Transportation from Britain and Ireland, 1615–1875

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Despite recent research which has revealed the extent to which penal transportation was employed as a labour mobilization device across the Western empires, the British remain the colonial power most associated with the practice.[1] The role that convict transportation played in the British colonization of Australia is particularly well known. It should come as little surprise that the UNESCO World Heritage listing of places associated with the history of penal transportation is entirely restricted to Australian sites.[2] The manner in which convict labour was utilized in the development of English (later British) overseas colonial concerns for the 170 years that proceeded the departure of the First Fleet for New South Wales in 1787 is comparatively neglected. There have been even fewer attempts to explain the rise and fall of transportation as a British institution from the seventeenth to nineteenth centuries.

In part this is because the literature on British systems of punishment is dominated by the history of prisons and penitentiaries.[3] As Braithwaite put it, the rise of prison has been 'read as the enduring central question', sideling examination of alternative measures for dealing with offenders. The 'great confinement thesis' seeks to explain the history of judicial sanctions as a function of state power. Where central authority was weak systems of kin based restorative justice dominated. As early modern states evolved monarchs imposed their authority through the use of judicially sanctioned violence. The development of more effective institutions of government was accompanied by a rise in professional police forces and systems of surveillance, including the penitentiary – a process associated with a shift in punishment from the body to the mind.[4] The long use of penal transportation by the British state fits uneasily with this account.

The overseas deployment of convict labour is usually thought of as an early modern response to crime, a form of state sanctioned terror which subsequently became outmoded as governments accumulated sufficient resources to construct prison estates. Even in metropolitan Britain, however, transportation remained a common form of punishment until the mid-nineteenth century.[5] In the colonial world it was more dominant still. As Anderson has demonstrated, it persisted in British Asia until the late 1930s.[6] While convict transportation had its barbaric moments, it evolved as an institution over time in similar fashion to the prison. In its nineteenth-century form it
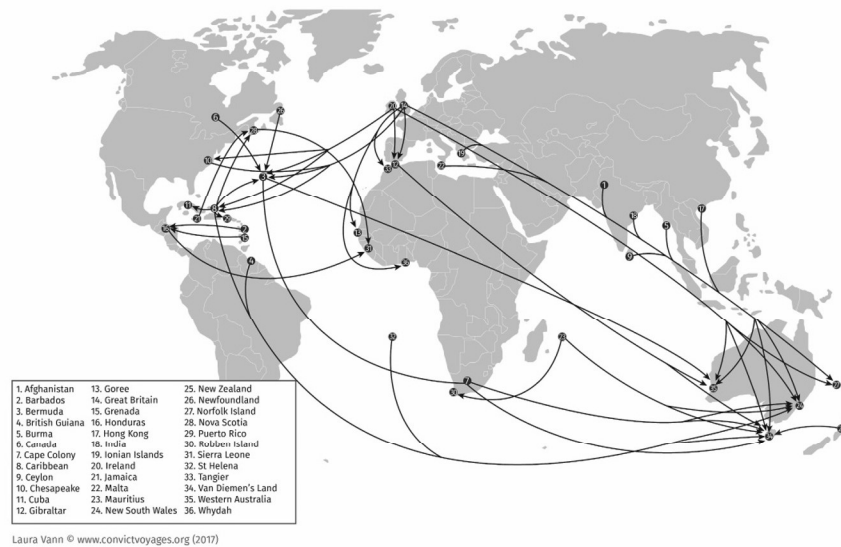
was positively benign compared to metropolitan alternatives for punishing prisoners. Death rates for convicts labouring in the Australian transportation system were a quarter of those for prisoners subjected to separate treatment in Britain's Millbank penitentiary for example.[7]

This chapter will sketch the evolution of penal transportation in the Anglophone world from the early seventeenth century until convict labour ceased to be transported to the Gibraltar docks in 1874. It will place the experience of convict forced migration to the Australian colonies within a wider imperial context. Transportation evolved in response to the challenges associated with the formation of Atlantic colonies, as well as metropolitan agendas. A series of different interrelated mechanisms were used to forcibly remove 'problematic' individuals from England, Scotland and Ireland to the New World Colonies in the seventeenth and eighteenth century. Not all of these systems were formally recognized in law but they were all regarded as legitimate ways of dealing with societal threats. While the majority of those subjected to transportation were formally sentenced in a civil or military court of law, others were sent by edict issued by the head of state or one of their subordinates.[8]

The chapter will start by charting the close relationship between British transportation practice and other systems of labour mobilization. It will go on to explore the origins of penal transportation in the Elizabethan and Stuart eras, before providing an outline of the manner in which convict labour convicted in Britain and Ireland was deployed in the period 1615–1875 (see Figure 7.1). It will end by using a long-run view of penal transportation from Britain and Ireland to suggest ways in which the great confinement thesis might be adapted to more effectively engage with the history of the British overseas deployment of convict labour (see Map 7.1).

Convict, soldier, slave and servant

One reason why it is important to situate penal transportation within the context of other unfree migration flows is that it can be surprisingly difficult to distinguish different forms of labour exploitation. Broadly speaking there are three features that characterized the British use of convict labour – traits which individually might be shared with other unfree migrations systems, but collectively help to distinguish the trans-global movement of convict labour from other practices used to manage bonded workers. First, the length of time that a convict was ordered to serve was fixed by a sentence passed by a court or other state imposed sanction. Second, the transported were removed from the place of conviction to an overseas colony where they were subjected to forced labour. Third, it was the labour of the convict that was bought and sold, rather than their person – a distinction that has important intergenerational implications. The children of convicts were usually born free (or at least were not treated as convicts). This was the case even when the convict had been sentenced to transportation for life. As the length of servitude was fixed by a sentence, judicially imposed unfreedom was difficult to transfer from one individual to another.[9]

1. Afghanistan	13. Goree	25. New Zealand
2. Barbados	14. Great Britain	26. Newfoundland
3. Bermuda	15. Grenada	27. Norfolk Island
4. British Guiana	16. Honduras	28. Nova Scotia
5. Burma	17. Hong Kong	29. Puerto Rico
6. Canada	18. India	30. Robben Island
7. Cape Colony	19. Ionian Islands	31. Sierra Leone
8. Caribbean	20. Ireland	32. St Helena
9. Ceylon	21. Jamaica	33. Tangier
10. Chesapeake	22. Malta	34. Van Diemen's Land
11. Cuba	23. Mauritius	35. Western Australia
12. Gibraltar	24. New South Wales	36. Whydah

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Map 7.1 Transportation in the British Empire to Atlantic and Australasian destinations 1615–1875

While convicts were sentenced to transportation in a variety of different West Indian courts these have been combined into one location to assist legibility (number 8). For similar reasons the colonies of Lower Canada, Upper Canada and New Brunswick have also been combined (number 6).

Practice muddied all of these boundaries. There are plenty of examples of convicts in the Anglophone world who were treated in ways normally associated with other groups of bonded workers. In part this is because English (subsequently British) penal transportation evolved in tandem with other unfree labour systems. It was critically informed by indenture, slavery and military service, yet it also helped to shape these experiences too. The point can perhaps be best made with reference to one of the least well known sites of penal transportation – the English colony of Tangier.

