found him at the prisoners' barracks at Liverpool. Welling, on the other hand, worked as a tapster at a hotel in Liverpool for four years before once more being appointed to the constabulary in 1830. Described as a 'good character' he resigned once more in 1832.⁶¹

Once convicts arrived in the colony, they were dispatched from their ship to various districts for distribution as assigned servants or to government employment. Batches of men would be sent to prisoners' barracks at Windsor, Parramatta or Liverpool to await their next destination. An investigation of the constables employed in some districts reveals a surprising number of men who had been transported on the same ships. If friendships or connections had been made on board, it seems that they could continue once they had arrived, despite the vagaries of the convict system. The *Countess of Harcourt* arrived in the colony in 1822 from Ireland. On board were ploughman James Dennis, shepherd Philip Donough and labourer Owen McKeon. All were sent to Liverpool for distribution and, five years later, once they had their tickets-of-leave, they were appointed to the constabulary at Liverpool, Camden and Parramatta respectively.⁶²

Similarly, three men from the *General Stuart*, which arrived in 1818, reappear as constables in Camden, Campbelltown and Liverpool after several years.⁶³ Two other constables from Camden arrived in the *Princess Royal* in 1823. Abraham Keeling, a weaver from Chester, was appointed a constable at Campbelltown in 1829 and promoted to watch house keeper at Stonequarry in 1832. His shipmate, Richard Loseby, a labourer from Leicester was employed on a government road gang in the area in 1828 but by 1830 was also a constable at nearby Sutton

⁶¹ Mitchell Library, SAG92, Samuel Foster and Johanna McDonald, C. of E marriage, St Luke's Liverpool, 28 November 1825; *1828 Census*, Memorial, SRNSW: Reel 1044, 4/3669, p. 459; *Sydney Gazette*, 1 April 1830, p.1.

⁶² Convict Indent, SRNSW:Fiche 649, p. 231; *Sydney Gazette*, 28 May 1828, p. 1; 18 August 1827, p. 1; 28 August 1827, p. 1.

⁶³ Robert Burke, William Webber and Robert Welling, appointed 1822, 1824 and 1828 were all long-term policemen in their districts.

Forrest.⁶⁴ It is to be expected that at least one man from each ship could have joined the constabulary somewhere in the colony and, in other districts there are cases of men from the same ship being appointed. However, these appointments are widely spaced over time and district. The clusters of men in Camden, Campbelltown and Liverpool joining the police within a relatively short space of time suggest that relationships formed on the long voyage out to the colony were not only sustained after arrival, but influenced in some way their appointment.

In rural areas constables were often stationed singly, often on large estates, and would possibly only meet when attending court or when escorting prisoners. For example, in the districts of Bringelly and Cooke in 1830 a return from the magistrates shows only three constables stationed at or near the courthouse at Birling; the other four were stationed at ten, eight and four miles respectively, from the courthouse.⁶⁵ Similarly, in the Camden district, a map sent to the colonial secretary shows the spread of constables across many miles.⁶⁶ Singly situated up to twelve miles from the courthouse, these constables would have little opportunity to regularly fraternise with their colleagues.

It was easier in Sydney, Parramatta or even Windsor to form and keep social relationships. Grace Karskens has suggested that because they lived close to each other in The Rocks area, Sydney constables socialised more with each other than with the general community.⁶⁷ There are also suggestions that they lived together for safety reasons. In 1828, four constables lived at the same address in Cumberland Street, Sydney. All were older, unmarried men and lived with 67 year-old Thomas Sidderson and his wife. It is probable that Sidderson and his wife ran a boarding house where the older constables without homes and families could live.⁶⁸ From information available in the *1828 Census*, constables at Parramatta had a number of shared addresses. Constables John Thomas and John Hogan lived at the same address. Neither man was married and it is likely they lived together for convenience. Patrick Ryan, single, boarded with John Sullivan and his wife, and unmarried James Gurney lodged with Terence McManus and his wife. As previously mentioned, a board above the door indicated which house belonged to a constable in Parramatta. Outside the urban areas, only one instance of constables sharing a house could be found. Constable Edward McQuade, who was

⁶⁴ Convict Indent, SRNSW: Fiche 649, p. 285, 290; *Sydney Gazette*, 21 April 1830, p. 1, 2 May 1832, p. 1.

⁶⁵ Return of constables at Bringelly and Cooke, 1830, SRNSW: Reel 2282, 4/1103.2, p. 29.

⁶⁶ Bench of Magistrates, Stonequarry, 1829-31, Copies of Letters Sent, 16 November 1830, SRNSW: Reel 2723, 4/7574, n.p.