This small North African enclave was part of the dowry provided to Charles II on his marriage Catherine of Braganza in 1661. Despite fierce attacks from the Alaouite rulers of Morocco, the English held the town for the next twenty-four years. In order to improve the defences, the garrison built a mole to protect the harbour and a small galley fleet was raised to ward off attack by sea. Amongst the defenders there were few, however, who found themselves in Tangier by choice.[10]

The labour force that dropped blocks of stone into the Atlantic and manned the galley sweeps came from places as diverse as Aleppo and Angola. They were housed in a *bagnio* – a term used to describe a barracks where hostages, prisoners, servants and galley slaves were detained at night, but released for work during the day.[11] The French term *bagne* used to describe a place in which convicts were held is derived from the

same root.[12] Some inhabitants of the Tangier *bagnio* were slaves, Greeks captured in Tripoli or other parts of the North African littoral, while others were dispatched there for crimes committed against the state. George Fleetwood, for example, was sent to Tangier for regicide – he had signed Charles II's death warrant.[13] Seventeenth-century Scottish courts also passed sentences of penal servitude. Between the Pentland rising in 1666 and the 1680s the usual fate of those who 'proved too obdurate' or who failed to make their peace with the Scottish state was to be transported to the West Indies, Virginia or Tangier.[14] Those despatched to Tangier laboured alongside Algonquin who had been conveyed eastwards across the Atlantic after being forced into servitude in the aftermath of the brutal 1676 to 1677 war fought in New England.[15]

The inhabitants of the Tangier *bagnio* were thus motley in all senses of the term. Brought up practising different faiths (Islam, Greek Orthodox, various branches of Protestantism and animism) they spoke multiple languages and served under a variety of different contractual arrangements – although all were exploitative. The Algonquin, whom the captain of the galley *Margaret* thought were as good if not better than Moorish slaves, were particularly difficult to place in a precise legal category.[16] By the 1650s all the Anglophone colonies in North America had introduced laws that gave private individuals the right to the labour of indigenous peoples convicted of offences. Some were sold as slaves to third parties as a means of securing monetary restitution. In not clear how many of the Algonquin who ended up in Tangier had been judicially enslaved as a result of court imposed sanctions and how many had been captured in military conflicts.[17] Were they slaves, convicts or prisoners of war? In practice it mattered little, they rose at the same time as the other inhabitants of the *bagnio*, ate the same food and performed the same labour. In the seventeenth-century Atlantic the line between, servant, slave, convict and soldier was often paper-thin.

Whereas penal labourers become unfree as a result of a court sentence or other judicial sanction, as the experience of the Algonquin illustrates, similar mechanisms were used to bestow unfreedom on tens of thousands of other coerced British plantation workers. By 1700 it was apparent to European observers that West African legal systems had adapted in order to maximize the number of charges which could result in a sentence to slavery. An examination of the origins of slaves taken in British early nineteenth-century West African slaving operations revealed that 35 per cent had been taken as captives in warfare and just over 10 per cent had become enslaved as a result of judicial sentence. As Emmer puts it, slaves were '"produced" by wars or courts of law'.[18] While those courts did not operate under English (or Scottish) law, the labour of the condemned was given value by British commercial interests. It was also the British who paid the shipping costs to supply slaves minted by West African courts to the Anglophone plantations.[19]

A trade in individuals (or their labour) is likely to impact upon the laws employed to constrain others. Slavery and indenture provided seventeenth-century New England courts with opportunities to commodify punishment. Increasing resort to African slave labour intensified this process. This was not a new experience. Judicial slavery was widespread in early medieval England. It was usually enforced only after the offender failed to pay compensation. Its attraction was that it was relatively easy to administer as long as a buyer could be found for the convicted. Such sanctions became

less common as the use of slavery declined in Western Europe. They were rare after the twelfth century and thereafter penal enslavement was increasingly replaced with punishments which mutilated or otherwise marked the body of the offender.[20]

The decline in penal enslavement coincided with a general reduction in the use of slave labour in European societies. By the fifteenth century slavery had ceased to exist in England and was rare elsewhere in Western Europe. In the main this is because mixed agriculture, with its high seasonal variations in demand for labour, is not particularly suited to slavery. The introduction of horse-drawn ploughs exacerbated the issue by reducing ganging at the expense of the employment of skilled teams of workers. The bulk of agricultural work undertaken in Europe became more suited to the use of serf labour rather than slaves.[21] Feudal lords thus allowed common, and even private ownership, of land in return for labour services, which over time were increasingly substituted for rents. Exceptions included mining and mono-cultivation of plantation crops. A Scottish Act of 1672, for example, empowered the owners of coal mines to use vagrants and those who had 'escaped hanging for thefts' as unfree labour.[22] The development of New World plantation economies rekindled demand for unfree labour and Anglophone legal systems quickly responded.

The forms of judicial unfreedom that resulted were thus shaped by Atlantic labour markets. Sentencing structures in particular developed in response to the demand for the New World indentured servants – a device by which the labour of prospective migrants was purchased for an agreed term by a shipping contractor. The contractor profited from this arrangement by selling the labour of the migrant to New World buyers. Like indentured servants, convicts were sold upon disembarkation in the American colonies. The practice shaped sentencing structures. The minimum sentence to transportation was established as seven years in the seventeenth-century.[23] Their conviction histories made convicts less attractive to prospective buyers compared to indentured labour. Such disadvantages were offset by the additional years that felons were bound to serve. Only 2 per cent of indentured servants over the age of fourteen signed contracts for more than seven years and only 10 per cent for more than six. The average length of servitude for male convicts landed in Baltimore between 1767 and 1775 was nine compared to under four years for indentured servants.[24] In short, the length of a sentence to transportation was fixed, not for legal reasons but in order to competitively position convicts within the transatlantic market in unfree labour.[25] In this sense the English legal system 'minted' convicts in similar fashion to the manner in which West African courts responded to rising demand for slaves. The practice had a long legacy. The minimum sentence to transportation remained seven years until the last convicts were shipped to Gibraltar in 1874.[26]

The origins of penal transportation in the Anglophone Atlantic 1550–1660

It is tempting to locate the origins of penal transportation in the practice of banishment – a judicially imposed sanction that commonly required an individual to remove

themselves from the realm on pain of death. Banishment is an ancient punishment that survived in the British Atlantic where it operated in parallel with penal transportation. As Morgan and Rushton point out, it was particularly common in Scotland before 1800 and was used in seventeenth-century New England as a means of dealing with religious dissent.[27] It continued in use in British administered North American jurisdictions over the course of the eighteenth and early nineteenth centuries, particularly in relation to capital respites.[28] In 1834, for example, André Kellerstine was sentenced to transportation for life to Van Diemen's Land by a court in Montreal as punishment for 'returning from banishment' to 'to see his dying mother'.[29]

Banishment was attractive in that it was cheap to administer compared to more formal sanctions. It was usually reserved as a punishment for those of means as they could afford to pay for their own removal. Unlike transportation to a penal colony, however, the banished did not forfeit property rights in their labour power and were therefore not forced to work. By contrast, penal transportation was based on the premise that it would put the labour of the unruly and idle to productive use. It was punishment that targeted the poor, particularly the masterless poor.

It is no accident that houses of correction and the use of prison labour to power galleys were adopted at the same point in time as Western European states started experimenting with the overseas use of convict labour. Work-orientated punishments were commonly justified in early modern Europe because they returned a public good. As Thomas Moore argued, the use of convicts as 'slave' labour was an appropriate penalty for a major crime since it resulted in a greater benefit to society than execution.[30]

The construction of workhouses was particularly common in sixteenth-century northern Europe, where access to alternative colonial or maritime markets for coerced labour was at first limited.[31] London's Bridewell Palace was converted into a workhouse for the poor is the 1550s – its name later became a generic term for houses of correction. By the end of the sixteenth century a quarter of all English counties possessed at least one bridewell.[32] These were punitive institutions where 'sturdy beggars' and 'disorderly persons' were compelled to work by order of magistrates or other legally constituted courts in order to earn their sustenance. They were a response to rising population levels and falling living standards exacerbated by enclosure and loss of access to common land. Rural employment and under-employment resulted in a drift of the poor to towns and cities in an era in which labour was increasingly seen as a godly requirement. Those that did not work, or could not, were liable to be criminalized.[33]

Plans to transport the unproductive members of society first emerged in the late sixteenth century. Richard Hakluyt wrote to Elizabeth I in 1584 to suggest that 'loyterers and idle vagabondes' should be condemned to service in Newfoundland and other parts of the Americas where they could be employed in a number of tasks including felling timber, manufacturing pitch and tar, mining metals, planting sugarcane and gathering cotton ('whereof there is plenty').[34] Inundated by the tide of vagrants, London's Bridewell turned transportation for the poor into a reality in the early seventeenth century.

Between 1617 and 1648 the Bridewell Court books contain orders for the transportation of 1,106 individuals condemned to service in Barbados, Virginia, Bermuda and 'the sea'.[35] While it is unlikely that all of these were actually contracted to

shipping merchants, the court books only contain details for a third of those committed to Bridewell.[36] In the first half of the sixteenth century this institution alone may have condemned several thousand to transportation. As Rushton and Morgan demonstrate, the practice continued until well after the Restoration. Apprenticing the convicted poor to merchants emerged as a cost efficient way of dealing with petty offenders.[37]

Scottish cities got in on the act too. Edinburgh magistrates petitioned the Privy Council of Scotland early in the seventeenth century for permission to send thieves and prostitutes to Barbados and other Atlantic destinations. This trade lasted until the Navigation Acts of the 1660s excluded Scotland from directly trading with English colonies.[38] Other English cities and towns also organized for the transportation of vagrants and petty criminals. It is commonly argued that before the passage of the 1717 Transportation Act, all those transported from England and Wales were capital respites. The Bridewell Court records demonstrate that this was not the case.

Capital respites were first transported about the same time as bridewell inmates started to make their way across the Atlantic. Following an appeal by Governor Dale of Virginia, James I decreed in 1615 that prisoners sentenced to death 'whoe for strength of bodie or other abilities shall be thought fitt to be ymploied in forraine discoveries' should be spared on condition of overseas service.[39] The first seventeen convicts so pardoned were handed over to Sir Thomas Smith, governor of the East India Company, in the same year. Rather than being shipped to Asia, however, they probably ended up in Virginia. There is little evidence that substantial numbers of capital offenders followed until the outbreak of war in 1642. Even after this, flows remained limited until the passage of the Transportation Act in 1717.[40] As Morgan and Rushton argue, transportation started as a means of disposing of the 'uncontainable poor' before later being adapted into an integral part of the formal criminal justice system.[41]

Convicts could also be 'produced' by war. As Pestana points out, while a bloody civil war was fought to put an end to Stuart tyranny, it led to a dramatic increase in the number held in bondage in the wider Atlantic world. As early as 1643 articles appeared in the London press advocating transportation for Loyalist sympathizers. The largest deportation from England occurred after the battle of Preston in 1648 when an unknown number of the 9,000 Scottish prisoners who had been captured were transported. Other prisoners of war also ended up in the New World after the battles of Dunbar and Worcester.[42] In 1654 the Parliamentary commander in Highland Scotland was empowered to transport all those he encountered under arms to the plantations. Thereafter further transportations occurred in the wake of the Argyle and Monmouth rebellions of 1685 and the 1715 and 1745 Jacobite rebellions.[43] The practice continued to be used as a means of dealing with rebellious slave populations. Jamaica's Trelawney maroons were 'transported' to Nova Scotia in 1796 and then subsequently relocated to Sierra Leone in 1800.[44] As late as 1816 over 100 slave rebels from Barbados were shipped via Honduras to the same West African colony following the failed Bussa Revolt.[45]

Many others were transported out of Ireland in the aftermath of the Cromwellian invasion of 1649–1653. Contemporary accounts put the number felons, vagrants and prisoners of war conveyed to Barbados in the 1640s and 1650s at 12,000.[46] Even accounting for exaggerations, it is apparent that during the Interregnum substantial

numbers of individuals were forcibly transported to the New World by one means or another. Beckles estimates that between 1645 and 1650 at least 8,000 indentured servants arrived in Barbados, many of whom were transported.[47] This was a period when voluntary migration to the colonies declined while New World demand rose.[48] The capture of Jamaica as part of Cromwell's Western Design in 1655 more than doubled the amount of Caribbean acreage in English hands.[49] While this paved the way for British domination of sugar production in the long-run, it increased immediate demand for labour – a problem exacerbated by limited English access to West African slaving markets in the mid-seventeenth century – still largely dominated by the Dutch and Portuguese.[50]

The gap in supply and demand was bridged by shipping those that the Puritan rulers regarded as 'the degenerate poor'.[51] By 1652 justices of the peace were empowered to apprehend beggars and vagrants and send them to ports for trans-shipment to the New World.[52] Four years later judges were ordered to send lists of criminals convicted in assizes to London in order to identify suitable recruits. In the same year 1,000 London poor were sent to Barbados.[53]

The experience of indenture and convict transportation in the seventeenth-century Caribbean helped to shape later attitudes to labour, aiding the subsequent shift to chattel slavery.[54] Following a collapse in the London price of cotton and indigo in 1641 to 1642, the planters in Barbados started to experiment with sugar production. This resulted in a marked increase in work intensity. The clearing of new ground in particular was undertaken by indentured labour (much of it transported). Indentured servants were cheaper than slaves because they were contracted to work for shorter periods of time – an average of six years in mid-sixteenth-century Barbados. Transported labour was particularly cheap and, in this period, abundant. Their prevalence prompted Henry Whistler to describe the island as a 'Dunghill wharone England doth cast forth its rubidg: Rodgs and hors'.[55]

The owners of European labour had no vested interest in their charges after their term of servitude had expired and treated many as disposable assets. Certainly conditions of service deteriorated mid-century. Whereas apprentices and servants in England remained in control of their leisure time outside the hours they laboured for their masters, in Barbados all of the servants' time was owned. The Servant and Slave code of 1661 all but eliminated 'freedom dues' – the customary payments made to servants who survived their contracted period of service. Long before this Barbadian courts had become adept at using the indiscretions of servants to extend periods of service. Thus, even those who had not been judicially transported were at risk of being converted into convicted labour by colonial courts.[56] The treatment of Europeans working on Barbadian plantations in the period 1645–1660 shocked visitors. As Richard Ligon, a visitor to Barbados, noted, 'I have seen such cruelty there done to servants, as I did not think one Christian could have done to another'.[57] Tellingly he thought they were treated worse than slaves who are 'kept and preserv'd with greater care'. Servants had, in his words, 'the worser lives, for they are put to very hard labor, ill lodging and their dyet [is] very sleight'.[58]

Because their workforce was largely drawn from the idle, dissolute and dangerous, planters could justify the ill-usage to which they were subjected. It was easy to argue

that those condemned into service by magistrates, higher courts and military tribunals were paying for past indiscretions. Planters could also maintain that they were engaged in a public good by inculcating habits of industry. As Newman put it, this was a class-based system of exploitation shaped by ethnic and religious prejudices, one in which 'English, Scottish and Irish convicts, vagrants, rebels and prisoners of war whose lives were forfeit … could be treated as disposable labour.'[59] In Barbados convictism was the ideological precursor of plantation racism.