⁶⁷ G. Karskens, *The Rocks: Life in Early Sydney* (Melbourne University Press, Melbourne, 1997), p.197.

⁶⁸ *1828 Census*.

unmarried at the time, lived with Chief Constable John Blake and his wife at Stonequarry.⁶⁹ Practical reasons probably dictated the living arrangements of the constables rather than a fear of attack by their fellow citizens.

Daily difficulties and tensions between constables must have occurred but the records reveal only a glimpse of the strains. At Stonequarry in 1829, Constable Edward Gately reported his fellow constable, Edward McQuade, for manufacturing evidence against a stockman. Apparently McQuade asked Gately to back his evidence that he had seen the stockman acting suspiciously. McQuade's reason for wanting to 'lag' the stockman was because 'he's the greatest thief and rogue in the colony' and was almost free. When McQuade was brought before the bench to answer the charge he denied everything.⁷⁰ Despite the tensions, but with no further reported incidents, both constables continued to work together for another two years until McQuade's position was discontinued in 1831. Gately was still employed as a constable at Stonequarry in 1835.

It is clear from the statistics that most constables worked, married and socialised within their own class. They found friends and marriage partners from amongst their colleagues, acquaintances and from a wider circle of people in their sphere of operation. While a few sought to elevate themselves through marriage or career, the majority appeared content with their station in society. They operated at the divide between the educated elite and the rest of the population, a position that was fraught with difficulty and which many found intolerable. From the point of view of the elites, the position of constable and even chief constable remained firmly in the lower orders with all the prejudice and stereotyping accompanying that categorisation.

⁶⁹ *Ibid.*

⁷⁰ Stonequarry Bench Book, 27 September 1830, SRNSW: Vol. 671, 4/7572, n.p.

Conclusion

Harry Grimsby, the fictional country policeman, represents one of the most stereotyped groups in colonial society. While the portrait of this particular constable is overdrawn, he does embody many of the characteristics commonly attributed more widely to the colonial constabulary. Drunk, corrupt, immoral, brutal, stupid and cowardly, Harry had no redeeming features, and his only role was to do the dirty work of more powerful forces whose intentions were inherently malign. This notion had some currency amongst sections of society in Britain, during the creation of the new police establishment during the first half of the nineteenth century, and Harry's creator, Alexander Harris, was writing for an English audience when *The Emigrant Family* was published in 1849.

One of the reviews at the time described Harris's work as an accurate account of Australian life and manners. Yet in the same year, Harris published a pamphlet urging settlers to go to New South Wales, in which there is no mention of the despised constables. Obviously, the exigencies of the plot in *The Emigrant Family* demanded a particular representation of the police. However it is the fictional accounts of not only Alexander Harris, but also of James Tucker, which have received attention from twentieth-century historians. Other nineteenth-century non-fiction publications, also written for English audiences, detailed the horrors of a society that had been founded on the transportation of criminals. Accounts by travellers who were, in the main, religious observers, were intended to titillate and horrify readers. In these accounts any mention of the police is invariably negative.

The other source of historical information concerning the constabulary comes from official sources, in particular comments from administrators to various inquiries, reports to the government on the state of the police and publication of appointment and dismissal lists in the colonial press. These sources have been used with little or no investigation into their origins. The perception of the colonial constabulary, as judged by most of these sources, is one of unremitting venality. Because much of the recorded comment came from officials operating within the police system, their evidence has been given some weight. Magistrates' evidence to the 1835 and 1839 committees of inquiry into the police and gaols has been widely used to describe the state of the rural police. Evidence and comments from superintendents and

magistrates in charge of the Sydney Police have also commonly featured in any discussion on the constabulary.

However, as has been demonstrated, not all of this evidence was free from self-interest. As is often the case, those on the bottom rungs of an organisation are the first to be blamed for any inadequacies. It was easy to point the finger at the constables as the weak link in the system, because their failings were very public. Given little opportunity to defend themselves, the case against them stood untested at the time and continued to be untested. The stereotype, as personified in the character of Harry Grimsby, has been largely accepted as an adequate representation of the colonial policeman. As the preceding chapters have sought to demonstrate, the historical reality of the constabulary was far more complex.

The blurring of lines, generalisations and selection of material from across widely differing times and places to present a pre-determined view of the constabulary is also evident in the historiography. Enormous differences existed between conditions in the secondary penal settlements within the colony and the rather more normal life in the towns and villages but little distinction has been made concerning the policing of each population. Furthermore, the composition and role of the police was quite different in rural areas to that of Sydney, and the distinction needs to be made when referring to police activities. In addition, the role and makeup of the police differed considerably over time. Any observation might be relevant at one point but may not apply to the situation for the whole, or even a substantial part, of the colonial period.