The profits generated through the employment of indentured labour enabled planters to accumulate the necessary capital to transition to slave labour.[60] After 1650, substitution with African slave labour became increasingly common. From 1660 on demand for European labour in the Caribbean as a whole started to decline. Whereas in 1640 there were thirty European servants to every slave, by 1680 there were seventeen slaves for every servant.[61] After the 1660s it became increasingly uncommon for European bonded labour to be employed in field work. Over the course of the second half of the seventeenth century labour exploitation became increasingly racialized in stark contrast to previous experience.

Convict transportation 1660–1787

The Interregnum (1649–1660) marks a turning point in the history of the English use of penal transportation as a judicial sanction. The experience of Barbados provided abundant evidence that penal servitude in the New World was a severe penalty, rather than an opportunity to make a fresh start. Secure in this knowledge, transportation for pardoned offenders convicted of felonies increased in the second half of the century.[62] As before, many other offenders, including those convicted of misdemeanours, were at risk of transportation through less formal routes. Thus, in 1661 inmates in seven London prisoners were transported to Jamaica following the granting of a royal warrant to the Lord Mayor of London authorizing their removal.[63]

As an instrument of criminal justice, transportation was constrained by its reliance on private interests. From the start it had been dependent on the market in Atlantic indentured labour, but market demand fluctuated. Some criminals were also worth more than others. Gender, age, skill and state of health could all affect cost, as could the offence for which the prisoner had been convicted. Arsonists, for example, commanded a particularly low price.[64] The crippled could be especially difficult to sell, and yet those afflicted with conditions that restricted their ability to work were over-represented amongst prison populations. In order to better utilize the Atlantic market for labour as a means of disposing of the bodies of the idle, dissolute and dangerous, greater state regulation was required.

The rise in conviction rates which accompanied the 1697 and 1713 partial demobilization of the armed forces provided further impulse for change.[65] As bridewells filled with an influx of felons sentenced to hard labour new legislation was prepared.[66] The Transportation Act of 1717 ushered in two important changes. It extended the scope of transportation for felonies to criminals other than those reprieved from

capital offences. Second, it provided a financial incentive to merchants in the form of a subsidy to ensure that transportation sentences were actually carried into effect.[67] It was no longer possible for those seeking to purchase the labour of prisoners to pick the most valuable and leave the remainder.

Legislative change coincided with a substantial regional shift in the Atlantic demand for transported labour. The preference for slave labour over indentured servants that had started in Barbados spread to the Leeward Islands, Jamaica and then South Carolina. The last shipment of convicts to Jamaica arrived in 1717.[68] As demand for slaves grew in plantation economies, indentured labour was at first reserved for skilled and supervisory positions before falling totally out of favour. By the 1760s rice planters in South Carolina rejected further imports of convict labour, relying instead on the recruitment of plantation workers who were uniformly black.[69]

Hardening attitudes to race led to increasing segregation. Whereas it was common for slaves and European convicts to be employed in the same fields in the seventeenth century, by the eighteenth this was rare. Although courts in the Caribbean were empowered to sentence slaves to transportation, this usually resulted in the sale of the condemned to the Spanish – Cuba and Puerto Rico were common destinations. Sale proceeds were used to compensate former owners and the device had the added advantage that it ensured that chattel slaves were not converted into a different form of bonded labour as a result of the court's decision.[70]

The reduction in demand for European convicts in plantation economies was offset by growing demand for labour in the Chesapeake. Between 1718 and 1776 around 50,000 convicts were transported, 90 per cent of whom were sold in Maryland and Virginia. The conditions under which they served differed greatly from those in Barbados. This was particularly the case after the 1730s when the economy diversified shifting away from tobacco to mixed agriculture.[71] Maryland runaway notices reveal that many convicts were employed in skilled and semi-skilled positions. Others worked in the iron industry or as farmhands and domestic servants. By the mid-eighteenth century there appears to have been little difference in the way that convicts were employed compared to other indentured workers.[72]

This was not to say that the conditions were not coercive. Children born to convict women in Virginia, for example, were automatically indentured to their mother's master until they reached the age of twenty-one. This device was used to compensate owners for the costs of raising offspring born to their unfree charges.[73] It is thus not true that the children of convicts were always born free – a distinction often made between slave and transported labour. Some runaway convicts also bore the marks of coercion – either in terms of the scars of the lash across their back or the marks left by fetters on their legs.[74]

Nevertheless, there was a growing perception in Britain that transportation was losing its deterrent value. A booming colonial economy created other problems. As the volume of transatlantic shipping increased, so did the ease with which felons could return from transportation.[75] As doubts about the efficacy of Britain's trade in convicts grew in metropolitan circles, colonial opposition also started to mount. Transportation was unpopular with colonial free workers as competition with unfree labour reduced wage rates. In the end the American Revolution forced the issue. The war put an end

to continued transportation and the new American Republic introduced legislation banning further imports. No convicts were sent to the Americas between 1777 and 1782 and while a small number were despatched from Ireland subsequent to this, the trade was soon abandoned when they proved unsaleable.[76]

With no place to send convicts the British government warehoused those sentenced to transportation in hulks anchored in the Solent and Thames estuaries. These had first been pressed into service to hold prisoners of war during the Seven Years War. The Hulk Act of 1776 was initially passed for two years in the belief that the transatlantic trade in convicts would soon resume. With the loss of Britain's former colonies, it became apparent that a more permanent solution would have to be sought.

The British government could at this stage have decided to embark on a national penitentiary programme of the sort advocated by Jeremy Bentham. Instead it baulked at the costs, attempting instead to find alternative sites to deploy convict labour. In 1775 to 1776, at the beginning of the outbreak of hostilities 746 felons were despatched to the island of Goree off the coast of Senegambia. This was an important British Slave trading base. When the Dutch entered the war in 1780 further drafts of convicts were sent to bolster the garrisons on the thirteen British forts that dotted the West African coast from Goree to Whydah. The experiment was not a success. Death rates were high and many of the surviving convicts absconded, some even deserting to the Dutch. The scheme also met with rising opposition from West African slaving interests concerned that convict transportation would undermine European authority by showing that peoples other than Africans could be enslaved.[77] Similar concerns derailed a plan to send convict labour to Honduras in 1784 and 1785.[78]

The British government changed tack. Under the terms of the Treaty of Versailles that brought an end to the war with its former American colonies, Britain had been granted exclusive rights to the Gambia River. They now proposed to send convicts to McCarthy Island about 320 kilometres from the river mouth. The plan was to use the services of outward bound slaving vessels to defray the costs of their transportation. The novel feature of the scheme was that once disembarked convicts were to be left to their own devices. This departure from previous policy had the advantage of disarming concerns that convict transportation to Africa would provide a challenge to the increasingly racialized division of labour in the Atlantic world.