What this investigation has revealed is that there are two stories concerning the subject of the colonial constabulary. Both have equal validity. On the one hand, the corrupt and incompetent convict constable certainly existed. Although few of the constables were prisoners under sentence at the time of their appointment, and increasingly less so as the decade wore on, many of them were dismissed after a short time. Equally, a substantial proportion of the new recruits from other civil classes were also unsuitable and quickly dismissed. Others resigned because of dissatisfaction with the job. Still more succumbed to temptations after many years' service. However, there were also many men who made a successful career in their chosen field. As my analysis of the records showed, many recruits came and went within weeks or months of their appointment, but a core of long-term officers contributed to the maintenance of a stable force throughout the period. While length of service does not necessarily preclude a measure of

corruption, the long-term constables were dismissed only where extreme cases were proved against them.

The theme of two stories continues with the analysis of the careers of many of the constables. While the high turnover story has been told and retold, the other story, of hard work, promotion and long-term careers should not be ignored. Why the behaviour of the short-term had such an overwhelming impact, and subsequently coloured judgements about the whole force, was one of the most important questions this thesis addressed. A crucial reason for the emphasis on the behaviour of the new recruits lies partly in the nature of official records. The listing of the weekly appointment and dismissal of the police (mutation lists) in the *Sydney Gazette* gave historians easy access to an official record showing a high turnover. However, a high turnover of personnel at entry level does not necessarily equate with a dysfunctional force. One of the Supreme Court judges at the time, Justice Stephens, considered the publication of the mutation lists, describing reasons for individual dismissals as a libel and possibly 'ruinous to individuals in their consequences'. Chief Justice Dowling agreed and suggested the publication of such details should be omitted.¹ While individual policemen may have suffered the consequences of being publicly exposed as neglectful or a drunkard, the wider implications of such publicity are with us today. Given the reliance upon this source by historians, it has indeed been 'ruinous' for the reputation of the constabulary as a whole.

The introduction of a new and more rigorous system of policing that had its origins in Britain, but which was adopted with a greater coercive element in the colony, also contributed to negative perceptions of police behaviour. Penal considerations demanded a less nuanced version of the British system. The authorities were less concerned with the sensitivities of the free population than with keeping order and control over the convict and ex-convict population. Tensions existed in colonial society where the administration sought to control and regulate public behaviour of both free and convict in the name of penal discipline.

Caught in the middle of competing interests, namely the desire of the ruling class to impose order and authority and the aspiration of the general population for freedom to conduct their affairs without interference, the constabulary found itself in an unenviable position. The colonial press played its part in contributing to the negative impressions. A need to legitimise

¹ *Sydney Gazette*, 1 July 1830, p. 4; Darling to Murray, 7 August 1830, *HRA*, Vol. XV, p. 655-8.

the police force in the eyes of the public by having respectable recruits led to constant complaints about the quality of the personnel from several newspapers of the time. Conflicting demands in colonial society meant the constabulary could never win approval from either the ruled or the ruling classes.

Another part of the answer to the question posed by this thesis lies in conflicting attitudes to our convict past. The murky meanings of convictism overwhelmed early attempts to explain the beginnings of our society and much of the colonial experience was seen through the prism of convictism. It has only been relatively recently that a thorough exploration of colonial society has been undertaken without the assumptions and prejudices that accompany such a view. The seeds of this changing attitude can be found in the 1980s with the growing popularity of family history. The generally accepted depiction of colonial society began to be questioned when many Australians found seemingly-normal convict forebears who had led seemingly-normal lives.² With less reliance on official versions and freed from the miasma of class-based bigotry, many colonial citizens have been revealed in their true human shape. Endowed with both good and bad attributes, they begin to emerge as real people. This thesis has been concerned with including the colonial constables in the new reality.

Much of the historical depiction of the constabulary has given the impression that the men who made up the police existed somehow on the margins of society. Contrarily, the evidence shows that the constables represented a cross-section of lower-class colonial society with proportionate numbers of emancipists, prisoners and immigrants. The only class not represented in proportion to their numbers was the colonial-born who seemingly felt their rights had not been properly recognised by the authorities, and wanted no part in the machinery of control.

Overall, with some differences according to the characteristics of the district in which they lived and worked, the age and religion of the constabulary also proportionately represented their wider community. The constables were not a marginal group excluded from normal colonial society because of their occupation. In fact, when measured against an important indicator of normalcy in any society – the existence of marriage and children — the constables

² B. Smith, *Australia's Birthstain: The Startling Legacy of the Convict Era* (Allen and Unwin, Sydney, 2008), pp. 1-2.

fared better than most. Far from living outside the normal domestic sphere, the majority of policemen were more likely than many other categories in colonial society to have wives and children and a stable family life.

Not only were there two stories concerning individuals within the constabulary, but there were two stories connected with place as well. The Sydney police institution differed in many respects from the country police, both in composition and management. Due partly to geographical factors and to availability of personnel, the country districts relied more often on convict or ticket-of-leave men to fill the ranks of constable. Although officially managed by local landholders who fulfilled the task of magistrate on the local benches, but more often in practice by the chief constable, the men had more personal contact with their superiors and could develop relationships that allowed for some latitude in behaviour. With smaller populations in the rural districts, numbers of men available for employment as constables were also limited. Consequently, the rate of dismissals in country areas was much lower than that in Sydney.

Sydney police also had a greater proportion of Irish Catholic constables amongst its ranks. Partly because of culture and partly because of availability, the numbers of Irish increased over the decade in question contributing, in the minds of the genteel, to the perception of the drunk, ignorant constable and further adding to the stereotype. Furthermore, it is the Sydney police to which most reference is made when the subject of the constabulary is under discussion. While Sydney certainly had the largest force, the numbers of police at Parramatta and Windsor were not inconsiderable. References to the Parramatta police consist almost exclusively of Hannibal Macarthur's quote about the 'detested system of police', while Paula Byrne's study of court records, including some details of police activities at Windsor and Parramatta, are the only references to be found to the police at those towns.³ Such a limited discussion cannot possibly reveal the full dimension of the constabulary and their role in colonial society.

'Like police services around the world, NSW is struggling to retain recruits': this excerpt from a Sydney newspaper clearly acknowledges one of the major problems associated with the administration of law and order in New South Wales. That the date of this newspaper is March

³ P. J. Byrne, *Criminal Law and Colonial Subject: New South Wales: 1810-1830* (Cambridge University Press, Cambridge, 1993), pp. 189-96.

2008 is also testament to the long history of this particular problem.⁴ Looking back to the recruits for the constabulary during the 1820s and 1830s, it becomes obvious that little thought or care was put into choosing suitable men, or training them, for the position. An 1883 Royal Commission on the police of Victoria noted that 'police authorities appear to have acted on the principle that a constable is born, not made'.⁵ Furthermore, the idea of policing, such as that existing in colonial New South Wales, was new and the exigencies of the situation in the rapidly expanding colony were such that control of the convict and ex-convict population became the over-riding imperative of the authorities. While little or no attempt was made to reconcile the general population to the new situation, all sections of society sought to maintain their own interests and freedoms, and thus the constabulary was an easy target for vilification.

In looking at the ambiguous position of the police in colonial society, their lack of professional development, the quality of their leadership and the dynamics of colonial society, including the role of the press, the apparent hostility, contempt and scorn directed towards the colonial police was not so much a result of their moral character but of the changes taking place at a legal, political and social level. Given the overwhelming contemporary evidence of graft, corruption and drunkenness in the ranks of the constabulary, it has been relatively easy for historians to blame their convict background for any deficiencies in behaviour.

The transfer of policing power away from the local community to the state was a much-debated and long-resisted move in Britain during the decade encompassed by this study. While very little actual discussion took place in the colony, for the majority of the population the changes were an extension of penal power to be resisted as much as possible in their search for a free and open society. Today, western democratic society faces a similar dilemma. Given that the nature of policing is changing in today's society it is useful to look back on the historical beginnings of the system of policing with which we have become familiar. With the steady privatisation of the police, and much of the work of the traditional policeman being done by private security guards, modern society should question the transfer of coercive power away from the state. Holding private enterprise accountable will be much more difficult.

⁴ *Sydney Morning Herald*, 29 March 2008.

⁵ Quoted in M. Finnane, *Police and Government: Histories of Policing in Australia* (Oxford University Press, Melbourne, 1994), p. 139.

The role of the policeman has always been ambiguous; reviled, yet eagerly sought when help is needed. Not much has changed since colonial days. Pressures exerted by the authorities on one hand, and the attitudes of the general population on the other, meant life for a colonial constable was far from easy. Some men were able to negotiate a path through these competing interests and establish themselves comfortably within their community. Others, for various reasons, could not. Unfortunately, the legacy of the failed is the only one that has been handed down. It is hoped that this thesis has begun the process of redressing the balance.

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