The idea was scotched following the release of the report of a parliamentary committee in 1785 which criticized the scheme on two contradictory grounds. On the one hand it was concerned about high death rates and on the other that the 'Idea of composing an Entire Colony of Male & Female Convicts, without any other Government or Control but what they may from Necessity be led to Establish for themselves can answer no good or rational purpose'. The Committee recommended that if 'his Majesty think fit to establish a new Settlement for Enlarging the Commerce of his Subjects, the labour of these Convicts may be employed to the most useful Purposes'.[79] It proposed that felons should instead be sent to Das Voltas Bay in South West Africa where their labour might be used to establish a station for the resupply of outward bound East Indiamen. This scheme was also abandoned when no suitable site could be located.[80]

The costs of shipping convicts to India and Madagascar were briefly investigated in 1786, although neither of these options appears to have been seriously contemplated.[81] There is no legal reason why convicts could not have been deployed in the Indian Ocean, although East India Company cooperation would have been required. If the Company had been willing to acquire the labour of British and Irish convicts in similar fashion to the way in which shipping contractors had acquired rights to convict labour in the Atlantic trade, felons could have been shipped to colonies it controlled without breaching the Company's monopoly rights.

India House, however, had plenty of felons of its own. While the East India Company was not averse to using convict labour to secure strategic objectives, as Clare Anderson argues in this volume, it had no need to acquire that labour from the British government. Indeed, there were very good reasons for it to distance itself from such a venture. Just as the Company of Merchants trading out of Africa had opposed the importation of felons to its forts and factories, so the East India Company feared that the introduction of European convict labour might undermine labour hierarchies based on race. In fact, the Company later used the British penal colonies in Australia to dispose of European convicts sentenced on the Indian subcontinent, while Asian and Eurasian offenders were sent to Company-run penal settlements.[82] The bifurcation of transportation flows on the basis of race is illustrative of the nature of the problem that the metropolitan government faced in its search for an alternative location to send British and Irish convicts in the 1780s.

In the event the British government made the decision to transport convicts to Botany Bay, a location first proposed by the botanist Joseph Banks to a House of Commons select committee in 1779. While other submissions had been confined to the shores of the Atlantic (Gibraltar, Gambia, Florida and Georgia were all raised as possible destinations), Banks had spruiked the merits of New South Wales. The announcement that convicts would be sent to Botany Bay triggered a wave of suggestions for more severe alternatives. Letters were written to the British press urging the government to swap convicts for European sailors held captive on the Barbary Coast, banish them to work underground in coalmines or sell them as slaves to the plantation economies of the Caribbean.[83] Yet, as circumstance had already revealed, the latter was not a viable option. Botany Bay's singular advantage was its great distance from other colonial enterprises. There was little risk that the deployment of European convicts there would present a challenge to pre-existing systems of exploitation based on race.[84]

The military deployment of convict labour 1702–1875

Prior to sending convicts to Australia the British had plenty of experience with the deployment of convict labour in the public sector. They had been used in dock work dredging harbours and loading warships as well as being co-opted into military service. The latter had a particularly long history. Vagrants had been impressed into military service in Elizabethan England.[85] Forced military service was a convenient

way of operationalizing the overseas deployment of the labour of those who had been judicially condemned.

As in the French, Spanish and Russian empires, British penal transportation systems interconnected with military labour markets in complex ways.[86] It was not just rebels and prisoners of war that were at risk of transportation. Military courts were empowered to sentence members of the armed forces to transportation *or* continued service (usually within dedicated penal units earmarked for service in tropical areas). Those units could also take recruits sentenced to transportation by civilian courts, although the extent to which this occurred varied over time. In short, two parallel systems of transportation operated within the British Empire – one directed at supplying labour to the armed forces and the other to meet colonial public and private sector demand. Flows of convicts were switched between these systems according to wider imperial needs.

Whenever Britain was at war the number of convicts transported declined (see Figure 7.1). Shipping costs rose during Atlantic conflicts largely as the private sector had to compete with the navy for maritime labour, driving up wages. Military recruitment also resulted in fuller employment leading to a reduction in crime and hence conviction rates. In the eighteenth century military recruiters competed with the private sector for the reduced supply of convict labour. As early as the War of Spanish Succession (1702–1715), prisoners were recruited into the armed forces.[87] Felons were reprieved on condition of overseas service on a regular basis from 1756 on. British units arriving in Lower Canada in that year were said to be almost entirely composed of 'convicts and Irish Papists'.[88]
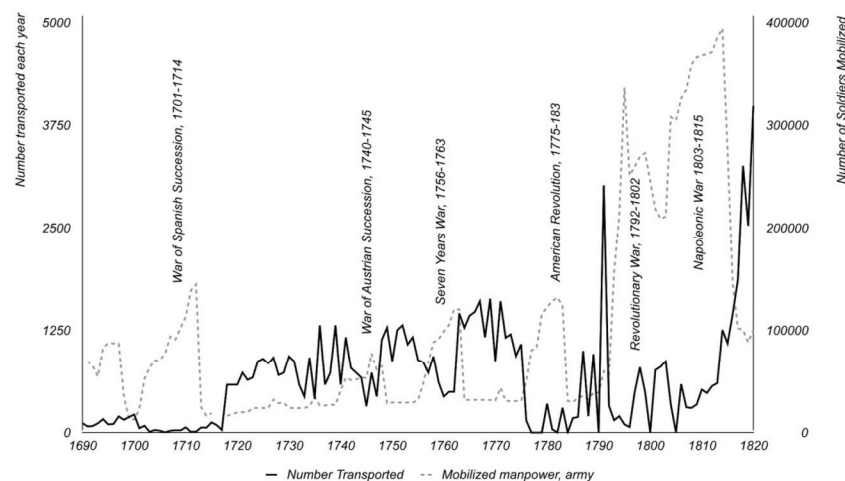

Figure 7.1 The strength of the army and transported convicts, 1690–1820

Sources: Oxley and Meredith, 'Condemned to the Colonies', 23; K. Floud, K. Wachter and A. Gregory, *Height, Health and History: Nutritional Status in the United Kingdom, 1750–1980* (Cambridge: Cambridge University Press, 1990), 44–46.

The use of military transportation increased during the French Revolutionary and Napoleonic Wars particularly for units earmarked for service in tropical theatres. Death rates for British troops in West Africa in the early nineteenth century, for example, were twenty times greater than those for troops billeted in barracks in the British Isles.[89] The use of convicts protected regular recruits from the dangers associated with tropical service. The numbers deployed were not insignificant. Buckley estimates that around 20 per cent of the regular British army in the Windward and Leeward Islands between 1799 and 1802 was composed of civil and military offenders.[90] Others were sent to Africa. The African Corps established in 1800 and based at Goree took over the role of the ill-fated independent companies that were finally disbanded in 1784. While the regiment went through several title changes it was long-lived. As late as 1822 a draft of convict volunteers were sent to the Cape to join the newly styled Royal African Colonial Corps.[91]

Some hulk registers for the period 1802–1814 provide details of how each convict was disposed of. Examination of a sample of 2,057 men held on the *Perseus* and *Laurel* hulks between these years reveal that only a quarter were discharged to an Australian bound transport vessel. Nearly 16 per cent were enlisted in military units, principally the Royal African Corps, 6 per cent were sent to the Royal Navy and 4 per cent retained to work on dockyard projects.[92] Many more recruits for penal battalions were supplied by military courts. In an exhaustive study of the York Chasseurs, a unit that served in the West Indies in the years 1813 to 1816, Peter Lines traced the origins of 1,530 recruits. Over 90 per cent of the regiment was composed of deserters and military convicts, many of them from the Savoy Prison, the London institution used to hold those convicted by military courts.[93] It is estimated that at least 15,000 convicts were recruited into the British army over the course of the eighteenth and early nineteenth century.[94]

As well as military service, the British continued to use convict labour on public infrastructure projects in the Atlantic. Between 1824 and 1863 over 9,000 were sent to Bermuda and between 1842 and 1874 another 4,000 to Gibraltar where they were used to construct docks and fortifications for use by the Royal Navy.[95] Those stationed at Bermuda were housed in hulks, while those sent to Gibraltar were initially kept in hulks but later accommodated in barracks on shore. Despite their location both stations were managed as part of the metropolitan British hulk establishment. This helped to ensure that Atlantic bound flows of convict labour did not intersect with the use of other bonded workers. A complicated system by which European convicts were relocated following Atlantic service ensured that penal transportation to the region could not be construed as a form of Atlantic settlement. While some were shipped on to the Australian colonies, the majority of those who survived were returned to Britain.

At both stations convicts were mainly employed quarrying rock, dressing stone, and constructing fortifications and associated buildings. Despite high mortality – yellow fever was a persistent problem – the use of convict labour in Bermuda was justified on economic grounds. The cost of employing convicts was estimated to be two-thirds that of free labour. This despite the payments of small sums of money to convicts as an incentive – a practice that was commonly followed in British hulks, but not in Australia. The length of the working day was also considerably shorter than in

the Australia penal colonies – eight hours compared to ten. For these reasons convicts were said to have preferred to be sent to Bermuda rather than being shipped to New South Wales and Van Diemen's Land.[96]

The principal metropolitan institution which managed the inward and outward flow of convict labour, including those sent to Bermuda and Gibraltar, was the hulks. Between 1776 and the mid-1850s they formed the wooden walls of Britain's carceral empire. Since the hulks were the entry and exit point for tens of thousands of British and Irish convicts, their registers can be informative. A study of a sample of hulk registers for the period 1835–1845 reveals, for example, that amongst the ranks of 'returned' Bermuda convicts were men convicted in Antigua, Barbados, Demerara, Gibraltar, New Brunswick, Nova Scotia, Jamaica, Saint Christopher, Tobago, and Upper and Lower Canada. Britain's nineteenth-century Atlantic colonies often took advantage of Bermuda's relative proximity to ship prisoners there, rather than across the Atlantic to Britain in preparation for the long voyage to the Australian penal colonies. Rather than being returned post-sentence, these men were discharged into British society. This is how Quashey, convicted of arson in St Kitts in January 1834 and Toby, convicted of sheep stealing in Antigua in the same year, found their way to England.[97] They were in effect transported from colony to metropole.

Australia 1787–1868

After 1787 most convicts transported from Britain and Ireland were sent to Australia. In its early stages transportation to New South Wales and Van Diemen's Land retained many of the features that had shaped convict transportation in the seventeenth- and eighteenth-century Atlantic. The most important difference was the initial absence of a colonial private sector. The first governor, Captain Arthur Phillip, assumed that property rights in the labour of convicts were assigned to him. He referred to them as 'servants of the Crown' and treated them as though they were indentured labourers bound to serve for a period of time fixed by the courts in Britain.

The language that developed in New South Wales to describe the civil status of convicts betrayed the connection with the Atlantic roots of transportation. Convicts still under sentence were described as in 'servitude' and those that were free as 'emancipated' – terms that explicitly aligned transportees with other categories of unfree labour.[98] In the first three decades of settlement it was also common to provide former convicts freedom dues, mirroring seventeenth- and eighteenth-century Atlantic practice. In some North American colonies time-expired indentured servants were provided with blocks of land.[99] While such payments were rarely made to emancipated convicts after the mid-eighteenth century – Phillip resurrected them.[100] He supplied former convicts with grants of land of between 20 and 80 acres.

There were other ways in which early colonial Australia was surprisingly free. Colonial custom quickly placed limits on the rights that the crown had in convict labour. After government hours the prisoners' time was restored to them and they were free to work for wages until the official start of the next day – in marked contrast

to practice in seventeenth-century Barbados. Government time ended at midday on Saturday, for example, and did not commence again until sunrise on the Monday morning.[101] Convicts were encouraged to work after government hours in the private sector in order to pay for their lodgings. Before the completion of Hyde Park Barracks in Sydney in 1819 there was little government accommodation for prisoners, most of whom rented rooms in the private sector. Archaeological evidence suggests that the communities of serving and former convicts living in Sydney's Rocks district enjoyed a higher standard of living than working-class Britons. They ate a diet that was richer in protein and some possessed Chinese imported porcelain and other luxury items.[102]

As Phillip understood that property rights in convict labour had been assigned to him he assumed that he had the authority to both pardon prisoners and to transfer those property rights to others. Accordingly, he provided the colony's early farmers with convict labour in the hope that this would enable them to become more productive. In the three years following Phillip's departure and the arrival of his successor New South Wales was run by the senior military officers. The latter promptly expanded the practice that Phillip had established, effectively privatizing a proportion of the available convict labour. They also allocated sizeable tracts of crown land to themselves although they were careful to provide grants to others too since they calculated that this would make any attempt to reverse their actions both administratively and politically difficult. By 1815 the private deployment of convict labour had become established practice.

The number of convicts arriving in Australia increased substantially following the ending of the Napoleonic Wars (see Figure 7.1).[103] Worried about the financial implications the British government set up an enquiry to investigate ways of cutting costs. The resulting report recommended a number of changes designed to ensure that transportation was both feared by the British working class and cheap enough to keep the taxpayer happy. Most of these hinged on expanding the use of the private sector, rather than investing in public infrastructure. While land had been purchased in 1799 at Millbank in London to build Bentham's panopticon, these plans were now abandoned. Although a penitentiary was constructed on the site, it was built to a radically different design. Completed in 1821 it operated in part as a holding facility for convicts awaiting transportation. It functioned in effect as an ancillary to the transportation system rather than an alternative.

After 1822 government control of land and labour was used as a means of attracting capital to the Australian colonies. The policy of granting small blocks of land to time-expired convicts was discontinued and instead grants of crown land were only provided to migrants who could demonstrate that they possessed at least £500.[104] Each settler was entitled to the services of one convict for every 100 acres received. Rather than swelling the ranks of the government gangs in Sydney and Hobart, the bulk of the colony's convict workforce was 'assigned' to landholders and business owners who were charged with clothing, housing and feeding their unfree charges. The policy was designed to promote the production of fine wool, lessening the dependence of the British textile industry on imports from the European continent, while simultaneously saving money.[105]

Legislation was prepared to underpin the policy shift. The 1824 Transportation Act attempted to cement private property rights in convict labour, providing masters with

the legal right to hire out the labour of prisoners that had been assigned to them or even to sell them onto third parties for profit. This would have provided masters in Australia with much the same powers as those possessed by the owners of convict labour in Britain's former American colonies. A strict interpretation of the Act was that it cut across the governor's right to recall assigned servants, or pardon them before the termination of their sentence without compensation. It is perhaps not surprising that it was never fully enforced in Australia where it became a matter of political and legal controversy. Nevertheless, the legislation provided a vivid demonstration of the extent to which the British government thought that security in property rights in convict labour formed a crucial underpinning to colonial economic success. It also provides an example of the extent to which legal freedoms for transported convicts declined steadily in the 1820s and 1830s – a time when their labour was seen as crucial for transforming the colonial economy.[106]

Increasingly the hours that convicts worked were regulated and opportunities to earn money limited. Following the completion of Hyde Park Barracks in Sydney in 1819 it became the norm for public works prisoners to be housed behind government walls at night.[107] The system of passes was tightened up, regulating travel from one place to another, and the colonies were divided into police districts each complete with its own magistrates' bench. The latter were empowered to punish prisoners for infraction of the rules and regulations governing convict labour. Indeed, Chief Justice Forbes in New South Wales thought that for all intents and purposes assigned convicts were slaves.[108]

George Arthur, the governor of Van Diemen's Land agreed. His publication, *Defence of Transportation*, included a section entitled 'The interests of the slave owner and assignee compared'.[109] He argued that as people of 'dissolute habits' convicts 'must serve an apprenticeship in assignment and be accustomed to exertion' before they 'can be useful'.[110] Invoking parallels with plantation slavery he asserted that the masters of convict labour in the Australian colonies 'may draw, from his knowledge of their crimes, a sanction, quite as satisfactory as that arising from difference of colour, for any severity he would practice against them'.[111]

Analysis of punishment levels reveals the extent to which they were dependent on local labour market conditions. When the cost of feeding and clothing a convict rose, the number of prisoners sentenced to hard labour on the public works also increased shifting the cost of maintenance onto the government. Convicts with skills that were in colonial demand were also less likely to be punished than unskilled shipmates.[112]

The integration of private and public labour markets shaped convict experience in other ways too. It was common for minors who accompanied their convict parents to Australia, or were born to convict mothers in the colonies, to be housed in state-run orphan schools where they were liable to be forced into apprenticeship contracts with free settlers until their parents had gained their freedom.[113] Such measures ensured that convict women and their children did not become a financial burden on either the colonial government or private sector employers of female convict labour.[114] Government policies aimed at restricting family formation help to explain the high female rates of absconding.

Slave runaways in British North America were overwhelmingly men. Women accounted for only 7.2 per cent of advertised runaways in New England; 8.4 per cent

in Virginia and 10.2 in Pennsylvania.[115] A study of the early nineteenth-century Cape Colony reveals that only 10 per cent of runaway slaves there were female.[116] Ties to children bound female slaves to their place of work, making them less likely to desert. By contrast 22 per cent of runaway notices in Van Diemen's Land were for female absconders, despite the marked under-representation of women compared to British North American and Cape slave populations. In fact, proportionally female convicts were *more likely* to be posted missing than male (0.35 absconding notices per transportee compared to 0.30 for men).[117] The peculiar ways in which transportation systems sought to control the supply of female labour, and that of their offspring, informed resistance strategies – a reminder that control of sex and reproduction was not limited to slavery.

While the use of convict labour in Australia was exploitative, it also exhibited features more commonly associated with the rise of the penitentiary. Flogging for example declined sharply in the 1820s, predating the reductions in the use of physical punishment in the army and British factories by a decade. The decline in the use of the lash was accompanied by an increase in sentences to solitary confinement and the treadwheel.[118] Convicts were also subjected to levels of surveillance that were unusual in early nineteenth-century Britain and Ireland. Australian record systems were amongst the first in the Anglophone world to adopt unique identifiers in an attempt to track individuals over their life course.[119] Surgeon superintendents argued that the systems of control developed for managing convicts on the voyage to Australia could be used to improve discipline in other institutions including prisons, houses of correction and large factories.[120]

State regulation impacted on convicts in other ways too. Prior to their embarkation for the Australian colonies convicts were credited a proportion of the value of the work they had undertaken in prisons and hulks while awaiting transportation. On arrival in Australia these sums were banked on the convict's behalf. Further pecuniary rewards might increase the amount credited to each convict, while infractions could result in deductions. The balance (including interest) was made available to convicts upon emancipation, easing transition into the free economy.[121]

Regulation of convict bodies had some beneficial outcomes. Monthly age specific death rates for convicts bound for Australia were half those of free transatlantic migrants sailing from English ports in the years 1836 to 1853.[122] Death rates for convicts under sentence were also remarkably low, they were less for example than those for soldiers serving in the Australian garrison.[123] Astonishingly, there was no increase in morbidity or mortality on convict vessels departing from Irish ports before and after the commencement of the great famine. Pre-voyage health checks, prison and voyage diets and strictly imposed hygiene regimes appear to have offset the impact of a major subsistence crisis in stark contrast to outcomes on free immigrant vessels departing Ireland.[124] Low death rates does not necessarily mean that transportation was benign – they tell us little, for example, about the psychological impacts of forced labour migration. Indeed, as unfree subjects, convicts made ideal medical subjects. Surgeon superintendents split their unfree charges into cohorts treating each in different ways and documenting the results.[125]

As was the case with transportation to Britain's North American colonies, reports of high colonial living standards led some metropolitan critics of transportation to

question its deterrent value. Others criticized the manner in which the experience of convicts under sentence in Australia reflected the caprice of individual masters, rather than the severity of the offence for which they had been transported. There was also continued criticism of the physical nature of colonial punishment regimes. While the use of flogging declined in Van Diemen's Land in the 1820s, sentences to hard labour on the roads in and out of chains remained common. There were other subtle differences in the ways in which punishments were implemented in metropolitan prisons and Australia. Convicts sentenced to the treadmill in Australia literally ground out their corn. In English prisons, however, treadmill mechanisms were rarely attached to grinding gears. The labour prisoners expended was literally to no avail.[126]

Another inquiry into penal transportation to the Australian colonies issued its report in 1838 recommending the abolition of transportation. William Molesworth, the young aristocratic chair, used the use of flogging in particular to highlight the similarities between the suffering of convicts and slaves. The report also argued that transportation corrupted colonial life through its reliance on violence and failure to check the alleged homosexual proclivities of criminals.[127] A parsimonious government baulked at the financial implications of constructing an alternative home based penitentiary programme and instead compromised. Transportation to New South Wales was abandoned and, while convicts continued to be sent to Van Diemen's Land, the way in which their labour was deployed was reorganized in order to bring it more into line with the principles of prison management advocated by British and Irish penal reformers. In future all newly arrived convicts would have to serve a probationary term of labour within the public sector, the duration of which was determined by the length of the sentence imposed upon them by a British or Irish court. Service in the private sector was conditional on the successful completion of this first stage. Even then settlers had to purchase the labour of convicts, albeit at minimal rates.

The probation system proved unpopular from the start. Its introduction served little to address the concerns of metropolitan critics of transportation while considerably increasing colonial opposition. The probation stations were expensive to build and maintain. As well as constructing roads and other public sector infrastructure, the labour of convicts was used to cultivate grain in direct competition to the private sector. At the same time the reduction in assigned servants drove up labour costs. Shocked by the manner in which the 1838 Parliamentary inquiry had depicted colonial society, colonial opposition mounted. The proliferation in the number of same-sex institutions was particularly criticized as providing fertile ground for the spread of homosexual vice.[128]

In an attempt to address these concerns the British government moved to integrate metropolitan and colonial penal systems. From 1842 on it became increasingly common for convicts sentenced to transportation to serve part of their sentence in Millbank or Pentonville penitentiaries. There they were subjected to separate treatment, a form of sensory deprivation which strictly limited contact between inmates. Separate prisons were also constructed in Australian penal stations with the intension of curbing refractory behaviour amongst the 'worst' of the colonial convicts. Other convicts were transported first to Bermuda and Gibraltar before being forwarded to the Australian colonies to complete the final stages of their sentence. From the mid-

1840s they were joined by others who served the bulk of their sentence in Britain before being landed in the colonies, sometimes already equipped with conditional pardons. Dubbed Pentonvillians nearly 2,000 such former penitentiary inmates were despatched to Port Phillip in the years 1844 to 1849. There were also attempts to use this form of penal migration to land convicts in the Cape Colony and reintroduce transportation to New South Wales. The shift in policy was accompanied by a decline in the use of hulks as holding depots for convicts awaiting transportation. In 1839 over two-thirds of all male convicts sentenced to transportation in English and Scottish courts were accommodated in hulks. By 1847 this had declined to under a third as the new penitentiaries at Parkhurst and Pentonville came on line. By the mid-1840s a sizeable proportion of the remaining hulk population consisted of convicts considered too unfit to be transported or to undergo the rigours associated with confinement in the new penitentiaries.[129]

The changes did little to appease colonial opposition to transportation. The attempt to land convicts in the Cape failed in the face of determined settler resistance.[130] Similar anti-transportation demonstrations were held in Sydney, Launceston and Hobart. An embryonic Australian trade union movement increased its opposition to transportation. Even under the probation system the difference in wages paid to passholder convicts employed in the private sector and free labour was sufficient to impact on working-class standards of living.[131] Transportation to the Port Phillip District ceased in 1849 and to Van Diemen's Land in 1853. A shortage of labour in Western Australia meant that colonial opposition to continued transportation was not universal. Between 1850 and 1868 a further 9,000 convicts were landed in that colony. By then transportation to Bermuda had ceased although convicts continued to be sent to Gibraltar. The final eleven convicts transported from Britain and Ireland arrived there in 1874. The following year the Gibraltar convict establishment was closed down marking an end to a policy that had commenced 260 years previously.

Conclusion

Michel Foucault traced the origins of confinement in England to the development of bridewells in the sixteenth century which he claimed were later absorbed within the walls of the local prisons to which they were often attached.[132] J. H. Langbein agreed, both galley service and the workhouse emerged in Europe over the course of the sixteenth and seventeenth centuries, later converging to form a prison system in the eighteenth. The shift away from terror as the principle means of delivering justice was accompanied by an increased emphasis in the use of work as a correctional tool – a transition that culminated in the construction of British and Irish penitentiaries in the nineteenth century.[133] These institutions sought to subdue those incarcerated behind their forbidding walls, preparing them for labour in factories. The prison in this sense was a mechanism of normalization that sought to render men and women 'docile and useful'.[134]

Yet the extent to which Pentonville and other separate treatment regimes attempted to render prison labour useful is debateable. In stark contrast to Bentham's design

for a panopticon, the work conducted by prisoners in Pentonville was deigned to be pointless. The emphasis the penitentiary placed on unproductive labour shocked Benthamites.[135] John Stuart Mill, for example, argued that for the prison 'to instill a *desire* to work in shiftless and lazy inmates it would need to function as a miniature model of the free-track economy'.[136] In this respect Pentonville, an exclusionary system, contrasted strongly with the colonial deployment of convict labour. The latter, at least in its nineteenth-century form, was designed to instil convicts with the necessary work ethic to prepare them for the transition to free labour post their release. As Arthur argued, the partnership between the public and private sector enabled the principles of prison discipline to be more effectively realized in Van Diemen's Land than 'could be attained within the walls of a penitentiary'.[137]

Rather than forming a straight line from the bridewell to the nineteenth-century penitentiary, punishment strategies in the Anglophone world doglegged in the seventeenth century into the Atlantic via the transport vessel. This was a prison of an altogether different kind to Pentonville – part gaol and part factory.[138] It was used to convey the criminalized poor to England's New World colonies and assist the process of turning them into plantation workers. Experimentation with convict labour in the English Atlantic colonies informed the transition to slave labour. Justification for the exploitation of plantation workers based on negative generalizations about race, developed out of Protestant zeal for putting the idle poor to work. As Robert Sanderson, the Bishop of Lincoln, urged in 1689: 'let us harden our hearts against them … and execute the severity of the law upon them, and not spare them'.[139] Penal transportation also impacted on other ways of organizing Atlantic workers, including indentured labour and military service.

The relationship between penal transportation and other labour mobilization systems was complex and interrelated. It was Atlantic labour markets that shaped transportation sentencing policy. While penal transportation enabled a reduction in the metropolitan use of the gallows, for many this was little more than a stay of execution. Death rates for transported plantation workers in sixteenth-century Barbados were so high that few survived to emancipation.[140] It was a seventeenth-century English equivalent of the dry guillotine – as French prisoners later referred to transportation to Guiana.[141] Transportation may have allowed for more flexible use of the royal prerogative, saving some from the gallows, but it simultaneously created punishment options that had not previously existed for non-capital offenders. The outcomes could be just as severe for those who had been capitally reprieved.

The English (later British) experience of the overseas deployment of convict labour was far from static. Innovation was essential since all successful penal transportation systems sow the seeds of their own demise. The role of convict labour was to catalyse colonial development while simultaneously acting as a deterrent to other would be offenders. As colonial economies developed, alternative sources of labour were either attracted through free migration, or purchased using the profits derived from exploiting convicted labour. As notions of labour exploitation based on race hardened, the range of options for deploying convicts narrowed. Despite these limitations, transportation from Britain and Ireland proved a remarkably durable device. It lived on in the Atlantic in the form of compulsory military service and forced dockyard labour – surviving the

abolition of slavery in the British Empire by four decades. In the case of Australia, the lack of alternative sources of labour provided the British state with the opportunity to use convict transportation as an engine to seize and settle a continent.

The complex relationship that developed between the public and private sector in the Australian colonies enabled some features of transportation to Britain's former American colonies to be retained, while embracing other genuine innovations. This is particularly so in terms of health outcomes. Convict Australia illustrates the extent to which state regulation could result in decreased morbidity and mortality rates. Much of this was a product of experimentation. Because they were unfree convict bodies could be scrubbed and scrutinized. They could also be documented in ways that foreshadowed later developments in English criminal record keeping.[142] As Arthur argued: 'Bentham's notion that gaolers should possess a personal interest in the reform of convicts is beautifully realised in Van Diemen's Land'.[143] It was in the interests of the settler to drag the laggard before the magistrates' bench for punishment and for the convict to protect their financial interests lodging in the savings bank, or to otherwise bend their back to ensure they stayed clear of the chain-gang, penal station or female factory.

British penitentiaries developed first as part of the transportation system, rather than in opposition to it. Their role was to subject convicts to strict regimentation and isolation before they were embarked for shipment overseas. As the transportation system retreated in the face of metropolitan and colonial opposition, the punishment of British and Irish offenders was effectively nationalized. By the time the last convict vessel arrived in Western Australia in 1868 the management of convict labour convicted in Britain and Ireland was securely in public hands.

Foucault's critics have argued that, while discipline increased in many English local prisons in the first half of the nineteenth century, few if any became disciplinary machines along the lines of Pentonville. In fact, many penal reformers became disillusioned with the Pentonville experiment after the impact of prolonged isolation on mental and physical health became apparent. As A. Brown argues 'inconsistency and controversy' dogged local and convict prison policy for much of the nineteenth century.[144] If Foucault's disciplinary moment arrived it did so at least in the context of the British and Irish prison system in the second, rather than the first half of the nineteenth century. There is an argument, however, that this in turn owed much to a prior colonial disciplinary trajectory – a carceral archipelago that linked penitentiary, hulk, dockyard, military service, factory and colonial farm.

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